

CHAPTER 26

TAXATION

SENATE BILL 03-185

BY SENATOR(S) Teck, Owen, Reeves, Anderson, and Kester;
also REPRESENTATIVE(S) Plant, Witwer, Young, Cloer, Frangas, Stafford, Decker, and Spradley.

AN ACT

CONCERNING THE ESTABLISHMENT OF A TAX AMNESTY PROGRAM WHEREBY TAXPAYERS MAY PAY OVERDUE TAX LIABILITIES WITHOUT PENALTY FOR A LIMITED TIME, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Part 2 of article 21 of title 39, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**PART 2
TAX AMNESTY PROGRAM**

39-21-201. Program established. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, TITLE 29, TITLE 32, OR TITLE 42, C.R.S., THE EXECUTIVE DIRECTOR SHALL CONDUCT A TAX AMNESTY PROGRAM FOR ANY TAXPAYER LIABLE FOR THE PAYMENT OF ANY OF THE TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION FOR WHICH A RETURN WAS REQUIRED TO BE FILED BEFORE DECEMBER 31, 2002, INCLUDING RETURNS FOR WHICH THE DEPARTMENT HAS GRANTED AN EXTENSION BEYOND SAID DATE. THE TAXPAYER AMNESTY PROGRAM SHALL BE CONDUCTED DURING JUNE 2003 AND SHALL NOT EXTEND TO ANY OTHER PERIOD.

(2) A TAXPAYER ELIGIBLE TO PARTICIPATE IN THE TAX AMNESTY PROGRAM SHALL INCLUDE ANY TAXPAYER LIABLE FOR PAYMENT OF INCOME TAXES IMPOSED PURSUANT TO ARTICLE 22 OF THIS TITLE, ESTATE TAXES IMPOSED PURSUANT TO ARTICLE 23.5 OF THIS TITLE, INHERITANCE TAXES IMPOSED PURSUANT TO ARTICLE 24 OF THIS TITLE, GIFT TAXES IMPOSED PURSUANT TO ARTICLE 25 OF THIS TITLE, SALES AND USE TAXES IMPOSED PURSUANT TO ARTICLE 26 OF THIS TITLE, GASOLINE AND SPECIAL FUEL TAXES IMPOSED PURSUANT TO ARTICLE 27 OF THIS TITLE, CIGARETTE TAXES IMPOSED PURSUANT TO ARTICLE 28 OF THIS TITLE, TAXES ON TOBACCO PRODUCTS IMPOSED PURSUANT TO ARTICLE 28.5 OF THIS TITLE, SEVERANCE TAXES IMPOSED PURSUANT TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ARTICLE 29 OF THIS TITLE, WASTE TIRE FEES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 25-17-202, COUNTY OR MUNICIPAL SALES TAXES COLLECTED BY THE EXECUTIVE DIRECTOR PURSUANT TO ARTICLE 2 OF TITLE 29, LOCAL MARKETING AND PROMOTION TAXES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 29-25-112, COUNTY LODGING TAXES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 30-11-107.5, COUNTY RENTAL TAXES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 30-11-107.7, LOCAL IMPROVEMENT DISTRICT SALES TAXES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 30-20-604.5, C.R.S., REGIONAL TRANSPORTATION DISTRICT SALES AND USE TAXES IMPOSED PURSUANT TO ARTICLE 9 OF TITLE 32, DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT SALES AND USE TAXES IMPOSED PURSUANT TO ARTICLE 13 OF TITLE 32, DENVER METROPOLITAN MAJOR LEAGUE BASEBALL STADIUM DISTRICT SALES AND USE TAXES IMPOSED PURSUANT TO ARTICLE 14 OF TITLE 32, METROPOLITAN FOOTBALL STADIUM DISTRICT SALES AND USE TAXES IMPOSED PURSUANT TO ARTICLE 15 OF TITLE 32, AND RURAL TRANSPORTATION AUTHORITY SALES AND USE TAXES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 43-4-605 (1) (j), C.R.S.

(3) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, THE TAX AMNESTY PROGRAM SHALL PERMIT ANY TAXPAYER LIABLE FOR PAYMENT OF ANY TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION TO PAY THE FULL AMOUNT OF THE TAXES FOR WHICH THE TAXPAYER IS LIABLE, INCLUDING ONE-HALF OF ANY INTEREST DUE, AS COMPUTED WITHOUT THE REDUCTION PURSUANT TO SECTION 39-21-109 (1.5), ON OR BEFORE JUNE 30, 2003, WITHOUT THE IMPOSITION OF ANY FINE OR OTHER CIVIL OR CRIMINAL PENALTY OTHERWISE PROVIDED BY LAW.

