

## CHAPTER 204

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**HEALTH CARE POLICY AND FINANCING**


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**SENATE BILL 09-264**

BY SENATOR(S) Keller, Tapia, White;  
also REPRESENTATIVE(S) Pommer, Ferrandino, Marostica, Frangas, Todd.

**AN ACT**

**CONCERNING THE INCREASED MONEYS RECEIVED DUE TO THE FEDERAL "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009", AND MAKING APPROPRIATIONS THEREFOR.**

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

**SECTION 1.** 24-22-117 (1) (c) (I), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to read:

**24-22-117. Tobacco tax cash fund - accounts - creation - repeal.** (1) (c) (I) (C) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), THE AMOUNT APPROPRIATED TO THE PEDIATRIC SPECIALTY HOSPITAL FUND SHALL BE FOUR HUNDRED TWENTY-SEVEN THOUSAND DOLLARS FOR THE 2008-09 FISCAL YEAR, FOUR HUNDRED ONE THOUSAND DOLLARS FOR THE 2009-10 FISCAL YEAR, AND FOUR HUNDRED FIFTY-THREE THOUSAND DOLLARS FOR THE 2010-11 FISCAL YEAR. THE DIFFERENCE BETWEEN THE AMOUNT THAT WOULD HAVE BEEN TRANSFERRED TO THE PEDIATRIC SPECIALTY HOSPITAL FUND PURSUANT TO SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I) AND THE AMOUNT TRANSFERRED PURSUANT TO THIS SUB-SUBPARAGRAPH (C) IN EACH OF SAID FISCAL YEARS SHALL BE USED TO OFFSET GENERAL FUND APPROPRIATIONS FOR HEALTH-RELATED PURPOSES. THIS SUB-SUBPARAGRAPH (C) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 2.** 24-75-1104.5 (1.5) (a) (III), Colorado Revised Statutes, as amended by Senate Bill 09-210, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to read:

**24-75-1104.5. Use of settlement moneys - programs - repeal.** (1.5) (a) 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

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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.*

of any strategic contribution fund moneys received by the state in the current fiscal year that remains after the programs, services, and funds receiving strategic contribution fund moneys pursuant to subsection (1) of this section have been fully funded, and the portion of 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, and 2008-09 fiscal years pursuant to section 24-22-115 (4) have been made:

(III) (C) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), THE AMOUNT TRANSFERRED TO THE SUPPLEMENTAL TOBACCO LITIGATION SETTLEMENT MONEYS ACCOUNT OF THE COMPREHENSIVE PRIMARY AND PREVENTIVE CARE FUND SHALL BE ONE MILLION NINE HUNDRED NINETY THOUSAND FIVE HUNDRED DOLLARS FOR THE 2009-10 FISCAL YEAR AND TWO MILLION TWO HUNDRED FORTY-FIVE THOUSAND DOLLARS FOR THE 2010-11 FISCAL YEAR. THE DIFFERENCE BETWEEN THE AMOUNT THAT WOULD HAVE BEEN TRANSFERRED TO THE SUPPLEMENTAL TOBACCO LITIGATION SETTLEMENT MONEYS ACCOUNT OF THE COMPREHENSIVE PRIMARY AND PREVENTIVE CARE FUND PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) AND THE AMOUNT TRANSFERRED PURSUANT TO THIS SUB-SUBPARAGRAPH (C) IN EACH OF SAID FISCAL YEARS SHALL BE TRANSFERRED TO THE GENERAL FUND. THIS SUB-SUBPARAGRAPH (C) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 3.** 24-75-1104.5 (1.5) (a) (X), Colorado Revised Statutes, is amended to read:

**24-75-1104.5. Use of settlement moneys - programs - repeal.** (1.5) (a) 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 strategic contribution fund moneys received by the state in the current fiscal year that remains after the programs, services, and funds receiving strategic contribution fund moneys pursuant to subsection (1) of this section have been fully funded, and the portion of 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, and 2008-09 fiscal years pursuant to section 24-22-115 (4) have been made:

(X) (A) The supplemental tobacco litigation settlement moneys account of the pediatric specialty hospital fund created in section 24-22-117 (2) (e) shall receive one percent of the settlement moneys, which the state treasurer shall transfer thereto and which shall be used, subject to annual appropriation by the general assembly to the department of health care policy and financing, for the purpose of offsetting the medicaid shortfall for the regional pediatric trauma center as defined in section 25-3.5-703 (4) (f), C.R.S.

