PRELIMINARY DIGEST

July 13, 2021

SENATE AND HOUSE BILLS ENACTED BY THE SEVENTY-THIRD GENERAL ASSEMBLY OF THE STATE OF COLORADO

2021 - First Regular Session

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Includes 308 bills which have been passed by the General Assembly

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The first date appearing after each digest entry is the date on which the Act was approved by the Governor or, if noted, became law without his signature; the second date is the effective date of the Act. At the time of publication, some measures that do not contain a safety clause will appear with a notation that it is effective on the 91st day after sine die. The official date for these bills will appear in the final digest that is published in June. Vetoed bills are designated and marked "VETOED".

Bills are in categorical order. This digest is intended to direct the user to the text of specific bills and does not purport to be exhaustive of the contents of the bills.

Compiled by the
Office of Legislative Legal Services

ADMINISTRATIVE RULE REVIEW

S.B. 21-152 Continuation of 2020 rules of executive agencies - exceptions listed. Based on the findings and recommendations of the committee on legal services, the act extends all state agency rules that were adopted or amended on or after November 1, 2019, and before November 1, 2020, with the exception of certain rules of the following agencies, as specifically listed in the act:

- The state board of education concerning administration of the public school transportation fund;
- The air quality control commission concerning stationary source permitting and air pollutant emission notice requirements; and
- A number of boards and commissions within the department of regulatory agencies concerning rules implementing H.B. 20-1326 and S.B. 20-102.

Those specified rules will expire as scheduled in the "State Administrative Procedure Act" on May 15, 2021, on the grounds that the rules either conflict with statute or lack statutory authority.

APPROVED by Governor May 10, 2021 **EFFECTIVE** May 10, 2021

H.B. 21-1137 Notice of rules adopted as a result of recent legislation - removing cosponsors from notification list - limiting the notification period. In 2013, the general assembly enacted SB13-030, which required, in part, that the office of legislative legal services provide written notice of rules adopted as a result of specific legislation enacted on or after January 1, 2013, to:

- The prime sponsors of the legislation if still serving in the general assembly;
- The cosponsors of the legislation if still serving in the general assembly; and
- The applicable committees of reference in the senate and house of representatives for the legislation.

The act removes the requirement to notify cosponsors of the legislation and limits the notification period to up to 8 years after the legislation was enacted.

APPROVED by Governor April 15, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

AGRICULTURE

S.B. 21-79 Public health - deregulation of sale of animal shares and certain meat. The act allows a person to sell, without licensure, regulation, or inspection by a public health agency, rabbit meat if the animal was raised and processed by the seller and to sell shares in the meat of an animal, which includes cattle, calves, elk, sheep, hogs, bison, goats, and rabbits, but not fish, for future delivery if:

- The person displays at the point of sale a disclaimer or gives the purchaser a document with a disclaimer that:
  - The seller is not licensed and the animals or meat are not subject to state regulation or inspection by a public health agency; and
  - The animals or meat are not intended for resale; and
- The animals or meat are delivered directly from the seller to an informed end consumer and are sold only in Colorado.

The purchaser is prohibited from reselling the animal, animal share, or meat. A seller is not liable in a civil action for damages caused by inadequately cooking or improperly preparing the animal or meat for consumption.

The act also limits the number of brand inspections for an animal share sale to a single inspection before slaughter. The state board of stock inspection commissioners will promulgate rules establishing procedures for a single inspection.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

S.B. 21-135 Traveling animal acts - prohibition - exceptions - penalty. The act creates the "Traveling Animal Protection Act" (Act), which prohibits a person from causing the performance of specified animals, such as whales, dolphins, wild cats, marsupials, nonhuman primates, rhinoceroses, seals, elephants, large birds, penguins, and bears, in a traveling animal act. The Act exempts the use of livestock and alternative livestock.

The Act also exempts the use of the specified animals by or at:

- Wildlife sanctuaries;
- Nonmobile, permanent institutions, facilities, zoos, and aquariums;
- Environmental education programs;
- Universities, colleges, laboratories, and other research facilities conducting research;
- Film and television productions;
- Rodeos; and
- County fairs.

A person who violates the act commits a misdemeanor and is subject to a fine ranging

from $250 to $1,000 per violation.

APPROVED by Governor May 14, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-203 Colorado proud program - appropriation. The act appropriates $2.5 million from the general fund to the department of agriculture for the Colorado proud program.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

H.B. 21-1045 Invasive pest control - administration and powers of the department of agriculture - local government powers and cooperation. The act authorizes the commissioner of agriculture (commissioner) to:

- Enter into an agreement with any person or local government to provide pest control services. The department of agriculture (department) may provide pest control services directly or through a local government and may require remuneration for providing pest control services. The remuneration is deposited in the emergency invasive-pest response fund (fund) created by the act, and the commissioner is authorized to expend money in the fund to implement the act and emergency measures to control or eradicate invasive pests.
- Work cooperatively with the United States secretary of agriculture to implement a joint phytosanitary program if the program would economically or environmentally assist with mitigating or eradicating the spread of a regulated nonquarantine pest;
- Quarantine anything that harbors a pest if the pest has an economically unacceptable impact and if the measures to control the pest may achieve an acceptable level of official control;
- If the commissioner determines that a public nuisance creates an unacceptable risk of spreading a pest, coordinate with industry, support local governments, and make grants to take emergency action to quarantine, control, or eradicate an invasive pest;
- Request that, at the end of each fiscal year, money in the plant health, pest control, and environmental protection cash fund be transferred to the fund; and
- Seek and expend gifts, grants, or donations from private or public sources for the new fund, and requires the department to annually report to the general assembly regarding the amount and source of any gifts, grants, or donations received.

A board of county commissioners may declare a pest to be a public nuisance and

require its control or eradication.

APPROVED by Governor May 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1102 Pet stores - transparency requirements. The act creates the "Pet Store Consumer Protection Act", which requires each pet store licensed to sell or offer to sell dogs or cats to:

- Include on all advertisements, including website postings, the purchase price of the dog or cat and any applicable federal or state license numbers for the breeder of the dog or cat;
- Post on the enclosure of each dog or cat the purchase price of the dog or cat and certain information on the dog's or cat's breeder; and
- Make certain written disclosures to a prospective consumer prior to selling a dog or cat.

The act preserves the right of a statutory or home rule local government to enact requirements for pet stores that are more stringent than the requirements of the act.

APPROVED by Governor May 1, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1148 Colorado state fair authority - annual report - deadline change - release to all legislative members. Under current law, the Colorado state fair authority (authority) and its board of commissioners are required to publish an annual report each year by October 31 and to distribute the report to the governor and the members of the legislative committees with jurisdiction over agricultural matters. The act changes the annual reporting deadline to January 31 or 10 days after the legislative audit committee releases the authority's financial audit, whichever is later, and requires that the report be submitted to all members of the general assembly.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1160 Pet animal facilities - animal shelters and pet animal rescues - standard of care for dogs and cats - health requirements - limits on importing dogs and cats. The act requires

each animal shelter and pet animal rescue to:

- Provide each dog and cat held in its custody with timely veterinary care to address and prevent unnecessary or unjustifiable pain and suffering; and
- Address the behavioral needs of each dog and cat held in its custody to ensure that the dog or cat is not housed or kept in a manner that fosters stereotypic or self-mutilating behavior.

The act also makes it unlawful for a person to import or cause to be imported any dog or cat for the purpose of sale by a pet animal facility, unless the dog or cat has a certificate of veterinary health and, if the dog or cat is over 6 months old, proof of a rabies vaccination.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1181 Soil health program - soil health advisory committee - appropriation. The act creates the Colorado soil health program in the department of agriculture (department), which includes programs to encourage widespread adoption of soil health practices. An entity's participation in the soil health program is voluntary. The department, commissioner of agriculture (commissioner), and state agricultural commission will administer the soil health program.

The department shall, if financial resources are available, establish the following:

- A grant program;
- A system for monitoring the agricultural, environmental, or economic benefits of soil health practices;
- A state soil health inventory and platform;
- A soil health testing program; and
- Other programs the department deems appropriate or necessary.

Before establishing a program, the department must provide public notice and afford the public an opportunity to submit written comments.

The department may also:

- Seek, accept, and expend gifts, grants, or donations from public and private sources;
- Provide grants, loans, and other resources to eligible entities to perform soil health activities; and
- Cooperate and collaborate with other people.

The act also creates a soil health advisory committee (advisory committee). The

commissioner is required to appoint members who:

- To the greatest extent possible, represent the different geographic areas, political diversity, and demographic diversity of the state; and
- Include agricultural producers of diverse production systems, a representative of an Indian tribe, conservation district board members, and water users.

The state conservation board appoints 2 members to the advisory committee.

The advisory committee will make recommendations to the department and assist in the development of the soil health program. The advisory committee is also authorized to solicit input, review proposals and agreements, and evaluate the soil health program. The advisory committee approves grants.

The department shall maintain the confidentiality of information related to private lands that identify landowners, land managers, agricultural producers, or lands.

No later than January 31 of each year, the department shall prepare and make available to the public a report of its activities on its official website. The department shall annually report each gift, grant, or donation in its budget request for the state fiscal year to the joint budget committee and at the hearing required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

For the 2021-22 state fiscal year, $4,464 is appropriated to the department for use by the agricultural services division.

APPROVED by Governor June 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

APPROPRIATIONS

S.B. 21-41 Supplemental appropriation - department of corrections. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of corrections. The general fund portion of the appropriation is increased and the cash funds, reappropriated funds and federal funds portions are decreased.

APPROVED by Governor March 21, 2021 **EFFECTVE** March 21, 2021

S.B. 21-42 Supplemental appropriation - offices of the governor, lieutenant governor, and state planning and budgeting. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the offices of the governor, lieutenant governor, and state planning and budgeting. The general fund and reappropriated funds portions of the appropriation are increased and the cash funds portion is decreased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-43 Supplemental appropriations - department of health care policy and financing. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of health care policy and financing. The general fund and cash funds portions of the appropriation is decreased and the reappropriated funds and federal funds portions are increased.

The 2019 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of health care policy and financing. A footnote is amended to extend the time money is to remain available for the single tool assessment project.

Restrictions on funds for the department in the 2019-20 fiscal year for the payment of overexpenditures of line item appropriations are released in accordance with section 24-75-109 (4)(a).

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-44 Supplemental appropriations - department of human services. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of human services. The general fund, cash funds, reappropriated funds, and federal funds portions of the appropriation are increased.

The 2019 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of human services. The federal funds portion of the appropriation is increased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-45 Supplemental appropriations - judicial department. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the judicial department. The general fund and cash funds portions of the appropriation are decreased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-46 Supplemental appropriations - department of law. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of law.

Amends House Bill 20-1379, concerning suspending the direct distribution to the public employees' retirement association for the 2020-21 state fiscal year, to decrease the amount decreased for the PERA direct distribution.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-47 Supplemental appropriations - department of natural resources. Supplemental appropriations are made to the department of natural resources. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of natural resources.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-48 Supplemental appropriations - department of personnel. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of personnel. The general fund portion of the appropriation is increased and the cash funds and reapproprated funds portions are decreased.

The 2019 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of personnel. The general fund portion of the appropriation is increased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-49 Supplemental appropriations - department of public safety. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of public safety. The general fund, cash funds, and reappropriated funds portions of the appropriation are increased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-50 Supplemental appropriations - department of state. The 2020 general appropriation act is amended to balance and make adjustments to the total amount

appropriated to the department of state. The general fund portion of the appropriation is increased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-51 Supplemental appropriations - department of the treasury. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated to the department of the treasury. The general fund and cash funds portions of the appropriation are increased.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-52 Supplemental appropriations - capital construction projects. The 2020 general appropriation act is amended to balance and make adjustments to the total amount appropriated for capital construction projects. The capital construction fund and cash funds portions of the appropriation are increased.

The 2019 general appropriation act is amended to reflect the correct the name of the capitol annex repair and renovation project, under the department of personnel.

The 2016 general appropriation act is amended to balance and make adjustments to the total amount appropriated for capital construction projects under the department of higher education. The cash funds portion of the appropriation is decreased.

The 2011 general appropriation act is amended to extend the total amount appropriated for superfund sites cleanup under the department of public health and environment to June 30, 2021.

The capital construction appropriation in House Bill 18-1006, concerning modifications to the newborn screening program administered by the department of public health and environment is amended to increase the amount appropriated for use by the laboratory services division.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-196 Legislative appropriation. The act appropriates $54,276,399 to the legislative department for the payment of expenses in the 2021-22 state fiscal year. Additionally, the act appropriates $25,000 to the youth advisory council cash fund within the legislative department.

APPROVED by Governor April 26, 2021 **EFFECTIVE** April 26, 2021

S.B. 21-205 General appropriation act - 2021 long bill. For the state fiscal year beginning July 1, 2021, provides for the payment of expenses of the executive, legislative, and judicial departments of the state of Colorado, and of its agencies and institutions, for and during the fiscal year beginning July 1, 2021. The grand total for the operating budget is set at $34,663,861,108 of which $9,390,465,968 is from the general funds portion of the

appropriation; $2,541,061,637 is from the general fund exempt portion; $9,556,366,495 is from the cash funds portion; $2,190,040,788 is from the reappropriated funds portion; and $10,985,926,220 is from the federal funds portion.

The grand total for the state fiscal year beginning July 1, 2021, for capital construction projects is $301,716,984 of which $217,395,025 is from the capital construction fund portion of the appropriation; $79,429,276 is from the cash funds portion; $1,800,000 is from the reappropriated funds portion; and $3,092,683 is from the federal funds portion.

The grand total for the state fiscal year beginning July 1, 2021, for information technology projects is $65,935,383 of which $28,711,790 is from the capital construction fund portion of the appropriation; $29,977,393 is from the cash funds portion; and $7,246,200 is from the federal funds portion.

The 2018 capital construction appropriations is amended to balance and make adjustments to the total amount appropriated to the departments of higher education and human services.

The 2019 general appropriation is amended to balance and make adjustments to the total amount appropriated to the departments of education, health care policy and financing, and higher education.

The 2020 general appropriation is amended to balance and make adjustments to the total amount appropriated to the departments of education, health care policy and financing, higher education, human services, local affairs, military and veterans affairs, public safety and treasury. The 2020 capital construction appropriations are amended to balance and make adjustments to the total amount appropriation to the department of personnel.

An appropriation made in the 2019 general appropriation act is amended to correct the name of the cash fund from which money is appropriated for the children's basic health plan medical and dental costs.

Appropriations made in House Bill 20-1385, concerning the increased money received due to the federal "Families First Coronavirus Response Act", is amended to reduce the amount appropriated to the department of higher education.

An additional appropriation is made to the legislative department for use by the joint budget committee.

APPROVED by Governor May 17, 2021 **EFFECTIVE** May 17, 2021

CHILDREN AND DOMESTIC MATTERS

S.B. 21-59 Juvenile justice. The act makes conforming amendments and includes a cleanup of the main definition section for title 19, Colorado Revised Statutes, to reflect changes made through the reorganization of article 2 of title 19, Colorado Revised Statutes.

APPROVED by Governor May 13, 2021 **EFFECTIVE** October 1, 2021

S.B. 21-66 Juvenile justice - diversion programs. The act makes several changes and clarifications to current juvenile diversion programs (diversion), including:

- Clarifying the division of criminal justice in the department of public safety's (division) authority over all programs funded with diversion money;
- Clarifying that diversion funding may be allocated to entities other than district attorneys' offices;
- Requiring eligibility criteria for diversion be made public;
- Establishing that a juvenile is eligible to divert if the juvenile meets the eligibility criteria;
- Clarifying that an approved validated assessment tool may be used for decisions on the length of supervision and necessary services;
- Clarifying that a risk screening tool is to be used to inform the level and intensity of supervision;
- Establishing a clear process for data collection so the division can properly evaluate its diversion programs; and
- Creating a clearer process and role for the division in the allocation process.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

Note: Specified provisions of the act are contingent upon Senate Bill 21-059 becoming law.

H.B. 21-1022 Surrogacy agreements - requirements - enforcement. The act creates the "Colorado Surrogacy Agreement Act" (act). The act:

- Establishes eligibility requirements for entering into surrogacy agreements (agreements) and required elements of agreements;
- Contains provisions governing the termination of agreements and the effect of a death or a change in marital status of any of the parties to such agreements;
- Authorizes court orders recognizing and enforcing agreements;
- Specifies the duties of persons under agreements;
- Authorizes court orders determining parentage; and
- Creates new definitions for agreements.

APPROVED by Governor May 6, 2021 **EFFECTIVE** May 6, 2021

H.B. 21-1031 Jurisdiction - trial court - during appeal. The act declares the intention of the general assembly to reverse the holding and decision in the Colorado supreme court's (court) January 13, 2020, opinion in *In re: The Parental Responsibilities Concerning W.C.* The act

gives the court continuing jurisdiction during the pendency of an appeal:

- Under article 10 of title 14, to modify a decree respecting child support or maintenance; to make or modify an order granting or denying parenting time rights; and to modify an order allocating decision-making responsibilities;
- Under the "Uniform Child-custody Jurisdiction and Enforcement Act", to exercise temporary emergency jurisdiction;
- Under the "Uniform Child Abduction Prevention Act", to modify an order concerning the allocation of parental rights and responsibilities; and
- Under the "Uniform Parentage Act", to modify an order for child support or for allocation of parental rights and responsibilities.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

H.B. 21-1072 Out-of-home-placement - services - non-discrimination. The act requires a provider of services related to child and youth out-of-home placement (service provider) to provide fair and equal access to all available programs, benefits, and services offered by the service provider. Services related to out-of-home placement must be provided in a manner that is culturally responsive to the complex social identity of the child or youth receiving such services.

A service provider is prohibited from denying any person the opportunity to become an adoptive or a foster parent, or delaying or denying the placement of a child or youth for adoption or into foster care, on the basis of the real or perceived disability, race, creed, religion, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, ancestry, or any communicable disease, including HIV, of the prospective adoptive or foster parent or the child unless the delay or denial of the placement is not detrimental to the health or welfare of the child or youth.

The act requires that foster parent training include instruction on the right of a foster child or youth to have fair and equal access to all available services and other health and educational services available to foster children and foster youth, including siblings in foster care.

APPROVED by Governor April 19, 2021 **EFFECTIVE** April 19, 2021

H.B. 21-1091 Juvenile sentencing - juvenile transfers - no crime of violence mandatory minimum. Under current law, a juvenile convicted as an adult following the direct filing of charges in district court is not subject to the mandatory minimum sentencing provisions for crimes of violence. However, a juvenile convicted as an adult following the transfer of charges from juvenile court to district court is subject to the mandatory minimum sentencing for crimes of violence. The act adds language to the juvenile transfer statute to mirror the language currently found in the juvenile direct file statutes, so a juvenile transferred to adult court is subject to the same sentencing provisions as a juvenile who is in adult court based on a direct file.

APPROVED by Governor May 24, 2021 **PORTIONS EFFECTIVE** May 24, 2021

PORTIONS EFFECTIVE October 1, 2021

Note: Portions of the act take effect only if Senate Bill 21-059 becomes law. SB 21-059 was signed by the governor and has an effective date of October 1, 2021.

H.B. 21-1099 Domestic abuse - task force - statutory definition - assessment policies and training standards - appropriation. Current law does not expressly recognize domestic abuse as a form of child abuse or neglect. The act establishes a domestic abuse task force (task force) that will develop a statutory definition for the Colorado Children's Code to define "domestic abuse". The statutory definition should recognize the impact domestic abuse may have on the emotional and developmental well-being of a child. The task force shall review recommendations from the department of human services' domestic violence program and child welfare workgroup (workgroup) to develop the statutory definition. The act requires the department of human services (department) to report the recommended definition to committees of the general assembly no later than December 2022.

