

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0240.01 Kate Meyer

SENATE BILL 10-073

SENATE SPONSORSHIP

Tapia,

HOUSE SPONSORSHIP

McFadyen,

Senate Committees

Health and Human Services
Appropriations

House Committees

Health and Human Services

HOUSE
3rd Reading Unam ended
April 16, 2010

A BILL FOR AN ACT

101 **CONCERNING THE NURSE HOME VISITOR PROGRAM DUTIES OF THE**
102 **HEALTH SCIENCES FACILITY AT THE UNIVERSITY OF COLORADO.**

HOUSE
2nd Reading Unam ended
April 15, 2010

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>.)

SENATE
3rd Reading Unam ended
March 22, 2010

The bill modifies and clarifies the roles of the department of public health and environment (department) and the health sciences facility at the university of Colorado (health sciences facility) with regard to the nurse home visitor program (program), which receives moneys from tobacco litigation settlement funds. Specifically, the bill:

SENATE
Am ended 2nd Reading
March 19, 2010

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.*

- ! Clarifies that the term "health sciences facility" means the Anschutz medical campus, or a successor facility selected by the president of the university of Colorado, at the university of Colorado health sciences center;
- ! Designates the health sciences facility, rather than the department, as the recipient of applications for the program;
- ! Requires the state board of health to consult with the health sciences facility when promulgating rules regarding program applications;
- ! Clarifies that the health sciences facility shall monitor and evaluate the implementation, operation, and effectiveness of the program;
- ! Requires program contractors and entities administering the program to cooperate with the health sciences facility and the department in preparation of those reports;
- ! Requires the nurse home visitor program to pay the annual program evaluation costs incurred by the department and the health sciences facility; and
- ! Clarifies that, except for duties related to program reports, the role of the department under the program is limited to financial administration, and limits to one full-time equivalent employee the annual amount that the department may retain from the nurse home visitor program fund for costs in executing this duty.

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

2 **SECTION 1. 2-3-113 (1) and (4), Colorado Revised Statutes, are**
 3 **amended to read:**

4 **2-3-113. Programs that receive tobacco settlement moneys -**
 5 **program review. (1) As used in this section:**

6 **(a) "HEALTH SCIENCES FACILITY" HAS THE MEANING SET FORTH IN**
 7 **SECTION 25-31-103, C.R.S. FOR PURPOSES OF THIS SECTION, "HEALTH**
 8 **SCIENCES FACILITY" INCLUDES ANY CONTRACTOR OR SUBCONTRACTOR**
 9 **ENGAGED BY THE HEALTH SCIENCES FACILITY TO ASSIST IN THE**
 10 **IMPLEMENTATION AND MONITORING OF THE NURSE HOME VISITOR**
 11 **PROGRAM ESTABLISHED UNDER ARTICLE 31 OF TITLE 25, C.R.S.**

1 (a) (b) "Master settlement agreement" means the master settlement
2 agreement, the smokeless tobacco master settlement agreement, and the
3 consent decree approved and entered by the court in the case denominated
4 State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J.
5 Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown &
6 Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco
7 Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T.
8 Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and
9 Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the
10 city and county of Denver.

11 (b) (c) "Tobacco settlement program" means any program that
12 receives appropriations from moneys received by the state pursuant to the
13 master settlement agreement.

14 (4) The joint budget committee staff, the legislative council staff,
15 the office of legislative legal services, and the department of public health
16 and environment, AND THE HEALTH SCIENCES FACILITY shall work with
17 the state auditor's office in conducting the program reviews and
18 evaluations of tobacco settlement programs.

19 SECTION 2. 25-1-108.5 (1), the introductory portion to
20 25-1-108.5 (2), and 25-1-108.5 (5), Colorado Revised Statutes, are
21 amended to read:

22 **25-1-108.5. Additional powers and duties of state board of**
23 **health and department - programs that receive tobacco settlement**
24 **moneys - monitoring - annual report. (1) As used in this section:**

25 (a) "HEALTH SCIENCES FACILITY" HAS THE MEANING SET FORTH IN
26 SECTION 25-31-103.

27 (a) (b) "Master settlement agreement" means the master settlement

1 agreement, the smokeless tobacco master settlement agreement, and the
2 consent decree approved and entered by the court in the case denominated
3 State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J.
4 Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown &
5 Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco
6 Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T.
7 Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and
8 Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the
9 city and county of Denver.

10 (c) "NURSE HOME VISITOR PROGRAM" MEANS THE TOBACCO
11 SETTLEMENT PROGRAM ESTABLISHED IN ARTICLE 31 OF THIS TITLE.

12 (b) (d) "Tobacco settlement program" means any program that
13 receives appropriations from moneys received by the state pursuant to the
14 master settlement agreement.

15 (2) EXCEPT FOR THE NURSE HOME VISITOR PROGRAM, WHICH
16 SHALL BE MONITORED BY THE HEALTH SCIENCES FACILITY IN ACCORDANCE
17 WITH SECTION 25-31-105 (1), the state board and the department shall
18 monitor the operation and effectiveness of tobacco settlement programs.
19 Each tobacco settlement program shall annually submit to the department,
20 in accordance with rules promulgated by the state board, the following
21 information:

22 (5) Each tobacco settlement program shall pay a proportionate
23 share of the costs incurred by the department in implementing the
24 requirements of this section, WITH the amount paid by each tobacco
25 settlement program shall be proportionate to the amounts annually
26 appropriated to each tobacco settlement program FROM THE MASTER
27 SETTLEMENT AGREEMENT; except that the total amount of the program

1 evaluation costs shall not exceed four-tenths of one percent of the total
2 amount of moneys received by the state pursuant to the master settlement
3 agreement in any fiscal year. For the fiscal year 2001-2002, seventy-five
4 thousand nine hundred seventy-eight dollars from the moneys paid to the
5 department from the tobacco settlement programs pursuant to this section
6 shall be appropriated to the stroke prevention and treatment cash fund
7 created in section 25-34-105 for allocation to the stroke advisory board
8 created in section 25-34-104 to cover the costs of such board's duties
9 pursuant to such section.

10 SECTION 3. 25-31-102, Colorado Revised Statutes, is amended
11 to read:

12 25-31-102. Legislative declaration. (1) The general assembly
13 hereby finds that, in order to adequately care for their newborns and
14 young children, new mothers may often benefit from receiving
15 professional assistance and information. Without such assistance and
16 information, a young mother may develop habits or practices that are
17 detrimental to her health and well-being and the health and well-being of
18 her child. The general assembly further finds that inadequate prenatal
19 care and inadequate care in infancy and early childhood often inhibit a
20 child's ability to learn and develop throughout his or her childhood and
21 may have lasting, adverse affects on the child's ability to function as an
22 adult. The general assembly recognizes that implementation of a nurse
23 home visitor program that provides educational, health, and other
24 resources for new young mothers during pregnancy and the first years of
25 their infants' lives has been proven to significantly reduce the amount of
26 drug, including nicotine, and alcohol use and abuse by mothers, the
27 occurrence of criminal activity committed by mothers and their children

1 under fifteen years of age, and the number of reported incidents of child
2 abuse and neglect. Such a program has also been proven to reduce the
3 number of subsequent births, increase the length of time between
4 subsequent births, and reduce the mother's need for other forms of public
5 assistance. It is the intent of the general assembly that such a program be
6 established for the state of Colorado, beginning with a limited number of
7 participants and expanding by the year 2010 to be available to all
8 low-income, first-time mothers in the state who consent to receiving
9 services.

10 (2) THE GENERAL ASSEMBLY FURTHER FINDS THAT, TO IMPLEMENT
11 SUCH A PROGRAM EFFICIENTLY AND EFFECTIVELY AND TO PROMOTE THE
12 SUCCESSFUL IMPLEMENTATION OF PARTNERSHIPS BETWEEN STATE PUBLIC
13 ENTITIES AND THE PRIVATE SECTOR, RESPONSIBILITY FOR THE PROGRAM
14 SHOULD BE DIVIDED BETWEEN THE DEPARTMENT, WHICH SHALL BE
15 RESPONSIBLE FOR FINANCIAL ADMINISTRATION OF THE PROGRAM, AND A
16 HEALTH SCIENCES FACILITY AT THE UNIVERSITY OF COLORADO, WHICH
17 SHALL BE RESPONSIBLE FOR PROGRAMMATIC AND CLINICAL SUPPORT,
18 EVALUATION, AND MONITORING FOR THE PROGRAM, AND SUCH OTHER
19 RESPONSIBILITIES AS DESCRIBED IN THIS ARTICLE. IT IS THE INTENT OF THE
20 GENERAL ASSEMBLY THAT THE DEPARTMENT AND THE HEALTH SCIENCES
21 CENTER WORK COLLABORATIVELY TO SHARE INFORMATION IN ORDER TO
22 PROMOTE EFFICIENT AND EFFECTIVE PROGRAM IMPLEMENTATION;
23 HOWEVER, NEITHER ENTITY IS RESPONSIBLE FOR THE OTHER ENTITY'S
24 STATUTORILY PRESCRIBED DUTIES.

25 **SECTION 4.** 25-31-103 (3), Colorado Revised Statutes, is
26 amended to read:

27 **25-31-103. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (3) "Health sciences facility" MEANS THE ANSCHUTZ MEDICAL
3 CAMPUS OR a SUCCESSOR facility located at the university of Colorado
4 health sciences center that is selected by the president of the university of
5 Colorado pursuant to section 25-31-105 to assist the state board in
6 administering the program.

7 **SECTION 5.** 25-31-104, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **25-31-104. Nurse home visitor program - created - rules.**

10 (5) THE DEPARTMENT MAY PROPOSE TO THE STATE BOARD RULES
11 CONCERNING PROGRAM APPLICATIONS UNDER SECTION 25-31-106 (1).
12 ANY SUCH PROPOSAL SHALL BE MADE IN CONSULTATION WITH THE
13 HEALTH SCIENCES FACILITY.

14 **SECTION 6.** 25-31-105, Colorado Revised Statutes, is amended
15 to read:

16 **25-31-105. Health sciences facility - duties.** (1) The president
17 of the university of Colorado shall identify a facility at the university of
18 Colorado health sciences center with the knowledge and expertise
19 necessary to:

20 (a) Assist the state board in selecting entities from among the
21 applications submitted pursuant to section 25-31-106; and in monitoring
22 and evaluating the implementation of the program

23 (b) PROVIDE PROGRAMMATIC AND CLINICAL SUPPORT,
24 EVALUATION, AND MONITORING FOR THE PROGRAM, INCLUDING NURSE
25 PRACTICE SUPPORT AND TRAINING, CLINICAL AND PROGRAMMATIC
26 TECHNICAL ASSISTANCE, COMPLIANCE MONITORING AND SUPPORT,
27 PROGRAM DEVELOPMENT AND IMPLEMENTATION SUPPORT, AND

1 PERFORMANCE IMPROVEMENT MONITORING AND SUPPORT, in communities
2 throughout the state;

3 (c) COOPERATE WITH THE DEPARTMENT IN CONNECTION WITH THE
4 DEPARTMENT'S FINANCIAL ADMINISTRATION OF THE PROGRAM; AND

5 (d) WORK WITH THE STATE AUDITOR'S OFFICE AS REQUIRED IN
6 SECTION 2-3-113 (4), C.R.S.

