

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0881.01 Jason Gelender x4330

SENATE BILL 15-188

SENATE SPONSORSHIP

Steadman, Grantham, Lambert

HOUSE SPONSORSHIP

Rankin, Hamner, Young

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF THE FIRST TIER OF STATUTORILY**
102 **ALLOCATED TOBACCO LITIGATION SETTLEMENT MONEY, AND,**
103 **IN CONNECTION THEREWITH, MAKING AN ANNUAL STATUTORY**
104 **ALLOCATION OF SUCH MONEY TO THE TOBACCO SETTLEMENT**
105 **DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT**
106 **CASH FUND AND MAKING AN OFFSETTING REDUCTION IN THE**
107 **ANNUAL STATUTORY ALLOCATION OF SUCH MONEY TO THE**
108 **CHILDREN'S BASIC HEALTH PLAN TRUST, AUTHORIZING THE**
109 **DEPARTMENT OF REVENUE TO USE MONEY IN THE TOBACCO**
110 **SETTLEMENT DEFENSE ACCOUNT FOR SETTLEMENT**
111 **ENFORCEMENT RELATED ACTIVITIES, AND MAKING AN**
112 **APPROPRIATION.**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Joint Budget Committee. Beginning in fiscal year 2016-17, the bill makes a new annual statutory allocation of 2% of tobacco litigation settlement money to the tobacco settlement defense account (account) of the litigation settlement cash fund and an offsetting 2% reduction in the annual statutory allocation of such money to the children's basic health plan trust. Currently, only the department of law may use money in the account, and the bill authorizes the department of revenue to also use money in the account to help administer, coordinate, and support the activities of the departments of revenue and law, including the investigation of and response to settlement agreement manufacture and distribution reporting irregularities identified by the department of law.

For the fiscal year 2015-16, \$69,453 is appropriated from the account to the department of revenue to help administer, coordinate, and support the activities of the departments of revenue and law in relation to the tobacco litigation settlement agreements, consent decree, and related state laws, including the investigation of and response to tobacco master settlement agreement manufacture and distribution reporting irregularities identified by the department of law.

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

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

4 **24-22-115. Tobacco litigation settlement cash fund - health**
5 **care supplemental appropriations and overexpenditures account -**
6 **creation.** (2) (a) There is hereby created in the state treasury, as an
7 account within the tobacco litigation settlement cash fund established
8 pursuant to subsection (1) of this section, the tobacco settlement defense
9 account, which shall be used by the department of law: To defend the
10 state in lawsuits arising out of challenges to or arising under the

1 provisions of the master settlement agreement, the smokeless tobacco
2 master settlement agreement, and the consent decree approved and
3 entered by the court in the case denominated *State of Colorado, ex rel.*
4 *Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.;*
5 *American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.;*
6 *Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.;*
7 *United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For*
8 *Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97
9 CV 3432, in the district court for the city and county of Denver, or duly
10 enacted Colorado laws related to the tobacco litigation settlement,
11 including, but without limitation, this section, sections 24-22-115.5 and
12 24-22-116, and parts 2 and 3 of article 28 of title 39, C.R.S.; to defend the
13 state against claims of entitlement to tobacco litigation settlement moneys
14 by any person, as defined in section 2-4-401 (8), C.R.S.; to enforce and
15 defend all rights and obligations of the state under said settlement
16 agreements, decree, or laws; and to resolve any dispute with any
17 participating manufacturer, as defined in section 39-28-302 (6), C.R.S.,
18 or nonparticipating manufacturer, as defined in section 39-28-302 (5),
19 C.R.S., that arises under the provisions of said settlement agreements,
20 decree, or laws. THE TOBACCO SETTLEMENT DEFENSE ACCOUNT MAY ALSO
21 BE USED BY THE DEPARTMENT OF REVENUE TO HELP ADMINISTER,
22 COORDINATE, AND SUPPORT THE ACTIVITIES OF THE DEPARTMENT OF
23 REVENUE AND THE DEPARTMENT OF LAW, INCLUDING THE INVESTIGATION
24 OF AND RESPONSE TO SETTLEMENT AGREEMENT MANUFACTURE AND
25 DISTRIBUTION REPORTING IRREGULARITIES IDENTIFIED BY THE
26 DEPARTMENT OF LAW. Notwithstanding the provisions of subsection (1)
27 of this section and section 24-22-115.5, the tobacco settlement defense

1 account consists of all tobacco litigation settlement moneys received by
2 the attorney general and transmitted to the state treasurer to compensate
3 the state for attorney fees, court costs, or other expenses incurred by the
4 state in obtaining the tobacco litigation settlement, all tobacco litigation
5 settlement moneys transferred to the account as required by section
6 24-75-1104.5 (1) (a) AND (1) (n), and all interest derived from the deposit
7 and investment of moneys in the tobacco settlement defense account. Any
8 moneys received by the state treasurer to compensate the state for
9 attorney fees, court costs, or other expenses, including all interest derived
10 from the deposit and investment of such moneys after receipt by the state
11 treasurer, shall be transferred to the tobacco settlement defense account
12 for use in accordance with the provisions of this subsection (2).

