

CHAPTER 2

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 01S2-012

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also REPRESENTATIVE(S) Spradley, Berry, Stafford, Hefley, Larson, Romanoff, Smith, Alexander, Bacon, Borodkin, Boyd, Cloer, Coleman, Daniel, Decker, Fairbank, Garcia, Groff, Grossman, Hodge, Hoppe, Jahn, Kester, Lawrence, Madden, Marshall, Miller, Plant, Ragsdale, Rippy, Sanchez, Spence, Tapia, Tochtrop, Veiga, Vigil, Weddig, Williams S., and Young.

AN ACT**CONCERNING THE CREATION OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-22-115 (1), Colorado Revised Statutes, is amended to read:

24-22-115. Tobacco litigation settlement cash fund - creation. (1) There is hereby created in the state treasury the tobacco litigation settlement cash fund. The cash fund shall consist of all moneys transmitted to the state treasurer in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Phillip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver other than moneys credited to the tobacco litigation settlement trust fund pursuant to section 24-22-115.5. Except as provided in subsection (2) of this section, all interest derived from the deposit and investment of moneys in the cash fund shall be credited to the cash fund; EXCEPT THAT BEGINNING WITH THE FISCAL YEAR 2001-02, AND EACH FISCAL YEAR THEREAFTER, ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE CASH FUND SHALL BE CREDITED TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND CREATED PURSUANT TO SECTION 26-4-532, C.R.S. Except as provided in subsection (2) of this section, all moneys in

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

the cash fund shall be subject to appropriation by the general assembly for such purposes as may be authorized by law in accordance with the terms of the settlement agreements and the consent decree. Except as provided in subsection (2) of this section, at the end of any fiscal year, all unexpended and unencumbered moneys and all moneys not appropriated for the following fiscal year in the cash fund shall be transferred to the tobacco litigation settlement trust fund.

SECTION 2. 24-75-1104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-1104. Use of settlement moneys - programs. (2.5) THE GENERAL ASSEMBLY RECOGNIZES THAT, PURSUANT TO SECTION 24-22-115 (1), ALL INTEREST DERIVED FROM THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED PURSUANT TO SAID SECTION IS USED TO FUND THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND CREATED PURSUANT TO SECTION 26-4-532, C.R.S. TO ENSURE THE GREATEST POSSIBLE ACCUMULATION OF INTEREST MONEYS IN THE TOBACCO LITIGATION SETTLEMENT CASH FUND, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO LIMIT THE PROGRAM FUNDS FROM WHICH MONEYS ARE NOT TRANSFERRED AT THE END OF A FISCAL YEAR TO THOSE PROGRAM FUNDS LISTED IN SUBSECTION (2) OF THIS SECTION AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (2.5).

SECTION 3. 26-4-301 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-4-301. Optional provisions - optional groups. (1) The federal government allows the state to select optional groups to receive medical assistance. Pursuant to federal law, any person who is eligible for medical assistance under the optional groups specified in this section shall receive both the mandatory services specified in sections 26-4-202 and 26-4-203 and the optional services specified in sections 26-4-302 and 26-4-303. Subject to the availability of federal financial aid funds, the following are the individuals or groups which Colorado has selected as optional groups to receive medical assistance pursuant to this article:

(q) THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM PURSUANT TO SECTION 26-4-532.

SECTION 4. Part 5 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-532. Breast and cervical cancer prevention and treatment program - creation - legislative declaration - definitions - funds - repeal. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT BREAST AND CERVICAL CANCER ARE SIGNIFICANT HEALTH PROBLEMS FOR WOMEN IN THIS STATE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THESE CANCERS CAN AND SHOULD BE PREVENTED AND TREATED WHENEVER POSSIBLE. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO ENACT THIS SECTION TO PROVIDE FOR THE PREVENTION AND TREATMENT OF BREAST AND CERVICAL CANCER TO WOMEN WHERE IT IS NOT OTHERWISE AVAILABLE FOR REASONS OF COST.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ELIGIBLE PERSON" MEANS A PERSON WHO:

(I) HAS BEEN SCREENED FOR BREAST OR CERVICAL CANCER UNDER THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM ESTABLISHED UNDER TITLE XV OF THE FEDERAL "PUBLIC HEALTH SERVICE ACT", 42 U.S.C. SEC. 300k ET SEQ., IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1504 OF SUCH ACT, 42 U.S.C. SEC. 300n, ON OR AFTER JULY 1, 2002, UNLESS THE CENTERS FOR MEDICARE AND MEDICAID SERVICES APPROVES THE STATE DEPARTMENT'S AMENDMENT TO THE MEDICAL ASSISTANCE PLAN AND THE STATE DEPARTMENT IS ABLE TO IMPLEMENT THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM BEFORE SUCH DATE, THEN THE PERSON MUST BE SCREENED ON OR AFTER THE IMPLEMENTATION DATE OF SUCH PROGRAM.

(II) HAS BEEN DIAGNOSED WITH BREAST OR CERVICAL CANCER AND IS IN NEED OF BREAST OR CERVICAL CANCER TREATMENT;

(III) HAS NOT YET ATTAINED SIXTY-FIVE YEARS OF AGE; AND

(IV) DOES NOT HAVE ANY CREDITABLE COVERAGE AS DEFINED UNDER FEDERAL LAW PURSUANT TO 42 U.S.C. SEC. 300gg (c).

(b) "QUALIFIED ENTITY" SHALL BE DEFINED PURSUANT TO 42 U.S.C. SEC. 1396r-1b(b)(2);

(c) "STATE BOARD" MEANS THE MEDICAL SERVICES BOARD CREATED IN SECTION 25.5-1-301, C.R.S.

(3) THERE IS HEREBY CREATED A BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM TO PROVIDE MEDICAL BENEFITS TO ELIGIBLE PERSONS UNDER THIS SECTION.

(4) (a) BENEFITS FOR MEDICAL ASSISTANCE TO AN ELIGIBLE PERSON SHALL BE MADE AVAILABLE BEGINNING ON THE DAY ON WHICH A DETERMINATION IS MADE THAT THE PERSON IS ELIGIBLE FOR MEDICAL ASSISTANCE AND THROUGHOUT THE PERIOD IN WHICH SUCH PERSON MEETS THE DEFINITION OF AN ELIGIBLE PERSON.

(b) BENEFITS FOR MEDICAL ASSISTANCE TO AN ELIGIBLE PERSON SHALL ALSO BE AVAILABLE FOR THE FOLLOWING PERIOD OF PRESUMPTIVE ELIGIBILITY:

(I) SUCH PERIOD OF PRESUMPTIVE ELIGIBILITY SHALL BEGIN WHEN A QUALIFIED ENTITY DETERMINES THAT THE ELIGIBLE PERSON IS IN NEED OF TREATMENT FOR BREAST OR CERVICAL CANCER.

(II) SUCH PERIOD OF PRESUMPTIVE ELIGIBILITY SHALL END WITH THE EARLIER OF:

(A) THE DAY ON WHICH A DETERMINATION IS MADE THAT THE PERSON IS ELIGIBLE OR NOT ELIGIBLE FOR MEDICAL ASSISTANCE; OR

(B) IF THE ELIGIBLE PERSON DOES NOT FILE A SIMPLIFIED APPLICATION FOR MEDICAL ASSISTANCE DEVELOPED BY THE STATE DEPARTMENT AND APPROVED BY THE

CENTERS FOR MEDICARE AND MEDICAID SERVICES ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE MONTH DURING WHICH THE ELIGIBLE PERSON WAS FOUND TO BE QUALIFIED FOR SERVICES UNDER THIS SECTION, THEN BENEFITS SHALL END ON SUCH LAST DAY.

(5) THE STATE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(a) TO ESTABLISH, OPERATE, AND MONITOR THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM TO PROVIDE MEDICAL ASSISTANCE TO ELIGIBLE PERSONS IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL "BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT ACT OF 2000", ENACTED OCTOBER 24, 2000, P.L. 106-354, AS AMENDED;

(b) TO AMEND THE STATE'S MEDICAL ASSISTANCE PLAN TO INCORPORATE THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM. THE STATE DEPARTMENT SHALL SUBMIT SUCH PROPOSED AMENDMENT TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES REGIONAL OFFICE FOR APPROVAL.

(c) TO ACCEPT AND EXPEND ANY GRANT OR AWARD OF MONEYS FROM THE FEDERAL GOVERNMENT, ANY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, ANY MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS FROM NONPROFIT OR FOR-PROFIT ENTITIES, AND ANY INTEREST AND INCOME EARNED ON SUCH MONEYS FOR THE PURPOSES SET FORTH IN THIS SECTION;

(d) TO INFORM THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY IN WRITING AS SOON AS PRACTICABLE ABOUT ANY CHANGE IN THE RATE OF FEDERAL FINANCIAL PARTICIPATION IN THE PROGRAM.

(6) THE STATE BOARD SHALL ADOPT SUCH RULES AS ARE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(7) THERE IS HEREBY CREATED IN THE STATE TREASURY THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND, REFERRED TO IN THIS SUBSECTION (7) AS THE "FUND". THE FUND SHALL CONSIST OF ANY MONEYS CREDITED THERETO PURSUANT TO SECTION 24-22-115 (1), C.R.S., ANY GIFTS, GRANTS, AND DONATIONS, AND ANY MONEYS APPROPRIATED THERETO BY THE GENERAL ASSEMBLY. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST AND INCOME EARNED ON THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND FOR THE PURPOSES SET FORTH IN THIS SECTION. NO MONEYS CREDITED TO THE FUND SHALL BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR. THE STATE DEPARTMENT IS ENCOURAGED TO SECURE PRIVATE GIFTS, GRANTS, AND DONATIONS TO FUND THE STATE COSTS OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM.

(7.5) (a) FOR THE FISCAL YEARS 2004-05 AND 2005-06, THE GENERAL ASSEMBLY SHALL APPROPRIATE FIFTY PERCENT OF THE STATE COSTS OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM FROM THE GENERAL FUND AND FIFTY PERCENT FROM THE MONEYS CREDITED TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND PURSUANT TO SECTION 24-22-115 (1), C.R.S., TO SUCH PROGRAM.

(b) FOR THE FISCAL YEARS 2006-07 AND 2007-08, THE GENERAL ASSEMBLY SHALL APPROPRIATE SEVENTY-FIVE PERCENT OF THE STATE COSTS OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM FROM THE GENERAL FUND AND TWENTY-FIVE PERCENT FROM THE MONEYS CREDITED TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND PURSUANT TO SECTION 24-22-115 (1), C.R.S. TO SUCH PROGRAM.

(c) FOR THE FISCAL YEAR 2008-09 THE GENERAL ASSEMBLY SHALL APPROPRIATE ONE HUNDRED PERCENT OF THE STATE COSTS OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM TO SUCH PROGRAM.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2009, UNLESS, IN ANY FISCAL YEAR BEFORE SUCH DATE, MONEYS RECEIVED AS FEDERAL FINANCIAL PARTICIPATION PROVIDED PURSUANT TO THE FEDERAL "BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT ACT OF 2000", ENACTED OCTOBER 24, 2000, P.L. 106-354, AS AMENDED, ARE NO LONGER AVAILABLE TO THE FUND OR THE RATE OF FEDERAL FINANCIAL PARTICIPATION HAS BEEN DECREASED, IN WHICH CASE THE GENERAL ASSEMBLY MAY REPEAL THIS SECTION AT THE REGULAR SESSION OF THE GENERAL ASSEMBLY IMMEDIATELY FOLLOWING SUCH DECREASE OR DISCONTINUATION OF FEDERAL MONEYS.

SECTION 5. Appropriation. (1) (a) In addition to any other appropriation, there is hereby appropriated out of the breast and cervical cancer prevention and treatment fund, created in section 26-4-532 (7), Colorado Revised Statutes, to the department of health care policy and financing, for the fiscal year beginning July 1, 2001, the sum of fifty-eight thousand seven hundred forty-six dollars (\$58,746), or so much thereof as may be necessary, for the implementation of this act, for expenses incurred as follows:

(I) Twelve thousand dollars (\$12,000) for systems costs in the executive director's office; and

(II) Forty-six thousand seven hundred forty-six dollars (\$46,746) and 0.5 FTE for administrative costs in medical programs administration.

(b) In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2002, the department of health care policy and financing will receive the sum of one hundred three thousand three hundred eighty-six dollars (\$103,386) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing the state appropriation amounts.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of human services, office of information technology services, client-oriented information network, for the fiscal year beginning July 1, 2001, the sum of twenty-four thousand dollars (\$24,000), or so much thereof as may be necessary for the implementation of this act. Said sum shall be from cash funds exempt received from the department of health care policy and financing out of the appropriation made in subsection (1) of this section.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: November 1, 2001