

NOTE: The governor signed this measure on 4/16/2015.

An Act

SENATE BILL 15-188

BY SENATOR(S) Steadman, Grantham, Lambert, Crowder, Todd;
also REPRESENTATIVE(S) Rankin, Hamner, Young, Becker K., Duran,
Fields, Ginal, Lontine, Pettersen.

CONCERNING THE USE OF THE FIRST TIER OF STATUTORILY ALLOCATED TOBACCO LITIGATION SETTLEMENT MONEY, AND, IN CONNECTION THEREWITH, MAKING AN ANNUAL STATUTORY ALLOCATION OF SUCH MONEY TO THE TOBACCO SETTLEMENT DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND AND MAKING AN OFFSETTING REDUCTION IN THE ANNUAL STATUTORY ALLOCATION OF SUCH MONEY TO THE CHILDREN'S BASIC HEALTH PLAN TRUST, AUTHORIZING THE DEPARTMENT OF REVENUE TO USE MONEY IN THE TOBACCO SETTLEMENT DEFENSE ACCOUNT FOR SETTLEMENT ENFORCEMENT RELATED ACTIVITIES, AND MAKING 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) and (2) (b) as follows:

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

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

(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 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. THE TOBACCO SETTLEMENT DEFENSE ACCOUNT MAY ALSO BE USED BY THE DEPARTMENT OF REVENUE TO HELP ADMINISTER, COORDINATE, AND SUPPORT THE ACTIVITIES OF THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LAW, INCLUDING THE INVESTIGATION OF AND RESPONSE TO SETTLEMENT AGREEMENT MANUFACTURE AND DISTRIBUTION REPORTING IRREGULARITIES IDENTIFIED BY THE DEPARTMENT OF LAW. Notwithstanding the provisions of subsection (1) of this section and section 24-22-115.5, the tobacco settlement defense account 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 (1) (n), 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).

(b) All moneys in the tobacco settlement defense account shall be subject to annual appropriation by the general assembly to the department of law AND THE DEPARTMENT OF REVENUE. Notwithstanding the provisions of subsection (1) 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 tobacco settlement defense account shall remain in the tobacco settlement defense account to be used for the purposes set forth in this subsection (2).

SECTION 2. In Colorado Revised Statutes, 24-75-1104.5, **amend** (1) (c) (II); and **add** (1) (c) (III) and (1) (n) 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, and except that disputed payments received by the state in the 2013-14 fiscal year or in any fiscal year thereafter are excluded from the calculation of allocations under this subsection (1), 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:

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

(III) FOR THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR

THEREAFTER, THE CHILDREN'S BASIC HEALTH PLAN TRUST CREATED IN SECTION 25.5-8-105, C.R.S., SHALL RECEIVE TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED THIRTY-THREE MILLION DOLLARS IN ANY FISCAL YEAR, AS PROVIDED IN SAID SECTION. IF IN ANY FISCAL YEAR THE PERCENTAGE OF SETTLEMENT MONEYS SPECIFIED IN THIS SUBPARAGRAPH (III) DOES NOT EQUAL AT LEAST SEVENTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, THE GENERAL ASSEMBLY SHALL APPROPRIATE THE AMOUNT OF THE SHORTFALL OUT OF THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-22-115.5 (2) (a.7) (I) OR, FOR THE 2011-12 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, AND PRIOR TO THEIR ALLOCATION, OUT OF THE AMOUNT OF SETTLEMENT MONEYS TO BE ALLOCATED AND TRANSFERRED PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

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

SECTION 3. Appropriation. For the 2015-16 state fiscal year, \$69,453 is appropriated to the department of revenue. This appropriation is from the tobacco settlement defense account of the tobacco litigation settlement cash fund created in section 24-22-115 (2) (a), C.R.S., and is based on an assumption that the department of revenue will require an additional 1.0 FTE. To implement this act, the department may use this appropriation 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.

SECTION 4. 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.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO