

## CHAPTER 243

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**HUMAN SERVICES - SOCIAL SERVICES**

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**HOUSE BILL 02-1276**

BY REPRESENTATIVE(S) Mace, Alexander, Bacon, Borodkin, Boyd, Cloer, Coleman, Decker, Fairbank, Garcia, Groff, Hodge, Jahn, Jameson, Lawrence, Madden, Marshall, Miller, Plant, Ragsdale, Romanoff, Saliman, Sanchez, Smith, Snook, Stafford, Tapia, Tochtrop, Veiga, Vigil, Williams S., and Williams T.;  
also SENATOR(S) Epps, Evans, Gordon, Hagedorn, Hanna, Hernandez, Isgar, Linkhart, Phillips, Tate, Taylor, Tupa, and Windels.

**AN ACT****CONCERNING THE PROVISION OF ADDITIONAL FUNDING FOR THE HEALTH CARE NEEDS OF OLD AGE PENSION RECIPIENTS, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 26-2-117, Colorado Revised Statutes, is amended to read:

**26-2-117. Old age pension health and medical care fund - supplemental old age pension health and medical care fund.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT WHEN THE OLD AGE PENSION PROGRAM WAS ESTABLISHED IN 1936, IT SERVED BOTH THE MIDDLE-INCOME AND INDIGENT ELDERLY POPULATION AND THAT THERE WERE NO FEDERAL PROGRAMS AVAILABLE TO ASSIST THE ELDERLY IMPOVERISHED POPULATION. THE GENERAL ASSEMBLY FINDS THAT THE POPULATION CURRENTLY SERVED BY THE OLD AGE PENSION IS THE INDIGENT ELDERLY POPULATION ONLY AND THAT THERE ARE SIGNIFICANT FEDERAL ASSISTANCE PROGRAMS FOR THE ELDERLY IN THIS COUNTRY THAT DID NOT EXIST WHEN THE OLD AGE PENSION PROGRAM WAS CREATED. MOREOVER, THE GENERAL ASSEMBLY FINDS THAT THE HEALTH AND MEDICAL CARE FUND CREATED IN THE STATE CONSTITUTION NOW SERVES ONLY THOSE OLD AGE PENSION RECIPIENTS WHO DO NOT QUALIFY FOR SOCIAL SECURITY BENEFITS AND THEREFORE ARE NOT MEDICAID-ELIGIBLE. THE GENERAL ASSEMBLY ALSO FINDS THAT THE CONSTITUTIONAL LIMITATION ON COSTS THAT MAY BE ANNUALLY INCURRED BY THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM NO LONGER REFLECT THE ACTUAL COST OF SERVING THIS GROWING POPULATION. THE GENERAL ASSEMBLY ALSO NOTES THAT THE STATE DEPARTMENT ON SEVERAL OCCASIONS HAS HAD TO LIMIT THE TYPES OF MEDICAL SERVICES AVAILABLE IN ORDER TO MEET THIS CONSTITUTIONAL LIMIT. THE GENERAL ASSEMBLY, THEREFORE, FINDS THAT THERE IS A NEED TO SUPPLEMENT THE FUNDS

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

AVAILABLE FOR HEALTH AND MEDICAL CARE FOR THIS GROUP OF OLD AGE PENSION RECIPIENTS. THE GENERAL ASSEMBLY FINDS THAT WHILE THE STATE CONSTITUTION LIMITS THE COSTS OF THE ORIGINAL HEALTH AND MEDICAL CARE PROGRAM TO TEN MILLION DOLLARS ANNUALLY, IT DOES NOT PRECLUDE THE GENERAL ASSEMBLY FROM CREATING A SUPPLEMENTAL HEALTH PROGRAM. THE GENERAL ASSEMBLY ALSO FINDS THAT SECTION 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION DIRECTS THAT SALES AND USE TAXES BE USED TO FUND PROGRAMS AND SERVICES FOR OLDER CITIZENS AND ESTABLISHES A CONSTITUTIONAL PRIORITY TO FUND SUCH SERVICES AND THUS, IT IS FITTING THAT A SMALL PORTION OF THE SALES AND USE TAX REVENUE BE ALLOCATED TO FUND A SEPARATE SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM TO SERVE THE NEEDS OF THE OLD AGE PENSION RECIPIENTS WHO QUALIFY FOR THE HEALTH AND MEDICAL CARE PROGRAM.

(2) Any moneys remaining in the state old age pension fund after full payment of basic minimum awards to qualified old age pension recipients and after establishment and maintenance of the old age pension stabilization fund in the amount of five million dollars shall be transferred to a fund to be known as the old age pension health and medical care fund, which is hereby created. The state department shall establish and promulgate rules and regulations for administration of a program to provide health and medical care to persons who qualify to receive old age pensions and who are not patients in an institution for tuberculosis or mental diseases. The costs of such program, not to exceed ten million dollars in any fiscal year, shall be defrayed from such health and medical care fund, but all moneys available, accrued or accruing, received or receivable, in said health and medical care fund in excess of ten million dollars in any fiscal year shall be transferred to the general fund of the state to be used pursuant to law. Moneys in the old age pension health and medical care fund shall be subject to annual appropriation by the general assembly.

(3) THERE IS HEREBY ESTABLISHED IN THE STATE DEPARTMENT A SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM TO PROVIDE HEALTH AND MEDICAL CARE TO PERSONS WHO QUALIFY TO RECEIVE OLD AGE PENSIONS AND WHO ARE NOT PATIENTS IN AN INSTITUTION FOR TUBERCULOSIS OR MENTAL DISEASES. THE STATE DEPARTMENT SHALL PROMULGATE RULES FOR ADMINISTRATION OF THE SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM, WHICH SHALL BE BASED UPON AND SHALL PROVIDE THE SAME TYPES OF SERVICES THAT ARE PROVIDED PURSUANT TO THE RULES FOR ADMINISTRATION OF THE HEALTH AND MEDICAL CARE PROGRAM DESCRIBED IN SUBSECTION (2) OF THIS SECTION. WHEN THE COSTS OF PROVIDING HEALTH AND MEDICAL CARE IN A PARTICULAR FISCAL YEAR TO SUCH OLD AGE PENSION RECIPIENTS EXCEED THE AMOUNT AVAILABLE IN THAT FISCAL YEAR FROM THE OLD AGE PENSION HEALTH AND MEDICAL CARE FUND CREATED IN SUBSECTION (2) OF THIS SECTION, THE MEDICAL CARE FOR SUCH RECIPIENTS SHALL BE PROVIDED BY THE SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM. THE COSTS OF THE SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM SHALL BE PAID OUT OF THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND, HEREIN REFERRED TO AS THE "SUPPLEMENTAL FUND", SHALL CONSIST OF STATE SALES AND USE TAX REVENUES ALLOCATED TO THE SUPPLEMENTAL FUND PURSUANT TO THE PROVISIONS OF SECTION 39-26-123 (3), C.R.S., AND ANY MONEYS APPROPRIATED TO THE SUPPLEMENTAL FUND BY THE GENERAL ASSEMBLY. THE GENERAL ASSEMBLY MAY MAKE ANNUAL APPROPRIATIONS OR SUPPLEMENTAL APPROPRIATIONS TO THE SUPPLEMENTAL FUND IF IT DETERMINES

THAT THE MONEYS IN THE OLD AGE PENSION HEALTH AND MEDICAL CARE FUND CREATED IN SUBSECTION (2) OF THIS SECTION WILL BE INSUFFICIENT TO MEET THE HEALTH AND MEDICAL NEEDS OF OLD AGE PENSION RECIPIENTS FOR A PARTICULAR FISCAL YEAR. MONEYS IN THE SUPPLEMENTAL FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. AT THE END OF ANY FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE SUPPLEMENTAL FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. THE SUPPLEMENTAL HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL FUND SHALL BE EFFECTIVE IN FISCAL YEAR 2002-03.

**SECTION 2.** 39-26-123 (2) (a) (I) (A) and (2) (a) (I) (B) and the introductory portion to 39-26-123 (2) (b), Colorado Revised Statutes, are amended, and the said 39-26-123 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-26-123. Receipts - disposition.** (2) (a) (I) (A) Eighty-five percent of all receipts collected under the provisions of this article shall be credited to the old age pension fund. For the fiscal year commencing July 1, 1997, and for each fiscal year thereafter except for the fiscal year commencing July 1, 2000, the remaining fifteen percent shall be allocated between and credited to the general fund and the highway users tax fund, as a portion of the sales and use taxes attributable to sales or use of vehicles and related items, as follows: Except as otherwise provided in sub-subparagraphs (A.8) and (A.9) of this subparagraph (I) AND SUBSECTION (3) OF THIS SECTION, ten percent of net revenue from sales and use tax to the highway users tax fund and five percent thereof to the general fund; except that, for the state fiscal year 2001-2002, the amount of the net revenue allocated to the highway users tax fund shall be increased and the amount allocated to the general fund shall be decreased by the amount of sixty-seven thousand dollars.

(B) For purposes of this ~~subparagraph (I)~~ SECTION, "net revenue" means the gross amount of sales and use tax receipts collected under the provisions of this article, less three and one-third percent of such amount retained by vendors for the collection and remittance of such tax pursuant to section 39-26-105 (1) (a).

(b) As used in ~~paragraph (a) of this subsection (2)~~ THIS SECTION:

(3) COMMENCING JULY 1, 2002, THE ALLOCATION OF RECEIPTS UNDER SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION TO THE GENERAL FUND SHALL BE DECREASED BY ONE MILLION DOLLARS, AND SUCH AMOUNT SHALL BE CREDITED TO THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND CREATED IN SECTION 26-2-117 (3), C.R.S., PURSUANT TO HOUSE BILL 02-1276, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY. THE MODIFICATIONS TO THE ALLOCATION OF RECEIPTS MADE PURSUANT TO THIS SUBSECTION (3) SHALL BE IN ADDITION TO ANY OTHER MODIFICATIONS TO THE ALLOCATION OF SUCH RECEIPTS MADE BY LAW.

**SECTION 3. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the supplemental old age pension health and medical care fund created in section 26-2-117 (3), Colorado Revised Statutes,

not otherwise appropriated, to the department of human services, office of adult and veterans services, adult assistance programs, for the fiscal year beginning July 1, 2002, the sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, to be transferred to the department of health care policy and financing, medical services premiums, to provide health and medical care to persons who qualify to receive old age pensions.

**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: May 31, 2002