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2001



SENATE BILL 01-164

BY SENATOR(S) Hanna, Chlouber, Fitz-Gerald, Gordon, Hernandez, Matsunaka, Nichol, Owen, Takis, Taylor, Thiebaut, Tupa, Windels; also REPRESENTATIVE(S) Lawrence, Bacon, Boyd, Coleman, Daniel, Garcia, Groff, Larson, Mace, Madden, Romanoff, Sanchez, Stengel, Tapia, Veiga, Vigil, and Williams, S.

CONCERNING THE CREATION OF A LOAN REPAYMENT PROGRAM AS AN INCENTIVE TO DENTAL PROFESSIONALS TO PROVIDE DENTAL SERVICES TO UNDERSERVED POPULATIONS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 23

Dental Loan Repayment Program

25-23-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

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

(a) MANY DENTAL PROFESSIONALS, PARTICULARLY DENTISTS, GRADUATE WITH LARGE DEBT LEVELS THAT WERE USED TO FINANCE THEIR PROFESSIONAL EDUCATION;

(b) DENTISTRY IS PROVIDED PREDOMINANTLY THROUGH INDIVIDUAL PRACTICES, WHICH MINIMIZES THE OPPORTUNITY FOR DENTAL PROFESSIONALS TO PROVIDE UNREIMBURSED SERVICES WHILE MAINTAINING THE COSTS OF A PRACTICE AND REPAYING THEIR EDUCATIONAL LOANS;

(c) MANY COLORADO COMMUNITIES ENCOUNTER DIFFICULTY RECRUITING DENTAL PROVIDERS DEDICATED TO SERVING UNDERSERVED POPULATIONS;

(d) INCENTIVES TO REDUCE THE INDEBTEDNESS OF DENTAL PROFESSIONALS WILL INCREASE ACCESS TO DENTAL CARE FOR UNDERSERVED POPULATIONS.

(2) THE GENERAL ASSEMBLY ALSO FINDS THAT, DURING THE 2000 REGULAR SESSION, THE GENERAL ASSEMBLY EXPANDED THE CHILDREN'S BASIC HEALTH PLAN TO INCLUDE DENTAL SERVICES AND PAID FOR SUCH EXPANSION OUT OF THE TOBACCO SETTLEMENT MONEYS, BUT, DUE TO A LACK OF DENTAL PROVIDERS, THE INCLUSION OF DENTAL CARE SERVICES WAS MADE CONTINGENT UPON AN ADEQUATE NUMBER OF DENTAL PROVIDERS BEING WILLING TO PROVIDE SERVICES. THE GENERAL ASSEMBLY HEREBY FINDS THAT THE LOAN REPAYMENT PROGRAM CREATED IN THIS ARTICLE WOULD PROVIDE A METHOD TO DEVELOP THE INFRASTRUCTURE AND RESOURCES NEEDED TO PROVIDE DENTAL SERVICES AS PART OF THE CHILDREN'S BASIC HEALTH PLAN.

(3) THE GENERAL ASSEMBLY, THEREFORE, STATES THAT THE PURPOSE OF THIS ARTICLE IS TO ENCOURAGE AND ENABLE DENTAL PROFESSIONALS TO PROVIDE CARE THROUGH THE CHILDREN'S BASIC HEALTH PLAN AND THE MEDICAID PROGRAM AND TO OTHER UNDERSERVED POPULATIONS IN COLORADO BY THE USE OF A FINANCIAL INCENTIVE PROGRAM.

25-23-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE STATE BOARD OF HEALTH.

(2) "ELIGIBLE DENTAL PROFESSIONAL" MEANS A PERSON WHO IS:

(a) A DENTIST LICENSED IN COLORADO PURSUANT TO ARTICLE 35 OF TITLE 12, C.R.S.; OR

(b) A DENTAL HYGIENIST LICENSED IN COLORADO PURSUANT TO ARTICLE 35 OF TITLE 12, C.R.S.

(3) "LOAN REPAYMENT ASSISTANCE" MEANS FINANCIAL ASSISTANCE IN PAYING ALL OR PART OF THE PRINCIPAL, INTEREST, AND OTHER RELATED EXPENSES OF A LOAN FOR PROFESSIONAL EDUCATION IN EITHER DENTISTRY OR DENTAL HYGIENE, WHICHEVER IS APPROPRIATE.

(4) "MASTER SETTLEMENT AGREEMENT" MEANS 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 GROUP INC.; LORILLARD TOBACCO COMPANY; PHILLIP 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.

(5) "UNDERSERVED POPULATION" INCLUDES BUT IS NOT LIMITED TO:

(a) INDIVIDUALS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER ARTICLE 4 OF TITLE 26, C.R.S.;

(b) INDIVIDUALS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN PURSUANT TO ARTICLE 19 OF TITLE 26, C.R.S.;

(c) INDIVIDUALS ELIGIBLE FOR MEDICAL SERVICES PURSUANT TO THE PROGRAM FOR THE MEDICALLY INDIGENT SET FORTH IN ARTICLE 15 OF TITLE 26, C.R.S.;

(d) INDIVIDUALS WHO ARE PROVIDED SERVICES BY A DENTAL PROFESSIONAL AND WHO ARE CHARGED FEES ON A SLIDING SCALE BASED UPON INCOME OR WHO ARE SERVED WITHOUT CHARGE.

25-23-103. State loan repayment program for dentists and dental hygienists serving underserved populations - creation - conditions.

(1) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT OF PUBLIC

HEALTH AND ENVIRONMENT SHALL DEVELOP AND MAINTAIN A STATE DENTAL LOAN REPAYMENT PROGRAM IN WHICH THE STATE AGREES TO PAY ALL OR PART OF THE PRINCIPAL, INTEREST, AND RELATED EXPENSES OF THE EDUCATIONAL LOANS OF EACH ELIGIBLE DENTAL PROFESSIONAL. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL OPERATE THE PROGRAM IN COOPERATION WITH OTHER HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAMS.

(2) A DENTAL PROFESSIONAL IS ELIGIBLE FOR LOAN REPAYMENT ASSISTANCE IF THE DENTAL PROFESSIONAL MEETS AT LEAST ONE OF THE FOLLOWING CRITERIA:

(a) THE DENTAL PROFESSIONAL IS EMPLOYED BY A FEDERALLY QUALIFIED HEALTH CENTER;

(b) THE DENTAL PROFESSIONAL OWNS OR IS EMPLOYED BY A PRACTICE THAT REMAINS OPEN TO NEW CLIENTS ENROLLED IN THE MEDICAID PROGRAM OR THE CHILDREN'S BASIC HEALTH PLAN PROGRAM;

(c) THE DENTAL PROFESSIONAL OWNS OR IS EMPLOYED BY A PRACTICE THAT PROVIDES A SIGNIFICANT LEVEL OF SERVICE TO UNDERSERVED POPULATIONS AS DEFINED IN RULE BY THE BOARD; OR

(d) THE DENTAL PROFESSIONAL PROVIDES, ON A PRO BONO BASIS, A SIGNIFICANT LEVEL OF SERVICE TO UNDERSERVED POPULATIONS.

(3) LOAN REPAYMENTS SHALL BE AVAILABLE TO ELIGIBLE DENTAL PROFESSIONALS ON AN ANNUAL BASIS, HOWEVER, AN ELIGIBLE DENTAL PROFESSIONAL SHALL ENTER INTO A CONTRACT, AS A CONDITION OF QUALIFYING FOR THE LOAN REPAYMENT ASSISTANCE, IN WHICH THE DENTAL PROFESSIONAL AGREES TO PROVIDE CARE TO UNDERSERVED POPULATIONS FOR A MINIMUM OF TWO YEARS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ENTER INTO CONTRACTS WITH ELIGIBLE DENTAL PROFESSIONALS ON OR AFTER APRIL 1, 2002.

(4) THE BOARD MAY ESTABLISH THE TOTAL AMOUNT OF ANNUAL FINANCIAL ASSISTANCE AVAILABLE UNDER THE LOAN REPAYMENT PROGRAM TO ANY DENTAL PROFESSIONAL IN ORDER TO PROMOTE RECRUITMENT AND RETENTION OF A DENTAL PROFESSIONAL. ANY CONTRACTS FOR LOAN REPAYMENT SHALL INCLUDE REASONABLE PENALTIES FOR BREACH OF CONTRACT. IN THE EVENT OF A BREACH OF CONTRACT FOR A LOAN

REPAYMENT ENTERED INTO PURSUANT TO THIS ARTICLE, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL BE RESPONSIBLE FOR ENFORCING THE CONTRACT AND COLLECTING ANY DAMAGES OR OTHER PENALTIES OWED.

(5) NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO CREATE A LEGAL ENTITLEMENT TO LOAN REPAYMENT ASSISTANCE. THE AMOUNT OF ASSISTANCE AVAILABLE IS LIMITED BY AVAILABLE APPROPRIATIONS.

(6) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY APPLY FOR ANY AVAILABLE MATCHING FEDERAL FUNDS ON BEHALF OF AN ELIGIBLE DENTAL PROFESSIONAL AND SHALL USE SUCH FEDERAL FUNDS TO PROVIDE ALL OR PART OF THE FINANCING FOR LOAN REPAYMENT FOR AN ELIGIBLE DENTAL PROFESSIONAL.

(7) THE DEPARTMENT SHALL REPORT TO THE HEALTH, ENVIRONMENT, WELFARE AND INSTITUTIONS COMMITTEE OF THE HOUSE AND THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE ON THE STATUS OF THE PROGRAM NOT LATER THAN OCTOBER 1, 2004. SUCH REPORT SHALL ADDRESS THE SUCCESS OF THIS PROGRAM INCLUDING, THE NUMBER OF DENTAL PROFESSIONALS PARTICIPATING IN THE PROGRAM, THE COST-EFFECTIVENESS OF THE PROGRAM, THE APPROPRIATENESS OF THE FUNDING SOURCE, AND THE IMPACT OF THE PROGRAM ON THE AVAILABILITY OF DENTAL CARE TO UNDERSERVED POPULATIONS.

25-23-104. Dental loan repayment fund - acceptance of grants and donations. (1) THE STATE DENTAL LOAN REPAYMENT PROGRAM SHALL BE FUNDED BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY SPECIFICALLY FOR SAID PROGRAM, MONEYS APPROPRIATED THERETO PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND ANY MATCHING FUNDS OR CONTRIBUTIONS RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCES. SUCH FUNDS SHALL BE TRANSMITTED TO THE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE DENTAL LOAN REPAYMENT FUND, WHICH FUND IS HEREBY CREATED. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. MONEYS IN THE FUND SHALL BE USED TO PROVIDE LOAN REPAYMENT ASSISTANCE TO ELIGIBLE DENTAL PROFESSIONALS. MONEYS IN THE FUND MAY ALSO BE USED TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO IMPLEMENT THE LOAN REPAYMENT PROGRAM EXCEPT THAT ADMINISTRATIVE COSTS SHALL

NOT EXCEED TEN PERCENT. FOR FISCAL YEAR 2001-02 ONLY, ADMINISTRATIVE COSTS SHALL NOT EXCEED THIRTY-SIX THOUSAND DOLLARS (\$36,000) AND MAY BE PAID FROM THE STATE DENTAL LOAN REPAYMENT FUND.

