

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0528.01 Ed DeCecco x4216

HOUSE BILL 12-1075

HOUSE SPONSORSHIP

Beezley and DelGrosso,

SENATE SPONSORSHIP

Brophy,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A LIMIT ON TOTAL STATE GENERAL FUND**
102 **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 2012-13 state fiscal year, the bill establishes a new limit for total state general fund appropriations that is equal to 6% over the total general fund appropriations for the previous

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.*

fiscal year.

The end-year surplus in the general fund, which is moneys above the new appropriation limit, is transferred as follows:

- ! 50% to the newly created state reserve fund;
- ! 25% to the highway users tax fund; and
- ! 25% to the capital construction fund.

During economic downturns, the general assembly may appropriate or transfer moneys from the state reserve 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.

The moneys transferred to the highway users tax fund are 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.** In Colorado Revised Statutes, 24-75-201.1, **amend**
3 (1) (a) (II.5), (1) (a) (III) introductory portion, (1) (a) (IV), and (1) (a) (V)
4 introductory portion; and **add** (1) (a) (II.7) as follows:

5 **24-75-201.1. Restriction on state appropriations - legislative**
6 **declaration - definitions.** (1) (a) (II.5) Except as otherwise provided in
7 subparagraphs (III) and (IV) of this paragraph (a), for the fiscal year
8 ~~2009-10 and each fiscal year thereafter~~ YEARS 2009-10, 2010-11, AND
9 2011-12, the total state general fund appropriations shall be limited to
10 such moneys as are necessary for reappraisals of any class or classes of
11 taxable property for property tax purposes as required by section
12 39-1-105.5, C.R.S., plus an amount equal to five percent of Colorado
13 personal income.

14 (II.7) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (III)
15 AND (IV) OF THIS PARAGRAPH (a), FOR THE FISCAL YEAR 2012-13 AND
16 EACH FISCAL YEAR THEREAFTER, THE TOTAL STATE GENERAL FUND
17 APPROPRIATIONS SHALL BE LIMITED TO SUCH MONEYS AS ARE NECESSARY

1 FOR REAPPRAISALS OF ANY CLASS OR CLASSES OF TAXABLE PROPERTY FOR
2 PROPERTY TAX PURPOSES AS REQUIRED BY SECTION 39-1-105.5, C.R.S.,
3 PLUS SIX PERCENT OVER THE TOTAL STATE GENERAL FUND
4 APPROPRIATIONS FOR THE PREVIOUS FISCAL YEAR.

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

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

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

24 (V) No state cash fund appropriation which either supplants any
25 state general fund appropriation or, if not made, would necessitate a state
26 general fund appropriation shall be made in order to circumvent the
27 limitation on the level of state general fund appropriations set forth in

1 subparagraphs (II), ~~and~~ (II.5), AND (II.7) of this paragraph (a). The
2 provisions of this subparagraph (V) shall not apply to any state cash fund
3 appropriation:

4 **SECTION 2.** In Colorado Revised Statutes, **recreate and**
5 **reenact, with amendments,** 24-75-218 as follows:

6 **24-75-218. Transfers of general fund surplus - definitions.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

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

11 (b) "DESIGNATED FUNDS" MEANS THE CAPITAL CONSTRUCTION
12 FUND, HIGHWAY USERS TAX FUND, AND THE STATE RESERVE FUND.

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

15 (d) "STATE RESERVE FUND" MEANS THE STATE RESERVE FUND
16 CREATED IN SECTION 24-75-1401.

17 (2) THE STATE TREASURER SHALL DEDUCT THE GENERAL FUND
18 SURPLUS DESIGNATED IN ACCORDANCE WITH SECTION 24-75-201 (1) FROM
19 THE GENERAL FUND AND TRANSFER SUCH SUM AS FOLLOWS:

20 (a) FIFTY PERCENT OF THE SURPLUS TO THE STATE RESERVE FUND;

21 (b) TWENTY-FIVE PERCENT OF THE SURPLUS TO THE HIGHWAY
22 USERS TAX FUND; AND

23 (c) TWENTY-FIVE PERCENT OF THE SURPLUS TO THE CAPITAL
24 CONSTRUCTION FUND.

25 (3) THE STATE TREASURER SHALL DEDUCT THE GENERAL FUND
26 SURPLUS AND TRANSFER THE AMOUNTS REQUIRED PURSUANT TO
27 SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH THE FOLLOWING

1 SCHEDULE:

2 (a) ON SEPTEMBER 20, 2013, AND EACH SEPTEMBER 20
3 THEREAFTER, THE STATE TREASURER SHALL DEDUCT FROM THE GENERAL
4 FUND AND TRANSFER TO THE DESIGNATED FUNDS AMOUNTS ESTIMATED BY
5 THE TREASURER TO EQUAL NINETY PERCENT OF THE AMOUNTS REQUIRED
6 TO BE DEDUCTED AND TRANSFERRED.