7 (1.5) THE HEALTH SCIENCES FACILITY IS NOT RESPONSIBLE FOR THE
8 DUTIES ASSIGNED TO THE DEPARTMENT WITH RESPECT TO THE PROGRAM
9 UNDER SECTION 25-31-107 (2) (a.5).

10 (2) The health sciences facility shall ~~monitor the administration~~
11 of the program by the selected entities PERFORM THE DUTIES SET FORTH
12 IN SUBSECTION (1) OF THIS SECTION to ensure that the program is
13 implemented AND OPERATED according to the program training
14 requirements, program protocols, program management information
15 systems, and program evaluation requirements established by rule of the
16 state board. The health sciences facility shall evaluate the overall
17 PROGRAM implementation, of the program OPERATION, AND
18 EFFECTIVENESS, and include such THAT evaluation, along with any
19 recommendations concerning the PROGRAM'S selected entities or changes
20 in the PROGRAM'S IMPLEMENTATION, OPERATION, AND EFFECTIVENESS,
21 INCLUDING program training requirements, program protocols, program
22 management information systems, or program evaluation requirements,
23 in the annual report submitted to the department pursuant to section
24 25-31-108.

25 (3) The department shall compensate the health sciences facility
26 for the HEALTH SCIENCES FACILITY'S ACTUAL costs incurred in performing
27 its duties under this article, AS DETERMINED BY THE HEALTH SCIENCES

1 FACILITY. SUCH DUTIES AND ACTUAL COSTS SHALL BE INCLUDED IN THE
2 SCOPE OF WORK IN THE AGREEMENT BETWEEN THE DEPARTMENT AND THE
3 HEALTH SCIENCES FACILITY FOR IMPLEMENTATION OF THOSE DUTIES AND
4 SHALL INCLUDE THE COSTS INCURRED BY ANY CONTRACTOR OR
5 SUBCONTRACTOR OF THE HEALTH SCIENCES FACILITY FOR THOSE DUTIES.
6 Such compensation shall be included in the actual costs incurred by the
7 department in administering the program and paid out of the amount
8 allocated to the department for administrative costs pursuant to section
9 25-31-107 (2) (b) FOR THE HEALTH SCIENCE FACILITY'S COSTS, IN
10 ACCORDANCE WITH THE MAXIMUM ALLOCATION OF THREE PERCENT OF
11 THE AMOUNT ANNUALLY ALLOCATED FOR THE PROGRAM UNDER SECTION
12 25-31-107 (2).

13 **SECTION 7.** The introductory portion to 25-31-106 (1), Colorado
14 Revised Statutes, is amended to read:

15 **25-31-106. Program applications - requirements.** (1) ~~Any~~ AN
16 entity that seeks to administer the program in a community shall submit
17 an application to the department in accordance with rules adopted by the
18 state board, IN CONSULTATION WITH THE DEPARTMENT AND THE HEALTH
19 SCIENCES FACILITY. At a minimum, the application shall specify the basic
20 elements and procedures that the entity shall use in administering the
21 program. Basic program elements shall include ~~but are not limited to,~~ the
22 following:

23 **SECTION 8.** 25-31-107 (2) (b), Colorado Revised Statutes, is
24 amended, and the said 25-31-107 (2) is further amended BY THE
25 ADDITION OF A NEW PARAGRAPH, to read:

26 **25-31-107. Selection of entities to administer the program -**
27 **grants - nurse home visitor program fund - created.** (2)(a.5) EXCEPT

