

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0957.01 Ed DeCecco x4216

HOUSE BILL 22-1411

HOUSE SPONSORSHIP

McCluskie and Herod,

SENATE SPONSORSHIP

Moreno,

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENSURE THE STATE'S COMPLIANCE WITH
102 THE REQUIREMENTS RELATED TO THE FEDERAL CORONAVIRUS
103 STATE FISCAL RECOVERY FUND CREATED IN THE FEDERAL
104 "AMERICAN RESCUE PLAN ACT OF 2021".

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>.)

In 2021, the state received \$3,828,761,790 from the federal coronavirus state fiscal recovery fund as part of the federal "American Rescue Plan Act of 2021". For purposes of complying with 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.

requirements established by the United States department of the treasury (treasury), the general assembly established administrative requirements related to the expenditure of this federal money. **Section 1** of the bill modifies these requirements by:

- Establishing deadlines for a subrecipient, which is a person that carries out a program or project on behalf of the state, to expend or obligate this money, and if not, to return this money to the state for the state to either expend or return to treasury, depending on the timing;
- Requiring the state controller to transmit to treasury any money that was obligated by December 31, 2024, but not expended by December 31, 2026;
- Requiring the department of revenue to provide the state controller with any information about any increases in the state's net tax revenue, which is necessary for calculating the state's revenue reductions for 2022 and 2023;
- Clarifying that the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller apply to a person regardless of whether the person is a beneficiary or a subrecipient and regardless of whether the person receives the money directly from a department or from a subrecipient; and
- Permitting the state controller to report any expenditures to treasury as a government service to the extent of the reduction in the state's revenue due to the COVID-19 public health emergency relative to the revenues the state collected for the state fiscal year 2018-19. **Sections 3 through 6** make conforming amendments related to this change.

The bill also substitutes money from the general fund or from a cash fund that included money that originated from the general fund for money that was allocated in 2021 legislation from the federal coronavirus state fiscal recovery fund, as follows:

- \$29.5 million from the housing development grant fund (**section 7**);
- \$36.5 million from the highway users tax fund that was distributed to counties, cities, and incorporated towns, which is accomplished by replenishing and reclassifying the federal funds that were initially used (**section 8**);
- \$10 million from the Colorado startup loan program fund (**section 9**), with the freed up federal funds being transferred to the revenue loss restoration cash fund (**section 6**); and
- \$98.5 million from the affordable housing and home

ownership cash fund (**section 10**).

Sections 2 and 6 include conforming amendments related to the reclassification of the money paid to the counties, cities, and incorporated towns.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-75-226, **amend**
3 (4)(d), (5)(a), and (5)(f); and **add** (1)(a.5), (1)(f), and (5)(g) as follows:

4 **24-75-226. "American Rescue Plan Act of 2021" cash fund -**
5 **creation - recipient funds - limitations - reporting - legislative**
6 **declaration - definitions - repeal.** (1) As used in this section, unless the
7 context otherwise requires:

8 (a.5) "CORONAVIRUS STATE FISCAL RECOVERY FUND" MEANS THE
9 FEDERAL FUND CREATED IN 42 U.S.C. SEC. 802, OR ANY SUCCESSOR FUND.

10 (f) "SUBRECIPIENT" MEANS A PERSON THAT RECEIVES MONEY
11 FROM THE FUND OR A RECIPIENT FUND TO CARRY OUT A PROGRAM OR
12 PROJECT ON BEHALF OF THE STATE BUT THAT IS NOT A BENEFICIARY OF
13 THE SERVICES OR BENEFITS PROVIDED THROUGH THE PROGRAM OR
14 PROJECT.