7 (b) ON THE DATE DURING THE STATE FISCAL YEAR ON WHICH THE
8 STATE CONTROLLER DISTRIBUTES THE COMPREHENSIVE ANNUAL
9 FINANCIAL REPORT OF THE STATE, THE STATE TREASURER SHALL DEDUCT
10 FROM THE GENERAL FUND AND TRANSFER TO THE DESIGNATED FUNDS
11 AMOUNTS EQUAL TO THE DIFFERENCES BETWEEN THE ACTUAL AMOUNTS
12 REQUIRED TO BE TRANSFERRED AND THE ESTIMATED AMOUNTS
13 PREVIOUSLY TRANSFERRED PURSUANT TO PARAGRAPH (a) OF THIS
14 SUBSECTION (3).

15 **SECTION 3.** In Colorado Revised Statutes, 24-75-302, **amend**
16 (1) (a) as follows:

17 **24-75-302. Capital construction fund - capital assessment fees**
18 **- calculation.** (1) (a) There is hereby created the capital construction
19 fund to which shall be allocated MONEYS PURSUANT TO SECTION
20 24-75-218 AND such OTHER revenues as the general assembly may from
21 time to time determine. Moneys in the capital construction fund may be
22 appropriated for capital construction, as defined in section 24-75-301 (1),
23 including the remodeling or renovation of existing buildings or other
24 physical facilities designated as controlled maintenance projects in the
25 general appropriation act; except that any moneys transferred to the
26 capital construction fund for state highway reconstruction, repair, and
27 maintenance projects may only be appropriated for such projects. The

1 appropriation for such projects shall be set forth in a single line item as
2 a total sum. All unappropriated balances in said fund at the close of any
3 fiscal year shall remain therein and not revert to the general fund. All
4 moneys unexpended or not encumbered from the capital construction
5 fund appropriation to each department for any fiscal year shall revert to
6 the capital construction fund at the end of the period for which such
7 moneys are appropriated. Except as provided in sections 2-3-1304 (1)
8 (a.5) and 24-30-1303.7 (1), C.R.S., no portion of the unexpended balance
9 of a department's capital construction fund appropriation may be used by
10 such department for any additional projects which are beyond the scope
11 or design of the original project without further approval by the general
12 assembly of such additional project. Anticipation warrants may be issued
13 against the revenues of the fund as provided by law. Except as provided
14 in subsection (7) of this section, all interest earned from the investment
15 of moneys in said fund shall remain in said fund and become a part
16 thereof.

17 **SECTION 4.** In Colorado Revised Statutes, **add** part 14 to article
18 75 of title 24 as follows:

19 **PART 14**

20 **STATE RESERVE FUND**

21 **24-75-1401. State reserve fund - use.** (1) THE STATE RESERVE
22 FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS
23 OF MONEYS TRANSFERRED THERETO PURSUANT TO SECTION 24-75-218 (2)
24 AND ANY OTHER MONEYS REQUIRED BY LAW TO BE CREDITED THERETO.
25 INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF
26 MONEYS IN THE FUND MUST BE CREDITED TO THE FUND. ALL MONEYS,
27 INCLUDING ANY INTEREST AND INCOME, MUST REMAIN IN THE FUND

1 UNLESS APPROPRIATED OR TRANSFERRED FROM THE FUND PURSUANT TO
2 SUBSECTION (2) OF THIS SECTION.

3 (2) DURING ECONOMIC DOWNTURNS, THE GENERAL ASSEMBLY
4 MAY APPROPRIATE OR TRANSFER MONEYS FROM THE STATE RESERVE FUND
5 FOR ANY PURPOSE BY THE ENACTMENT OF A BILL APPROVED BY A
6 TWO-THIRDS MAJORITY VOTE OF ALL OF THE MEMBERS ELECTED TO EACH
7 HOUSE OF THE GENERAL ASSEMBLY.

8 **SECTION 5.** In Colorado Revised Statutes, 43-4-205, **amend** (6)
9 (b) introductory portion as follows:

10 **43-4-205. Allocation of fund.** (6) Revenues raised by the excise
11 tax imposed on gasoline and special fuel pursuant to sections 39-27-102
12 and 39-27-102.5, C.R.S., in excess of seven cents per gallon of tax, shall
13 be placed in the highway users tax fund to be allocated as follows; except
14 that revenues raised by the excise tax imposed on gasoline in excess of
15 eighteen cents per gallon of tax shall be allocated according to the
16 provisions of paragraph (b) of this subsection (6):

17 (b) The remaining balance of ~~such~~ revenue FROM THE EXCISE TAX
18 IMPOSED ON GASOLINE AND SPECIAL FUEL AND REVENUES THAT ARE
19 TRANSFERRED TO THE FUND PURSUANT TO SECTION 24-75-218, C.R.S.,
20 shall be expended only for improvements to highways within the state,
21 including new construction, safety improvements, maintenance, and
22 capacity improvements. No moneys shall be expended for administrative
23 purposes. Such revenue shall be allocated as follows:

24 **SECTION 6. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2012 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.