Under current law, child welfare caseworkers do not have established training policies or assessment procedures to identify and assess situations when a child's parent, legal guardian, or custodian exposes a child to their perpetration of domestic abuse. The act requires the department to promulgate rules based on recommendations from the workgroup to create, implement, and update assessment policies, procedures, and training standards for child welfare caseworkers to recognize, respond to, and assess child abuse or neglect related to domestic abuse while appropriately considering the role of the non-abusive caregiver, the abusive parent, and cultural considerations.

For the 2021-22 state fiscal year, $22,500 is appropriated from the general fund to the department of human services for use by the division of child welfare for administration.

APPROVED by Governor May 24, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1151 Foster care - certification - Indian tribe foster homes. Current law allows only a county department of human or social services or a child placement agency to certify foster homes. The act updates statute to allow for a federally recognized Indian tribe pursuant to applicable federal law to certify its own foster homes.

APPROVED by Governor May 15, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1220 Colorado child support commission - recommendations - establishment, calculation, and enforcement of child support orders. The act enacts the recommendations of the Colorado child support commission concerning the establishment, calculation, and enforcement of child support, including:

- Technical amendments to clarify changes made to the child support guidelines pursuant to House Bill 19-1215 relating to a missing component of the schedule of basic child support obligations and clarifications relating to calculation of support;
- Defines the terms "child" and "parent" for purposes of commencing actions concerning the allocation of parental responsibilities and clarifies that the court shall determine legal parentage and join all necessary parties to the action;
- Reduces the interest rate on unpaid child support;
- Eliminates outdated provisions of the income assignment statute and brings the statute in compliance with federal law;
- Clarifies notice requirements for income assignments and requires an employer to report and withhold from lump sum payments;
- Clarifies that both the dependency and neglect court and the paternity and child support court have concurrent jurisdiction to address issues of parentage;
- Removes a limitation on the amount of the increase for orders increasing support filed by the child support enforcement agency against an obligor for whom income information is not available;
- Requires life insurance settlements to be reported to the child support enforcement agency commencing January 1, 2022; and
- Adds contract employee to the state directory of new hires for child support enforcement purposes.

APPROVED by Governor June 7, 2021 **PORTIONS EFFECTIVE** July 1, 2021
PORTIONS EFFECTIVE January 1, 2022

H.B. 21-1228 Courts - domestic violence training requirements - appropriation. The act increases and clarifies domestic violence training requirements (training) for court personnel (personnel) who are regularly involved in cases related to domestic matters, including child and family investigators, parenting responsibility evaluators, and legal representatives of children.

Training for all personnel must include both an initial training requirement as well as an ongoing annual continuing education requirement as follows:

- Six initial hours of training on domestic violence, including coercive control, and its traumatic effects on children, adults, and families;
- Six initial hours of training on child abuse and child sexual abuse and its traumatic effects; and
- Four subsequent hours of training every two years on domestic violence, child abuse, and child sexual abuse and the traumatic effects on children, adults, and families.

For the 2021-22 state fiscal year, the act appropriates $86,680 to the judicial department from the general fund for general courts administration and $6,200 for capital outlay.

APPROVED by Governor June 22, 2021 **EFFECTIVE** June 22, 2021

H.B. 21-1287 Domestic matters - marriage and civil union licenses - remote procedures. The act authorizes, subject to limitations, a county clerk and recorder to permit the parties

to a proposed marriage or civil union to satisfy the requirement to appear before the county clerk and recorder by interactive audiovisual communication technology or online functionality for the purpose of satisfying certain requirements for a marriage license or civil union license.

A county clerk and recorder who permits the parties to a proposed marriage or civil union to satisfy certain requirements without appearing in person and staff members who carry out duties on behalf of the county clerk and recorder shall complete training developed by the human trafficking council concerning human trafficking in Colorado.

The act repeals the option of using these procedures effective December 31, 2023.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

CONSUMER AND COMMERCIAL TRANSACTIONS

S.B. 21-35 Third-party food delivery services - operating without a retail food establishment's consent - prohibition - penalties. The act prohibits a third-party food delivery service from taking and arranging for the delivery or pickup of an order from a retail food establishment, other than grocery and convenience stores, without the retail food establishment's consent. A retail food establishment may bring an action against a third-party food delivery service that violates the act for damages, a civil penalty not to exceed $1,000 per violation, and injunctive relief, and the prevailing party in such action is entitled to reasonable attorney fees.

APPROVED by Governor June 4, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-261 Electric utilities - renewable energy standard - distributed generation of electricity - incentives for new and expanded installations - rules to encourage on-site and off-site renewable energy generation and storage - appropriation. Section 1 of the act declares that customer-sited renewable energy generation facilities (distributed generation) such as rooftop solar can make important contributions toward meeting Colorado's declared goal of reducing greenhouse gas emissions while providing a reliable, adaptable supply of electricity for homes, businesses, and the rapidly increasing numbers of electric vehicles, and that existing limits on customer-sited renewable energy generation facilities unnecessarily restrict this potential.

Sections 3 and 5 remove most of the existing limitations on the size of distributed generation facilities, which currently cannot exceed 120% of a customer's historical annual usage, to qualify for renewable energy credits. Section 3 also expands an existing exemption from regulation as a public utility to include persons who sell excess power from distributed generation located anywhere on their property or on property owned or leased by others in a master meter operation, e.g., an apartment building or mobile home park. Section 4 grants master meter operators (MMOs) that sell power from distributed generation a limited exemption from the general requirement not to charge their end users any amount above what they are billed for electricity supplied by the serving electric utility. MMOs may retain refunds, rebates, rate reductions, net metering credits, and similar reductions offered by the serving utility in its net metering program. The public utilities commission (PUC) is directed to adopt rules encouraging landlords and tenants in multi-unit buildings to share in the costs and benefits of installing new distributed generation facilities.

Section 5 requires a qualifying retail utility to allow, and to adopt standards for the approval of, customer-owned meter collar adapters in residential installations. The PUC retains authority to resolve any disputes concerning the standards or their application in specific cases. Section 2 defines a meter collar adapter as a device installed between the electric meter and the meter socket box that allows the customer to interconnect power from on-site sources.

Section 5 also:

- Replaces the term "standard rebate offer" with "net metering service" where

appropriate, to more accurately reflect current practice;

- Requires qualifying retail utilities, under their net metering service, to purchase energy produced from any renewable energy resources rather than exclusively solar energy resources;
- Doubles the size of eligible on-site renewable energy installations from 500 kilowatts to one megawatt;
- Limits the size of eligible off-site renewable energy installations to 500 kilowatts for a single-meter installation or 300 kilowatts per meter for a multi-meter installation;
- Narrows the requirements for small hydroelectric facilities that qualify as renewable energy resources to exclude those that require the construction of new dams or reservoirs;
- Adds renewable energy storage as an eligible energy resource under the renewable energy standard and defines "renewable energy storage" as a facility that stores energy that is derived only from renewable energy resources;
- Allows a customer to carry forward monthly bill credits from distributed generation indefinitely, at any service address within a qualifying retail utility's service territory, unless the customer chooses to be reimbursed annually or to donate the excess to a low-income energy assistance program; and
- Directs the PUC to adopt rules to accommodate the aggregation and interconnection of retail distributed generation, including the pooling of renewable energy resources under a master meter or similar arrangement and the allocation of credits among customers on different rate schedules.

Section 6 appropriates $91,488 to the department of regulatory agencies for use by the PUC to implement the act.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

H.B. 21-1048 Retail establishments - requirement to accept cash - exceptions. The act requires retail establishments that offer goods or services to accept United States currency (cash) to purchase the goods or services, but does not apply to:

- Establishments that do not have an individual accepting payment in person;
- Establishments that provide a device to convert cash into a prepaid card with no fee and a minimum balance of no more than one dollar;
- A transaction in which a security deposit is placed on a credit card or in which a credit card number is provided to cover unforeseen damages or expenses; and
- A bank or credit union.

A violation is a class 2 petty offense punishable by a fine of up to $250. The act applies to offenses committed on or after the effective date of this act.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

CORPORATIONS AND ASSOCIATIONS

H.B. 21-1124 Electronic transactions - notice - remote meeting participation. The act facilitates business entities' ability to conduct business activities electronically by:

- Defining terms, including address, delivery, document, e-mail, electronic transmission, notice, and sign, that relate to electronic communications;
- Specifying how notice may be given by electronic transmission; and
- Establishing requirements for remote participation in shareholders' and directors' meetings.

APPROVED by Governor April 19, 2021 **EFFECTIVE** April 19, 2021

CORRECTIONS

S.B. 21-153 Offender assistance - state-issued identification program. The act requires the department of corrections (department) to operate a program to assist offenders with acquiring state-issued identification cards and other identification documents necessary for offenders to obtain state-issued identification. The department can enter into agreements with the Colorado department of revenue and federal social security administration as necessary to operate the program.

APPROVED by Governor May 6, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

COURTS

S.B. 21-2 Debt collection - temporary limitation on garnishment, execution levy, and attachment in cases of financial hardship - temporary exemption from execution - extension of time. The act extends the time in which debtors experiencing financial hardship due to the COVID-19 emergency may have extraordinary debt collection actions suspended. Existing law required a judgment creditor (creditor) to provide a notice to a judgment debtor (debtor) before instituting an extraordinary debt collection action, which includes an action in the nature of a garnishment, attachment, levy, or execution to collect or enforce a judgment. The debtor may suspend the collection action by notifying the creditor that the debtor is experiencing financial hardship due to COVID-19. The obligation to provide notice and the suspension of the collection action were effective through February 1, 2021. The act extends the effective period for the notice and the suspension to June 1, 2021. If a collection action has already been suspended by the debtor, the suspension is now effective through June 1, 2021.

In addition, under existing law, up to $4,000 cumulative in a depository account or accounts in a debtor's name is exempt from levy and sale under a writ of attachment or execution through February 1, 2021. The act extends that date to June 1, 2021.

APPROVED by Governor January 21, 2021 **EFFECTIVE** January 21, 2021

S.B. 21-73 Civil claims based on sexual misconduct - statute of limitations. Under existing law, the statute of limitations to bring a civil claim based on sexual assault or a sexual offense against a child is 6 years, but the statute is tolled when the victim is a person under disability or is in a special relationship with the perpetrator of the assault. The act defines sexual misconduct and removes the limitation on bringing a civil claim based on sexual misconduct, including derivative claims and claims brought against a person or entity that is not the perpetrator of the sexual misconduct. The statutory period to commence a civil action described in the act applies to a cause of action that accrues on or after January 1, 2022, or a cause of action accruing prior to January 1, 2022, so long as the applicable statute of limitations has not yet run as of January 1, 2022.

The act removes the provision that a plaintiff who is a victim of a series of sexual assaults does not need to establish which act in the series caused the plaintiff's injuries.

The act repeals the limited waiver of the doctor- or psychologist-patient privilege for claims brought by a person under disability.

Under existing law, a plaintiff who brings a civil action alleging sexual misconduct 15 years or more after the plaintiff turns 18 is limited to recovering only certain damages. The act repeals this limitation.

Under existing law, a victim who is a person under disability or is in a special relationship with the perpetrator of the assault may not bring an action against a defendant who is deceased or incapacitated. The act eliminates this restriction.

Under existing law, a claim for negligence in the practice of medicine that is based on a sexual assault is exempt from the statute of limitations for claims involving sexual assault and instead is subject to the same limitation as any other claim for negligence in the

practice of medicine. The act removes this exemption.

APPROVED by Governor April 15, 2021 **EFFECTIVE** January 1, 2022.

S.B. 21-143 Alternative dispute resolution - collaborative law. The act enacts the "Uniform Collaborative Law Act". The act authorizes a collaborative law process for proceedings arising under family or domestic relations law whereby disputes are resolved without intervention by a court or other tribunal. The act specifies the requirements for a collaborative law participation agreement, including that both sides be represented and advised by collaborative law lawyers, and that communications made during the collaborative law process are confidential and may not be used in later proceedings except in specified situations.

APPROVED by Governor May 17, 2021 **EFFECTIVE** January 1, 2022

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-267 Public guardianship - office of public guardianship - extension. In 2019, the general assembly extended the office of public guardianship (office) until 2023. The act corrects dates that should have been extended. The repeal of the article creating the office and the repeal of the office's cash fund are extended to June 30, 2024, to allow additional time for the office to wind up its affairs if it is not further extended.

The general assembly increased certain court fees to fund the office. If it is not further extended, the office is required to notify the joint budget committee that those fees can be reduced.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

H.B. 21-1136 Judicial division - assignment of judicial duties - retired members of the judicial division. Under current law, a retired member of the judicial division may perform assigned judicial duties without pay for not less than 60 or 90 days each year. Such a member of the judicial division will receive a benefit increase equal to not less than 20% or more than 30% of the current monthly salary of judges serving in the same position held by the retiree at the time of retirement.

The act changes the amount of time that a retired member of the judicial division may perform assigned judicial duties without pay and the amount of a benefit increase such a judge will receive. The act specifies that a retired member of the judicial division may perform assigned judicial duties without pay for 10, 20, 30, 60, or 90 days each year and will receive a benefit increase equal to 3.3%, 6.7%, 10%, 20%, or 30% respectively of the current monthly salary of judges serving in the same position held by the retiree at the time of retirement.

Additionally, under current law, within 5 years after retirement, a retired member of the judicial division who did not enter into an agreement prior to retirement to perform assigned judicial duties without pay during retirement may enter into such a written

agreement within 30 days prior to each anniversary date of retirement. The act removes this requirement.

The act also states that the following retirees from the judicial division are not eligible to perform the assigned judicial duties described above:

- Retirees who received "a does not meet performance standards" or "do not retain" recommendation in their last judicial performance evaluation before retirement, either published or unpublished;
- Retirees who received a disciplinary disposition from the commission on judicial discipline or private admonishment, private reprimand, private censure, public reprimand, public censure, suspension, or removal; and
- Retirees who, during or after their term in office, received private or public discipline from the office of the presiding disciplinary judge.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

H.B. 21-1188 Civil liability - direct negligence - respondeat superior. The act allows a plaintiff to assert direct negligence claims against an employer or principal arising out of the same incident in which the employer or principal admits liability for the tortious actions of its employee or agent.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1255 Protection order - procedures for firearm relinquishment - appropriation. The act modifies the required procedures relating to a person's firearms or ammunition following the issuance of a protection order that includes an act of domestic violence when it involved the threat, use, or attempted use of physical force.

The act requires a person to complete an affidavit, which must be filed in the court record within 7 business days after a protection order is issued against the person, stating the number of firearms, the make and model of each firearm, any reason the person is still in immediate possession or control of such firearm, and the location of all firearms in the person's immediate possession or control. If the person does not possess a firearm at the time the order is issued, the person shall indicate such nonpossession in the affidavit.

The act requires the court to conduct a compliance hearing not less than 8 but not more than 12 business days after the issuance of a protection order to ensure the person has completed the affidavit. For criminal cases, the court may consider the issue in other proceedings before the court and the hearing is considered a court action involving a bond reduction or modification. Information compelled or any information directly or indirectly derived from testimony, the affidavit, or other information shall not be used against a defendant in any criminal case, except for prosecution of perjury.

The act excludes legal holidays and weekends from the current time frame a person has to relinquish a firearm. The act allows a court to grant a person an additional 24 hours

to relinquish a firearm if the person is unable to comply with the required time frame of relinquishment.

The act requires a federally licensed firearms dealer, law enforcement agency, or private party to issue a signed declaration memorializing the sale or transfer of the firearm.

The act allows a law enforcement agency to enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. The act requires a law enforcement agency that elects to store a firearm or ammunition to obtain a search warrant to examine or test the firearm or ammunition or facilitate any criminal investigation if the law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband.

The act prohibits the person from transferring the firearm to a private party living in the same residence as the person at the time of transfer. The act prohibits a private party from returning a firearm to the person until the private party receives a written statement of the results of the background check conducted by the Colorado bureau of investigation authorizing the return of the firearm to the person.

Current law requires a copy of the written receipt and the written statement of the criminal background check to be filed with the court as proof of relinquishment at the same time the person files the signed affidavit. The act requires the signed declaration to be filed with the court instead of the receipt. Both the signed declaration and written statement are only available for inspection by the court and the parties to the proceeding.

A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the person or agency storing the firearm.

The act appropriates $101,050 to the judicial department to implement the act.

APPROVED by Governor June 22, 2021 **EFFECTIVE** June 22, 2021

CRIMINAL LAW AND PROCEDURE

S.B. 21-30 Theft - failure to return rental property - restitution. Upon a conviction for theft by failing to return property within 72 hours after the agreed-upon time of return in any lease or hire agreement, a court is required to consider, as part of any restitution ordered, lost revenue resulting from the defendant's failure to timely return the rental property.

APPROVED by Governor May 27, 2021 **EFFECTIVE** May 27, 2021

S.B. 21-64 Retaliation against an elected official - appropriation. Under current law, there is a crime of retaliation against a judge if an individual makes a credible threat or commits an act of harassment or an act of harm or injury upon a person or property as retaliation or retribution against a judge. The act creates a similar crime of retaliation against an elected official if an individual knowingly makes a credible threat as retaliation or retribution against an elected official or the official's family or arising out of the status of the person as an elected official. Retaliation against an elected official is a class 6 felony.

The act makes following appropriations from the general fund to the department of corrections to comply with the 5-year corrections appropriation requirement:

- For fiscal year 2022-23, $16,279;
- For fiscal year 2023-24, $18,415;
- For fiscal year 2024-25, $18,415; and
- For fiscal year 2025-26, $18,415.

For fiscal year 2021-22, the act appropriates $109,462 from the capital construction fund to the corrections expansion reserve fund.

APPROVED by Governor May 27, 2021 **EFFECTIVE** July 1, 2021

S.B. 21-78 Firearms - missing firearms report. An individual who owns a firearm must report the loss or theft of that firearm to a law enforcement agency within 5 days after discovering that the firearm was lost or stolen. A first offense for failure to make such a report is a civil infraction punishable by a $25 fine, and a second or subsequent offense is a misdemeanor punishable by a maximum $500 fine. The 5-day reporting requirement does not apply to a licensed gun dealer.

Another person who is a member of the owner's family or who resides with the owner may report the lost or stolen firearm. If the other person reports the loss or theft of the firearm, the owner is not required to make a report. A report by another person is not an acknowledgment of firearm ownership.

A person who reports a lost or stolen firearm is immune from criminal prosecution for an offense pursuant to state law related to the storage of firearms.

The act requires a law enforcement agency that receives a report of a lost or stolen firearm to enter information about the lost or stolen firearm into the Colorado bureau of investigation crime information center database.

APPROVED by Governor April 19, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-124 Felony murder - change from class 1 felony to class 2 felony - change elements and affirmative defense. Under current law, it is a class 1 felony as it pertains to first degree murder if a person commits or attempts to commit certain specified felonies and the death of a person, other than one of the participants, is caused by anyone during the crime. The act changes the current law by:

- Moving the crime from first degree murder to second degree murder and changing the penalty from a class 1 felony to a class 2 felony that is subject to crime of violence sentencing;
- Requiring the death be caused by a participant; and
- Repealing certain elements of the affirmative defense.

