

CHAPTER 35

GOVERNMENT - STATE

HOUSE BILL 10-1323

BY REPRESENTATIVE(S) Pommer, Ferrandino, Lambert;
also SENATOR(S) Tapia, Keller, White.

AN ACT

**CONCERNING THE USE OF TOBACCO LITIGATION FUNDS FOR HEALTH CARE PROGRAMS, AND
MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 24-75-1104.5 (1) (b) (II), Colorado Revised Statutes, is amended, and the said 24-75-1104.5 (1) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsection (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; except that fifteen million four hundred thousand dollars of strategic contribution fund moneys and, for the 2010-11 fiscal year and for each fiscal year thereafter only, the lesser of sixty-five million dollars of other settlement moneys or all other settlement moneys shall be allocated in each fiscal year in which they are received by the state and except that, of the other settlement moneys received by the state in the 2009-10 fiscal year, the lesser of sixty-five million dollars or all of such moneys shall be transferred to the general fund on June 30, 2010, and shall not be allocated:

(b) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), for the 2009-10 fiscal year, the amount transferred to the comprehensive primary and preventive care grant program shall be ~~reduced by two million four hundred thousand dollars, and such~~ THE amount OF GRANT MONEYS COMMITTED PURSUANT TO THE COMPREHENSIVE PRIMARY AND PREVENTIVE CARE GRANT PROGRAM ON OR BEFORE SEPTEMBER 30, 2009. ANY OF THE REMAINING SETTLEMENT MONEYS THAT WOULD HAVE BEEN TRANSFERRED TO THE COMPREHENSIVE PRIMARY AND

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

PREVENTIVE CARE GRANT PROGRAM PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) shall be transferred to the general fund. This subparagraph (II) is repealed, effective July 1, 2011.

(III) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), FOR THE 2010-11 FISCAL YEAR, THE SETTLEMENT MONEYS TRANSFERRED TO THE COMPREHENSIVE PRIMARY AND PREVENTIVE CARE GRANT PROGRAM PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE TRANSFERRED TO THE GENERAL FUND. THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 2. 24-75-1104.5 (1.5) (a) (III) (C) and (1.5) (a) (V), Colorado Revised Statutes, are amended, and the said 24-75-1104.5 (1.5) (a) (III) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1.5) (a) Except as otherwise provided in subsections (5) and (6) 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 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:

(III) (C) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), FOR THE 2009-10 FISCAL YEAR, 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~~ TRANSFERRED TO THE GENERAL FUND.

(D) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2010.

(V) (A) FOR FISCAL YEARS 2007-08 THROUGH 2009-10, the children's basic health plan trust created in section 25.5-8-105, C.R.S., shall receive five percent of the settlement moneys, which the state treasurer shall transfer thereto.

(B) FOR THE 2010-11 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER, THE CHILDREN'S BASIC HEALTH PLAN TRUST CREATED IN SECTION 25.5-8-105, C.R.S., SHALL RECEIVE THIRTEEN AND ONE-HALF PERCENT OF THE SETTLEMENT MONEYS,

WHICH THE STATE TREASURER SHALL TRANSFER THERETO.

SECTION 3. 24-75-1104.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-1104.5. Use of settlement moneys - programs - repeal. (8) (a) AT THE END OF FISCAL YEAR 2010-11, THE STATE TREASURER SHALL TRANSFER THE BALANCE OF THE MONEYS IN THE SHORT-TERM INNOVATIVE HEALTH PROGRAM GRANT FUND CREATED IN SECTION 25-36-101, C.R.S., TO THE GENERAL FUND. THIS TRANSFER SHALL AUGMENT FISCAL YEAR 2010-11 GENERAL FUND REVENUES.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 4. 25.5-3-207 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-3-207. Program funding - comprehensive primary and preventive care fund - supplemental tobacco litigation settlement moneys account - creation - repeal. (4) (c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2010, AND ANY MONEYS REMAINING IN THE SUPPLEMENTAL TOBACCO LITIGATION SETTLEMENT MONEYS ACCOUNT SHALL BE TRANSFERRED TO THE GENERAL FUND.

SECTION 5. 24-75-1104.5 (1.5) (b), Colorado Revised Statutes, is amended to read:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1.5) (b) (I) Except as otherwise provided in sections 24-50-609 (5) and 25.5-3-207 (4) (a), C.R.S., at the end of the 2007-08, 2008-09, AND 2009-10 fiscal year ~~and at the end of each fiscal year thereafter~~ YEARS, any interest and income earned on moneys allocated for the fiscal year pursuant to paragraph (a) of this subsection (1.5), and any of such allocated moneys that are unexpended and unencumbered, shall be transferred to the short-term innovative health program grant fund created in section 25-36-101 (2), C.R.S.

