

CHAPTER 351

HEALTH AND ENVIRONMENT

HOUSE BILL 06-1054

BY REPRESENTATIVE(S) Plant, Berens, Borodkin, Boyd, Carroll M., Carroll T., Cerbo, Crane, Frangas, Garcia, Madden, McGihon, Merrifield, Romanoff, Solano, Coleman, Gallegos, and Todd;
also SENATOR(S) Groff, Fitz-Gerald, Grossman, Sandoval, Shaffer, Tapia, Tochtrop, Tupa, Veiga, and Williams.

AN ACT

CONCERNING AIDS PREVENTION, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 14 of article 4 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

25-4-1412. Definitions. AS USED IN THIS SECTION AND SECTIONS 25-4-1413 TO 25-4-1415, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "PROGRAM" MEANS THE COLORADO HIV AND AIDS PREVENTION GRANT PROGRAM CREATED IN SECTION 25-4-1413.

(2) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH CREATED IN SECTION 25-1-103.

25-4-1413. Program. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT THE COLORADO HIV AND AIDS PREVENTION GRANT PROGRAM TO ADDRESS LOCAL COMMUNITY NEEDS IN THE AREAS OF MEDICALLY ACCURATE HIV AND AIDS PREVENTION AND EDUCATION THROUGH A COMPETITIVE GRANT PROCESS. THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

(2) GRANT APPLICANTS SHALL BE NONPROFIT ORGANIZATIONS THAT ARE GOVERNED BY A BOARD OF DIRECTORS, HAVE THE BENEFIT OF TAX-EXEMPT STATUS PURSUANT SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE" OR LOCAL HEALTH DEPARTMENTS.

(3) (a) PREFERENCE SHALL BE GIVEN TO GRANT APPLICANTS THAT HAVE AS ONE

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

OF THEIR PRIMARY PURPOSES HIV AND AIDS PREVENTION AND EDUCATION.

(b) GRANTS MAY BE GIVEN TO ORGANIZATIONS THAT CONDUCT HIV PREVENTION IN CONJUNCTION WITH OTHER COMORBIDITIES SECONDARY TO HIV INFECTIONS.

(4) GRANT APPLICATIONS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) A STATEMENT OF THE LOCAL HIV AND AIDS PREVENTION OR EDUCATION ISSUE TO BE ADDRESSED, A DESCRIPTION OF THE CONSTITUENCY THAT SHALL BE SERVED OR TARGETED, AND HOW THE CONSTITUENCY WILL BENEFIT;

(b) A DESCRIPTION OF THE GOALS AND OBJECTIVES OF THE GRANT APPLICANT IN SUBMITTING AN APPLICATION UNDER THE PROGRAM; AND

(c) A DESCRIPTION OF THE ACTIVITIES PLANNED TO ACCOMPLISH THE GOALS AND OBJECTIVES OF THE GRANT APPLICANT AND OF THE OUTCOME MEASURES THAT WILL BE USED BY THE GRANT APPLICANT.

(5) GRANTS SHALL ONLY BE GIVEN FOR MEDICALLY ACCURATE HIV AND AIDS PREVENTION AND EDUCATION PROGRAMS THAT ARE BASED IN BEHAVIORAL AND SOCIAL SCIENCE THEORY AND RESEARCH AND SHALL NOT BE USED TO CONTRIBUTE TO EXISTING SCHOLARSHIPS, DIRECTLY TO ENDOWMENTS, FUND-RAISING EVENTS, ANNUAL FUND DRIVES, OR DEBT REDUCTION.

