

CHAPTER 74

GOVERNMENT - STATE

HOUSE BILL 13-1181

BY REPRESENTATIVE(S) Levy, Duran, Gerou, Court, Hamner, Pettersen, Salazar, Ginal, Rosenthal, Ryden, Schafer, Young;
also SENATOR(S) Steadman, Hodge, Lambert.

AN ACT

CONCERNING THE RETENTION IN A CASH FUND THAT FUNDS TOBACCO PROGRAMS OF THE LESSER OF ALL UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR.

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

SECTION 1. In Colorado Revised Statutes, 24-75-1104.5, **amend** (1) (i), (1.5) (a) (I), (1.5) (a) (VIII) (A), and (1.5) (b) (III) as follows:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsections (1.3) and (5) of this section, for the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive the following specified amounts from the settlement moneys received by the state in the preceding fiscal year:

(i) The Tony Grampsas youth services program created in part 2 of article 20.5 of title 25, C.R.S., shall receive four percent of the total amount of settlement moneys annually received by the state, not to exceed five million dollars in any fiscal year, WHICH THE STATE TREASURER SHALL TRANSFER TO THE YOUTH SERVICES PROGRAM FUND CREATED IN ~~as provided in section 25-20.5-201~~, SECTION 25-20.5-201 (2) (c), C.R.S.

(1.5) (a) Except as otherwise provided in subsection (5) of this section, for the 2007-08 fiscal year and for each fiscal year thereafter, the following programs, services, and funds shall receive the following specified amounts from the portion of any settlement moneys received and allocated by the state in the current fiscal year that remains after the programs, services, and funds receiving such moneys pursuant to subsection (1) of this section have been fully funded, and the portion of

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

all other settlement moneys received by the state in the preceding fiscal year that remains after the programs, services, and funds receiving such other settlement moneys pursuant to subsection (1) of this section have been fully funded and all overexpenditures and supplemental appropriations allowed for the 2006-07, 2007-08, 2008-09, or 2009-10 fiscal years pursuant to section 24-22-115 (4) have been made:

(I) The university of Colorado at Denver and health sciences center shall receive forty-nine percent of the settlement moneys, which shall be transferred by the state treasurer to the tobacco litigation settlement moneys health education fund, which is hereby created in the state treasury. The principal of the fund ~~shall be~~ is subject to annual appropriation by the general assembly to the health sciences center; ~~except that, at the end of the 2011-12 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the account~~ CENTER. THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR shall be transferred to the ~~general fund in accordance with paragraph (b) of this subsection (1.5)~~ TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115.

(VIII) (A) The unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, shall receive three percent of the settlement moneys, which shall be transferred by the state treasurer to the alcohol and drug abuse community prevention and treatment fund, which is hereby created in the state treasury. The principal of the fund ~~shall be~~ is subject to annual appropriation by the general assembly to provide or purchase community prevention and treatment services in accordance with section 27-80-106, C.R.S. and, ~~at the end of the 2011-12 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the account~~ THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR shall be transferred to the ~~general fund in accordance with paragraph (b) of this subsection (1.5)~~ TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115.

(b) (III) Except as otherwise provided in SUBPARAGRAPHS (I) AND (II) AND SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (1.5), section 24-50-609 (5), SECTION 25-1-512 (2), C.R.S., AND SECTION 25-4-2301, C.R.S., at the end of the 2011-12 fiscal year and at the end of each fiscal year thereafter, any moneys allocated for the fiscal year pursuant to paragraph (a) of this subsection (1.5) that are unexpended and unencumbered shall be transferred to the general fund.

SECTION 2. In Colorado Revised Statutes, 24-75-1104.5, **amend as amended by House Bill 13-1117** (1) (i) as follows:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsections (1.3) and (5) of this section, for the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive the following specified amounts from the settlement moneys received by the state in the preceding fiscal year:

(i) The Tony Grampsas youth services program created in article 6.8 of title 26, C.R.S., shall receive four percent of the total amount of settlement moneys annually received by the state, not to exceed five million dollars in any fiscal year, ~~as provided in section 26-6.8-102;~~ WHICH THE STATE TREASURER SHALL TRANSFER TO THE YOUTH SERVICES PROGRAM FUND CREATED IN SECTION 26-6.8-102 (2) (d), C.R.S.