APPROVED by Governor April 26, 2021 **EFFECTIVE** September 15, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-192 Sentencing - youthful offenders - housing - mentor program. Under existing law, offenders sentenced to the youthful offender system are housed and serve their sentences in a facility separate from, and are not brought into daily physical contact with, inmates 25 years of age or older who are sentenced to the department of corrections who have not been sentenced to the youthful offender system. The act adds an exemption to that facility separation that permits youthful offenders to be housed in a youthful offender facility with inmates 25 years of age or older who are participating in a mentoring program; except that the exemption does not apply to inmates who have been convicted of a sex offense.

APPROVED by Governor May 6, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1016 Veterans treatment court - accept post-disposition supervison from another juridiction. Under current law, a court must inquire at the defendant's first appearance whether the defendant is a veteran. If the jurisdiction does not have a veterans treatment court, the act requires the court to inform a veteran defendant of the possibility of petitioning to transfer the case to a jurisdiction with a veterans treatment court.

The act allows a veteran defendant or defendant who is currently serving in the U.S. armed forces and who is suffering from a diagnosable mental health condition that is related to the veteran's military service to petition the court to transfer the supervision of any post disposition of the case to a jurisdiction with a veterans treatment court if the jurisdiction of trial does not have a veterans treatment court and the district attorney and any victim in a victim's rights case consent to the petition. The petition must include the jurisdiction that the defendant is seeking to have the case transferred to and a description of the services or supports the defendant is seeking to access from the veterans treatment court in that

jurisdiction. After receiving a petition, the court must consult with the judge administering the veterans treatment court and the district attorney of the hosting jurisdiction. The court may grant the petition to transfer the supervision of probation in the case if the veterans treatment court and the district attorney in the hosting jurisdiction consent to the transfer and that jurisdiction has the current ability to provide the resources and support necessary to responsibly accept the transfer. If the host jurisdiction files a motion for revocation of the veterans treatment court program probation, the host jurisdiction shall conduct the revocation hearing. If probation is revoked, the host jurisdiction shall refer the matter to the original jurisdiction for resentencing.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1057 Criminal extortion - threatening to report immigration status. Under current law, it is criminal extortion to threaten to report another person's immigration status to law enforcement to induce the threatened person to give the person money or another item of value. The act adds to that version of criminal extortion a prohibition against threatening to report a person's immigration status to law enforcement to induce the threatened person to perform an act or refrain from performing a lawful act.

APPROVED by Governor May 20, 2021 **EFFECTIVE** July 1, 2021

H.B. 21-1090 Marijuana - possession - cultivation - conviction record sealing. The act eliminates the marijuana possession offense for possession of 2 ounces of marijuana or less.

The act raises the limit for illegal possession of marijuana by an underage person from one ounce of marijuana or less to 2 ounces of marijuana or less.

The act requires the court to seal a conviction record, without opportunity for the district attorney to object, for a marijuana possession offense that is otherwise not sealed, if the person files documents with the court that the person has not been convicted of a criminal offense since the final disposition of all criminal proceedings or release from supervision, whichever is later.

The act allows a person who was convicted of a class 3 felony marijuana cultivation offense to petition to have his or her conviction record sealed.

APPROVED by Governor May 20, 2021 **EFFECTIVE** May 20, 2021

H.B. 21-1106 Firearms - storage requirement - firearms safe storage education. The act requires that firearms be responsibly and securely stored, as described in the act, when they are not in use in order to prevent access by unsupervised juveniles and other unauthorized users. A person commits unlawful storage of a firearm when the person does not responsibly and securely store a firearm and the person knows, or should know:

- That a juvenile can gain access to the firearm without the permission of the

juvenile's parent or guardian; or
- A resident of the premises is ineligible to possess a firearm under state or federal law.

Unlawful storage of a firearm is a class 2 misdemeanor.

The act requires licensed gun dealers to provide with each firearm, at the time of a firearm sale or transfer, a locking device capable of securing the firearm. Transferring a firearm without a locking device is an unclassified misdemeanor punishable by a maximum $500 fine.

The act requires the state court administrator to annually report to the general assembly about the number of charges related to unsafe firearms storage and the disposition of those charges.

The act requires the office of suicide prevention within the department of public health and environment (department) to include on its website, and in materials provided to firearms-related businesses and health care providers, information about the offense of unlawful storage of a firearm, penalties for providing a handgun to a juvenile or allowing a juvenile to possess a firearm, and the requirement that gun dealers provide a locking device with each firearm transferred. Subject to available money, the department is required to develop and implement a firearms safe storage education campaign to educate the public about the safe storage of firearms, state requirements related to firearms safety and storage, and information about voluntary temporary firearms storage programs.

APPROVED by Governor April 19, 2021 **EFFECTIVE** July 1, 2021

H.B. 21-1143 Rape victim - rights related to rape kit testing - maintain evidence. The act requires the medical professional collecting medical evidence for a rape kit to inform the rape victim of the contact information for the nearest sexual assault victim's advocate or confidential victim's advocate, the length of time that medical evidence must be preserved, and the victim's right to be notified of the destruction of the medical evidence.

The act creates the following rights, upon request, for a victim of a sex crime:

- The right to be notified that evidence has been submitted for testing;
- The right to be notified when the law enforcement agency has received the results of the analysis;
- The right to be informed of whether a DNA sample was obtained from the analysis and whether or not there are matches to DNA profiles in state or federal databases;
- The right to be informed at least 60 days prior to the destruction of forensic medical evidence collected in connection with the alleged sex offense;
- The right to file, prior to the expiration of the 60-day period, an objection to the destruction of the forensic medical evidence;
- The right to be informed of any change in status of the case, including if the case has been closed or reopened; and
- The right to receive a physical document identifying the victim's rights under law after the exam has been completed.

The act directs a law enforcement agency to maintain the medical evidence until the statute of limitation has run on the crime and for an additional 10 years if the victim objects to its destruction.

APPROVED by Governor May 27, 2021 **EFFECTIVE** May 27, 2021

H.B. 21-1298 Firearms - background check required for transfer by licensed dealer - grounds for denial of background check - appeal of denied transfer. The act requires a licensed gun dealer to obtain approval for a firearms transfer from the Colorado bureau of investigation (bureau) prior to transferring a firearm.

The act prohibits the bureau from approving the transfer of a firearm to a person who was convicted of specified misdemeanor offenses. The bureau is also prohibited from approving a firearms transfer until it determines that its background investigation is complete and that the transfer would not violate federal prohibitions on firearms possession or result in a violation of state law.

A person may be denied a firearms transfer if there has not been a final disposition in criminal proceedings for certain offenses for which the prospective transferee, if convicted, would be prohibited from purchasing, receiving, or possessing a firearm. The act permits continued denial of the transfer when the bureau is unable to obtain the final disposition of a case that is no longer pending.

A person who has been denied a firearms transfer following a background check can appeal the denial. The act establishes a 60-day deadline for the bureau to review background check records that prompted the denial and render a final administrative decision regarding the denial.

APPROVED by Governor June 19, 2021 **EFFECTIVE** June 19, 2021

EDUCATION - PUBLIC SCHOOLS

S.B. 21-13 Student learning recovery - resource bank - supplemental online courses - report. The act directs the department of education (department) to identify educational products, strategies, and services that have demonstrated effectiveness in identifying and reversing student learning loss that has been caused by the suspension of in-person learning. The department must create and maintain a resource bank of examples of educational products, explanations of and instructions for implementing strategies and educational services, and models of professional development programs related to using the products and implementing the strategies and services. School districts, boards of cooperative services, and charter schools (local education providers) may submit information to the department concerning products, strategies, and services that they have used with success, and the department must include them in the resource bank. The department must also provide information concerning public or private nonprofit entities that local education providers may work with in providing student support. The act also directs the department, to the extent possible within existing resources, to provide technical assistance to local education providers upon request.

The act recognizes the amount of federal COVID-relief money that the department is expected to receive and encourages the department to use as much as possible of the amount received to fund learning recovery initiatives. The act requires the department to prepare a report concerning the department's use of the federal money received and submit the report to the education committees of the general assembly and post the report on the department's website.

The act directs the board of cooperative services that administers the statewide supplemental online and blended learning program (administering BOCES) to partner with local education providers for delivery of supplemental online learning recovery courses for students in elementary and secondary schools. The administering BOCES and local education providers are also directed to partner with nonprofit entities and community-based organizations to expand the availability of, and students' access to, supplemental online learning recovery courses. The administering BOCES and the local education providers must provide information concerning the availability of the learning recovery courses and other supplemental online courses.

APPROVED by Governor May 13, 2021 **EFFECTIVE** May 13, 2021

S.B. 21-53 School finance - mid-year adjustments to total program funding - additional state funding - appropriations. The actual funded pupil count and the actual at-risk pupil count for the 2020-21 budget year were lower than anticipated when the appropriation amount was established during the 2020 legislative session, resulting in a decrease in total program funding for the 2020-21 budget year. In addition, local property tax revenue and specific ownership tax revenue were less than anticipated, resulting in a decrease in the local share of total program funding.

The act declares the general assembly's intent to maintain total program funding at the dollar amount of the original appropriation made during the 2020 legislative session, thereby reducing the budget stabilization factor.

The act appropriates additional funding for the 2020-21 budget year for districts that

experienced a percentage decrease in total program funding from that estimated during the 2020 legislative session that was greater than the district's percentage decrease in funded pupil count from that estimated during the 2020 legislative session. In addition, the act includes additional funding for districts that have an overall reduction in total program funding that is more than 2% below the districts' estimated total program funding during the 2020 legislative session.

Charter schools in districts that qualify for additional funding receive a per-pupil share of the additional funding. If an institute charter school experiences a reduction in total program funding from that estimated during the 2020 legislative session and is in an accounting district that receives additional funding, the institute charter school receives a per-pupil amount of additional funding.

Additionally, the act includes an appropriation for rural school funding pursuant to section 22-54-142.

For the 2020-21 state fiscal year, the act appropriates to the department of education:

- $14,710,777 and $4,578,464 from the general fund for additional state funding for school districts and district charter schools;
- $569,849 from the general fund for additional state funding for institute charter school; and
- $25,000,000 from the rural schools cash fund for rural school funding.

APPROVED by Governor March 15, 2021 **EFFECTIVE** March 15, 2021

S.B. 21-56 Cannabis-based medicine at school - required school board policies - administration by school personnel - legal protection for administration - exceptions - appropriation. Under current law, school districts must permit primary caregivers to possess and administer cannabis-based medicine on school grounds, and school principals are given the discretion to permit the storage, possession, and administration of cannabis-based medicine on school grounds by school personnel. The act removes the discretion from the school principals and requires school boards to implement policies allowing for the storage, possession, and administration of cannabis-based medicine by school personnel. The act allows school personnel to volunteer to possess, administer, or assist in administration of cannabis-based medicine and protects those who do from retaliation. But, school personnel are not required to administer medical marijuana and cannot be retaliated against for refusing. The volunteer or school personnel who administers the medical marijuana must do so pursuant to the instructions or plan for administration from one of the student's recommending physicians, including the dosing, timing, and delivery route instructions. The act imposes a duty on school principals to create a written treatment plan for the administration of cannabis-based medicine and on school boards to adopt policies regarding actual administration.

The act provides disciplinary protection to nurses, anyone licensed pursuant to title 12, and school personnel who administer cannabis-based medicine to students at school. The act provides civil and criminal immunity to school personnel who act in good faith in administering cannabis-based medicine to students at school. The act requires schools to treat cannabis-based medicine recommendations like prescriptions. The act does not apply to a private or nonpublic school, and it does not apply a public school located on federal land if

the federal government prohibits administration of medical marijuana at a school located on federal land.

The act appropriates $15,419 to the department of education from the general fund to purchase legal services from the attorney general.

APPROVED by Governor May 5, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-67 School districts - civics education studies - content standards. The act specifies information and issues that public schools must teach in providing courses on civil government. The act directs the state board of education to review the state civics standards and update them as necessary to include the identified information and issues. The act encourages each school district and public school to partner with local service organizations to solicit donations to improve the quality of the civics education program. Donations may be used to pay the cost to develop a high-quality curriculum, invite speakers to interact with students, and provide students with opportunities for civics learning and engagement outside of the classroom.

APPROVED by Governor May 6, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-104 Education - special education fiscal advisory committee. The act continues the Colorado special education fiscal advisory committee until 2031.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-117 Students in out-of-home placement - education - transportation services - coordination with counties. The act amends provisions concerning students in out-of-home placement that mandate cooperation between schools and county departments of human or social services (county departments) relating to education. Specifically, the act:

- Amends the definition of "student in out-of-home placement" to align with those students in custody of county departments;
- Streamlines billing practices for transportation services provided to students in out-of-home placement by requiring the use of invoices and forms approved by both the department of education and the state department of human services; and
- Authorizes school districts and the state charter school institute in establishing transportation plans with county departments, as required by law, to establish transportation plans by region or through a board of cooperative services.

APPROVED by Governor April 26, 2021 **EFFECTIVE** April 26, 2021

S.B. 21-157 Charter schools - capital construction - moral obligation bond cap increase. Under current law, if the Colorado educational and cultural facilities authority has issued qualified charter school bonds for a charter school that fails to immediately restore its qualified charter school debt service reserve fund (reserve fund) to the applicable reserve fund requirement, the general assembly may, but is not required to, appropriate money to restore any or all reserve fund requirements for an aggregate outstanding principal amount of bonds not to exceed $500 million. The act increases the cap for the aggregate outstanding principal amount of qualified charter school bonds for which the general assembly may restore reserve fund requirements to $750 million.

APPROVED by Governor April 15, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-185 Educator workforce - recruitment and retention programs - mental health services - appropriation. Current law limits the content areas in which a person who holds an adjunct instructor authorization may teach. The act allows a school district or charter school to employ a person who holds an adjunct instructor authorization to teach in all content areas in order to address recruiting challenges and establish a diverse workforce.

The act requires the department of education (department) to direct resources to publicize existing teacher preparation programs to facilitate entry into the teaching profession. The act also requires the department to provide technical support to school districts, boards of cooperative services, and charter schools to assist them in accessing the existing programs and in recruiting individuals to pursue teaching careers.

The act requires the department of higher education, in collaboration with the department of education, the state board for community colleges and occupational education, and the deans of the schools of education and academic administrators in Colorado institutions of higher education, or their designees, to design a teaching career pathway for individuals to enter the teaching profession. The act outlines the components of the teaching career pathway program.

The act creates the teacher recruitment education and preparation program (TREP program) in the department. Two of the main objectives of the TREP program are to increase the number of students entering the teaching profession and to create a more diverse teacher workforce to reflect the ethnic diversity of the state. A qualified TREP program participant may concurrently enroll in postsecondary courses in the 2 years directly following the year in which the participant was enrolled in the twelfth grade of a local education provider. The act outlines the selection criteria and requirements for the TREP program.

The act creates the educator recruitment and retention program (ERR program) in the department to provide support to members of the armed forces, nonmilitary-affiliated educator candidates, and local education providers to recruit, select, train, and retain highly qualified educators across the state. The state board of education shall promulgate rules to implement the ERR program. The act outlines the eligibility criteria and program services.

The act adds criteria for the commission on higher education to select eligible

applicants for the educator loan forgiveness program.

The act requires the university of Colorado health and sciences center to establish and operate an educator well-being and mental health program to provide support services for educators serving students in Colorado's public elementary and secondary schools.

For the 2021-22 state fiscal year, $9,132,856 is appropriated from the general fund to the department of education to implement the act. For the 2021-22 state fiscal year, $942,542 is appropriated from the general fund to the department of higher education to implement the act. For the 2021-22 state fiscal year, $2,500,000 is appropriated from the general fund to the educator loan forgiveness fund. The department of higher education is responsible for the accounting related to the appropriation for the educator loan forgiveness fund.

APPROVED by Governor June 16, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-202 Public school air quality improvement projects - grants - appropriation. The act transfers $10 million from the general fund to the public school capital construction assistance fund (assistance fund) for the purpose of providing "Building Excellent Schools Today Act" (BEST) grants to fund public school air quality improvement projects. The public school capital construction assistance board (board) is authorized to make the grants and is required to prioritize grant awards based on grant applicants' existing calculated local match requirements for BEST grants, with applicants with the lowest matching money requirements having the highest priority and applicants with the highest matching money requirements having the lowest priority. The board is also required to submit a report about the grants to the general assembly during the department of education's 2022 "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation to legislative committees of reference. Notwithstanding the use of existing calculated local match requirements for grant prioritization purposes, the grants are exempted from existing matching money requirements for BEST grants. $10 million is appropriated from the assistance fund to the board for state fiscal year 2020-21, and any of the money not expended before July 1, 2021, is further appropriated to the board for state fiscal year 2021-22 for the same purpose.

APPROVED by Governor June 16, 2021 **EFFECTIVE** June 16, 2021

S.B. 21-206 Educator licensure cash fund - continuous appropriation - reporting. Since July 1, 2011, money in the educator licensure cash fund (fund), which includes educator license fees, has been continuously appropriated to the state board of education and the department of education (department) for expenses incurred in the administration of the "Colorado Educator Licensing Act of 1991". While the money is continuously appropriated, the department is required to report to legislative committees about its expenditures from the fund and about application processing time. Beginning with the next fiscal year, the general assembly is required to annually appropriate the money, and the reporting requirement is repealed.

The act grants the department 3 more years of continuous appropriation authority, and it likewise extends the related reporting requirement.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-268 Funding schools for 2021-22 school year - changes to Public School Finance Act of 1994 - changes to at-risk definition for at-risk formula factor - English language learner formula factor - crimes resulting in denial or suspension of educator license - K-12 programs and local school board deadlines and processes - federal funding for K-12 programs - appropriations. The act makes changes to the "Public school finance act of 1994" (school funding formula) increasing the statewide base per pupil funding for the 2021-22 budget year by $141.67 to account for inflation of 2% for a new statewide base per pupil funding amount of $7,225.28, and sets the minimum statewide district total program funding amount for the 2021-22 budget year and requires the dollar amount of the budget stabilization factor to remain the same for the 2022-23 budget year.

The act authorizes the state board of education (state board) to take action against an educator license, certificate, endorsement, or authorization if the educator is convicted of an offense under the laws of another state, the United States, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to a felony drug offense described in part 4 of article 18 of title 18, Colorado Revised Statutes.

The act extends to 18 months the length of the accreditation contract entered into between the state board and each school district board of education (local school board) and the state charter school institute for the 2021-22 school year.

The act extend by one month the deadline for a local school board to certify to the state board mileage for reimbursement from the public school transportation fund and for the state board to certify to the state treasurer the amount of reimbursements from the public school transportation fund.

The act changes the period of time in which the department of education (department) may establish an alternative pupil count day to within 45 school days after the first school day.

The act allows local education providers to carry forward more than 15% of the per-pupil intervention money received pursuant to the "Colorado READ Act" for the 2020-21 budget year for use in the 2021-22 budget year.

The act adjusts the amount of additional funding authorized in Senate Bill 21-053 that is available to school districts that fully fund total program with local revenue.

The act authorizes a school district that operated a district preschool program pursuant to the "Colorado Preschool Program Act" in the 2019-20 school year with a waiver to serve children under 3 years of age to continue in subsequent school years to use the same number of preschool positions to serve children under 3 years of age who have multiple significant family risk factors.

The act extends the budget deadlines for the 2021-22 budget year for school districts and local college districts.

The act makes permanent statutory provisions that allow school district charter schools that convert to institute charter schools or institute charter schools that convert to school district charter schools to continue to receive funding for at-risk students using the funding formulas that applied to the charter schools prior to the conversion.

