

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0960.01 Brita Darling

SENATE BILL 11-211

SENATE SPONSORSHIP

Hodge, Steadman, Lambert

HOUSE SPONSORSHIP

(None),

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF TOBACCO TAX REVENUE FOR**
102 **HEALTH-RELATED PURPOSES DURING A STATE FISCAL**
103 **EMERGENCY, AND MAKING AN APPROPRIATION THEREFOR.**

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/billsummaries>.)

Pursuant to a declaration of a state fiscal emergency under section 21 of article X of the state constitution, for the 2011-12 fiscal year only, the bill allows tobacco tax revenues in the tobacco education programs fund, the prevention, early detection, and treatment fund, and the health

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.

SENATE
2nd Reading Unamended
April 8, 2011

disparities grant program fund to be used 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.

The bill amends the tobacco cash fund statute to reflect the declaration of a state fiscal emergency for fiscal year 2011-12.

During a state fiscal emergency, the bill modifies the statutory administrative expense limitation for the cancer, cardiovascular disease, and chronic pulmonary disease prevention, early detection, and treatment program, limiting the administrative expenses to 5% of all appropriations from the prevention, early detection, and treatment fund and not just those appropriations to the division of prevention services within the department of public health and environment.

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

2 **SECTION 1.** 24-22-117 (2) (c) (IV) (C), Colorado Revised
3 Statutes, is amended, and the said 24-22-117 (2) (c) (IV) is further
4 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH,
5 to read:

6 **24-22-117. Tobacco tax cash fund - accounts - creation -**
7 **legislative declaration - repeal.** (2) There are hereby created in the state
8 treasury the following funds:

9 (c) (IV) (C) ~~This subparagraph (IV) is repealed, effective July 1,~~
10 ~~2012:~~ NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF
11 THIS PARAGRAPH (c), AND PURSUANT TO THE DECLARATION OF A STATE
12 FISCAL EMERGENCY AS DESCRIBED IN SUBPARAGRAPH (III) OF PARAGRAPH
13 (b) OF SUBSECTION (6) OF THIS SECTION, FOR THE 2011-12 FISCAL YEAR,
14 IN ADDITION TO THE PURPOSES DESCRIBED IN SUB-SUBPARAGRAPHS (A)
15 AND (B) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), THE MONEYS IN
16 THE TOBACCO EDUCATION PROGRAMS FUND MAY BE APPROPRIATED FOR
17 ANY HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED
18 IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL

1 ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF
2 ENROLLMENT AS OF JANUARY 1, 2005.

3 (D) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1,
4 2013.

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

7 **24-22-117. Tobacco tax cash fund - accounts - creation -**
8 **legislative declaration - repeal.** (2) There are hereby created in the state
9 treasury the following funds:

10 (d) (VI) PURSUANT TO THE DECLARATION OF A STATE FISCAL
11 EMERGENCY AS DESCRIBED IN SUBPARAGRAPH (III) OF PARAGRAPH (b) OF
12 SUBSECTION (6) OF THIS SECTION, NOTWITHSTANDING ANY PROVISIONS OF
13 SUBPARAGRAPHS (II), (III), (IV.5), AND (V) OF THIS PARAGRAPH (d) TO
14 THE CONTRARY, FOR FISCAL YEAR 2011-12, THE GENERAL ASSEMBLY
15 SHALL APPROPRIATE MONEYS IN THE PREVENTION, EARLY DETECTION, AND
16 TREATMENT FUND FOR THE PURPOSES DESCRIBED IN SUBPARAGRAPHS (II),
17 (III), (IV.5), AND (V) OF THIS PARAGRAPH (d), AS WELL AS ANY OTHER
18 HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE
19 CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL
20 ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF
21 ENROLLMENT AS OF JANUARY 1, 2005.

22 **SECTION 3.** 24-22-117 (2) (f), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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

27 (f) (IV) (A) NOTWITHSTANDING ANY PROVISIONS OF

1 SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) TO THE CONTRARY, AND
2 PURSUANT TO THE DECLARATION OF A STATE FISCAL EMERGENCY AS
3 DESCRIBED IN SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (6)
4 OF THIS SECTION, FOR THE 2011-12 FISCAL YEAR, THE MONEYS IN THE
5 HEALTH DISPARITIES GRANT PROGRAM FUND MAY BE APPROPRIATED FOR
6 ANY HEALTH-RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED
7 IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL
8 ASSISTANCE PROGRAM AT THE PROGRAMS' RESPECTIVE LEVELS OF
9 ENROLLMENT AS OF JANUARY 1, 2005.

