

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2173. CNMI Tobacco Settlement Expenditure Fund.

There is hereby established a special revolving fund with the Department of Finance which shall be known and designated as the Tobacco Settlement Expenditure Fund. All moneys received from the Master Settlement Agreement, plus all interest and earnings accrued on this money, shall be deposited and remain in the Tobacco Settlement Expenditure Fund. This fund shall not be commingled in any manner with other funds of the CNMI, or any of its departments, agencies or instrumentalities. The fund shall be used to implement programs and services to achieve the goals stated in the purpose of the Commonwealth Tobacco Settlement Expenditure Act. Provided that the fund shall be appropriated and allotted at the beginning of each fiscal year without requiring further appropriation as follows:

- (a) 40% to the Department of Public Health Services, under the expenditure authority of the Secretary of Public Health and which shall be further distributed as follows:
 - (1) 70% for the Community Guidance Center Comprehensive State-Based Tobacco Prevention and Control Program;
 - (2) 20% for the Children's Health Insurance Program; and
 - (3) 10% for the Division of Public Health, Health Promotion;
- (b) 20% to the Public School System under the expenditure authority of the Commissioner of Education;
- (c) 12.5% to the Office of Youth Affairs under the expenditure authority of the Special Assistant for Youth Affairs;
- (d) 7.5% to the private schools in the Third Senatorial District only through the Coalition of Private Schools under the expenditure authority of the coalition chairperson;
- (e) 10% to Office of the Mayor of Rota under the expenditure authority of the mayor for the purposes of implementing the purpose of the Commonwealth Tobacco Settlement Expenditure Act in the First Senatorial District; and
- (f) 10% to Office of the Mayor of Tinian and Aguiguan under the expenditure authority of the mayor for the purpose of implementing the purpose of the Commonwealth Tobacco Settlement Expenditure Act in the Second Senatorial District.

Source: PL 12-44, § 2; repealed and replaced by PL 13-37, § 4, modified.

Commission Comment: PL 12-44, which established the CNMI Tobacco Settlement Trust Fund, took effect on April 20, 2001. Contained in PL 12-44 were the following purpose, severability, and savings clause provisions:

Section 1. Purpose. The Attorney General of the Commonwealth of the Northern Mariana Islands, on behalf of the Commonwealth, joined in the lawsuit filed by the Association of Attorneys General on behalf of 46 states and 4 territories of the United States of America against various tobacco-manufacturing companies. That lawsuit resulted in a Master Set-

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tlement Agreement that was reduced to final judgment in the Commonwealth in January of 1999. The Master Settlement Agreement obligates the companies to pay a sum of money for a period of time from the sale of cigarettes for distribution to the various states and territories, including the Commonwealth. Beginning in 1999, after the Master Settlement Agreement became part of a final judgment in the Commonwealth, funds were transferred to the CNMI and deposited in the General Fund by the CNMI Secretary of Finance. This bill requires the CNMI Secretary of Finance to establish a separate CNMI Tobacco Settlement Trust Fund for deposit of all funds received by the CNMI pursuant to the Master Settlement Agreement commencing on January 2001.

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Section 3. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 4. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

On December 13, 2002, PL 13-37 repealed PL 12-44 and established the CNMI Tobacco Settlement Expenditure Fund in its place. In addition to the following title, findings, purpose, and repealer and transition provisions, PL 13-37 also contained severability and savings clauses:

Section 1. Title. This act may be cited as the “Commonwealth Tobacco Settlement Expenditure Act of 2002.”

Section 2. Findings. Research has shown that cigarette smoking and tobacco use are one of the leading causes of preventable morbidity and mortality in the CNMI. Prolonged tobacco use has been found to be a major contributor to the onset of various chronic illnesses, including coronary heart disease, heart attacks, chronic obstructive lung disease, emphysema, strokes and a variety of cancers including lung cancer. Smoking by women during pregnancy is correlated with miscarriages, premature births, learning disabilities, and behavioral problems, and represents a major cause of illness and death among infants and children. The Department of Public Health has estimated that 18% of the total cost of hospital days in 1994, for Chamorro and Carolinian patients can be attributed to smoking. This does not include the additional costs of outpatient visits, emergency services, medications, or off-island medical referrals. Federal and CNMI health objectives for the years 2000 through 2002, which offer a vision for the new century, call for improvements in health status. These improvements can be achieved through prevention, intervention, re-

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ductions in preventable death and disability, enhanced quality of life, and reduced disparities in the health of populations within the CNMI, the Pacific, and the nation.

Section 3. Purpose. The purpose of this Act is to establish the CNMI Tobacco Settlement Expenditure Fund (“fund”), to distribute money in the fund according to specified uses, and to assign the expenditure authority of those designated amounts. The fund replaces the Tobacco Settlement Trust Fund created by PL 12-44. Thus, upon the effective date of this Act, the money received from the Master Settlement Agreement entered into between the various states of the United States, including the CNMI, and certain US tobacco companies, shall be transferred and deposited into this new fund. The Legislature intends that the fund serve as a mechanism to maximize financial resources for tobacco prevention and control, health promotion and disease prevention programs, children’s health programs, and as a long-term source of stable funding for prevention-oriented public health efforts with an emphasis on the following goals:

- (a) to prevent the initiation of tobacco use among children and youth;
- (b) to promote cessation of smoking among adults and young people, particularly teenagers;
- (c) to reduce public exposure to environmental tobacco smoke; and
- (d) to increase multi-departmental collaboration to achieve the objectives set forth in this section.

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Section 7. Repealer and Transition. PL 12-44 is repealed in its entirety. Upon the effective date of this act, the money, including interest, received from the Master Settlement Agreement entered into between the various states of the United States, including the CNMI, and certain United States tobacco companies, shall be transferred and deposited into the Tobacco Settlement Expenditure Fund created by this Act. Provided, that if the funds, in accordance with PL 12-44, are invested in short-term investment instruments on the effective date of this Act, those funds inclusive of any return or interest earned shall be deposited promptly, upon maturity, into the fund established by this Act and shall be available for appropriation and allocation as provided herein.