

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 20-1187.02 Jason Gelender x4330

HOUSE BILL 20-1380

HOUSE SPONSORSHIP

McCluskie and Ransom, Esgar, Roberts

SENATE SPONSORSHIP

Moreno and Zenzinger, Rankin

House Committees
Appropriations

Senate Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REDIRECTION OF A PORTION OF TOBACCO**
102 **LITIGATION SETTLEMENT MONEYS TO THE GENERAL FUND.**

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/>.)

Joint Budget Committee. The bill redirects a portion of tobacco litigation settlement moneys (settlement moneys) to the general fund for state fiscal year (FY) 2020-21 by:

- ! Transferring \$20 million of settlement moneys received during FY 2019-20 to the general fund and offsetting the \$20 million reduction in the amount of such settlement

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.

SENATE
2nd Reading Unamended
June 5, 2020

HOUSE
3rd Reading Unamended
June 3, 2020

HOUSE
2nd Reading Unamended
June 1, 2020

moneys available for allocation in FY 2020-21 to the programs that receive settlement moneys by allocating to the programs in FY 2020-21 \$20 million of settlement moneys to be received by the state in FY 2020-21 that would otherwise be allocated in FY 2021-22;

- ! Removing \$2,000,130 of settlement moneys received in excess of projections during FY 2019-20 from the base amount used to calculate the statutory allocations of settlement moneys to various programs;
- ! Reducing the statutory allocations of settlement moneys:
 - ! For the tobacco settlement defense account of the tobacco litigation settlement cash fund (litigation account) from 2.5% to 0.75% of the settlement moneys; and
 - ! For the state dental loan repayment program by \$160,717;
- ! Requiring all settlement moneys received during FY 2019-20 that are not allocated for state fiscal year 2020-21 under the modified statutory allocation formula to be transferred to the general fund on July 1, 2020;
- ! Requiring additional July 1, 2020, transfers to the general fund of settlement moneys previously credited to cash funds that receive statutory allocations of settlement moneys as follows:
 - ! \$8 million from the tobacco settlement defense account;
 - ! \$4,237,375 from the nurse home visitor program fund; and
 - ! \$3 million from the Colorado state veterans trust fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-22-115, **amend**
3 (1)(b) and (2)(b); and **add** (1)(d) as follows:

4 **24-22-115. Tobacco litigation settlement cash fund - health**
5 **care supplemental appropriations and overexpenditures account -**
6 **creation - repeal.** (1) (b) EXCEPT AS OTHERWISE PROVIDED IN
7 SUBSECTION (1)(d) OF THIS SECTION, on and after July 1, 2011, all
8 unexpended and unencumbered moneys in the cash fund shall remain in

1 the fund until expended in order to reduce the share of allocations made
2 from current-year receipts of settlement moneys as required by section
3 24-75-1104.5 (1.3).

4 (d) (I) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER
5 TWENTY MILLION DOLLARS FROM THE TOBACCO LITIGATION SETTLEMENT
6 CASH FUND TO THE GENERAL FUND.

7 (II) THIS SUBSECTION (1)(d) IS REPEALED, EFFECTIVE JULY 1, 2021.

8 (2) (b) (I) All ~~moneys~~ MONEY in the tobacco settlement defense
9 account ~~shall be~~ IS subject to annual appropriation by the general
10 assembly to the department of law and the department of revenue.
11 Notwithstanding the provisions of subsection (1) of this section AND
12 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b)(II) OF THIS
13 SECTION, at the end of any fiscal year, all unexpended and unencumbered
14 ~~moneys~~ MONEY and all ~~moneys~~ MONEY not appropriated for the following
15 fiscal year in the tobacco settlement defense account remain in the
16 tobacco settlement defense account to be used for the purposes set forth
17 in this subsection (2).

18 (II) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER
19 EIGHT MILLION DOLLARS FROM THE TOBACCO SETTLEMENT DEFENSE
20 ACCOUNT TO THE GENERAL FUND.

