

CHAPTER 362

GOVERNMENT - STATE

HOUSE BILL 04-1421

BY REPRESENTATIVE(S) Witwer, Plant, Young, Cadman, Hefley, Spradley, Boyd, Frangas, and Madden;
also SENATOR(S) Teck, Owen, Reeves, Groff, Keller, and Phillips.

AN ACT

**CONCERNING THE ALLOCATION OF TOBACCO SETTLEMENT MONEYS RECEIVED BY THE STATE, AND
MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 24-22-115 (1), Colorado Revised Statutes, is amended, and the said 24-22-115 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-22-115. Tobacco litigation settlement cash fund - creation. (1) There is hereby created in the state treasury the tobacco litigation settlement cash fund. The cash fund shall consist of all moneys transmitted to the state treasurer in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver other than moneys credited to the tobacco litigation settlement trust fund pursuant to section 24-22-115.5. ~~Except as provided in subsection (2) of this section, at the end of the 2003-04 fiscal year and at the end of each succeeding fiscal year, but prior to the making of any transfer of moneys from the cash fund to the tobacco litigation settlement trust fund at the end of the fiscal year as required by this subsection (1), the general assembly may transfer unexpended and unencumbered moneys and moneys not appropriated for the following year to the state general fund, and such moneys that are transferred may be appropriated by the general assembly to make lease payments pursuant to section 24-82-1102.~~ Except as provided in subsection (2) of this section, all interest derived

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

from the deposit and investment of moneys in the cash fund shall be credited to the cash fund; except that, beginning with the fiscal year 2001-02, and each fiscal year thereafter, all interest derived from the deposit and investment of moneys in the cash fund shall be credited to the breast and cervical cancer prevention and treatment fund created pursuant to section 26-4-532, C.R.S. Except as provided in subsection (2) of this section, all moneys in the cash fund shall be subject to appropriation by the general assembly for such purposes as may be authorized by law in accordance with the terms of the settlement agreements and the consent decree. ~~Except as provided in subsection (2) of this section, at the end of the 2003-04 fiscal year, but prior to the making of any transfer of moneys from the cash fund to the tobacco litigation settlement trust fund at the end of the fiscal year as required by this subsection (1); the lesser of fifty percent of all unexpended and unencumbered moneys and all moneys not appropriated for the 2004-05 fiscal year in the cash fund or seven million five hundred ninety-four thousand eight hundred sixteen dollars shall be transferred from the cash fund to the general fund and continuously appropriated for the implementation of the Tony Grampsas youth services program created and existing pursuant to part 2 of article 20.5 of title 25, C.R.S. Except as provided in subsection (2) of this section, at the end of the 2004-05 fiscal year and at the end of each succeeding fiscal year, but prior to the making of any transfer of moneys from the cash fund to the tobacco litigation settlement trust fund at the end of the fiscal year as required by this subsection (1), the lesser of fifty percent of all unexpended and unencumbered moneys and all moneys not appropriated for the following fiscal year in the cash fund or seven million five hundred ninety-four thousand eight hundred sixteen dollars shall be transferred from the cash fund to the general fund and continuously appropriated for the implementation of the Tony Grampsas youth services program created and existing pursuant to part 2 of article 20.5 of title 25, C.R.S.~~ Except as provided in subsection (2) of this section, at the end of any fiscal year COMMENCING ON OR AFTER JULY 1, 2004, all unexpended and unencumbered moneys and all moneys not appropriated for the following fiscal year in the cash fund shall be transferred to the ~~tobacco litigation settlement trust~~ GENERAL fund.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION AND EXCEPT AS PROVIDED IN SECTION 24-75-1104.5 (1) (c), FOR THE 2005-06 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL TRANSFER AN AMOUNT EQUAL TO THE LESSER OF TWENTY MILLION DOLLARS OR TWENTY-ONE PERCENT OF THE MONEYS TRANSMITTED ANNUALLY TO THE STATE TREASURER PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE GENERAL FUND.

SECTION 2. 24-22-115.5 (2) (a) (II), (2) (a) (III), and (2) (a.7) (I), Colorado Revised Statutes, are amended, and the said 24-22-115.5 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-22-115.5. Legislative declaration - tobacco litigation settlement trust fund - creation - repeal. (2) (a) There is hereby created in the state treasury the tobacco litigation settlement trust fund. The principal of the trust fund shall consist of:

(II) ~~Not less than~~ FOR THE 2005-06 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, UP TO twenty-one percent of ~~all additional~~ THE moneys, other than attorney fees and costs, paid to the state treasurer in accordance with the settlement agreements and the consent decree IN THE PRECEDING FISCAL YEAR, LESS THE AMOUNT TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 24-22-115 (3).

(III) ~~Any moneys transferred to the trust fund from the tobacco litigation settlement cash fund at the end of any fiscal year pursuant to section 24-22-115, and~~

(a.7) (I) The principal of the tobacco litigation settlement trust fund shall not be expended or appropriated for any purpose; except that moneys in the trust fund may be allocated to the children's basic health plan trust as provided in ~~section 24-75-1104(2)~~ SECTION 24-75-1104.5 (1) (c). All interest derived from the deposit and investment of moneys in the trust fund shall be credited to the trust fund. Such interest shall become subject to appropriation by the general assembly for the funding of any programs or funds authorized by law to be funded by tobacco litigation settlement moneys at such time as the state auditor certifies that actuarially sound projections of future interest earnings indicate that such interest will be sufficient to fully fund such programs and funds. No part of such trust fund, principal or interest, shall be transferred to the general fund or any other fund or used or appropriated except as provided in this section.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ON JULY 1, 2004, THE STATE TREASURER SHALL TRANSFER THE BALANCE OF MONEYS IN THE TOBACCO LITIGATION SETTLEMENT TRUST FUND TO THE GENERAL FUND.

SECTION 3. 24-75-1104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-1104. Use of settlement moneys - programs - repeal. (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2004.

SECTION 4. Part 11 of article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION 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:

(a) THE COLORADO NURSE HOME VISITOR PROGRAM CREATED IN ARTICLE 31 OF TITLE 25, C.R.S., SHALL RECEIVE THE FOLLOWING AMOUNTS, NOT TO EXCEED NINETEEN MILLION DOLLARS IN ANY FISCAL YEAR:

(I) FOR THE 2004-05 FISCAL YEAR, NINE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED BY THE STATE;

(II) BEGINNING WITH THE 2005-06 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER THROUGH THE 2013-14 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL INCREASE THE PERCENTAGE APPROPRIATED BY ONE PERCENT; AND

(III) FOR THE 2014-15 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, NINETEEN PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE.

(b) THE COMPREHENSIVE PRIMARY AND PREVENTIVE CARE GRANT PROGRAM CREATED IN PART 10 OF ARTICLE 4 OF TITLE 26, C.R.S., SHALL RECEIVE THREE

PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED FIVE MILLION DOLLARS IN ANY FISCAL YEAR.

(c) THE CHILDREN'S BASIC HEALTH PLAN TRUST CREATED IN SECTION 26-19-105, C.R.S., SHALL RECEIVE TWENTY-FOUR PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED THIRTY MILLION DOLLARS IN ANY FISCAL YEAR. IF IN ANY FISCAL YEAR THE PERCENTAGE OF SETTLEMENT MONEYS SPECIFIED IN THIS PARAGRAPH (c) DOES NOT EQUAL AT LEAST SEVENTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, THE AMOUNT OF THE SHORTFALL SHALL BE ALLOCATED OUT OF THE TOBACCO LITIGATION SETTLEMENT TRUST FUND PURSUANT TO SECTION 24-22-115.5 (2) (a.7) (I) AND, IF NECESSARY, OUT OF THE AMOUNT OF SETTLEMENT MONEYS TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 24-22-115 (3).

(d) THE STATE DENTAL LOAN REPAYMENT PROGRAM CREATED IN ARTICLE 23 OF TITLE 25, C.R.S., SHALL RECEIVE TWO HUNDRED THOUSAND DOLLARS.

(e) THE FITZSIMONS TRUST FUND CREATED IN SECTION 23-20-136 (3), C.R.S., SHALL RECEIVE THE LESSER OF THE AMOUNT DUE TO ANY LESSOR DURING THE FISCAL YEAR UNDER A LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO SECTION 3 OF HOUSE BILL 03-1256, AS ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY OR EIGHT PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED EIGHT MILLION DOLLARS IN ANY FISCAL YEAR. THE SETTLEMENT MONEYS SHALL BE APPROPRIATED IN ACCORDANCE WITH THE PROCEDURE SPECIFIED IN SECTION 23-20-136 (3.5) (a), C.R.S.

(f) THE TOBACCO EDUCATION, PREVENTION, AND CESSATION GRANT PROGRAM CREATED IN PART 8 OF ARTICLE 3.5 OF TITLE 25, C.R.S., SHALL RECEIVE FIVE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED EIGHT MILLION DOLLARS IN ANY FISCAL YEAR.

(g) THE COLORADO STATE VETERANS TRUST FUND CREATED IN SECTION 28-5-709, C.R.S., SHALL RECEIVE ONE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED ONE MILLION DOLLARS IN ANY FISCAL YEAR.

(h) THE READ-TO-ACHIEVE PROGRAM CREATED IN SECTION 22-7-506, C.R.S., SHALL RECEIVE FIVE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED EIGHT MILLION DOLLARS IN ANY FISCAL YEAR; EXCEPT THAT FOR THE 2004-05 FISCAL YEAR, THE READ-TO-ACHIEVE PROGRAM SHALL RECEIVE FIVE PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS RECEIVED, NOT TO EXCEED EIGHT MILLION DOLLARS, LESS FIVE HUNDRED THOUSAND DOLLARS, WHICH SHALL BE TRANSFERRED TO THE GENERAL FUND TO PROVIDE STATE FUNDING FOR SENIOR SERVICES.

(i) THE TONY GRAMPAS 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.

(j) THE AIDS DRUG ASSISTANCE PROGRAM CREATED IN SECTION 25-4-1411, C.R.S., SHALL RECEIVE THREE AND A HALF PERCENT OF THE TOTAL AMOUNT OF SETTLEMENT MONEYS ANNUALLY RECEIVED BY THE STATE, NOT TO EXCEED FIVE MILLION DOLLARS IN ANY FISCAL YEAR.

(k) THREE HUNDRED THOUSAND DOLLARS SHALL BE APPROPRIATED TO FUND THE STATE'S SHARE OF THE ANNUAL FUNDING REQUIRED FOR THE "CHILD MENTAL HEALTH TREATMENT ACT", ARTICLE 10.3 OF TITLE 27, C.R.S.

(2) THE GENERAL ASSEMBLY SHALL APPROPRIATE THE AMOUNTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION FROM MONEYS CREDITED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115.

SECTION 5. 22-7-506 (4) (b) (I), Colorado Revised Statutes, is amended to read:

22-7-506. Read-to-achieve grant program - board created - fund - repeal.

(4) (b) (I) Except as otherwise provided in ~~section 24-75-1104 (1.7) (c), (1.8) (a) (IV), or (1.9) (b), C.R.S.~~ SECTION 24-75-1104.5 (1) (h), C.R.S., beginning with the ~~2000-01 fiscal year~~ 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 annually appropriate to the cash fund ~~nineteen~~ FIVE 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 cash fund in any fiscal year shall not exceed ~~nineteen~~ EIGHT million dollars. The general assembly shall appropriate the amount specified in this paragraph (b) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

SECTION 6. 23-20-136 (3.5) (a), Colorado Revised Statutes, is amended to read:

23-20-136. Fitzsimons trust fund - creation - legislative declaration - repeal.

(3.5) (a) For THE 2004-05 FISCAL YEAR AND FOR each fiscal year THEREAFTER in which the state receives moneys pursuant to the master settlement agreement and in which money is due to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly, the general assembly shall appropriate to the capital development fund and appropriate from the capital development fund to the Fitzsimons trust fund the lesser of the amount due to any lessor during the fiscal year and eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount appropriated pursuant to this subsection (3.5) in any fiscal year shall not exceed eight million dollars.

SECTION 7. 25-3.5-807 (2) (a), Colorado Revised Statutes, is amended to read:

25-3.5-807. Tobacco program fund - created. (2) (a) ~~Except as otherwise provided in section 24-75-1104 (1.7) (d) or (1.8) (a) (III), C.R.S.,~~ PURSUANT TO SECTION 24-75-1104.5 (1) (f), C.R.S., beginning in ~~fiscal year 2000-01~~ 2004-05 FISCAL YEAR, and for fiscal years thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall annually appropriate to the fund ~~fifteen~~ FIVE percent of the amount transmitted to the state

treasurer pursuant to the provisions of the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund in any fiscal year shall not exceed ~~fifteen~~ EIGHT million dollars. 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.

SECTION 8. 25-4-1411, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-4-1411. AIDS drug assistance program - legislative declaration - no entitlement created. (6) (a) PURSUANT TO SECTION 24-75-1104.5 (1) (j), 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 THREE AND A HALF 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 DEPARTMENT IN ANY FISCAL YEAR SHALL NOT EXCEED FIVE MILLION DOLLARS. 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.

(b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE ADVISORY GROUP SHALL DETERMINE HOW THE MONEYS APPROPRIATED FOR THE STATE PROGRAM PURSUANT TO THIS SUBSECTION (6) ARE TO BE USED.

SECTION 9. 25-20.5-201 (2) (b), Colorado Revised Statutes, is amended, and the said 25-20.5-201 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

25-20.5-201. Tony Grampsas youth services program - creation - standards - applications. (2) (b) Any grant awarded through the Tony Grampsas youth services program shall be paid from moneys appropriated PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) OR out of the general fund for such program. Each year, no less than twenty percent of the appropriation shall be designated and used exclusively for programs designed for children younger than nine years of age. The board, in accordance with the timelines adopted pursuant to section 25-20.5-202 (3), shall submit a list of the entities chosen to receive grants to the governor for approval. The governor shall either approve or disapprove the entire list of entities by responding to the board within twenty days. If the governor has not responded to the board within twenty days after receipt of the list, the list shall be deemed approved. No grants shall be awarded through the Tony Grampsas youth services program without the prior approval of the governor.

(c) PURSUANT TO SECTION 24-75-1104.5 (1) (i), 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. 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.

SECTION 10. 25-23-104 (2), Colorado Revised Statutes, is amended to read:

25-23-104. Dental loan repayment fund - acceptance of grants and donations.

(2) ~~Except as otherwise provided in section 24-75-1104 (1.7) (b) or (1.8) (a) (H), C.R.S.,~~ PURSUANT TO SECTION 24-75-1104.5 (1) (d), C.R.S., beginning in fiscal year ~~2001-02,~~ FISCAL YEAR 2004-05 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 dental loan repayment fund two hundred thousand dollars from the moneys annually received by the state pursuant to the master settlement agreement. 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. The amount appropriated pursuant to this subsection (2) shall be in addition to and not in replacement of any general fund moneys appropriated to the state dental loan repayment fund.

SECTION 11. 25-31-107 (2) (d) (I), Colorado Revised Statutes, is amended, and the said 25-31-107 (2) (d) (I) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-31-107. Nurse home visitor program - selection of entities - grants.

(2) (d) (I) ~~For the 2000-01 fiscal year, the general assembly shall appropriate to the fund three percent of the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund shall not exceed three million dollars. Except as otherwise provided in section 24-75-1104 (1.7) (a), (1.8) (a) (I), or (1.9) (a), C.R.S.,~~ PURSUANT TO SECTION 24-75-1104.5 (1) (a), C.R.S., beginning with the ~~2001-02 fiscal year~~ 2004-05 FISCAL YEAR and for each fiscal year thereafter ~~until the 2008-09 fiscal year~~ SO LONG AS THE STATE RECEIVES MONEYS PURSUANT TO THE MASTER SETTLEMENT AGREEMENT, the general assembly shall ~~increase the amount appropriated APPROPRIATE to the fund by two percent per fiscal year; except that the amount of increase shall not exceed an additional two million dollars per year. For the 2008-09 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 fund nineteen percent of the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund in any fiscal year shall not exceed nineteen million dollars.~~ THE AMOUNTS SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (d) FROM THE MASTER SETTLEMENT AGREEMENT MONEYS RECEIVED BY THE STATE, OTHER THAN ATTORNEY FEES AND COSTS, DURING THE PRECEDING FISCAL YEAR, NOT TO EXCEED NINETEEN MILLION DOLLARS IN ANY FISCAL YEAR. ~~The general assembly shall appropriate the amount specified in this paragraph (d)~~ APPROPRIATION SHALL BE from moneys credited to the tobacco litigation settlement cash fund created in

section 24-22-115, C.R.S.

(III) (A) FOR THE 2004-05 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE FUND NINE PERCENT OF THE TOTAL AMOUNT OF MONEYS RECEIVED BY THE STATE.

(B) BEGINNING WITH THE 2005-06 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER THROUGH THE 2013-14 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL INCREASE THE PERCENTAGE APPROPRIATED TO THE FUND PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) BY ONE PERCENT.

(C) FOR THE 2014-15 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE FUND NINETEEN PERCENT OF THE TOTAL AMOUNT OF MONEYS RECEIVED BY THE STATE.

SECTION 12. 26-4-1007 (3) (a), Colorado Revised Statutes, is amended to read:

26-4-1007. Program funding - comprehensive primary and preventive care fund - creation. (3) (a) ~~Except as otherwise provided in section 24-75-1104 (1.7) (f), (1.8) (a) (VI), or (1.9) (c), C.R.S.,~~ PURSUANT TO SECTION 24-75-1104.5 (1) (b), C.R.S., beginning with the ~~2000-01 fiscal year~~ 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 fund ~~six~~ THREE percent of the total amount of moneys received by the state pursuant to the master settlement agreement, not including attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund shall not exceed ~~six~~ FIVE million dollars in any fiscal year. The general assembly shall appropriate the amount specified in this subsection (3) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

SECTION 13. 26-19-105 (2.5), Colorado Revised Statutes, is amended to read:

26-19-105. Trust - created. (2.5) ~~For fiscal year 2000-01, the general assembly shall appropriate to the trust ten million dollars from the moneys received by the state for said fiscal year pursuant to the master settlement agreement. For fiscal year 2001-02, the general assembly shall appropriate to the trust nine million eight hundred thousand dollars from the moneys annually received by the state pursuant to the master settlement agreement. Except as otherwise provided in section 24-75-1104 (1.8) (a) (VII), C.R.S.,~~ PURSUANT TO SECTION 24-75-1104.5 (1) (c), C.R.S., beginning in fiscal year 2002-03, THE 2004-05 FISCAL YEAR and for 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 trust ~~seventeen million five hundred thousand dollars from~~ TWENTY-FOUR PERCENT 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; EXCEPT THAT THE AMOUNT SO APPROPRIATED TO THE TRUST SHALL NOT EXCEED THIRTY MILLION DOLLARS IN ANY FISCAL YEAR. Except as otherwise provided in ~~section 24-22-115.5~~ SECTIONS 24-22-115.5 (2) (a.7) AND 24-75-1104.5 (1) (c), C.R.S., the general assembly shall appropriate the amount specified in this subsection (2.5) from moneys credited to the tobacco litigation

settlement cash fund created in section 24-22-115, C.R.S. The amount appropriated pursuant to this subsection (2.5) shall be in addition to and not in replacement of any general fund moneys appropriated to the trust.

SECTION 14. 27-10.3-106 (2), Colorado Revised Statutes, is amended to read:

27-10.3-106. Funding - rules. (2) (a) If neither the family's private insurance nor federal medicaid funding cover all of the costs associated with the services provided to a child at risk of out-of-home placement pursuant to this article, then the family shall be responsible for paying that portion that is not covered by private insurance or federal medicaid funding on a sliding scale basis as set forth in subsection (3) of this section. Any remaining portion of the services not covered by private insurance, federal medicaid funding, or the family's share, shall be paid for from MONEYS APPROPRIATED FOR SUCH PURPOSE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) OR FROM general fund moneys, subject to available appropriations.

(b) PURSUANT TO SECTION 24-75-1104.5 (1) (k), 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 TO FUND THE REMAINING PORTION OF SERVICES NOT COVERED BY PRIVATE INSURANCE, FEDERAL MEDICAID FUNDING, OR THE FAMILY'S SHARE, AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THREE HUNDRED THOUSAND DOLLARS FROM THE MONEYS ANNUALLY RECEIVED BY THE STATE IN ACCORDANCE WITH THE MASTER SETTLEMENT AGREEMENT. THE GENERAL ASSEMBLY SHALL APPROPRIATE THE AMOUNT SPECIFIED IN THIS PARAGRAPH (b) FROM MONEYS CREDITED TO THE TOBACCO LITIGATION SETTLEMENT CASH FUND CREATED IN SECTION 24-22-115, C.R.S.

SECTION 15. 28-5-709 (2) (a), Colorado Revised Statutes, is amended to read:

28-5-709. Colorado state veterans trust fund - created - report - repeal. (2) (a) ~~Except as otherwise provided in section 24-75-1104 (1.8) (a) (V), C.R.S., PURSUANT TO SECTION 24-75-1104.5 (1) (g), C.R.S., beginning in fiscal year 2000-01~~ 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 annually appropriate to the trust fund one percent of the total amount received by the state pursuant to the provisions of the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the trust fund in any fiscal year shall not exceed one million dollars. 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.

SECTION 16. Repeal. 22-7-506 (4) (b) (II), 25-3.5-807 (2) (b), 25-31-107 (2) (d) (II), 26-4-1007 (3) (b), and 28-5-709 (2) (b), Colorado Revised Statutes, are repealed.

SECTION 17. Appropriation - adjustments to the 2004 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of education, for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

~~(a) The appropriation for assistance to public schools, grant programs and other distributions, read-to-achieve cash fund, is decreased by twelve million seven hundred twenty-eight thousand two hundred fifteen dollars (\$12,728,215). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.~~

(Governor lined through this paragraph. See the editor's note and the Governor's letter following this act.)

~~(b) The appropriation for assistance to public schools, grant programs and other distributions, read-to-achieve grant program, is decreased by twelve million seven hundred twenty-eight thousand two hundred fifteen dollars (\$12,728,215). Said sum shall be cash funds exempt from the read-to-achieve cash fund created in Section 22-7-506 (4), C.R.S.~~

(Governor lined through this paragraph. See the editor's note and the Governor's letter following this act.)

(2) For the implementation of this act, appropriations made in the annual general appropriation act to the department of health care policy and financing, for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

(a) The appropriation for the indigent care program, H.B. 97-1304 children's basic health plan trust, is increased by three million four hundred seventy-two thousand nine hundred fifty-eight dollars (\$3,472,958). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(b) The appropriation for the indigent care program, comprehensive primary and preventive care fund, is decreased by two million six hundred twenty-one thousand one hundred twenty dollars (\$2,621,120). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(c) The appropriation for the indigent care program, comprehensive primary and preventive care grants program, is decreased by two million six hundred twenty-one thousand one hundred twenty dollars (\$2,621,120). Said sum shall be cash funds exempt from the comprehensive primary and preventive care fund created in section 26-4-1107, C.R.S.

(d) The appropriation for mental health, residential treatment for youth, is increased by two hundred nine thousand sixty-six dollars (\$209,066). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2004, the department of health care policy and financing will receive the sum of two hundred nine thousand sixty-six dollars (\$209,066) in federal funds. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing the state appropriation amounts.

(3) For the implementation of this act, appropriations made in the annual general appropriation act to the department of human services, for the fiscal year beginning

July 1, 2004, shall be adjusted as follows:

(a) The appropriation for the mental health and alcohol and drug abuse services division, mental health, residential treatment for youth, is increased by five hundred eight thousand five hundred twenty-one dollars (\$508,521). Of said sum, ninety thousand three hundred eighty-nine dollars (\$90,389) shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S., and four hundred eighteen thousand one hundred thirty-two dollars (\$418,132) shall be cash funds exempt received from the department of health care policy and financing out of the appropriation made in paragraph (d) of subsection (2) of this section.

(4) For the implementation of this act, appropriations made in the annual general appropriation act to the department of military and veterans affairs, for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

(a) The appropriation for the division of veterans affairs, Colorado state veterans trust fund, is decreased by four hundred eight dollars (\$408). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(b) The appropriation for the division of veterans affairs, Colorado state veterans trust fund expenditures, is decreased by one hundred two dollars (\$102). Said sum shall be cash funds exempt from the Colorado state veterans trust fund pursuant to section 28-5-709 (1) (a), C.R.S.

(5) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public health and environment for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

(a) The appropriation for the disease control and environmental epidemiology division, special purpose disease control programs, Ryan White act, operating expenses, is increased by three million fifty-five thousand one hundred fourteen dollars (\$3,055,114). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(b) The appropriation for the prevention services division, prevention programs, tobacco education and prevention, personal services, is decreased by four hundred thirty-eight thousand six hundred ten dollars (\$438,610). Said sum shall be cash funds exempt from the tobacco program fund pursuant to section 25-3.5-807, C.R.S.

(c) The appropriation for the prevention services division, tobacco education and prevention, prevention programs, tobacco program fund, is decreased by eight million seven hundred thirty-five thousand twenty-two dollars (\$8,735,022). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(d) The appropriation for the prevention services division, tobacco education and prevention, prevention programs, tobacco cessation and prevention grants, is decreased by eight million two hundred ninety-six thousand four hundred twelve dollars (\$8,296,412). Said sum shall be cash funds exempt from the tobacco program

fund pursuant to section 25-3.5-807, C.R.S.

(e) The appropriation for the prevention services division, rural - primary care, state dental loan repayment fund, is decreased by ninety-three dollars (\$93). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(f) The appropriation for the prevention services division, rural - primary care, dental programs, is decreased by ninety-three dollars (\$93). Said sum shall be cash funds exempt from the state dental loan repayment fund, pursuant to section 25-23-104, C.R.S.

(g) The appropriation for the prevention services division, prevention partnerships, Tony Grampas youth services program, prevention services programs, is increased by one million one hundred forty-three thousand thirteen dollars (\$1,143,013). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund, pursuant to section 25-74-1104.5, C.R.S.

(h) The appropriation for the prevention services division, family and community health, child, adolescent and school health, nurse home visitor program fund, is decreased by one million fifty-eight thousand six hundred sixty-six dollars (\$1,058,666). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(i) The appropriation for the prevention services division, family and community health, child, adolescent and school health, nurse home visitor program, is decreased by one million fifty-eight thousand six hundred sixty-six dollars (\$1,058,666). Said sum shall be cash funds exempt from the nurse home visitor program fund created in section 25-31-107, C.R.S.

SECTION 18. 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 in part and vetoed in part: June 4, 2004

Editor's note: The following is a reprinting of the Governor's message filed with House Bill 04-1421 when he approved the bill in part and vetoed it in part on June 4, 2004. Markings were made on the bill by the Governor purporting to veto subsections (1) (a) and (b) of Section 17 of the bill, the appropriation clause. Since this bill is not an appropriations bill, questions have been raised as to the validity of such a veto. However, the Colorado Supreme Court has held that purported vetoes are entitled to a presumption of validity. In view of this holding, the purported veto is reflected in the version of the bill printed above. See *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985) and *Romer v. Colorado General Assembly*, 810 P.2d 215 (Colo. 1991).

June 4, 2004

The Honorable Colorado House of Representatives
Sixty-Fourth General Assembly
Second Regular Session
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State House Bill 04-1421, "Concerning the Allocation of Tobacco Settlement Monies Received by the State, and Making an Appropriation therefore." Approved in part and disapproved in part on June 4, 2004 at 10:55 A.M.

Under article IV, section 12 of the Colorado Constitution, I have the "power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items." I have exercised this power with respect to certain distinct items in House Bill 04-1421. Pursuant to the Colorado Constitution, I am forwarding copies of the vetoed items from this bill, with my objections, to the Secretary of State. While I have approved the House Bill 04-1421 as a whole, I have vetoed certain distinct items. In lining through these provisions, I have vetoed the following items:

1. Section 17, subsections (1)(a) and (b), that provide:

(a) The appropriation for assistance to public schools, grant programs and other distributions, Read-to-Achieve cash fund, is decreased by twelve million seven hundred twenty-eight thousand two hundred fifteen dollars (\$12,728,215). Said sum shall be cash funds exempt from the tobacco litigation settlement cash fund pursuant to section 24-75-1104.5, C.R.S.

(b) The appropriation for assistance to public schools, grant programs and other distributions, Read-to-Achieve grant program, is decreased by twelve million seven hundred twenty-eight thousand two hundred fifteen dollars (\$12,728,215). Said sum shall be cash funds exempt from the read-to-achieve cash fund created in Section 22-7-506 (4), C.R.S.

While I am in general agreement with a majority of the provisions of House Bill 04-1421, I believe it makes too drastic of a reduction in an important literacy program for second and third graders. Studies show that intensive reading programs such as Read-to-Achieve help students succeed throughout their school years. It is imperative that we invest in our young children before they fall further behind.

In order to restore funding to the amount provided in the FY 2004-05 general appropriations bill, I have exercised my power to veto certain portions of this bill.

Sincerely,

Bill Owens