1 AS OTHERWISE PROVIDED IN SECTION 25-31-108, THE DEPARTMENT SHALL
2 BE RESPONSIBLE FOR FINANCIAL ADMINISTRATION OF THIS ARTICLE, WHICH
3 SHALL INCLUDE COMPENSATING THE HEALTH SCIENCES FACILITY
4 PURSUANT TO SECTION 25-31-105 (3), PAYING GRANTS TO ENTITIES
5 SELECTED TO ADMINISTER THE PROGRAM, MONITORING FINANCIAL,
6 CONTRACTUAL, AND REGULATORY COMPLIANCE; PROVIDING MEDICAID
7 FINANCING OVERSIGHT; MANAGING ACCOUNTING AND BUDGETING; AND,
8 IN COOPERATION WITH THE HEALTH SCIENCES FACILITY, MANAGING GRANT
9 APPLICATIONS AS SET FORTH IN SECTION 25-31-106. THE DEPARTMENT
10 SHALL ALSO COOPERATE WITH THE HEALTH SCIENCES FACILITY'S
11 ADMINISTRATION OF PROGRAMMATIC AND CLINICAL SUPPORT,
12 EVALUATION, AND MONITORING OF THE PROGRAM. THE DEPARTMENT
13 SHALL NOT BE RESPONSIBLE FOR ANY DUTIES ASSIGNED TO THE HEALTH
14 SCIENCES FACILITY WITH RESPECT TO THE PROGRAM, AS DESCRIBED IN
15 SECTION 25-31-105.

16 (b) Grants awarded pursuant to paragraph (a) of this subsection
17 (2) shall be payable from the nurse home visitor program fund, which
18 fund is hereby created in the state treasury. The nurse home visitor
19 program fund, referred to in this section as the "fund", shall BE
20 ADMINISTERED BY THE DEPARTMENT AND SHALL consist of moneys
21 transferred thereto by the state treasurer from moneys received pursuant
22 to the master settlement agreement in the amount described in paragraph
23 (d) of this subsection (2). In addition, the state treasurer may SHALL
24 credit to the fund any public or private gifts, grants, or donations received
25 by the department for implementation of the program, INCLUDING ANY
26 MONEYS RECEIVED FROM THE UNITED STATES FEDERAL GOVERNMENT FOR
27 THE PROGRAM. The fund shall be subject to annual appropriation by the

1 general assembly to the department for grants to entities for operation of
2 the program. In addition, The department may retain A TOTAL OF up to
3 five percent of the amount annually appropriated from the fund for the
4 actual costs incurred by the department in implementing the provisions of
5 this article PROGRAM, IN ORDER TO COMPENSATE THE HEALTH SCIENCES
6 FACILITY PURSUANT TO SECTION 25-31-105 (3), AS SET FORTH IN THE
7 SCOPE OF WORK IN THE AGREEMENT BETWEEN THE DEPARTMENT AND THE
8 HEALTH SCIENCES FACILITY, AND TO COMPENSATE THE DEPARTMENT FOR
9 THE ACTUAL COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THE
10 PROVISIONS OF PARAGRAPH (a.5) OF THIS SUBSECTION (2), AS DETERMINED
11 BY THE DEPARTMENT; EXCEPT THAT THE PORTION OF THE COSTS TO
12 COMPENSATE THE DEPARTMENT FOR IMPLEMENTING THE PROVISIONS OF
13 PARAGRAPH (a.5) OF THIS SUBSECTION (2) SHALL NOT EXCEED TWO
14 PERCENT OF THE AMOUNT ANNUALLY APPROPRIATED FROM THE FUND FOR
15 THE PROGRAM, AND THE PORTION OF SUCH COSTS TO COMPENSATE THE
16 HEALTH SCIENCES FACILITY UNDER SECTION 25-31-105 (3), AS SET FORTH
17 IN THE SCOPE OF WORK IN THE CONTRACT BETWEEN THE DEPARTMENT AND
18 THE HEALTH SCIENCES FACILITY, SHALL NOT EXCEED THREE PERCENT OF
19 THE AMOUNT ANNUALLY APPROPRIATED FROM THE FUND FOR THE
20 PROGRAM. IN ADDITION, IF THE TOTAL AMOUNT ANNUALLY APPROPRIATED
21 FROM THE FUND FOR THE PROGRAM EXCEEDS NINETEEN MILLION DOLLARS,
22 THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY SHALL ASSESS
23 WHETHER A SMALLER PERCENTAGE OF THE APPROPRIATED FUNDS
24 EXCEEDING NINETEEN MILLION DOLLARS IS ADEQUATE TO COVER THEIR
25 ACTUAL COSTS AND SHALL JOINTLY SUBMIT TO THE GENERAL ASSEMBLY
26 A REPORT ARTICULATING THEIR CONCLUSIONS ON THIS SUBJECT. THE
27 ACTUAL COSTS OF THE DEPARTMENT INCLUDE DEPARTMENT PERSONNEL

