

CHAPTER 334

GOVERNMENT - STATE

SENATE BILL 09-271

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

AN ACT

CONCERNING THE USE OF TOBACCO REVENUES GENERATED UNDER SECTION 21 OF ARTICLE X OF THE STATE CONSTITUTION IN A STATE FISCAL EMERGENCY, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 24-22-117 (2) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-22-117. Tobacco tax cash fund - accounts - creation - repeal. (2) There are hereby created in the state treasury the following funds:

(2) (b) (III) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), AND PURSUANT TO THE DECLARATION OF A STATE FISCAL EMERGENCY AS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION, FOR THE 2009-10 FISCAL YEAR, UP TO FIFTEEN MILLION DOLLARS OF THE MONEYS IN THE PRIMARY CARE FUND MAY BE APPROPRIATED FOR ANY HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF ENROLLMENT AS OF JANUARY 1, 2005.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 2. 24-22-117 (2) (c), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-22-117. Tobacco tax cash fund - accounts - creation - repeal. (2) There are hereby created in the state treasury the following funds:

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

(c) (IV) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), AND PURSUANT TO THE DECLARATION OF A STATE FISCAL EMERGENCY AS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION, FOR THE 2009-10 FISCAL YEAR, IN ADDITION TO THE PURPOSES DESCRIBED IN SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), THE MONEYS IN THE TOBACCO EDUCATION PROGRAMS FUND MAY BE APPROPRIATED FOR ANY HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF ENROLLMENT AS OF JANUARY 1, 2005.

(B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 3. 24-22-117 (2) (d) (V), Colorado Revised Statutes, is amended to read:

24-22-117. Tobacco tax cash fund - accounts - creation - repeal. (2) There are hereby created in the state treasury the following funds:

(d) (V) (A) For fiscal year 2008-09 and each fiscal year thereafter, after the allocation of the moneys pursuant to subparagraphs (II), (III), and (IV.5) of this paragraph (d), moneys in the prevention, early detection, and treatment fund shall be annually appropriated by the general assembly to the prevention services division of the department of public health and environment for the cancer, cardiovascular disease, and chronic pulmonary disease prevention, early detection, and treatment program established in part 3 of article 20.5 of title 25, C.R.S.

(B) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V), AND PURSUANT TO THE DECLARATION OF A STATE FISCAL EMERGENCY AS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION, FOR THE 2009-10 FISCAL YEAR, IN ADDITION TO THE PURPOSES DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V), THE MONEYS IN THE PREVENTION, EARLY DETECTION, AND TREATMENT FUND MAY BE APPROPRIATED FOR ANY HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF ENROLLMENT AS OF JANUARY 1, 2005. THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 4. 24-22-117 (6), Colorado Revised Statutes, is amended to read:

24-22-117. Tobacco tax cash fund - accounts - creation - repeal. (6) (a) Notwithstanding any other provision of law, the general assembly may use revenue generated by the implementation of the cigarette and tobacco taxes pursuant to sections 39-28-103.5 and 39-28.5-102.5, C.R.S., and section 21 of article X of the state constitution for any health-related purpose and to serve populations enrolled in the children's basic health plan and the Colorado medical assistance program at the respective program levels of enrollment as of January 1, 2005. Such use of revenue shall be preceded by a declaration of a state fiscal emergency, which shall be adopted by a joint resolution, approved by a two-thirds majority vote of the members of the senate and of the house of representatives, and signed by the

governor. The declaration shall apply only to a single fiscal year.

(b) (I) THE GENERAL ASSEMBLY, PURSUANT TO SECTION 21 (7) OF ARTICLE X OF THE STATE CONSTITUTION AND SENATE JOINT RESOLUTION 09-035, WHICH WAS APPROVED BY A TWO-THIRDS MAJORITY VOTE OF THE MEMBERS OF THE GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR, DECLARES A STATE FISCAL EMERGENCY FOR THE 2009-10 FISCAL YEAR.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 5. Appropriations - adjustments in 2009 long bill.

(1) Appropriations in the annual general appropriation act to the department of health care policy and financing, for the fiscal year beginning July 1, 2009, are adjusted as follows:

(a) The general fund appropriation for medical services premiums is decreased by twenty-seven million four hundred thousand dollars (\$27,400,000).

(b) The cash fund appropriation is increased by twenty-seven million four hundred thousand dollars (\$27,400,000). Of said appropriation, eight million dollars (\$8,000,000) shall be from the tobacco education programs fund created in section 24-22-117 (2) (c) (I), Colorado Revised Statutes, twelve million dollars (\$12,000,000) shall be from the prevention, early detection, and treatment fund created in section 24-22-117 (2) (d) (I), Colorado Revised Statutes, and seven million four hundred thousand dollars (\$7,400,000) shall be from the primary care fund created in section 24-22-117 (2) (b) (I), Colorado Revised Statutes.

(c) The cash fund appropriation for the indigent care program, primary care fund program, is decreased by seven million four hundred thousand dollars (\$7,400,000). Said sum, shall be from the primary care fund created in section 24-22-117 (2) (b) (I), Colorado Revised Statutes.

(2) The appropriation in the annual general appropriation act to the department of public health and environment, prevention services division, for tobacco education, prevention, and cessation grants, from the tobacco education programs fund created in section 24-22-117 (2) (c) (I), Colorado Revised Statutes, for the fiscal year beginning July 1, 2009, is decreased by four million dollars (\$4,000,000).

SECTION 6. Effective date. This act shall take effect only if Senate Joint Resolution 09-035 is approved by a two-thirds majority vote of the members of both houses of the general assembly and is signed by the governor. This act shall take effect either upon passage or upon the date Senate Joint Resolution 09-035 is signed by the governor, whichever is later.

SECTION 7. 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 1, 2009