

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 21-1024.02 Ed DeCecco x4216

SENATE BILL 21-288

SENATE SPONSORSHIP

Moreno and Rankin, Bridges, Buckner, Cooke, Danielson, Donovan, Fenberg, Fields, Garcia, Ginal, Gonzales, Hansen, Holbert, Jaquez Lewis, Kolker, Lee, Pettersen, Priola, Rodriguez, Story, Winter, Zenzinger

HOUSE SPONSORSHIP

Esgar and Valdez A.,

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "AMERICAN RESCUE PLAN ACT**
102 **OF 2021" CASH FUND TO HOLD MONEY THAT THE STATE**
103 **RECEIVES FROM THE FEDERAL CORONAVIRUS STATE FISCAL**
104 **RECOVERY FUND UNTIL ALLOCATION BY SEPARATE ACTION.**

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://leg.colorado.gov>.)

As part of the federal "American Rescue Plan Act of 2021" (federal act), the state will receive \$3,828,761,790, and \$380 million of that money will be used for transportation infrastructure. **Section 1** of the

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

HOUSE
2nd Reading Unamended
June 3, 2021

SENATE
3rd Reading Unamended
June 1, 2021

SENATE
2nd Reading Unamended
May 28, 2021

bill creates the "American Rescue Plan Act of 2021" cash fund (fund) and requires the state treasurer to deposit \$3,448,761,790, which is the balance of the federal funds after the transportation infrastructure use, in the fund.

The general assembly may transfer money from the fund to another cash fund that is established for the purpose of using the money from the federal coronavirus state fiscal recovery fund, and the act establishes requirements for this type of cash fund or one that includes any subsequent transfers or appropriations (recipient fund). If there is any money remaining in the fund after the legislatively authorized transfers during the 2021 legislative session, then the governor is authorized to allocate up to \$300 million for the purposes permitted under the federal act, and the money is continuously appropriated to the departments the governor designates.

In order to ensure proper accounting for and compliance with the federal act, if a recipient fund has money from other sources, then the state controller shall establish an identical, companion fund that only includes the federal funds from the federal act.

Money in the fund or a recipient fund must be expended or obligated by December 31, 2024, and any money obligated by December 31, 2024, must be expended by December 31, 2026. The state treasurer is required to transfer the unused and unobligated amounts in the fund as of December 31, 2024, to the unemployment compensation fund. A department is prohibited from using any money from the fund or a recipient fund for any purpose prohibited under the federal act, and transfers from the fund to the general fund are prohibited.

The state controller is required to provide the secretary of the treasury of the United States with the periodic reports about the state's use of the money from the fund or a recipient fund. Departments and persons receiving money from departments are required to comply with any reporting record-keeping requirements established by the state controller and the office of state planning and budgeting (office) and with any program evaluation requirements established by the office. The office is required to provide the joint budget committee with a yearly performance report, which includes the information the state controller provides to the secretary.

Sections 2 and 3 modify existing federal funds reporting requirements so that, like the reporting on the money from the recipient funds, the joint budget committee receives an annual report instead of quarterly reports. In addition, the state controller is required to make the report instead of the office, and the information required to be submitted is modified.

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

1 **SECTION 1.** In Colorado Revised Statutes, **add** 24-75-226 as
2 follows:

3 **24-75-226. "American Rescue Plan Act of 2021" cash fund -**
4 **creation - recipient funds - limitations - reporting - definitions -**
5 **repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "AMERICAN RESCUE PLAN ACT OF 2021" MEANS THE FEDERAL
8 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY
9 BE SUBSEQUENTLY AMENDED.

10 (b) "FUND" MEANS THE "AMERICAN RESCUE PLAN ACT OF 2021"
11 CASH FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

12 (c) "OFFICE" MEANS THE OFFICE OF STATE PLANNING AND
13 BUDGETING CREATED IN SECTION 24-37-102.

14 (d) "RECIPIENT FUND" MEANS A CASH FUND THAT INCLUDES ANY
15 MONEY THAT AT ONE TIME WAS IN THE "AMERICAN RESCUE PLAN ACT OF
16 2021" CASH FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

17 (e) "SECRETARY" MEANS THE SECRETARY OF THE TREASURY OF
18 THE UNITED STATES.

19 (2) THE "AMERICAN RESCUE PLAN ACT OF 2021" CASH FUND IS
20 HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF
21 MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (3) OF THIS
22 SECTION.

