

## CHAPTER 389

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**GOVERNMENT - STATE**


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**SENATE BILL 03-268**

BY SENATOR(S) Reeves, Owen, and Teck;  
also REPRESENTATIVE(S) Plant, Witwer, and Young.

**AN ACT**

**CONCERNING TOBACCO LITIGATION SETTLEMENT MONEYS, AND, IN CONNECTION THEREWITH, CREATING A TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION FOR THE PURPOSE OF SECURITIZING A PORTION OF THE TOBACCO SETTLEMENT REVENUES SCHEDULED TO BE RECEIVED BY THE STATE, REQUIRING THE NET PROCEEDS OF ANY SECURITIZATION TO BE USED TO FUND A CASH FLOW RESERVE, AND MODIFYING THE LEVEL OF FUTURE APPROPRIATIONS FOR PROGRAMS FUNDED WITH TOBACCO LITIGATION SETTLEMENT MONEYS.**

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

**SECTION 1.** Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 82.5****Tobacco Litigation Settlement Financing Corporation**

**24-82.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ACT".

**24-82.5-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE SALE BY THE STATE OF ONE OR MORE PORTIONS OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES SCHEDULED TO BE RECEIVED BY THE STATE PURSUANT TO THE TERMS OF THE MASTER SETTLEMENT AGREEMENT IN EXCHANGE FOR ONE OR MORE LUMP SUM CASH PAYMENTS AND ANY OTHER VALUABLE CONSIDERATION SPECIFIED IN ONE OR MORE PROPERTY SALE CONTRACTS WILL ENABLE THE STATE TO RESOLVE CASH FLOW EMERGENCIES.

(b) TO EXPEDITE THE SALE OF ONE OR MORE PORTIONS OF THE STATE'S RIGHT TO

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

RECEIVE TOBACCO SETTLEMENT REVENUES OWED TO THE STATE PURSUANT TO THE TERMS OF THE MASTER SETTLEMENT AGREEMENT, ENSURE COMPLIANCE WITH THE STATE CONSTITUTION AND FEDERAL LAW, AND ENABLE THE STATE TO MAXIMIZE ITS NET PROCEEDS FROM THE SALE BY ENTERING INTO ONE OR MORE PROPERTY SALE CONTRACTS UNDER THE MOST FAVORABLE TERMS POSSIBLE, IT IS NECESSARY AND IN THE BEST INTERESTS OF THE STATE TO CREATE THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION AS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE AND TO GIVE THE CORPORATION THE POWERS AND DUTIES SPECIFIED IN THIS ARTICLE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) THE STATE'S RIGHT TO TOBACCO SETTLEMENT REVENUES IS A PROPERTY RIGHT.

(b) ANY MONEYS RECEIVED BY THE STATE FROM THE CORPORATION IN EXCHANGE FOR THE SALE TO THE CORPORATION OF ONE OR MORE PORTIONS OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES AND ANY INTEREST OR INCOME DERIVED FROM THE INVESTMENT OF THE MONEYS ARE EXCLUDED FROM STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF THIS TITLE BECAUSE SUCH MONEYS ARE RECEIVED IN LIEU OF TOBACCO SETTLEMENT REVENUES AND THEREFORE ARE BOTH:

(I) PROCEEDS FROM A PROPERTY SALE AS DEFINED IN SECTION 24-77-102 (11) OR INTEREST OR INCOME DERIVED FROM THE INVESTMENT OF PROCEEDS FROM A PROPERTY SALE; AND

(II) A DAMAGE AWARD AS DEFINED IN SECTION 24-77-102 (2) OR INTEREST OR INCOME DERIVED FROM THE INVESTMENT OF A DAMAGE AWARD.

**24-82.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ANCILLARY FINANCIAL FACILITY" MEANS A REVOLVING CREDIT AGREEMENT, AGREEMENT ESTABLISHING A LINE OR LETTER OF CREDIT, REIMBURSEMENT AGREEMENT, INTEREST RATE EXCHANGE OR SIMILAR AGREEMENT, CURRENCY EXCHANGE AGREEMENT, INTEREST RATE FLOOR OR CAP, OPTION, PUT OR CALL TO HEDGE PAYMENT, CURRENCY, RATE, SPREAD OR SIMILAR AGREEMENT, FLOAT AGREEMENT, INSURANCE CONTRACT, SURETY BOND, COMMITMENT OR CONTRACT TO PURCHASE OR SELL SECURITIES, PURCHASE OR SALE AGREEMENT, OR ANY OTHER SIMILAR CONTRACT OR AGREEMENT APPROVED BY THE CORPORATION.

(2) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

(3) "BOND" MEANS ANY BOND, NOTE, OBLIGATION, OR OTHER FINANCING ARRANGEMENT, INCLUDING REFUNDING BONDS OR OBLIGATIONS, ISSUED BY THE CORPORATION OR BY ANY TRUST SPONSORED BY THE CORPORATION PURSUANT TO THIS ARTICLE.

(4) "BOND RESOLUTION" MEANS A RESOLUTION THAT AUTHORIZES, OR PROVIDES TERMS AND CONDITIONS RELATING TO, THE ISSUANCE OF BONDS PURSUANT TO THE PROVISIONS OF THIS ARTICLE. THE TERM INCLUDES ANY TRUST INDENTURE THAT PROVIDES TERMS AND CONDITIONS RELATING TO THE ISSUANCE OF THE BONDS.

(5) "COMPLEMENTARY STATUTE" MEANS THE PROVISIONS OF PART 3 OF ARTICLE 28 OF TITLE 39, C.R.S., ENACTED BY HOUSE BILL 03-1330, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

(6) "CORPORATION" MEANS THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION CREATED IN SECTION 24-82.5-104.

(7) "INDENTURE TRUSTEE" MEANS A PERSON OR INSTITUTION NAMED IN A TRUST INDENTURE UNDER WHICH THE CORPORATION ISSUES BONDS WHO IS CHARGED WITH CARRYING OUT THE TERMS OF THE TRUST INDENTURE.

(8) "MASTER SETTLEMENT AGREEMENT" MEANS THE MASTER SETTLEMENT AGREEMENT, DATED NOVEMBER 23, 1998, AMONG THE ATTORNEY GENERALS OF FORTY-SIX STATES, INCLUDING THE STATE OF COLORADO, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, GUAM, THE UNITED STATES VIRGIN ISLANDS, AMERICAN SAMOA, AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND CERTAIN TOBACCO MANUFACTURERS, AND THE CONSENT DECREE 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 GROUP, 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.

(9) "NET PROCEEDS" MEANS THE AMOUNT OF CASH PROCEEDS OF SALE PAYABLE TO THE STATE PURSUANT TO A PROPERTY SALE CONTRACT IN EXCESS OF THE AMOUNT NECESSARY TO PAY ANY COSTS OF THE STATE INCURRED IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY. NET PROCEEDS DO NOT INCLUDE NONCASH CONSIDERATION, CONTINGENT AMOUNTS, RESIDUAL INTERESTS, OR ANY AMOUNTS NOT PROVIDED TO THE STATE BY THE CORPORATION FROM BOND PROCEEDS.

(10) "PROPERTY SALE CONTRACT" MEANS ANY WRITTEN INSTRUMENT PURSUANT TO WHICH THE STATE TREASURER SELLS A PORTION OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES TO THE CORPORATION IN EXCHANGE FOR CASH AND ANY OTHER VALUABLE CONSIDERATION SPECIFIED IN THE PROPERTY SALE CONTRACT.

(11) "QUALIFYING STATUTE" MEANS THE PROVISIONS OF PART 2 OF ARTICLE 28 OF TITLE 39, C.R.S.

(12) "RESIDUAL INTERESTS" MEANS THE INCOME OF THE CORPORATION AND BOND PROCEEDS, IF ANY, OR RESERVES NOT PREVIOUSLY PAID TO THE STATE THAT:

(a) ARE IN EXCESS OF THE CORPORATION'S REQUIREMENTS TO PAY ITS OPERATING EXPENSES, DEBT SERVICE, SINKING FUND OR OTHER REDEMPTION REQUIREMENTS, RESERVE FUND, AND ANY OTHER CONTRACTUAL OBLIGATIONS UNDER ANY RESOLUTION OR ANY ANCILLARY FINANCIAL FACILITY; OR

(b) MAY BE INCURRED IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

(13) "TOBACCO SETTLEMENT REVENUES" MEANS ALL PAYMENTS RECEIVABLE BY

THE STATE PURSUANT TO THE TERMS OF THE MASTER SETTLEMENT AGREEMENT.

**24-82.5-104. Tobacco litigation settlement financing corporation - creation - enterprise status - membership.** (1) (a) THERE IS HEREBY CREATED AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE TO BE KNOWN AS THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION. THE CORPORATION SHALL BE A BODY CORPORATE AND AN INSTRUMENTALITY OF THE STATE AND SHALL NOT BE AN AGENCY OF STATE GOVERNMENT AND SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE. NOTWITHSTANDING THE SERVICE OF ELECTED OFFICIALS OF STATE GOVERNMENT OR EMPLOYEES OF AGENCIES OF STATE GOVERNMENT ON THE BOARD, THE CORPORATION SHALL BE TREATED AND ACCOUNTED FOR AS A SEPARATE LEGAL ENTITY WITH SEPARATE CORPORATE PURPOSES AS SET FORTH IN THIS ARTICLE. ASSETS, LIABILITIES, AND FUNDS OF THE CORPORATION SHALL NOT BE CONSOLIDATED OR COMMINGLED WITH ASSETS, LIABILITIES, OR FUNDS OF THE STATE OR OF ANY OTHER ENTITY THAT IS CAPABLE OF BEING A DEBTOR IN A LEGAL ACTION ARISING UNDER THE FEDERAL BANKRUPTCY CODE OF 1978, CHAPTER 9 OF TITLE 11, OF THE UNITED STATES CODE, AS AMENDED, OR ANY SUCCESSOR BANKRUPTCY CODE. ASSETS OF THE CORPORATION SHALL NOT BE USED TO PAY DEBTS OR OBLIGATIONS OF THE STATE.