10 (B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1,
11 2013.

12 **SECTION 4.** 24-22-117 (6) (b) (III), Colorado Revised Statutes,
13 is amended, and the said 24-22-117 (6) (b) is further amended BY THE
14 ADDITION OF A NEW SUBPARAGRAPH, to read:

15 **24-22-117. Tobacco tax cash fund - accounts - creation -**
16 **legislative declaration - repeal.** (6) (b) (III) ~~This paragraph (b) is~~
17 ~~repealed, effective July 1, 2012.~~ THE GENERAL ASSEMBLY, PURSUANT TO
18 SECTION 21 (7) OF ARTICLE X OF THE STATE CONSTITUTION AND SENATE
19 JOINT RESOLUTION 11-009, WHICH WAS APPROVED BY A TWO-THIRDS
20 MAJORITY VOTE OF THE MEMBERS OF THE GENERAL ASSEMBLY AND
21 SIGNED BY THE GOVERNOR, DECLARES A STATE FISCAL EMERGENCY FOR
22 THE 2011-12 FISCAL YEAR.

23 (IV) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2013.

24 **SECTION 5.** 25-20.5-306, Colorado Revised Statutes, is
25 amended to read:

26 **25-20.5-306. Administration - limitation.** (1) EXCEPT AS
27 PROVIDED IN SUBSECTION (2) OF THIS SECTION, the prevention services

1 division of the department may receive up to five percent of the moneys
2 annually appropriated by the general assembly to the division from the
3 prevention, early detection, and treatment fund created in section
4 24-22-117, C.R.S., for the actual costs incurred in administering the
5 program, including the hiring of sufficient staff within the division to
6 effectively administer the program and the reimbursement of review
7 committee members pursuant to section 25-20.5-303 (4).

8 (2) FOR FISCAL YEAR 2011-12, AND FOR ANY FISCAL YEAR IN
9 WHICH A DECLARATION OF A STATE FISCAL EMERGENCY IS DECLARED
10 PURSUANT TO SECTION 21 (7) OF ARTICLE X OF THE STATE CONSTITUTION,
11 THE PREVENTION SERVICES DIVISION OF THE DEPARTMENT MAY RECEIVE
12 UP TO FIVE PERCENT OF THE MONEYS ANNUALLY APPROPRIATED BY THE
13 GENERAL ASSEMBLY FROM THE PREVENTION, EARLY DETECTION, AND
14 TREATMENT FUND CREATED IN SECTION 24-22-117, C.R.S., FOR THE
15 ACTUAL COSTS INCURRED IN ADMINISTERING THE PROGRAM, INCLUDING
16 THE HIRING OF SUFFICIENT STAFF WITHIN THE DIVISION TO EFFECTIVELY
17 ADMINISTER THE PROGRAM AND THE REIMBURSEMENT OF REVIEW
18 COMMITTEE MEMBERS PURSUANT TO SECTION 25-20.5-303 (4).

19 **SECTION 6. Appropriations - adjustments in the 2011 long**
20 **bill.** (1) For the implementation of this act, appropriations made in the
21 annual general appropriation act, to the department of health care policy
22 and financing, for medical services premiums, for the fiscal year
23 beginning July 1, 2011, shall be adjusted as follows:

24 (a) The general fund appropriation is decreased by thirty-three
25 million dollars (\$33,000,000).

26 (b) The cash funds appropriation is increased by twenty-nine
27 million seven hundred thirteen thousand six hundred forty-nine dollars

1 (\$29,713,649). Of said appropriation, seventeen million seven hundred
2 fifty-eight thousand five hundred ninety-four dollars (\$17,758,594) shall
3 be from the tobacco education programs fund created in section
4 24-22-117 (2) (c) (I), Colorado Revised Statutes, and eleven million nine
5 hundred fifty-five thousand fifty-five dollars (\$11,955,055) shall be from
6 the prevention, early detection, and treatment fund created in section
7 24-22-117 (2) (d) (I), Colorado Revised Statutes.

8 (c) The reappropriated funds appropriation from the health
9 disparities grant program fund created in section 24-22-117 (2) (f),
10 Colorado Revised Statutes, is increased by three million two hundred
11 eighty-six thousand three hundred fifty-one dollars (\$3,286,351).