(B) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (X), THE AMOUNT TRANSFERRED TO THE SUPPLEMENTAL TOBACCO LITIGATION SETTLEMENT MONEYS ACCOUNT OF THE PEDIATRIC SPECIALTY HOSPITAL

FUND SHALL BE THREE HUNDRED SEVENTEEN THOUSAND DOLLARS FOR THE 2008-09 FISCAL YEAR, TWO HUNDRED EIGHTY-THREE THOUSAND DOLLARS FOR THE 2009-10 FISCAL YEAR, AND THREE HUNDRED SEVEN THOUSAND DOLLARS FOR THE 2010-11 FISCAL YEAR. THE DIFFERENCE BETWEEN THE AMOUNT THAT WOULD HAVE BEEN TRANSFERRED TO THE SUPPLEMENTAL TOBACCO LITIGATION SETTLEMENT MONEYS ACCOUNT OF THE PEDIATRIC SPECIALTY HOSPITAL FUND PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (X) AND THE AMOUNT TRANSFERRED PURSUANT TO THIS SUB-SUBPARAGRAPH (B) IN EACH OF SAID FISCAL YEARS SHALL BE TRANSFERRED TO THE GENERAL FUND. THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 4.** 25.5-3-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25.5-3-108. Responsibility of the department of health care policy and financing - provider reimbursement - repeal.** (18) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, THROUGH THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, IF A PROVIDER SUBMITS A CERTIFICATION OF PUBLIC EXPENDITURES PURSUANT TO 42 CFR 433.51 (b), THE STATE DEPARTMENT SHALL RETAIN ANY FEDERAL MONEY PAYABLE AS REIMBURSEMENT FOR THE EXPENDITURE IN EXCESS OF FIFTY PERCENT OF THE EXPENDITURE AMOUNT AND TRANSFER SUCH MONEY TO THE GENERAL FUND CREATED PURSUANT TO SECTION 24-75-201, C.R.S.

(b) THIS SUBSECTION (18) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 5.** 25.5-3-112 (1) (b), Colorado Revised Statutes, is amended to read:

**25.5-3-112. Health care services fund - creation - state plan amendment.** (1) (b) In fiscal year 2005-06, the general assembly shall appropriate fourteen million nine hundred sixty-two thousand four hundred eight dollars from the general fund to the fund. ~~In fiscal year 2007-08 and each of the two fiscal years thereafter, fifteen million dollars of the moneys in the general fund exempt account created in section 24-77-103.6 (2), C.R.S., shall be appropriated by the general assembly to the fund.~~ OF THE MONEYS IN THE GENERAL FUND EXEMPT ACCOUNT CREATED IN SECTION 24-77-103.6 (2), C.R.S., THE FOLLOWING AMOUNTS SHALL BE APPROPRIATED BY THE GENERAL ASSEMBLY TO THE FUND:

(I) IN FISCAL YEAR 2007-08, FIFTEEN MILLION DOLLARS;

(II) IN FISCAL YEAR 2008-09, TWELVE MILLION NINE HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS; AND

(III) IN FISCAL YEAR 2009-10, ELEVEN MILLION NINE HUNDRED FORTY-THREE THOUSAND DOLLARS.

**SECTION 6.** 25.5-5-318 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**25.5-5-318. Health services - provision by school districts - repeal.** (2) (a.5) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE STATE

FISCAL YEAR COMMENCING JULY 1, 2008, THROUGH THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, IF A SCHOOL DISTRICT SUBMITS A CERTIFICATION OF PUBLIC EXPENDITURES PURSUANT TO 42 CFR 433.51 (b), THE STATE DEPARTMENT SHALL RETAIN ANY FEDERAL MONEY PAYABLE AS REIMBURSEMENT FOR THE EXPENDITURE IN EXCESS OF FIFTY PERCENT OF THE EXPENDITURE AMOUNT AND TRANSFER SUCH MONEY TO THE GENERAL FUND CREATED PURSUANT TO SECTION 24-75-201, C.R.S.

