

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 26-0419.01 Nicole Myers x4326

SENATE BILL 26-042

SENATE SPONSORSHIP

Weissman and Amabile,

HOUSE SPONSORSHIP

Zokaie and Sirota,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CLASSIFICATION OF CERTAIN STATE REVENUE FOR**
102 **THE PURPOSES OF CALCULATING STATE FISCAL YEAR SPENDING**
103 **PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE**
104 **CONSTITUTION, AND, IN CONNECTION THEREWITH, CLARIFYING**
105 **THE STATUTORY DEFINITIONS OF COLLECTIONS FOR ANOTHER**
106 **GOVERNMENT AND DAMAGE AWARDS AND MAKING AN**
107 **APPROPRIATION.**

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>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Section 20 of article X of the state constitution (TABOR) defines "fiscal year spending" as excluding "collections for another government" and "damage awards". Although TABOR does not define either "collections for another government" or "damage awards", the TABOR implementing statutes define both terms. The bill clarifies both of these definitions for state fiscal years commencing on or after July 1, 2025.

The bill clarifies that "collections for another government", as used for the purpose of determining whether specific money received by the state is subject to the TABOR limitation on state fiscal year spending, includes revenue from the excise tax on gasoline used as fuel for the propulsion of specified aircraft collected by the state and distributed to governmental or airport entities operating an FAA-designated public use airport.

The bill also clarifies that "damage award", as used for the purpose of determining whether specific money received by the state is subject to the TABOR limitation on state fiscal year spending, includes certain civil fines and penalties imposed by the state.

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

2 **SECTION 1. Legislative declaration.**

3 (1) The general assembly finds and declares that:

4 (a) Section 20 (2)(e) of article X of the state constitution exempts
5 "collections for another government" and "damage awards" from "fiscal
6 year spending", as defined in section 20 (2)(e) of article X of the state
7 constitution;

8 (b) Under the existing statutory definition of "damage award",
9 some money that the state collects as fines or penalties for violations of
10 certain legal requirements is treated as state fiscal year spending when
11 determining whether the state has exceeded the state's fiscal year
12 spending limit despite the constitutional exemption for such collections;

13 (c) It is inconsistent with section 20 of article X of the state
14 constitution to treat money that the state collects as fines or penalties for
15 violations of certain legal requirements as state revenue in light of the

1 specific exemption for "damage awards";

2 (d) (I) Under the existing definition of "collections for another
3 government", some money that the state collects from taxes on gasoline
4 that is used as fuel for the propulsion of certain aircraft and that is
5 distributed to other governmental or airport entities is treated as state
6 fiscal year spending when determining whether the state has exceeded the
7 state's fiscal year spending limit despite the constitutional exemption for
8 such collections;

9 (II) It is inconsistent with section 20 of article X of the state
10 constitution to treat money that the state collects from the excise tax and
11 sales and use tax on gasoline that is used as fuel for the propulsion of
12 certain aircraft and that is distributed to other governmental and airport
13 entities as state fiscal year spending in light of the specific exemption for
14 "collections for another government"; _____

15 (e) (I) Under the existing definition of "collections for another
16 government", some money that the state collects from the fee for criminal
17 history record checks that is transmitted to the federal bureau of
18 investigation for the portions of such criminal history record checks
19 conducted by the federal government is treated as state fiscal year
20 spending when determining whether the state has exceeded the state's
21 fiscal year spending limit despite the constitutional exemption for such
22 collections;

23 (II) It is inconsistent with section 20 of article X of the state
24 constitution to treat money that the state collects from the fee for criminal
25 history record checks and that is transmitted to the federal bureau of
26 investigation as state fiscal year spending in light of the specific
27 exemption for "collections for another government"; and

1 (f) Nothing in this act operates to exclude any money that has
2 been included as "collections for another government" or "damage
3 awards" under the preexisting definition of those terms from the clarified
4 definitions of those terms in this act - that money continues to be included
5 in these clarified definitions.

6 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
7 (1)(b), (2)(a), (2)(b)(IV), and (2)(b)(V); **repeal (2)(b)(I); and add (1)(e),**
8 **(1)(f), and (2)(c)** as follows:

9 **24-77-102. Definitions.**

10 As used in this article 77, unless the context otherwise requires:

11 (1) (b) EXCEPT AS OTHERWISE SPECIFIED IN SUBSECTION (1)(b)(IV)
12 OF THIS SECTION, for state fiscal years commencing on or after July 1,
13 2023, notwithstanding the definition of "collections for another
14 government" in subsection (1)(a) of this section, the only revenues
15 collected by the state for the benefit and use of another government other
16 than the state and passed through to that government other than the state
17 for the benefit of and use by that government that qualify as "collections
18 for another government" without further identification by the general
19 assembly are revenues collected pursuant to:

20 (I) The authority of the government for whose benefit the state
21 collects the revenue;

22 (II) The authority of the state and apportioned to another
23 government in connection with that government forgoing the imposition
24 of certain taxes and collecting the corresponding tax revenue; ~~or~~

25 (III) A constitutional requirement that the state collect the revenue
26 for the benefit of another government; OR

27 (IV) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,

1 2025:

2 (A) THE AUTHORITY OF THE STATE TO COLLECT AN EXCISE TAX
3 AND SALES AND USE TAX ON GASOLINE THAT IS USED AS JET FUEL AND
4 DISTRIBUTE THE REVENUE TO A NON-STATE ENTITY; AND

5 (B) THE AUTHORITY OF THE STATE TO COLLECT A FEE FOR
6 CRIMINAL HISTORY RECORD CHECKS, A PORTION OF WHICH IS
7 TRANSMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE
8 REQUIRED FEDERAL COMPONENT OF SUCH RECORD CHECKS.

9 (e) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT
10 TO REVENUE THAT IS COLLECTED IN ACCORDANCE WITH SUBSECTION
11 (1)(b)(IV)(A) OF THIS SECTION, INCLUDES THE FOLLOWING REVENUE THAT
12 IS PLACED IN OR CREDITED TO THE AVIATION FUND CREATED IN SECTION
13 43-10-109 AND DISTRIBUTED IN ACCORDANCE WITH SECTION 43-10-110
14 TO GOVERNMENTAL OR AIRPORT ENTITIES OPERATING AN
15 FAA-DESIGNATED PUBLIC-USE AIRPORT:

16 (I) REVENUE FROM THE EXCISE TAX ON GASOLINE USED AS FUEL
17 FOR THE PROPULSION OF NONTURBO-PROPELLER, NONJET ENGINE,
18 TURBO-PROPELLER, OR JET ENGINE AIRCRAFT COLLECTED BY THE STATE
19 PURSUANT TO SECTION 39-27-102 (1)(a)(IV) THAT IS PLACED IN THE
20 AVIATION FUND PURSUANT TO SECTION 39-27-112 (2)(b); AND

21 (II) REVENUE FROM THE SALES AND USE TAXES COLLECTED
22 DURING A FISCAL YEAR BY THE STATE PURSUANT TO SECTIONS 39-26-104
23 AND 39-26-202 ON AVIATION FUELS USED IN TURBO-PROPELLER OR JET
24 ENGINE AIRCRAFT THAT IS CREDITED TO THE AVIATION FUND PURSUANT TO
25 SECTION 43-10-109 (2)(a)(I).

26 (f) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT TO
27 REVENUE THAT IS RECEIVED IN ACCORDANCE WITH SUBSECTION

1 (1)(b)(IV)(B) OF THIS SECTION, INCLUDES THE FEE REVENUES THAT ARE
2 COLLECTED BY THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF
3 CRIMINAL HISTORY RECORD CHECKS PURSUANT TO SECTION 24-33.5-426
4 AND THAT IS TRANSMITTED TO THE FEDERAL BUREAU OF INVESTIGATION
5 FOR A REQUIRED FEDERAL COMPONENT OF SUCH CRIMINAL HISTORY
6 RECORD CHECKS.

7 (2) "Damage award" means any pecuniary compensation received
8 by the state as a result of:

9 (a) Any judgment or allowance in favor of the state; ~~and~~

10 (b) For state fiscal years commencing on or after July 1, 2024:

11 (I) A civil monetary penalty assessed by the department of health
12 care policy and financing pursuant to section 25.5-6-205;

13 (IV) A monetary fine or penalty collected by the division of
14 administration of the department of public health and environment
15 pursuant to section 25-7-115, 25-7-122, or 25-7-123 and deposited in the
16 community impact cash fund created in section 25-7-129 or in the motor
17 vehicle emissions assistance fund created in section 25-7-129.5; ~~and~~

18 (V) A monetary penalty collected by the division of labor
19 standards and statistics of the department of labor and pursuant to section
20 8-1-114; AND

21 (c) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
22 2025:

23 (I) A FINE, PENALTY, OR FORFEITURE THAT IS CREDITED TO THE
24 HIGHWAY USERS TAX FUND PURSUANT TO SECTIONS 18-4-509 (2)(a),
25 39-27-104 (1)(g), 42-1-217 (1)(a), 42-1-217 (1)(b), 42-1-217 (1)(d),
26 42-1-217 (1)(e), 42-1-217 (2), 42-4-225 (3), AND 42-4-235 (2)(a);

