

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

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

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.

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>.)

Section 20 of article X of the state constitution (TABOR) defines

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.

"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
16 specific exemption for "damage awards";

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

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

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

19 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
20 (1)(b), (2)(a), (2)(b)(IV), and (2)(b)(V); and **add** (1)(e) and (2)(c) as
21 follows:

22 **24-77-102. Definitions.**

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

24 (1)(b) EXCEPT AS OTHERWISE SPECIFIED IN SUBSECTION (1)(b)(IV)
25 OF THIS SECTION, for state fiscal years commencing on or after July 1,
26 2023, notwithstanding the definition of "collections for another
27 government" in subsection (1)(a) of this section, the only revenues

1 collected by the state for the benefit and use of another government other
2 than the state and passed through to that government other than the state
3 for the benefit of and use by that government that qualify as "collections
4 for another government" without further identification by the general
5 assembly are revenues collected pursuant to:

6 (I) The authority of the government for whose benefit the state
7 collects the revenue;

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

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

13 (IV) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
14 2025, THE AUTHORITY OF THE STATE TO COLLECT AN EXCISE TAX ON
15 GASOLINE THAT IS USED AS JET FUEL AND DISTRIBUTE THE REVENUE TO A
16 NON-STATE ENTITY.

17 (e) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT
18 TO REVENUE THAT IS COLLECTED IN ACCORDANCE WITH SUBSECTION
19 (1)(b)(IV) OF THIS SECTION, INCLUDES THE REVENUE FROM THE EXCISE
20 TAX ON GASOLINE USED AS FUEL FOR THE PROPULSION OF
21 NONTURBO-PROPELLER, NONJET ENGINE, TURBO-PROPELLER, OR JET
22 ENGINE AIRCRAFT COLLECTED BY THE STATE PURSUANT TO SECTION
23 39-27-102 (1)(a)(IV) THAT IS PLACED, PURSUANT TO SECTION 39-27-112
24 (2)(b), IN THE AVIATION FUND CREATED IN SECTION 43-10-109 AND
25 DISTRIBUTED IN ACCORDANCE WITH SECTION 43-10-110 TO
26 GOVERNMENTAL OR AIRPORT ENTITIES OPERATING AN FAA-DESIGNATED
27 PUBLIC USE AIRPORT.

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

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

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

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

10 (V) A monetary penalty collected by the division of labor
11 standards and statistics of the department of labor and pursuant to section
12 8-1-114; AND

13 (c) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
14 2025:

15 (I) A FINE, PENALTY, OR FORFEITURE THAT IS CREDITED TO THE
16 HIGHWAY USERS TAX FUND PURSUANT TO SECTIONS 18-4-509 (2)(a),
17 39-27-104 (1)(g), 42-1-217 (1)(a), 42-1-217 (1)(b), 42-1-217 (1)(d),
18 42-1-217 (1)(e), 42-1-217 (2), 42-4-225 (3), AND 42-4-235 (2)(a);

19 (II) A MONETARY PENALTY COLLECTED PURSUANT TO SECTION
20 10-1-310, 10-3-1108, OR 10-3-1109, BY THE COMMISSIONER OF
21 INSURANCE IN THE DIVISION OF INSURANCE IN THE DEPARTMENT OF
22 REGULATORY AGENCIES;

23 (III) A CIVIL MONEY PENALTY COLLECTED PURSUANT TO SECTION
24 11-30-106.5 OR 11-44-123, BY THE COMMISSIONER OF FINANCIAL
25 SERVICES IN THE DIVISION OF FINANCIAL SERVICES IN THE DEPARTMENT OF
26 REGULATORY AGENCIES;

27 (IV) A CIVIL MONEY PENALTY COLLECTED PURSUANT TO SECTION

1 11-102-503 OR 11-109-602, BY THE BANKING BOARD IN THE DIVISION OF
2 BANKING IN THE DEPARTMENT OF REGULATORY AGENCIES;

3 (V) A CIVIL MONETARY PENALTY COLLECTED PURSUANT TO
4 SECTION 25-1-107.5, BY THE DEPARTMENT OF HEALTH CARE POLICY AND
5 FINANCING;

6 (VI) A FINE COLLECTED PURSUANT TO SECTION 25-1.5-117, BY THE
7 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

8 (VII) AN OVERPAYMENT OR CIVIL MONETARY PENALTY
9 COLLECTED PURSUANT TO SECTION 25.5-4-301 (2)(a)(I), BY THE
10 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

