

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 11-0305.01 Ed DeCecco

HOUSE BILL 11-1280

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A BILL FOR AN ACT

101 **CONCERNING THE USE OF MONEYS IN THE STATE GENERAL FUND**
102 **ABOVE A NEWLY ESTABLISHED LIMIT ON TOTAL STATE GENERAL**
103 **FUND APPROPRIATIONS.**

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>.)

Currently, the maximum allowable amount of total state general fund appropriations for a given fiscal year is equal to 5% of Colorado personal income. Beginning with the 2011-12 state fiscal year, the bill establishes a new limit for total state general fund appropriations that is

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
3rd Reading Unam ended
May 4, 2011

HOUSE
2nd Reading Unam ended
May 3, 2011

equal to 6% over the total general fund appropriations for the previous fiscal year.

End-year surplus in the general fund, less the required annual reserve and any amount that is necessary to make constitutionally required refunds, is transferred to the state rainy day fund until the balance in the state rainy day fund is equal to the target amount of 8% of total general fund appropriations. During economic downturns, the general assembly may appropriate or transfer moneys from the state rainy day fund for any purpose by the enactment of a bill approved by a 2/3 majority vote of all of the members elected to each house.

Once the balance in the state rainy day fund is greater than or equal to the target amount, any remaining surplus is transferred as follows:

- ! 2/3 to the highway users tax fund; and
- ! 1/3 to the capital construction fund.

The moneys transferred to the highway users tax fund shall be allocated as follows:

- ! 60% to the state highway fund;
- ! 22% to counties; and
- ! 18% to municipalities.

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

2 **SECTION 1.** 24-75-201.1 (1) (a) (II.5), the introductory portion
3 to 24-75-201.1 (1) (a) (III), 24-75-201.1 (1) (a) (IV), and the introductory
4 portion to 24-75-201.1 (1) (a) (V), Colorado Revised Statutes, are
5 amended, and the said 24-75-201.1 (1) (a) is further amended BY THE
6 ADDITION OF A NEW SUBPARAGRAPH, to read:

7 **24-75-201.1. Restriction on state appropriations - legislative**
8 **declaration - definitions.** (1) (a) (II.5) Except as otherwise provided in
9 subparagraphs (III) and (IV) of this paragraph (a), for the fiscal year
10 ~~2009-10 and each fiscal year thereafter~~ YEARS 2009-10 AND 2010-11, the
11 total state general fund appropriations shall be limited to such moneys as
12 are necessary for reappraisals of any class or classes of taxable property
13 for property tax purposes as required by section 39-1-105.5, C.R.S., plus
14 an amount equal to five percent of Colorado personal income.

1 (II.7) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (III)
2 AND (IV) OF THIS PARAGRAPH (a), FOR THE FISCAL YEAR 2011-12 AND
3 EACH FISCAL YEAR THEREAFTER, THE TOTAL STATE GENERAL FUND
4 APPROPRIATIONS SHALL BE LIMITED TO SUCH MONEYS AS ARE NECESSARY
5 FOR REAPPRAISALS OF ANY CLASS OR CLASSES OF TAXABLE PROPERTY FOR
6 PROPERTY TAX PURPOSES AS REQUIRED BY SECTION 39-1-105.5, C.R.S.,
7 PLUS SIX PERCENT OVER THE TOTAL STATE GENERAL FUND
8 APPROPRIATIONS FOR THE PREVIOUS FISCAL YEAR.

9 (III) The limitation on the level of state general fund
10 appropriations set forth in subparagraphs (II), ~~and~~ (II.5), AND (II.7) of this
11 paragraph (a) shall not apply to:

12 (IV) (A) The limitation on the level of state general fund
13 appropriations as set forth in subparagraphs (II), ~~and~~ (II.5), AND (II.7) of
14 this paragraph (a) may be exceeded for a given fiscal year upon the
15 declaration of a state fiscal emergency by the general assembly. A state
16 fiscal emergency may be declared by the passage of a joint resolution
17 which is approved by a two-thirds majority vote of the members of both
18 houses of the general assembly and which is approved by the governor in
19 accordance with section 39 of article V of the state constitution.

20 (B) Any funds appropriated in a given fiscal year which exceed
21 the limitation on state general fund appropriations established by
22 subparagraphs (II), ~~and~~ (II.5), AND (II.7) of this paragraph (a) because of
23 the declaration of a state fiscal emergency by the general assembly
24 pursuant to sub-subparagraph (A) of this subparagraph (IV) shall not be
25 included in the calculation of the maximum level of state general fund
26 appropriations pursuant to sub-subparagraph (B) of subparagraph (II) of
27 this paragraph (a) for subsequent fiscal years.