25-4-1414. Grant program - conflict of interest. (1) (a) THE PROGRAM SHALL FUND MEDICALLY ACCURATE HIV AND AIDS PREVENTION AND EDUCATION PROGRAMS THROUGH A COMPETITIVE GRANT PROCESS THAT SHALL BE OVERSEEN BY THE HIV AND AIDS PREVENTION GRANT PROGRAM ADVISORY COMMITTEE, WHICH IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "ADVISORY COMMITTEE". THE ADVISORY COMMITTEE SHALL CONSIST OF SEVEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AS FOLLOWS:

(I) TWO MEMBERS REPRESENTING COMMUNITY-BASED ORGANIZATIONS WHO ARE RECOMMENDED BY AND WHO ARE EXISTING MEMBERS OF THE COLORADO ADVISORY COUNCIL ON AIDS;

(II) ONE MEMBER WHO IS RECOMMENDED BY THE DEPARTMENT'S MINORITY HEALTH ADVISORY COMMISSION;

(III) TWO MEMBERS WHO ARE RECOMMENDED BY A STATEWIDE COLLABORATIVE GROUP THAT ASSISTS THE DEPARTMENT IN THE DEPARTMENT'S COMPREHENSIVE PLAN FOR HIV AND AIDS PREVENTION;

(IV) ONE MEMBER WHO HAS EXPERTISE IN HIV AND AIDS PREVENTION AND EDUCATION; AND

(V) ONE MEMBER WHO REPRESENTS A CLINIC THAT RECEIVES MONEYS UNDER TITLE III OF THE FEDERAL "RYAN WHITE C.A.R.E. ACT OF 1990", AS AMENDED.

(b) THE COMPOSITION OF THE ADVISORY COMMITTEE SHALL REFLECT, TO THE EXTENT PRACTICAL, COLORADO'S ETHNIC, RACIAL, AND GEOGRAPHIC DIVERSITY.

(c) THE GRANTS ADMINISTERED PURSUANT TO SECTION 25-4-1413 SHALL ONLY BE SUBJECT TO THE RESTRICTIONS PROVIDED FOR IN THIS SECTION AND SECTION 25-4-1413 AND SHALL NOT BE SUBJECT TO THE SAME RESTRICTIONS AS GRANTS PROVIDED WITH FEDERAL MONEYS FOR HIV AND AIDS PREVENTION. THE STATE BOARD, UPON RECOMMENDATIONS OF THE ADVISORY COMMITTEE, SHALL ADOPT RULES THAT SPECIFY, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(I) THE PROCEDURES AND TIMELINES BY WHICH AN ENTITY MAY APPLY FOR PROGRAM GRANTS;

(II) GRANT APPLICATION CONTENTS, IN ADDITION TO THOSE SPECIFIED IN SECTION 25-4-1413 (3);

(III) CRITERIA FOR SELECTING THE ENTITIES THAT SHALL RECEIVE GRANTS AND DETERMINING THE AMOUNT AND DURATION OF THE GRANTS;

(IV) REPORTING REQUIREMENTS FOR ENTITIES THAT RECEIVE GRANTS PURSUANT TO THIS SECTION; AND

(V) THE QUALIFICATIONS OF AN ADEQUATE PROPOSAL.

(2) THE ADVISORY COMMITTEE SHALL REVIEW THE APPLICATIONS RECEIVED PURSUANT TO THIS SECTION AND SUBMIT TO THE STATE BOARD AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT RECOMMENDED GRANT RECIPIENTS, RECOMMENDED GRANT AMOUNTS, AND THE DURATION OF EACH RECOMMENDED GRANT. IN MAKING RECOMMENDATIONS FOR GRANTS, THE ADVISORY COMMITTEE SHALL CONSIDER THE DISTRIBUTION OF FEDERAL FUNDS IN THE AREAS OF HIV AND AIDS PREVENTION, EDUCATION, AND TREATMENT. WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY COMMITTEE'S RECOMMENDATIONS, THE EXECUTIVE DIRECTOR SHALL SUBMIT HIS OR HER RECOMMENDATIONS TO THE STATE BOARD. THE STATE BOARD SHALL HAVE THE FINAL AUTHORITY TO APPROVE THE GRANTS ADMINISTERED UNDER THIS SECTION AND SECTION 25-4-1413. IF THE STATE BOARD DISAPPROVES A RECOMMENDATION FOR A GRANT RECIPIENT, THE ADVISORY COMMITTEE MAY SUBMIT A REPLACEMENT RECOMMENDATION WITHIN THIRTY DAYS AFTER DISAPPROVAL. IN MAKING GRANT RECOMMENDATIONS, THE ADVISORY COMMITTEE SHALL FOLLOW THE PURPOSE OF THE PROGRAM AS OUTLINED IN SECTION 25-4-1413. THE STATE BOARD SHALL AWARD GRANTS TO THE ENTITIES SELECTED BY THE ADVISORY COMMITTEE, SPECIFYING THE AMOUNT AND DURATION OF EACH GRANT AWARD. IN REVIEWING AND APPROVING GRANT APPLICATIONS, THE ADVISORY COMMITTEE AND THE STATE BOARD SHALL ENSURE THAT GRANTS ARE DISTRIBUTED STATEWIDE AND ADDRESS THE NEEDS OF BOTH URBAN AND RURAL RESIDENTS OF COLORADO.