15 (4) (d) (I) Money in the fund or a recipient fund must be expended
16 or obligated by December 31, 2024. ~~Any money obligated by December~~
17 ~~31, 2024, must be expended by December 31, 2026.~~ Just prior to the close
18 of business on December 30, 2024, any unexpended appropriations from
19 a recipient fund that are not for expenditures ~~obligated~~ TO BE MADE after
20 December 31, 2024, THAT WERE OBLIGATED BEFORE THAT DATE, revert
21 to the "American Rescue Plan Act of 2021" cash fund, and the state
22 treasurer shall transfer the unexpended and unobligated balance in the
23 fund to the unemployment compensation fund created in section 8-77-101

1 (1). ANY MONEY OBLIGATED BY DECEMBER 31, 2024, MUST BE EXPENDED
2 BY DECEMBER 31, 2026. EFFECTIVE DECEMBER 31, 2026, THE STATE
3 CONTROLLER SHALL TRANSMIT ANY UNEXPENDED MONEY IN THE FUND OR
4 A RECIPIENT FUND TO THE UNITED STATES DEPARTMENT OF THE
5 TREASURY.

6 (II) A SUBRECIPIENT MUST SPEND OR OBLIGATE MONEY RECEIVED
7 FROM THE FUND OR A RECIPIENT FUND BY NOVEMBER 30, 2024, AND, BY
8 DECEMBER 13, 2024, SHALL NOTIFY THE STATE AGENCY FROM WHICH THE
9 SUBRECIPIENT RECEIVED THE MONEY OF THE STATUS OF THE MONEY THAT
10 IS OBLIGATED OR EXPENDED. THE SUBRECIPIENT SHALL RETURN TO THE
11 STATE ANY UNEXPENDED AND UNOBLIGATED MONEY UNDER TERMS
12 DICTATED BY THE STATE CONTROLLER, AND THE STATE TREASURER SHALL
13 TRANSFER THE AMOUNT RETURNED TO THE UNEMPLOYMENT
14 COMPENSATION FUND CREATED IN SECTION 8-77-101 (1). ANY MONEY
15 OBLIGATED BY NOVEMBER 30, 2024, MUST BE EXPENDED BY DECEMBER
16 11, 2026. ON OR BEFORE DECEMBER 11, 2026, THE SUBRECIPIENT SHALL
17 RETURN TO THE STATE ANY REMAINING MONEY UNDER TERMS DICTATED
18 BY THE STATE CONTROLLER AND THEREAFTER THE STATE CONTROLLER
19 SHALL TRANSMIT THE MONEY TO THE UNITED STATES DEPARTMENT OF
20 THE TREASURY IN ACCORDANCE WITH THE TREASURY'S REQUIREMENTS.

21 (III) THE STATE CONTROLLER SHALL DETERMINE WHETHER MONEY
22 IS OBLIGATED FOR PURPOSES OF DETERMINING THE DEADLINE FOR
23 EXPENDITURES AND THE REVERSION OR REPAYMENT OF MONEY IN
24 ACCORDANCE WITH THIS SUBSECTION (4)(d).

25 (5) (a) (I) The state controller shall provide periodic reports to the
26 secretary as required by the secretary under the "American Rescue Plan
27 Act of 2021". The department of revenue shall provide the state controller

1 with any information required by the secretary about any reductions OR
2 INCREASES in net tax revenue.

3 (II) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

4 (A) UNDER 42 U.S.C. SEC. 802 (c)(1)(C), THE STATE IS PERMITTED
5 TO USE MONEY RECEIVED FROM THE CORONAVIRUS STATE FISCAL
6 RECOVERY FUND FOR THE PROVISION OF GOVERNMENT SERVICES TO THE
7 EXTENT OF THE REDUCTION IN THE STATE'S REVENUE DUE TO THE
8 COVID-19 PUBLIC HEALTH EMERGENCY RELATIVE TO THE REVENUES THE
9 STATE COLLECTED FOR THE STATE FISCAL YEAR 2018-19;

