

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0914.01 Jason Gelender x4330

SENATE BILL 15-247

SENATE SPONSORSHIP

Steadman, Grantham, Lambert

HOUSE SPONSORSHIP

Young, Hamner, Rankin

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE AUGMENTATION OF THE SCOPE OF SERVICES OF THE**
102 **STATE DRUG ASSISTANCE PROGRAM ADMINISTERED BY THE**
103 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO**
104 **AUTHORIZE FUNDING FOR PREVENTION, INTERVENTION, AND**
105 **OTHER SERVICES, AND, IN CONNECTION THEREWITH, MAKING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Joint Budget Committee. Subject to an annual cap of \$5 million

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 2, 2015

SENATE
Amended 2nd Reading
April 1, 2015

and certain exceptions, current law allocates 3.5% of the tobacco litigation settlement moneys annually received by the state to the AIDS drug assistance program through which the department of public health and environment (DPHE) provides certain pharmaceutical products to qualifying individuals of lower income who have AIDS or HIV. The bill augments the scope of services of the AIDS drug assistance program to include funding for preventative and nondrug-related health services by renaming it as the drug assistance program (program) and allowing program money to be used to fund assistance with indicated screening, general medical, preventative, and pharmaceutical costs for qualifying individuals of lower income who have medical or preventative needs concerning AIDS or HIV, viral hepatitis, or a sexually transmitted infection.

The bill also:

- ! Creates the drug assistance rebate fund, which consists of rebates received from pharmaceutical companies, and, subject to annual appropriation, allows DPHE to expend moneys from the fund for the program;
- ! Expands the duties of the existing subcommittee of the governor's advisory group on HIV and AIDS policy that currently only provides advice and recommendations to DPHE concerning which pharmaceutical products should be listed on the drug formulary for the program to include the provision of advice regarding eligibility requirements and uses for funding for the program;
- ! Provides prioritization criteria for enrollment in the program among eligible applicants if the program is reaching its fiscal limitations; and
- ! Eliminates end of fiscal year transfers of unexpended and unencumbered program fund money to the tobacco litigation settlement cash fund, and requires all such money to remain in the program fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-4-1411, **amend**
3 (1) (a), (1) (b), (2), (3) introductory portion, (3) (a), (3) (c), (4), (5), and
4 (6) (a) as follows:

5 **25-4-1411. Drug assistance program - program fund - created**
6 **- legislative declaration - no entitlement created.** (1) (a) The general
7 assembly recognizes that:

1 (I) Medical science is making strides in treating persons
2 INDIVIDUALS who have AIDS or HIV; ~~The general assembly recognizes~~
3 ~~that new pharmaceutical products have been developed that delay the~~
4 ~~debilitating effects of AIDS and HIV, thereby allowing HIV-infected~~
5 ~~persons to maintain a higher quality of life and remain productive. The~~
6 ~~general assembly also recognizes that many persons with AIDS may~~
7 ~~eventually have their medical bills paid through some form of~~
8 ~~government assistance. The general assembly finds that the state will~~
9 ~~recognize a savings in medical assistance if persons with HIV can remain~~
10 ~~working longer.~~

11 (II) THERE ARE EFFECTIVE BIOMEDICAL STRATEGIES TO REDUCE
12 NEW HIV INFECTIONS;

13 (III) INDIVIDUALS AT RISK OF HIV MAY ALSO BE AT RISK OF OTHER
14 INFECTIOUS DISEASES THAT CAN EXACERBATE THE OUTCOMES OF AN HIV
15 INFECTION;

16 (IV) INDIVIDUALS OF LOWER INCOME FACE BARRIERS ACCESSING
17 BIOMEDICAL INTERVENTIONS, PARTICULARLY IF THEY LACK HEALTH
18 INSURANCE COVERAGE OR IF THEIR HEALTH INSURANCE INCLUDES
19 UNAFFORDABLE PREMIUMS OR COST-SHARING REQUIREMENTS; AND

20 (V) BOTH THE PUBLIC HEALTH AND QUALITY OF LIFE WOULD
21 BENEFIT FROM PROVIDING ASSISTANCE WITH SUCH COSTS AND
22 ENCOURAGING PROMPT AND SUSTAINED TREATMENT, EVENTUALLY
23 PREVENTING FURTHER TRANSMISSION OF HIV, VIRAL HEPATITIS, AND
24 SEXUALLY TRANSMITTED INFECTIONS THROUGH PREVENTION, CURE, OR
25 VIRAL SUPPRESSION.

26 (b) Therefore, the general assembly declares that the purpose of
27 this section is to implement the drug ~~treatment component of the federal~~

1 ~~"Ryan White C.A.R.E. Act of 1990", as amended, by creating the AIDS~~
2 ~~drug assistance program to provide certain pharmaceutical products to~~
3 ~~qualifying low-income persons who have AIDS or HIV~~ ASSISTANCE
4 PROGRAM FOR QUALIFYING INDIVIDUALS OF LOWER INCOME WHO HAVE
5 MEDICAL OR PREVENTATIVE NEEDS CONCERNING AIDS OR HIV, VIRAL
6 HEPATITIS, OR A SEXUALLY TRANSMITTED INFECTION.

7 (2) (a) Subject to available appropriations, the department of
8 public health and environment is authorized to implement and administer
9 ~~an AIDS~~ A drug assistance program, referred to in this section as the
10 "state program", to provide ~~pharmaceutical products to treat HIV disease~~
11 ~~or prevent the serious deterioration of health arising from HIV disease in~~
12 ~~eligible individuals~~ ASSISTANCE WITH INDICATED SCREENING, GENERAL
13 MEDICAL, PREVENTATIVE, AND PHARMACEUTICAL COSTS FOR ELIGIBLE
14 INDIVIDUALS.

15 (b) The general assembly may annually appropriate moneys from
16 the general fund to ~~purchase~~ ASSIST WITH INDICATED SCREENING,
17 GENERAL MEDICAL, PREVENTATIVE, AND ~~pharmaceutical products~~ COSTS
18 for ~~persons~~ INDIVIDUALS participating in the state program.

19 (c) The state program ~~shall also be~~ IS ALSO funded with federal
20 funds available under the federal "Ryan White C.A.R.E. Act of 1990", as
21 amended. ~~and~~

22 ==
23 (d) ANY MONEYS RECEIVED IN EXCESS OF A FEDERAL PRICE
24 AGREEMENT ARE A DONATION.

25 (e) FOR ACTIVITIES OF THE STATE PROGRAM FUNDED BY THE DRUG
26 ASSISTANCE PROGRAM FUND THAT EXCEED THE APPROPRIATION FROM THE
27 DRUG ASSISTANCE PROGRAM FUND, IF THERE ARE SUFFICIENT

1 UNCOMMITTED MONEYS IN THE AIDS AND HIV PREVENTION FUND, THE
2 PROGRAM MAY USE moneys appropriated for the implementation and
3 administration of the state program from the AIDS and HIV prevention
4 fund as authorized by section 25-4-1415 (1).

5 (3) To be eligible to participate in the state program, an individual
6 ~~shall~~ MUST:

7 (a) Have a medical ~~diagnosis of HIV disease~~ INDICATION FOR
8 TREATMENT OR PREVENTION FOR HIV OR AIDS, VIRAL HEPATITIS, OR
9 ANOTHER SEXUALLY TRANSMITTED INFECTION;

10 (c) Have a prescription from an authorized provider for a
11 pharmaceutical product or combination of pharmaceutical products, AS
12 APPLICABLE, that are included on the drug formulary for the state
13 program; AND

14 (4) A subcommittee of an advisory group convened by the
15 governor to make recommendations for HIV AND AIDS policy in the state
16 shall serve in an advisory role to the department of public health and
17 environment in implementing the state program and shall ~~advise and~~
18 ~~recommend~~ PROVIDE ADVICE AND RECOMMENDATIONS to the department
19 of public health and environment ~~what~~ CONCERNING:

20 (a) WHICH pharmaceutical products should be listed on the drug
21 formulary for the state program;

22 (b) INCOME AND OTHER ELIGIBILITY REQUIREMENTS FOR THE
23 STATE PROGRAM; AND

24 (c) THE USES OF FUNDING FOR THE STATE PROGRAM PURSUANT TO
25 PARAGRAPHS (a) TO (e) OF SUBSECTION (2) OF THIS SECTION.

26 (5) If at any time the department of public health and
27 environment, in consultation with the subcommittee of the advisory group

1 on HIV AND AIDS policy established in subsection (4) of this section,
2 determines that the AIDS drug assistance program is reaching the
3 program's fiscal limitations, the department, in consultation with the
4 subcommittee, shall implement a policy of giving preference to THE
5 HIGHEST-PRIORITY applicants of lower income, who otherwise meet the
6 eligibility requirements in subsection (3) of this section, for enrollment
7 into the program IN THE FOLLOWING RANK ORDER:

- 8 (a) INDIVIDUALS DIAGNOSED WITH HIV OR AIDS;
- 9 (b) INDIVIDUALS IN NEED OF TREATMENT TO PREVENT HIV
10 INFECTION;
- 11 (c) INDIVIDUALS DIAGNOSED WITH OTHER SEXUALLY
12 TRANSMITTED INFECTIONS THAT CAN BE PREVENTED OR CURED THROUGH
13 CURRENTLY AVAILABLE PHARMACEUTICAL TREATMENTS;
- 14 (d) INDIVIDUALS DIAGNOSED WITH VIRAL HEPATITIS;
- 15 (e) INDIVIDUALS WITH EMERGING CARE, TREATMENT, OR
16 PREVENTION NEEDS CONCERNING HIV, VIRAL HEPATITIS, OR OTHER
17 SEXUALLY TRANSMITTED INFECTIONS.