(b) THE CORPORATION SHALL CONSTITUTE AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE CORPORATION RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS THE CORPORATION CONSTITUTES AN ENTERPRISE PURSUANT TO THIS PARAGRAPH (b), IT SHALL NOT BE SUBJECT TO ANY PROVISION OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) (a) THE GOVERNING BODY OF THE CORPORATION SHALL BE A BOARD OF DIRECTORS, WHICH SHALL CONSIST OF THE FOLLOWING THREE EX OFFICIO MEMBERS:

(I) THE STATE TREASURER;

(II) THE STATE CONTROLLER; AND

(III) THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING.

(b) EACH EX OFFICIO MEMBER OF THE CORPORATION MAY DESIGNATE AN OFFICIAL OR EMPLOYEE OF THE MEMBER'S AGENCY TO REPRESENT THE MEMBER AT MEETINGS OF THE CORPORATION AND EACH DESIGNEE MAY LAWFULLY VOTE AND OTHERWISE ACT ON BEHALF OF THE DESIGNATING MEMBER.

(c) A MEMBER OF THE BOARD OR A DESIGNEE OF A MEMBER OF THE BOARD IS IMMUNE FROM PERSONAL LIABILITY FOR ANY ACTION TAKEN BY THE MEMBER OR DESIGNEE THAT IS WITHIN THE SCOPE OF THE BOARD'S AUTHORITY UNDER THIS ARTICLE.

**24-82.5-105. Organizational meeting - chair - personnel - surety bond - conflict of interest.** (1) (a) THE STATE TREASURER SHALL CALL AND CONVENE THE INITIAL ORGANIZATIONAL MEETING OF THE BOARD AND SHALL SERVE AS ITS CHAIR

PRO TEMPORE. AT THE MEETING, APPROPRIATE BYLAWS SHALL BE PRESENTED FOR ADOPTION. THE BYLAWS MAY PROVIDE FOR THE ELECTION OR APPOINTMENT OF OFFICERS, THE DELEGATION OF CERTAIN POWERS AND DUTIES TO ANY EXECUTIVE OFFICER OR OTHER AGENT OF THE BOARD, AND SUCH OTHER MATTERS AS THE BOARD DEEMS PROPER. AT THE MEETING, AND ANNUALLY THEREAFTER, THE BOARD SHALL ELECT ONE OF ITS MEMBERS AS CHAIR.

(b) THE BOARD SHALL APPOINT AN EXECUTIVE OFFICER AND SUCH OTHER PERSONNEL AS IT DEEMS NECESSARY. THE EXECUTIVE OFFICER SHALL HAVE EXPERTISE IN THE AREA OF PUBLIC FINANCE AND SHALL HAVE ANY POWERS SPECIFIED IN THIS ARTICLE OR DELEGATED BY THE BOARD IN ACCORDANCE WITH THIS ARTICLE. THE EXECUTIVE OFFICER AND ANY OTHER PERSONNEL APPOINTED BY THE BOARD SHALL NOT BE MEMBERS OF THE BOARD, SHALL SERVE AT THE BOARD'S PLEASURE, AND SHALL RECEIVE COMPENSATION FOR THEIR SERVICES AS DETERMINED BY THE BOARD.

(2) THE EXECUTIVE OFFICER OR ANY OTHER PERSON DESIGNATED BY THE BOARD SHALL KEEP A RECORD OF THE PROCEEDINGS OF THE BOARD AND SHALL BE CUSTODIAN OF ALL BOOKS, DOCUMENTS, PAPERS FILED WITH THE BOARD, MINUTE BOOKS OR JOURNAL OF THE BOARD, AND ITS OFFICIAL SEAL. THE EXECUTIVE OFFICER OR OTHER PERSON MAY CAUSE COPIES TO BE MADE OF ALL MINUTES AND OTHER RECORDS AND DOCUMENTS OF THE BOARD AND MAY GIVE CERTIFICATES UNDER THE OFFICIAL SEAL OF THE CORPORATION TO THE EFFECT THAT SUCH COPIES ARE TRUE COPIES AND ALL PERSONS DEALING WITH THE CORPORATION MAY RELY ON SUCH CERTIFICATES.

(3) THE BOARD MAY DELEGATE, BY RESOLUTION, TO ONE OR MORE OF ITS MEMBERS, TO ITS EXECUTIVE OFFICER, OR TO AN INDENTURE TRUSTEE OR ANY OTHER THIRD PARTY TO WHOM THE BOARD HAS ASSIGNED ANY RIGHTS OF THE CORPORATION THAT ARISE UNDER A PROPERTY SALE CONTRACT, SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER AND TO ITS EXECUTIVE OFFICER OR ANY OTHER PERSON DESIGNATED BY THE BOARD, THE POWER TO SET THE INTEREST RATES AND OTHER TERMS OF ANY PARTICULAR BOND ISSUE, SUBJECT TO SUCH LIMITATIONS AS SHALL BE PRESCRIBED BY THE BOARD BY RESOLUTION.

(4) NOTWITHSTANDING ANY OTHER LAW, IT IS NOT A CONFLICT OF INTEREST FOR A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE OF ANY FINANCIAL INSTITUTION, INVESTMENT BANKING FIRM, BROKERAGE FIRM, COMMERCIAL BANK OR TRUST COMPANY, INSURANCE COMPANY, OR OTHER FIRM, CORPORATION, OR BUSINESS ENTITY TO SERVE AS THE EXECUTIVE OFFICER OF THE CORPORATION OR AS AN EMPLOYEE OF THE CORPORATION. HOWEVER, THE EXECUTIVE OFFICER OR ANY OTHER EMPLOYEE WHO IS ALSO SUCH A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE SHALL DISCLOSE HIS OR HER BUSINESS AFFILIATION TO THE BOARD AND SHALL ABSTAIN FROM TAKING ACTION IN ANY INSTANCE IN WHICH HIS OR HER BUSINESS AFFILIATION IS INVOLVED.

(5) THE EXECUTIVE OFFICER AND ANY OTHER PERSONNEL APPOINTED BY THE BOARD ARE IMMUNE FROM PERSONAL LIABILITY FOR ANY ACTIONS TAKEN BY THEM THAT ARE WITHIN THE SCOPE OF THE AUTHORITY GRANTED TO THEM BY THIS ARTICLE OR DELEGATED TO THEM BY THE BOARD.

**24-82.5-106. Meetings of board - quorum - expenses.** (1) TWO MEMBERS OF

THE BOARD SHALL CONSTITUTE A QUORUM FOR THE PURPOSE OF CONDUCTING BUSINESS AND EXERCISING THE BOARD'S POWERS. ACTION MAY BE TAKEN BY THE BOARD UPON THE AFFIRMATIVE VOTE OF TWO MEMBERS OF THE BOARD. A VACANCY IN THE MEMBERSHIP OF THE BOARD SHALL NOT IMPAIR THE RIGHT OF A QUORUM TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE BOARD.

(2) EACH MEETING OF THE BOARD, FOR ANY PURPOSE WHATSOEVER, SHALL BE OPEN TO THE PUBLIC AND RECORDS OF THE CORPORATION SHALL BE SUBJECT TO THE OPEN RECORDS LAW UNDER ARTICLE 72 OF THIS TITLE. HOWEVER, THE BOARD MAY GO INTO EXECUTIVE SESSION AS PERMITTED PURSUANT TO SECTION 24-6-402. NOTICE OF MEETINGS SHALL BE AS PROVIDED IN THE BYLAWS OF THE CORPORATION. IF A MEETING OF THE BOARD IS CALLED FOR THE SOLE PURPOSE OF ADOPTING RESOLUTIONS AUTHORIZING THE EXECUTION OF A PROPERTY SALE CONTRACT OR ANY OTHER TRANSFER AGREEMENT OR AUTHORIZING THE ISSUANCE OF BONDS BY THE CORPORATION, ONE OR MORE MEMBERS OF THE BOARD MAY PARTICIPATE IN THE MEETING AND MAY VOTE ON THE RESOLUTIONS THROUGH THE USAGE OF TELECOMMUNICATIONS DEVICES, INCLUDING, BUT NOT LIMITED TO, THE USAGE OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT. PARTICIPATION THROUGH TELECOMMUNICATIONS DEVICES SHALL CONSTITUTE PRESENCE IN PERSON AT SUCH MEETING, BUT USE OF TELECOMMUNICATIONS SHALL NOT SUPERSEDE ANY REQUIREMENTS FOR PUBLIC HEARING OTHERWISE PROVIDED BY LAW. RESOLUTIONS NEED NOT BE PUBLISHED OR POSTED, BUT RESOLUTIONS AND ALL PROCEEDINGS AND OTHER ACTS OF THE BOARD ARE PUBLIC RECORDS.