10 (B) THE UNITED STATES DEPARTMENT OF THE TREASURY HAS
11 PROMULGATED A RULE TO ESTABLISH THE METHODOLOGY FOR THE STATE
12 TO CALCULATE A RECIPIENT GOVERNMENT'S ANNUAL REDUCTION IN
13 REVENUE FOR THE FOUR CALENDAR YEARS BEGINNING IN 2020;

14 (C) AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (5)(a)(II), THE
15 STATE REPORTED A REDUCTION FOR THE 2020 AND 2021 CALENDAR YEARS
16 THAT TOTALS THREE BILLION SIX HUNDRED NINETY-FOUR MILLION SIX
17 HUNDRED FIFTY-THREE THOUSAND TWO HUNDRED FORTY-NINE DOLLARS;

18 (D) THIS AMOUNT EXCEEDS THE TOTAL OF ALL THE FUNDS THAT
19 HAVE YET TO BE REPORTED TO THE UNITED STATES DEPARTMENT OF THE
20 TREASURY; AND

21 (E) THEREFORE, ANY MONEY IN THE FUND OR TRANSFERRED FROM
22 THE FUND TO A RECIPIENT FUND IS AVAILABLE TO BE REPORTED AS BEING
23 AN EXPENDITURE FOR THE PROVISION OF GOVERNMENT SERVICES.

24 (III) THE STATE CONTROLLER MAY REPORT THE EXPENDITURE OF
25 ANY MONEY IN OR TRANSFERRED FROM THE "AMERICAN RESCUE PLAN
26 ACT OF 2021" THAT ORIGINATED FROM THE CORONAVIRUS STATE FISCAL
27 RECOVERY FUND AS A GOVERNMENT SERVICE TO THE EXTENT OF THE

1 REDUCTION IN THE STATE'S REVENUE DUE TO THE COVID-19 PUBLIC
2 HEALTH EMERGENCY RELATIVE TO THE REVENUES THE STATE COLLECTED
3 FOR THE STATE FISCAL YEAR 2018-19, IF THE DESCRIPTION IS APPLICABLE,
4 REGARDLESS OF WHETHER THE PURPOSE OF THE EXPENDITURE IS ALSO
5 DESCRIBED AS BEING TO RESPOND TO THE PUBLIC HEALTH EMERGENCY
6 WITH RESPECT TO COVID-19 OR ITS NEGATIVE ECONOMIC IMPACTS.

7 (f) The general assembly may appropriate money from ~~a recipient~~
8 ~~fund that includes money that may be used for government services~~ THE
9 REVENUE LOSS RESTORATION CASH FUND CREATED IN SECTION 24-75-227
10 to the department of personnel for use by the state controller and to the
11 office for any direct or indirect expenses related to the administration of
12 this subsection (5).

13 (g) THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND
14 PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF
15 STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER APPLY TO
16 A PERSON REGARDLESS OF WHETHER THE PERSON IS A BENEFICIARY OR A
17 SUBRECIPIENT AND REGARDLESS OF WHETHER THE PERSON RECEIVES THE
18 MONEY DIRECTLY FROM A DEPARTMENT OR FROM A SUBRECIPIENT.

19 **SECTION 2.** In Colorado Revised Statutes, 24-75-227, **add**
20 (2)(b)(III) as follows:

21 **24-75-227. Revenue loss restoration cash fund - creation -**
22 **allowable uses - definitions - repeal.** (2) (b) (III) THE FUND ALSO
23 INCLUDES THE AMOUNTS TRANSFERRED TO THE FUND IN ACCORDANCE
24 WITH SECTIONS 24-75-231 (3.5) AND 43-4-205 (6.8)(d)(II)(B).

