

CHAPTER 359

GOVERNMENT - STATE

HOUSE BILL 24-1469

BY REPRESENTATIVE(S) Bird and Sirota, Bacon, deGruy Kennedy, Joseph, Snyder, Weissman, McCluskie;
also SENATOR(S) Zenzinger and Bridges, Cutter, Gonzales, Hansen, Priola.

AN ACT

CONCERNING THE CLASSIFICATION OF CERTAIN COLLECTIONS AS COLLECTIONS FOR ANOTHER GOVERNMENT FOR PURPOSES OF CALCULATING STATE FISCAL YEAR SPENDING PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

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

(b) Under the existing statutory definition of "collections for another government", some funds that the state collects and distributes to other governments are treated as state fiscal year spending when determining whether the state has exceeded the state's fiscal year spending limit despite the constitutional exemption for such collections;

(c) Upon distribution to other governments, the same funds that are treated as state fiscal year spending are also required to be treated as the fiscal year spending of the government to which the funds are distributed when determining whether the local government has exceeded its revenue limit under section 20 (7)(d) of article X of the state constitution;

(d) It is inconsistent with section 20 of article X of the state constitution to treat funds that the state collects and distributes to other governments as state revenue in light of the specific exemption for "collections for another government";

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) It is inconsistent with section 20 of article X of the state constitution to count the same funds as fiscal year spending for both the state's and another government's fiscal year spending limits;

(f) Even though this House Bill 24-1469 defines "collections for another government" as all revenue collected by the state for the benefit and use of another government other than the state and passed through to that other government for the benefit of and use by that government, the general assembly has determined at this time to include only two types of collections for another government that were not previously treated as collections for another government: Limited gaming tax revenue and cigarette tax revenue;

(g) Because the state collects a portion of the limited gaming tax revenue for the benefit and use of local governments, that portion qualifies as a "collection for another government" under section 20 (2)(e) of article X of the state constitution;

(h) Because the state collects a portion of the cigarette tax revenue for the benefit and use of local governments, that portion also qualifies as a "collection for another government" under section 20 (2)(e) of article X of the state constitution;

(i) Unless and until the general assembly decides to include additional types of collections that were not previously included in the definition of "collections for another government", no such additional types of collections will be included; and

(j) Nothing in this act operates to exclude any funds that have been included as "collections for another government" under the preexisting definition of that term from the clarified definition of that term in this act - those funds continue to be included in this clarified definition.

SECTION 2. In Colorado Revised Statutes, 24-77-102, **amend** (1) as follows:

24-77-102. Definitions. As used in this article 77, unless the context otherwise requires:

(1) (a) ~~"Collections for another government" means any tax revenues or other revenues REVENUE that are IS collected by the state for the benefit and use of any ANOTHER government other than the state pursuant to the authority of such other government and that are AND passed through to the THAT government OTHER THAN THE STATE for whose use such revenues were collected THE BENEFIT OF AND USE BY THAT GOVERNMENT.~~

(b) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2023, NOTWITHSTANDING THE DEFINITION OF "COLLECTIONS FOR ANOTHER GOVERNMENT" IN SUBSECTION (1)(a) OF THIS SECTION, THE ONLY REVENUES COLLECTED BY THE STATE FOR THE BENEFIT AND USE OF ANOTHER GOVERNMENT OTHER THAN THE STATE AND PASSED THROUGH TO THAT GOVERNMENT OTHER THAN THE STATE FOR THE BENEFIT OF AND USE BY THAT GOVERNMENT THAT QUALIFY AS "COLLECTIONS FOR ANOTHER GOVERNMENT" WITHOUT FURTHER IDENTIFICATION BY THE GENERAL ASSEMBLY ARE REVENUES COLLECTED PURSUANT TO:

(I) THE AUTHORITY OF THE GOVERNMENT FOR WHOSE BENEFIT THE STATE COLLECTS THE REVENUE;

(II) THE AUTHORITY OF THE STATE AND APPORTIONED TO ANOTHER GOVERNMENT IN CONNECTION WITH THAT GOVERNMENT FORGOING THE IMPOSITION OF CERTAIN TAXES AND COLLECTING THE CORRESPONDING TAX REVENUE; OR

(III) A CONSTITUTIONAL REQUIREMENT THAT THE STATE COLLECT THE REVENUE FOR THE BENEFIT OF ANOTHER GOVERNMENT.

(c) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT TO REVENUE THAT IS COLLECTED IN ACCORDANCE WITH SUBSECTION (1)(b)(II) OF THIS SECTION, INCLUDES THE REVENUE FROM THE GROSS STATE CIGARETTE TAX, AS DEFINED IN SECTION 39-22-623 (1)(a)(II)(A), COLLECTED BY THE STATE PURSUANT TO ARTICLE 28 OF TITLE 39, AND PASSED THROUGH BY DIRECT DISTRIBUTION TO ANY GOVERNMENT OTHER THAN THE STATE PURSUANT TO SECTIONS 24-22-118 AND 39-22-623.

(d) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT TO REVENUE THAT IS COLLECTED IN ACCORDANCE WITH SUBSECTION (1)(b)(III) OF THIS SECTION, INCLUDES THE LIMITED GAMING TAX REVENUES THAT ARE COLLECTED BY THE STATE PURSUANT TO SECTION 9 (5)(a) OF ARTICLE XVIII OF THE STATE CONSTITUTION AND SECTION 44-30-601 AND PASSED THROUGH BY DIRECT DISTRIBUTION ONLY, AND NOT THROUGH GRANTS, TO ANY GOVERNMENT OTHER THAN THE STATE PURSUANT TO SECTION 9 (5)(b)(II) AND (5)(b)(III) OF ARTICLE XVIII OF THE STATE CONSTITUTION AND SECTIONS 44-30-701 (1)(d)(II) TO (1)(d)(IV), 44-30-1201 (1), AND 44-30-1202.

SECTION 3. In Colorado Revised Statutes, 39-22-623, **amend** (1)(a)(II)(B); and **add** (1)(a)(II)(C) as follows:

39-22-623. Disposition of collections - definition. (1) The proceeds of all money collected under this article 22, less the reserve retained for refunds, shall be credited as follows:

(a) (II) (B) ~~Moneys~~ MONEY apportioned pursuant to this subparagraph (H) SUBSECTION (1)(a)(II)(B) shall be included for informational purposes in the general appropriation bill or in supplemental appropriation bills. ~~for the purpose of complying with the limitation on state fiscal year spending imposed by section 20 of article X of the state constitution and section 24-77-103, C.R.S.~~

(C) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2023, REVENUE COLLECTED BY THE STATE AND APPORTIONED PURSUANT TO THIS SUBSECTION (1)(a)(II) IS A COLLECTION FOR ANOTHER GOVERNMENT, AS DEFINED IN SECTION 24-77-102 (1), FOR THE PURPOSE OF DETERMINING STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

SECTION 4. In Colorado Revised Statutes, 43-1-112.5, **amend** (1)(b) as follows:

43-1-112.5. Establishment of annual allowable revenues and expenditures by general assembly. (1) The general assembly hereby finds and declares that:

(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, INCLUDING THE EXCLUSION OF COLLECTIONS FOR ANOTHER GOVERNMENT, AS DEFINED IN SECTION 24-77-102 (1), all state general fund expenditures and all state cash fund expenditures, including expenditures of the department and the commission, are included in the limitation on state fiscal year spending;

SECTION 5. In Colorado Revised Statutes, 44-30-701, **add** (1)(e) as follows:

44-30-701. Limited gaming fund - created - repeal. (1) There is hereby created in the office of the state treasurer the limited gaming fund. The fund shall be maintained and operated as follows:

(e) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2023, REVENUE COLLECTED BY THE STATE AND DISTRIBUTED BY THE STATE TREASURER PURSUANT TO SUBSECTIONS (1)(d)(II) TO (1)(d)(IV) OF THIS SECTION IS A COLLECTION FOR ANOTHER GOVERNMENT, AS DEFINED IN SECTION 24-77-102 (1), FOR THE PURPOSE OF DETERMINING STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

SECTION 6. In Colorado Revised Statutes, 44-30-1201, **add** (14) as follows:

44-30-1201. State historical fund - administration - legislative declaration - state museum cash fund - rules - definition. (14) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2023, REVENUE COLLECTED BY THE STATE AND USED FOR THE PRESERVATION AND RESTORATION OF THE CITIES OF CENTRAL, BLACK HAWK, AND CRIPPLE CREEK PURSUANT TO SUBSECTION (1) OF THIS SECTION IS A COLLECTION FOR ANOTHER GOVERNMENT, AS DEFINED IN SECTION 24-77-102 (1), FOR THE PURPOSE OF DETERMINING STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

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

Approved: June 3, 2024