(2) BEGINNING IN FISCAL YEAR 2001-02, AND FOR EACH FISCAL YEAR THEREAFTER SO LONG AS THE STATE RECEIVES MONEYS PURSUANT TO THE MASTER SETTLEMENT AGREEMENT, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE STATE DENTAL LOAN REPAYMENT FUND TWO HUNDRED THOUSAND DOLLARS FROM THE MONEYS ANNUALLY RECEIVED BY THE STATE PURSUANT TO THE MASTER SETTLEMENT AGREEMENT. THE GENERAL ASSEMBLY SHALL APPROPRIATE THE AMOUNT SPECIFIED IN THIS SUBSECTION (2) FROM MONEYS CREDITED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S. THE AMOUNT APPROPRIATED PURSUANT TO THIS SUBSECTION (2) SHALL BE IN ADDITION TO AND NOT IN REPLACEMENT OF ANY GENERAL FUND MONEYS APPROPRIATED TO THE STATE DENTAL LOAN REPAYMENT FUND.

(3) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IS AUTHORIZED TO RECEIVE CONTRIBUTIONS, GRANTS, AND SERVICES FROM PUBLIC AND PRIVATE SOURCES TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

25-23-105. Board - rule-making authority. THE BOARD IS AUTHORIZED TO PROMULGATE RULES NECESSARY TO IMPLEMENT THE LOAN REPAYMENT PROGRAM AUTHORIZED IN THIS ARTICLE, INCLUDING DETERMINING THE AMOUNT OF FINANCIAL ASSISTANCE AVAILABLE, ESTABLISHING THE CRITERIA IN SECTION 25-23-103 (2) FOR LOAN REPAYMENT ASSISTANCE, AND THE CRITERIA FOR DETERMINING WHAT CONSTITUTES A SIGNIFICANT LEVEL OF SERVICE TO UNDERSERVED POPULATIONS FOR PURPOSES OF QUALIFYING FOR LOAN REPAYMENT ASSISTANCE, AND ESTABLISHING CRITERIA FOR PRIORITIZING THE REPAYMENT OF LOANS IF THERE ARE INSUFFICIENT MONEYS IN THE STATE DENTAL LOAN REPAYMENT FUND.

SECTION 2. 24-75-1104 (1) (b) and (2), Colorado Revised Statutes, are amended, and the said 24-75-1104 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-75-1104. Use of settlement moneys - programs. (1) For the

2000-01 fiscal year and for each fiscal year thereafter, the following programs shall receive appropriations in the specified amounts from the settlement moneys annually received by the state:

(b) The children's basic health plan trust created in section 26-19-105, C.R.S., shall receive ~~ten~~ NINE million EIGHT HUNDRED THOUSAND dollars;

(b.5) THE STATE DENTAL LOAN REPAYMENT PROGRAM CREATED IN ARTICLE 23 OF TITLE 25, C.R.S., SHALL RECEIVE TWO HUNDRED THOUSAND DOLLARS;

(2) The general assembly shall appropriate the amounts specified in subsection (1) of this section from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115. Any amount of unencumbered settlement moneys remaining in the fund of any program specified in subsection (1) of this section, except the children's basic health plan trust created in section 26-19-105, C.R.S., AND THE STATE DENTAL LOAN REPAYMENT FUND CREATED IN SECTION 25-23-104, C.R.S., at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5.

SECTION 3. 26-19-105 (2.5), Colorado Revised Statutes, is amended to read:

26-19-105. Trust - created. (2.5) ~~Beginning in~~ FOR fiscal year 2000-01, ~~and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement;~~ the general assembly shall appropriate to the trust ten million dollars from the moneys ~~annually~~ received by the state FOR SAID FISCAL YEAR pursuant to the master settlement agreement. BEGINNING IN FISCAL YEAR 2001-02, AND FOR EACH FISCAL YEAR THEREAFTER SO LONG AS THE STATE RECEIVES MONEYS PURSUANT TO THE MASTER SETTLEMENT AGREEMENT, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE TRUST NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS FROM THE MONEYS ANNUALLY RECEIVED BY THE STATE PURSUANT TO THE MASTER SETTLEMENT AGREEMENT. The general assembly shall appropriate the amount specified in this subsection (2.5) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S. The amount appropriated pursuant to this subsection (2.5) shall be in addition to and not in replacement of any general fund moneys appropriated to the trust.

