

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 26-042

BY SENATOR(S) Weissman and Amabile, Benavidez, Cutter, Gonzalez J., Hinrichsen, Jodeh, Kipp, Kolker, Lindstedt, Snyder, Wallace, Coleman; also REPRESENTATIVE(S) Zokaie and Sirota, Bacon, Boesenecker, Lindsay, Mabrey, McCluskie.

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

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" and "damage awards" from "fiscal year spending", as defined in section 20 (2)(e) of article X of the state constitution;

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.

(b) Under the existing statutory definition of "damage award", some money that the state collects as fines or penalties for violations of certain legal requirements is 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) It is inconsistent with section 20 of article X of the state constitution to treat money that the state collects as fines or penalties for violations of certain legal requirements as state revenue in light of the specific exemption for "damage awards";

(d) (I) Under the existing definition of "collections for another government", some money that the state collects from taxes on gasoline that is used as fuel for the propulsion of certain aircraft and that is distributed to other governmental or airport entities is 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;

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

(e) (I) Under the existing definition of "collections for another government", some money that the state collects from the fee for criminal history record checks that is transmitted to the federal bureau of investigation for the portions of such criminal history record checks conducted by the federal government is 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;

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

(f) Nothing in this act operates to exclude any money that has been

included as "collections for another government" or "damage awards" under the preexisting definition of those terms from the clarified definitions of those terms in this act - that money continues to be included in these clarified definitions.

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

24-77-102. Definitions.

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

(1) (b) EXCEPT AS OTHERWISE SPECIFIED IN SUBSECTION (1)(b)(IV) OF THIS SECTION, 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; OR

(IV) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2025:

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

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

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

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

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

(f) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT TO REVENUE THAT IS RECEIVED IN ACCORDANCE WITH SUBSECTION (1)(b)(IV)(B) OF THIS SECTION, INCLUDES THE FEE REVENUES THAT ARE COLLECTED BY THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF CRIMINAL HISTORY RECORD CHECKS PURSUANT TO SECTION 24-33.5-426 AND THAT IS TRANSMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR A REQUIRED FEDERAL COMPONENT OF SUCH CRIMINAL HISTORY RECORD CHECKS.

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

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

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

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

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

(c) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2025, MONEY DEPOSITED IN THE CRIME VICTIM COMPENSATION FUND OF EACH JUDICIAL DISTRICT PURSUANT TO SECTION 24-4.1-117 (2) INCLUDING ALL MONEY PAID AS A COST OR SURCHARGE LEVIED ON CRIMINAL ACTIONS PURSUANT TO SECTION 24-4.1-119; ALL MONEY RECEIVED FROM ANY ACTION OR SUIT TO RECOVER DAMAGES FROM AN ASSAILANT FOR A COMPENSABLE CRIME WHICH WAS THE BASIS FOR APPROVAL OF, AND LIMITED TO, COMPENSATION RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24; AND ANY RESTITUTION PAID BY AN ASSAILANT TO A VICTIM FOR DAMAGES FOR A COMPENSABLE CRIME WHICH WAS THE BASIS FOR APPROVAL OF COMPENSATION RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24 AND FOR DAMAGES FOR WHICH THE VICTIM HAS RECEIVED APPROVAL OF, AND LIMITED TO, COMPENSATION RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24.

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

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

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

(b) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2026:

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

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

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

SECTION 5. 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.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO