

CHAPTER 200

GOVERNMENT - STATE

HOUSE BILL 13-1180

BY REPRESENTATIVE(S) Gerou, Duran, Levy, Hamner, Labuda, Mitsch Bush, Rosenthal, Young;
also SENATOR(S) Steadman, Hodge, Lambert, Aguilar, Carroll, Giron, Guzman, Heath, Hudak, Jahn, Kefalas, Kerr, Newell,
Nicholson, Todd, Ulibarri.

AN ACT

CONCERNING THE ALLOCATION OF TOBACCO LITIGATION SETTLEMENT MONEYS THAT WERE ORIGINALLY TO BE ALLOCATED TO THE NURSE HOME VISITOR PROGRAM BUT ARE CURRENTLY SCHEDULED TO BE TRANSFERRED TO THE GENERAL FUND, AND, IN CONNECTION THEREWITH, REQUIRING SUCH MONEYS TO BE ALLOCATED TO THE NURSE HOME VISITOR PROGRAM AND THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND AND MAKING AND REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 24-22-115, **amend** (2) (a) as follows:

24-22-115. Tobacco litigation settlement cash fund - health care supplemental appropriations and overexpenditures account - creation.

(2) (a) There is hereby created in the state treasury, as an account within the tobacco litigation settlement cash fund established pursuant to subsection (1) of this section, the tobacco settlement defense account, which shall be used by the department of law: To defend the state in lawsuits arising out of challenges to or arising under the provisions 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.; 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, or duly enacted Colorado laws related to the tobacco litigation settlement, including, but without limitation, this section, sections 24-22-115.5 and 24-22-116, and parts 2 and 3 of

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

article 28 of title 39, C.R.S.; to defend the state against claims of entitlement to tobacco litigation settlement moneys by any person, as defined in section 2-4-401 (8), C.R.S.; to enforce and defend all rights and obligations of the state under said settlement agreements, decree, or laws; and to resolve any dispute with any participating manufacturer, as defined in section 39-28-302 (6), C.R.S., or nonparticipating manufacturer, as defined in section 39-28-302 (5), C.R.S., that arises under the provisions of said settlement agreements, decree, or laws. Notwithstanding the provisions of subsection (1) of this section and section 24-22-115.5, the tobacco settlement defense account ~~shall consist~~ CONSISTS of all tobacco litigation settlement moneys received by the attorney general and transmitted to the state treasurer to compensate the state for attorney fees, court costs, or other expenses incurred by the state in obtaining the tobacco litigation settlement, ALL TOBACCO LITIGATION SETTLEMENT MONEYS TRANSFERRED TO THE ACCOUNT AS REQUIRED BY SECTION 24-75-1104.5 (1) (a), and all interest derived from the deposit and investment of moneys in the tobacco settlement defense account. Any moneys received by the state treasurer to compensate the state for attorney fees, court costs, or other expenses, including all interest derived from the deposit and investment of such moneys after receipt by the state treasurer, shall be transferred to the tobacco settlement defense account for use in accordance with the provisions of this subsection (2).

SECTION 2. In Colorado Revised Statutes, 24-75-1104.5, **repeal and reenact, with amendments,** (1) (a) as follows:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsections (1.3) and (5) of this section, for the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive the following specified amounts from the settlement moneys received by the state in the preceding fiscal year:

(a) THE COLORADO NURSE HOME VISITOR PROGRAM CREATED IN ARTICLE 31 OF TITLE 25, C.R.S., SHALL RECEIVE THE FOLLOWING AMOUNTS, NOT TO EXCEED NINETEEN MILLION DOLLARS IN ANY FISCAL YEAR, AS PROVIDED IN SECTION 25-31-107, C.R.S.:

(I) FOR THE 2004-05 FISCAL YEAR, NINE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(II) FOR THE 2005-06 FISCAL YEAR, TEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(III) FOR THE 2006-07 FISCAL YEAR, ELEVEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(IV) FOR THE 2007-08 FISCAL YEAR, TWELVE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(V) FOR THE 2008-09 AND 2009-10 FISCAL YEARS, THIRTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(VI) FOR THE 2010-11 FISCAL YEAR, FOURTEEN PERCENT OF THE TOTAL AMOUNT

OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(VII) FOR THE 2011-12 FISCAL YEAR, THE GREATER OF FOURTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE OR TWELVE MILLION SEVEN HUNDRED TWENTY-SEVEN THOUSAND THREE HUNDRED FIFTY DOLLARS. THE DIFFERENCE BETWEEN FIFTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE AND THE AMOUNT ACTUALLY RECEIVED BY THE PROGRAM PURSUANT TO THIS SUBPARAGRAPH (VII) SHALL BE TRANSFERRED TO THE GENERAL FUND.

(VIII) FOR THE 2012-13 FISCAL YEAR, THE GREATER OF FOURTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE OR TWELVE MILLION SEVEN HUNDRED TWENTY-SEVEN THOUSAND THREE HUNDRED FIFTY DOLLARS. THE DIFFERENCE BETWEEN SIXTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE AND THE AMOUNT ACTUALLY RECEIVED BY THE PROGRAM PURSUANT TO THIS SUBPARAGRAPH (VIII) SHALL BE TRANSFERRED TO THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND.

(IX) FOR THE 2013-14 FISCAL YEAR, SEVENTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE LESS ONE MILLION DOLLARS, WHICH ONE MILLION DOLLARS SHALL BE TRANSFERRED TO THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND;

(X) FOR THE 2014-15 FISCAL YEAR, EIGHTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE LESS ONE MILLION DOLLARS, WHICH ONE MILLION DOLLARS SHALL BE TRANSFERRED TO THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND;

(XI) FOR THE 2015-16 FISCAL YEAR, NINETEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE LESS ONE MILLION DOLLARS, WHICH ONE MILLION DOLLARS SHALL BE TRANSFERRED TO THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND; AND

(XII) FOR THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, NINETEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE.

SECTION 3. In Colorado Revised Statutes, 25-31-107, **amend** (2) (d) (III) (C), (2) (d) (III) (D), (2) (d) (III) (E), and (2) (d) (III) (F) and **add** (2) (d) (III) (G) as follows:

25-31-107. Selection of entities to administer the program - grants - nurse home visitor program fund - created. (2) (d) (III) (C) For the 2011-12 and 2012-13 fiscal years, the state treasurer shall transfer to the fund the greater of FOURTEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE OR twelve million seven hundred thirty-seven thousand three hundred fifty dollars. ~~or the same percentage of the total amount of moneys received by the~~

~~state as was transferred to the fund for the 2010-11 fiscal year.~~

(D) For the 2013-14 fiscal year, the state treasurer shall transfer to the fund ~~fifteen~~ SEVENTEEN percent of the total amount of moneys received by the state LESS ONE MILLION DOLLARS.

(E) For the 2014-15 fiscal year, ~~and for each fiscal year thereafter through the 2016-17 fiscal year, the state treasurer shall increase the percentage transferred to the fund by one percent over the percentage transferred to the fund in the preceding fiscal year~~ THE STATE TREASURER SHALL TRANSFER TO THE FUND EIGHTEEN PERCENT OF THE TOTAL AMOUNT OF MONEYS RECEIVED BY THE STATE LESS ONE MILLION DOLLARS.

(F) For the ~~2017-18 fiscal year and for each fiscal year thereafter,~~ 2015-16 FISCAL YEAR, the state treasurer shall transfer to the fund nineteen percent of the total amount of moneys received by the state LESS ONE MILLION DOLLARS.

(G) FOR THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, THE STATE TREASURER SHALL TRANSFER TO THE FUND NINETEEN PERCENT OF THE TOTAL AMOUNT OF MONEYS RECEIVED BY THE STATE.

SECTION 4. Appropriation - adjustments to 2013 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of law for the fiscal year beginning July 1, 2013, are adjusted as follows:

(a) The general fund appropriation for various centrally appropriated line items in the administration section is decreased by \$29,556.

(b) The general fund appropriation for consumer protection and antitrust is decreased by \$153,795.

(c) The general fund appropriation for tobacco litigation is decreased by \$1,250,000.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the tobacco settlement defense account of the tobacco litigation settlement cash fund created in section 24-22-115 (2) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$1,433,351, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$29,556 for various centrally appropriated line items in the administration section;

(b) \$153,795 for consumer protection and antitrust; and

(c) \$1,250,000 for tobacco litigation.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the nurse home visitor program fund

created in section 25-31-107 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2013, the sum of \$803,330, or so much thereof as may be necessary, for allocation to the nurse home visitor program related to the implementation of this act.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the nurse home visitor program fund created in section 26-6.4-107 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2013, the sum of \$803,330, or so much thereof as may be necessary for allocation to the nurse home visitor program related to the implementation of this act.

SECTION 7. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Section 5 of this act takes effect only if House Bill 13-1117 does not become law.

(3) Section 6 of this act takes effect only if House Bill 13-1117 becomes law and takes effect either upon the effective date of this act or upon the effective date of House Bill 13-1117, whichever is later.

SECTION 8. 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 11, 2013