

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

LLS NO. 14-1096.01 Bob Lackner x4350

**SENATE BILL 14-223**

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**SENATE SPONSORSHIP**

**Nicholson and Cadman,** Carroll, Heath, Steadman

**HOUSE SPONSORSHIP**

**Gerou and Young,**

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**Senate Committees**  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE PAYMENT BY THE STATE OF LEGAL CLAIMS ARISING**  
102 **IN CONNECTION WITH THE LOWER NORTH FORK WILDFIRE, AND,**  
103 **IN CONNECTION THEREWITH, MAKING AND REDUCING**  
104 **APPROPRIATIONS.**

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**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>.)*

**Section 1** of the bill directs the state claims board (board) to compromise or settle claims brought by certain claimants who have

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.*

SENATE  
Amended 2nd Reading  
May 2, 2014

suffered damages or other losses in connection with the lower north fork wildfire (wildfire) in March 2012 to reimburse them for their economic and noneconomic losses as well as interest on such amounts. The bill specifies that the total amount of the moneys paid to each claimant reflects the amount of money in excess of the liability limitations under current law for which the board recommended the claimant recover, any additional damages that the arbiters recommended the state pay these claimants in pending state court litigation, and interest on such amounts.

Upon approval by the board of the payments of the total claims, the office of the state controller is required to make payment to the claimants from the general fund no later than September 1, 2014.

In accepting the payment, a claimant agrees to release the state from any future claims arising out of the wildfire.

**Section 2** of the bill specifies the total amount to be paid to each claimant by the state.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-10-114, **amend**  
3 (5) introductory portion and (5) (b) (I); and **add** (5) (c) as follows:

4 **24-10-114. Limitations on judgments - recommendation to**  
5 **general assembly - authorization of additional payment - lower north**  
6 **fork wildfire - legislative declaration.** (5) Notwithstanding the  
7 maximum amounts that may be recovered from a public entity set forth  
8 in subsection (1) of this section, an amount may be recovered from the  
9 state under this article in excess of the maximum amounts only if  
10 paragraph (a), ~~or~~ (b), OR (c) of this subsection (5) applies:

11 (b) (I) Except as otherwise provided in subparagraphs (II) and  
12 (III) of this paragraph (b) OR PARAGRAPH (c) OF THIS SUBSECTION (5), the  
13 state claims board created in section 24-30-1508 (1), referred to in this  
14 ~~paragraph (b)~~ SUBSECTION (5) as the "board", acting in accordance with  
15 its authority under section 24-30-1515, compromises or settles a claim on  
16 behalf of the state for the maximum liability limits under this article and  
17 determines, in its sole discretion, to recommend to the general assembly

1 that an additional payment be made and the general assembly, by bill,  
2 authorizes all or any portion of the additional payment. In determining  
3 whether to make such recommendation, the board shall consider interests  
4 of fairness, the public interest, and the interests of the state. A  
5 recommendation made under this paragraph (b) shall not include payment  
6 for noneconomic loss or injury and shall be reduced to the extent the  
7 claimant's loss is or will be covered by another source, including, without  
8 limitation, any insurance proceeds that have been paid or will be paid, and  
9 no insurer has a right of subrogation, assignment, or any other right  
10 against the claimant or the state for any additional payment or any portion  
11 of such payment that is approved by the general assembly. Any additional  
12 payment or any portion of such payment approved by the general  
13 assembly shall be paid from the general fund. For purposes of this  
14 paragraph (b), an "additional payment" means the payment to a claimant  
15 in excess of the maximum liability limits pursuant to this paragraph (b)  
16 that may be authorized by the general assembly upon a recommendation  
17 from the board.