11 (VIII) PROCEEDS OWING TO THE STATE AS A RESULT OF AN ACTION
12 OR SETTLEMENT OF A CLAIM PURSUANT TO SECTION 25.5-4-306;

13 (IX) A CIVIL PENALTY COLLECTED PURSUANT TO SECTION
14 25-11-107 (4) BY THE DEPARTMENT OF PUBLIC HEALTH AND
15 ENVIRONMENT OR BY THE ATTORNEY GENERAL ON BEHALF OF THE
16 DEPARTMENT;

17 (X) AN ADMINISTRATIVE PENALTY COLLECTED PURSUANT TO
18 SECTION 25-17-407, BY THE DEPARTMENT OF PUBLIC HEALTH AND
19 ENVIRONMENT;

20 (XI) AN ADMINISTRATIVE OR CIVIL PENALTY COLLECTED
21 PURSUANT TO SECTION 25-15-309, BY THE DEPARTMENT OF PUBLIC
22 HEALTH AND ENVIRONMENT;

23 (XII) AN ADMINISTRATIVE OR CIVIL PENALTY COLLECTED
24 PURSUANT TO SECTION 30-20-113 (5), BY THE DEPARTMENT OF PUBLIC
25 HEALTH AND ENVIRONMENT;

26 (XIII) THE SIXTY-FIVE PERCENT MONETARY PENALTY COLLECTED
27 PURSUANT TO SECTION 8-81-101 (4)(a)(II), BY THE DIVISION OF

1 UNEMPLOYMENT INSURANCE IN THE DEPARTMENT OF LABOR AND
2 EMPLOYMENT;

3 (XIV) A PENALTY COLLECTED PURSUANT TO SECTION 38-12-1105,
4 BY THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS;

5 (XV) A MONETARY PENALTY COLLECTED PURSUANT TO SECTION
6 44-30-524 BY THE COLORADO LIMITED GAMING CONTROL COMMISSION IN
7 THE DIVISION OF GAMING IN THE DEPARTMENT OF REVENUE;

8 (XVI) A PENALTY COLLECTED PURSUANT TO SECTION 8-1-116 BY
9 THE DIRECTOR OF THE DIVISION OF LABOR STANDARDS AND STATISTICS IN
10 THE DEPARTMENT OF LABOR AND EMPLOYMENT;

11 (XVII) A PENALTY COLLECTED PURSUANT TO SECTION 25-5-1009
12 BY THE STATE BOARD OF HEALTH IN THE DEPARTMENT OF PUBLIC HEALTH
13 AND ENVIRONMENT;

14 (XVIII) MONEY DEPOSITED IN THE CRIME VICTIM COMPENSATION
15 FUND OF EACH JUDICIAL DISTRICT PURSUANT TO SECTION 24-4.1-117 (2)
16 INCLUDING ALL MONEY PAID AS A COST OR SURCHARGE LEVIED ON
17 CRIMINAL ACTIONS PURSUANT TO SECTION 24-4.1-119; ALL MONEY
18 RECEIVED FROM ANY ACTION OR SUIT TO RECOVER DAMAGES FROM AN
19 ASSAILANT FOR A COMPENSABLE CRIME WHICH WAS THE BASIS FOR
20 APPROVAL OF, AND LIMITED TO, COMPENSATION RECEIVED UNDER PART 1
21 OF ARTICLE 4.1 OF THIS TITLE 24; AND ANY RESTITUTION PAID BY AN
22 ASSAILANT TO A VICTIM FOR DAMAGES FOR A COMPENSABLE CRIME WHICH
23 WAS THE BASIS FOR APPROVAL OF COMPENSATION RECEIVED UNDER PART
24 1 OF ARTICLE 4.1 OF THIS TITLE 24 AND FOR DAMAGES FOR WHICH THE
25 VICTIM HAS RECEIVED APPROVAL OF, AND LIMITED TO, COMPENSATION
26 RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24; AND

27 (XIX) REIMBURSEMENTS COLLECTED PURSUANT TO SECTION

1 25.5-4-301 BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
2 FROM LEGALLY RESPONSIBLE PARTIES WHEN THE DEPARTMENT HAS PAID
3 CLAIMS ON BEHALF OF A MEMBER OF THE STATE'S MEDICAID PROGRAM;

4 **SECTION 3. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.