

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 11-0958.01 Debbie Haskins

SENATE BILL 11-210

SENATE SPONSORSHIP

Hodge, Steadman, Lambert

HOUSE SPONSORSHIP

Ferrandino, Becker, Gerou

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF THE SUPPLEMENTAL OLD AGE**
102 **PENSION HEALTH AND MEDICAL CARE PROGRAM, AND, IN**
103 **CONNECTION THEREWITH, PROVIDING FOR THE TRANSFER OF**
104 **THE FUND BALANCE OF THE SUPPLEMENTAL OLD AGE PENSION**
105 **HEALTH AND MEDICAL CARE FUND TO THE GENERAL FUND,**
106 **AUTHORIZING THE USE OF MONEYS IN THE TOBACCO TAX CASH**
107 **FUND TO PROVIDE SERVICES UNDER MEDICAID FOR THE**
108 **MEDICAL CARE OF OLD AGE PENSIONERS, AND MAKING AN**
109 **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

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.

HOUSE
Am ended 2nd Reading
April 13, 2011

SENATE
3rd Reading Unamended
April 11, 2011

SENATE
2nd Reading Unamended
April 8, 2011

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>.)

Effective July 1, 2011, **section 4** of the bill provides that moneys from the tobacco tax cash fund shall be appropriated to fund the health-related costs of providing medical care to old age pension recipients served in the medicaid program instead of that care being funded out of the supplemental old age pension health and medical care fund.

The bill transfers any fund balance in the supplemental old age pension health and medical care fund to the general fund on June 30, 2012. Effective July 1, 2012, **section 3** of the bill eliminates the annual transfer of \$2,850,000 of sales tax revenue to the supplemental old age pension health and medical care fund. The supplemental old age pension health and medical care fund is abolished, effective July 15, 2012.

The bill phases out and repeals the supplemental old age pension health and medical care program, effective July 15, 2012. The bill makes conforming amendments due to the repeal of the supplemental old age pension health and medical care program.

The bill makes an adjustment to the 2011 long bill to implement **section 4** of the bill.

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

2 **SECTION 1.** 25.5-2-101 (3), Colorado Revised Statutes, is
3 amended to read:

4 **25.5-2-101. Old age pension health and medical care fund -**
5 **cash system of accounting - legislative declaration - rules - repeal.**

6 (3) (a) (I) There is hereby established in the state department a
7 supplemental health and medical care program to provide health and
8 medical care to persons who qualify to receive old age pensions and who
9 are not patients in an institution for tuberculosis or mental diseases. The
10 state board shall promulgate rules for administration of the supplemental
11 health and medical care program, which shall be based upon and shall
12 provide the same types of services that are provided pursuant to the rules
13 for administration of the health and medical care program described in

1 subsection (2) of this section. When the costs of providing health and
2 medical care in a particular fiscal year to such old age pension recipients
3 exceed the amount available in that fiscal year from the old age pension
4 health and medical care fund created in subsection (2) of this section, the
5 medical care for such recipients shall be provided by the supplemental
6 health and medical care program. The costs of the supplemental health
7 and medical care program shall be paid out of the supplemental old age
8 pension health and medical care fund, which is hereby created in the state
9 treasury. The supplemental old age pension health and medical care fund,
10 referred to as the "supplemental fund", shall consist of state sales and use
11 tax revenues allocated to the supplemental fund pursuant to the provisions
12 of section 39-26-123 (3), C.R.S., and any moneys appropriated to the
13 supplemental fund by the general assembly. The general assembly may
14 make annual appropriations or supplemental appropriations to the
15 supplemental fund if it determines that the moneys in the old age pension
16 health and medical care fund created in subsection (2) of this section will
17 be insufficient to meet the health and medical needs of old age pension
18 recipients for a particular fiscal year. Moneys in the supplemental fund
19 shall be subject to annual appropriation by the general assembly. At the
20 end of any fiscal year, any unexpended and unencumbered moneys
21 remaining in the supplemental fund shall remain therein and shall not be
22 credited or transferred to the general fund or any other fund. The
23 supplemental health and medical care program and the supplemental fund
24 shall be effective in fiscal year 2002-03.

25 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 15, 2012.

26 (b) (I) Notwithstanding the provisions of paragraph (a) of this
27 subsection (3), for fiscal year 2008-09, up to three million dollars from

1 the supplemental old age pension health and medical care fund may be
2 used to offset general fund costs of persons sixty-five years of age or
3 older who are served through the state medicaid program.

4 (II) Notwithstanding the provisions of paragraph (a) of this
5 subsection (3), for fiscal year 2009-10, the supplemental old age pension
6 health and medical care fund may be used to offset general fund costs of
7 persons sixty-five years of age or older who are served through the state
8 medicaid program.

9 (III) Notwithstanding any provision of paragraph (a) of this
10 subsection (3) to the contrary, for fiscal year 2010-11, up to four million
11 eight hundred fifty thousand dollars from the supplemental old age
12 pension health and medical care fund may be used to offset general fund
13 costs for persons sixty-five years of age or older who are served through
14 the state medicaid program.

15 (IV) Notwithstanding any provision of paragraph (a) of this
16 subsection (3) to the contrary, for fiscal year 2011-12, up to three million
17 dollars from the supplemental old age pension health and medical care
18 fund may be used to offset general fund costs for persons sixty-five years
19 of age or older who are served through the state medicaid program.

20 (IV.5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
21 THIS SUBSECTION (3), ALL UNEXPENDED AND UNENCUMBERED MONEYS
22 REMAINING IN THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND
23 MEDICAL CARE FUND ON JUNE 30, 2012, SHALL BE TRANSFERRED TO THE
24 GENERAL FUND, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND
25 MEDICAL CARE FUND IS ABOLISHED ON JULY 1, 2012.

26 (V) This paragraph (b) is repealed, effective ~~July 1~~ JULY 15, 2012.

27 **SECTION 2.** 25.5-2-101 (1) and (4), Colorado Revised Statutes,

1 are amended to read:

2 **25.5-2-101. Old age pension health and medical care fund -**
3 **cash system of accounting - legislative declaration - rules - repeal.**

4 ~~(1) The general assembly hereby finds that when the old age pension~~
5 ~~program was established in 1936, it served both the middle-income and~~
6 ~~indigent elderly population and that there were no federal programs~~
7 ~~available to assist the elderly impoverished population. The general~~
8 ~~assembly finds that the population currently served by the old age pension~~
9 ~~is the indigent elderly population only and that there are significant~~
10 ~~federal assistance programs for the elderly in this country that did not~~
11 ~~exist when the old age pension program was created. Moreover, the~~
12 ~~general assembly finds that the health and medical care fund created in~~
13 ~~the state constitution now serves only those old age pension recipients~~
14 ~~who do not qualify for social security benefits and therefore are not~~
15 ~~medicaid-eligible. The general assembly also finds that the constitutional~~
16 ~~limitation on costs that may be annually incurred by the old age pension~~
17 ~~health and medical care program no longer reflect the actual cost of~~
18 ~~servicing this growing population. The general assembly also notes that the~~
19 ~~state on several occasions has had to limit the types of medical services~~
20 ~~available in order to meet this constitutional limit. The general assembly,~~
21 ~~therefore, finds that there is a need to supplement the funds available for~~
22 ~~health and medical care for this group of old age pension recipients. The~~
23 ~~general assembly finds that while the state constitution limits the costs of~~
24 ~~the original health and medical care program to ten million dollars~~
25 ~~annually, it does not preclude the general assembly from creating a~~
26 ~~supplemental health program. The general assembly also finds that~~
27 ~~section 2 of article XXIV of the state constitution directs that sales and~~

1 use taxes be used to fund programs and services for older citizens and
2 establishes a constitutional priority to fund such services and thus, it is
3 fitting that a small portion of the sales and use tax revenue be allocated
4 to fund a separate supplemental health and medical care program to serve
5 the needs of the old age pension recipients who qualify for the health and
6 medical care program.

7 (4) The state department shall utilize the cash system of
8 accounting, as enunciated by the governmental accounting standards
9 board, regardless of the source of revenues involved, for all activities of
10 the state department relating to the financial administration of any
11 nonadministrative expenditure for the health and medical care programs
12 described in ~~subsections~~ SUBSECTION (2) and (3) of this section.

13 **SECTION 3.** The introductory portion to 39-26-123 (3) (a) and
14 39-26-123 (3) (a) (II) (E) and (3) (a) (IV) (B), Colorado Revised Statutes,
15 are amended to read:

16 **39-26-123. Receipts - disposition - transfers of general fund**
17 **surplus - sales tax holding fund - creation - definitions.** (3) (a) For
18 any state fiscal year commencing on or after July 1, 2006, eighty-five
19 percent of all net revenue collected under the provisions of this article
20 shall be credited to the old age pension fund created in section 1 of article
21 XXIV of the state constitution. The remaining fifteen percent shall be
22 allocated ~~among~~ BETWEEN the general fund AND the older Coloradans
23 cash fund created in section 26-11-205.5 (5), C.R.S., ~~and the~~
24 ~~supplemental old age pension health and medical care fund created in~~
25 ~~section 25.5-2-101 (3), C.R.S.,~~ and credited to the funds by the state
26 treasurer as follows:

27 (II) (E) For any state fiscal year commencing on or after July 1,

1 2009 2012, fifteen percent of all net revenue, less ~~ten~~ EIGHT million ~~eight~~
2 ~~hundred fifty thousand~~ dollars, to the general fund.

3 (IV) (B) ~~For any state fiscal year commencing on or after July 1,~~
4 ~~2009, two million eight hundred fifty thousand dollars to the~~
5 ~~supplemental old age pension health and medical care fund.~~

6 **SECTION 4.** The introductory portion to 24-22-117 (1) (c) and
7 24-22-117 (1) (c) (II), Colorado Revised Statutes, are amended to read:

8 **24-22-117. Tobacco tax cash fund - accounts - creation -**
9 **legislative declaration - repeal.** (1) (c) For each fiscal year from the
10 2004-05 fiscal year through the 2007-08 fiscal year and for the 2012-13
11 fiscal year and each fiscal year thereafter, the general assembly shall
12 annually appropriate three percent of the moneys estimated to be
13 deposited in that fiscal year into the cash fund, plus three percent of the
14 interest and income earned on the deposit and investment of moneys in
15 the cash fund, and, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal
16 years, the general assembly shall annually appropriate three percent of the
17 moneys estimated to be deposited in that fiscal year into the cash fund, for
18 health-related purposes to provide revenue for the state's general fund and
19 THE old age pension ~~fund~~ PROGRAM and for municipal and county
20 governments to compensate proportionately for tax revenue reductions
21 attributable to lower cigarette and tobacco sales resulting from the
22 implementation of the tax imposed pursuant to section 21 of article X of
23 the state constitution, as follows:

24 (II) Fifty percent of the moneys specified in this paragraph (c) ~~to~~
25 ~~the supplemental old age pension health and medical care fund~~ to provide
26 HEALTH-RELATED services under the ~~supplemental health and medical~~
27 ~~care program, section 25.5-2-101 (3), C.R.S.~~ "COLORADO MEDICAL

1 ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S., for persons
2 who qualify to receive old age pensions; and

3 **SECTION 5.** 24-1-119.5 (4.5), Colorado Revised Statutes, is
4 amended to read:

5 **24-1-119.5. Department of health care policy and financing -**
6 **creation - repeal.** (4.5) The powers, duties, and functions relating to the
7 old age pension health and medical care program, ~~and the supplemental~~
8 ~~old age pension health and medical care program~~, as specified in section
9 25.5-2-101, C.R.S., are transferred by a **type 2** transfer to the department
10 of health care policy and financing.

11 **SECTION 6.** 25.5-1-105 (6), Colorado Revised Statutes, is
12 amended to read:

13 **25.5-1-105. Transfer of functions.** (6) On and after July 1,
14 2003, the powers, duties, and functions relating to the old age pension
15 health and medical care program, ~~and the supplemental old age pension~~
16 ~~health and medical care program~~, as specified in section 25.5-2-101, are
17 transferred by a **type 2** transfer to the department of health care policy
18 and financing.

19 **SECTION 7.** 25.5-1-201 (1) (f), Colorado Revised Statutes, is
20 amended to read:

21 **25.5-1-201. Programs to be administered by the department**
22 **of health care policy and financing.** (1) Programs to be administered
23 and functions to be performed by the department of health care policy and
24 financing shall be as follows:

25 (f) The old age pension health and medical care program, ~~and the~~
26 ~~supplemental old age pension health and medical care program~~, as
27 specified in section 25.5-2-101.

1 **SECTION 8.** 25.5-1-303 (1) (e) and (6), Colorado Revised
2 Statutes, are amended to read:

3 **25.5-1-303. Powers and duties of the board - scope of authority**
4 **- rules.** (1) The board shall have the authority set forth in subsection (3)
5 of this section over the following programs administered by the state
6 department:

7 (e) The old age pension health and medical care program, ~~and the~~
8 ~~supplemental old age pension health and medical care program,~~ as
9 specified in section 25.5-2-101.

10 (6) All rules and orders of the department of human services in
11 connection with the old age pension health and medical care program ~~and~~
12 ~~the supplemental old age pension health and medical care program~~ shall
13 continue to be effective until revised, amended, repealed, or nullified
14 pursuant to law.

15 **SECTION 9.** 26-1-111 (2) (a), Colorado Revised Statutes, is
16 amended to read:

17 **26-1-111. Activities of the state department under the**
18 **supervision of the executive director - cash fund - report - rules -**
19 **statewide adoption resource registry - repeal.** (2) The state
20 department, under the supervision of the executive director, shall:

21 (a) Administer or supervise all forms of public assistance and
22 welfare, including but not limited to assistance payments, food stamps,
23 and social services under programs for old age pensions except for the old
24 age pension health and medical care program, ~~and the supplemental old~~
25 ~~age pension health and medical care program,~~ and shall also administer
26 and supervise the Colorado works program, aid to the blind, aid to the
27 needy disabled, food stamps supplementation to households not receiving

1 public assistance found eligible for food stamps under rules adopted by
2 the state board, and such other public assistance and welfare activities as
3 may be vested in the state department pursuant to law;

4 **SECTION 10.** 26-2-103 (7) and (11) (b), Colorado Revised
5 Statutes, are amended to read:

6 **26-2-103. Definitions.** As used in this article and article 1 of this
7 title, unless the context otherwise requires:

8 (7) "Public assistance" means assistance payments, food stamps,
9 and social services provided to or on behalf of eligible recipients through
10 programs administered or supervised by the state department, either in
11 cooperation with the federal government or independently without federal
12 aid, pursuant to the provisions of this article. Public assistance includes
13 programs for old age pensions except for the old age pension health and
14 medical care program, ~~and the supplemental old age pension health and~~
15 ~~medical care program,~~ and also includes the Colorado works program, aid
16 to the needy disabled, aid to the blind, child welfare services, food stamps
17 supplementation to households not receiving public assistance found
18 eligible for food stamps under rules adopted by the state board, expenses
19 of treatment to prevent blindness or restore eyesight as defined in section
20 26-2-121, and funeral and burial expenses as defined in section 26-2-129.

21 (11) (b) "Social services" does not include medicaid services
22 unless those services are delegated to the state department. "Social
23 services" does not include medical services covered by the old age
24 pension health and medical care program, ~~the supplemental old age~~
25 ~~pension health and medical care program,~~ the children's basic health plan,
26 or the Colorado indigent care program.

27 **SECTION 11. Appropriation - adjustments in 2011 long bill.**

1 ■ For the implementation of this act, appropriations in the annual
2 general appropriation act to the department of health care policy and
3 financing, for the fiscal year beginning July 1, 2011, shall be adjusted as
4 follows:

5 (1) The general fund appropriation for medical service premiums
6 is decreased by two million two hundred thirty thousand five hundred
7 dollars (\$2,230,500).

8 (2) The cash fund appropriation for medical service premiums is
9 increased by two million two hundred thirty thousand five hundred dollars
10 (\$2,230,500). Said sum shall be from the tobacco tax cash fund created
11 in section 24-22-117 (1) (a), Colorado Revised Statutes. This
12 appropriation meets the requirement to appropriate a portion of the
13 revenues collected from the imposition of additional state cigarette and
14 tobacco taxes to the old age pension program for health-related purposes
15 pursuant to section 21 of article X of the state constitution.

16 (3) The cash fund appropriation for other medical services for the
17 transfer of tobacco tax cash fund into the supplemental old age pension
18 state medical fund is decreased by two million two hundred thirty
19 thousand five hundred dollars (\$2,230,500).

20 **SECTION 12. Effective date.** (1) This section and sections 1,
21 4, 11, and 13 of this act take effect July 1, 2011.

22 (2) Section 3 of this act takes effect July 1, 2012.

23 (3) Section 2 and sections 5 through 10 of this act take effect July
24 15, 2012.

25 **SECTION 13. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.