SECTION 3. In Colorado Revised Statutes, 25-1-512, **amend** (2) as follows:

25-1-512. Allocation of moneys - public health services support fund - created. (2) The public health services support fund is hereby created in the state treasury and shall be known in this section as the "fund". The principal of the fund ~~shall consist~~ CONSISTS of tobacco litigation settlement moneys transferred by the state treasurer to the fund pursuant to section 24-75-1104.5 (1.5) (a) (IV), C.R.S., and shall, subject to annual appropriation by the general assembly to the state department, be allocated by the state department to all agencies authorized pursuant to this part 5 as specified in subsection (1) of this section. ~~except that, at the end of the 2011-12 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the fund~~ THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR shall be transferred to the ~~general fund in accordance with paragraph (b) of this subsection (1.5). Interest and income earned on the deposit and investment of moneys in the public health services support fund before July 1, 2011, shall be credited to the fund and shall remain in the fund until the end of the fiscal year in which credited, when it shall be transferred to the general fund~~ TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 4. In Colorado Revised Statutes, 25-4-1411, **amend** (6) (a) as follows:

25-4-1411. AIDS drug assistance program - program fund - created - legislative declaration - no entitlement created. (6) (a) ~~Except as otherwise provided in section 24-75-1104.5 (5), C.R.S., beginning in the 2004-05 fiscal year, 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 department of public health and environment for the state program the amount of moneys to be received by the state program~~ THE AIDS DRUG ASSISTANCE PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND CONSISTS OF TOBACCO LITIGATION SETTLEMENT MONEYS TRANSFERRED BY THE STATE TREASURER TO THE FUND pursuant to section 24-75-1104.5 (1) (j), C.R.S. SUBJECT TO ANNUAL APPROPRIATION BY the general assembly, ~~shall appropriate the amount~~

~~specified in this subsection (6) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.~~ THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY EXPEND MONEYS FROM THE FUND FOR THE STATE PROGRAM. THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL BE TRANSFERRED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 5. In Colorado Revised Statutes, amend 25-4-2301 as follows:

25-4-2301. Colorado immunization fund - supplemental tobacco litigation settlement moneys account - creation. There are hereby created in the state treasury the Colorado immunization fund and an account within the fund to be known as the supplemental tobacco litigation settlement moneys account. The principal of the portion of the fund that is not the account ~~shall consist~~ CONSISTS of general fund appropriations made by the general assembly to the fund and gifts, grants, or awards received by the department of public health and environment from the federal government or private sources for the fund. The principal of the account ~~shall consist~~ CONSISTS of tobacco litigation settlement moneys transferred by the state treasurer to the account in accordance with section 24-75-1104.5 (1.5) (a) (VII), C.R.S. All interest and income earned on the deposit and investment of moneys in the portion of the fund that is not the account shall be credited to that portion of the fund. ~~and~~ All interest and income earned on the deposit and investment of moneys in the account ~~before July 1, 2011,~~ shall be credited to AND REMAIN IN the account ~~and remain therein~~ until transferred as required by this section. Except as otherwise provided in this section, and subject to annual appropriation by the general assembly to the department, the department shall expend the principal of the fund and the account only for the purpose of immunization and immunization strategies; except that, at the end of the 2007-08 fiscal year and at the end of any fiscal year thereafter, any unexpended and unencumbered moneys in the portion of the fund that is not the account shall remain in that portion of the fund and may be used by the department through the state immunization program to support infant, child, and adolescent vaccination and, at the end of the 2011-12 fiscal year ~~and at the end of each fiscal year thereafter,~~ ONLY, any unexpended and unencumbered moneys in the account shall be transferred to the general fund, in accordance with section 24-75-1104.5 (1.5) (b), C.R.S. THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE ACCOUNT AT THE END OF ANY FISCAL YEAR OTHER THAN THE 2011-12 FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE ACCOUNT FOR THE FISCAL YEAR REMAIN IN THE ACCOUNT AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL BE TRANSFERRED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 6. In Colorado Revised Statutes, 25-20.5-201, amend (2) (c) as follows:

25-20.5-201. Tony Grampsas youth services program - creation - standards - applications. (2) (c) ~~THE YOUTH SERVICES PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND CONSISTS OF TOBACCO LITIGATION SETTLEMENT MONEYS TRANSFERRED BY THE STATE TREASURER TO THE FUND pursuant to section 24-75-1104.5 (1) (i), C.R.S. and except as otherwise provided in section 24-75-1104.5 (5), C.R.S., beginning in the 2004-05 fiscal year, 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 division for the Tony Grampsas youth services program four percent of the amount of moneys transmitted to the state treasurer in accordance with the master settlement agreement, other than attorney fees and costs, for the preceding fiscal year; except that the amount so appropriated to the division in any fiscal year shall not exceed five million dollars. SUBJECT TO ANNUAL APPROPRIATION BY the general assembly, shall appropriate the amount specified in this paragraph (c) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.~~ THE DIVISION MAY EXPEND MONEYS FROM THE FUND FOR THE TONY GRAMPSAS YOUTH SERVICES PROGRAM. THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL BE TRANSFERRED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 7. In Colorado Revised Statutes, 26-6.8-102, amend as amended by House Bill 13-1117 (2) (d) as follows:

26-6.8-102. Tony Grampsas youth services program - creation - standards - applications. (2) (d) ~~THE YOUTH SERVICES PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND CONSISTS OF TOBACCO LITIGATION SETTLEMENT MONEYS TRANSFERRED BY THE STATE TREASURER TO THE FUND pursuant to section 24-75-1104.5 (1) (i), C.R.S. and except as otherwise provided in section 24-75-1104.5 (5), C.R.S., beginning in the 2004-05 fiscal year, 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 department for the Tony Grampsas youth services program four percent of the amount of moneys transmitted to the state treasurer in accordance with the master settlement agreement, other than attorney fees and costs, for the preceding fiscal year; except that the amount so appropriated to the state department in any fiscal year shall not exceed five million dollars. SUBJECT TO ANNUAL APPROPRIATION BY the general assembly, shall appropriate the amount specified in this paragraph (d) from moneys credited~~ THE STATE DEPARTMENT MAY EXPEND MONEYS FROM THE FUND FOR THE TONY GRAMPSAS YOUTH SERVICES PROGRAM. THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL BE TRANSFERRED to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

SECTION 8. In Colorado Revised Statutes, 25-31-107, **amend** (2) (b) as follows:

25-31-107. Selection of entities to administer the program - grants - nurse home visitor program fund - created. (2) (b) Grants awarded pursuant to paragraph (a) of this subsection (2) ~~shall be~~ ARE payable from the nurse home visitor program fund, which fund is hereby created in the state treasury. The nurse home visitor program fund, referred to in this section as the "fund", shall be administered by the department and shall consist of moneys transferred thereto by the state treasurer from moneys received pursuant to the master settlement agreement in the amount described in paragraph (d) of this subsection (2). In addition, the state treasurer shall credit to the fund any public or private gifts, grants, or donations received by the department for implementation of the program, including any moneys received from the United States federal government for the program. The fund shall be subject to annual appropriation by the general assembly to the department for grants to entities for operation of the program. The department may retain a total of up to five percent of the amount annually appropriated from the fund for the program, in order to compensate the health sciences facility pursuant to section 25-31-105 (3), as set forth in the scope of work in the agreement between the department and the health sciences facility, and to compensate the department for the actual costs incurred by the department in implementing the provisions of paragraph (a.5) of this subsection (2), as determined by the department; except that the portion of the costs to compensate the department for implementing the provisions of paragraph (a.5) of this subsection (2) shall not exceed two percent of the amount annually appropriated from the fund for the program, and the portion of such costs to compensate the health sciences facility under section 25-31-105 (3), as set forth in the scope of work in the contract between the department and the health sciences facility, shall not exceed three percent of the amount annually appropriated from the fund for the program. In addition, if the total amount annually appropriated from the fund for the program exceeds nineteen million dollars, the department and the health sciences facility shall assess whether a smaller percentage of the appropriated funds exceeding nineteen million dollars is adequate to cover their actual costs and shall jointly submit to the general assembly a report articulating their conclusions on this subject. The actual costs of the department include department personnel and operating costs and any necessary transfers to the department of health care policy and financing for administrative costs incurred for the medicaid program associated with the program. The actual costs of the health sciences facility include the facility's own actual program costs and those of its contractors and subcontractors. Any costs for time studies required to obtain medicaid reimbursement for the program may be paid from program funds, and shall not be subject to the five percent limit in this section. Notwithstanding section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. ~~Any~~ THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS ~~appropriated from moneys received pursuant to the master settlement agreement remaining~~ in the fund at the end of any fiscal year OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR shall be transferred to the tobacco litigation settlement trust CASH fund created in ~~section 24-22-115.5;~~ SECTION 24-22-115, C.R.S.

SECTION 9. In Colorado Revised Statutes, 27-66-104, **amend** (4) (a) as follows:

27-66-104. Types of services purchased - limitation on payments - offender mental health services fund. (4) (a) The offender mental health services fund, referred to in this subsection (4) as the "fund", is hereby created in the state treasury. The principal of the fund ~~shall consist~~ CONSISTS of tobacco litigation settlement moneys transferred by the state treasurer to the fund in accordance with section 24-75-1104.5 (1.5) (a) (II), C.R.S., for the purchase of mental health services for juvenile and adult offenders who have mental health problems and are involved in the criminal justice system. The unit, subject to annual appropriation by the general assembly, shall distribute the principal of the fund to the community mental health centers. ~~except that, at the end of the 2011-12 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the fund shall be transferred to the general fund, in accordance with section 24-75-1104.5 (1.5) (b), C.R.S.~~ THE LESSER OF ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR OR AN AMOUNT OF SUCH MONEYS EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FROM THE FUND FOR THE FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY ADDITIONAL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL BE TRANSFERRED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 10. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Sections 2 and 7 of this act take effect only if House Bill 13-1117 becomes law and take effect either upon the effective date of this act or upon the effective date of House Bill 13-1117, whichever is later.

(3) Section 24-75-1104.5 (1) (i), Colorado Revised Statutes, as amended in section 1 of this act, and section 6 of this act take effect only if House Bill 13-1117 does not become law.

SECTION 11. 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: March 22, 2013