(3) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR SERVICES BUT SHALL BE ENTITLED TO THE NECESSARY EXPENSES, INCLUDING TRAVEL AND LODGING EXPENSES, INCURRED IN THE DISCHARGE OF THEIR OFFICIAL DUTIES. ANY PAYMENTS FOR COMPENSATION AND EXPENSES SHALL BE PAID FROM FUNDS OF THE CORPORATION.

**24-82.5-107. General powers of corporation.** (1) IN ADDITION TO ANY OTHER POWERS SPECIFICALLY GRANTED TO THE CORPORATION IN THIS ARTICLE, THE CORPORATION HAS THE FOLLOWING POWERS:

(a) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION AS A BODY POLITIC AND CORPORATE;

(b) TO ADOPT, AMEND, OR REPEAL BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS, CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE;

(c) TO SUE AND BE SUED;

(d) TO HAVE AND TO USE A SEAL AND TO ALTER THE SAME AT ITS PLEASURE;

(e) TO MAINTAIN AN OFFICE AT SUCH PLACE AS IT MAY DESIGNATE;

(f) TO ENTER INTO PROPERTY SALE CONTRACTS WITH THE STATE AND ASSIGN THE CORPORATION'S RIGHTS UNDER ANY PROPERTY SALE CONTRACT TO AN INDENTURE TRUSTEE OR TO ONE OR MORE THIRD PARTY ASSIGNEES;

(g) TO BORROW NO MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS FROM A PRIVATE SECTOR FINANCIAL INSTITUTION, OR FROM THE STATE AT PREVAILING INTEREST RATES, FOR THE PURPOSE OF DEFRAYING EXPENSES OF THE CORPORATION INCURRED PRIOR TO THE ISSUANCE OF ANY BONDS PURSUANT TO THIS ARTICLE;

(h) TO ISSUE BOND ANTICIPATION NOTES FOR THE PURPOSE OF RAISING NO MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS TO DEFRAY EXPENSES OF THE CORPORATION INCURRED PRIOR TO THE ISSUANCE OF ANY BONDS PURSUANT TO THIS ARTICLE;

(i) TO ISSUE BONDS AS SPECIFICALLY AUTHORIZED BY THE PROVISIONS OF THIS ARTICLE OR TO SPONSOR TRUSTS TO ISSUE SUCH BONDS FOR THE PURPOSE OF OBTAINING THE MONEYS NEEDED TO FINANCE ALL OR A PART OF THE COSTS OF THE CORPORATION'S OBLIGATIONS TO THE STATE UNDER A PROPERTY SALE CONTRACT, THE COSTS OF ISSUING THE BONDS, CAPITALIZED INTEREST, OPERATING EXPENSES OF THE CORPORATION, FUNDING OF RESERVES, AND REFUNDING OF THE BONDS;

(j) TO ADMINISTER ITS ASSETS AND USE ANY FUNDS GENERATED FROM ITS ACTIVITIES FOR THE PURPOSE OF PAYING OR ACCELERATING THE PAYMENT OF THE DEBT SERVICE ON ANY BONDS FOR THE PURPOSE OF DISTRIBUTING MONEYS TO THE STATE, TO PAY ITS OPERATING EXPENSES, OR FOR ANY OTHER PUBLIC PURPOSE SPECIFICALLY AUTHORIZED BY LAW;

(k) TO ENGAGE THE SERVICES OF PRIVATE CONSULTANTS, INCLUDING, BUT NOT LIMITED TO, FINANCIAL ADVISORS AND EXPERTS, PLACEMENT AGENTS, UNDERWRITERS, APPRAISERS, AND LEGAL COUNSEL AND TO OTHERWISE CONTRACT WITH PROVIDERS TO RENDER PROFESSIONAL AND TECHNICAL ASSISTANCE, ADVICE, AND OTHER SERVICES IN EXERCISING ITS POWERS UNDER THIS ARTICLE;

(l) TO MAKE AND EXECUTE CONTRACTS, INCLUDING, BUT NOT LIMITED TO, PROPERTY SALE CONTRACTS, TRUST AGREEMENTS, TRUST INDENTURES, BOND PURCHASE AGREEMENTS, TAX REGULATORY AGREEMENTS, CONTINUING DISCLOSURE AGREEMENTS, ANCILLARY FINANCIAL FACILITIES, AND ALL OTHER INSTRUMENTS NECESSARY OR CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS ARTICLE; AND

(m) TO DO ALL THINGS NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE. THE POWERS GRANTED TO THE CORPORATION SHALL BE LIBERALLY CONSTRUED TO EFFECT THE PURPOSES OF THIS ARTICLE. HOWEVER, THE CORPORATION SHALL NOT UNDERTAKE ANY ENTERPRISE, OPERATIONS, OR BUSINESS OTHER THAN THE PURCHASE OF TOBACCO SETTLEMENT REVENUES AND THE FINANCING THEREOF AND ANY TRANSACTIONS INCIDENTAL OR RELATED THERETO.

**24-82.5-108. Corporate fiscal year - account of activities and receipts for expenditures - report - audit.** (1) THE FISCAL AND BUDGET YEAR FOR THE CORPORATION SHALL COMMENCE ON JULY 1 AND END ON JUNE 30 OF EACH YEAR. THE CORPORATION SHALL KEEP AN ACCURATE ACCOUNT OF ALL ITS ACTIVITIES AND OF ALL ITS RECEIPTS AND EXPENDITURES AND SHALL SUBMIT AN ANNUAL REPORT THAT SETS FORTH A COMPLETE AND DETAILED OPERATING AND FINANCIAL STATEMENT OF THE CORPORATION FOR THE MOST RECENTLY ENDED FISCAL YEAR TO THE GOVERNOR, THE STATE AUDITOR, AND THE HOUSE AND SENATE FINANCE COMMITTEES

OF THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 1 OF EACH CALENDAR YEAR. THE STATE AUDITOR MAY INVESTIGATE THE AFFAIRS OF THE CORPORATION, MAY EXAMINE THE PROPERTIES AND RECORDS OF THE CORPORATION, AND MAY PRESCRIBE METHODS OF ACCOUNTING AND THE RENDERING OF ADDITIONAL PERIODICAL REPORTS IN RELATION TO THE UNDERTAKINGS OF THE CORPORATION.

(2) NO LATER THAN NOVEMBER 1, 2003, THE CORPORATION SHALL REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY ITS ACTIONS AND INTENTIONS REGARDING THE EXECUTION OF A PROPERTY SALE CONTRACT PURSUANT TO SECTION 24-82.5-111. THE CORPORATION SHALL SET FORTH ITS REASONS FOR EXECUTING OR CHOOSING NOT TO EXECUTE A PROPERTY SALE CONTRACT AND THE PROPOSED TERMS, CONDITIONS, AND EXECUTION DATE OF ANY PROPERTY SALE CONTRACT THAT THE CORPORATION INTENDS TO EXECUTE.

**24-82.5-109. Limitation on power of corporation to declare bankruptcy.** THE CORPORATION SHALL HAVE NO AUTHORITY TO FILE A VOLUNTARY PETITION UNDER THE FEDERAL BANKRUPTCY CODE OF 1978, CHAPTER 9 OF TITLE 11, OF THE UNITED STATES CODE, AS AMENDED, OR ANY SUCCESSOR BANKRUPTCY CODE, AND NEITHER ANY PUBLIC OFFICER NOR ANY ORGANIZATION, ENTITY, OR OTHER PERSON SHALL AUTHORIZE THE CORPORATION TO BE OR TO BECOME A DEBTOR UNDER THE CODE. THE STATE HEREBY COVENANTS WITH THE HOLDERS OF ANY BONDS ISSUED PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT LIMIT OR ALTER THE PROHIBITION ON THE FILING OF VOLUNTARY BANKRUPTCY PETITIONS SET FORTH IN THIS SECTION UNTIL ONE YEAR AND ONE DAY AFTER THE CORPORATION NO LONGER HAS ANY BONDS OUTSTANDING. THE CORPORATION AND ANY TRUST ESTABLISHED BY THE CORPORATION ARE HEREBY AUTHORIZED TO INCLUDE THIS COVENANT AS AN AGREEMENT OF THE STATE IN ANY CONTRACT WITH THE BONDHOLDERS OF THE CORPORATION.

**24-82.5-110. Sale of tobacco settlement revenues to the corporation - disposition of net proceeds of a sale.** (1) (a) (I) THE STATE TREASURER MAY SELL ONE OR MORE PORTIONS OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES BY ENTERING INTO ONE OR MORE PROPERTY SALE CONTRACTS; EXCEPT THAT ANY PORTIONS SOLD, IN THE AGGREGATE, SHALL NOT EXCEED SIXTY PERCENT OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES. HOWEVER, IF THE STATE TREASURER AND THE CORPORATION DO NOT EXECUTE AND DELIVER AT LEAST ONE PROPERTY SALE CONTRACT ON OR BEFORE NOVEMBER 30, 2003, THE AUTHORITY TO ENTER INTO PROPERTY SALE CONTRACTS SHALL EXPIRE. NOTHING IN THIS PARAGRAPH (a) SHALL INVALIDATE ANY PROPERTY SALE CONTRACT ENTERED INTO IN GOOD FAITH ON OR BEFORE NOVEMBER 30, 2003, OR ANY SUPPLEMENT THERETO WHENEVER MADE. IF THE STATE TREASURER DECIDES TO ENTER INTO ONE OR MORE PROPERTY SALE CONTRACTS, THE STATE TREASURER SHALL SELL ONLY THE PORTION OR PORTIONS OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES NECESSARY TO GENERATE AGGREGATE NET PROCEEDS TO THE STATE OF ONE HUNDRED SIXTY MILLION DOLLARS AND TO PAY THE COSTS OF ISSUING THE BONDS, CAPITALIZED INTEREST, OPERATING EXPENSES OF THE CORPORATION, AND THE FUNDING OF RESERVES.