23 (3)(a) FROM THE MONEY THE STATE RECEIVED FROM THE FEDERAL
24 CORONAVIRUS STATE FISCAL RECOVERY FUND UNDER SECTION 9901 OF
25 TITLE IX, SUBTITLE M OF THE "AMERICAN RESCUE PLAN ACT OF 2021",
26 THE STATE TREASURER SHALL TRANSFER THREE BILLION FOUR HUNDRED
27 FORTY-EIGHT MILLION SEVEN HUNDRED SIXTY-ONE THOUSAND SEVEN

1 HUNDRED NINETY DOLLARS, AND ANY INTEREST AND INCOME EARNED
2 THEREON, TO THE FUND ON THE EFFECTIVE DATE OF THIS SUBSECTION (3).

3 (b) THE STATE TREASURER SHALL DEPOSIT IN THE FUND ANY
4 MONEY THAT A LOCAL GOVERNMENT RECEIVES FROM THE FEDERAL
5 CORONAVIRUS LOCAL FISCAL RECOVERY FUND AND TRANSFERS TO THE
6 STATE UNDER SECTION 9901 OF TITLE IX, SUBTITLE M OF THE "AMERICAN
7 RESCUE PLAN ACT OF 2021".

8 (c) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
9 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
10 FUND TO THE FUND.

11 (4) (a) THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY
12 FROM THE FUND. THE GENERAL ASSEMBLY MAY TRANSFER MONEY IN THE
13 FUND TO ANOTHER CASH FUND THAT IS ESTABLISHED FOR THE PURPOSE OF
14 USING THE MONEY FROM THE FEDERAL CORONAVIRUS STATE FISCAL
15 RECOVERY FUND. TRANSFERS FROM THE FUND TO THE GENERAL FUND ARE
16 PROHIBITED. IF THERE IS ANY OF THE MONEY TRANSFERRED TO THE FUND
17 UNDER SUBSECTION (3)(a) OF THIS SECTION REMAINING IN THE FUND
18 AFTER ANY TRANSFERS FROM THE FUND REQUIRED BY BILLS ENACTED
19 DURING THE 2021 REGULAR LEGISLATIVE SESSION, THEN, OF THE
20 REMAINDER IN THE FUND, THE LESSER OF THREE HUNDRED MILLION
21 DOLLARS OR THE REMAINDER IS CONTINUOUSLY APPROPRIATED TO ANY
22 DEPARTMENT DESIGNATED BY THE GOVERNOR FOR ANY ALLOWABLE
23 PURPOSE UNDER THE "AMERICAN RESCUE PLAN ACT OF 2021".

24 (b) A DEPARTMENT MAY EXPEND MONEY APPROPRIATED FROM THE
25 FUND OR A RECIPIENT FUND FOR PURPOSES PERMITTED UNDER THE
26 "AMERICAN RESCUE PLAN ACT OF 2021" AND SHALL NOT USE THE MONEY
27 FOR ANY PURPOSE PROHIBITED BY THE ACT.

1 (c) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
2 IN ORDER TO ENSURE PROPER ACCOUNTING FOR AND COMPLIANCE WITH
3 THE "AMERICAN RESCUE PLAN ACT OF 2021", WHENEVER MONEY IS
4 TRANSFERRED OR APPROPRIATED TO A RECIPIENT FUND THAT ALSO HAS
5 MONEY FROM OTHER SOURCES, THE STATE CONTROLLER OR DEPARTMENT
6 CONTROLLER SHALL CREATE A COMPANION CASH FUND THAT INCLUDES
7 ONLY THE MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS
8 STATE FISCAL RECOVERY FUND UNDER SECTION 9901 OF TITLE IX,
9 SUBTITLE M OF THE "AMERICAN RESCUE PLAN ACT OF 2021", BUT THAT
10 IS OTHERWISE LEGALLY IDENTICAL TO THE RECIPIENT FUND.

11 (d) MONEY IN THE FUND OR A RECIPIENT FUND MUST BE EXPENDED
12 OR OBLIGATED BY DECEMBER 31, 2024. ANY MONEY OBLIGATED BY
13 DECEMBER 31, 2024, MUST BE EXPENDED BY DECEMBER 31, 2026. JUST
14 PRIOR TO THE CLOSE OF BUSINESS ON DECEMBER 30, 2024, ANY
15 UNEXPENDED APPROPRIATIONS FROM A RECIPIENT FUND THAT ARE NOT
16 FOR EXPENDITURES OBLIGATED AFTER DECEMBER 31, 2024, REVERT TO
17 THE "AMERICAN RESCUE PLAN ACT OF 2021" CASH FUND, AND THE STATE
18 TREASURER SHALL TRANSFER THE UNEXPENDED AND UNOBLIGATED
19 BALANCE IN THE FUND TO THE UNEMPLOYMENT COMPENSATION FUND
20 CREATED IN SECTION 8-77-101 (1).