(b) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, THE TAX AMNESTY PROGRAM SHALL PERMIT ANY TAXPAYER LIABLE FOR PAYMENT OF ANY TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION TO SIGN AN AGREEMENT TO PAY THAT SHALL BE PRINTED ON THE TAX AMNESTY APPLICATION FORM AND DELIVER THE APPLICATION AND SIGNED AGREEMENT TO PAY TO THE DEPARTMENT ON OR BEFORE JUNE 30, 2003, WITHOUT THE IMPOSITION OF ANY FINE OR OTHER CIVIL OR CRIMINAL PENALTY OTHERWISE PROVIDED BY LAW. IF THE TAXPAYER FAILS TO PAY THE FULL AMOUNT OF TAXES OWED AND ALL INTEREST FOR WHICH THE TAXPAYER IS LIABLE PURSUANT TO THE TERMS OF THE TAX AMNESTY AGREEMENT TO PAY, THE WAIVER PROVISION OF THIS PARAGRAPH (b) IS VOID.

(c) PAYMENT OF TAXES PURSUANT TO THIS ARTICLE SHALL CONSTITUTE A WAIVER OF ANY RIGHT TO FILE A CLAIM FOR REFUND OR AN AMENDED RETURN FOR REFUND, OR SEEK AN ADMINISTRATIVE REVIEW, ADMINISTRATIVE HEARING, OR DISTRICT COURT APPEAL PURSUANT TO SECTIONS 39-21-103, 39-21-104, AND 39-21-105.

(d) IF A TAXPAYER FAILS TO PAY THE FULL AMOUNT OF THE TAX LIABILITY BY JUNE 30, 2003, OR FAILS TO SIGN AND FILE THE AGREEMENT TO PAY ON THE TAX AMNESTY APPLICATION BY JUNE 30, 2003, AND REMAIN IN COMPLIANCE WITH THE AGREEMENT TO PAY, OR COMMITS WILLFUL FRAUD IN FILING PURSUANT TO THE TERMS OF THE TAX AMNESTY PROGRAM, THE TAXPAYER SHALL BE SUBJECT TO CIVIL OR CRIMINAL PENALTY, OR BOTH.

(4) (a) A TAXPAYER LIABLE FOR THE PAYMENT OF ANY TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION SHALL NOT BE PERMITTED TO SATISFY SUCH

LIABILITY THROUGH THE TAX AMNESTY PROGRAM IF A NOTICE OF DEFICIENCY FOR THE LIABILITY HAS BEEN MAILED TO THE TAXPAYER BEFORE JUNE 1, 2003.

(b) A TAXPAYER WHO IS UNDER INVESTIGATION OR BEING PROSECUTED FOR CRIMINAL OR FRAUDULENT ACTIVITY AS OF JUNE 1, 2003, FOR CRIMES RELATED TO ANY TAXES COLLECTED BY THE DEPARTMENT IS NOT ELIGIBLE TO PARTICIPATE IN THE TAX AMNESTY PROGRAM, REGARDLESS OF WHETHER THE TAXES OWED FOR WHICH THE TAXPAYER SEEKS AMNESTY ARE THE TAXES ON WHICH THE INVESTIGATION OR PROSECUTION IS BASED.

(5) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-19.5-103, C.R.S., THE DEPARTMENT IS AUTHORIZED, AT THE DISCRETION OF THE EXECUTIVE DIRECTOR, TO ACCEPT DEPARTMENT APPROVED CREDIT CARD PAYMENT FOR ALL PAYMENTS DUE PURSUANT TO THIS ARTICLE AND ASSESS THE TAXPAYER AN AMOUNT EQUIVALENT TO ANY SERVICE FEE CHARGED BY THE CREDIT CARD COMPANY TO THE DEPARTMENT. SUCH AMOUNT SHALL BE COLLECTED BY THE DEPARTMENT AND USED BY THE DEPARTMENT FOR THE PURPOSE OF PAYING SUCH CREDIT CARD FEES.

(6) THE EXECUTIVE DIRECTOR SHALL PROMULGATE EMERGENCY RULES NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(7) THE DEPARTMENT SHALL CONDUCT AN ADVERTISING AND PUBLICITY CAMPAIGN CONCERNING THE TAX AMNESTY PROGRAM THAT SHALL INCLUDE SUFFICIENT NOTICE TO POTENTIAL PARTICIPANTS THAT ALL INFORMATION OBTAINED PURSUANT TO THIS ARTICLE MAY BE DISCLOSED TO THE FEDERAL INTERNAL REVENUE SERVICE.

(8) THE REQUIREMENTS OF THE COLORADO PROCUREMENT CODE, ARTICLE 101 OF TITLE 24, C.R.S., SHALL NOT APPLY TO SERVICES AND PRODUCTS PROCURED BY THE DEPARTMENT FOR CONDUCTING AN ADVERTISING AND PUBLICITY CAMPAIGN PURSUANT TO SUBSECTION (7) OF THIS SECTION. THE DEPARTMENT SHALL AWARD CONTRACTS FOR SERVICES AND PRODUCTS IN GOOD FAITH AND IN A MANNER THAT ENCOURAGES, TO THE EXTENT PRACTICABLE, COMPETITIVE PROPOSALS. OFFERORS AND POTENTIAL OFFERORS SHALL NOT HAVE A RIGHT TO PROTEST, RECOVER BID PREPARATION COSTS, OR PURSUE ANY OTHER REMEDY PROVIDED BY COLORADO LAW FOR SERVICES AND PRODUCTS PROCURED BY THE DEPARTMENT FOR PURPOSES OF THIS ARTICLE.