21 **SECTION 2.** In Colorado Revised Statutes, 24-75-1104.5,
22 **amend** (1.3)(a.5), (1.7) introductory portion, (1.7)(i), and (1.7)(m); and
23 **add** (1.8) as follows:

24 **24-75-1104.5. Use of settlement moneys - programs.**
25 (1.3) (a.5) For the 2016-17 fiscal year, and for each fiscal year thereafter,
26 the lesser of all settlement moneys received or the following amounts of
27 settlement moneys shall be allocated in each fiscal year in which the state

1 receives the moneys in the percentages specified and for the programs,
2 services, and funds specified in subsection (1.7) of this section:

3 (I) For the 2016-17 fiscal year, ~~and~~ for the 2018-19 AND 2019-20
4 fiscal ~~year~~ YEARS, and for THE 2021-22 FISCAL YEAR AND each fiscal year
5 thereafter, the amount allocated pursuant to this subsection (1.3) for the
6 prior fiscal year less the amount of any disputed payments in the tobacco
7 litigation settlement cash fund that were credited to the fund pursuant to
8 ~~subparagraph (I) of paragraph (a) of subsection (5)~~ SUBSECTION (5)(a)(I)
9 of this section and less the amount of unexpended and unencumbered
10 moneys remaining in the tobacco litigation settlement cash fund at the end
11 of the prior fiscal year; ~~and~~

12 (II) For the 2017-18 fiscal year, the amount allocated pursuant to
13 ~~subparagraph (I) of this paragraph (a.5)~~ SUBSECTION (1.3)(a.5)(I) OF THIS
14 SECTION for the 2016-17 fiscal year less fifteen million dollars, less the
15 amount of any disputed payments in the tobacco litigation settlement cash
16 fund that were credited to the fund pursuant to ~~subparagraph (I) of~~
17 ~~paragraph (a) of subsection (5)~~ SUBSECTION (5)(a)(I) of this section, and
18 less the amount of unexpended and unencumbered moneys remaining in
19 the tobacco litigation settlement cash fund at the end of the 2016-17 fiscal
20 year; AND

21 (III) FOR THE 2020-21 FISCAL YEAR, THE AMOUNT ALLOCATED
22 PURSUANT TO SUBSECTION (1.3)(a.5)(I) OF THIS SECTION FOR THE 2019-20
23 FISCAL YEAR LESS THE AMOUNT OF ANY DISPUTED PAYMENTS IN THE
24 TOBACCO LITIGATION SETTLEMENT CASH FUND THAT WERE CREDITED TO
25 THE FUND PURSUANT TO SUBSECTION (5)(a)(I) OF THIS SECTION, LESS THE
26 AMOUNT OF UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN
27 THE TOBACCO LITIGATION SETTLEMENT CASH FUND AT THE END OF THE

1 2019-20 FISCAL YEAR, AND PLUS TWENTY MILLION DOLLARS.

2 (1.7) Except as otherwise provided in subsections (1.3), **(1.8)**, and
3 (5) of this section, and except that disputed payments received by the state
4 in the 2015-16 fiscal year or in any year thereafter are excluded from the
5 calculation of allocations under this subsection (1.7), for the 2016-17
6 fiscal year and for each fiscal year thereafter, the following programs,
7 services, and funds shall receive the following specified percentages of
8 the total amount of settlement moneys received by the state in the
9 preceding fiscal year:

10 (i) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.7)(i)(II)
11 OF THIS SECTION, the tobacco settlement defense account of the tobacco
12 litigation settlement cash fund created in section 24-22-115 (2)(a) shall
13 receive two and one-half percent of the settlement moneys;

14 (II) FOR THE 2020-21 FISCAL YEAR, THE TOBACCO SETTLEMENT
15 DEFENSE ACCOUNT OF THE TOBACCO LITIGATION SETTLEMENT CASH FUND
16 SHALL RECEIVE SEVENTY-FIVE ONE-HUNDREDTHS PERCENT OF THE
17 SETTLEMENT MONEYS;