(II) THE VALIDITY AND ENFORCEABILITY OF THE TRANSFER OF A PORTION OF THE TOBACCO SETTLEMENT REVENUES SHALL BE CONCLUSIVELY DETERMINED BY THE TERMS OF A PROPERTY SALE CONTRACT AND ANY AMENDMENTS AND SUPPLEMENTS

TO A PROPERTY SALE CONTRACT. EXCEPT AS OTHERWISE EXPLICITLY SET FORTH IN THIS ARTICLE, NO FILING, RECORDING, PUBLICATION, SEAL, OR FORMALITIES SHALL BE REQUISITE TO A PROPERTY SALE CONTRACT OR ANY AMENDMENTS OR SUPPLEMENTS TO A PROPERTY SALE CONTRACT.

(b) A PROPERTY SALE CONTRACT REPRESENTS A TRUE SALE AND ABSOLUTE TRANSFER BY THE STATE OF THE COMPLETE RIGHT OF THE STATE TO A DEFINED PORTION OF THE TOBACCO SETTLEMENT REVENUES IN EXCHANGE FOR CASH AND ANY OTHER VALUABLE CONSIDERATION SPECIFIED IN THE PROPERTY SALE CONTRACT. A PROPERTY SALE CONTRACT IS NOT A PLEDGE OR OTHER SECURITY INTEREST FOR ANY BORROWING. THE CHARACTERIZATION OF A PROPERTY SALE CONTRACT AS A TRUE SALE AND AN ABSOLUTE TRANSFER BY THE PARTIES TO THE CONTRACT SHALL NOT BE NEGATED BY THE FACT THAT ONLY A PORTION OF THE TOBACCO SETTLEMENT REVENUES ARE TRANSFERRED, THE ACQUISITION OR RETENTION BY THE STATE OF A RESIDUAL INTEREST, THE PARTICIPATION OF STATE OFFICIALS OR EMPLOYEES AS MEMBERS OF THE BOARD, ANY CHARACTERIZATION OF THE CORPORATION OF ITS OBLIGATIONS FOR PURPOSES OF ACCOUNTING, TAXATION, OR SECURITIES REGULATIONS, THE RESPONSIBILITY OF THE STATE TO COLLECT TOBACCO SETTLEMENT REVENUES AND ENFORCE THE MASTER SETTLEMENT AGREEMENT, OR ANY OTHER FACTOR.

(c) IN CONNECTION WITH A PROPERTY SALE CONTRACT, THE STATE TREASURER MAY EXECUTE SUCH CONTRACTS, AGREEMENTS, AND CERTIFICATES CONTAINING SUCH REPRESENTATIONS AND COVENANTS AS ARE REASONABLE AND APPROPRIATE TO ACCOMPLISH THE SALE OF THE RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES. A PROPERTY SALE CONTRACT MAY CONTAIN ANY TERMS AND CONDITIONS DEEMED NECESSARY BY THE STATE TREASURER TO CARRY OUT AND EFFECT THE PURPOSES OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, COVENANTS THAT BIND THE STATE IN FAVOR OF THE CORPORATION AND ITS ASSIGNEES OR BONDHOLDERS SUCH AS COVENANTS WITH RESPECT TO THE ENFORCEMENT AT THE EXPENSE OF THE STATE OF THE MASTER SETTLEMENT AGREEMENT AND THE QUALIFYING STATUTE AND THE APPLICATION AND USE OF THE PROCEEDS OF THE SALE OF TOBACCO SETTLEMENT REVENUES TO PRESERVE THE TAX-EXEMPT STATUS OF BONDS ISSUED ON A TAX-EXEMPT BASIS. HOWEVER, NEITHER THE STATE TREASURER NOR THE CORPORATION MAY MAKE ANY COVENANT, PLEDGE, PROMISE, OR AGREEMENT THAT PURPORTS TO BIND THE STATE WITH RESPECT TO TOBACCO SETTLEMENT REVENUES SOLD PURSUANT TO THIS SECTION EXCEPT AS OTHERWISE AUTHORIZED BY THIS ARTICLE. THE STATE TREASURER MAY MAKE LOANS TO THE CORPORATION AT PREVAILING INTEREST RATES TO DEFRAID ANY EXPENSES THAT THE CORPORATION MAY INCUR PRIOR TO THE ISSUANCE OF BONDS PURSUANT TO THIS ARTICLE.

(d) EXECUTION OF A PROPERTY SALE CONTRACT BY THE STATE TREASURER SHALL BE DEEMED A CONCLUSIVE DETERMINATION BY THE STATE THAT THE CASH AND ANY OTHER CONSIDERATION RECEIVED BY THE STATE PURSUANT TO THE TERMS OF THE PROPERTY SALE CONTRACT IS ADEQUATE.

(e) ON AND AFTER THE EFFECTIVE DATE OF THE SALE OF TOBACCO SETTLEMENT REVENUES PURSUANT TO A PROPERTY SALE CONTRACT, THE STATE SHALL HAVE NO RIGHT, TITLE, OR INTEREST IN OR TO THE TOBACCO SETTLEMENT REVENUES SOLD. THE TOBACCO SETTLEMENT REVENUES SOLD SHALL BE THE PROPERTY OF THE CORPORATION AND NOT OF THE STATE AND SHALL BE OWNED, RECEIVED, HELD, AND

DISBURSED BY THE CORPORATION AND NOT THE STATE TREASURER. IF, FOR ANY REASON, AN OFFICER, EMPLOYEE, OR AGENT OF THE STATE RECEIVES TOBACCO SETTLEMENT REVENUES THAT HAVE BEEN SOLD PURSUANT TO A PROPERTY SALE CONTRACT, THE STATE SHALL HOLD THE TOBACCO SETTLEMENT REVENUES IN TRUST FOR THE CORPORATION AND REMIT THEM TO THE CORPORATION AS SOON AS POSSIBLE. ON OR BEFORE THE EFFECTIVE DATE OF THE SALE, THE STATE, THROUGH THE ATTORNEY GENERAL, SHALL NOTIFY THE INDEPENDENT AUDITOR AND THE ESCROW AGENT UNDER THE MASTER SETTLEMENT AGREEMENT THAT THE TOBACCO SETTLEMENT REVENUES HAVE BEEN SOLD TO THE CORPORATION AND SHALL IRREVOCABLY INSTRUCT THE INDEPENDENT AUDITOR AND THE ESCROW AGENT THAT SUBSEQUENT TO THE DATE OF THE SALE THE TOBACCO SETTLEMENT REVENUES SOLD ARE TO BE PAID DIRECTLY TO THE INDENTURE TRUSTEE FOR THE BENEFIT OF THE OWNERS OF BONDS OF THE CORPORATION THAT ARE SECURED BY A PLEDGE OF THE TOBACCO SETTLEMENT REVENUES UNTIL THE BONDS ARE NO LONGER OUTSTANDING PURSUANT TO THE BOND RESOLUTION OR TRUST INDENTURE UNDER WHICH THE BONDS ARE ISSUED.

(2) (a) IF THE STATE TREASURER ENTERS INTO ANY PROPERTY SALE CONTRACT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE CORPORATION SHALL PAY TO THE STATE TREASURER FROM THE GROSS PROCEEDS RECEIVED BY THE CORPORATION PURSUANT TO THE TERMS OF THE PROPERTY SALE CONTRACT ANY DIRECT AND INDIRECT EXPENSES INCURRED BY THE STATE TREASURER OR THE DEPARTMENT OF THE TREASURY IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE PROPERTY SALE CONTRACT. AFTER PAYING THE EXPENSES, THE STATE TREASURER SHALL DEPOSIT THE NET PROCEEDS OF THE PROPERTY SALE CONTRACT INTO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND CREATED IN SECTION 24-22-115.5 (2). NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NET PROCEEDS DEPOSITED INTO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND SHALL BE DESIGNATED AS A CASH FLOW RESERVE AND MAY BE EXPENDED ONLY BY THE STATE TREASURER AND ONLY TO RESOLVE A CASH FLOW EMERGENCY IN ACCORDANCE WITH SECTION 24-22-115.5 (2) (a.7) (II).

(b) IF THE STATE TREASURER EXPENDS MONEYS FROM THE TOBACCO LITIGATION SETTLEMENT TRUST FUND AS PERMITTED BY PARAGRAPH (a) OF THIS SUBSECTION (2), AN AMOUNT OF MONEYS EQUAL TO THE AMOUNT OF MONEYS EXPENDED SHALL BE DEPOSITED INTO THE FUND ON OR BEFORE THE LAST DAY OF THE FOLLOWING STATE FISCAL YEAR AND DESIGNATED AS A CASH FLOW RESERVE AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) MONEYS DESIGNATED AS A CASH FLOW RESERVE PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (2) SHALL NOT BE USED TO MEET ANY OTHER CONSTITUTIONAL OR STATUTORY RESERVE REQUIREMENT.