13 (b) All moneys in the tobacco settlement defense account shall be
14 subject to annual appropriation by the general assembly to the department
15 of law AND THE DEPARTMENT OF REVENUE. Notwithstanding the
16 provisions of subsection (1) of this section, at the end of any fiscal year,
17 all unexpended and unencumbered moneys and all moneys not
18 appropriated for the following fiscal year in the tobacco settlement
19 defense account shall remain in the tobacco settlement defense account
20 to be used for the purposes set forth in this subsection (2).

21 **SECTION 2.** In Colorado Revised Statutes, 24-75-1104.5,
22 **amend** (1) (c) (II); and **add** (1) (c) (III) and (1) (n) as follows:

23 **24-75-1104.5. Use of settlement moneys - programs - repeal.**

24 (1) Except as otherwise provided in subsections (1.3) and (5) of this
25 section, and except that disputed payments received by the state in the
26 2013-14 fiscal year or in any fiscal year thereafter are excluded from the
27 calculation of allocations under this subsection (1), for the 2004-05 fiscal

1 year and for each fiscal year thereafter, the following programs, services,
2 or funds shall receive the following specified amounts from the settlement
3 moneys received by the state in the preceding fiscal year:

4 (c) (II) For the 2011-12 fiscal year and FOR each fiscal year
5 thereafter THROUGH THE 2015-16 FISCAL YEAR, the children's basic health
6 plan trust created in section 25.5-8-105, C.R.S., shall receive
7 twenty-seven percent of the total amount of settlement moneys annually
8 received by the state, not to exceed thirty-three million dollars in any
9 fiscal year, as provided in said section. If in any fiscal year the percentage
10 of settlement moneys specified in this paragraph (c) does not equal at
11 least seventeen million five hundred thousand dollars, the general
12 assembly shall appropriate the amount of the shortfall out of the tobacco
13 litigation settlement trust fund pursuant to section 24-22-115.5 (2) (a.7)
14 (I) or, for the 2011-12 fiscal year and for each fiscal year thereafter, and
15 prior to their allocation, out of the amount of settlement moneys to be
16 allocated and transferred pursuant to subsection (1.5) of this section.

17 (III) FOR THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR
18 THEREAFTER, THE CHILDREN'S BASIC HEALTH PLAN TRUST CREATED IN
19 SECTION 25.5-8-105, C.R.S., SHALL RECEIVE TWENTY-FIVE PERCENT OF
20 THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY
21 THE STATE, NOT TO EXCEED THIRTY-THREE MILLION DOLLARS IN ANY
22 FISCAL YEAR, AS PROVIDED IN SAID SECTION. IF IN ANY FISCAL YEAR THE
23 PERCENTAGE OF SETTLEMENT MONEYS SPECIFIED IN THIS SUBPARAGRAPH
24 (III) DOES NOT EQUAL AT LEAST SEVENTEEN MILLION FIVE HUNDRED
25 THOUSAND DOLLARS, THE GENERAL ASSEMBLY SHALL APPROPRIATE THE
26 AMOUNT OF THE SHORTFALL OUT OF THE TOBACCO LITIGATION
27 SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-22-115.5 (2) (a.7) (I)

1 OR, FOR THE 2011-12 FISCAL YEAR AND FOR EACH FISCAL YEAR
2 THEREAFTER, AND PRIOR TO THEIR ALLOCATION, OUT OF THE AMOUNT OF
3 SETTLEMENT MONEYS TO BE ALLOCATED AND TRANSFERRED PURSUANT TO
4 SUBSECTION (1.5) OF THIS SECTION.

5 (n) FOR THE 2016-17 FISCAL YEAR AND FOR EACH YEAR
6 THEREAFTER, THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE
7 TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION
8 24-22-115 (2) (a) SHALL RECEIVE TWO PERCENT OF THE TOTAL AMOUNT
9 OF SETTLEMENT MONEYS RECEIVED BY THE STATE.

10 **SECTION 3. Appropriation.** For the 2015-16 state fiscal year,
11 \$69,453 is appropriated to the department of revenue. This appropriation
12 is from the tobacco settlement defense account of the tobacco litigation
13 settlement cash fund created in section 24-22-115 (2) (a), C.R.S., and is
14 based on an assumption that the department of revenue will require an
15 additional 1.0 FTE. To implement this act, the department may use this
16 appropriation to help administer, coordinate, and support the activities of
17 the departments of revenue and law in relation to the tobacco litigation
18 settlement agreements, consent decree, and related state laws, including
19 the investigation of and response to tobacco master settlement agreement
20 manufacture and distribution reporting irregularities identified by the
21 department of law.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.