25 **SECTION 3.** In Colorado Revised Statutes, 24-75-228, **amend**
26 (2)(a) introductory portion as follows:

27 **24-75-228. Economic recovery and relief cash fund - creation**

1 - **allowable uses - interim task force - report - legislative declaration**
2 - **definitions - repeal.** (2) (a) The economic recovery and relief cash fund
3 is hereby created in the state treasury. The fund consists of money
4 credited to the fund in accordance with subsection (3) of this section and
5 any other money that the general assembly may appropriate or transfer to
6 the fund. To respond to the public health emergency with respect to
7 COVID-19 or its negative economic impacts OR FOR THE PROVISION OF
8 GOVERNMENT SERVICES, the general assembly may appropriate or transfer
9 money from the fund to a department for the following uses:

10 **SECTION 4.** In Colorado Revised Statutes, 24-75-229, **amend**
11 (3)(a) as follows:

12 **24-75-229. Affordable housing and home ownership cash fund**
13 - **creation - allowable uses - task force - legislative declaration -**
14 **definitions - repeal.** (3) (a) The affordable housing and home ownership
15 cash fund is hereby created in the state treasury. The fund consists of
16 money deposited in the fund in accordance with subsection (3)(b) of this
17 section and any other money that the general assembly may appropriate
18 or transfer to the fund. To respond to the public health emergency with
19 respect to COVID-19 or its negative economic impacts OR FOR THE
20 PROVISION OF GOVERNMENT SERVICES, the general assembly may
21 appropriate or transfer money from the fund to a department or cash fund
22 for programs or services that benefit populations, households, or
23 geographic areas disproportionately affected by the COVID-19 public
24 health emergency to obtain affordable housing, focusing on programs or
25 services that address housing insecurity, lack of affordable and workforce
26 housing, or homelessness. Money from the fund may be expended to
27 support the task force created in subsection (5)(a) of this section.

1 Permissible uses of such money include costs associated with the creation
2 and administration of the task force and related expenses for research and
3 evaluation undertaken by the task force.

4 **SECTION 5.** In Colorado Revised Statutes, 24-75-230, **amend**
5 (2)(a) as follows:

6 **24-75-230. Behavioral and mental health cash fund - creation**
7 **- allowable uses - task force - definitions - repeal.** (2) (a) The
8 behavioral and mental health cash fund is created in the state treasury.
9 The fund consists of money credited to the fund in accordance with
10 subsection (2)(b) of this section and any other money that the general
11 assembly may appropriate or transfer to the fund. To respond to the public
12 health emergency with respect to COVID-19 or its negative economic
13 impacts OR FOR THE PROVISION OF GOVERNMENT SERVICES, the general
14 assembly may appropriate money from the fund to a department for
15 ~~mental health treatment, substance misuse treatment, and other behavioral~~
16 ~~health services~~ BEHAVIORAL HEALTH CARE.

17 **SECTION 6.** In Colorado Revised Statutes, 24-75-231, **amend**
18 (2)(a) introductory portion; and **add** (2)(b)(III) and (3.5) as follows:

19 **24-75-231. Workers, employers, and workforce centers cash**
20 **fund - creation - allowable uses - definitions - repeal.** (2) (a) The
21 workers, employers, and workforce centers cash fund is hereby created
22 in the state treasury. The fund consists of money credited to the fund in
23 accordance with subsection (2)(b) of this section and any other money
24 that the general assembly may appropriate or transfer to the fund. ~~To~~
25 ~~respond to the public health emergency or its negative economic impacts,~~
26 The general assembly may appropriate money from the fund to respond
27 to the negative economic impacts of the COVID-19 public health

1 emergency OR FOR THE PROVISION OF GOVERNMENT SERVICES, including
2 for the following purposes:

3 (b) (III) THE FUND ALSO INCLUDES THE AMOUNT TRANSFERRED IN
4 ACCORDANCE WITH SECTION 43-4-205 (6.8)(d)(II)(A).

5 (3.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
6 WITHIN THREE BUSINESS DAYS OF THE EFFECTIVE DATE OF THIS
7 SUBSECTION (3.5), THE STATE TREASURER SHALL TRANSFER TEN MILLION
8 DOLLARS FROM THE FUND TO THE REVENUE LOSS RESTORATION CASH FUND
9 CREATED IN SECTION 24-75-227 (2)(a).

10 **SECTION 7.** In Colorado Revised Statutes, 24-32-721, **amend**
11 (2)(g)(I) and (2)(g)(II) as follows:

12 **24-32-721. Colorado affordable housing construction grants**
13 **and loans - housing development grant fund - creation - housing**
14 **assistance for persons with behavioral, mental health, or substance**
15 **use disorders - cash fund - appropriation - report to general assembly**
16 **- rules - definitions - repeal.** (2) (g) (I) Within three business days of
17 June 26, 2021, the state treasurer shall transfer thirty million dollars from
18 the affordable housing and home ownership cash fund created in section
19 24-75-229, that originates from money the state received from the federal
20 coronavirus state fiscal recovery fund, to the housing development grant
21 fund and transfer fifteen million dollars from the general fund to the
22 affordable housing and home ownership cash fund created in section
23 24-75-229. WITHIN THREE BUSINESS DAYS OF THE EFFECTIVE DATE OF
24 HOUSE BILL 22-____, THE STATE TREASURER SHALL TRANSFER:

25 (A) ONE MILLION FIVE HUNDRED THOUSAND DOLLARS TO THE
26 HOUSING DEVELOPMENT GRANT FUND FROM THE AFFORDABLE HOUSING
27 AND HOME OWNERSHIP CASH FUND CREATED IN SECTION 24-75-229 THAT

1 ORIGINATES FROM THE GENERAL FUND;

2 (B) TWENTY-EIGHT MILLION DOLLARS TO THE HOUSING
3 DEVELOPMENT GRANT FUND FROM THE GENERAL FUND; AND

4 (C) TWENTY-NINE MILLION FIVE HUNDRED THOUSAND DOLLARS
5 FROM THE HOUSING DEVELOPMENT GRANT FUND TO THE AFFORDABLE
6 HOUSING AND HOME OWNERSHIP CASH FUND CREATED IN SECTION
7 24-75-229. THE TRANSFER REQUIRED BY THIS SUBSECTION (2)(g)(I)(C) IS
8 FROM MONEY THAT WAS TRANSFERRED ON JUNE 26, 2021, TO THE
9 HOUSING DEVELOPMENT GRANT FUND FROM THE AFFORDABLE HOUSING
10 AND HOME OWNERSHIP CASH FUND THAT ORIGINATED FROM MONEY THE
11 STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL
12 RECOVERY FUND.

13 (II) The division shall use money transferred from the affordable
14 housing and home ownership cash fund created in section 24-75-229, that
15 originates from money the state received from the ~~federal coronavirus~~
16 ~~state fiscal recovery~~ GENERAL fund, pursuant to subsection (2)(g)(I) of
17 this section for the purposes allowed under subsection (2)(d)(VI)(A.5) of
18 this section that are related to subsection (2)(d)(VII) of this section and
19 for the purposes allowed by subsection (2)(d)(VII) of this section.

20 **SECTION 8.** In Colorado Revised Statutes, 43-4-205, **add**
21 (6.8)(d) as follows:

22 **43-4-205. Allocation of fund - legislative declaration.**

23 (6.8) (d) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
24 THAT, IN ORDER TO ENSURE THE STATE'S COMPLIANCE WITH THE
25 REQUIREMENTS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF
26 THE TREASURY FOR MONEY THAT THE STATE RECEIVED FROM THE FEDERAL
27 CORONAVIRUS STATE FISCAL RECOVERY FUND, CREATED IN 42 U.S.C. SEC.

1 802, THAT IT IS NECESSARY TO RECLASSIFY THE MONEY THAT WAS PAID TO
2 COUNTIES, CITIES, AND INCORPORATED TOWNS IN ACCORDANCE WITH
3 SUBSECTION (6.8)(c) OF THIS SECTION AS STATE MONEY THAT DID NOT
4 ORIGINATE FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY
5 FUND, WHICH IS ACCOMPLISHED BY REPLENISHING THE EXPENDED FEDERAL
6 FUNDS AS SET FORTH IN THIS SUBSECTION (6.8)(d).