(II) THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 7.** 26-1-111 (2) (d) (II), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to read:

**26-1-111. Activities of the state department under the supervision of the executive director - cash fund - report - rules - statewide adoption resource registry - repeal.** (2) (d) (II) (C.5) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (II), FOR THE FISCAL YEAR COMMENCING JULY 1, 2008, THROUGH THE FISCAL YEAR COMMENCING JULY 1, 2010, THE GENERAL ASSEMBLY MAY TRANSFER MONEYS FROM THE EXCESS FEDERAL TITLE IV-E REIMBURSEMENTS CASH FUND TO THE GENERAL FUND. THIS SUB-SUBPARAGRAPH (C.5) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 8.** Part V (4) and the affected totals of section 2 of chapter 474, Session Laws of Colorado 2008, as amended by section 1 of Senate Bill 09-187, are amended to read:

Section 2. **Appropriation.**

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
<b>PART V</b>						
<b>DEPARTMENT OF HEALTH CARE POLICY AND FINANCING</b>						
<b>(4) INDIGENT CARE PROGRAM</b>						
Safety Net Provider Payments	296,188,630	13,090,782(M)		135,003,533 <sup>a</sup>		148,094,315
Colorado Health Care Services Fund	<del>15,000,000</del>	<del>15,000,000</del>				
	12,918,750	12,918,750				
The Children's Hospital, Clinic Based Indigent Care	27,029,760	3,059,880(M)			10,455,000 <sup>a</sup>	13,514,880
					9,004,369 <sup>b</sup>	14,965,511
Health Care Services Fund Programs	9,090,000				4,545,000 <sup>b</sup>	4,545,000
					3,914,381 <sup>b</sup>	5,175,619
Pediatric Speciality Hospital	<del>12,828,584</del>	<del>5,551,000(M)</del>		368,292 <sup>c</sup>	495,000 <sup>c</sup>	6,414,292
	12,829,721	5,483,000(M)	68,000 <sup>c</sup>	317,000 <sup>c</sup>	427,000 <sup>d</sup>	6,534,721
H.B. 05-1262 Appropriation from General Fund to Pediatric Speciality Hospital Fund	<del>495,000</del>		495,000 <sup>e</sup>			

	427,000		427,000 <sup>e</sup>	
H.B. 05-1262				
Appropriation from Tobacco Tax Cash Fund to the General Fund	495,000		495,000 <sup>f</sup>	
Primary Care Fund Program	31,294,657		31,294,657 <sup>g</sup>	
Children's Basic Health Plan Administration	6,351,590		2,785,441 <sup>h</sup>	3,566,149
Children's Basic Health Plan Premium Costs <sup>14</sup>	125,467,443		44,120,656 <sup>e</sup>	81,346,787
Children's Basic Health Plan Dental Benefit Costs <sup>15</sup>	10,404,713		3,641,650 <sup>e</sup>	6,763,063
Comprehensive Primary and Preventive Care Grants Program <sup>15a</sup>	3,082,680		3,082,680 <sup>m</sup>	
Comprehensive Primary and Preventative Care Rural and Public Hospitals Payment	6,260,962		3,130,481 <sup>m</sup>	3,130,481
		<del>543,989,019</del>		
		541,840,906		

<sup>a</sup> This amount represents public funds certified as representing expenditures incurred by hospitals that are eligible for federal financial participation under the Medicaid Major Teaching Hospital Program, Medicaid, and the Medicaid Disproportionate Share Payments to Hospitals Program.

<sup>b</sup> These amounts shall be from the Health Care Services Fund created in Section 25.5-3-112 (1) (a), C.R.S.

<sup>c</sup> This amount shall be from the Supplemental Tobacco Litigation Settlement Moneys Account in the Pediatric Specialty Hospital Fund created in Section 24-22-117 (2) (e) (II), C.R.S.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

<sup>d</sup> This amount shall be from the Pediatric Specialty Hospital Fund created in Section 24-22-117 (2) (e), C.R.S.