**24-82.5-111. Purchase of right to tobacco settlement revenues by corporation.** THE CORPORATION MAY PURCHASE ONE OR MORE PORTIONS OF THE STATE'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES FROM THE STATE TREASURER BY ENTERING INTO ONE OR MORE PROPERTY SALE CONTRACTS SO LONG AS AT LEAST ONE PROPERTY SALE CONTRACT IS ENTERED INTO NO LATER THAN NOVEMBER 30, 2003. THE CORPORATION SHALL FUND ANY SUCH PURCHASE BY ISSUING BONDS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. THE CORPORATION SHALL AUTHORIZE THE EXECUTION OF A PROPERTY SALE CONTRACT BY

A RESOLUTION OF THE BOARD.

**24-82.5-112. Sale of bonds - payment of bonds and credit enhancement costs.**

(1) (a) THE CORPORATION SHALL ISSUE BONDS FOR THE PURPOSE OF GENERATING THE PROCEEDS NEEDED TO PAY THE CONSIDERATION OWED BY THE CORPORATION TO THE STATE UNDER A PROPERTY SALE CONTRACT. THE CORPORATION SHALL HOLD THE NET PROCEEDS AND ANY RESIDUAL INTEREST IN TRUST FOR THE STATE AND SHALL PAY THE NET PROCEEDS AND ANY RESIDUAL INTEREST TO THE STATE AS SOON AS POSSIBLE. THE CORPORATION SHALL ISSUE BONDS PURSUANT TO A BOND RESOLUTION OR TRUST INDENTURE THAT MAY CONTAIN PROVISIONS THAT:

(I) SET FORTH THE RIGHTS AND REMEDIES OF THE OWNERS OR HOLDERS OF THE BONDS OR PARTIES TO ANCILLARY FINANCIAL FACILITIES;

(II) PROTECT AND ENFORCE THE RIGHTS AND REMEDIES OF THE OWNERS OR HOLDERS OF THE BONDS OR PARTIES TO ANCILLARY FINANCIAL FACILITIES;

(III) PROTECT THE SECURITY OF THE OWNERS OR HOLDERS OF THE BONDS OR PARTIES TO ANCILLARY FINANCIAL FACILITIES AS THE BOARD DEEMS APPROPRIATE; OR

(IV) REQUIRE THE CREATION AND MAINTENANCE OF RESERVES AS THE CORPORATION DEEMS APPROPRIATE.

(b) PROVISIONS INCLUDED IN A BOND RESOLUTION OR TRUST INDENTURE FOR THE PURPOSE OF IDENTIFYING OR PROTECTING THE RIGHTS, REMEDIES, OR SECURITY OF BOND HOLDERS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ANCILLARY FINANCIAL FACILITIES.

(2) BONDS MAY BE ISSUED IN SUCH AGGREGATE PRINCIPAL AMOUNT, MAY BE ISSUED IN ONE OR MORE SERIES, MAY BEAR SUCH DATES, MAY BE IN SUCH DENOMINATION OR DENOMINATIONS, MAY MATURE ON ANY DATE OR DATES SUBJECT ONLY TO THE LIMITATION THAT BONDS AND ANY RENEWALS OF BONDS SHALL MATURE WITHIN FORTY YEARS OF THE ORIGINAL ISSUANCE DATE OF THE BONDS, MAY MATURE IN SUCH AMOUNT OR AMOUNTS, MAY BE IN SUCH FORM, MAY BE PAYABLE AT SUCH PLACE OR PLACES, MAY BE SUBJECT TO SUCH TERMS OF REDEMPTION WITH OR WITHOUT A PREMIUM, MAY CONTAIN SUCH PROVISIONS AS THE BOARD DEEMS APPROPRIATE RELATING TO PRIORITY AND SUBORDINATION AMONG BONDHOLDERS, MAY CONTAIN SUCH PROVISIONS AS THE BOARD DEEMS APPROPRIATE REGARDING INSURANCE TO ENSURE THE TIMELY PAYMENT OF THE BONDS, AND MAY CONTAIN SUCH OTHER PROVISIONS CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE AS THE BOARD MAY DETERMINE.

(3) THE RATE OR RATES OF INTEREST BORNE BY BONDS MAY BE FIXED, ADJUSTABLE, OR VARIABLE, OR ANY COMBINATION THEREOF, WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THIS STATE. IF ANY RATE OR RATES ARE ADJUSTABLE OR VARIABLE, THE STANDARD, INDEX, METHOD, OR FORMULA SHALL BE DETERMINED BY THE BOARD OR, IF AUTHORIZED BY THE BOARD, BY THE EXECUTIVE OFFICER OR ANY OTHER AGENT OF THE BOARD.

(4) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AND MAY BE SOLD AT, ABOVE, OR BELOW THE PRINCIPAL AMOUNTS THEREOF. HOWEVER, THE CORPORATION

SHALL NOT DIRECTLY SELL BONDS AT PRIVATE SALE TO ANY CORPORATION OR OTHER BUSINESS ENTITY THAT IS A PARTY TO THE MASTER SETTLEMENT AGREEMENT OR TO ANY ASSIGNEE, AGENT, PARTNER, CORPORATE PARENT, AFFILIATE, SUBSIDIARY, OR SUCCESSOR IN INTEREST OF ANY SUCH CORPORATION OR OTHER BUSINESS ENTITY.

(5) THE BOARD MAY DELEGATE THE POWER TO FIX THE DATE OF SALE OF BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO SET INTEREST RATES AND OTHER TERMS OF BONDS, AND TO TAKE ALL OTHER ACTIONS NECESSARY TO SELL AND DELIVER BONDS TO THE BOARD'S EXECUTIVE OFFICER OR ANY OTHER AGENT OF THE BOARD.

(6) THE BOARD MAY ENGAGE THE SERVICES OF SUCH CONSULTANTS, FINANCIAL ADVISORS, UNDERWRITERS, BOND INSURERS, LETTER OF CREDIT BANKS, RATING AGENCIES, AGENTS, ATTORNEYS, ACCOUNTANTS, ECONOMISTS, OR OTHER PERSONS WHOSE SERVICES MAY BE REQUIRED OR DEEMED ADVANTAGEOUS BY THE BOARD IN CONNECTION WITH THE ISSUANCE AND SALE OF BONDS.

(7) WITH RESPECT TO BONDS THAT HAVE BEEN ISSUED OR PROPOSED TO BE ISSUED, THE BOARD MAY ENTER INTO INTEREST RATE EXCHANGE AGREEMENTS IN ACCORDANCE WITH ARTICLE 59.3 OF TITLE 11, C.R.S.

(8) THE CORPORATION SHALL HAVE THE POWER TO PLEDGE TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ANY BONDS ISSUED PURSUANT TO THIS ARTICLE AND THE SECURITY OF AN ANCILLARY FINANCIAL FACILITY ENTERED INTO IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS ONLY TOBACCO SETTLEMENT REVENUES RECEIVABLE BY THE STATE UNDER THE TERMS OF THE SETTLEMENT AGREEMENT AND PURCHASED BY THE CORPORATION PURSUANT TO A PROPERTY SALE CONTRACT AND OTHER LAWFULLY AVAILABLE MONEYS OF THE CORPORATION. ANY BONDS ISSUED OR ANCILLARY FINANCIAL FACILITY ENTERED INTO SHALL NOT CONSTITUTE A DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE AND THE OWNERS OR HOLDERS OF THE BONDS AND THE PROVIDERS OF ANY ANCILLARY FINANCIAL FACILITY MAY NOT LOOK TO ANY REVENUES OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST OF THE BONDS OR ANY AMOUNT DUE AND OWING UNDER THE ANCILLARY FINANCIAL FACILITY. BOTH BONDS AND ANY ANCILLARY FINANCIAL FACILITY OF THE CORPORATION SHALL CONTAIN ON THEIR FACE OR IN ANOTHER PROMINENT PLACE A STATEMENT TO THE FOREGOING EFFECT.

(9) THE CORPORATION MAY DETERMINE THE PRIORITY OF PAYMENT OF THE PRINCIPAL AND INTEREST OF ANY BOND OR SERIES OF BONDS OVER ANY OTHER BOND OR SERIES OF BONDS. ANY PLEDGE OF TOBACCO SETTLEMENT REVENUES, BOND PROCEEDS, OTHER LAWFULLY AVAILABLE MONEYS OF THE CORPORATION, OR RIGHTS TO RECEIVE THE SAME AND OTHER PROPERTY RIGHTS OF ANY KIND TO THE PAYMENT OF THE PRINCIPAL AND INTEREST OF BONDS SHALL BE VALID AND BINDING FROM THE DATE OF ISSUANCE OF SUCH BONDS. SUCH A PLEDGE SHALL CREATE A VALID SECURITY INTEREST, AND SUCH TOBACCO SETTLEMENT REVENUES, BOND PROCEEDS, OTHER LAWFULLY AVAILABLE MONEYS, RIGHTS OF RECEIPT, OR OTHER PROPERTY RIGHTS SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE AND SECURITY INTEREST WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE AND SECURITY INTEREST SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE CORPORATION. THE INSTRUMENT BY WHICH A PLEDGE AND SECURITY INTEREST IS

CREATED NEED NOT BE RECORDED OR FILED IN ORDER TO PERFECT THE PLEDGE AND SECURITY INTEREST WITHOUT REGARD TO WHETHER A PARTY HAS NOTICE OF THE PLEDGE OR THE LIEN OF THE PLEDGE.