1 (V) No state cash fund appropriation which either supplants any
2 state general fund appropriation or, if not made, would necessitate a state
3 general fund appropriation shall be made in order to circumvent the
4 limitation on the level of state general fund appropriations set forth in
5 subparagraphs (II), ~~and~~ (II.5), AND (II.7) of this paragraph (a). The
6 provisions of this subparagraph (V) shall not apply to any state cash fund
7 appropriation:

8 **SECTION 2.** 24-75-218, Colorado Revised Statutes, is
9 RECREATED AND REENACTED, WITH AMENDMENTS, to read:

10 **24-75-218. Transfers of general fund surplus - definitions.**

11 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) "CAPITAL CONSTRUCTION FUND" MEANS THE CAPITAL
14 CONSTRUCTION FUND CREATED IN SECTION 24-75-302.

15 (b) "DESIGNATED FUNDS" MEANS THE CAPITAL CONSTRUCTION
16 FUND, HIGHWAY USERS TAX FUND, AND THE STATE RAINY DAY FUND.

17 (c) "HIGHWAY USERS TAX FUND" MEANS THE HIGHWAY USERS TAX
18 FUND CREATED IN SECTION 43-4-201, C.R.S.

19 (d) "STATE RAINY DAY FUND" MEANS THE STATE RAINY DAY FUND
20 CREATED IN SECTION 24-75-1401.

21 (e) "TARGET AMOUNT" MEANS AN AMOUNT EQUAL TO EIGHT
22 PERCENT OF THE AMOUNT APPROPRIATED FOR EXPENDITURE FROM THE
23 GENERAL FUND FOR THE STATE FISCAL YEAR FOR WHICH THE GENERAL
24 FUND SURPLUS IS TRANSFERRED PURSUANT TO SUBSECTION (2) OF THIS
25 SECTION.

26 (2) THE GENERAL FUND SURPLUS DESIGNATED IN ACCORDANCE
27 WITH SECTION 24-75-201 (1), LESS THE APPLICABLE AMOUNT OF RESERVE

1 REQUIRED BY SECTION 24-75-201.1 (1) FOR THE STATE FISCAL YEAR, AND
2 LESS ANY GENERAL FUND REVENUES THAT ARE DESIGNATED AS STATE
3 REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE
4 FISCAL YEAR SPENDING FOR THE STATE FISCAL YEAR, SHALL BE DEDUCTED
5 FROM THE GENERAL FUND AND SUCH SUM SHALL BE TRANSFERRED TO THE
6 STATE RAINY DAY FUND UNTIL THE BALANCE IN THE STATE RAINY DAY
7 FUND IS EQUAL TO THE TARGET AMOUNT. ONCE THE BALANCE IN THE
8 STATE RAINY DAY FUND IS GREATER THAN OR EQUAL TO THE TARGET
9 AMOUNT, ANY ADDITIONAL GENERAL FUND SURPLUS SHALL BE
10 TRANSFERRED AS FOLLOWS:

11 (a) TWO-THIRDS OF THE SURPLUS TO THE HIGHWAY USERS TAX
12 FUND; AND

13 (b) ONE-THIRD OF THE SURPLUS TO THE CAPITAL CONSTRUCTION
14 FUND.

15 (3) THE STATE TREASURER SHALL DEDUCT THE GENERAL FUND
16 SURPLUS AND TRANSFER SUCH SUM TO THE DESIGNATED FUNDS AS
17 REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION AS FOLLOWS:

18 (a) ON SEPTEMBER 20, 2011, AND EACH SEPTEMBER 20
19 THEREAFTER, THE STATE TREASURER SHALL DEDUCT FROM THE GENERAL
20 FUND AND TRANSFER TO THE DESIGNATED FUNDS AMOUNTS ESTIMATED BY
21 THE TREASURER TO EQUAL NINETY PERCENT OF THE AMOUNTS REQUIRED
22 TO BE DEDUCTED AND TRANSFERRED.

23 (b) ON THE DATE DURING THE STATE FISCAL YEAR ON WHICH THE
24 STATE CONTROLLER DISTRIBUTES THE COMPREHENSIVE ANNUAL
25 FINANCIAL REPORT OF THE STATE, THE STATE TREASURER SHALL DEDUCT
26 FROM THE GENERAL FUND AND TRANSFER TO THE DESIGNATED FUNDS
27 AMOUNTS EQUAL TO THE DIFFERENCES BETWEEN THE ACTUAL AMOUNTS

1 REQUIRED TO BE TRANSFERRED AND THE ESTIMATED AMOUNTS
2 PREVIOUSLY TRANSFERRED PURSUANT TO PARAGRAPH (a) OF THIS
3 SUBSECTION (3).