18 (c) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
19 BOARD IS HEREBY DIRECTED TO COMPROMISE OR SETTLE CLAIMS BROUGHT  
20 BY CERTAIN CLAIMANTS WHO HAVE SUFFERED DAMAGES OR OTHER LOSSES  
21 IN CONNECTION WITH THE LOWER NORTH FORK WILDFIRE IN MARCH 2012  
22 TO REIMBURSE THEM FOR THEIR ECONOMIC AND NONECONOMIC LOSSES,  
23 ALONG WITH INTEREST ON SUCH AMOUNTS. THE TOTAL AMOUNT OF THE  
24 CLAIMS TO BE PAID TO EACH CLAIMANT IS SPECIFIED IN THE TABLE  
25 CONTAINED IN SECTION 2 OF SENATE BILL 14-223, ENACTED IN 2014. THE  
26 TOTAL AMOUNT OF MONEYS TO BE PAID TO EACH CLAIMANT UNDER THIS  
27 SUBPARAGRAPH (I) REFLECTS THE AMOUNT OF DAMAGES IN EXCESS OF THE

1 LIABILITY LIMITATIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION FOR  
2 WHICH THE BOARD RECOMMENDED THE CLAIMANT RECOVER UNDER  
3 SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (5), ANY  
4 ADDITIONAL DAMAGES THAT THE ARBITERS RECOMMENDED THE STATE  
5 PAY THESE CLAIMANTS IN CONNECTION WITH LITIGATION BROUGHT IN  
6 JEFFERSON COUNTY DISTRICT COURT, AND INTEREST ON SUCH AMOUNTS.

7 (II) UPON APPROVAL BY THE BOARD OF THE PAYMENTS OF THE  
8 TOTAL CLAIMS SPECIFIED IN THE TABLE CONTAINED IN SECTION 2 OF  
9 SENATE BILL 14-223, ENACTED IN 2014, THE OFFICE OF THE STATE  
10 CONTROLLER SHALL MAKE SUCH PAYMENT TO THE CLAIMANTS FROM THE  
11 GENERAL FUND IN THE AMOUNT OF THE TOTAL CLAIMS TO BE PAID EACH  
12 CLAIMANT SPECIFIED IN THE TABLE NO LATER THAN SEPTEMBER 1, 2014.

13 (III) NO INSURER HAS A RIGHT OF SUBROGATION, ASSIGNMENT, OR  
14 ANY OTHER RIGHT AGAINST THE CLAIMANT FOR ANY ADDITIONAL  
15 PAYMENT OR ANY PORTION OF THE PAYMENT THAT IS APPROVED BY THE  
16 GENERAL ASSEMBLY.

17 (IV) IN ACCEPTING THE PAYMENT FOR SUCH CLAIMS AUTHORIZED  
18 TO BE PAID PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE  
19 CLAIMANT AND ANY OF THE CLAIMANT'S SUCCESSORS, AGENTS, HEIRS,  
20 AND ASSIGNS, COLLECTIVELY REFERRED TO AS THE "CLAIMANT", HEREBY  
21 FOREVER RELEASE AND DISCHARGE THE STATE AND ANY OF ITS OFFICERS,  
22 EMPLOYEES, AND AGENTS FROM ANY AND ALL MATTERS, CLAIMS,  
23 COMPLAINTS, CHARGES, DEMANDS, DAMAGES, CAUSES OF ACTION, DEBTS,  
24 LIABILITIES, CONTROVERSIES, JUDGEMENTS, AND SUITS OF EVERY KIND  
25 AND NATURE WHATSOEVER ARISING OUT OF THE LOWER NORTH FORK  
26 WILDFIRE IN MARCH 2012, AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH  
27 (c), WHETHER FORESEEN OR UNFORESEEN, KNOWN OR UNKNOWN.

1 (V) INsofar AS THE COMPROMISE AND SETTLEMENT EFFECTED BY  
 2 THIS PARAGRAPH (c) ADDRESSES ALL OUTSTANDING CLAIMS ARISING OUT  
 3 OF THE LOWER NORTH FORK WILDFIRE IN A JUST AND REASONABLE  
 4 MANNER, THE GENERAL ASSEMBLY HEREBY STRONGLY ENCOURAGES THE  
 5 DEPARTMENT OF LAW TO REFRAIN FROM APPEALING THE ORDER DATED  
 6 APRIL 24, 2014, REGARDING HOMEOWNERS' REQUESTS FOR ENTRY OF  
 7 JUDGEMENT IN THE LITIGATION ENTITLED *IN RE THE LOWER NORTH FORK*  
 8 *FIRE LITIGATION IN JEFFERSON COUNTY DISTRICT COURT*, CASE NO. 12 CV  
 9 2550.

10 **SECTION 2. Lower north fork wildfire claimants and totals.**

11 The total amount of claims to be paid to each claimant is specified in the  
 12 following table:

Name of Claimant	Total Amount of Claim
Scott Appel, individually and on behalf of the heirs and estate of Ann Appel	\$4,779,480
Joanne Baldwin, individually and her minor children and the Richard and Janet Pierce Family Trust	\$126,793
Dan Brubaker and Patricia Brubaker	\$473,315
John Campbell and Catherine Campbell	\$419,152
Bruce Ellis, Mary Ann Ellis, and Bee Group, Inc.	\$364,439
James M. Fildey and F. Jill Fildey	\$952,473
Douglas Gulick, Kim Olson, for themselves and on behalf of their children, Rhoanabella, Quillan, and Kaleb	\$487,257
Morey Gustafson and Denise Gustafson	\$62,866
Andrew Hoover and Jean Hoover	\$2,560,811
Kenneth Kobs and Susanne Kobs	\$425,923

1	Maria Kuehster, Christine Kuehster, and Edward	
2	Kuehster	\$464,786
3	Samuel Lucas, Jr., and Linda White, individually	
4	and as personal representatives of the estates of	
5	Samuel Lucas, Sr., and Linda Moaneti Lucas	\$1,360,895
6	Coe Meyer	\$775,867
7	Jack Ogg and Mary Ogg	\$200,965
8	Dennis and Nancy Pappas	\$1,187,500
9	Thomas Scanlan, Sharon Scanlan, and Scanlan	
10	Associates Ltd.	\$906,761
11	George and Claire Schmidt	\$184,670
12	Jon Shirley, Amy Shirley, Sara Shirley,	
13	individually and on behalf of her minor children,	
14	Joshua and Ashley Warfel	\$1,649,510
15	James Spoon and Aileen Spoon	\$165,500
16	Mountain Area Land Trust (MALT)	\$87,590
17	<b>Total of all claims</b>	<b>\$17,636,554</b>

18                    **SECTION 3. In Colorado Revised Statutes, 24-75-302, amend**  
19 **as added by House Bill 14-1342 (2) (aa) as follows:**

20                    **24-75-302. Capital construction fund - capital assessment fees**  
21 **- calculation. (2) On July 1 of each year through July 1, 2014, the state**  
22 **treasurer and the controller shall transfer a sum as specified in this**  
23 **subsection (2) out of the general fund and into the capital construction**  
24 **fund as moneys become available in the general fund during the fiscal**  
25 **year beginning on said July 1. Transfers between funds pursuant to this**  
26 **subsection (2) are not appropriations subject to the limitations of section**  
27 **24-75-201.1. The amounts transferred pursuant to this subsection (2) are**  
28 **as follows:**

1            (aa) On July 1, 2014, two hundred twenty-four million nine  
2 hundred ninety-three THREE HUNDRED FIFTY-THREE thousand four  
3 hundred sixty-five dollars.

4            **SECTION 4.** In Colorado Revised Statutes, 24-75-220 (4), as  
5 amended by House Bill 14-1342, add (4) (a) (III.3) and (4) (a) (III.4) as  
6 follows:

7            **24-75-220. State education fund - transfers - surplus -**  
8 **legislative declaration.** (4) (a) Notwithstanding any provision of law to  
9 the contrary, following the release of the preliminary certification by the  
10 state controller for the fiscal year 2013-14 as specified in section  
11 24-77-106.5 (1) (b), the director of research of the legislative council  
12 shall work with the state controller to determine a preliminary figure  
13 representing the estimated general fund surplus designated in accordance  
14 with section 24-75-201 (1) for the fiscal year 2013-14. The state  
15 controller shall provide such preliminary figure to the state treasurer, the  
16 director of the office of state planning and budgeting, and the director of  
17 the joint budget committee before September 15, 2014. On September 15,  
18 2014, an amount equal to ninety percent of that preliminary figure is  
19 allocated in the following order of priority:

20            **(III.3) THE STATE TREASURER SHALL TRANSFER SIX HUNDRED**  
21 **FORTY THOUSAND DOLLARS TO THE EMERGENCY CONTROLLED**  
22 **MAINTENANCE ACCOUNT CREATED IN SECTION 24-75-302 (3.2);**

23            **(III.4) THE STATE TREASURER SHALL TRANSFER ONE MILLION**  
24 **DOLLARS TO THE ECONOMIC DEVELOPMENT FUND CREATED IN SECTION**  
25 **24-46-105 (1);**