For the 2021-22 school year, the act prohibits a local school board from reviewing or making revisions to an existing innovation school plan, innovation school zone, or a public school included in an innovation school zone, pursuant to the innovation school and zone review and revision process. Further, the local school board shall not make any revisions to an existing innovation school or innovation school zone plan that have not been approved before the effective date of this act.

The act removes the $10 million annual cap on appropriations for the school counselor corps grant program.

The act requires a board of cooperative services (BOCES) that intends to locate or operate a authorize a full-time BOCES school or an additional location of an existing school that is physically located within the geographic boundaries of a school district that is not a member of the BOCES during the 2021-22 school year to obtain written permission from the school district in which the school will be operated or located. The requirement for written consent does not apply to a BOCES school that is authorized or operating prior to the effective date of the act.

The act requires school districts and institute charter schools to address chronic absenteeism and disproportionate disciplinary practices in order to provide support to students who are identified as at risk of chronic absenteeism and disciplinary actions, including classroom removal, suspension, and expulsion. The act amends the expelled and at-risk student services grant program to focus on services for students identified as at risk of dropping out of school due to chronic absenteeism and disciplinary actions.

The act amends the Colorado imagination library program to align the public relations campaign with "Colorado READ Act" campaigns and requires the contractor administering the program to provide a high-quality independent evaluation of the impact of the program on child and family outcomes and to establish a distressed affiliate fund for county-based affiliate programs. The act establishes the intent of the general assembly to provide full funding for free books for eligible children by 2026.

The act amends the definition of "local public body" in the public open meetings statute to refer to school districts, which are the local public bodies, rather than school boards.

The act declares that the use of federal funding under the "American Rescue Plan Act of 2021" to provide programs, services, and other assistance to populations disproportionately impacted by the COVID-19 public health emergency to mitigate the impacts of the public health emergency through the concurrent enrollment and innovation grant program and the career development success program are allowable uses of the federal funding.

The act declares the general assembly's intention in making changes to the school finance formula commencing with the 2021-22 budget year, as follows:

- Modifies at-risk funding by adding pupils who are eligible for reduced-price lunch under the federal school lunch program, in addition to the free-lunch pupils in the existing definition, and removes the subset of English language learners who are currently included in the at-risk pupil count from the definition of "at-risk pupils";
- Adds a new English language learner funding factor to the school finance formula for all English language learners included in the prior year's pupil enrollment. The factor is 8% of per pupil funding multiplied by the English language learner enrollment. as defined in the act.
- Makes corresponding changes to the calculation of district total program funding, minimum per pupil funding, and the minimum per pupil funding base to reflect the school finance formula changes relating to English language learner factor funding; and
- Makes a corresponding change to the statutory district total program amount to reflect the changes to the at-risk funding factor and the addition of the English language learner funding factor.

The act authorizes the use of appropriations for the accelerating students through concurrent enrollment (ASCENT) program for the 2021-22 budget year.

The act removes the $27 million appropriation in the 2021 long bill from the state education fund to the English language learners professional development and student support program.

The act appropriates:

- $505,743,696 to the department from the general fund for the state share of districts' total program funding;

- $400,000 from the state public school fund for school finance audit payments;
- $2,000,000 from the state education fund for the school counselor corps grant program;
- $2,200,444 from the general fund to the department to restore funding to the following grant programs that had appropriations reduced or eliminated for the 2020-21 fiscal year:
  - $800,000 and 0.6 FTE for the ninth grade success program;
  - $375,807 for the school leadership program;
  - $280,730 for the accelerated college opportunity exam fee grant program;
  - $250,000 and 0.3 FTE for the John W. Buckner automatic enrollment in advanced placement courses grant program; and
  - $493,907 and 0.4 FTE for the local accountability systems grant program.
- $2,500,000 from the marijuana cash tax fund and 1.0 FTE for the K-5 social and emotional health pilot program;
- $3,000,000 from the marijuana cash tax fund for the behavioral health care professional matching grant program;
- $2,000,000 for mill levy equalization for institute charter schools;
- $1,750,000 to the concurrent enrollment expansion and innovation grant program and $1,750,000 for the career development success program from federal money in the workers, employers, and workforce centers cash fund;

and
- $410,221 to the department from the general fund for the Colorado imagination library program.

APPROVED by Governor June 11, 2021 **PORTIONS EFFECTIVE** June 11, 2021

Note: Portion of the act are contingent on HB 21-1264 becoming law. HB 21-1264 was enacted and become law June 23, 2021,

H.B. 21-1055 School districts - boards of education - member and officer compensation. The act removes the restriction on compensation for a president or vice-president of a school district board of education (board) and allows for the compensation of members of a board. The act also clarifies that any increase to compensation cannot occur during an officer's or member's term in office. The act also requires that a board set compensation rates for officers and members by written resolution in a public meeting. The act also allows members of a board to be reimbursed for necessary expenses in amounts approved by a majority vote of the board in a public meeting.

The act also requires that any compensation provided to officers or members of a board is not higher than $150 per day for not more than 5 days per week. The act also provides that board members may only receive compensation for days when official board duties are performed. The act also allows a board to adjust compensation for inflation after January 1, 2022.

APPROVED by Governor May 17, 2021 **EFFECTIVE** May 17, 2021

H.B. 21-1059 Online instruction - student protections. If a school district, board of cooperative services, or charter school (local education provider) provides educational programming via online instruction to a student (online student), the act prohibits the local education provider from:

- Prohibiting the online student's parent from being in the same room while the student participates in online instruction, but the person leading the instruction may require a disruptive parent to leave the area of online instruction;
- Requiring an online student to use a camera while participating in online instruction if the student's technology does not allow for use of a camera; and
- Suspending or expelling an online student based on an item observed in the student's physical environment or the student's behavior while participating in online instruction, unless the behavior constitutes one of the statutory grounds for suspension or expulsion.

The act specifies that the limitation on suspending or expelling an online student applies to suspensions and expulsions that occur on or after March 23, 2020.

The act specifies that the premises, facilities, and buildings of an educational institution do not include an online student's private residence for purposes of the crime of interference with staff, faculty, or students of educational institutions.

APPROVED by Governor May 28, 2021 **EFFECTIVE** May 28, 2021

H.B. 21-1103 Education - media literacy - standards - resource bank. The act requires the department of education (department) to create and maintain an online resource bank of materials and resources pertaining to media literacy. At a minimum, the resource bank must include the materials and resources recommended in the media literacy advisory committee's report. The department shall promulgate rules, if necessary, to implement a procedure through which a person may provide comment on a material or resource within the resource bank, including a comment recommending the removal or inclusion of a material or resource within the resource bank.

The act requires the department, upon the request of a school district, district charter school, institute charter school, or board of cooperative services, and subject to available resources, to provide technical assistance to a school district, district charter school, institute charter school, or board of cooperative services with implementing policies and procedures, best practices, and recommendations related to media literacy.

The act clarifies that a school district, district charter school, institute charter school, or board of cooperative services is not required to adopt or implement any material or resource from the resource bank into its curriculum.

The act requires the state board of education to review and adopt revisions that implement media literacy within reading, writing, and civics standards.

APPROVED by Governor March 27, 2021 **EFFECTIVE** March 27, 2021

H.B. 21-1104 Educator licensure renewal periods - extensions - appropriation. The act extends the renewal period for professional teacher, special services educator, principal, and administrator licenses from 5 to 7 years. The act allows for a professional teacher, special services educator, principal, or administrator who is partially through the current 5-year licensing cycle to have that extended to 7 years for that particular cycle.

The act makes the following appropriations through adjustments to the long bill:

(1) The cash funds appropriation from the educator licensure cash fund made in the annual general appropriation act for the 2021-22 state fiscal year to the department of education for the office of professional services is decreased by $292,532, and the related FTE is decreased by 4.0 FTE.

(2) For the 2021-22 state fiscal year, $2,922,976 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the office of professional services. Any money appropriated not expended prior to July 1, 2022, is further appropriated to the department for the 2022-23 state fiscal year for the same purpose.

APPROVED by Governor June 16, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1112 School districts - scholarship program. The act authorizes a school district board of education to establish a scholarship program for graduates of the school district. The scholarships must be paid from additional mill levy revenue that the school district is authorized to collect; gifts, grants, and donations; or both. A school district board of education that establishes a scholarship program is encouraged to prioritize low-income and first-generation students and limit the allowable uses of scholarship money.

APPROVED by Governor May 18, 2021 **EFFECTIVE** May 18, 2021

H.B. 21-1129 READ act - teacher training in literacy - extension. The law existing before the passage of the act required school districts, charter schools, and boards of cooperative services to demonstrate that, by the beginning of the 2021-22 school year, the kindergarten-through-third-grade teachers they employ have completed evidence-based training in teaching reading. The act extends the deadline for completing the training until the beginning of the 2022-23 school year.

APPROVED by Governor May 10, 2021 **EFFECTIVE** May 10, 2021

H.B. 21-1133 Health - seizure disorders - training - individualized seizure action plans. The act requires kindergarten through twelfth grade public schools (school), and strongly encourages nonpublic schools, to provide annual seizure-related training to school personnel who have direct contact with or supervise students who have a seizure disorder.

The parent or legal guardian (parent) of a student who has been diagnosed with a seizure disorder, including epilepsy, (student) is encouraged to submit a signed, individualized seizure action plan (plan) to the school if the student may need assistance with seizure-related care in a school setting. The plan must be developed in coordination with recognized sources on epilepsy and seizure disorders and in consultation with a state organization that represents school nurses. The seizure action plan must be in accordance with the guidelines developed by the department of education. The parent is encouraged to provide updated information to the plan when necessary.

APPROVED by Governor May 28, 2021 **EFFECTIVE** May 28, 2021

H.B. 21-1161 Educational accountability - state assessments - waivers. The act suspends the administration of state assessments, contingent on receiving a waiver of federal law from the federal department of education, for the following instructional areas and grade levels for the 2020-21 school year:

- Science for students enrolled in grades 5, 8, and 11;
- Math for students enrolled in grades 3, 5, and 7; and
- English language arts for students enrolled in grades 4, 6, and 8.

For the 2020-21 school year, the act suspends administration of the social studies assessment for students enrolled in elementary and middle school.

The act allows the parent of a student enrolled in a grade for which administration of

the English language arts or math assessment is suspended to request through the local education provider in which the student is enrolled that the student participate in the English language arts assessment or the math assessment.

The act prohibits a school district from using student academic growth measures or student performance measures when evaluating licensed personnel for the 2020-21 school year.

The act requires a school or school district or the state charter school institute to implement the performance plan type that was assigned in the preceding school year. The act also requires the department of education (department), in determining the number of school years that a school or school district or the institute is on performance watch or subject to 2-year review, to exclude the plan types for the 2020-21 and 2021-22 school years and count the plan type for the 2022-23 school year as if it were consecutive to the 2019-20 school year.

If required to implement a priority improvement or turnaround plan during the 2020-21 school year on the basis of its plan type for the 2019-20 school year, the act allows a school or school district or the institute to request a plan type for the 2021-22 school year that reflects its level of attainment based on an alternative body of evidence.

For the 2020-21 and 2021-22 school years, the act suspends the requirement that the department determine annually the level of attainment for public schools, school districts, the institute, and institute charter schools based on performance indicators.

The act reduces the appropriation to the department for the 2020-21 fiscal year.

APPROVED by Governor March 16, 2021 **EFFECTIVE** March 16, 2021

H.B. 21-1164 School finance - total program mill levy - tax credit reduction. For the 2020 property tax year, the existing statute corrects the total program mill levies for school districts that are not subject to constitutional property tax revenue restrictions but whose mill levies were erroneously reduced. Each school district that levies a higher number of mills as a result of the correction must grant a tax credit for the number of mills by which the levy is increased.

The act requires the department of education to adopt a correction schedule to begin phasing out the tax credits in the 2021 property tax year. The correction schedule must apply consistently to each affected school district; must require each district's tax credit to phase out as quickly as possible, but by no more than one mill per year; and must ensure that the tax credits are fully phased out in 19 years.

The act specifies that, until the general assembly determines that stabilizing the state budget no longer requires a reduction in the appropriation for the state share of total program, the general assembly shall annually ensure that the savings to the state share that occurs as a result of the decrease in the temporary property tax credits is appropriated to fund a portion of the state share of total program.

APPROVED by Governor June 11, 2021 **EFFECTIVE** June 11, 2021

H.B. 21-1200 Financial literacy education - academic standards - resources. The act directs the state board of education (state board) to review, during a recurring interval specified in the act, standards relating to the knowledge and skills that a student should acquire in school to ensure that the financial literacy standards for ninth through twelfth grade include an understanding of the costs associated with obtaining a postsecondary degree or credential and how to budget for and manage the payment for those costs, including managing student loan debt and accessing student aid through completion of the free application for federal student aid (FAFSA) and the Colorado application for state financial aid (CASFA); understanding credit cards and credit card debt; understanding homeownership and mortgages; and understanding retirement plans, including investments and retirement benefits.

The act adds to the resources contained in the existing financial literacy resource bank created and maintained by the state board specific references relating to assessing the affordability of higher education and how to budget and pay for higher education, as well as how to manage student loan debt; understanding the purpose of and how to access and complete the FAFSA or CASFA; understanding credit cards and credit card debt; understanding the home buying process, including home loans and managing mortgage debt; and understanding retirement plans, including investments and retirement benefits.

The act adds assessing the affordability of higher education and how to budget and pay for higher education, as well as how to manage student loan debt to the suggested financial literacy curriculum that a school district is encouraged to adopt. Further, the act requires school districts and charter schools, as part of the process of establishing the individual career and academic plan for a student in grades 9 through 12, to inform the student and the student's parents of the importance of completing the FAFSA and CASFA and to provide help in completing the forms, if requested.

APPROVED by Governor June 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1217 Open enrollment - school registration - inbound active duty military members. The act requires a school district, district charter school, and institute charter school (public school) to accept the school liaison address for the military installation for purposes of demonstrating residency for inbound active duty military members (inbound military member) participating in open enrollment. Further, the act requires a public school that enrolls the child of an inbound military member through open enrollment to grant guaranteed automatic matriculation, as specified in the act, in the same manner guaranteed automatic matriculation is provided to resident students, and shall grant priority preference for younger siblings of the child for enrolling in subsequent school years.

The act defines "inbound active duty military member" as an active duty military member who receives new orders, or a command letter issued in lieu of orders, for a permanent change of station to a department of defense military installation in Colorado.

The act requires a public school to allow an inbound military member to submit applications for enrollment or open enrollment by electronic means and to register a child remotely, without requiring the child, parent, legal guardian, or another person to appear physically within the state for registration. If required, the inbound military member must

also be allowed to provide proof of residency and other records within 10 days after the child's attendance in public school. Further, a public school shall allow the child of an inbound military member the same opportunity to request school assignments, register for courses, or apply for the same courses offered to students who are already present in the state.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1221 Bullying - model bullying prevention and education policy - school bullying policy. The act requires the department of education (department) to utilize a stakeholder process when updating the model bullying prevention and education policy (model policy), which process must include the parents of students who have been bullied. At a minimum, the model policy must clearly differentiate between a conflict and bullying and differentiate between harassment and bullying and clarify the role of cyberbullying during online instruction, which may occur on or off school property.

Current law requires each school district and charter school to adopt a safe school plan that includes:

- A conduct and discipline code with a specific policy concerning bullying prevention and education (bullying policy). The act requires the bullying policy to incorporate the approaches, policies, and practices outlined in the model policy.
- Safe school reporting requirements that include the number of conduct and discipline code violations relating to a school activity or sanctioned event that are detrimental to the welfare or safety of other students or of school personnel, including incidents of bullying. The act requires incidents of bullying be listed as a separate type of violation.

APPROVED by Governor June 7, 2021 **EFFECTIVE** June 7, 2021

H.B. 21-1234 Colorado high-impact tutoring program - grants to local education providers - appropriation. The act creates the Colorado high-impact tutoring program (program) to provide grant funding to local education providers, as defined in the act to include school districts and charter schools and others, to create high-impact tutoring programs (tutoring programs) to address student learning loss and unfinished learning due to the presence of the COVID-19 pandemic in Colorado.

A local education provider or group of providers may apply to the department of education (department) for a grant. To receive a grant, a local education provider shall apply to the department and shall demonstrate need, as determined by the department, which may include serving low-income or underserved students. The application must also include the local education provider's plan for its tutoring program (program plan), which must include the elements of a tutoring program and must detail how the local education provider will implement the program plan. The department shall review grant applications, and the commissioner of education (commissioner) shall award grants. In awarding grants, the commissioner shall consider the alignment of the local education provider's program plan

with the requirements of the tutoring program, the number of students projected to be served, the needs of a rural local education provider for financial or technical support to implement a tutoring program, the cost of implementing the local education provider's tutoring program, the amount of available money for program grants, and any other criteria determined by the commissioner. The state board of education may promulgate rules necessary to implement the program.

Each year in which a grant is awarded, the act requires a local education provider receiving a grant to report to the department information concerning the implementation of the tutoring program, including student outcomes. The department shall also report annually to the education committees of the general assembly summarizing local education providers' tutoring programs and student outcomes. The department is not required to implement the program if there is insufficient money to award program grants. The act is repealed July 1, 2026.

The act appropriates $4,981,720 and 1.1 FTE to the department of education to implement the act.

APPROVED by Governor June 16, 2021 **EFFECTIVE** June 16, 2021

H.B. 21-1259 Extended learning opportunities - COVID-19 learning impacts - local education providers - combined application, reporting, and evaluation. To the extent possible, the department of education (department) is directed to streamline the application process and other requirements relating to the award of money to local education providers, including school districts, charter schools, and other authorized local education providers (local education providers), as defined in the act, to implement one or more extended learning opportunities to address COVID-19 learning impacts. The department is authorized to administer the programs as part of a single combined application, reporting, and evaluation process created by the department.

Extended learning opportunities are defined in the act to include, in part, summer school programming, extended school days or extended school weeks, high-impact tutoring, creative enrichment tied to academic gains, social-emotional supports, and additional mental health supports tied to academic success.

The combined application allows a needs-based approach to identify the programs and services that meet the needs of the eligible local education provider and allows the department to help match the local education provider with funding sources. In addition to a combined application, the department is authorized to streamline local-education-provider reporting to the department and department reporting to the general assembly and align reporting deadlines.

The local education provider shall establish an internal progress-monitoring system to monitor progress using family- and community-informed practices to measure extended learning opportunities program effectiveness through student educational gains.

The department shall ensure that eligibility requirements, application provisions, allowable uses of funding, data collection and reporting, and any other requirements specific to the program or funding source are met for all programs or services administered pursuant to this section.

If required by law and subject to available funding, the department shall evaluate one or more extended learning opportunities implemented across local education providers using a common set of evaluation criteria and metrics.

The state board may adopt any rules necessary for the implementation of the combined application, reporting, and evaluation process.

The general assembly may appropriate money to the department for use by local education providers to implement extended learning opportunities.

The act repeals the statute, effective July 1, 2026.

APPROVED by Governor June 7, 2021 **EFFECTIVE** June 7, 2021

EDUCATION - POSTSECONDARY

S.B. 21-8 Postsecondary education - community and technical colleges - name changes. The act changes the names of the following colleges:

- Trinidad state junior college to Trinidad state college; and
- Otero junior college to Otero college.

APPROVED by Governor May 18, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-83 Postsecondary education - student financial assistance funding. The act modifies the requirement for the 2021-22 fiscal year that the annual appropriations for higher education student financial assistance increase by at least the same percentage as the aggregate percentage increase of all general fund appropriations to institutions of higher education. The act clarifies that this standard increase will not apply to appropriations for the 2021-22 fiscal year for increases in funding for the institutions of higher education that restore aggregate general fund appropriations to a level at or below the level of such appropriations for the 2019-20 fiscal year. Furthermore, for the 2021-22 fiscal year, the standard formula will be calculated based on 2020-21 fiscal year financial aid appropriations during the 2020 legislative session and does not include supplemental appropriations for financial aid during the 2021 legislative session.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-100 Council of higher education representatives - extend repeal. The act continues the council of higher education representatives (council) and extends the repeal of the council for 10 years, to September 1, 2031. Prior to the repeal, the act requires the department of regulatory agencies to conduct a sunset review of the council.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-109 Auraria higher education campus - board - bond payments for auxiliary facilities. For the 2020-21 and 2021-22 state fiscal years only, the act allows the Auraria board to make payments on certain existing bonds for auxiliary facilities from other sources, including money contributed by constituent institutions and from money appropriated to the board by the general assembly.

APPROVED by Governor March 12, 2021 **EFFECTIVE** March 12, 2021

S.B. 21-179 Postsecondary education - student financial assistance - Colorado opportunity scholarship initiative - advisory board. The act amends the composition of the Colorado opportunity scholarship initiative advisory board.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

S.B. 21-191 Western Colorado University - board of trustees - student member residency requirement. The act removes the residency requirements for student members to serve on the board of trustees for Western Colorado university.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-215 Open educational resources - zero-textbook-cost degree programs - grant program expansion - report - appropriation. The act makes several changes to the existing statute concerning open educational resources, including:

- Expanding the open educational resources grant program (grant program) to provide grants to develop, implement, and replicate entire zero-textbook-cost degree programs;
- Moving preparation of the annual grant program report from the open educational resources council (council) to the department of higher education (department); and
- Extending the repeal date for the council and the grant program for 5 years.

The statutes existing before passage of the act require public institutions of higher education, beginning in the fall of 2021, to inform students before registration of which courses use open educational resources. The act directs the commission on higher education to adopt guidelines to require public institutions of higher education, beginning no later than the fall of 2025, to also inform students at the point of registration concerning those courses that use open educational resources.

The act directs the department to review the open educational resources policies adopted across the state and identify and determine the efficacy of policies that expand the use and promote the sustainability of open educational resources. The department must include this information in the annual grant program report.

For the 2021-22 fiscal year, the act appropriates $1,108,200 to the department to use for open educational resource initiatives and preparation of the annual grant program report.

APPROVED by Governor May 5, 2021 **EFFECTIVE** May 5, 2021

H.B. 21-1067 Postsecondary education - admission standards - national assessment test score. Under current law, the admission standards for first-time admitted freshmen students must use high school academic performance indicators and national assessment test scores. The act removes the requirement for a national assessment test score. The act states that the governing board of a state institution of higher education (institution) may, but is not required to, require a national assessment test score as an eligibility criterion for admission.

An applicant may submit a national assessment test score to an institution that does not require a national assessment test score as an eligibility criterion and request that the institution consider the national assessment test score.

Starting June 30, 2023, the department of higher education (department) shall publish and submit to the education committees an annual report of various data intended to determine whether requiring or not requiring a national assessment test score as an eligibility criterion for the admissions process provides greater diversity among institutions without causing negative student outcomes that are directly attributable to the change in the admissions process.

On or before June 30, 2027, and on or before June 30, 2032, the commission on higher education shall publish and submit to the education committees a report analyzing the annual reports submitted by the department.

APPROVED by Governor May 25, 2021 **EFFECTIVE** May 25, 2021

H.B. 21-1173 Higher education - admission standards - prohibiting legacy preferences. Current law does not prevent a higher education institution (institution) from considering legacy preferences and familial relationships to alumni of the institution as eligible criteria for admissions standards. The act prohibits a governing board of a state-supported higher education institution (governing board) from considering legacy preferences and familial relationships to alumni of the institution in the admissions process. The act allows a governing board to ask questions regarding familial relationships to alumni of the institution in order to collect data.

APPROVED by Governor May 25, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

ELECTIONS

S.B. 21-188 Ability of voters with a disability to request and return a ballot electronically. Current law allows a voter with a disability to use an electronic voting device that produces a paper record to vote in a mail ballot election. If a voter receives a ballot through an electronic voting device, the voter is required to print the ballot to return it to the applicable election official. The act allows a voter to either print and return the ballot or to return the ballot by electronic transmission if the voter affirms the voter is an "eligible person" as defined in the act. Regardless of the method of return, the act specifies that to be valid, a ballot must include a signed affidavit or a copy of an acceptable form of identification and must be received by the election official in the applicable jurisdiction before the close of polls on the day of the election.

The act also requires the secretary of state to establish an electronic transmission system through which a voter with a disability may request and return a ballot.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-250 Conduct of elections - voter registration - political party organization - ballot access - voting - recalls - initiative petitions. The act amends various laws related to the conduct of elections, including provisions related to:

- Procedures for registering to vote and for automatic voter registration through voter registration agencies;
- Requirements related to political party organization, including requirements for precinct caucuses, county assemblies, and vacancy committees;
- Ballot access for candidates, including repealing the ability of an unaffiliated candidate for president of the United States to be nominated by paying a fee;
- Requirements for voter service and polling centers and voting in person;
- Procedures for challenges to a person's right to vote;
- Procedures and requirements for circulating recall petitions and the conduct of recall elections, including municipal and local government recall elections;
- Prohibitions on electioneering in and within 100 feet of a polling place; and
- Requirements for filing initiative petitions.

The act applies to elections conducted on or after the effective date of the act and takes effect upon passage; except that provisions allowing a person to register to vote online using the last 4 digits of their social security number take effect March 1, 2022.

APPROVED by Governor June 21, 2021 **PORTIONS EFFECTIVE** June 21, 2021
PORTIONS EFFECTIVE March 1, 2022

H.B. 21-1001 Remote participation in political party and vacancy committee meetings. Through the end of 2021, the act allows members of a party central committee or vacancy committee to participate in a committee meeting remotely, including by casting the member's vote by e-mail, mail, telephone, or through an internet-based application if allowed by the

party's rules.

The act permits a state senate, state house of representatives, or county commissioner district committee to hold a meeting to address organizational or administrative matters separate from a meeting of the state or county central committee. A member of a district committee may participate in a separate meeting by remote means if such remote participation has been approved by the chair and vice-chair of the district committee.

The act permits a state party central committee or state party executive committee to adopt party rules or bylaws to implement the bill's remote participation provisions. The act also permits a member of the state party central committee or state party executive committee considering such rules or bylaws to participate remotely in a meeting in which the rules or bylaws are being considered.

APPROVED by Governor January 20, 2021 **EFFECTIVE** January 20, 2021

H.B. 21-1092 Ballot access - candidates - eligibility of candidate for lieutenant governor to run for other office. The act allows a person who is nominated as a candidate for an elected office other than the office of United States senator or representative in congress who is also nominated as a candidate for lieutenant governor to run for both offices. If the person wins the election for both offices, the person must accept the office of lieutenant governor and resign from the other elected office within 7 days of the final certification of the results of both elections. The vacancy created by the resignation is filled in accordance with existing law on vacancies for that office.

A candidate who is nominated for lieutenant governor and for another elected office is required to affirmatively close any candidate committee registered in the person's name for the other office before accepting the nomination for lieutenant governor. The person is prohibited from receiving contributions and making expenditures in support of the person's election to the other office.

VETOED by Governor May 7, 2021

GENERAL ASSEMBLY

S.B. 21-198 Legislative audit committee - school capital construction - repeal of annual report requirement. The act repeals a requirement that the state auditor annually report uses of state education fund money for school capital construction to the education committees of the senate and the house of representatives, the legislative audit committee, and the joint budget committee of the general assembly.

APPROVED by Governor May 13, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

2**S.B. 21-244** Legislative appropriation - adjustment to funding for general assembly - health benefits for legislative aides. The act amends Senate Bill 21-196, the bill that provides appropriations for the legislative branch for the 2021-22 state fiscal year, to increase the funding for and FTE allocated to the general assembly to allow the general assembly to provide health benefits for legislative aides.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

NOTE: This act is contingent on Senate Bill 21-196 becoming law. Senate Bill 21-196 was enacted and became law April 26, 2021.

H.B. 21-1003 Remote participation in legislative proceedings - hearings under the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act - timing. The act authorizes the executive committee of the legislative council (executive committee) to allow electronic participation in legislative proceedings during a declared disaster emergency caused by a public health emergency infecting or exposing a great number of people to disease, agents, toxins, or other such threats, and, if it is allowed, to establish policies governing such electronic participation.

If a member cannot participate electronically from the member's home due to a technological limitation, the member may receive reimbursement for travel expenses to an alternate location to allow the member to participate electronically. The amount of the reimbursement cannot exceed the amount the member would customarily receive for travel expenses to Denver to participate in person. A member is not entitled to reimbursement for any other expenses incurred in connection with electronic participation.

Due to the COVID-19 pandemic, for the first regular session of the seventy-third general assembly, the bill allows joint committees of reference that are required to hold hearings commonly referred to as SMART Act hearings to conduct the hearings at any time after the general assembly convenes, including while the general assembly is temporarily adjourned. Legislators, departments, and the public may participate remotely in accordance with policies established by the executive committee or the joint rules of the senate and house of representatives.

APPROVED by Governor January 20, 2021 **EFFECTIVE** January 20, 2021

H.B. 21-1249 Legislative audit committee - transfer of funds for gaming cities - repeal of audit requirement. The act repeals a requirement that the state auditor conduct audits of the portion of the limited gaming fund that is transferred to the state historical fund for the preservation and restoration of the cities of Central, Black Hawk, and Cripple Creek.

APPROVED by Governor May 24, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

GOVERNMENT - COUNTY

S.B. 21-70 Registration of businesses. A board of county commissioners is authorized to require the registration of businesses in the unincorporated portions of the county.

APPROVED by Governor April 7, 2021 **EFFECTIVE** September 1, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1047 County commissioner districts - redistricting - policies and procedures. The act establishes the process used by county commissioner redistricting commissions (commissions) to divide counties that have any number of their county commissioners not elected by the voters of the whole county into county commissioner districts. In these counties, the act:

- Recommends the establishment of independent county commissioner redistricting commissions and provides criteria to consider when creating these independent commissions;
- Requires the commissions to hold multiple hearings, either online or throughout the relevant counties, that are broadcast and stored online and comply with state statutes regarding open meetings;
- Requires the commissions to provide the opportunity for public involvement by providing the ability to propose and comment on plans and to testify at commission hearings;
- Prohibits improper communication between a member of a commission and the staff of a commission or a member of an advisory committee;
- Mandates that paid lobbying of the commissions be disclosed to the secretary of state by the lobbyist;
- Establishes prioritized factors for the commissions to use in drawing districts, including federal requirements, the preservation of communities of interest and political subdivisions, and maximizing the number of competitive districts;
- Prohibits the commissions from approving a plan if it has been drawn for the purpose of protecting one or more incumbent members, or one or more declared candidates, of the board of county commissioners, or any political party, and codifies current federal law and related existing federal requirements prohibiting plans drawn for the purpose of or that results in the denial or abridgement of a person's right to vote or electoral influence on account of a person's race, ethnic origin, or membership in a protected language group;
- Requires the commissions to approve a redistricting plan and specifies the date by which a final plan must be adopted by the board of county commissioners; and
- Specifies that the staff of each commission or an advisory committee will draft no less than 3 plans.

The act allows counties to complete the establishment, revision, or alteration of county commissioner districts by September 30 of the second odd-numbered year following a census, rather than the first odd-numbered year following a census. The act also ensures that, if the redistricting of county commissioner districts excludes the residence of a county

commissioner from the district the commissioner represents, the commissioner may continue to hold the office of county commissioner until his or her term expires.

The act aligns the redistricting population data used to establish county commissioner districts with the redistricting population data used to establish congressional districts, state house of representative districts, and state senate districts.

The act also requires that, in a county where any number of county commissioners are not elected by the voters of the whole county and the board of county commissioners refers a measure to the voters of the county to change the method of electing county commissioners, the referred measure must provide at least 2 different methods of electing county commissioners.

Finally, the act repeals anachronistic county precinct size rules and allows county clerk and recorders to redraw precincts less often.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

GOVERNMENT - LOCAL

S.B. 21-256 Local authority to regulate firearms - sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory - carrying concealed handguns. The act declares that the regulation of firearms is a matter of state and local concern. A local government is permitted to enact an ordinance, regulation, or other law governing or prohibiting the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory. The ordinance, regulation, or law may not be less restrictive than state law. The local law may only impose a criminal penalty for a violation upon a person who knew or reasonably should have known that the person's conduct was prohibited.

The act permits a local government, including a special district, and the governing board of an institution of higher education to enact an ordinance, resolution, rule, or other regulation that prohibits a permittee from carrying a concealed handgun in a building or specific area within the local government's or governing board's jurisdiction, or for a special district, in a building or specific area under the direct control or management of the district. A local law may only impose a civil penalty for a violation, and the maximum fine that may be imposed for a first offense is $50.

APPROVED by Governor June 19, 2021 **EFFECTIVE** June 19, 2021

S.B. 21-258 Wildfire mitigation - grant programs - transfers. The act allows the forest service to issue forest restoration and wildfire risk mitigation grants for projects on federal lands, so long as the project maintains continuity across a landscape including federal lands and the area of federal lands does not exceed the combined area of the nonfederal lands involved in the project.

The act increases the amount that the forest service may use for the direct and indirect costs in administering the forest restoration and wildfire risk mitigation grant program from 3% to 7% of any amounts appropriated in any fiscal year.

The act allows for the technical advisory panel that evaluates the proposals for forest restoration and wildfire risk mitigation grants to scale up and down in size.

The act expands the allowable uses of the forest restoration and wildfire risk mitigation grant program by allowing the grant program to fund capacity-building efforts to provide local governments, community groups, and collaborative forestry groups with the resources and staffing necessary to plan and implement forest restoration and wildfire risk mitigation projects, including community and partner outreach and engagement, identifying priority project areas, prescription planning, and acquiring community equipment for use by landowners.

The act allows for the forest service to hire nontemporary additional field capacity to support the implementation and monitoring of fuels mitigation grant awards and wildfire risk mitigation program grant awards and to hire full-time, nontemporary staff for developing, revising, and implementing community wildfire protection plans and collaborative landscape level prioritization plans; developing and implementing risk mitigation and watershed restoration plans; strengthening the responsible use of prescribed fire; and supporting economically beneficial uses of woody biomass.

The act also creates 2 funds. First, the act creates the wildfire mitigation capacity development fund. Money from the wildfire mitigation capacity development fund is continuously appropriated to the department of natural resources to support a number of wildfire related areas administered by the department. Second, the act creates the hazard mitigation fund to assist local jurisdictions in obtaining the matching funds required for certain federal hazard mitigation grants.

Finally, the act requires the following immediate transfers:

- $5 million from the general fund to the healthy forests and vibrant communities fund;
- $2.5 million from the general fund to the wildfire risk mitigation revolving fund for loans issued by the wildfire risk mitigation loan program;
- $17.5 million from the general fund to the wildfire mitigation capacity development fund;
- $3 million from the wildfire preparedness fund to the hazard mitigation fund; and
- $600,000 from the wildfire preparedness fund and $1.2 million from the Colorado firefighting air corps fund to the wildfire emergency response fund for both the 2020-2021 fiscal year and the 2021-2022 fiscal year.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

H.B. 21-1008 Forest health projects - additional financing options. The act provides additional options for financing forest health projects by authorizing:

- A separate legal entity created by a combination of local governments as authorized by current law to establish special or local improvement districts within the boundaries of the combination and levy special assessments on property specially benefited by improvements, functions, services or facilities, including forest health projects, that the separate legal entity is authorized to provide;
- Counties, municipalities, special districts, water conservancy districts, the Colorado river water conservation district, and the southwestern water conservation district to conduct or participate in and finance forest health projects; and
- Authorizing a forest improvement district to use its sales tax revenue for forest health projects.

The act also adds to the definition of "forest health project" management actions that improve the ecological health of a forest or reduce the threat of forest disease epidemics or high-intensity wildfires, and postpones the scheduled repeal of the statute that authorizes the Colorado water resources power and development authority to issue bonds to fund watershed protection projects and forest health projects from July 1, 2023, to July 1, 2033.

APPROVED by Governor May 20, 2021 **EFFECTIVE** May 20, 2021

H.B. 21-1114 Provision of internet service by school district. With certain exceptions, a local government is currently required to obtain voter approval and meet other requirements before providing internet access (advanced service) to the public. The act specifies that these

requirements do not apply to a school district or board of cooperative services providing advanced service that enables students, teachers, and staff members of the district to access a school-owned and operated network to facilitate remote learning.

APPROVED by Governor May 18, 2021 **EFFECTIVE** May 18, 2021

H.B. 21-1117 County and municipal land use powers - authority to regulate development or redevelopment in order to promote the construction of new affordable housing units - state's rent control statute inapplicable to land use regulation restricting rents on new units where regulation gives choice of options to property owner or land developer and creates alternatives to the construction of new affordable housing on the building site - required action by local governments as a condition of exercising new regulatory authority. The act clarifies that the existing authority of cities and counties to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote the construction of new affordable housing units. The provisions of the state's rent control statute do not apply to any land use regulation that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site. The act also states that it should not be construed to authorize a local government to adopt or enforce any ordinance or regulation that would have the effect of controlling rent on any existing private residential housing unit in violation of the existing statutory prohibition on rent control.

The act prohibits a local government from exercising this new regulatory authority unless the local government demonstrates, at the time it enacts a land use regulation for the purpose of exercising such authority, it has taken one or more among a list of specified actions to increase the overall number and density of housing units within its jurisdictional boundaries or to promote or create incentives to the construction of affordable housing units.

The act requires the department of local affairs to offer guidance to assist local governments in connection with its implementation.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1168 Local government procurement - identification of barriers to entry for historically underutilized businesses - pilot program. The act requires the department of local affairs (department), no later than August 13, 2021, to establish a pilot program to help local governments identify perceptual and substantial barriers to entry for historically underutilized businesses in local government procurement.

The act requires local governments participating in the pilot program to consider a number of items, such as:

- Identifying implementation needs, such as labor and technology, for historically underutilized businesses preference programs for local government procurement (programs);

- Determining the appropriate size contracts that would benefit from a program; and
- Creating a sample program that all local governments may use and articulate the necessary steps to build a program.

The act specifies that pilot program participants may collaborate with the department and the general assembly on future legislation requiring local governments to establish programs.

In January 2022, the department is required to report on the progress of the pilot program as part of the department's presentation to its committee of reference at a hearing held pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

In January 2023, the department is required to include the findings of the pilot program as part of the department's presentation to its committee of reference at a hearing held pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

The act defines a historically underutilized business as a business that is at least 51% owned and controlled, in both the management and day-to-day business decisions, by one or more individuals who are:

- Members of a racial or ethnic minority group;
- Non-Hispanic Caucasian women;
- Persons with physical or mental disabilities;
- Members of the lesbian, gay, bisexual, and transgender community; or
- Veterans.

APPROVED by Governor June 7, 2021 **EFFECTIVE** June 7, 2021

GOVERNMENT - SPECIAL DISTRICTS

S.B. 21-160 Elections - administrative clarifications. The act makes the following changes to the local government and special district election codes:

- Revises statutory citations to clarify that the Colorado local government election code is the portion of the election code applicable to special district elections;
- Provides additional statutory citations to specify all instances in which a county assessor provides a list of property owners for an election;
- Clarifies that, when computing time for any designated period of days for a local government election, the first day from which the period of days runs is excluded and the last day from which the period of days runs is included;
- Specifies that the candidate self-nomination form for special district elections must contain the county where the special district is located;
- Clarifies that a candidate's and witness's respective addresses and telephone numbers and a candidate's current e-mail address need to be provided but do not need to be printed by the candidate and witness on the self-nomination form for special district elections;
- Clarifies the procedures for reviewing and verifying a self-nomination form and curing any insufficiencies; and
- Clarifies that local government ballots may be automatically sent to eligible electors who are qualified under contracts to purchase taxable property.

The board of directors of a special district currently consists of 5 or 7 directors elected at large. The act provides a process for dividing a special district into separate director districts and for members to be elected from each director district at large or by the electors within each director district.

APPROVED by Governor May 13, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

GOVERNMENT - STATE

S.B. 21-1 COVID-19 relief programs - small businesses - disproportionately impacted businesses. The act moves the COVID-19 relief program for minority-owned businesses from the minority business office to the Colorado office of economic development and expands the scope of the program to allow relief payments, grants, loans, and technical assistance and consulting support to small businesses disproportionately impacted by the COVID-19 pandemic.

Additionally, the act extends the deadlines for allocating and distributing relief payments under the small business relief program.

APPROVED by Governor January 21, 2021 **EFFECTIVE** January 21, 2021

S.B. 21-4 Real property - legislative jurisdictions - Colorado and the United States - United States Army Pueblo chemical depot. The act creates concurrent legislative jurisdiction between the state of Colorado and the United States over specified real property constituting the United States Army Pueblo chemical depot.

APPROVED by Governor April 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-12 Public safety - fire prevention and control - wildland fire services - employment opportunities. In general, current law provides that a felony conviction or other offense involving moral turpitude does not, in and of itself, prevent a person from applying for or obtaining public employment. The act extends this to persons applying to positions within the wildland fire management section in the department of public safety.

The act requires the division of fire prevention and control (division) to develop materials to increase awareness of wildland fire career opportunities for persons who acquired experience in wildland fire services through the inmate disaster relief program (program).

The act states that the division is encouraged to hire persons who acquired experience in the program for positions performing wildland fire services.

The act requires the division to develop and implement a peer mentor program for persons hired who acquired experience in wildland fire services through the program so those persons may develop and sustain professional skills.

The act requires the wildfire matters review committee to review, and permits the committee to propose, legislation or other policy changes relating to maximizing the utilization of wildland fire services through the inmate disaster relief program and to creating wildland fire career opportunities for persons who acquire experience in wildland fire

services through the inmate disaster relief program.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

S.B. 21-24 State holidays - commemorative holiday. The act designates March 30 as "Welcome Home Vietnam Veterans Day", a commemorative state holiday, and allows for appropriate observance by the public and in all public schools in tribute to the service and sacrifice of Vietnam veterans.

APPROVED by Governor March 30, 2021 **EFFECTIVE** March 30, 2021

S.B. 21-55 State debt collection - repeal central collection services section - decentralized collections by state agencies. The act repeals the central collection services section (CSS) in the division of finance procurement in the department of personnel, which section was the centralized collection agency for state debts of many state agencies. Thereafter, all state agencies will be responsible for collecting their own debts. The act modifies the collection of state debts by:

- Repealing CSS and specifying that each state agency is responsible for collecting debts owed to it;
- Shifting rule-making responsibility related to debt collection from the executive director of the department of personnel to the state controller (controller);
- Permitting a state agency to certify a debt to the department of revenue, so that the department may deduct the debt from a state tax refund or lottery winnings;
- Permitting a state agency to certify a debt to the registry operator under the "Gaming Payment Intercept Act", so that the registry operator may deduct the debt from limited gaming winnings;
- Permitting a state agency to refer a debt to a private counsel or private collection agency;
- Requiring the controller to include in the fiscal rules requirements for a state agency to refer a debt to private counsel or a private collection agency or to certify a debt to the department of revenue;
- Eliminating the ability of the state to collect a debt on behalf of a political subdivision;
- Repealing the requirement that there be written notice and an opportunity for a hearing prior to a tax refund offset being implemented;
- Eliminating the controller and state treasurer's authority to write off a debt due to the state, so that they only have authority to release or compromise such a debt;
- Transferring the balance in the debt collection fund to the general fund and then repealing the fund;
- Authorizing the controller to determine the priority of debts for which amounts will be withheld from disbursements, instead of requiring a pro rata distribution, which cannot be done with decentralized debt collection;
- Repealing the vendor offset implementation fund, which currently has no balance;
- Repealing the requirement that the controller establish performance policies and standards for measuring a state agency's debt collection;

- Repealing the controller's debt collection fee;
- Requiring the controller, without consultation of others, to select the private counsel or private collection agencies, instead of the executive director of the department of personnel with consultation of others;
- Eliminating specification for applying a court-ordered award that is insufficient to cover a state debt, so that such disposition is left to the court order;
- Repealing a written notice to debtors that specifies the amount of the debt, including the itemization of any fees, and the name of the creditor to whom the debt is owed; and
- Repealing the authority for the department of personnel to enter into a reciprocal agreement with the United States government or another state to offset debts and allowing the department of revenue to enter into such reciprocal agreements.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-99 Disability support - license plate auctions - Laura Hershey disability support act - continuation under sunset law. The act implements the recommendation of the department of regulatory agencies in its sunset review and report on the "Laura Hershey Disability Support Act" by continuing the act for 5 years, until 2026. This continues the Colorado disability funding committee, which auctions motor vehicle license plate numbers to raise money to aid persons with disabilities in accessing disability benefits.

APPROVED by Governor May 6, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-107 Parental rights for persons with disabilities. In honor and memory of Carrie Ann Lucas, the act names section 24-34-805 of the Colorado Revised Statutes the "Carrie Ann Lucas Parental Rights for People with Disabilities Act".

APPROVED by Governor April 26, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-110 Safe revitalization of main streets - funding. $30 million is transferred from the general fund to the state highway fund to provide additional funding for the department of transportation's revitalizing main streets and safer main streets programs.

APPROVED by Governor March 19, 2021 **EFFECTIVE** March 19, 2021

S.B. 21-112 Capital construction - transfer from general fund to capital construction fund - capital projects at state parks. The act transfers a total of $20 million from the general fund to the capital construction fund in the 2020-21 state fiscal year for single-phase projects at 12 state parks.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-113 Transfer of money from general fund to Colorado firefighting air corps fund - purchase of fire hawk helicopter - leasing of other aviation resources for wildfire mitigation - use of wildfire emergency preparedness fund to support wildfire suppression assistance. The act directs the state treasurer to transfer $30,800,000 from the general fund to the Colorado firefighting air corps fund to support the following purposes:

- The purchase by the division of fire prevention and control (division) in the department of public safety of a fire hawk helicopter (helicopter) configured for wildfire mitigation; and
- The leasing by the division of a type 1 helicopter or other available and appropriate aviation resource configured for wildfire mitigation in advance of the 2021 wildfire season and for the operational costs associated with the leased and purchased aviation resources.

In addition to any other purpose for the use of money in the wildfire emergency preparedness fund (WEPF), the act permits the division of fire prevention and control in the department of public safety to use money in the WEPF to provide wildfire suppression assistance to county sheriffs, municipal fire departments, or fire protection districts throughout the state at no cost to such entities pursuant to annual guidelines published by the division in the wildfire preparedness plan.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-121 Revised Uniform Unclaimed Property Act - financial organization loyalty card - presumption of abandonment for deposits - administrator reporting of last-known address. The act defines and exempts a financial organization loyalty card from the property that is subject to the "Revised Uniform Unclaimed Property Act". The act also repeals the presumption of abandonment in the act that took effect on July 1, 2020, for demand, savings, or time deposits with a financial organization, and replaces it by reenacting the similar version that was in effect prior to July 1, 2020, which has the same 5-year period for property to be presumed abandoned but has different owner activities that rebut the presumption of abandonment. The act also delays the time that a financial organization is required to deliver this property to the administrator if a penalty or forfeiture in the payment of interest would result from the delivery of the property. With respect to the administrator's reporting of information about an apparent owner, the act:

- Repeals the requirement that the administrator's record of persons, which includes the apparent owner's name and last-known address, be available for inspection; and
- Repeals the administrator's authority to identify the physical address of an apparent owner in published notices and on the website.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

S.B. 21-141 Statewide internet portal authority - internet portal development - internet portal integrator - competitive solicitation methods. The responsibilities of the statewide internet portal authority (SIPA) include developing the officially recognized statewide internet portal, entering into a contract with a statewide internet portal integrator for the development,

support, maintenance, and enhancement of the equipment and systems used for the statewide internet portal, and providing appropriate administration and oversight of the statewide internet portal integrator. Current law specifies that SIPA may not enter into a contract with a statewide portal integrator unless the statewide portal integrator was chosen by the authority pursuant to a request for proposals.

The act retains the requirement for a competitive solicitation for the contract with the statewide portal integrator, but authorizes competitive solicitation methods other than a request for proposals, including the invitation to negotiate.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

S.B. 21-144 Homeland security and all-hazards senior advisory committee - continuation under sunset law. The act continues the homeland security and all-hazards senior advisory committee until September 1, 2031.

APPROVED by Governor April 29, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-155 Limited gaming - limited gaming control commission - membership - registered electors from Gilpin and Teller counties. The limited gaming control commission consists of 5 members, 4 of whom are from specified professions and industries and one of whom is a registered elector of the state who is not employed in one of the specified professions or industries. The act requires the governor to prioritize appointing members who are registered electors of Gilpin county or Teller county and allows the registered elector members of the commission from Gilpin and Teller County to be employed in one of the specified professions or industries.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-178 Care subfund - extend expenditure and appropriation deadlines. The act extends expenditure or appropriation deadlines from December 30, 2020, to December 31, 2021, for the following programs for which the departments have not yet expended all of their appropriation from the care subfund:

- Eviction legal assistance;
- Human services referral services;
- Low-income energy assistance;
- Behavioral health services;
- Immunization operating expenses; and
- Local public health agencies in rural areas.

In some cases, related program repeal deadlines are also extended.

The act also extends the exclusion of the care subfund expenditures from the calculation of the general fund reserve and delays a transfer of any unused money from the

care subfund to the unemployment compensation fund from December 30, 2020, to December 31, 2021.

APPROVED by Governor May 13, 2021 **EFFECTIVE** May 13, 2021

S.B. 21-204 Rural economic development initiative grant program - appropriation - continuation of "Rural Economic Advancement of Colorado Towns (REACT) Act". The act appropriates $5 million to the department of local affairs (department) to use for the rural economic development initiative (REDI) grant program, and permits the department to use up to 3.75% of the appropriation for any direct and indirect administrative expenses related to the grants awarded from the appropriation.

If the department determines that a rural community needs resources or assistance because it has been impacted by a significant economic event or an anticipated event that has been announced, the department may use all or a portion of the money appropriated for the REDI grant program for the purposes of the "Rural Economic Advancement of Colorado Towns (REACT) Act". The act repeals the sunset of the REACT Act.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

S.B. 21-207 Transfer - from marijuana tax cash fund to public school capital construction assistance fund. On June 1, 2022, the state treasurer is required to transfer $100 million from the marijuana tax cash fund to the public school capital construction assistance fund (BEST fund).

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-208 General fund - transfer to state education fund. The act requires the state treasurer to transfer $100 million from the general fund to the state education fund on July 1, 2021.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-209 Transfers to general fund from repealed cash funds. The economic gardening pilot project, which was administered by the office of economic development and international trade, was created in 2013 and repealed on July 1, 2017. At the time of the repeal, there was money remaining in the related economic gardening pilot project fund. Additionally, the public school energy efficiency fund was created in 2007 and repealed on July 1, 2017. At the time of the repeal, there was money remaining in the fund.

On July 1, 2021, the act requires the state treasurer to transfer to the general fund the money from the repealed cash funds and any related interest and income.

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-219 State highway fund - appropriation to department of natural resources - continuous appropriation for the highway avalanche safety program. All money in the Colorado avalanche information center fund (CAIC fund) has been subject to annual appropriation by the general assembly to the department of natural resources (DNR) for the direct and indirect costs associated with the Colorado avalanche information center (CAIC). Pursuant to an intergovernmental agreement between the DNR and the Colorado department of transportation (CDOT), state highway fund money that is continuously appropriated to CDOT is credited to the CAIC fund to provide funding to the CAIC for work associated with the highway avalanche safety program that reduces avalanche risk on state highways. Beginning with state fiscal year 2021-22, the act continuously appropriates to the DNR for CAIC's costs associated with the highway avalanche safety program all money that is credited to the CAIC fund from the state highway fund and all interest or income derived from the deposit and investment of that money.

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-220 Transfers to severance tax operational fund from cash funds that support grant programs. To avoid a fund deficit in the severance tax operational fund, the act reverses 5 transfers made from the fund to other cash funds after the fiscal year 2019-20. Specifically, the state treasurer is required to transfer the following amounts to the fund:

- $1,998,205 from the species conservation trust fund;
- $1,600,964 from the parks and wildlife aquatic nuisance species fund;
- $219,803 from the water efficiency grant program cash fund;
- $297,759 from the interbasin compact committee operation fund; and
- $3,996,410 from the water supply reserve fund.

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-221 State forest service - forest restoration and wildfire risk mitigation grant program - modifications to grant limit and project requirements. The act removes the $1 million limit for the grant share of individual projects under the forest restoration and wildfire risk mitigation grant program (program). The act also adds a requirement that when the technical advisory panel (panel) considers hazardous fuel reduction projects for the program, the panel shows preference to applicants that are adopting local measures that reduce wildfire risks to people, property, and infrastructure that complement funds provided through the program.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-222 State recovery audit program - appropriation - repeal. The act repeals the state recovery audit program, effective July 1, 2022, and reduces the state fiscal year 2021-22 general fund appropriation to the department of personnel for use by financial operations and reporting for personal services by $64,714 and the related FTE by 1.0 FTE.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-223 Department of revenue - administrative hearings - location of hearings. The act allows a department of revenue administrative hearing to be held at a location designated by the executive director in either Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, or Jefferson county, or, at the election of the taxpayer, by video conference. The act also specifies that if the taxpayer resides or has their principle place of business in Colorado and the disputed deficiency is either $200 or less, or involves sales and use taxes regardless of the amount, then the hearing may be held, at the election of the taxpayer, in the district office of the department nearest to the place where the taxpayer resides or has their principal place of business in Colorado.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-224 Capital-related transfers of money. For the 2021-22 state fiscal year, the act transfers:

- $191,289,178 from the general fund to the capital construction fund;
- $110,000,000 from the general fund to the controlled maintenance trust fund to be appropriated in the 2022-23 state fiscal year for controlled maintenance budget requests prioritized by the office of the state architect as level one and level two priority projects;
- $8,000,000 from the emergency controlled maintenance account to the capital construction fund;
- $27,040,302 from the general fund to the information technology capital account of the capital construction fund; and
- $500,000 from the general fund exempt account of the general fund to the capital construction fund.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

S.B. 21-225 Transfers - general fund to small communities water and wastewater grant fund and off-highway vehicle recreation fund. In 2020, the general assembly enacted legislation to require the state treasurer to transfer money from the small communities water and wastewater grant fund and off-highway vehicle recreation fund to the general fund to offset the general fund revenue reduction related to the COVID-19 public health emergency.

The act requires the state treasurer to repay those cash funds by transferring the following amounts from the general fund:

- $5 million to the small communities water and wastewater grant fund; and
- $5 million to the off-highway vehicle recreation fund.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

S.B. 21-226 General fund reserve - increase. Under current law, the general fund reserve is equal to 2.86% of the amount appropriated for expenditure from the general fund for the fiscal years 2020-21 and 2021-22 and 7.25% of the amount appropriated for the fiscal year 2022-23 and each fiscal year thereafter. The act increases the percentage used to determine the general fund reserve as follows:

- 13.4% for the fiscal year 2021-22; and
- 15% for the fiscal year 2022-23 and each fiscal year thereafter.

APPROVED by Governor May 17, 2021 **EFFECTIVE** May 17, 2021

S.B. 21-227 Emergency reserve - designation - state emergency reserve cash fund - creation. Under the Taxpayer's Bill of Rights and the implementing legislation, the state is required to maintain an emergency reserve to be used for declared emergencies (state emergency reserve). The state may use the state emergency reserve for declared emergencies only.

The act designates the cash and capital asset that constitute the state emergency reserve for the 2021-22 fiscal year. It also creates the state emergency reserve cash fund (fund) to be some or all of the state emergency reserve. On June 30, 2021, the state treasurer is required to transfer $101 million from the general fund and $100 million from the controlled maintenance trust fund to the fund. If money from any fund that is designated as part of the state emergency reserve is expended for a declared emergency and the state subsequently receives reimbursement for the expenditure, then the bill requires the state treasurer to deposit the reimbursement into the fund that was the source for the expenditure.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

S.B. 21-228 PERA payment cash fund - creation - transfer from general fund. The act creates the PERA payment cash fund (fund) and appropriates $380 million from the general fund to the fund for the 2020-21 state fiscal year. The state treasurer is required to use the money in the fund for any portion of the $225 million direct distribution payment to PERA that would have otherwise been paid from the general fund on July 1, 2022, subsequent direct distributions that would have otherwise been paid from the general fund, and any of the state's employer contributions or disbursements.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-229 Economic development - economic development commission - rural jump-start zone grant program - rural jump-start zone grant fund account. The act creates the rural jump-start zone grant program (grant program) and authorizes the Colorado economic development commission (commission) to issue grants, subject to available appropriations, as follows:

- Up to $20,000 to new businesses to establish operations;
- Up to $40,000 to new businesses to establish operations in a tier one transition community;
- Up to $2,500 to new businesses for each new hire; and
- Up to $5,000 to new businesses for each new hire who is hired for operations established in a tier one transition community.

The act also authorizes the commission to issue grants, at its discretion and subject to available appropriations, not to exceed $30,000 per applicant, to a state institution of higher education or an economic development organization that collaborates with a new business in order to support the new business in meeting the requirements for the business

under the grant program.

The act creates the rural jump-start zone grant fund account in the Colorado economic development fund, which consists of any money appropriated to the fund by the general assembly, and may be used:

- By the commission to issue grants; and
- For the direct and indirect costs that the Colorado office of economic development incurs, not to exceed a specified amount, to administer the grant program.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

S.B. 21-231 Colorado energy office - weatherization assistance grants. The act directs the state treasurer to make an immediate, one-time transfer of $3 million from the general fund to the energy fund administered by the Colorado energy office (CEO). The CEO may use the money for making grants for the weatherization assistance program. The act requires the CEO to periodically report on its expenditures to the office of state planning and budgeting and the general assembly.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

S.B. 21-241 Office of economic development - small business accelerated growth program - appropriation. The act creates the small business accelerated growth program (program) administered by the Colorado office of economic development (office). The program provides business development support to small businesses with 19 or fewer employees. The office is required to develop a marketing initiative for the program in coordination with the minority business office, the small business development center, and local and regional economic development entities to promote the program. The businesses selected to participate in the program have one year to use the business development support offered by the program, and $1,350,000 in grants from the Colorado startup loan fund are for participants demonstrating need and success under the program.