**24-82.5-113. Bonds legal investments.** ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS WITHIN THEIR CONTROL IN ANY BONDS ISSUED PURSUANT TO THIS ARTICLE. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN SUCH BONDS ONLY IF THE BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF THIS TITLE.

**24-82.5-114. Bonds and assets of the corporation - exemption from taxation.** (1) BONDS, THE TRANSFER OF BONDS, AND ANY INCOME FROM BONDS SHALL AT ALL TIMES BE FREE FROM INCOME TAXATION BY THE STATE.

(2) IN THE CASE OF BONDS FOR WHICH THE INTEREST IS INTENDED TO BE EXEMPT FROM FEDERAL INCOME TAX, THE CORPORATION SHALL PRESCRIBE RESTRICTIONS ON THE USE OF PROCEEDS THEREOF AND RELATED MATTERS TO THE EXTENT NECESSARY TO ENSURE THE EXEMPTION. THE RECIPIENTS OF THE BOND PROCEEDS SHALL BE BOUND BY THE RESTRICTIONS TO THE EXTENT THAT THE RESTRICTIONS ARE MADE APPLICABLE TO THEM. A RECIPIENT, INCLUDING, BUT NOT LIMITED TO, THE STATE MAY EXECUTE A TAX REGULATORY AGREEMENT WITH THE CORPORATION, AND THE CORPORATION MAY TREAT SUCH AN AGREEMENT AS A CONDITION TO RECEIVING BOND PROCEEDS. ANY OTHER ASSETS AND REVENUES OF THE CORPORATION SHALL BE EXEMPT FROM ALL STATE TAXATION.

**24-82.5-115. Agreement of state.** (1) THE STATE HEREBY PLEDGES AND AGREES WITH THE CORPORATION, AND WITH THE OWNERS OF BONDS IN WHICH THE CORPORATION HAS INCLUDED THE PLEDGE AND AGREEMENT, THAT THE STATE SHALL:

(a) IRREVOCABLY DIRECT, THROUGH THE ATTORNEY GENERAL, THE AUDITOR AND THE ESCROW AGENT UNDER THE MASTER SETTLEMENT AGREEMENT TO TRANSFER ALL TOBACCO SETTLEMENT REVENUES SOLD PURSUANT TO A PROPERTY SALE CONTRACT DIRECTLY TO THE CORPORATION OR ITS ASSIGNEE;

(b) ENFORCE THE CORPORATION'S RIGHT TO RECEIVE TOBACCO SETTLEMENT REVENUES SOLD PURSUANT TO A PROPERTY SALE CONTRACT TO THE FULL EXTENT PERMITTED BY TERMS OF THE MASTER SETTLEMENT AGREEMENT AND DILIGENTLY ENFORCE THE QUALIFYING STATUTE AS CONTEMPLATED IN THE MASTER SETTLEMENT AGREEMENT AGAINST ALL TOBACCO PRODUCT MANUFACTURERS THAT SELL TOBACCO PRODUCTS IN COLORADO AND THAT ARE NOT SIGNATORIES TO THE MASTER SETTLEMENT AGREEMENT, IN EACH CASE IN THE MANNER AND TO THE EXTENT NECESSARY IN THE JUDGMENT OF THE ATTORNEY GENERAL, TO COLLECT ALL MONEYS TO WHICH THE STATE IS ENTITLED UNDER THE MASTER SETTLEMENT AGREEMENT;

(c) NOT AMEND THE MASTER SETTLEMENT AGREEMENT OR TAKE ANY OTHER ACTION THAT WOULD ALTER, LIMIT, OR IMPAIR THE CORPORATION'S RIGHTS TO RECEIVE TOBACCO SETTLEMENT REVENUES SOLD PURSUANT TO A PROPERTY SALE CONTRACT OR LIMIT OR ALTER THE RIGHT OF THE CORPORATION TO FULFILL THE TERMS OF ITS AGREEMENTS WITH ITS BONDHOLDERS, OR IN ANY WAY IMPAIR THE

RIGHTS AND REMEDIES OF THE BONDHOLDERS OR THE SECURITY FOR BONDS UNTIL THE BONDS, TOGETHER WITH THE INTEREST THEREON AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS ARE FULLY PAID AND DISCHARGED; EXCEPT THAT NOTHING IN THIS PARAGRAPH (c) SHALL BE CONSTRUED TO PRECLUDE THE STATE FROM REGULATING SMOKING, TAXATION, OR THE SALE OF TOBACCO PRODUCTS; AND

(d) NOT AMEND, SUPERSEDE, OR REPEAL THE QUALIFYING STATUTE IN ANY WAY THAT WOULD MATERIALLY AND ADVERSELY AFFECT THE AMOUNT OF PAYMENT TO, OR MATERIALLY AFFECT THE RIGHTS OF, THE CORPORATION OR BONDHOLDERS.

(2) THE STATE TREASURER SHALL INCLUDE THE PLEDGE AND AGREEMENT SET FORTH IN SUBSECTION (1) OF THIS SECTION IN ANY PROPERTY SALE CONTRACT IT EXECUTES AND DELIVERS, AND THE CORPORATION, AS AGENT OF THE STATE, SHALL INCLUDE THE PLEDGE AND AGREEMENT IN ANY CONTRACT WITH ITS BONDHOLDERS.

**24-82.5-116. No action maintainable.** AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW, QUESTION THE VALIDITY OF, ENJOIN THE PERFORMANCE OF, OR OTHERWISE SEEK RELIEF AGAINST OR FROM ANY ACTS OR PROCEEDINGS DONE UNDER THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, ANY EXECUTION OF A PROPERTY SALE CONTRACT OR ANY ISSUANCE OF BONDS, WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDINGS OR THE EFFECTIVE DATE THEREOF, WHICHEVER OCCURS FIRST, AND IS THEREAFTER PERPETUALLY BARRED. HOWEVER, THIS SECTION SHALL NOT MODIFY OR LIMIT ANY PROVISION OF ARTICLE 51 OF TITLE 11, C.R.S.

**24-82.5-117. Dissolution of corporation - limitation - disposition of corporate assets.** (1) THE STATE HEREBY COVENANTS WITH THE HOLDERS OF ANY BONDS ISSUED PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT DISSOLVE THE CORPORATION UNTIL ONE YEAR AND ONE DAY AFTER THE CORPORATION NO LONGER HAS ANY BONDS OR OTHER FINANCIAL OBLIGATIONS OUTSTANDING.

(2) UPON THE DISSOLUTION OF THE CORPORATION, ALL ASSETS AND REVENUES OF THE CORPORATION SHALL BECOME PROPERTY OF THE STATE.

**24-82.5-118. Repeal of article.** THIS ARTICLE IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT AS PERMITTED BY THIS ARTICLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS FOLLOWING ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES OF THE FACT THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SECTION SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

**SECTION 2.** 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 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 THE 2004-05 FISCAL YEAR AND AT THE END OF EACH SUCCEEDING FISCAL YEAR, BUT PRIOR TO THE MAKING OF ANY TRANSFER OF MONEYS FROM THE CASH FUND TO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND AT THE END OF THE FISCAL YEAR AS REQUIRED BY THIS SUBSECTION (1), THE LESSER OF FIFTY PERCENT OF ALL UNEXPENDED AND UNENCUMBERED MONEYS AND ALL MONEYS NOT APPROPRIATED FOR THE FOLLOWING FISCAL YEAR IN THE CASH FUND OR SEVEN MILLION FIVE HUNDRED NINETY-FOUR THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS SHALL BE TRANSFERRED FROM THE CASH FUND TO THE GENERAL FUND AND CONTINUOUSLY APPROPRIATED FOR THE IMPLEMENTATION OF THE TONY GRAMPAS YOUTH SERVICES PROGRAM CREATED AND EXISTING PURSUANT TO PART 2 OF ARTICLE 20.5 OF TITLE 25, C.R.S. 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 3.** 24-22-115.5 (2), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

**24-22-115.5. Legislative declaration - tobacco litigation settlement trust fund - creation - repeal.** (2) (a) There is hereby created in the state treasury the tobacco litigation settlement trust fund. The principal of the trust fund shall consist of:

(1) The first thirty-three million dollars of all moneys, other than attorney fees and costs, paid 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;

(II) Not less than twenty-one percent of all additional moneys, other than attorney fees and costs, paid to the state treasurer in accordance with the settlement agreements and the consent decree; ~~and~~

(III) Any moneys transferred to the trust fund from the tobacco litigation settlement cash fund at the end of any fiscal year pursuant to section 24-22-115; AND

(IV) ANY MONEYS DEPOSITED IN THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-82.5-110 (2).

(a.5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2):

(I) SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, IF THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED.

(II) SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED.

(III) THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE DECEMBER 15, 2003.

(a.7) (I) The principal of the TOBACCO LITIGATION SETTLEMENT trust fund shall not be expended or appropriated for any purpose; except that moneys in the trust fund may be allocated to the children's basic health plan trust as provided in section 24-75-1104 (2). All interest derived from the deposit and investment of moneys in the trust fund shall be credited to the trust fund. Such interest shall become subject to appropriation by the general assembly for the funding of any programs or funds authorized by law to be funded by tobacco litigation settlement moneys at such time as the state auditor certifies that actuarially sound projections of future interest earnings indicate that such interest will be sufficient to fully fund such programs and funds. No part of such trust fund, principal or interest, shall be transferred to the general fund or any other fund or used or appropriated except as provided in this section.