12 (2) For the implementation of this act, appropriations made in the
13 annual general appropriation act, from various sources of reappropriated
14 funds, to the department of public health and environment, administration
15 and support, administration, for indirect cost assessments, for the fiscal
16 year beginning July 1, 2011, shall be reduced by forty-two thousand seven
17 hundred sixteen dollars (\$42,716).

18 (3) For the implementation of this act, appropriations made in the
19 annual general appropriation act, from the health disparities grant
20 program fund created in section 24-22-117 (2) (f), Colorado Revised
21 Statutes, to the department of public health and environment,
22 administration and support, special health programs, health disparities
23 program, for the fiscal year beginning July 1, 2011, shall be adjusted as
24 follows:

25 (a) The personal services appropriation is decreased by one
26 hundred thirty-five thousand two hundred nineteen dollars (\$135,219)
27 reappropriated funds and 2.0 FTE.

1 (b) The operating expenses appropriation is decreased by forty
2 thousand one hundred seventy-five dollars (\$40,175) reappropriated
3 funds.

4 (c) The health disparities grants appropriation is decreased by
5 three million sixty-eight thousand two hundred forty-one dollars
6 (\$3,068,241) reappropriated funds.

7 (4) For the implementation of this act, the appropriation made in
8 the annual general appropriation act, to the department of public health
9 and environment, center for health and environmental information, health
10 statistics and vital records, for operating expenses, is decreased by the
11 sum of forty thousand dollars (\$40,000) cash funds. Of said sum, twenty
12 thousand dollars (\$20,000) shall be from the prevention, early detection,
13 and treatment fund created in section 24-22-117 (2) (d) (I), Colorado
14 Revised Statutes, and twenty thousand dollars (\$20,000) shall be from the
15 tobacco education programs fund created in section 24-22-117 (2) (c) (I),
16 Colorado Revised Statutes.

17 (5) For the implementation of this act, appropriations made in the
18 annual general appropriation act, from various sources of cash funds, to
19 the department of public health and environment, prevention services
20 division, prevention programs, for indirect cost assessments, for the fiscal
21 year beginning July 1, 2011, shall be reduced by one hundred eighty
22 thousand dollars (\$180,000).

23 (6) For the implementation of this act, appropriations made in the
24 annual general appropriation act, from the prevention, early detection, and
25 treatment fund created in section 24-22-117 (2) (d) (I), Colorado Revised
26 Statutes, to the department of public health and environment, prevention
27 services division, prevention programs, chronic disease and cancer

1 prevention grants program, breast and cervical cancer screening, for the
2 fiscal year beginning July 1, 2011, shall be reduced by one million six
3 hundred twenty-five thousand dollars (\$1,625,000) cash funds.

4 (7) For the implementation of this act, appropriations made in the
5 annual general appropriation act, from the tobacco education programs
6 fund created in section 24-22-117 (2) (c) (I), Colorado Revised Statutes,
7 to the department of public health and environment, prevention services
8 division, prevention programs, tobacco education, prevention, and
9 cessation, for the fiscal year beginning July 1, 2011, shall be adjusted as
10 follows:

11 (a) The program administration appropriation is decreased by two
12 hundred twenty thousand dollars (\$220,000) cash funds and 1.5 FTE.

13 (b) The tobacco education, prevention, and cessation grants
14 appropriation is decreased by seventeen million four hundred
15 twenty-eight thousand five hundred ninety-four dollars (\$17,428,594)
16 cash funds.

17 (8) For the implementation of this act, appropriations made in the
18 annual general appropriation act, from the prevention, early detection, and
19 treatment fund created in section 24-22-117 (2) (d) (I), Colorado Revised
20 Statutes, to the department of public health and environment, prevention
21 services division, prevention programs, cancer, cardiovascular disease,
22 and chronic pulmonary disease, for the fiscal year beginning July 1, 2011,
23 shall be adjusted as follows:

24 (a) The appropriation for program administration is decreased by
25 one hundred thirty thousand dollars (\$130,000) cash funds and 1.5 FTE.

26 (b) The appropriation for cancer, cardiovascular disease, and
27 pulmonary disease grants is decreased by ten million ninety thousand

1 fifty-five dollars (\$10,090,055) cash funds.

2 **SECTION 7. Effective date.** This act shall take effect only if
3 Senate Joint Resolution 11-009 is approved by a two-thirds majority vote
4 of the members of both houses of the general assembly and is signed by
5 the governor. This act shall take effect either upon passage or upon the
6 date Senate Joint Resolution 11-009 is signed by the governor, whichever
7 is later.

8 **SECTION 8. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.