7 (II) WITHIN THREE DAYS OF THE EFFECTIVE DATE OF THIS
8 SUBSECTION (6.8)(d)(II), THE STATE TREASURER SHALL TRANSFER FROM
9 THE GENERAL FUND:

10 (A) THIRTY MILLION NINE HUNDRED THOUSAND DOLLARS TO THE
11 WORKERS, EMPLOYERS, AND WORKFORCE CENTERS CASH FUND CREATED
12 IN SECTION 24-75-231 (2)(a); AND

13 (B) FIVE MILLION SIX HUNDRED THOUSAND DOLLARS TO THE
14 REVENUE LOSS RESTORATION CASH FUND CREATED IN SECTION 24-75-227
15 (2)(a).

16 (III) UPON THE TRANSFER REQUIRED BY SUBSECTION (6.8)(d)(II)
17 OF THIS SECTION:

18 (A) THE MONEY TRANSFERRED IN ACCORDANCE WITH SUBSECTION
19 (6.8)(c) OF THIS SECTION IS TO BE TREATED AS IF IT WAS FROM THE
20 GENERAL FUND AND IT IS NOT SUBJECT TO ANY OF THE REQUIREMENTS SET
21 FORTH IN SECTION 24-75-226; AND

22 (B) THE MONEY TRANSFERRED FROM THE GENERAL FUND
23 REPLACES MONEY THAT WAS INITIALLY DISTRIBUTED FROM THE
24 CORONAVIRUS STATE FISCAL RECOVERY FUND AND FOR ALL PURPOSES IS
25 TO BE TREATED AS IF IT WAS MONEY THAT ORIGINATED FROM THE FEDERAL
26 CORONAVIRUS STATE FISCAL RECOVERY FUND, CREATED IN 42 U.S.C. SEC.
27 802.

1 **SECTION 9.** In Session Laws of Colorado 2021, **amend** section
2 of chapter 487 (HB21-1288) as follows:

3 Section 2. **Appropriation.** For the 2021-22 state fiscal year,
4 \$10,000,000 is appropriated to the Colorado startup loan program fund
5 created in section 24-48.5-131 (9)(a), C.R.S. This appropriation is from
6 the ~~economic recovery and relief cash fund created in section 24-75-228~~
7 ~~(2)(a), C.R.S., and of money the state received from the federal~~
8 ~~coronavirus state fiscal recovery~~ GENERAL fund. The office of the
9 governor is responsible for the accounting related to this appropriation.

10 **SECTION 10.** In Session Laws of Colorado 2021, section 4 of
11 chapter 347 (HB21-1329), **amend** (1) as follows:

12 Section 4. **Appropriation.** (1) For the 2021-22 state fiscal year,
13 \$98,500,000 is appropriated to the department of local affairs for use by
14 the division of housing. This appropriation is from the affordable housing
15 and home ownership cash fund created in section 24-75-229 (3)(a),
16 C.R.S., and IS of money ~~the state received from the federal coronavirus~~
17 ~~state fiscal recovery~~ THAT ORIGINATES FROM THE GENERAL fund. To
18 implement this act, the division may use the appropriation for purposes
19 authorized in section 24-75-229 (3), C.R.S. Any money appropriated in
20 this subsection that is not expended or encumbered at the end of the
21 2021-22 state fiscal year remains available for expenditure in subsequent
22 fiscal years without further appropriation. ~~subject to the requirements for~~
23 ~~obligating and expending money received under the federal "American~~
24 ~~Rescue Plan Act of 2021", Pub. L. 117-2, as the act may be subsequently~~
25 ~~amended as specified in section 24-75-226 (4)(d), C.R.S.~~

26 **SECTION 11. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2022 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.