SECTION 2. Part XIX (1) and the affected totals of section 2 of chapter 399, Session Laws of Colorado 2002, are amended to read:

Section 2. **Appropriation.**

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
PART XIX						
DEPARTMENT OF REVENUE						
(1) EXECUTIVE DIRECTOR'S OFFICE						
Personal Services	2,589,136	1,480,989		330,712 ^a	777,435 ^b	
	(40.5 FTE)					
Health, Life, and Dental	2,946,800	2,039,289		89,915 ^c	817,596 ^d	
Short-term Disability	93,911	65,348		8,547 ^c	20,016 ^d	
Salary Survey and Senior Executive Service	3,609,786	2,671,756		92,990 ^c	845,040 ^d	
Performance-based Pay Awards	640,046	462,709		17,657 ^c	159,680 ^d	
Shift Differential	222,931	70,523		5,655 ^c	146,753 ^d	
Workers' Compensation	508,629	369,705		13,372 ^c	125,552 ^d	
Operating Expenses	636,748	473,844		41,464 ^c	121,440 ^d	
FY 2002-03 TAX AMNESTY PROGRAM MARKETING COSTS	200,000	200,000				

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Legal Services for 9,293 hours	555,721	426,972		117,686 ^c	11,063 ^d	
Purchase of Services from Computer Center	4,458,618	4,458,618				
Multiuse Network Payments	680,595	350,839		11,900 ^c	317,856 ^d	
Payment to Risk Management and Property Funds	236,435	171,856		6,216 ^c	58,363 ^d	
Vehicle Lease Payments	442,039	234,765		58,692 ^c	148,582 ^d	
Leased Space	1,751,709	1,708,698		20,802 ^c	22,209 ^d	
Capitol Complex Leased Space	1,384,953	1,136,691		42,826 ^c	205,436 ^d	
Lease Purchase -- 1881 Pierce Street	798,203			127,655 ^c	670,548 ^d	
Utilities	147,589	83,833			63,756 ^d	
	21,703,849					
	21,903,849					

^a Of this amount, \$218,658 (T) shall be from the State Lottery Fund for indirect cost recoveries, \$65,769 shall be from the Auto Dealers License Fund for indirect cost recoveries, \$45,727 shall be from the Liquor Enforcement Cash Fund for indirect cost recoveries, and \$558 shall be from various sources of cash funds.

^b Of this amount, \$396,533 shall be from the Highway Users Tax Fund in the Ports of Entry in the Motor Carrier Services Division for indirect cost recoveries, \$213,897 shall be from the Colorado State Titling and Registration Account for indirect cost recoveries, \$118,008(T) shall be from the Limited Gaming Fund for indirect cost recoveries, \$45,919 shall be from the Automotive Inspection and Readjustment Account for indirect cost recoveries, and \$3,078 shall be from various sources of cash funds exempt.

^c Of these amounts, \$129,754 shall be from the Auto Dealers License Fund, \$59,792 shall be from the Liquor Enforcement Cash Fund, \$10,457 shall be from the Limited Gaming Fund, and \$455,374 shall be from various sources of cash funds.

^d Of these amounts, \$1,141,229 shall be from the Highway Users Tax Fund for the Ports of Entry in the Motor Carrier Services Division, \$475,396 shall be from the Colorado State Titling and Registration Account, \$271,645(T) shall be from the Limited Gaming Fund, \$73,201 shall be from the Automotive Inspection and Readjustment Account, \$66,181 shall be from the State Lottery Fund, \$4,137 shall be from the Motorist Insurance Identification Database Account, and \$1,702,101 shall be from various sources of exempt cash funds. Of the amount from the Limited Gaming Fund, \$64,914(T) shall be for indirect cost recoveries.

TOTALS PART XIX

(REVENUE)^{5,6}	\$541,107,340	\$113,811,326^a		\$37,118,759 ^b	\$388,513,764 ^c	\$1,663,491
	<u>\$541,307,340</u>	<u>\$114,011,326^a</u>	_____	_____	_____	_____

^a Of this amount, \$38,437,000 is included as information for the purpose of complying with the limitation on state fiscal year spending imposed by Article X, Section 20 of the State Constitution. As this amount is continuously appropriated by a permanent statute or constitutional provision it is not subject to the limitation of General Fund Appropriations as set forth in Section 24-75-201.1 (1) (a) (III) (c), C.R.S.

^b Of this amount, \$372,155 contains a (T) notation.

^c Of this amount, \$1,047,943 contains a (T) notation, and \$11,846,901 is from the Highway Users Tax Fund. Of the Highway Users Tax Fund moneys, \$3,336,331 is exempt from the statutory limit on Highway Users Tax Fund appropriations pursuant to Section 43-4-201 (3), C.R.S.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 5, 2003