

CHAPTER 208

GOVERNMENT - STATE

SENATE BILL 09-270

BY SENATOR(S) Tapia, Keller, White;
also REPRESENTATIVE(S) Marostica, Ferrandino, Pommer, Merrifield.

AN ACT

CONCERNING THE CREDITING TO THE GENERAL FUND OF EARNINGS GENERATED DURING SPECIFIED FISCAL YEARS FROM THE DEPOSIT AND INVESTMENT OF CASH FUNDS THAT RECEIVE REVENUES FROM THE CONSTITUTIONALLY IMPOSED TAXES ON CIGARETTES AND TOBACCO PRODUCTS.

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

SECTION 1. 24-22-117 (1) (a), the introductory portion to 24-22-117 (1) (c), and 24-22-117 (2) (a) (I), (2) (b) (I), (2) (c) (I), (2) (c) (II), (2) (d) (I), and (2) (f), Colorado Revised Statutes, are amended, and the said 24-22-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-22-117. Tobacco tax cash fund - accounts - state fiscal relief fund - creation - legislative declaration. (1) (a) There is hereby created in the state treasury the tobacco tax cash fund, which fund is referred to in this section as the "cash fund". The cash fund shall consist of moneys collected from the cigarette and tobacco taxes imposed pursuant to section 21 of article X of the state constitution. All interest AND INCOME derived from the deposit and investment of moneys in the cash fund shall be credited to the cash fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE CASH FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended and unencumbered moneys remaining in the cash fund at the end of a fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or any other fund, except as otherwise provided in this section.

(c) For EACH FISCAL YEAR FROM the 2004-05 fiscal year THROUGH THE 2007-08 FISCAL YEAR AND FOR THE 2012-13 FISCAL YEAR and each fiscal year thereafter, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, plus three percent of the

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

interest AND INCOME earned on the DEPOSIT AND INVESTMENT OF moneys in the cash fund, AND, FOR THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THREE PERCENT OF THE MONEYS ESTIMATED TO BE DEPOSITED IN THAT FISCAL YEAR INTO THE CASH FUND, for health-related purposes to provide revenue for the state's general fund and old age pension fund and for municipal and county governments to compensate proportionately for tax revenue reductions attributable to lower cigarette and tobacco sales resulting from the implementation of the tax imposed pursuant to section 21 of article X of the state constitution, as follows:

(2) There are hereby created in the state treasury the following funds:

(a) (I) The health care expansion fund to be administered by the department of health care policy and financing. The state treasurer and the controller shall transfer an amount equal to forty-six percent of the moneys deposited into the cash fund, plus forty-six percent of the interest AND INCOME earned on the DEPOSIT AND INVESTMENT OF MONEYS IN THE cash fund, to the health care expansion fund; except that, for fiscal year 2004-05, the state treasurer and the state controller shall transfer an amount equal to forty-six percent of the moneys deposited into the cash fund less the amount of money sufficient to fund the reinstatement of medical assistance benefits for legal immigrants as provided for in House Bill 05-1086, enacted at the first regular session of the sixty-fifth general assembly, AND EXCEPT THAT, FOR THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS, THE STATE TREASURER AND THE CONTROLLER SHALL TRANSFER TO THE HEALTH CARE EXPANSION FUND ONLY AN AMOUNT EQUAL TO FORTY-SIX PERCENT OF THE MONEYS DEPOSITED INTO THE CASH FUND. All interest AND INCOME derived from the deposit and investment of moneys in the health care expansion fund shall be credited to the health care expansion fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE HEALTH CARE EXPANSION FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended and unencumbered moneys remaining in the health care expansion fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The primary care fund to be administered by the department of health care policy and financing. The state treasurer and the controller shall transfer an amount equal to nineteen percent of the moneys deposited into the cash fund, plus nineteen percent of the interest AND INCOME earned on THE DEPOSIT AND INVESTMENT OF those moneys, to the primary care fund; EXCEPT THAT, FOR THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS, THE STATE TREASURER AND THE CONTROLLER SHALL TRANSFER TO THE PRIMARY CARE FUND ONLY AN AMOUNT EQUAL TO NINETEEN PERCENT OF THE MONEYS DEPOSITED INTO THE CASH FUND. All interest AND INCOME derived from the deposit and investment of moneys in the primary care fund shall be credited to the primary care fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PRIMARY CARE FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended and unencumbered moneys remaining in the primary care fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(c) (I) The tobacco education programs fund to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the moneys deposited into the cash fund, plus sixteen percent of the interest AND INCOME earned on THE DEPOSIT AND INVESTMENT OF those moneys, to the tobacco education programs fund; EXCEPT THAT, FOR THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS, THE STATE TREASURER AND THE CONTROLLER SHALL TRANSFER TO THE TOBACCO EDUCATION PROGRAMS FUND ONLY AN AMOUNT EQUAL TO SIXTEEN PERCENT OF THE MONEYS DEPOSITED INTO THE CASH FUND. All interest AND INCOME derived from the deposit and investment of moneys in the tobacco education programs fund shall be credited to the tobacco education programs fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE TOBACCO EDUCATION PROGRAMS FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended and unencumbered moneys remaining in the tobacco education programs fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) The interest AND INCOME derived from the deposit and investment of moneys in the tobacco education programs fund AND CREDITED TO THE TOBACCO EDUCATION PROGRAMS FUND may be used to give credit to a wholesaler or distributor for taxes paid on cigarettes or other tobacco products that are bad debts pursuant to sections 39-28-104 and 39-28.5-107, C.R.S.; except that the interest earned on the tobacco education programs fund shall be used only for that portion of the bad debt attributable to the taxes imposed pursuant to section 21 of article X of the state constitution.