The act makes an appropriation.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

S.B. 21-288 American Rescue Plan Act - cash fund - creation - recipient fund - companion fund - reporting requirements and conditions - federal fund reporting. As part of the federal "American Rescue Plan Act of 2021" (federal act), the state will receive $3,828,761,790, and $380 million of that money will be used for transportation infrastructure. The act creates the "American Rescue Plan Act of 2021" cash fund (fund) and requires the state treasurer to deposit $3,448,761,790, which is the balance of the federal funds after the transportation infrastructure use, in the fund.

The general assembly may transfer money from the fund to another cash fund that is established for the purpose of using the money from the federal coronavirus state fiscal recovery fund, and the act establishes requirements for this type of cash fund or one that

includes any subsequent transfers or appropriations (recipient fund). If there is any money remaining in the fund after the legislatively authorized transfers during the 2021 legislative session, then the governor is authorized to allocate up to $300 million for the purposes permitted under the federal act, and the money is continuously appropriated to the departments the governor designates.

In order to ensure proper accounting for and compliance with the federal act, if a recipient fund has money from other sources, then the state controller shall establish an identical, companion fund that only includes the federal funds from the federal act.

Money in the fund or a recipient fund must be expended or obligated by December 31, 2024, and any money obligated by December 31, 2024, must be expended by December 31, 2026. The state treasurer is required to transfer the unused and unobligated amounts in the fund as of December 31, 2024, to the unemployment compensation fund. A department is prohibited from using any money from the fund or a recipient fund for any purpose prohibited under the federal act, and transfers from the fund to the general fund are prohibited.

The state controller is required to provide the secretary of the treasury of the United States with the periodic reports about the state's use of the money from the fund or a recipient fund. Departments and persons receiving money from departments are required to comply with any reporting record-keeping requirements established by the state controller and the office of state planning and budgeting (office) and with any program evaluation requirements established by the office. The office is required to provide the joint budget committee with a yearly performance report, which includes the information the state controller provides to the secretary.

The act also modifies existing federal funds reporting requirements so that, like the reporting on the money from the recipient funds, the joint budget committee receives annual reports instead of quarterly reports. In addition, the state controller is required to make the reports instead of the office, and the information required to be submitted is modified.

APPROVED by Governor June 11, 2021 **EFFECTIVE** June 11, 2021

S.B. 21-292 American Rescue Plan Act - victims services - domestic violence - sexual assault - violence in general - appropriations. The federal government enacted the "American Rescue Plan Act of 2021" (federal act) to provide support to state, local, and tribal governments in responding to the impact of the COVID-19 public health emergency and to assist them in their efforts to contain the effects of the COVID-19 public health emergency on their communities, residents, and businesses.

As part of the federal act, the state will receive $3,828,761,790 from the federal coronavirus state fiscal recovery fund to be used for specific purposes identified in the federal act. This act allocates a total of $15 million to be appropriated for victim's services programs and purposes related to populations that have been disproportionately negatively affected by the COVID-19 public health emergency, including those affected by domestic violence, sexual assault, and violence generally. The money will be appropriated from the economic recovery and relief cash fund using money from the federal coronavirus state fiscal recovery fund. All money appropriated through this act must conform with the eligible uses set forth in the federal act.

This act appropriates money to the following entities:

- The forensic nurse examiner telehealth program;
- The state and local victims and witnesses assistance and law enforcement funds;
- The state crime victims compensation program;
- The address confidentiality program fund; and
- The Colorado domestic abuse program fund for the funding of domestic violence programs.

For the 2021-22 state fiscal year, the act appropriates from the economic recovery and relief cash fund and of money the state receives from the federal coronavirus state fiscal recovery fund:

- $3,000,000 to the department of public safety for use by the division of criminal justice. for the forensic nurse examiners telehealth program;
- $1,500,000 to the department of public safety for use by the division of criminal justice for the state victim compensation program;
- $3,000,000 to the victims and witnesses assistance and law enforcement fund. The judicial department is responsible for the accounting related to this appropriation;
- $1,500,000 to the victims assistance and law enforcement fund. The department of public safety is responsible for the accounting related to this appropriation.
- $500,000 to the address confidentiality program fund. The department of personnel is responsible for the accounting related to this appropriation.
- $4,750,000 to the Colorado domestic abuse program fund. The department of human services is responsible for the accounting related to this appropriation.
- $750,000 to the judicial department for use by courts administration for family violence justice grants.

The act also appropriates, from reappropriated funds in the victims assistance and law enforcement fund, $1,500,000 to the department of public safety for use by the division of criminal justice for the state victims assistance and law enforcement program. The act also appropriates, from reappropriated funds in the Colorado domestic abuse program fund, $4,750,000 to the department of human services for use by the office of self sufficiency for the domestic abuse program.

APPROVED by Governor June 22, 2021 **EFFECTIVE** June 22, 2021

NOTE: This act is contingent on Senate Bills 21-288 and 21-291 becoming law. Both bills were enacted and became law.

H.B. 21-1009 DOLA - division of housing - update of statutory functions - collaboration with other state agencies - development of incentives to promote the state's affordable housing and energy performance objectives - disposition of state-owned assets for affordable housing. The current statutory functions of the division of housing (division) within the department of local affairs include conducting research into new approaches to housing throughout the state. The act expands the list of research subjects to include:

- Transit-oriented development that includes increased housing density near employment, education, and town centers; and
- Advanced energy performance standards that minimize the total building operational costs during the affordability period.

The act expands the list of existing functions of the division to include collaborating with other state agencies to develop incentives that support:

- Local development near transit corridors;
- Increased housing density development within employment, education, and town centers; and
- Energy performance standards that minimize total building operational costs during the affordability period.

The division is required to collaborate with other state agencies in connection with the disposition of state-owned assets to be used for low- and moderate-income housing, and maintain the confidentiality of all names, addresses, and personal identifying information of applicants, recipients, and former recipients of housing assistance. The division is permitted to publish or provide aggregate or de-identified data concerning applicants, recipients, and former recipients of housing assistance to third parties and other governmental entities, and to enter into data-sharing agreements authorizing the transfer of such information subject to certain restrictions. Outdated statutory functions of the division are eliminated.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1025 Open meetings law - electronic mail communication. Under current provisions of the Open Meetings Law (OML), if elected officials use electronic mail to discuss pending legislation or other public business among themselves, the electronic mail constitutes a meeting that is subject to the OML's requirements. The act substitutes the word "exchange" for the word "use" in describing the type of electronic mail communication that triggers the application of the OML.

The act also clarifies existing statutory provisions to specify that electronic mail communication between elected officials that does not relate to the merits or substance of pending legislation or other public business is not a meeting for OML purposes. Under the act, the type of electronic communication that also does not constitute a meeting for OML purposes includes electronic communication regarding scheduling and availability as well as electronic communication that is sent by an elected official for the purpose of forwarding information, responding to an inquiry from an individual who is not a member of the state or local public body, or posing a question for later discussion by the public body. The act defines the term "merits or substance" to mean any discussion, debate, or exchange of ideas, either generally or specifically, related to the essence of any public policy proposition, specific proposal, or any other matter being considered by the governing entity.

APPROVED by Governor April 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the

effective date, see page vi of this digest.

H.B. 21-1051 Open meetings law - Colorado Open Records Act - identification of finalists for chief executive positions - limiting public inspection of application materials of unsuccessful applicants. A state or local public body conducting a search for a chief executive officer of an agency, authority, institution, or other entity is required to name one or more candidates as finalists and to make the finalist or finalists public prior to making an offer of employment. The application materials of an applicant for any employment position, including an applicant for an executive position who is not a finalist, are not subject to public inspection under the "Colorado Open Records Act". The act repeals a provision requiring that, if 3 or fewer candidates for an executive position meet the minimum requirements for the position, all of those candidates must be treated as finalists and their application materials are public records. The act requires the disclosure of demographic data concerning the race and gender of a candidate who was interviewed but not named as a finalist for a chief executive officer position, if that information was legally requested and voluntarily provided.

APPROVED by Governor May 25, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1054 Verification of lawful presence - housing benefit exception. The act creates, unless otherwise required by federal law, a public or assisted housing benefit exception to the requirement that an applicant for federal, state, or local public benefits verify lawful presence in the United States.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

H.B. 21-1056 Department of transportation - modification of public project contracting requirements. The requirements of the "Construction Bidding for Public Projects Act" (CBPPA) generally apply to a public project if the cost of the project is reasonably expected to exceed $500,000 for any fiscal year; except that a public project supervised by the department of transportation (CDOT) is subject to the requirements of the CBPPA if the cost of the project is reasonably expected to exceed $150,000 for any fiscal year. The act:

- Increases the lower cost amount for CDOT projects to $250,000, which means that the requirements of the CBPPA, including the requirement that CDOT prepare a bid estimate when it proposes to undertake a project itself rather than awarding the project to a contractor through competitive bidding, will apply to a CDOT project only if the cost of the project is reasonably expected to exceed $250,000 for any fiscal year;
- Increases from $50,000 to $150,000 the maximum cost for a CDOT project that is exempt from transportation commission approval; and
- Requires CDOT to annually identify in a report to the transportation commission and the transportation legislation review committee of the general assembly all highway maintenance projects for the reporting year costing more than $150,000 but not more than $250,000 that:

- CDOT is completing using CDOT employees;
- CDOT awarded by invitation for bids or competitive sealed best value bidding; or
- For which CDOT solicited but did not receive bids.

The act also limits the existing requirement that CDOT pay all employees performing work on any public project local prevailing wages in accordance with specified federal acts to projects that cost more than $250,000 and requires all electrical work on a CDOT public project to be performed by licensed electricians or registered apprentices properly supervised by electricians.

APPROVED by Governor May 24, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1060 U visa certification requirements - factors for consideration - completion time frame - prohibitions. To be eligible for U nonimmigrant status (U visa) from the federal government, a requestor must receive a certification form from a certifying official attesting that the person has been the victim of certain criminal activity and has been, is being, or is likely to be helpful to the detection, investigation, or prosecution of the criminal activity. The act sets a required time frame for completion or denial of the certification request and sets forth the factors that may and may not be considered in the certification process. The act also prohibits certain disclosures to immigration authorities and requires law enforcement to provide crime victims with information about the U visa.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 1, 2021

H.B. 21-1075 Public contracts - change term illegal alien to worker without authorization. The act replaces the term "illegal alien" with "worker without authorization" as it relates to public contracts for services.

APPROVED by Governor April 15, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1100 Executive agencies - counties - electronic filing - study. The act requires the office of information technology (office) in partnership with each principal department of the state to file a report by October 15, 2021, with the joint technology committee (committee) concerning the department's electronic filing capacity. The report must include information on the proportion of documents that can currently be filed electronically with the department, the actions required to allow at least 80% of documents filed with the department to be filed electronically, and any obstacles or barriers the department or the office would face in implementing electronic filing for at least 80% of documents filed with the department.

The governing body of each county and city and county is also required to file a report

with the committee by October 15, 2021, concerning the county's electronic filing capacity. The report must include information on the proportion of documents that can currently be filed electronically with the county, the actions required to allow at least 80% of documents filed with the county to be filed electronically, and any obstacles or barriers the county would face in implementing electronic filing for at least 80% of documents filed with the county.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1108 Anti-discrimination laws - adding prohibitions against gender-based discrimination - gender identity - gender expression. The act adds the terms "gender expression" and "gender identity" to statutes prohibiting discrimination against members of a protected class, including statutes prohibiting discriminatory practices in the following areas:

- Membership of the Colorado civil rights commission;
- Employment practices;
- Housing practices;
- Places of public accommodation;
- Publications that advertise places of public accommodation;
- Consumer credit transactions;
- Selection of patients by direct primary health care providers;
- Sales of cemetery plots;
- Membership in labor organizations;
- Colorado labor for public works projects;
- Issuance or renewal of automobile insurance policies;
- The provision of funeral services and crematory services;
- Eligibility for jury service;
- Issuance of licenses to practice law;
- The juvenile diversion program;
- Access to services for youth in foster care;
- Enrollment in a charter school, institute charter school, public school, or pilot school;
- Local school boards' written policies regarding employment, promotion, and dismissal;
- The assignment or transfer of a public school teacher;
- Leasing portions of the grounds of or improvements on the grounds of the Colorado state university - Pueblo and the Colorado school of mines;
- Enrollment or classification of students at private occupational schools;
- Training provided to peace officers concerning the prohibition against profiling;
- Criminal justice data collection;
- Employment in the state personnel system;
- The availability of services for the prevention and treatment of sexually transmitted infections;
- Membership of the health equity commission;
- The availability of family planning services;
- Requirements for managed care programs participating in the state medicaid

program and the children's basic health plan;

- The treatment of and access to services by individuals in facilities providing substance use disorder treatment programs;
- Employment practices of county departments of human or social services involving the selection, retention, and promotion of employees;
- Practices of the Colorado housing and finance authority in making or committing to make a housing facility loan;
- The imposition of occupancy requirements on charitable property for which the owner is claiming an exemption from property taxes based on the charitable use of the property;
- Practices of transportation network companies in providing services to the public; and
- The determination of whether expenses paid at or to a club that has a policy to restrict membership are tax deductible.

APPROVED by Governor May 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1126 Department of personnel - office of the state architect - central authority for leasing privately-owned property for state purposes. House Bill 14-1387, enacted in 2014, inadvertently removed, through the use of the definition of "real property", the authority of the department of personnel (department) to negotiate and execute leases for state use of privately owned property, including land, office space, buildings, and special use interests. This eliminated a decades-old policy for the department to serve as the central authority to assist state agencies and state institutions of higher education to lease needed office space and other property interests. The department has been operating under custom and practice to keep negotiating and executing such leases since House Bill 14-1387 was enacted.

The act officially reinstates this authority to the office of the state architect in the department, which houses the real estate program. The real estate program is the program responsible for centralized leasing.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

H.B. 21-1152 Capital construction - capitol dome restoration fund - repeal of obsolete fund. The act repeals a provision of law that creates the capitol dome restoration fund, which is obsolete. The capitol dome restoration was a capital project that commenced in 2010 and has since been completed. The statutory sections regarding the capitol dome restoration were repealed in July 2015 but the statute establishing the fund and the necessary transfers of money to the fund were inadvertently left in the statutes. The act addresses that defect.

APPROVED by Governor April 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1165 Victim compensation - victims of strangulation - cooperation with law enforcement. A crime victim is entitled to compensation under the "Colorado Crime Victim Compensation Act" if, in part, the victim cooperates with law enforcement officials. The act clarifies that a victim of strangulation satisfies the cooperation requirement by undergoing a medical forensic examination.

APPROVED by Governor May 10, 2021 **EFFECTIVE** May 10, 2021

H.B. 21-1212 Governor - appointments to boards and commissions - diversity. The act requires the governor to make reasonable efforts to appoint members of diverse groups to statewide boards, commissions, committees, and task forces authorized by the general assembly.

APPROVED by Governor May 24, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1215 Department of local affairs - expansion of justice reinvestment crime prevention initiative - appropriation. The justice reinvestment crime prevention initiative (initiative), administered by the Colorado department of local affairs in the division of local government (department), incorporates programs that expand small business lending and provide grants aimed at reducing crime and promoting community development in certain target communities. Effective September 1, 2021, the act:

- Expands the initiative to include Grand Junction and Trinidad; and
- Adds a statewide business and entrepreneurship training and grant program for justice-system-involved persons to the initiative.

The act also modifies the sunset review and repeal date for the initiative from September 1, 2023, to September 1, 2027, and makes an appropriation.

APPROVED by Governor June 17, 2021 **EFFECTIVE** June 17, 2021

H.B. 21-1223 Office of economic development - outdoor recreation industry office - creation. The act creates the outdoor recreation industry office in the office of economic development. The director of the outdoor recreation industry office is designated by and reports to the director of the office of economic development.

The outdoor recreation industry office serves as a central coordinator of outdoor recreation industry matters.

APPROVED by Governor May 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1225 Electronic recording technology board - continuation - modifications. The electronic recording technology board (board), which was created in 2016, makes grants to counties to establish, maintain, improve, or replace their electronic filing systems. These grants are from surcharges collected by county clerk and recorders and transmitted to the state for deposit in the electronic recording technology fund. The act makes the following changes related to the board:

- Delays the repeal and sunset review of the board by 4 years so that it will take place just over 10 years after the board's creation;
- Extends the surcharge that is collected by county clerk and recorders and transmitted to the board;
- Extends the board's annual reporting requirement about its grants for 4 more years and requires an additional 5-year report about the overall success of the program;
- Permits the board to make grants to a county to improve the security of its general information technology systems, if the improvement is necessary to improve the security of the county's electronic filing system; and
- Specifies that the board may approve a grant application to establish, maintain, improve, or replace an electronic filing system, notwithstanding that a portion of the grant will be used to enable the system to receive, store, manage, and provide online access to public documents that are maintained by the county clerk and recorder but that are not related to real property.

APPROVED by Governor June 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1236 State information technology - modernization of statutes. The act modifies the laws that create the joint technology committee (JTC), the Colorado cybersecurity council (council), and the office of information technology (office), to reflect the current information technology (IT) environment and direction in the state.

Modifications related to the JTC are as follows:

- Updates definitions used by the JTC to be consistent with the definitions used by the office; and
- Allows the JTC to request information and presentations regarding data privacy and data security, specifies that the JTC oversees any state agency that has been delegated IT functions by the office, and makes other modifications to make the provisions governing the JTC and the office consistent.

Modifications related to the council are as follows:

- Specifies additional functions of the council, modifies the composition of the council, and allows the council to coordinate with other entities regarding cybersecurity.

Modifications related to the office are as follows:

- Consolidates all of the definitions that apply to the office into one section and updates some definitions to align with best practices and industry standards;
- Relocates provisions of current law regarding the information technology revolving fund and the coordination of the statewide geographic information system;
- Repeals and reenacts the roles and responsibilities section of law for the office and defines the office's roles and responsibilities in connection with IT;
- adds additional responsibilities when a state agency undertakes a major IT project, when a state agency is the business owner of an IT system, and when the office is involved in a state agency's IT project only as a party to the contract;
- Authorizes the office to delegate an IT function to a state agency and specifies procedures and requirements that the office and the state agency are required to follow when such delegation occurs;
- Repeals and reenacts the current provisions in law regarding the duties and responsibilities of the chief information officer (CIO) and updates the duties and responsibilities of the CIO;
- Relocates current law that authorizes the revisor of statutes to change certain statutory references in connection with the creation of the office;
- Updates the timelines and dates for the development of IT security plans and certain required reports regarding those plans for state agencies, institutions of higher education, and the legislative branch;
- Repeals and reenacts current law regarding interdepartmental data protocol that governs data-sharing among state agencies and specifies requirements of the office and the government data advisory board regarding the creation of a data-sharing and privacy master plan and additional requirements for when a state agency shares personal identifying information with another state agency; and
- Updates the office's annual reporting requirement to the general assembly regarding IT asset inventory.

The act makes conforming amendments and repeals obsolete provisions regarding the consolidation of IT functions to the office, the transfer of employees and officers to the office, the creation of a work eligibility verification portal, the creation and implementation of the Colorado financial reporting system, and a reporting requirement on the transfer of IT infrastructure ownership. The act also repeals provisions regarding the statewide communications and information infrastructure that are incorporated into other provisions of law.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1237 Pharmacy benefits manager for state employee group benefit plans - procurement - contract management. The department of personnel (department) is required to contract for the services of a pharmacy benefit manager (PBM) for group benefit plans provided pursuant to the "State Employees Group Benefits Act" (state employee group benefits plans) and to procure a technology platform with the required capabilities for conducting a PBM reverse auction and the related services of a technology platform operator.