SECTION 4. 25-1-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(kk) TO IMPLEMENT THE STATE DENTAL LOAN REPAYMENT PROGRAM CREATED IN ARTICLE 23 OF THIS TITLE.

SECTION 5. Appropriation - adjustments to the 2001 long bill.

(1) In addition to any other appropriation, for the fiscal year beginning July 1, 2001, there is hereby appropriated, out of any moneys in the tobacco litigation settlement cash fund created in section 24-22-115, Colorado Revised Statutes, to the state dental loan repayment fund, created in section 25-23-104, Colorado Revised Statutes, the sum of two hundred thousand dollars (\$200,000), and such sum and 0.4 FTE, or so much thereof as may be necessary, is further appropriated to the department of public health and environment, for the state dental loan repayment program created in article 23 of title 25, Colorado Revised Statutes.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2001, the sum of twelve thousand eight hundred thirty-six dollars (\$12,836) and 0.1 FTE, or so much as may be necessary, for the provision of legal services to the department of public health and environment for the implementation of this act. Said sum shall be from cash funds exempt received from the department of public health and environment out of the appropriation made in subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, medical programs administration, for medicaid management information system costs, for the fiscal year beginning July 1, 2001, the sum of four hundred thirty-six dollars (\$436), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be subject to the "(M)" notation as defined in the annual general appropriation act. In addition to said sum, the general assembly anticipates that, for the fiscal year beginning July 1, 2001, the department of health care policy and financing will receive the

sum of one thousand three hundred eight dollars (\$1,308) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, medical services premiums, for the fiscal year beginning July 1, 2001, the sum of ninety-six thousand one hundred fifteen dollars (\$96,115), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be subject to the "(M)" notation as defined in the annual general appropriation act. In addition to said sum, the general assembly anticipates that, for the fiscal year beginning July 1, 2001, the department of health care policy and financing will receive the sum of ninety-six thousand one hundred fourteen dollars (\$96,114) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the children's basic health plan trust created in section 26-19-105, C.R.S., not otherwise appropriated, to the department of health care policy and financing, indigent care program, children's basic health plan dental benefit costs, for the fiscal year beginning July 1, 2001, the sum of ninety-six thousand eight hundred ninety-three dollars (\$96,893), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be subject to the "(M)" notation as defined in the annual general appropriation act. In addition to said sum, the general assembly anticipates that, for the fiscal year beginning July 1, 2001, the department of health care policy and financing will receive the sum of one hundred seventy-nine thousand nine hundred forty-five dollars (\$179,945) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

(6) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2001, shall be adjusted as follows: The appropriation to the department of health care policy and financing, indigent care program, H.B. 97-1304 children's basic health plan trust, created in section 26-19-105, C.R.S., is decreased

by two hundred thousand dollars (\$200,000). Said sum shall be from the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(7) It is the intent of the general assembly that the general fund appropriation in subsections (3) and (4) of this section for the implementation of this act shall be derived from savings generated from the implementation of the provisions of H.B. 01-1343, as enacted during the first regular session of the sixty-third general assembly.

SECTION 6. Effective date. (1) This act shall take effect upon passage.

(2) Notwithstanding the provisions of subsection (1) of this section, this act shall only take effect if:

(a) The final fiscal estimate for H.B. 01-1343, as reflected in the appropriations clause for said act, shows a net general fund savings that is equal to or greater than the final general fund fiscal estimate for this act, as reflected in section 5 of this act; and

(b) H.B. 01-1343 is enacted at the first regular session of the sixty-third general assembly and becomes law.

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.

Stan Matsunaka
PRESIDENT OF
THE SENATE

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO