



**Colorado
Legislative
Council
Staff**

HB16-1408

**REVISED
FISCAL NOTE**

(replaces fiscal note dated April 1, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-1094
Prime Sponsor(s): Rep. Rankin
Sen. Steadman

Date: April 7, 2016
Bill Status: House Concurrence
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: CASH FUND ALLOCATIONS FOR HEALTH-RELATED PROGRAMS

| Fiscal Impact Summary | FY 2015-2016 (current year) | FY 2016-2017 | FY 2017-2018 |
|---|--|---------------------|---------------------|
| State Revenue | \$0 | \$0 | \$0 |
| <i>State Transfers</i> | | | |
| Primary Care Provider Sustainability Fund | | 20,000,000 | |
| Tobacco Litigation Settlement Cash Fund | Potential increase | 140,007 | 142,053 |
| Other Cash Funds | Potential decrease | (20,140,007) | (142,053) |
| State Expenditures | | \$62,404,182 | (\$142,053) |
| General Fund | | (6,451,471) | |
| Cash Funds | | 33,718,276 | (142,053) |
| Federal Funds | | 35,137,377 | |
| Appropriation Required: See State Appropriations section. | | | |
| Future Year Impacts: Ongoing state expenditure decrease and change in transfers. | | | |

Summary of Legislation

Recommend by the Joint Budget Committee, this **revised bill** establishes a new formula for the allocation of the annual payment received by the state as part of the Tobacco Master Settlement Agreement (Tobacco MSA). The new formula allocates all Tobacco MSA revenue by percentage shares, rather than the hybrid scheme of fixed dollar amounts and capped percentage shares in multiple tiers. The formula increases annual allocations to most programs receiving funding under the current distribution, while eliminating dedicated funding for the six purposes:

- the Early Literacy Fund in the Department of Education;
- the Public Health Services Support Fund in the Department of Public Health and Environment;
- the Offender Mental Health Services Program in the Department of Human Services;
- the Alcohol and Drug Abuse Prevention Program in the Department of Human Services;
- the Children's' Mental Health Treatment Program in the Department of Human Services;
- and
- the annual audit of Tobacco MSA-funded programs by the Office of the State Auditor.

For all of these purposes listed above except the audit, the bill makes FY 2016-17 appropriations from the Marijuana Tax Cash Fund in the amounts that the programs are expected to receive under the current law allocation formula.

The bill repeals the Public Health Services Support Fund and the Tobacco Litigation Settlement Trust Fund. It requires the State Treasurer to transfer any remaining balance in the Public Health Services Support Fund and the Offender Mental Health Services Fund to the Tobacco Litigation Settlement Cash Fund at the end of FY 2015-16.

The bill creates a new Primary Care Provider Sustainability Fund in the Department of Health Care Policy and Financing to fund increased access to primary care office visits, immunization administration, health screening services, and newborn care, including neonatal critical care. On July 1, 2016, \$20.0 million is transferred from the Children's Basic Health Plan Trust to this new fund.

The bill also modifies statute concerning higher education fee-for-service contracts paid to the University of Colorado for specialty education services, specifying that these contracts include care provided by faculty of the University of Colorado Health Sciences Center and are eligible for payment under the state's Medicaid provider reimbursement.

Background

Tobacco MSA. The Tobacco Master Settlement Agreement (Tobacco MSA) was signed in 1998. Under the agreement, states consented to release participating tobacco manufacturers from health-related claims associated with the use, manufacture, and marketing of tobacco products in exchange for perpetual annual payments from the manufacturers. Colorado receives a fixed portion of the national MSA payment each April. The state received \$88.1 million in April 2015 and is expected to receive \$87.6 million in April 2016. Most of this money will be used to fund health care programs across the state.

Marijuana Tax Cash Fund. The Marijuana Tax Cash Fund comprises most state revenue from taxes assessed on retail and medical marijuana. The balance of the fund is budgeted for expenditure in the fiscal year after taxes are collected. Marijuana Tax Cash Fund expenditures for FY 2015-16 are dictated by appropriations in House Bill 15-1367. The General Assembly has not yet budgeted marijuana taxes collected in FY 2015-16 for expenditure in FY 2016-17.

State Revenue

State transfers. The bill requires the State Treasurer to transfer the total balances of the Public Health Services Support Fund and the Offender Mental Health Services Fund to the Tobacco Litigation Settlement Cash Fund at the end of FY 2015-16. It is assumed that the agencies administering these cash funds will spend their total balance and that no transfers will be made. To the extent that there is a balance in either cash fund at the end of FY 2015-16, transfers to the Tobacco Litigation Settlement Cash Fund will increase.

The bill creates a one-time transfer of \$20.0 million from the Children's Basic Health Plan Trust to a new Primary Care Provider Sustainability Fund in the Department of Health Care Policy and Financing on July 1, 2016.