(II) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-50-609 (5), AT THE END OF THE 2010-11 FISCAL YEAR AND AT THE END OF EACH FISCAL YEAR THEREAFTER, ANY INTEREST AND INCOME EARNED ON MONEYS ALLOCATED FOR THE FISCAL YEAR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5), AND ANY OF SUCH ALLOCATED MONEYS THAT ARE UNEXPENDED AND UNENCUMBERED, SHALL BE TRANSFERRED TO THE SHORT-TERM INNOVATIVE HEALTH PROGRAM GRANT FUND CREATED IN SECTION 25-36-101 (2), C.R.S.

SECTION 6. 25-4-1415 (1), Colorado Revised Statutes, is amended to read:

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; except that, for the 2009-10 AND 2010-11 fiscal year YEARS, the general assembly may appropriate moneys from the fund to

the department of public health and environment for the implementation and administration of the AIDS drug assistance program described in section 25-4-1411 (2). 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.

SECTION 7. 2-3-113 (7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-113. Programs that receive tobacco settlement moneys - program review.

(7) (c) (I) FOR PURPOSES OF THE APPROPRIATION TO THE STATE AUDITOR'S OFFICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7), SETTLEMENT MONEYS THAT WERE TRANSFERRED TO THE GENERAL FUND IN FISCAL YEARS 2009-10 AND 2010-11, BUT THAT WOULD OTHERWISE HAVE BEEN TRANSFERRED TO A TOBACCO SETTLEMENT PROGRAM PURSUANT TO SECTION 24-75-1104.5 (1), C.R.S., SHALL BE DEEMED TO HAVE BEEN RECEIVED BY THE TOBACCO SETTLEMENT PROGRAM.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 8. Part V (1) (A), (4), and the affected totals of section 2 of chapter 464, Session Laws of Colorado 2009, are amended to read:

Section 2. **Appropriation.**

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

**PART V
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING**

(1) EXECUTIVE DIRECTOR'S OFFICE

(A) General Administration

Personal Services	19,679,334
	19,671,129
	(275.0 FTE)
	(274.8 FTE)
Health, Life, and Dental	1,414,691
	1,414,226
Short-term Disability	23,588
	23,578
S.B. 04-257 Amortization Equalization Disbursement	317,902
	317,767

 APPROPRIATION FROM

	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
S.B. 06-235 Supplemental Amortization Equalization Disbursement	197,328						
	197,243						
Workers' Compensation	36,279						
Operating Expenses	1,511,489						
	1,511,418						
Legal Services and Third Party Recovery Legal Services for 13,089 hours	986,650						
Administrative Law Judge Services	456,922						
Purchase of Services from Computer Center	135,103						
Management and Administration of OIT	482,756						
Payment to Risk Management and Property Funds	83,182						
Leased Space	394,236						

Capitol Complex Leased Space	400,868				
General Professional Services and Special Projects	<u>3,384,105</u>				
	29,504,433	12,360,725(M)	1,040,182	1,679,562 ^b	14,423,964
	29,495,462		1,031,211 ^a		

^a Of this amount, \$254,605 shall be from the Children's Basic Health Plan Trust created in Section 25.5-8-105 (1), C.R.S., \$159,572 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (I), C.R.S., \$80,745 shall be from estate recoveries, \$56,060 shall be from the Nursing Facility Cash Fund created in Section 25.5-6-203 (2) (a), C.R.S., \$55,716 shall be from the Primary Care Fund created in Section 24-22-117 (2) (b) (I), C.R.S., \$33,895 shall be from the Autism Treatment Fund created in Section 25.5-6-805, C.R.S., \$31,497 shall be from the Short-term Innovative Health Program Grant Fund created in Section 25-36-101 (1), C.R.S., \$328,960 shall be from the Coordinated Care for People with Disabilities Fund created in Section 25.5-6-111 (4), C.R.S., ~~\$24,019~~ \$15,048 shall be from the Comprehensive Primary and Preventive Care Fund created in Section 25.5-3-207 (1), C.R.S., \$11,280 shall be from the Breast and Cervical Cancer Treatment and Prevention Fund created in Section 25.5-5-308 (8) (a), C.R.S., and \$3,833 shall be from the Department of Health Care Policy and Financing Cash Fund created in Section 25.5-1-109, C.R.S.