26            **SECTION 5. Appropriation to the department of human**  
27 **services for the fiscal year beginning July 1, 2013.** In Session Laws of

1 Colorado 2013, amend section 2 of chapter 231, (SB 13-266), as section  
2 2 is amended by section 3 of House Bill 14-1238, and as section 2 is  
3 further amended by section 17 of House Bill 14-1336, as follows:

4 Section 2. **Appropriation.** (1) In addition to any other  
5 appropriation, there is hereby appropriated, out of any moneys in the  
6 general fund, not otherwise appropriated, to the department of human  
7 services, for the fiscal year beginning July 1, 2013, the sum of \$5,660,072  
8 \$1,378,179 and 0.9 FTE, or so much thereof as may be necessary, to be  
9 allocated to behavioral health services for the implementation of this act  
10 as follows:

11 (a) ~~\$4,828,419~~ \$600,000 for co-occurring behavioral health  
12 services, crisis response system–crisis stabilization units, mobile crisis  
13 response, respite services, and marketing;

14 (b) ~~\$758,720~~ \$705,246 for co-occurring behavioral health  
15 services, crisis response system–telephone hotlines;

16 (c) \$67,280 and 0.9 FTE for administration, personal services; and

17 (d) \$5,653 for administration, operating expenses.

18 **SECTION 6. Appropriation.** In addition to any other  
19 appropriation, there is hereby appropriated, out of any moneys in the  
20 general fund not otherwise appropriated, to the department of personnel,  
21 for the fiscal year beginning July 1, 2013, the sum of \$6,547,560, or so  
22 much thereof as may be necessary, for allocation to the division of human  
23 resources, risk management services, risk management program  
24 administrative cost, for the compromise or settlement of claims by the  
25 state claims board pursuant to section 24-10-114 (5) (c), Colorado  
26 Revised Statutes, as enacted by Senate Bill 14-223, enacted in 2014,  
27 related to the implementation of this act. Any moneys appropriated in this



1 section not expended prior to July 1, 2014, are further appropriated to the  
2 department for the fiscal year beginning July 1, 2014, for the same  
3 purposes.

4 **SECTION 7. Appropriation - adjustments to 2014 long bill.**

5 (1) For the implementation of this act, appropriations made in the annual  
6 general appropriation act to the governor - lieutenant governor - state  
7 planning and budgeting for the fiscal year beginning July 1, 2014, are  
8 adjusted as follows:

9 (a) The general fund appropriation for economic development  
10 programs, economic development commission - general economic  
11 incentives and marketing, is decreased by \$1,000,000.

12 (b) The cash funds appropriation from the Colorado economic  
13 development fund created in section 24-46-105 (1), Colorado Revised  
14 Statutes, for economic development programs, economic development  
15 commission - general economic incentives and marketing, is increased by  
16 \$1,000,000. Said sum is conditioned upon the transfer of general fund  
17 surplus to the Colorado economic development fund as specified in  
18 section 24-75-220 (4) (a), Colorado Revised Statutes, as amended in  
19 House Bill 14-1342.

20 (2) For the implementation of this act, appropriations made in the  
21 annual general appropriation act for capital construction for the fiscal year  
22 beginning July 1, 2014, are adjusted as follows:

23 (a) The cash funds appropriation from the capital construction  
24 fund created in section 24-75-302 (1), Colorado Revised Statutes, for  
25 controlled maintenance, department of personnel, emergency controlled  
26 maintenance is decreased by \$640,000.

27 (b) The cash funds appropriation from the emergency controlled

1 maintenance account created in section 24-75-302 (3.2), Colorado  
2 Revised Statutes, for controlled maintenance, department of personnel,  
3 emergency controlled maintenance is increased by \$640,000. Said sum is  
4 conditioned upon the transfer of general fund surplus to the emergency  
5 controlled maintenance account as specified in section 24-75-220 (4) (a),  
6 Colorado Revised Statutes, as amended in House Bill 14-1342.

7 (3) For the implementation of this act, the general fund  
8 appropriation made in the annual general appropriation act to the  
9 controlled maintenance trust fund created in section 24-75-302.5 (2) (a),  
10 Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is  
11 decreased by \$589,099.

12 **SECTION 8. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.