<sup>e</sup> ~~This amount is~~ THESE AMOUNTS ARE not subject to the limitation on state fiscal year spending imposed by Article X, Section 20 of the State Constitution. ~~This amount is~~ THESE AMOUNTS ARE also not subject to the statutory limitation on General Fund appropriation growth or any other spending limitation existing in law pursuant to Article X, Section 21 (8) of the State Constitution.

<sup>f</sup> This amount shall be from the Tobacco Tax Cash Fund created in Section 24-22-117 (l) (a), C.R.S. This appropriation partially meets the requirement to appropriate a portion of the revenues collected from imposition of additional state cigarette and tobacco taxes to the General Fund pursuant to Section 21 of Article X of the State Constitution.

**TOTALS PART V  
(HEALTH CARE  
POLICY AND  
FINANCING)**

\$3,849,682,072	\$1,210,844,196	\$369,495,000 <sup>a</sup>	\$367,532,737 <sup>b</sup>	\$22,948,578	\$1,878,861,561
<u>\$3,847,533,959</u>	<u>\$1,208,694,946</u>	<u>                    </u>	<u>\$367,481,445<sup>b</sup></u>	<u>\$20,799,328</u>	<u>\$1,881,063,240</u>

**SECTION 9. Appropriations - adjustments in 2009 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the department of health care policy and financing, for the indigent care division, the fiscal year beginning July 1, 2009, shall be adjusted as follows:

(a) The general fund appropriation to the Colorado health care services fund is decreased by three million fifty-seven thousand dollars (\$3,057,000).

(b) The federal fund appropriation to the children's hospital, clinic-based indigent care is increased by two million two hundred five thousand nine hundred thirty-one dollars (\$2,205,931).

(c) The reappropriated funds appropriation to the children's hospital, clinic-based indigent care is decreased by two million two hundred five thousand nine hundred thirty-one dollars (\$2,205,931). Said sum shall be from the health care services fund created in section 25.5-3-112 (1) (a), Colorado Revised Statutes.

(d) The federal funds appropriation to the health care services fund programs is increased by eight hundred fifty-one thousand sixty-nine dollars (\$851,069).

(e) The reappropriated funds appropriation to the health care services fund programs is decreased by eight hundred fifty-one thousand sixty-nine dollars (\$851,069). Said sum shall be from the Colorado health care services fund created in section 25.5-3-112 (1) (a), Colorado Revised Statutes.

(f) The appropriation to the pediatric speciality hospital is increased by two hundred seventy-seven thousand eight hundred two dollars (\$277,802). Of said sum, one hundred three thousand (\$103,000) shall be general fund exempt, and one hundred seventy-four thousand eight hundred two dollars (\$174,802) shall be from federal funds.

(g) The appropriation to the pediatric speciality hospital is decreased by two hundred seventy-eight thousand three hundred fifty-nine dollars (\$278,359). Of said sum, one hundred three thousand dollars (\$103,000) shall be from the general fund, seventy-two thousand three hundred fifty-nine dollars (\$72,359) shall be from the supplemental tobacco litigation settlement moneys account in the pediatric speciality hospital fund created in section 24-22-117 (2) (e) (II), Colorado Revised Statutes, and one hundred three thousand dollars (\$103,000) shall be reappropriated funds from the pediatric speciality hospital fund created in section 24-22-117 (2) (e) (II), Colorado Revised Statutes.

(h) The general fund appropriation to the House Bill 05-1262 appropriation from the general fund to pediatric speciality hospital fund is decreased by one hundred three thousand dollars (\$103,000).

(i) The appropriation to the comprehensive primary and preventative care rural and public hospital grant program is decreased by one million forty-one thousand ninety-six dollars (\$1,041,096). Of said sum, one million thirty thousand forty-eight dollars (\$1,030,048) shall be from the comprehensive primary and preventive care fund created in section 25.5-3-207 (1), Colorado Revised Statutes, and eleven thousand forty-eight dollars (\$11,048) shall be from federal funds.

**SECTION 10. Effective date.** This act shall take effect upon passage; except that section 2 of this act shall take effect only if Senate Bill 09-210 is enacted and becomes law and shall be effective either upon the applicable effective date of this act or upon the applicable effective date of Senate Bill 09-210, whichever is later.

**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: May 1, 2009