

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

REVISED

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

LLS NO. 13-0947.01 Jason Gelender x4330

HOUSE BILL 13-1305

HOUSE SPONSORSHIP

Gerou and Levy, Duran

SENATE SPONSORSHIP

Steadman, Hodge, Lambert

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING LIMITED AUTHORIZATION FOR THE GOVERNOR TO ORDER**
102 **MONEYS TO BE TRANSFERRED FROM THE GENERAL FUND TO THE**
103 **TOBACCO LITIGATION SETTLEMENT CASH FUND IF ANY PAYMENT**
104 **OF TOBACCO LITIGATION SETTLEMENT MONEYS TO BE MADE TO**
105 **THE STATE IS REDUCED DUE TO A FINDING BY AN ARBITRATION**
106 **PANEL THAT THE STATE MUST REPAY DISPUTED PAYMENTS OF**
107 **TOBACCO LITIGATION SETTLEMENT MONEYS ALREADY MADE TO**
108 **THE STATE.**

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

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
2nd Reading Unamended
May 3, 2013

HOUSE
3rd Reading Unamended
April 22, 2013

HOUSE
Amended 2nd Reading
April 19, 2013

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Joint Budget Committee. The state is currently engaged in arbitration with participating manufacturers to the tobacco litigation settlement to determine whether:

- ! The participating manufacturers' alleged loss of market share has resulted from the failure of the state to diligently enforce state laws related to nonparticipating manufacturers as required by the tobacco litigation master settlement agreement; and
- ! All or any portion of disputed payments of tobacco litigation settlement moneys already made to the state or placed into escrow should be refunded to the participating manufacturers.

If an arbitration panel rules against the state, one or more payments of tobacco litigation settlement moneys to be made to the state are likely to be reduced in order to effectuate the refund of disputed payments.

If one or more tobacco litigation settlement payments are reduced, it may be necessary or advisable to use general fund moneys to backfill tobacco litigation settlement moneys lost to tobacco settlement programs. Because there is no current statutory authority to use general fund moneys in this manner, if the general assembly is not in session when such a ruling is made, it may not be possible to accomplish the backfill quickly enough to allow the tobacco litigation settlement programs to meet critical state obligations and to begin reducing program expenditures in an orderly manner. To address this difficulty, the bill provides limited authorization to the governor to order up to \$40 million of general fund moneys to be transferred from the general fund to the tobacco litigation settlement cash fund if an arbitration panel rules against the state while the general assembly is not in session.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-75-1107 as
3 follows:

4 **24-75-1107. Loss of disputed payments - authorization for**
5 **transfers to tobacco litigation settlement cash fund.** (1) THE
6 ATTORNEY GENERAL SHALL IMMEDIATELY NOTIFY THE GOVERNOR, THE
7 STATE TREASURER, THE JOINT BUDGET COMMITTEE OF THE GENERAL

1 ASSEMBLY, THE SPEAKER AND MINORITY LEADER OF THE HOUSE OF
2 REPRESENTATIVES, AND THE PRESIDENT AND MINORITY LEADER OF THE
3 SENATE IF AN ARBITRATION PANEL MAKES ANY FINDING REGARDING THE
4 FAILURE OF THE STATE TO DILIGENTLY ENFORCE THE PROVISIONS OF PART
5 2 OF ARTICLE 28 OF TITLE 39, C.R.S., THAT WILL REDUCE THE AMOUNT OF
6 ANY PAYMENT OF SETTLEMENT MONEYS TO THE STATE.

7 (2) IF THE ATTORNEY GENERAL PROVIDES NOTIFICATION PURSUANT
8 TO SUBSECTION (1) OF THIS SECTION, THE GOVERNOR MAY INSTRUCT THE
9 STATE TREASURER TO TRANSFER A SPECIFIC AMOUNT OF NOT MORE THAN
10 FORTY MILLION DOLLARS FROM THE GENERAL FUND TO THE TOBACCO
11 LITIGATION SETTLEMENT CASH FUND AND TO FURTHER TRANSFER THOSE
12 MONEYS TO PROGRAMS AND FUNDS THAT RECEIVE SETTLEMENT MONEYS
13 PURSUANT TO SECTION 24-75-1104.5 AS DIRECTED BY THE GOVERNOR IF:

14 (a) THE GENERAL ASSEMBLY IS NOT IN REGULAR SESSION;

15 (b) THE NOTIFICATION INDICATES THAT THE NEXT SCHEDULED
16 PAYMENT OF SETTLEMENT MONEYS TO THE STATE WILL BE AT LEAST
17 THIRTY-FIVE MILLION DOLLARS LESS THAN THE MOST RECENT AMOUNT
18 FORECAST BY THE STAFF OF THE LEGISLATIVE COUNCIL WHEN THE
19 GENERAL ASSEMBLY WAS LAST IN REGULAR SESSION;

20 (c) THE SETTLEMENT MONEYS THAT WILL NO LONGER BE PAID TO
21 THE STATE WERE PREVIOUSLY EXPECTED TO BE PAID WITHIN TWELVE
22 MONTHS OF THE DATE OF THE FINDING THAT WILL REDUCE THE AMOUNT
23 OF A PAYMENT OF SETTLEMENT MONEYS TO THE STATE; AND

24 (d) THE AMOUNT TO BE TRANSFERRED IS BASED ON:

25 (I) THE AMOUNT REQUIRED TO COVER THE AMOUNT OF WORKING
26 CAPITAL ADVANCED FROM THE GENERAL FUND TO TOBACCO SETTLEMENT
27 PROGRAMS BEFORE THE DATE OF THE FINDING THAT WILL REDUCE THE

1 AMOUNT OF A PAYMENT OF SETTLEMENT MONEYS TO THE STATE; AND
2 (II) ANY ADDITIONAL AMOUNT NEEDED TO ALLOW TOBACCO
3 SETTLEMENT PROGRAMS TO MEET CRITICAL STATE OBLIGATIONS AND
4 REDUCE PROGRAM EXPENDITURE IN AN ORDERLY MANNER THROUGH THE
5 END OF THE NEXT JANUARY.

6 **SECTION 2. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.