21 (5) (a) THE STATE CONTROLLER SHALL PROVIDE PERIODIC REPORTS
22 TO THE SECRETARY AS REQUIRED BY THE SECRETARY UNDER THE
23 "AMERICAN RESCUE PLAN ACT OF 2021". THE DEPARTMENT OF REVENUE
24 SHALL PROVIDE THE STATE CONTROLLER WITH ANY INFORMATION
25 REQUIRED BY THE SECRETARY ABOUT ANY REDUCTIONS IN NET TAX
26 REVENUE.

27 (b) THE OFFICE AND THE STATE CONTROLLER SHALL ESTABLISH

1 COMPLIANCE REQUIREMENTS FOR ANY DEPARTMENT THAT RECEIVES AN
2 APPROPRIATION FROM THE FUND OR A RECIPIENT FUND OR ANY PERSON
3 THAT RECEIVES MONEY FROM A DEPARTMENT. IF A DEPARTMENT OR
4 PERSON FAILS TO COMPLY WITH THESE REQUIREMENTS, THEN:

5 (I) A DEPARTMENT SHALL, WITH APPROVAL BY THE OFFICE AND
6 STATE CONTROLLER, IDENTIFY THE BEST METHOD AND FUND SOURCE TO
7 BE USED TO REPAY THE FUND OR A RECIPIENT FUND FOR THE MONEY
8 EXPENDED ON NONCOMPLIANT FUNCTIONS, AND, TO THE EXTENT FEASIBLE,
9 REPAY THE FUND OR RECIPIENT FUND;

10 (II) A PERSON SHALL, TO THE EXTENT POSSIBLE, REPAY ANY
11 MONEY RECEIVED BY THE STATE FROM THE FUND OR RECIPIENT FUND THAT
12 IS RELATED TO THE NONCOMPLIANCE; AND

13 (III) THE STATE CONTROLLER MAY, IN HIS OR HER DISCRETION,
14 REDUCE OR ELIMINATE ALL UNEXPENDED APPROPRIATIONS FROM THE
15 FUND OR A RECIPIENT FUND FOR THE DEPARTMENT.

16 (c) THE OFFICE AND THE STATE CONTROLLER SHALL ESTABLISH
17 REPORTING AND RECORD-KEEPING REQUIREMENTS FOR ANY DEPARTMENT
18 THAT EXPENDS MONEY FROM THE FUND OR A RECIPIENT FUND OR ANY
19 PERSON THAT RECEIVES THE MONEY FROM A DEPARTMENT. TO EXPEND
20 MONEY FROM THE FUND OR RECIPIENT FUND, A DEPARTMENT AND THE
21 PERSON MUST COMPLY WITH THESE REQUIREMENTS.

22 (d) THE OFFICE SHALL PROVIDE GUIDANCE ON PROGRAM
23 EVALUATION, INCLUDING EXEMPTIONS FROM EVALUATION, EVALUATION
24 CRITERIA, IMPLEMENTATION GUIDANCE, AND SELECTION OF INDEPENDENT
25 EVALUATORS. TO EXPEND MONEY FROM THE FUND OR A RECIPIENT FUND,
26 A DEPARTMENT OR PERSON THAT RECEIVES MONEY FROM A DEPARTMENT
27 MUST COMPLY WITH ANY PROGRAM EVALUATION REQUIREMENTS

1 ESTABLISHED BY THE OFFICE.

2 (e) THE OFFICE SHALL PROVIDE THE JOINT BUDGET COMMITTEE
3 WITH A YEARLY PERFORMANCE REPORT THAT CONSISTS OF THE
4 INFORMATION THAT THE STATE CONTROLLER PROVIDES THE SECRETARY
5 UNDER SUBSECTION (5)(a) OF THIS SECTION AND ANY OTHER
6 INFORMATION, INCLUDING PROGRAM EVALUATION INFORMATION, THAT
7 THE OFFICE DETERMINES TO BE RELEVANT. MONEY IN THE FUND OR A
8 RECIPIENT FUND IS NOT SUBJECT TO THE REPORTING REQUIREMENTS SET
9 FORTH IN SECTION 24-33.5-717.

10 (f) THE GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM A
11 RECIPIENT FUND THAT INCLUDES MONEY THAT MAY BE USED FOR
12 GOVERNMENT SERVICES TO THE DEPARTMENT OF PERSONNEL FOR USE BY
13 THE STATE CONTROLLER AND TO THE OFFICE FOR ANY DIRECT OR INDIRECT
14 EXPENSES RELATED TO THE ADMINISTRATION OF THIS SUBSECTION (5).