(II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.7), NET PROCEEDS OF A PROPERTY SALE CONTRACT DEPOSITED INTO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND AND DESIGNATED AS A CASH FLOW RESERVE PURSUANT TO SECTION 24-82.5-110 (2) (a) OR (2) (b) MAY BE EXPENDED ONLY BY THE STATE TREASURER IN CONSULTATION WITH THE OFFICE OF THE GOVERNOR AND THE OFFICE OF THE STATE CONTROLLER AND ONLY TO RESOLVE A CASH FLOW EMERGENCY. TO DETERMINE IF A CASH FLOW EMERGENCY EXISTS, ON

A DAILY BASIS THE STATE TREASURER SHALL DETERMINE IF THE STATE'S AVAILABLE MONEYS ARE SUFFICIENT TO FULLY FUND THE OBLIGATIONS OF THE STATE THAT ARE DUE AND PAYABLE ON THAT DAY. IF THE AVAILABLE MONEYS ARE NOT SUFFICIENT, THE STATE TREASURER IN CONSULTATION WITH THE OFFICE OF THE GOVERNOR SHALL DECLARE A CASH FLOW EMERGENCY AND UTILIZE THE MONEYS IN THE CASH FLOW RESERVE TO MEET THE STATE'S OBLIGATIONS. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (A), "AVAILABLE MONEYS" MEANS MONEYS ON DEPOSIT IN THE ACCOUNTS OF THE GENERAL FUND AND THOSE CASH FUNDS SUBJECT TO THE PROVISIONS OF SECTION 24-75-208.

(B) IN RESOLVING A CASH FLOW EMERGENCY, THE STATE TREASURER SHALL EXPEND ALL MONEYS DESIGNATED AS A CASH FLOW RESERVE PURSUANT TO SECTION 24-82.5-110 (2) (a) OR (2) (b) BEFORE EXPENDING ANY OTHER MONEYS DESIGNATED AS A CASH FLOW RESERVE PURSUANT TO ANY OTHER PROVISION OF LAW.

(C) IF THE STATE TREASURER EXPENDS MONEYS FROM THE CASH FLOW RESERVE DURING ANY STATE FISCAL YEAR AS PERMITTED BY SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), AN AMOUNT OF MONEYS EQUAL TO THE AMOUNT OF MONEYS EXPENDED SHALL BE DEPOSITED IN THE TOBACCO LITIGATION SETTLEMENT TRUST FUND ON OR BEFORE THE LAST DAY OF THE FOLLOWING STATE FISCAL YEAR AND DESIGNATED AS A CASH FLOW RESERVE TO BE EXPENDED ONLY AS PERMITTED BY SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II).

(D) MONEYS DESIGNATED AS A CASH FLOW RESERVE PURSUANT TO SECTION 24-82.5-110 (2) (a) OR (2) (b) OR SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (II) SHALL NOT BE USED TO MEET ANY OTHER CONSTITUTIONAL OR STATUTORY RESERVE REQUIREMENT.

(E) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SUB-SUBPARAGRAPH (B) SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

(III) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.7), INTEREST OR INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF NET PROCEEDS OF A PROPERTY SALE CONTRACT DEPOSITED INTO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-82.5-110 (2) IS SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE FUNDING OF ANY PROGRAMS OR FUNDS AUTHORIZED BY LAW TO BE FUNDED BY TOBACCO LITIGATION SETTLEMENT MONEYS.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A

PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SUB-SUBPARAGRAPH (B) SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

(b) (I) Notwithstanding any provision of this section to the contrary, on the effective date of this paragraph (b), the state treasurer shall transfer the balance of moneys in the tobacco litigation settlement trust fund to the general fund.

(II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), NET PROCEEDS OF A PROPERTY SALE CONTRACT DEPOSITED TO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-82.5-110 (2), SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS FOLLOWING ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SUB-SUBPARAGRAPH (B) SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), any moneys paid 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 attorney fees and costs, after the effective date of this paragraph (c), but before July 1, 2003, shall be credited to the tobacco litigation settlement cash fund created by section 24-22-115 (1).

**SECTION 4.** 24-22-115.5 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-22-115.5. Legislative declaration - tobacco litigation settlement trust fund - creation.** (3) (a.5) IN ADDITION TO THE TYPES OF INVESTMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3), THE STATE TREASURER MAY INVEST MONEYS IN THE TOBACCO LITIGATION SETTLEMENT TRUST FUND IN ANY TYPE OF SECURITY, REGARDLESS OF ITS MATURITY DATE, IN WHICH A PUBLIC ENTITY MAY INVEST PUBLIC FUNDS PURSUANT TO SECTION 24-75-601.1 (1) (d) OR (1) (e).

**SECTION 5.** 24-22-116 (2) (a), Colorado Revised Statutes, is amended to read:

**24-22-116. Legislative declaration - exclusion of revenue in tobacco litigation settlement funds from fiscal year spending - repeal.** (2) (a) (I) For purposes of section 20 of article X of the state constitution and article 77 of this title, any moneys credited to the tobacco litigation settlement cash fund in accordance with section 24-22-115 (1), including moneys transferred to the tobacco settlement defense

account created in said cash fund pursuant to section 24-22-115 (2), or the tobacco litigation settlement trust fund in accordance with section 24-22-115.5 are damage awards, as defined in section 24-77-102 (2), or interest accruing on such damage awards. Any moneys credited to or expended from the tobacco litigation settlement cash fund, including the tobacco settlement defense account, or the tobacco litigation settlement trust fund, are not included in state fiscal year spending, as defined in section 24-77-102 (17), for any state fiscal year.

(II) (A) FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF THIS TITLE, ANY NET PROCEEDS OF A PROPERTY SALE CONTRACT DEPOSITED TO THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-82.5-110 (2) ARE BOTH PROCEEDS FROM A PROPERTY SALE, AS DEFINED IN SECTION 24-77-102 (11), AND A DAMAGE AWARD, AS DEFINED IN SECTION 24-77-102 (2), OR INTEREST ACCRUING ON PROCEEDS FROM A PROPERTY SALE OR A DAMAGE AWARD.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SUB-SUBPARAGRAPH (B) SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

**SECTION 6.** 24-75-1103 (4), Colorado Revised Statutes, is amended to read:

**24-75-1103. Policy on use of tobacco settlement funds.** (4) (a) Since the amount of moneys to be received by the state is uncertain, a portion of the settlement moneys shall be placed in an endowment trust fund created in section 24-22-115.5, with the principal and interest reinvested in the trust fund until the state auditor certifies that actuarially sound projections of future interest earnings indicate that the interest earned will be sufficient to fully fund the tobacco settlement programs. However, notwithstanding the policy prohibiting the appropriation of the principal in the trust fund, the principal may be expended as provided in section 24-22-115.5 (2).

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4), IF THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO ONE OR MORE PROPERTY SALE CONTRACTS PURSUANT TO ARTICLE 82.5 OF THIS TITLE AND THE ONLY SETTLEMENT MONEYS RECEIVED BY THE STATE IN ANY GIVEN STATE FISCAL YEAR ARE SETTLEMENT MONEYS TO BE APPROPRIATED IN ACCORDANCE WITH SECTION 24-75-1104 OR ANY OTHER STATUTORY PROVISION, NO SETTLEMENT MONEYS NEED BE PLACED IN THE TOBACCO LITIGATION SETTLEMENT TRUST FUND EXCEPT AS OTHERWISE PROVIDED BY LAW.

**SECTION 7.** 24-75-1104 (1) (c), Colorado Revised Statutes, is amended to read:

**24-75-1104. Use of settlement moneys - programs.** (1) For the 2000-01 fiscal year and for each fiscal year thereafter, the following programs shall receive appropriations in the specified amounts from the settlement moneys annually received by the state:

(c) (I) For the 2000-01 to 2003-04 fiscal years, the tobacco-related and tobacco-focused research grant program implemented pursuant to part 2 of article 20 of title 23, C.R.S., shall receive eight percent of the total amount of settlement moneys annually received by the state; except that the amount received in any fiscal year shall not exceed eight million dollars;

(II) FOR THE 2004-05 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, THE TOBACCO-RELATED AND TOBACCO-FOCUSED RESEARCH GRANT PROGRAM IMPLEMENTED PURSUANT TO PART 2 OF ARTICLE 20 OF TITLE 23, C.R.S., SHALL NOT RECEIVE ANY OF THE SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE.

**SECTION 8.** The introductory portion to 24-75-1104 (2), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended, and the said 24-75-1104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**24-75-1104. Use of settlement moneys - programs.** (1.9) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, FOR THE 2004-05 FISCAL YEAR AND EACH SUCCEEDING FISCAL YEAR, THE FOLLOWING PROGRAMS SHALL RECEIVE APPROPRIATIONS IN THE FOLLOWING SPECIFIED AMOUNTS FROM THE SETTLEMENT MONEYS RECEIVED BY THE STATE:

(a) THE COLORADO NURSE HOME VISITOR PROGRAM CREATED IN ARTICLE 31 OF TITLE 25, C.R.S., SHALL RECEIVE THE FOLLOWING AMOUNTS:

(I) FOR THE 2004-05 FISCAL YEAR, NINE MILLION FIVE HUNDRED SEVENTY-SEVEN THOUSAND THIRTY-FIVE DOLLARS;

(II) FOR THE 2005-06 FISCAL YEAR, ELEVEN MILLION FIVE HUNDRED SEVENTY THOUSAND EIGHT HUNDRED EIGHTEEN DOLLARS;

(III) FOR THE 2006-07 FISCAL YEAR, THIRTEEN MILLION FIVE HUNDRED FORTY-NINE THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS;

(IV) FOR THE 2007-08 FISCAL YEAR, FIFTEEN MILLION FIVE HUNDRED FORTY-NINE THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS;

(V) FOR THE 2008-09 FISCAL YEAR, SEVENTEEN MILLION FIVE HUNDRED FORTY-NINE THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS; AND

(VI) FOR THE 2009-10 FISCAL YEAR AND EACH SUCCEEDING FISCAL YEAR, NINETEEN MILLION DOLLARS.