Additionally, the bill is expected to decrease total transfers from the Tobacco Litigation Settlement Cash Fund by \$140,007 in FY 2016-17 and \$142,053 in FY 2017-18, and by similar amounts in subsequent fiscal years. Beginning in FY 2016-17, the bill changes the statutory formula for allocations from the Tobacco MSA payment to various state cash funds and programs. Table 1 shows the allocations anticipated for FY 2016-17 under current law and HB16-1408. Allocations for FY 2017-18 are expected to change similarly.

| Table 1. FY 2016-17 Tobacco MSA Allocations Under Current Law and HB16-1408 | | | |
|--|--------------------|------------------|---------------|
| | Current Law | HB16-1408 | Change |
| Expected Payment | \$87,573,562 | \$87,573,562 | \$0 |
| Dept of Law | | | |
| <i>Tobacco MSA Defense Account</i> | 1,751,471 | 2,189,339 | 437,868 |
| Dept of Health Care Policy and Financing | | | |
| <i>Children's Basic Health Plan Trust</i> | 25,548,831 | 15,763,241 | (9,785,590) |
| <i>Autism Treatment Fund</i> | 1,000,000 | 1,751,471 | 751,471 |
| Dept of Public Health and Environment | | | |
| <i>AIDS Drug Assistance</i> | 3,065,075 | 4,378,678 | 1,313,603 |
| <i>HIV Prevention</i> | 1,751,471 | 3,065,075 | 1,313,603 |
| <i>Local Gov't Public Health Services</i> | 1,764,696 | 0 | (1,764,696) |
| <i>Immunizations</i> | 1,008,397 | 2,189,339 | 1,180,942 |
| <i>Dental Loan Repayment</i> | 200,000 | 875,736 | 675,736 |
| <i>Health Services Corps</i> | 250,000 | 875,736 | 625,736 |
| Dept of Human Services | | | |
| <i>Nurse Home Visitors</i> | 16,638,977 | 23,382,141 | 6,743,164 |
| <i>Tony Gramscas Youth Services</i> | 3,502,942 | 6,568,017 | 3,065,075 |
| <i>Offender Mental Health Services</i> | 3,025,192 | 0 | (3,025,192) |
| <i>Alcohol and Drug Abuse Programs</i> | 756,298 | 0 | (756,298) |
| <i>Children's Mental Health Treatment</i> | 300,000 | 0 | (300,000) |
| Dept of Personnel and Administration | | | |
| <i>Supplement State Employee Insurance</i> | 1,134,447 | 2,014,192 | 879,745 |
| Dept of Education | | | |
| <i>Early Literacy Fund</i> | 4,378,678 | 0 | (4,378,678) |
| Dept of Higher Education | | | |
| <i>CU Health Sciences Center</i> | 12,352,869 | 13,573,902 | 1,221,033 |
| <i>CU Health Sciences Cancer Research</i> | 0 | 1,751,471 | 1,432,979 |
| Dept of Military and Veterans Affairs | | | |
| <i>Veterans Trust Fund</i> | 875,736 | 875,736 | 0 |
| Capital Construction | | | |
| <i>Fitzsimons Trust Fund</i> | 7,005,885 | 7,005,885 | 0 |
| Office of the State Auditor | | | |
| <i>Tobacco MSA Annual Audit</i> | 89,000 | 0 | (89,000) |
| Unallocated Portion | 1,173,596 | 1,313,603 | 140,007 |

State Expenditures

The bill is expected to increase state expenditures by \$62,404,182 in FY 2016-17, before decreasing expenditures by \$142,053 in FY 2017-18. The increase in state expenditures for FY 2016-17 incorporates a \$33,718,276 increase in cash fund expenditures, a \$6,451,471 decrease in General Fund expenditures, and a \$35,137,377 increase in federal fund expenditures. Spending is expected to decrease in subsequent fiscal years by amounts similar to that expected for FY 2017-18. State expenditures are summarized in Table 2 and described below.

| Table 2. Expenditures Under HB16-1408 | | |
|---|---------------------|--------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Tobacco MSA Program Expenditures | (\$140,007) | (\$142,053) |
| Marijuana Tax Backfill of Tobacco MSA Programs | 7,601,424 | |
| Federal Funds Expenditure for Medical Services Premiums | 35,137,377 | |
| Cash Funds Expenditure for Medical Services Premiums | 26,256,859 | |
| General Fund Expenditure for Medical Services Premiums | (6,451,471) | |
| TOTAL | \$62,404,182 | (\$142,053) |

Tobacco MSA programs. Consistent with the changes in state transfers described in the previous section, the reduced total allocation of revenue from the Tobacco Litigation Settlement Cash Fund is expected to reduce expenditures for Tobacco MSA programs by \$140,007 in FY 2016-17 and \$142,053 in FY 2017-18. For FY 2016-17 only, the bill appropriates funds from the Marijuana Tax Cash Fund to completely offset reduced Tobacco MSA payment distributions to five programs:

- the Early Literacy Program in the Department of Education (\$4,378,678);
- the Local Government Public Health Services Program in the Department of Public Health and Environment (\$1,767,584);
- the Offender Mental Health Services Program in the Department of Human Services (\$3,025,192);
- the Alcohol and Drug Abuse Prevention Program in the Department of Human Services (\$756,298); and
- the Children's Mental Health Treatment Program in the Department of Human Services (\$300,000).