4 **SECTION 3.** 24-75-302 (1) (a), Colorado Revised Statutes, is
5 amended to read:

6 **24-75-302. Capital construction fund - capital assessment fees**

7 **- calculation.** (1) (a) There is hereby created the capital construction
8 fund to which shall be allocated MONEYS PURSUANT TO SECTION
9 24-75-218 AND such OTHER revenues as the general assembly may from
10 time to time determine. Moneys in the capital construction fund may be
11 appropriated for capital construction, as defined in section 24-75-301 (1),
12 including the remodeling or renovation of existing buildings or other
13 physical facilities designated as controlled maintenance projects in the
14 general appropriation act; except that any moneys transferred to the
15 capital construction fund for state highway reconstruction, repair, and
16 maintenance projects may only be appropriated for such projects. The
17 appropriation for such projects shall be set forth in a single line item as
18 a total sum. All unappropriated balances in said fund at the close of any
19 fiscal year shall remain therein and not revert to the general fund. All
20 moneys unexpended or not encumbered from the capital construction
21 fund appropriation to each department for any fiscal year shall revert to
22 the capital construction fund at the end of the period for which such
23 moneys are appropriated. Except as provided in sections 2-3-1304 (1)
24 (a.5) and 24-30-1303.7 (1), C.R.S., no portion of the unexpended balance
25 of a department's capital construction fund appropriation may be used by
26 such department for any additional projects which are beyond the scope
27 or design of the original project without further approval by the general

1 assembly of such additional project. Anticipation warrants may be issued
2 against the revenues of the fund as provided by law. Except as provided
3 in subsection (7) of this section, all interest earned from the investment
4 of moneys in said fund shall remain in said fund and become a part
5 thereof.

6 **SECTION 4.** Article 75 of title 24, Colorado Revised Statutes, is
7 amended BY THE ADDITION OF A NEW PART to read:

8 PART 14

9 STATE RAINY DAY FUND

10 **24-75-1401. State rainy day fund - use.** (1) THE STATE RAINY
11 DAY FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL
12 CONSIST OF MONEYS TRANSFERRED TO THE FUND PURSUANT TO SECTION
13 24-75-218 (2) AND ANY OTHER MONEYS REQUIRED BY LAW TO BE
14 CREDITED THERETO. INTEREST AND INCOME EARNED ON THE DEPOSIT AND
15 INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.
16 ALL MONEYS, INCLUDING ANY INTEREST AND INCOME, SHALL REMAIN IN
17 THE FUND UNLESS APPROPRIATED OR TRANSFERRED FROM THE FUND
18 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

19 (2) DURING ECONOMIC DOWNTURNS, THE GENERAL ASSEMBLY
20 MAY APPROPRIATE OR TRANSFER MONEYS FROM THE STATE RAINY DAY
21 FUND FOR ANY PURPOSE BY THE ENACTMENT OF A BILL APPROVED BY A
22 TWO-THIRDS MAJORITY VOTE OF ALL OF THE MEMBERS ELECTED TO EACH
23 HOUSE OF THE GENERAL ASSEMBLY.

24 **SECTION 5.** The introductory portion to 43-4-205 (6) (b),
25 Colorado Revised Statutes, is amended to read:

26 **43-4-205. Allocation of fund.** (6) Revenues raised by the excise
27 tax imposed on gasoline and special fuel pursuant to sections 39-27-102

1 and 39-27-102.5, C.R.S., in excess of seven cents per gallon of tax, shall
2 be placed in the highway users tax fund to be allocated as follows; except
3 that revenues raised by the excise tax imposed on gasoline in excess of
4 eighteen cents per gallon of tax shall be allocated according to the
5 provisions of paragraph (b) of this subsection (6):

6 (b) The remaining balance of ~~such~~ revenue FROM THE EXCISE TAX
7 IMPOSED ON GASOLINE AND SPECIAL FUEL AND REVENUES THAT ARE
8 CREDITED TO THE FUND PURSUANT TO SECTION 24-75-218, C.R.S., shall
9 be expended only for improvements to highways within the state,
10 including new construction, safety improvements, maintenance, and
11 capacity improvements. No moneys shall be expended for administrative
12 purposes. Such revenue shall be allocated as follows:

13 **SECTION 6. Act subject to petition - effective date.** This act
14 shall take effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part shall not take effect
20 unless approved by the people at the general election to be held in
21 November 2012 and shall take effect on the date of the official
22 declaration of the vote thereon by the governor.