

CHAPTER 104

HEALTH AND ENVIRONMENT

SENATE BILL 15-189

BY SENATOR(S) Steadman, Grantham, Lambert, Guzman, Newell, Todd;
also REPRESENTATIVE(S) Rankin, Hamner, Young, Brown, Duran, Windholz.

AN ACT

CONCERNING THE REPEAL OF CONSOLIDATED TOBACCO SETTLEMENT PROGRAM MONITORING AND REPORTING REQUIREMENTS, AND, IN CONNECTION THEREWITH, REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **repeal** 25-1-108.5 as follows:

25-1-108.5. Additional powers and duties of state board of health and department - programs that receive tobacco settlement moneys - definitions - monitoring - annual report. ~~(1) As used in this section:~~

~~(a) "Health sciences facility" has the meaning set forth in section 26-6.4-103, C.R.S.~~

~~(b) "Master settlement agreement" means 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., Philip 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.~~

~~(c) "Nurse home visitor program" means the tobacco settlement program established in article 6.4 of title 26, C.R.S.~~

~~(d) "Tobacco settlement program" means any program that receives appropriations from moneys received by the state pursuant to the master settlement~~

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

agreement.

~~(2) Except for the nurse home visitor program, which shall be monitored by the health sciences facility in accordance with section 26-6.4-105 (1), C.R.S., the state board and the department shall monitor the operation and effectiveness of tobacco settlement programs. Each tobacco settlement program shall annually submit to the department, in accordance with rules promulgated by the state board, the following information:~~

~~(a) The amount of tobacco settlement moneys received by the program for the preceding fiscal year;~~

~~(b) A description of the program, including the program goals, the population served by the program, including the actual number of persons served, and the services provided through the program;~~

~~(c) Information evaluating the operation of the program, including the effectiveness of the program in achieving its stated goals; and~~

~~(d) Any other information required by rule of the state board.~~

~~(3) (a) On or before January 15, 2002, and on or before each January 15 thereafter, the department shall submit to the joint budget committee, the health and human services committees of the senate and the house of representatives, or any successor committees, the attorney general, and the governor a report summarizing the information received by the department pursuant to subsection (2) of this section. In addition, the report shall include:~~

~~(I) The reports prepared by the state auditor during the preceding fiscal year pursuant to section 2-3-113, C.R.S., reviewing and evaluating tobacco settlement programs, so long as such reports have been previously released by the audit committee; and~~

~~(II) The state board's recommendations concerning any programs for which funding should be discontinued and any additional programs for which the general assembly should consider appropriating moneys received pursuant to the master settlement agreement.~~

~~(b) The report prepared pursuant to this subsection (3) shall also be available upon request to any member of the public.~~

~~(4) The state board shall adopt rules to ensure that no person who is involved in evaluating tobacco settlement programs pursuant to this section has a conflict of interest in conducting such evaluations, including but not limited to any conflict involving the person and the recipient of any tobacco settlement program moneys and any conflict involving the person and the tobacco industry. If the state board determines that a person has a conflict, as described by rule, the state board shall prohibit that person from participating in any reviews that may be affected by the conflict.~~

~~(5) Each tobacco settlement program shall pay a proportionate share of the costs~~

incurred by the department in implementing the requirements of this section, with the amount paid by each tobacco settlement program proportionate to the amounts annually appropriated to each tobacco settlement program from the master settlement agreement; except that the total amount of the program evaluation costs shall not exceed four-tenths of one percent of the total amount of moneys received by the state pursuant to the master settlement agreement in any fiscal year.

SECTION 2. In Colorado Revised Statutes, 23-20-208, **amend** (1) introductory portion as follows:

23-20-208. Annual report. (1) On or before December 1, 2000, and on or before each December 1 thereafter, the office of the president shall submit to the department of public health and environment a report concerning the research grants awarded pursuant to the research program. ~~The department shall include said report in the annual report of programs that are funded by moneys received pursuant to the master settlement agreement prepared pursuant to section 25-1-108.5 (3), C.R.S.~~ The report shall include the following information for each institution and organization that receives grant awards:

SECTION 3. In Colorado Revised Statutes, **repeal** 24-75-1105 as follows:

24-75-1105. Use of settlement moneys - review. ~~(1) On or before January 30, 2006, the joint budget committee and the health and human services committees of the senate and house of representatives, or any successor committees, referred to in this section as the "joint committees", shall meet jointly to review the use of settlement moneys. In accordance with subsection (2) of this section, the joint committees shall again meet jointly to review the use of settlement moneys on or before January 30, 2009. Specifically, the joint committees shall review:~~

~~(a) The effectiveness of each program that receives settlement moneys, including but not limited to reviewing the annual reports of each program prepared by the department of public health and environment pursuant to section 25-1-108.5, C.R.S., and the program reviews of each program prepared by the state auditor pursuant to section 2-3-113, C.R.S.;~~

~~(a.5) For the children's basic health plan, all of the items listed in this subsection (1) for review shall be separately reported and reviewed with respect to the children's basic health plan and the prenatal and postpartum care program added to the children's basic health plan in fiscal year 2002-03. The joint committee shall also consider whether the prenatal and postpartum care portion of the children's basic health plan should continue to be paid for out of settlement moneys or should be paid for out of general fund revenues.~~

~~(b) The costs incurred by each program that receives settlement moneys, including but not limited to the amount and justification of administrative costs incurred by the agencies that implement the program;~~

~~(c) The percentage allocated to each program receiving settlement moneys and the actual amount appropriated to each program each fiscal year; and~~

~~(d) The amount of settlement moneys annually credited to the tobacco litigation~~

settlement trust fund created in section 24-22-115.5, the investment of and return on such moneys, and the projections of future interest earnings on the moneys in the fund.

~~(2) The joint committees shall submit a legislative recommendation specifying the date by which the joint committees shall again review the use of settlement moneys as provided in this section. In addition, the joint committees may make legislative recommendations concerning programs that receive settlement moneys, which recommendations may include, but need not be limited to increases or decreases in the amount received by each program, discontinuance of the funding for any program, or identification of new programs to receive settlement moneys.~~

~~(3) The department of public health and environment and the state auditor shall provide such assistance and information as the joint committees may request in completing the review required pursuant to this section.~~

SECTION 4. In Colorado Revised Statutes, 25-3.5-806, **amend** (2) as follows:

25-3.5-806. Tobacco education, prevention, and cessation programs - reporting requirements. (2) The division shall compile the annual reports received from entities pursuant to this section. ~~and the department shall include the compilation and any other necessary information in the annual report on programs that are funded by moneys received by the state pursuant to the master settlement agreement prepared pursuant to section 25-1-108.5 (3).~~

SECTION 5. In Colorado Revised Statutes, 25.5-5-308, **amend** (7) as follows:

25.5-5-308. Breast and cervical cancer prevention and treatment program - creation - legislative declaration - definitions - funds - repeal. (7) The breast and cervical cancer prevention and treatment program ~~shall be~~ is subject to the annual financial and compliance audit of the "Colorado Medical Assistance Act" performed by the state auditor's office and shall not be considered a tobacco settlement program for purposes of section 2-3-113, C.R.S. ~~or section 25-1-108.5; C.R.S.~~

SECTION 6. In Colorado Revised Statutes, 26-6.4-108, **amend** (1) as follows:

26-6.4-108. Annual program review - audit. (1) The health sciences facility shall annually prepare and submit to the state department a report including an evaluation of the implementation of the program, the results achieved by the program based on the annual reports submitted by the administering entities pursuant to section 26-6.4-106 (1) (e), the extent to which the program serves medicaid-eligible persons and provides services that may be provided in part through medicaid funding, and any recommendations concerning changes to the program, including any changes that may be appropriate to enable the program to receive and maximize medicaid funding. ~~The state department shall include the report in the annual report on the program prepared pursuant to section 25-1-108.5 (3), C.R.S.~~ Each program contractor and subcontractor and each entity that administers the program shall work with the health sciences facility and the state department to prepare the reports required under this section and ~~sections~~ **SECTION 2-3-113 (2), and 25-1-108.5 (3); C.R.S.** Any entity that is administering the program

is subject to a reduction in or cessation of funding if the state board, based on recommendations from the health sciences facility, determines that the entity is not operating the program in accordance with the program requirements established by rule of the state board or is operating the program in such a manner that the program does not demonstrate positive results.

SECTION 7. In Colorado Revised Statutes, 28-5-709, **repeal** (7) (b) as follows:

28-5-709. Colorado state veterans trust fund - created - report. (7) (b) ~~The department shall submit the report to the department of public health and environment for inclusion in the report prepared by the department of public health and environment pursuant to section 25-1-108.5 (3), C.R.S.~~

SECTION 8. Appropriation - adjustments to 2015 long bill. To implement this act, the reappropriated funds appropriation made in the annual general appropriation act for the 2015-16 state fiscal year to the department of public health and environment for personal services related to administration and support is decreased by \$25,000. This appropriation is from reappropriated funds received from tobacco settlement moneys received from tobacco settlement supported programs.

SECTION 9. 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: April 16, 2015