

## CHAPTER 221

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**GOVERNMENT - STATE**

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**SENATE BILL 21-288**

BY SENATOR(S) Moreno and Rankin, Bridges, Buckner, Cooke, Danielson, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Holbert, Jaquez Lewis, Kolker, Lee, Pettersen, Priola, Rodriguez, Story, Winter, Zenzinger, Garcia; also REPRESENTATIVE(S) Esgar and Valdez A., Bacon, Bennett, Bird, Boesenecker, Caraveo, Cutter, Exum, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jodeh, Kipp, Lontine, McCluskie, McCormick, Michaelson Jenet, Mullica, Ricks, Titone, Woodrow, Garnett, Ortiz.

**AN ACT**

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

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

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

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

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

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

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

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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

(3)(a) FROM THE MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND UNDER SECTION 9901 OF TITLE IX, SUBTITLE M OF THE "AMERICAN RESCUE PLAN ACT OF 2021", THE STATE TREASURER SHALL TRANSFER THREE BILLION FOUR HUNDRED FORTY-EIGHT MILLION SEVEN HUNDRED SIXTY-ONE THOUSAND SEVEN HUNDRED NINETY DOLLARS, AND ANY INTEREST AND INCOME EARNED THEREON, TO THE FUND ON THE EFFECTIVE DATE OF THIS SUBSECTION (3).

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

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

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

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

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

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

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

(b) THE OFFICE AND THE STATE CONTROLLER SHALL ESTABLISH COMPLIANCE REQUIREMENTS FOR ANY DEPARTMENT THAT RECEIVES AN APPROPRIATION FROM THE FUND OR A RECIPIENT FUND OR ANY PERSON THAT RECEIVES MONEY FROM A DEPARTMENT. IF A DEPARTMENT OR PERSON FAILS TO COMPLY WITH THESE REQUIREMENTS, THEN:

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

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

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

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

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

(e) THE OFFICE SHALL PROVIDE THE JOINT BUDGET COMMITTEE WITH A YEARLY PERFORMANCE REPORT THAT CONSISTS OF THE INFORMATION THAT THE STATE CONTROLLER PROVIDES THE SECRETARY UNDER SUBSECTION (5)(a) OF THIS SECTION

AND ANY OTHER INFORMATION, INCLUDING PROGRAM EVALUATION INFORMATION, THAT THE OFFICE DETERMINES TO BE RELEVANT. MONEY IN THE FUND OR A RECIPIENT FUND IS NOT SUBJECT TO THE REPORTING REQUIREMENTS SET FORTH IN SECTION 24-33.5-717.

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

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

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

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

**24-33.5-717. Reporting of federal funds.** (1) ~~No later than September 20, 2020, the office of state planning and budgeting~~ DECEMBER 1, 2021, AND EACH DECEMBER 1 THEREAFTER, THE STATE CONTROLLER shall submit a report to the joint budget committee of all expenditures of federal funds received by the state that are used for costs associated with a disaster during the ~~last twelve months~~ PRIOR STATE FISCAL YEAR, excluding any federal funds included in the report required by section 24-33.5-706 (7). ~~Notwithstanding section 24-1-136 (11)(a), no later than the twentieth day of every third month thereafter, the office shall submit a report to the joint budget committee of all expenditures of federal funds received by the state that are used for costs associated with a disaster since the last report, excluding any federal funds included in the report required by section 24-33.5-706 (7).~~ The office STATE CONTROLLER shall separately identify expenditures by disaster, if there is more than one in the prior fiscal year, and, for each disaster, the office shall identify:

(a) State agencies that received funds and amounts received;

(b) Total expenditures by state agency; ~~and~~

(c) A breakdown of expenditures FOR EACH STATE AGENCY BY FUND SOURCE AND PROGRAM; AND

(d) IF APPLICABLE, THE FUND DESIGNATED BY THE GENERAL ASSEMBLY AS PART OF THE STATE EMERGENCY RESERVE IN ACCORDANCE WITH SECTION 24-77-104, IN WHICH THE FEDERAL FUNDS WERE DEPOSITED.

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

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

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

**24-76-104. Reporting of federal funds.** (1) ~~No later than September 20, 2020, the office of state planning and budgeting shall submit a report to the joint budget committee, of all expenditures of federal funds received by the state during the last twelve months excluding any federal funds included in the report required by section 24-33.5-706 (7) or 24-33.5-717. Notwithstanding section 24-1-136 (1)(a), no later than the twentieth day of every third month thereafter, the office~~ THE STATE CONTROLLER shall submit a AN ANNUAL report to the joint budget committee of all expenditures of federal funds received by the state since the last report, ~~excluding any federal funds included in the report required by section 24-33.5-706 (7) or 24-33.5-717~~ BY EACH STATE AGENCY DURING THE MOST RECENT STATE FISCAL YEAR, BEGINNING WITH THE STATE FISCAL YEAR 2020-21. THE STATE CONTROLLER SHALL CONSULT WITH JOINT BUDGET COMMITTEE STAFF TO DETERMINE THE TIMING, FORMAT, AND CONTENT OF THE REPORT.

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

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

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

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

Approved: June 11, 2021