18 (m) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
19 (1.7)(m)(II) OF THIS SECTION, the state dental loan repayment program
20 created in article 23 of title 25 ~~C.R.S.~~, shall receive one percent of the
21 settlement moneys; ~~and~~

22 (II) FOR THE 2020-21 FISCAL YEAR, THE STATE DENTAL LOAN
23 REPAYMENT PROGRAM SHALL RECEIVE ONE PERCENT OF THE SETTLEMENT
24 MONEYS LESS ONE HUNDRED SIXTY THOUSAND SEVEN HUNDRED
25 SEVENTEEN DOLLARS; AND

26 (1.8) (a) FOR THE 2020-21 FISCAL YEAR, THE TOTAL AMOUNT OF
27 SETTLEMENT MONEYS RECEIVED BY THE STATE IN THE PRECEDING FISCAL

1 YEAR SHALL BE REDUCED BY TWO MILLION DOLLARS BEFORE THE
2 CALCULATION OF ALLOCATIONS UNDER SUBSECTION (1.7) OF THIS
3 SECTION.

4 (b) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER ALL
5 SETTLEMENT MONEYS RECEIVED DURING THE 2019-20 FISCAL YEAR THAT
6 ARE NOT ALLOCATED UNDER SUBSECTION (1.7) OF THIS SECTION TO THE
7 GENERAL FUND.

8 **SECTION 3.** In Colorado Revised Statutes, 25-23-104, **amend**
9 (2) as follows:

10 **25-23-104. Dental loan repayment fund - acceptance of grants**
11 **and donations.** (2) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
12 (2)(b) OF THIS SECTION, pursuant to ~~section 24-75-1104.5 (1.7)(m), C.R.S.~~
13 SECTION 24-75-1104.5 (1.7)(m)(I), for fiscal year 2016-17 and for each
14 fiscal year thereafter so long as the state receives ~~moneys~~ MONEY
15 pursuant to the master settlement agreement, the state treasurer shall
16 transfer to the state dental loan repayment fund one percent of the ~~moneys~~
17 MONEY received by the state pursuant to the master settlement agreement
18 for the preceding fiscal year.

19 (b) PURSUANT TO SECTION 24-75-1104.5 (1.7)(m)(II), FOR FISCAL
20 YEAR 2020-21, THE STATE TREASURER SHALL TRANSFER TO THE STATE
21 DENTAL LOAN REPAYMENT FUND ONE PERCENT OF THE MONEY RECEIVED
22 BY THE STATE PURSUANT TO THE MASTER SETTLEMENT AGREEMENT LESS
23 ONE HUNDRED SIXTY THOUSAND SEVEN HUNDRED SEVENTEEN DOLLARS.

24 (c) The state treasurer shall transfer the amount specified in ~~this~~
25 ~~subsection (2)~~ SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION from ~~moneys~~
26 MONEY credited to the tobacco litigation settlement cash fund created in
27 section 24-22-115. ~~C.R.S. Moneys~~ MONEY in the fund ~~are~~ IS subject to

1 annual appropriation by the general assembly for the purposes of this
2 ~~article~~ ARTICLE 23. The amount appropriated pursuant to this subsection
3 (2) is in addition to and not in replacement of any general fund ~~moneys~~
4 MONEY appropriated to the state dental loan repayment fund.

5 **SECTION 4.** In Colorado Revised Statutes, 26-6.4-107, **amend**
6 (2)(b) as follows:

7 **26-6.4-107. Selection of entities to administer the program -**
8 **grants - nurse home visitor program fund - created.** (2) (b) (I) Grants
9 awarded pursuant to subsection (2)(a) of this section are payable from the
10 nurse home visitor program fund, which fund is hereby created in the
11 state treasury. The nurse home visitor program fund, referred to in this
12 section as the "fund", is administered by the state department and consists
13 of money transferred thereto by the state treasurer from money received
14 pursuant to the master settlement agreement in the amount described in
15 subsection (2)(d) of this section. In addition, the state treasurer shall
16 credit to the fund any public or private gifts, grants, or donations received
17 by the state department to implement the program, including any money
18 received from the United States federal government for the program. The
19 fund is subject to annual appropriation by the general assembly to the
20 state department for grants to entities for operation of the program. The
21 state department may retain the amount needed to pay for the program's
22 share of the state department's indirect costs, as calculated under the
23 federally approved cost allocation plan. In addition, the state department
24 may retain a total of up to five percent of the amount annually
25 appropriated from the fund for the program, in order to compensate the
26 health sciences facility pursuant to section 26-6.4-105 (3), as set forth in
27 the scope of work in the agreement between the state department and the

1 health sciences facility, and to compensate the state department for the
2 actual costs the state department incurs in implementing subsection
3 (2)(a.5) of this section, as determined by the state department; except that
4 the portion of the costs to compensate the state department for
5 implementing subsection (2)(a.5) of this section shall not exceed two
6 percent of the amount annually appropriated from the fund for the
7 program, and the portion of such costs to compensate the health sciences
8 facility under section 26-6.4-105 (3), as set forth in the scope of work in
9 the contract between the state department and the health sciences facility,
10 shall not exceed three percent of the amount annually appropriated from
11 the fund for the program. In addition, if the total amount annually
12 appropriated from the fund for the program exceeds nineteen million
13 dollars, the state department and the health sciences facility shall assess
14 whether a smaller percentage of the appropriated funds exceeding
15 nineteen million dollars is adequate to cover their actual costs and shall
16 jointly submit to the general assembly a report articulating their
17 conclusions on this subject. The actual costs of the state department
18 include state department personnel and operating costs and any necessary
19 transfers to the department of health care policy and financing for
20 administrative costs incurred for the medicaid program associated with
21 the program. The actual costs of the health sciences facility include the
22 facility's own actual program costs and those of its contractors and
23 subcontractors. Any costs for time studies required to obtain medicaid
24 reimbursement for the program may be paid from program funds and are
25 not subject to the five percent limit in this section. Notwithstanding
26 section 24-36-114, all interest derived from the deposit and investment of
27 money in the fund shall be credited to the fund. EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (2)(b)(II) OF THIS SECTION, all unexpended and
2 unencumbered money in the fund at the end of any fiscal year remains in
3 the fund and shall not be transferred to the general fund or any other fund.

4 (II) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER
5 FOUR MILLION TWO HUNDRED THIRTY-SEVEN THOUSAND THREE HUNDRED
6 SEVENTY-FIVE DOLLARS FROM THE FUND TO THE GENERAL FUND.

7 **SECTION 5.** In Colorado Revised Statutes, 28-5-709, **amend**
8 (1)(c) as follows:

9 **28-5-709. Colorado state veterans trust fund - created - report.**

10 (1) (c) (I) The division may retain up to five percent of the amount
11 annually appropriated from the trust fund for the actual costs incurred by
12 the division and the board in implementing the provisions of this ~~article~~
13 ARTICLE 5. Notwithstanding the provisions of section 24-36-114, ~~C.R.S.~~,
14 all interest derived from the deposit and investment of ~~moneys~~ MONEY in
15 the trust fund shall be credited to the trust fund. EXCEPT AS OTHERWISE
16 PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION, all unexpended and
17 unencumbered ~~moneys~~ MONEY remaining in the trust fund at the end of
18 any fiscal year shall remain in the trust fund and shall neither revert to the
19 general fund nor be transferred to the tobacco litigation settlement trust
20 fund created in section 24-22-115.5, ~~C.R.S.~~, nor be transferred or credited
21 to any other fund.

22 (II) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER
23 THREE MILLION DOLLARS FROM THE TRUST FUND TO THE GENERAL FUND.

24 **SECTION 6. 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.