1 AND OPERATING COSTS AND ANY NECESSARY TRANSFERS TO THE
2 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR
3 ADMINISTRATIVE COSTS INCURRED FOR THE MEDICAID PROGRAM
4 ASSOCIATED WITH THE PROGRAM. THE ACTUAL COSTS OF THE HEALTH
5 SCIENCES FACILITY INCLUDE THE FACILITY'S OWN ACTUAL PROGRAM
6 COSTS AND THOSE OF ITS CONTRACTORS AND SUBCONTRACTORS. ANY
7 COSTS FOR TIME STUDIES REQUIRED TO OBTAIN MEDICAID REIMBURSEMENT
8 FOR THE PROGRAM MAY BE PAID FROM PROGRAM FUNDS, AND SHALL NOT
9 BE SUBJECT TO THE FIVE PERCENT LIMIT IN THIS SECTION. Notwithstanding
10 the provisions of section 24-36-114, C.R.S., all interest derived from the
11 deposit and investment of moneys in the fund shall be credited to the
12 fund. Any unencumbered moneys appropriated from moneys received
13 pursuant to the master settlement agreement remaining in the fund at the
14 end of any fiscal year shall be transferred to the tobacco litigation
15 settlement trust fund created in section 24-22-115.5, C.R.S.

16 **SECTION 9.** 25-31-108 (1), Colorado Revised Statutes, is
17 amended to read:

18 **25-31-108. Annual program review - audit.** (1) The health
19 sciences facility shall annually prepare and submit to the department a
20 report including an evaluation of the implementation of the program, the
21 results achieved by the program based on the annual reports submitted by
22 the administering entities pursuant to section 25-31-106 (1)(e), the extent
23 to which the program serves medicaid-eligible persons and provides
24 services that may be provided in part through medicaid funding, and any
25 recommendations concerning changes to the program, including but not
26 limited to any changes that may be appropriate to enable the program to
27 receive medicaid funding. The department shall include said THE report

1 in the annual report on programs that are funded by moneys received
2 pursuant to the master settlement agreement THE PROGRAM prepared
3 pursuant to section 25-1-108.5 (3). EACH PROGRAM CONTRACTOR AND
4 SUBCONTRACTOR AND EACH ENTITY THAT ADMINISTERS THE PROGRAM
5 SHALL WORK WITH THE HEALTH SCIENCES FACILITY AND THE DEPARTMENT
6 TO PREPARE THE REPORTS REQUIRED UNDER THIS SECTION AND SECTIONS
7 2-3-113 (2) AND 25-1-108.5 (3), C.R.S. Any entity that is administering
8 the program may be IS subject to a reduction in or cessation of funding if
9 the state board, based on recommendations from the health sciences
10 facility, determines that the entity is not operating the program in
11 accordance with the program requirements established by rule of the state
12 board or is operating the program in such a manner that the program does
13 not demonstrate positive results.

14 **SECTION 10. Adjustment to the 2010 long bill.** For the
15 implementation of this act, the appropriation made in the annual general
16 appropriation act, for the fiscal year beginning July 1, 2010, to the
17 department of public health and environment, prevention services
18 division, family and community health, child, adolescent, and school
19 health, nurse home visitor program, is reduced by 1.0 FTE.

20 **SECTION 11. Effective date.** This act shall take effect June 30,
21 2010.

22 **SECTION 12. 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.