SPONSOR: Sen. Poore & Rep. Chukwuocha

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 296
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 137, Subchapter II, Chapter 1, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 137. Delaware Health Fund.

(a) This section shall be referred to as the "Delaware Health Act of 1999."

(b) A special fund of the State is hereby created in the Department of Finance to be known as the "The Delaware Health Fund." All annual payments received pursuant to the master settlement agreement entered into by the State and the participating tobacco manufacturers shall be deposited or transferred into the Delaware Health Fund. All other moneys, including gifts, bequests, grants or other funds from private or public sources specifically designated for the Delaware Health Fund shall be deposited or transferred to the Delaware Health Fund. Moneys in the Delaware Health Fund may be saved and deposited in an interest bearing savings or investment account. Interest or other income earned on the moneys in the Delaware Health Fund shall be deposited or transferred into the Delaware Health Fund. The Delaware Health Fund shall not lapse or revert to the General Fund.

(c)The Delaware Health Fund shall be used by the Attorney General to enforce and litigate the Tobacco Master Settlement Agreement ("MSA") and the 2018 Non-Participating Manufacturers (NPM) Adjustment Settlement Agreement (NPMSA) between the State and the tobacco manufacturers pursuant to this section and 29 Del. C. chs. 60C and D.

~~(c)~~ (d) Moneys from the Delaware Health Fund shall be expended for Delaware citizens in accordance with any 1 or more of the following:

(1) Expanding access to health care and health insurance for citizens of Delaware that lack affordable health care due to being uninsured or under ~~insured;~~ insured.

(2) Making long-term investments to enhance health-care infrastructure which meets a public ~~purpose;~~ purpose.

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(3) Promoting healthy lifestyles, including the prevention and cessation of the use of tobacco, alcohol and other drugs by the citizens of ~~Delaware;~~ Delaware.

(4) Promoting preventive care for Delawareans in order to detect and avoid adverse health conditions, particularly cancer and other tobacco-related ~~diseases;~~ diseases.

(5) Working with the medical community by providing funding for innovative and/or cost effective testing regimens to detect and identify lesser-known but devastating and costly illnesses, such as sarcoidosis and hemochromatosis, fibromyalgia, lupus, Lyme ~~disease~~ disease, and chronic fatigue immune deficiency ~~syndrome;~~ syndrome.

(6) Promoting a payment assistance program for prescription drugs to Delaware's low income senior and disabled citizens who are ineligible for, or do not have, prescription drug benefits or coverage through federal state or private ~~sources;~~ sources.

(7) Promoting a payment assistance program to Delaware's citizens who suffer from debilitating chronic illnesses, such as diabetes and kidney disease which are characterized by onerous recurring costs for equipment, ~~tests~~ tests, and ~~therapy; and/or~~ therapy.

(8) Such other expenditures as are deemed necessary in the best interests of the citizens of Delaware provided they shall be made for health-related purposes.

~~(d)~~ (e) No moneys shall be expended from the Delaware Health Fund except pursuant to an appropriation incorporated in the State's annual appropriations act.

~~(e)~~ (f) Expenditures from the Delaware Health Fund shall not be used to supplant any State expenditures appropriated in Fiscal Year 1999 for purposes consistent with those outlined in subsection (c) of this section.

~~(f)~~ (g) The transfer of funds appropriated from the Delaware Health Fund shall be administered as approved in the annual appropriation act or bond bill.

~~(g)~~ (h) There is hereby established The Delaware Health Fund Advisory Committee comprised of the Secretary of the Department of Health and Social Services, or designee, 2 members of the Senate designated by the President Pro Tempore, 2 members of the House of Representatives designated by the Speaker of the House of Representatives, the Chair of the Health Care Commission or the Chair may designate a board member or staff person of the Health Care Commission, 3 members of the public to be appointed and to serve at the pleasure of the Governor, 1 member of the public appointed by the President Pro Tempore of the Senate to serve at the pleasure of the President Pro Tempore of the Senate, and 1 member of the public appointed by the Speaker of the House of Representatives to serve at the pleasure of the Speaker of the House of Representatives. No public member appointed to this Advisory Committee shall be directly associated with or represent

any organization or entity that will be a recipient or beneficiary of the Delaware Health Fund. The Secretary of the Department of Health and Social Services shall serve as the Chairperson of the Committee. ~~Each year, the Committee will make recommendations, consistent with the purposes outlined in subsection (c) of this section, to the Governor and the General Assembly by November 15 for appropriating moneys expected to be received in the next fiscal year. The Committee shall, in the process of developing these recommendations, seek input from the public and private agencies concerned with the intended purposes of the Delaware Health Fund as described in subsection (c) of this section and conduct public hearings as necessary to provide an opportunity for public comment. The Committee shall also utilize the Delaware Health Care Commission to provide research relating to future health-care needs of Delaware citizens and data relating to past health-care programs in Delaware.~~

(i) The Department of Health and Social Services, in consultation with the Division of Public Health, shall administer a competitive grant program to make recommendations for the expenditure of money appropriated from the Delaware Health Fund in accordance with the following:

(1) Prior to issuing a request for proposals under paragraph (2) of this subsection, the Department shall designate funding for state-operated programs that are consistent with the purposes set forth in subsection (d) of this section. Such designations shall be included in the draft recommended award list transmitted pursuant to paragraph (4) of this subsection.

(2) With the exception of the period from July 1, 2026 to June 30, 2027, no later than July 1 of each fiscal year, the Division shall issue a request for proposals to private organizations for programs and services consistent with the purposes set forth in subsection (d) of this section. The request for proposals shall be posted publicly on the Department's website and shall remain open for no fewer than 30 days.

(3) Following the close of the application period, the Division shall evaluate all applications received and develop a draft recommended award list identifying proposed grant recipients and award amounts.

(4) No later than October 15 of each fiscal year, the Department shall post the draft recommended award list publicly on the Department's website.

(5) No later than November 7 of each fiscal year, the Delaware Health Fund Advisory Committee shall convene to review the recommended award list, including the state-operated program funding designations made pursuant to paragraph (1) of this subsection, receive public testimony, and develop and approve a final recommended award list.

(6) No later than November 15 of each fiscal year, the Department shall transmit the final recommended award list to the Governor, the Director of the Office of Management and Budget, the Controller General, and

members of the Joint Finance Committee. The recommended award list shall include a justification for each proposed award, the advisory vote result and summary of public testimony received pursuant to paragraph (5) of this subsection, and, when available, an assessment of the extent to which prior year awards achieved their intended purposes.

~~(h)~~ (j) The Secretary of the Department of Health and Social Services shall report to the ~~Governor and~~ Governor, the General Assembly, and the Director and the Librarian of the Division of Legislative Services on the second Tuesday of every January concerning expenditures, savings and investment accounts under the Delaware Health Fund for the previous fiscal year and to what extent those expenditures accomplished their intended purpose.