(b) THE READ-TO-ACHIEVE PROGRAM CREATED PURSUANT TO SECTION 22-7-506, C.R.S., SHALL RECEIVE TWENTY-ONE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE; EXCEPT THAT THE AMOUNT RECEIVED SHALL NOT EXCEED FIFTEEN MILLION DOLLARS.

(c) THE COMPREHENSIVE PRIMARY AND PREVENTATIVE CARE GRANT PROGRAM CREATED IN PART 10 OF ARTICLE 4 OF TITLE 26, C.R.S., SHALL RECEIVE TEN PERCENT

OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE; EXCEPT THAT THE AMOUNT RECEIVED SHALL NOT EXCEED TEN MILLION DOLLARS.

(2) The general assembly shall appropriate the amounts specified in subsections ~~(1) and (1.7)~~ (1), (1.7), AND (1.9) of this section from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115. For fiscal years other than the 2002-03 fiscal year AND THE 2004-05 FISCAL YEAR AND SUCCEEDING FISCAL YEARS, the state controller shall first allocate the amounts specified in paragraphs (a), (c), (d), (e), (f), and (g) of subsection (1) of this section and then allocate the amount for the children's basic health plan trust as specified in paragraph (b) of subsection (1) of this section. For the 2002-03 fiscal year, the state controller shall first allocate the amounts specified in paragraph (f) of subsection (1) of this section and paragraphs (a), (c), (d), (e), and (f) of subsection (1.7) of this section and then allocate the amount for the children's basic health plan as specified in paragraph (b) of subsection (1) of this section. FOR THE 2004-05 FISCAL YEAR AND EACH SUCCEEDING FISCAL YEAR, THE STATE TREASURER SHALL FIRST ALLOCATE THE AMOUNT FOR THE CHILDREN'S BASIC HEALTH PLAN AS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND THEN ALLOCATE THE AMOUNTS SPECIFIED IN PARAGRAPHS (b.5), (c), (d), AND (f) OF SUBSECTION (1) OF THIS SECTION AND SUBSECTION (1.9) OF THIS SECTION. If the moneys in the tobacco litigation settlement cash fund are insufficient to fund the full amount specified in subparagraph (II) of said paragraph (b) for the children's basic health plan trust, the amount of the shortfall shall be allocated out of the tobacco litigation settlement trust fund. Any amount of unencumbered settlement moneys remaining in the fund of any program specified in subsection (1) of this section at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5; except that unencumbered settlement moneys shall not be transferred from the following funds:

(4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (1), (1.7), AND (1.9) OF THIS SECTION, IF THE AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE IS REDUCED BECAUSE THE STATE TREASURER ENTERS INTO ONE OR MORE PROPERTY SALE CONTRACTS PURSUANT TO SECTION 24-82.5-110, BUT THE AMOUNT OF THE SETTLEMENT MONEYS THAT IS DEPOSITED INTO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115 (1) IS NOT REDUCED, THE SPECIFIED AMOUNTS TO BE APPROPRIATED PURSUANT TO SUBSECTIONS (1), (1.7), AND (1.9) OF THIS SECTION SHALL BE CALCULATED AS IF THE AMOUNT OF SETTLEMENT MONEYS HAD NOT BEEN REDUCED.

(5) DURING ITS CONSIDERATION OF STATE BUDGET REQUESTS AND ITS DEVELOPMENT OF THE STATE BUDGET FOR THE FIRST STATE FISCAL YEAR THAT COMMENCES AFTER THE FULFILLMENT OF ALL OF THE STATE'S OBLIGATIONS UNDER ANY PROPERTY SALE CONTRACT ENTERED INTO BY THE STATE TREASURER PURSUANT TO SECTION 24-82.5-110 (1), THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY SHALL COMPREHENSIVELY REVIEW THE ALLOCATION OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE PURSUANT TO THIS SECTION AND DETERMINE WHETHER AND TO WHAT EXTENT THE ALLOCATION SHOULD BE CHANGED.

**SECTION 9.** Part 11 of article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-75-1106. Repeal of sections - instructions to revisor of statutes.** SECTIONS

24-75-1103 (4) (b) AND 24-75-1104 (1.9), (4), AND (5) AND THIS SECTION ARE REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SECTION SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

**SECTION 10.** 24-77-102 (15) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**24-77-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:

(XIII) (A) THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION CREATED PURSUANT TO SECTION 24-82.5-104 (1).

(B) THIS SUBPARAGRAPH (XIII) IS REPEALED, EFFECTIVE DECEMBER 15, 2003, UNLESS THE STATE TREASURER AND THE TOBACCO LITIGATION SETTLEMENT FINANCING CORPORATION ENTER INTO AT LEAST ONE PROPERTY SALE CONTRACT PURSUANT TO ARTICLE 82.5 OF THIS TITLE. IF THE STATE TREASURER AND THE CORPORATION ENTER INTO A PROPERTY SALE CONTRACT, WITHIN TEN DAYS OF ITS EXECUTION THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY SALE CONTRACT HAS BEEN EXECUTED AND ONLY THIS SUB-SUBPARAGRAPH (B) SHALL BE REPEALED, EFFECTIVE DECEMBER 15, 2003.

**SECTION 11.** 22-7-506 (4) (b) (I), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

**22-7-506. Read-to-achieve grant program - board created - fund - repeal.** (4) (b) (I) Except as otherwise provided in section 24-75-1104 (1.7) (e) OR (1.9) (b), C.R.S., beginning with the 2000-01 fiscal year, and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall annually appropriate to the cash fund nineteen percent of the amount of moneys transmitted to the state treasurer in accordance with the master settlement agreement, other than attorney fees and costs, for the preceding fiscal year; except that the amount so appropriated to the cash fund in any fiscal year shall not exceed nineteen million dollars. The general assembly shall appropriate the amount specified in this ~~paragraph (c)~~ PARAGRAPH (b) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

**SECTION 12.** 23-20-207 (1) (a) (I), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

**23-20-207. Funding of research grants - tobacco- and substance-abuse-related research fund - creation - administrative costs.**

(1) (a) (I) There is hereby created in the office of the treasurer of the university of Colorado the tobacco- and substance-abuse-related research fund, which shall be under the control and administration of the board of regents of the university of Colorado in accordance with the provisions of this article. Except as otherwise provided in section 24-75-1104 (1.7) (c), C.R.S., beginning with the 2000-01 fiscal year and for each fiscal year thereafter in which the state receives moneys pursuant to the master settlement agreement ~~ENDING WITH THE 2003-04 FISCAL YEAR~~, the general assembly shall appropriate to the fund eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund in any fiscal year shall not exceed eight million dollars. In addition, the fund shall include all interest derived from the deposit and investment of the moneys in the fund and may include moneys credited thereto from any public or private gifts, grants, or donations received by the university for the implementation of this part 2. It is the intent of the general assembly that state general fund moneys not be appropriated to provide any funding for the purposes of this part 2. The moneys in the fund shall remain under the control of the regents of the university of Colorado. Any unencumbered moneys appropriated from moneys received by the state pursuant to the master settlement agreement remaining in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5, C.R.S.

**SECTION 13.** 25-31-107 (2) (d) (I), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

**25-31-107. Nurse home visitor program - selection of entities - grants.**

(2) (d) (I) For the 2000-01 fiscal year, the general assembly shall appropriate to the fund three percent of the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund shall not exceed three million dollars. Except as otherwise provided in section 24-75-1104 (1.7) (a) OR (1.9) (a), C.R.S., beginning with the 2001-02 fiscal year and for each fiscal year thereafter until the 2008-09 fiscal year, the general assembly shall increase the amount appropriated to the fund by two percent per fiscal year; except that the amount of increase shall not exceed an additional two million dollars per year. For the 2008-09 fiscal year and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall appropriate to the fund nineteen percent of the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund in any fiscal year shall not exceed nineteen million dollars. The general assembly shall appropriate the amount specified in this paragraph (d) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

**SECTION 14.** 26-4-1007 (3) (a), Colorado Revised Statutes, as amended by Senate Bill 03-190, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

**26-4-1007. Program funding - comprehensive primary and preventive care fund - creation.** (3) (a) Except as otherwise provided in section 24-75-1104 (1.7)

(f) OR (1.9) (c), C.R.S., beginning with the 2000-01 fiscal year and for each fiscal year thereafter, the general assembly shall appropriate to the fund six percent of the total amount of moneys received by the state pursuant to the master settlement agreement, not including attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund shall not exceed six million dollars in any fiscal year. The general assembly shall appropriate the amount specified in this subsection (3) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

**SECTION 15. 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: June 5, 2003