18 (6) (a) The AIDS drug assistance program fund is created in the
19 state treasury. The principal of the fund consists of tobacco litigation
20 settlement moneys transferred by the state treasurer to the fund pursuant
21 to section 24-75-1104.5 (1) (j), C.R.S. Subject to annual appropriation by
22 the general assembly, the department of public health and environment
23 may expend moneys from the fund for the state program. ~~The lesser of all~~
24 ~~unexpended and unencumbered moneys in the fund at the end of any~~
25 ~~fiscal year or an amount of such moneys equal to five percent of the~~
26 ~~amount appropriated from the fund for the fiscal year remain in the fund~~
27 ~~and shall not be transferred to the general fund or any other fund. Any~~

1 ~~additional unexpended and unencumbered moneys in the fund at the end~~
2 ~~of any fiscal year shall be transferred to the tobacco litigation settlement~~
3 ~~cash fund created in section 24-22-115, C.R.S.~~ ANY UNEXPENDED OR
4 UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF ANY
5 FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2014, REMAINS IN THE
6 FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL
7 FUND OR ANY OTHER FUND.

8 **SECTION 2.** In Colorado Revised Statutes, 24-75-1104.5,
9 **amend** (1) (j) (I) as follows:

10 **24-75-1104.5. Use of settlement moneys - programs - repeal.**

11 (1) Except as otherwise provided in subsections (1.3) and (5) of this
12 section, and except that disputed payments received by the state in the
13 2013-14 fiscal year or in any fiscal year thereafter are excluded from the
14 calculation of allocations under this subsection (1), for the 2004-05 fiscal
15 year and for each fiscal year thereafter, the following programs, services,
16 or funds shall receive the following specified amounts from the
17 settlement moneys received by the state in the preceding fiscal year:

18 (j) (I) The ~~AIDS~~ drug assistance program created in section
19 25-4-1411, C.R.S., shall receive three and a half percent of the total
20 amount of settlement moneys annually received by the state, not to exceed
21 five million dollars in any fiscal year, as provided in said section.

22 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-101, **amend**
23 (1) (m) (I) as follows:

24 **25-1.5-101. Powers and duties of department - laboratory cash**
25 **fund.** (1) The department has, in addition to all other powers and duties
26 imposed upon it by law, the powers and duties provided in this section as
27 follows:

1 (m) (I) To accept AND EXPEND on behalf of and in the name of the
2 state, gifts, donations, and grants for any purpose connected with the
3 work and programs of the department.

4 **SECTION 4.** In Colorado Revised Statutes, 25-4-1415, **amend**
5 (1) as follows:

6 **25-4-1415. Cash fund - administration - limitation.** (1) There
7 is hereby created in the state treasury the AIDS and HIV prevention fund,
8 referred to in this section as the "fund", ~~that shall consist~~ WHICH CONSISTS
9 of moneys that may be appropriated to the fund by the general assembly.
10 The moneys in the fund ~~shall be~~ ARE subject to annual appropriation by
11 the general assembly for the direct and indirect costs associated with the
12 implementation of the program. ~~except that, for the 2009-10 and 2010-11~~
13 ~~fiscal years, the general assembly may appropriate moneys from the fund~~
14 ~~to the department of public health and environment for the~~
15 ~~implementation and administration of the AIDS drug assistance program~~
16 ~~described in section 25-4-1411 (2).~~ Any moneys in the fund not expended
17 for the purpose of the program may be invested by the state treasurer as
18 provided by law. All interest and income derived from the investment and
19 deposit of moneys in the fund shall be credited to the fund. Any
20 unexpended and unencumbered moneys remaining in the fund at the end
21 of a fiscal year shall remain in the fund and shall not be credited or
22 transferred to the general fund or another fund.

23 **SECTION 5. Appropriation.** (1) For the 2015-16 state fiscal
24 year, \$263,033 is appropriated to the department of public health and
25 environment for use by the disease control and environmental
26 epidemiology division. This appropriation is from the drug assistance
27 program fund created in section 25-4-1411 (6) (a), C.R.S. To implement

1 this act, the division may use this appropriation for the Ryan White Act
2 operating expenses.

3 (2) For the 2015-16 state fiscal year, the general assembly
4 anticipates that the department of public health and environment will
5 receive \$600,000 from the moneys received in excess of a federal price
6 agreement pursuant to section 25-4-1411 (2) (d), C.R.S. It is anticipated
7 this amount will be used by the disease control and environmental
8 epidemiology division for the Ryan White Act operating expenses. This
9 amount is included for informational purposes only.

10 **SECTION 6. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.