(3) IF A MEMBER OF THE ADVISORY COMMITTEE HAS AN IMMEDIATE PERSONAL, PRIVATE, OR FINANCIAL INTEREST IN ANY MATTER PENDING BEFORE THE ADVISORY COMMITTEE, THE MEMBER SHALL DISCLOSE THE FACT AND SHALL NOT VOTE UPON THE MATTER.

25-4-1415. Cash fund - administration - limitation. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE AIDS AND HIV PREVENTION FUND, REFERRED TO IN THIS SECTION AS THE "FUND", THAT SHALL CONSIST OF MONEYS

THAT MAY BE APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE PROGRAM. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THE PROGRAM MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(2) PURSUANT TO SECTION 24-75-1104.5 (1) (I), C.R.S., BEGINNING IN THE 2006-07 FISCAL YEAR AND IN EACH FISCAL YEAR THEREAFTER SO LONG AS THE STATE RECEIVES MONEYS PURSUANT TO THE MASTER SETTLEMENT AGREEMENT, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE FUND TWO PERCENT, NOT TO EXCEED TWO MILLION DOLLARS IN ANY FISCAL YEAR, OF THE TOTAL AMOUNT OF THE MONEYS ANNUALLY RECEIVED BY THE STATE PURSUANT TO THE MASTER SETTLEMENT AGREEMENT, NOT INCLUDING ATTORNEY FEES AND COSTS, DURING THE PRECEDING FISCAL YEAR. 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.

(3) THE DEPARTMENT MAY RECEIVE UP TO FIVE PERCENT OF THE MONEYS ANNUALLY APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FROM THE FUND CREATED IN SUBSECTION (1) OF THIS SECTION FOR THE ACTUAL COSTS INCURRED IN ADMINISTERING THE PROGRAM.

SECTION 2. 24-75-1104.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-1104.5. Use of settlement moneys - programs. (1) For the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive appropriations in the specified amounts from the settlement moneys annually received by the state:

(I) THE COLORADO HIV AND AIDS PREVENTION GRANT PROGRAM CREATED IN SECTION 25-4-1413, C.R.S., SHALL RECEIVE TWO PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED TWO MILLION DOLLARS IN ANY FISCAL YEAR.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the tobacco litigation settlement cash fund created in section 24-22-115 (1), Colorado Revised Statutes, not otherwise appropriated, to the AIDS and HIV prevention fund created in section 25-4-1415 (1), Colorado Revised Statutes, for the fiscal year beginning July 1, 2006, the sum of one million five hundred eighty-four thousand four hundred forty-eight dollars (\$1,584,448), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any

moneys in the AIDS and HIV prevention fund created in section 25-4-1415 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the disease control and environmental epidemiology division, for the fiscal year beginning July 1, 2006, the sum of one million five hundred eighty-four thousand four hundred forty-eight dollars (\$1,584,448) and 1.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. 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.

Approved: June 6, 2006