^b Of this amount, \$1,676,225 shall be a transfer from the Department of Human Services, and \$3,337 shall from Old Age Pension Fund moneys appropriated to the Department of Human Services, pursuant to Article 24 of the State Constitution.

~~108,869,769~~
108,860,798

(4) INDIGENT CARE PROGRAM

Safety Net Provider Payments	310,715,422	13,090,782(M)	142,266,929 ^a	155,357,711
Colorado Health Care Services Fund	15,000,000	15,000,000		

 APPROPRIATION FROM

	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
The Children's Hospital, Clinic Based Indigent Care	27,767,760		3,059,880(M)			10,824,000 ^b	13,883,880
Health Care Services Fund Programs	8,352,000					4,176,000 ^b	4,176,000
Pediatric Speciality Hospital	15,032,712		6,656,997(M)		355,359 ^c	504,000 ^d	7,516,356
H.B. 05-1262 Appropriation from General Fund to Pediatric Speciality Hospital Fund	504,000			504,000 ^e			
H.B. 05-1262 Appropriation from Tobacco Tax Cash Fund to the General Fund	504,000				504,000 ^f		
Primary Care Fund Program	31,920,000				31,920,000 ^g		
H.B. 97-1304 Children's Basic Health Plan Trust	2,500,000		2,500,000				
Children's Basic Health Plan Administration	5,537,590				2,473,301 ^h		3,064,289

Children's Basic Health Plan Premium Costs ¹¹	145,664,212		48,696,353 ¹	2,500,000 ¹	94,467,859
Children's Basic Health Plan Dental Benefit Costs ¹²	10,948,462		3,831,962 ²		7,116,500
Comprehensive Primary and Preventive Care Grants	866,075 226,993		866,075 226,993 ¹		
Comprehensive Primary and Preventive Care Rural and Public Hospital Grant Program	6,041,096 <u>1,041,096</u>		3,020,548 1,030,048 ¹		3,020,548 11,048
		581,353,329 575,714,247			

¹¹ This amount represents public funds certified as representing expenditures incurred by hospitals that are eligible for federal financial participation under the Medicaid upper payment limit and the Medicaid Disproportionate Share Payments to Hospitals program.

¹² These amounts shall be from the Health Care Services Fund created in Section 25.5-3-112 (1) (a), C.R.S.

¹ 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.

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

³ This amount is not subject to the limitation on state fiscal year spending imposed by Article X, Section 20 of the State Constitution. This amount is 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.

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

^f 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.

^g This amount shall be from the Primary Care Fund created in Section 24-22-117 (2) (b) (I), C.R.S.

^h Of this amount, \$1,933,301 shall be from the Children's Basic Health Plan Trust created in Section 25.5-8-105 (1), C.R.S., and \$540,000 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (I), C.R.S.

ⁱ Of this amount, \$25,296,193 shall be from the Children's Basic Health Plan Trust created in Section 25.5-8-105 (1), C.R.S., \$21,177,045 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (I), C.R.S., \$1,761,388 shall be from the Children's Basic Health Plan Trust and Supplemental Tobacco Litigation Settlement Moneys Account created in Section 25.5-8-105 (1), C.R.S., and \$461,727 shall be from the Colorado Immunization Fund created in Section 25-4-2301, C.R.S.

^j This amount is General Fund that is appropriated into the Children's Basic Health Plan Trust created in Section 25.5-8-105 (1), C.R.S.

^k Of this amount, \$2,525,196 shall be from the Children's Basic Health Plan Trust created in Section 25.5-8-105 (1), C.R.S. and \$1,306,766 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (I), C.R.S.

^l This amount shall be from the Comprehensive Primary and Preventive Care Fund created in Section 25.5-3-207 (1), C.R.S.

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

\$4,136,596,755	\$1,675,723,755	\$504,000 ^a	\$407,639,249	\$28,706,139	\$2,024,023,612
<u>\$4,130,948,702</u>			<u>\$405,000,696</u>		<u>\$2,021,014,112</u>

^a This amount shall be General Fund Exempt pursuant to Section 24-22-117 (1) (c) (I) (B), C.R.S. This amount is also not subject to the statutory limitation on General Fund appropriations imposed by Section 24-75-201.1, C.R.S.

SECTION 9. 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, 2010