For FY 2016-17 only, the bill also reduces Marijuana Tax Cash Fund expenditures for the Tony Grampsas Youth Services Program in the Department of Human Services by \$2,626,328. Total state expenditures for the program will nevertheless increase in FY 2016-17 because the bill's modifications to the Tobacco MSA payment distribution formula are expected to net the program \$3,065,075 in transfers from the Tobacco Litigation Settlement Cash Fund.

Medical services premiums. The bill increases medical services premium expenditures by \$55,694,236 in FY 2016-17, including \$20,000,000 from the new Primary Care Provider Sustainability Fund, \$6,451,471 from the Autism Treatment Fund, \$556,859 from the Hospital Provider Fee Cash Fund, and \$35,137,377 from federal funds. General Fund expenditures for medical services premiums are reduced by \$6,451,471. Expenditures are for increased access to primary care office visits, immunization administration, health screening services, and newborn

care, including neonatal critical care. The expenditure from the Autism Treatment Fund includes a \$5,700,000 increase from the fund's current revenue stream, plus \$751,471 reflecting the expected increase in the fund's allocation resulting from changes to the Tobacco MSA formula. The latter amount is included as Tobacco MSA program expenditures for the purpose of Table 2.

Effective Date

The requirement that all money in the Public Health Services Support Fund and the Offender Mental Health Services Fund be transferred to the Tobacco Litigation Settlement Cash Fund at the end of FY 2015-16 takes effect upon signature of the Governor, or upon becoming law without his signature. The remainder of the bill takes effect July 1, 2016.

State Appropriations

For FY 2016-17, the bill includes the following cash fund appropriations:

- \$2,972,504 from the Tobacco Litigation Settlement Moneys Health Education Fund to the Department of Higher Education;
- \$6,743,164 from the Nurse Home Visitor Program Fund to the Department of Human Services;
- \$879,745 from the Supplemental State Contribution Fund to the Department of Personnel and Administration;
- \$1,313,603 from the Drug Assistance Program Fund to the Department of Public Health and Environment;
- \$1,313,604 from the AIDS and HIV Prevention Fund to the Department of Public Health and Environment;
- \$1,180,942 from the Colorado Immunization Fund to the Department of Public Health and Environment;
- \$675,736 from the State Dental Loan Repayment Fund to the Department of Public Health and Environment;
- \$625,736 from the Colorado Health Services Corps Fund to the Department of Public Health and Environment; and
- \$55,694,236 to the Department of Health Care Policy and Financing, including \$20,000,000 from the Primary Care Provider Sustainability Fund, \$556,859 from the Hospital Provider Fee Cash Fund, and \$35,137,377 from federal funds.

Adjustments to 2016 Long Appropriations Bill. For FY 2016-17, the bill makes the following adjustments to appropriations proposed in the 2016 Long Appropriations Bill:

- a decrease of \$4,378,678 in the Early Literacy Fund appropriation to the Department of Education;
- an increase of \$4,378,678 in the Marijuana Tax Cash Fund appropriation to the Department of Education;
- a decrease of \$3,025,192 in the Offender Mental Health Services Fund appropriation to the Department of Human Services;
- a decrease of \$300,000 in the Tobacco Litigation Settlement Cash Fund appropriation to the Department of Human Services;

- a decrease of \$756,298 in the Alcohol and Drug Abuse Community Prevention and Treatment Fund to the Department of Human Services;
- an increase of \$4,081,490 in the Marijuana Tax Cash Fund appropriation to the Department of Human Services;
- a decrease of \$1,767,584 in the Public Health Services Support Fund appropriation to the Department of Public Health and Environment;
- an increase of \$1,767,584 in the Marijuana Tax Cash Fund appropriation to the Department of Public Health and Environment;
- a decrease of \$2,626,328 in the Marijuana Tax Cash Fund appropriation to the Department of Human Services;
- an increase of \$2,626,328 in the Youth Services Program Fund appropriation to the Department of Human Services;
- a decrease of \$6,451,471 in the General Fund appropriation to the Department of Health Care Policy and Financing; and
- an increase of \$6,451,471 in the Colorado Autism Treatment Fund appropriation to the Department of Health Care Policy and Financing.

State and Local Government Contacts

Education
Health Care Policy and Financing
Human Services
Joint Budget Committee
Legislative Council Staff Economics Section
Personnel and Administration
Revenue

Governor's Marijuana Office
Higher Education
Information Technology
Law
Military Affairs
Public Health and Environment
State Auditor