15 (6) MONEY TRANSFERRED TO THE STATE HIGHWAY FUND, THE
16 MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND, AND THE
17 HIGHWAY USERS TAX FUND IN ACCORDANCE WITH SECTION 24-75-219 (7)
18 ARE SUBJECT TO THE REQUIREMENTS OF THIS SECTION AS IF THEY WERE
19 RECIPIENT FUNDS.

20 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

21 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-33.5-717
22 as follows:

23 **24-33.5-717. Reporting of federal funds.** (1) No later than
24 ~~September 20, 2020, the office of state planning and budgeting~~
25 DECEMBER 1, 2021, AND EACH DECEMBER 1 THEREAFTER, THE STATE
26 CONTROLLER shall submit a report to the joint budget committee of all
27 expenditures of federal funds received by the state that are used for costs

1 associated with a disaster during the ~~last twelve months~~ PRIOR STATE
2 FISCAL YEAR, excluding any federal funds included in the report required
3 by section 24-33.5-706 (7). ~~Notwithstanding section 24-1-136(11)(a), no~~
4 ~~later than the twentieth day of every third month thereafter, the office~~
5 ~~shall submit a report to the joint budget committee of all expenditures of~~
6 ~~federal funds received by the state that are used for costs associated with~~
7 ~~a disaster since the last report, excluding any federal funds included in the~~
8 ~~report required by section 24-33.5-706 (7).~~ The office STATE CONTROLLER
9 shall separately identify expenditures by disaster, if there is more than one
10 in the prior fiscal year, and, for each disaster, the office shall identify:

- 11 (a) State agencies that received funds and amounts received;
- 12 (b) Total expenditures by state agency; ~~and~~
- 13 (c) A breakdown of expenditures FOR EACH STATE AGENCY BY
14 FUND SOURCE AND PROGRAM; AND
- 15 (d) IF APPLICABLE, THE FUND DESIGNATED BY THE GENERAL
16 ASSEMBLY AS PART OF THE STATE EMERGENCY RESERVE IN ACCORDANCE
17 WITH SECTION 24-77-104, IN WHICH THE FEDERAL FUNDS WERE
18 DEPOSITED.

19 (2) ~~The office of state planning and budgeting~~ STATE CONTROLLER
20 may combine the report required by this section with the report required
21 by section 24-33.5-706 (7).

22 (3) ~~The office of state planning and budgeting~~ STATE CONTROLLER
23 shall post the reports required by this section on the ~~office's~~ STATE
24 CONTROLLER'S website.

25 **SECTION 3.** In Colorado Revised Statutes, 24-76-104, **amend**
26 (1) and (2) as follows:

27 **24-76-104. Reporting of federal funds.** (1) ~~No later than~~

1 ~~September 20, 2020, the office of state planning and budgeting shall~~
2 ~~submit a report to the joint budget committee, of all expenditures of~~
3 ~~federal funds received by the state during the last twelve months~~
4 ~~excluding any federal funds included in the report required by section~~
5 ~~24-33.5-706 (7) or 24-33.5-717. Notwithstanding section 24-1-136~~
6 ~~(11)(a), no later than the twentieth day of every third month thereafter, the~~
7 ~~office~~ THE STATE CONTROLLER shall submit a AN ANNUAL report to the
8 joint budget committee of all expenditures of federal funds received by
9 the state since the last report, excluding any federal funds included in the
10 report required by section 24-33.5-706 (7) or 24-33.5-717 BY EACH STATE
11 AGENCY DURING THE MOST RECENT STATE FISCAL YEAR, BEGINNING WITH
12 THE STATE FISCAL YEAR 2020-21. THE STATE CONTROLLER SHALL
13 CONSULT WITH JOINT BUDGET COMMITTEE STAFF TO DETERMINE THE
14 TIMING, FORMAT, AND CONTENT OF THE REPORT.

15 (2) ~~The office of state planning and budgeting~~ STATE CONTROLLER
16 shall post the reports required by subsection (1) of this section on the
17 ~~office's~~ STATE CONTROLLER'S website.

18 **SECTION 4. Effective date.** (1) Except as otherwise provided
19 in this section, this act takes effect upon passage.

20 (2) Section 24-75-226 (6), Colorado Revised Statutes, as enacted
21 in section 1 of this act, takes effect only if Senate Bill 21-260 becomes
22 law, in which case section 24-75-226 (6) takes effect either upon the
23 effective date of this act or Senate Bill 21-260, whichever is later.

24 **SECTION 5. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.