(d) (I) The prevention, early detection, and treatment fund to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the moneys deposited into the cash fund, plus sixteen percent of the interest AND INCOME earned on THE DEPOSIT AND INVESTMENT OF those moneys, to the prevention, early detection, and treatment fund; EXCEPT THAT, FOR THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS, THE STATE TREASURER AND THE CONTROLLER SHALL TRANSFER TO THE PREVENTION, EARLY DETECTION, AND TREATMENT FUND ONLY AN AMOUNT EQUAL TO SIXTEEN PERCENT OF THE MONEYS DEPOSITED INTO THE CASH FUND. All interest AND INCOME derived from the deposit and investment of moneys in the prevention, early detection, and treatment fund shall be credited to the prevention, early detection, and treatment fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PREVENTION, EARLY DETECTION, AND TREATMENT FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended and unencumbered moneys remaining in the prevention, early detection, and treatment fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. The moneys in the prevention, early detection, and treatment fund shall be annually appropriated by the general assembly to the department of public health and environment for allocation by the department consistent with the provisions of this paragraph (d).

(f) The health disparities grant program fund to be administered by the

department of public health and environment. Moneys shall be transferred to the health disparities grant program fund as described in subparagraph (III) of paragraph (d) of this subsection (2). All interest AND INCOME derived from the deposit and investment of moneys in the health disparities grant program fund shall be credited to the health disparities grant program fund; EXCEPT THAT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE HEALTH DISPARITIES GRANT PROGRAM FUND DURING THE 2008-09, 2009-10, 2010-11, AND 2011-12 FISCAL YEARS SHALL BE CREDITED TO THE GENERAL FUND. Any unexpended or unencumbered moneys remaining in the health disparities grant program fund at the end of the fiscal year shall remain in the fund and shall not be credited to the general fund or any other fund. The moneys in the health disparities grant program fund shall be annually appropriated by the general assembly to the department of public health and environment for allocation by the department of public health and environment consistent with the provisions of paragraph (d) of this subsection (2).

(7) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT FOR PURPOSES OF THIS SUBSECTION (7) AND SECTION 21 (5) OF ARTICLE X OF THE STATE CONSTITUTION, INTEREST OR INCOME CREDITED TO THE GENERAL FUND PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPHS (a) TO (d) AND (f) OF SUBSECTION (2) OF THIS SECTION ARE NOT REVENUES GENERATED BY OPERATION OF SECTION 21 (2) OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 2. 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: May 1, 2009