27 =====

1 (II) MONEY DEPOSITED IN THE CRIME VICTIM COMPENSATION FUND
2 OF EACH JUDICIAL DISTRICT PURSUANT TO SECTION 24-4.1-117 (2)
3 INCLUDING ALL MONEY PAID AS A COST OR SURCHARGE LEVIED ON
4 CRIMINAL ACTIONS PURSUANT TO SECTION 24-4.1-119; ALL MONEY
5 RECEIVED FROM ANY ACTION OR SUIT TO RECOVER DAMAGES FROM AN
6 ASSAILANT FOR A COMPENSABLE CRIME WHICH WAS THE BASIS FOR
7 APPROVAL OF, AND LIMITED TO, COMPENSATION RECEIVED UNDER PART 1
8 OF ARTICLE 4.1 OF THIS TITLE 24; AND ANY RESTITUTION PAID BY AN
9 ASSAILANT TO A VICTIM FOR DAMAGES FOR A COMPENSABLE CRIME WHICH
10 WAS THE BASIS FOR APPROVAL OF COMPENSATION RECEIVED UNDER PART
11 1 OF ARTICLE 4.1 OF THIS TITLE 24 AND FOR DAMAGES FOR WHICH THE
12 VICTIM HAS RECEIVED APPROVAL OF, AND LIMITED TO, COMPENSATION
13 RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24; AND

14 SECTION 3. In Colorado Revised Statutes, 24-4.1-117,
15 amend (5) as follows:

16 24-4.1-117. Fund created - control of fund.

17 (5) (a) FOR STATE FISCAL YEARS COMMENCING PRIOR TO JULY 1,
18 2026, all money deposited in the fund must be used solely for the
19 compensation of victims pursuant to this part 1; except that the district
20 attorney and the court executive may use an aggregate of no more than
21 twenty-two and one-half percent of the total amount of money in the
22 crime victim compensation fund for administrative costs incurred
23 pursuant to this part 1. The district attorney may use no more than twenty
24 percent of the total amount of money in the fund for administrative costs.
25 The court executive may use no more than two and one-half percent of
26 the total amount of money in the fund for administrative costs.

27 (b) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,

1 2026:

2 (I) ALL MONEY DEPOSITED IN THE FUND MUST BE USED SOLELY FOR
3 THE COMPENSATION OF VICTIMS PURSUANT TO THIS PART 1; AND

4 (II) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY TO THE
5 DISTRICT ATTORNEY IN EACH JUDICIAL DISTRICT IN AN AMOUNT EQUAL TO
6 TWENTY PERCENT OF THE TOTAL AMOUNT OF MONEY IN THE FUND IN THAT
7 JUDICIAL DISTRICT FOR ADMINISTRATIVE COSTS AND IN AN AMOUNT EQUAL
8 TO TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF MONEY IN THE
9 FUND IN THAT JUDICIAL DISTRICT FOR ADMINISTRATIVE COSTS.

10 **SECTION 4.** In Colorado Revised Statutes, 43-4-205, **repeal**
11 (5.5)(a); and **add** (5.7) as follows:

12 **43-4-205. Allocation of fund - repeal.**

13 (5.5) The following highway users tax fund revenues shall be
14 allocated and expended in accordance with the formula specified in
15 subsection (5) of this section:

16 (a) Revenues from fines, penalties, or forfeitures that are credited
17 to the fund pursuant to sections 18-4-509 (2)(a), 39-27-104 (1)(g),
18 42-1-217 (1)(a), (1)(b), (1)(d), (1)(e), and (2), 42-4-225 (3), and 42-4-235
19 (2)(a);

20 (5.7) REVENUES FROM FINES, PENALTIES, OR FORFEITURES THAT
21 ARE CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTIONS
22 18-4-509 (2)(a), 39-27-104 (1)(g), 42-1-217 (1)(a), (1)(b), (1)(d), (1)(e),
23 AND (2), 42-4-225 (3), AND 42-4-235 (2)(a), ARE ALLOCATED TO THE
24 COLORADO STATE PATROL TO BE USED FOR ROAD SAFETY.

25 **SECTION 5. Appropriation.** For the 2025-26 state fiscal year,
26 \$2,250,000 is appropriated to the judicial department for use by state
27 courts administration. This appropriation is from the general fund. To

1 implement this act, the state courts may use this appropriation for
2 Victims' Compensation Administration.

3 **SECTION 6. Appropriation.** For the 2026-27 state fiscal year,
4 \$2,250,000 is appropriated to the judicial department for use by state
5 courts administration. This appropriation is from the general fund. To
6 implement this act, the state courts may use this appropriation for
7 Victims' Compensation Administration.

8 **SECTION 7. Safety clause.** The general assembly finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety or for appropriations for
11 the support and maintenance of the departments of the state and state
12 institutions.