The department is required to repurpose the technology platform used to conduct the reverse auction over the duration of the PBM services contract to perform reviews of all invoiced PBM prescription drug claims, and to identify all deviations from the specific terms of the PBM services contract. The department is required to reconcile the electronically adjudicated pharmacy claims with PBM invoices to ensure that state payments do not exceed the terms specified in any PBM services contract.

Each PBM reverse auction is required to be completed and the PBM services contract awarded to the winning PBM within a specified timeline.

The department may perform a market check for providing PBM services during the term of the current PBM services contract to ensure continuing competitiveness of incumbent prescription drug pricing over the life of a PBM services contract.

To ensure that the department does not incur additional expenditures associated with the requirements of the act, the department is required to implement a no-pay option that obligates the winning PBM to pay the cost of the technology platform and related technology platform operator services by assessing a per-prescription fee and requiring the PBM to pay these fees to the technology operator over the duration of the PBM services contract.

The act allows other health plans to use the processes and procedures established in the act individually, collectively, or as a joint purchasing group with the state employee group benefits plans.

After completion of the first state employees group benefits plans PBM reverse auction, self-funded private sector employer or multi-employer health plans have the option to participate in a joint purchasing pool with state employees for conduct of subsequent PBM reverse auctions.

The state employees group benefits plans and any self-funded public or private sector health plans that opt to participate with the state employees group benefits plans in a joint PBM reverse auction purchasing pool shall retain full autonomy over determination of their respective prescription drug formularies and pharmacy benefit designs and shall not be required to adopt a common prescription drug formulary or common prescription pharmacy benefit design.

Any PBM providing services to the department or a self-funded public or private sector employee health plan is required to provide the department and the plan access to complete pharmacy claims data necessary to conduct the reverse auction and carry out their administrative and management duties.

The department may elect to vacate the outcome of a PBM reverse auction if the lowest cost bid is not less than the projected cost trend for the incumbent PBM contract as verified by the department.

APPROVED by Governor June 7, 2021 **EFFECTIVE** June 7, 2021

H.B. 21-1241 Office of economic development - revolving loan program to assist transitions of businesses to employee-owned businesses - eligibility criteria - loan terms. The act modifies requirements for an existing loan program (program) created to assist transitions

of businesses to employee-owned businesses. The act repeals statutory eligibility requirements and requires the office of economic development (office) to establish eligibility criteria for the program. The criteria must include an annual gross revenues limitation for participation in the program for businesses, which amount may be set at up to or less than $50 million. The criteria must also establish requirements for the number of employees who will be offered the option to participate in the employee-ownership opportunity.

A loan under the program may be used toward the purchase of the business by the employees. The act repeals requirements related to the size of the loans and how the loans must be held and requires the office to establish requirements for the terms of the loans pursuant to existing statutory requirements.

Under the current statute, the program is repealed effective July 1, 2022. The act extends the program through July 1, 2025.

APPROVED by Governor May 21, 2021 **EFFECTIVE** May 21, 2021

H.B. 21-1263 Colorado tourism office - meeting and events incentive program - rebates - eligible events - appropriation. The act creates the Colorado meeting and events incentive program (program) in the Colorado tourism office (office) to provide rebates and direct support to eligible events in Colorado to assist in the state's recovery from the COVID-19 pandemic.

An eligible event means an event, including a meeting, conference, or festival, that:

- Takes place in Colorado between July 1, 2021, and December 31, 2022;
- Can demonstrate a significant economic benefit for the host community as determined by the office;
- Generates at least 25 paid overnight stays in a motel, hotel, vacation rental, or other lodging establishment; and
- Meets any additional criteria established by the office.

The program may offer rebates of up to 10% of the hard costs of an eligible event. A hard cost means an actual incurred cost associated with hosting the event, as determined by the office in consultation with industry stakeholders. The program may also offer rebates of up to 25% for COVID-19-related costs, which are hard costs that are directly related to complying with public health orders or other mandates issued in response to the COVID-19 pandemic, as determined by the office in consultation with industry stakeholders. The primary organizer or booking agent, as determined pursuant to guidelines developed by the office, may apply for and receive the rebate for an eligible event.

The program may provide direct support to attract eligible events that have the potential to generate significant economic impact and affect multiple counties. The costs of all such direct support cannot exceed 5% of the total appropriation for the program.

The office is required to create guidelines for the program. In doing so, the office must consider mechanisms to:

- Make rebates and direct support available equitably and proportionally across the state;

- Prioritize events with significant economic impacts; and
- Retain existing events with a demonstrated risk of cancellation, delay, or relocation in addition to attracting new events to the state.

The act appropriates $10 million to the office for the program. The program is repealed, effective January 1, 2024.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

H.B. 21-1274 Unused state-owned real property - inventory - seek proposals to construct affordable housing, child care, public schools, residential mental and behavioral health care, or to place renewable energy facilities on unused state-owned real property where suitable - approval by capital development committee. The act requires the department of personnel (department) to create and maintain an inventory of unused state-owned real property and to determine whether the unused state-owned real property identified is suitable for construction of affordable housing, child care, public schools, residential mental and behavioral health care, or for placement of renewable energy facilities, or if such property is suitable for other purposes. The act defines unused state-owned real property as real property owned by or under the control of a state agency, not including the division of parks and wildlife in the department of natural resources and not including the state board of land commissioners or any state institution of higher education.

The department is authorized to seek proposals from qualified developers to construct affordable housing, child care, public schools, residential mental and behavioral health care, or to place renewable energy facilities on unused state-owned real property that the department has deemed suitable. Budget requests for those purposes must be made through the current budgetary process; except that budget requests may not be made through a request for a supplemental appropriation.

The department is authorized to enter into contracts with qualified developers for proposals to construct affordable housing, child care, public schools, residential mental and behavioral health care, or to place renewable energy facilities, on unused state-owned real property that the department has deemed suitable, subject to available appropriations. Prior to entering into contracts, the department must first submit a report to capital development committee (CDC) that outlines the anticipated use of the property. The department may not enter into contracts without the approval of the CDC.

The act creates the unused state-owned real property cash fund to which the state treasurer is required to credit all proceeds from the sale, rent, or lease of unused state-owned real property.

APPROVED by Governor June 18, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1285 Creative industries funding - programs to support film, television, and media industry - arts relief program - cultural facility programs for historically marginalized and under-resourced communities - appropriations and transfers. The act:

- Transfers $5 million from the general fund to the Colorado office of film, television, and media operational account cash fund and appropriates that amount to the governor's office for use in the 2021-22 state fiscal year by the Colorado office of film, television, and media in awarding performance-based incentives for film production in Colorado and for the loan guarantee program to finance production activities;
- For the 2020-21 state fiscal year, appropriates $3.5 million, in addition to the amount appropriated pursuant to Senate Bill 20B-001, from the general fund to the creative industries cash fund for the arts relief program and removes the prohibition against an applicant that received a relief payment from the small business relief program from also receiving a relief payment under the arts relief program;
- For the 2020-21 state fiscal year, appropriates $1.5 million from the general fund to the creative industries cash fund for allocation by the creative industries division to a nonprofit organization that administers grants to certain cultural facilities that focus on programming for and have board representation from defined historically marginalized and under-resourced communities; and
- Transfers the following amounts of money appropriated for the small business relief program that is not encumbered or expended by June 30, 2021:
  - Up to $12 million to the creative industries cash fund for the arts relief program; and
  - Up to $1 million to the Colorado office of film, television, and media operational account cash fund for performance-based incentives for film production in Colorado and for the loan guarantee program to finance production activities.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

H.B. 21-1302 Small business COVID-19 grant program - award criteria - appropriation. Senate Bill 20-222, enacted in 2020, created a grant program financed through the federal "Coronavirus Aid, Relief, and Economic Security Act" to support small businesses suffering from the economic impacts of COVID-19 and related public health restrictions.

The act appropriates $15 million from the general fund to continue the grant program until the end of the 2021-22 state fiscal year, modifies the criteria pursuant to which grants are awarded, adds certain preferences for awarding grants, and establishes limits on the amount of a grant to an individual small business.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

HEALTH AND ENVIRONMENT

S.B. 21-93 Advisory committees - healthcare-associated infections and antimicrobial resistance advisory committee - continuation under sunset law. The act implements the recommendation of the department of regulatory agencies in its sunset review of and report on the healthcare-associated infections and antimicrobial resistance advisory committee by extending the committee indefinitely.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 1, 2021.

S.B. 21-122 Opiate antagonists - bulk purchase - standing orders and protocols - eligible purchasers. Current law allows specific entities to purchase opiate antagonists through the opiate antagonist bulk purchase fund (fund) and also allows specific entities to receive opiate antagonists pursuant to standing orders and protocols. The act aligns these sections of law so that:

- A unit of local government may purchase opiate antagonists through the fund pursuant to a standing order and protocol; and
- A harm reduction organization, law enforcement agency, or first responder to which opiate antagonists have been prescribed or dispensed through a standing order and protocol may purchase the opiate antagonists through the fund.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

S.B. 21-128 Nursing home penalty cash fund - modifications to administration. The act makes the following changes to the administration of the nursing home penalty cash fund (fund) and the nursing home innovations grant board (board):

- Transitions final authority over the administration of the fund from the Colorado department of health care policy and financing (HCPF) to the Colorado department of public health and environment (CDPHE);
- Transitions rule-making authority over the fund from HCPF to the state board of health;
- Transitions the authority to create a minimum reserve amount for the fund from the medical services board to the state board of health;
- Transitions authority over the board from HCPF to CDPHE effective July 1, 2021;
- Transitions all appropriations related to the fund to HCPF and CDPHE effective July 1, 2021;
- Makes a continuous appropriation to HCPF and CDPHE for the purposes of emergency funding needs;
- Limits the percentage of the amount of the grant appropriation that can be used for administration of the fund to 10% of the disbursed grants;
- Removes the provision allowing members of the board to be reimbursed for expenses;
- Adds a requirement that HCPF and CDPHE develop an annual budget to administer the fund and support the board;
- Adds a requirement that HCPF and CDPHE collaborate annually on any

emergency funding needs and specifies that HCPF and CDPHE will administer such funding;

- Adds projects that compliment statewide quality and safety goals as a consideration in making a distribution from the fund; and
- Lengthens the period for CDPHE to provide notice of a violation to a nursing facility from 5 days to 10 days after inspection.

APPROVED by Governor June 23, 2021 **EFFECTIVE** June 23, 2021

H.B. 21-1107 Public health workers - prohibition on dissemination of personal information over the internet- creation of misdemeanor crime - public records. The act makes it unlawful for a person to make available on the internet the personal information of a public health worker if the dissemination of the personal information poses an imminent and serious threat to the public health worker's safety or the safety of the public health worker's family. "Public health worker" is defined in the act to include contractors or employees of contractors of the department of public health and environment or of county or district public health agencies, who are engaged in public health duties, and members of county or district boards of health, other than elected county commissioners. A violation of this law is a class 1 misdemeanor.

Further, a public health worker meeting certain requirements specified in statute may submit a written request to a state or local government official to remove personal information from public records that are available on the internet.

APPROVED by Governor May 18, 2021 **EFFECTIVE** May 18, 2021

H.B. 21-1115 Boards of health - training - recruiting. The act requires members of a county board of health or a district board of health and members of the state board of health, on and after January 1, 2022, to attend both annual public health training provided by the department of public health and environment and developed by the department of public health and environment along with the Colorado school of public health and annual public health training developed and provided by the department of public health and environment and the director of the office of emergency management concerning the role of a board of health in preparing for, responding to, and recovering from an emergency disaster.

The act also requires the department of public health and environment, on and after January 1, 2022, to develop guidance on recruiting persons to serve on county and district boards of health and to provide this guidance to any board of county commissioners, county board of health, or district board of health that requests it.

APPROVED by Governor June 15, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1119 Suicide - prevention, intervention, postvention. The act broadens the state's priorities and focus on suicide and suicide attempts and the after-effects of those actions on attempt survivors, family, friends, health-care providers, first and last responders, educators,

and students in schools where a suicide or suicide attempt has occurred.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1169 Organ transplants - discrimination by health-care providers and transplant decision makers based on disability prohibited - treatment or service for organ transplant - civil actions for injunctive and equitable relief authorized - health care coverage for organ transplant. The act prohibits a health-care provider, hospital, or other entity involved in making a decision regarding a person's eligibility to receive an anatomical gift, organ transplant, or any related treatment or services from discriminating against that person solely on the basis of a disability. The act authorizes an aggrieved person to commence a civil action for injunctive and equitable relief in the appropriate district court.

The act also prohibits a health insurance carrier that provides coverage for an organ transplant from denying or limiting coverage to a covered person for an anatomical gift, organ transplant, or any related treatment or services due to a disability. The act clarifies that a health benefit plan is not required to include coverage for an organ transplant.

APPROVED by Governor May 6, 2021 **EFFECTIVE** May 6, 2021

H.B. 21-1247 Powers and duties of department - dispensation of payments under contracts with grantees. The act allows the department of public health and environment, in contracting with certain grantees for the provision of services, to dispense up to 25% of the total value of the payments under the contract to the grantee immediately upon the execution or renewal of the contract.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1299 Violence prevention - office of gun violence prevention - public awareness - gun violence intervention grants - resource bank - appropriation. The act establishes the office of gun violence prevention (office) within the department of public health and environment to coordinate and promote effective efforts to reduce gun violence. The office is required to conduct public awareness campaigns to educate the general public about state and federal laws and existing resources relating to gun violence prevention.

Subject to available money, the office may establish and administer a grant program to award grants to organizations to conduct community-based gun violence intervention initiatives that are primarily focused on interrupting cycles of gun violence, trauma, and retaliation that are evidence-informed and have demonstrated promise at reducing gun violence without contributing to mass incarceration.

The office is required to create and maintain a resource bank as a repository for data,

research, and statistical information regarding gun violence in Colorado. The office must collaborate with researchers to improve data collection in Colorado and use existing available research to enhance evidence-based gun violence prevention tools and resources available to Colorado communities.

The office is required to issue a report to the general assembly every 5 years summarizing gun violence prevention measures adopted by local jurisdictions. This reporting requirement is contingent upon Senate Bill 21-256 being enacted and becoming law.

The act appropriates $3,000,000 to the department of public health and environment for program costs related to family and community health for the office of gun violence prevention.

APPROVED by Governor June 19, 2021 **EFFECTIVE** June 19, 2021

NOTE: Section 25-20.5-1206 (3) is contingent on Senate Bill 21-256 becoming law. Senate Bill 21-256 was enacted and became law June 19, 2021.

HEALTH CARE POLICY AND FINANCING

S.B. 21-22 Medicaid audits - provider records - notification requirements prior to commencing audit. The act requires that, prior to initiating a review or audit of a medicaid provider's records, the reviewer or auditor, or a qualified agent contracted with the department of health care policy and financing (state department) shall confirm the provider's contact information with the provider. After confirming the provider's contact information, the reviewer or auditor, or qualified agent, shall notify the provider of additional information concerning the review or audit.

Current law requires the reviewer or auditor, prior to initiating the review or audit, to deliver to the provider not less than 10 business days prior to the commencement of the audit a written request describing in detail such records and offering the provider the option of providing either a reproduction of such records or inspection at the provider's site. The act requires the written request to be provided through both e-mail and certified mail.

The act requires the state department to ensure providers understand the relationship between the state department and the qualified agent and how to contact the qualified agent prior to a qualified agent commencing any review or audit.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-123 Canadian prescription drug importation program - expansion of program to include other nations. The act states that the department of health care policy and financing (department) may expand the Canadian prescription drug importation program (program) to allow a manufacturer, wholesale distributor, or pharmacy from a nation other than Canada to export prescription drugs into the state under the program if certain conditions are met. If, upon the satisfaction of these conditions, the department decides to expand the program, the executive director of the department shall notify the president of the senate, the speaker of the house of representatives, and specified legislative committees of the department's intent to do so.

APPROVED by Governor April 26, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-142 Medicaid - public funds - medically necessary services performed by licensed provider. Under current law, public funds cannot be used to pay for an abortion, except in cases of life endangerment and in cases of rape or incest for medicaid-eligible women. If every reasonable effort is made to preserve the life of the pregnant woman and unborn child, then public funds may be used for medically necessary services. The medically necessary services must be performed only in a licensed health care facility and only by a licensed physician. The act removes these requirements and allows medically necessary services to be performed by a provider who is licensed by the state and acting within the scope of the

provider's license and in accordance with applicable federal regulations.

APPROVED by Governor May 21, 2021 **EFFECTIVE** May 21, 2021

S.B. 21-210 Home- and community-based services waiver - elderly, blind, and disabled - electronic monitoring services. The act expands the definition of "electronic monitoring services" to include other remote supports as the definition relates to the home- and community-based services waiver program for the elderly, blind, and disabled.

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-211 Medical assistance program - adult dental benefit - appropriation. The act eliminates certain measures that reduce the adult dental benefit.

The act requires the state treasurer to transfer money from the general fund to the unclaimed property trust fund to repay the unclaimed property trust fund for money transferred from it to the general fund in the 2020-21 fiscal year from savings from the reduction of the adult dental benefit in the medical assistance program.

The act appropriates $1,522,875 to the department of health care policy and financing, of which $335,723 is from the healthcare affordability and sustainability fee cash fund and $1,187,152 is from the adult dental fund. The department may use the appropriation for medical and long-term care services for medicaid-eligible individuals.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-212 Primary care services - increased federal financial participation. The act requires the department of health care policy and financing (department), to the extent available and permitted by the federal government and the Colorado constitution, to maximize federal funds for payments for primary care services by aligning payments with the "Colorado Medical Assistance Act".

For the 2021-22 state fiscal year, the general assembly anticipates that the department will receive $25,330,755 in federal funds to the primary care program to implement the act.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-213 Health care - use of increased federal participation - appropriation adjustments. For fiscal year 2021-22 and any subsequent fiscal years while increased reimbursements and payments associated with the federal public health emergency related to the COVID-19 pandemic are still available, the act specifies that:

- If a provider or a school district submits a certification of public expenditure pursuant to federal law, the provider or school district shall receive federal matching funds in the amount of 50% of the amount certified, and any federal financial participation in excess of 50% of the amount certified must be transferred to the general fund for the medical assistance program;

- The amount of increased federal financial participation in excess of 50% generated from appropriations out of the healthcare affordability and sustainability fee cash fund must be used to offset other general fund appropriations for the medical assistance program;
- The amount of increased federal financial participation in excess of 50% for reimbursements and payments must be transferred from the medicaid nursing facility cash fund to the general fund for the medical assistance program expenditures; and
- The appropriation to the university of Colorado for fee-for-service contracts for health services is reduced by the amount of federal financial participation that exceeds 50%.

The act adjusts the 2021-22 long bill appropriations as follows:

- The general fund appropriation for medical services premiums is decreased by $57,330,334;
- The appropriation for medical services premiums is reduced by $10,231,185 from reappropriated funds received from the department of higher education;
- The appropriation for medical services premiums is increased by $57,330,334, from fund the healthcare affordability and sustainability fee cash fund from the medicaid nursing facility cash fund; and
- The decrease of the appropriation of $10,231,185 is based on the assumption that the anticipated amount of federal funds received for the 2021-22 state fiscal year by the department of health care policy and financing for medical services premiums will decrease by $13,127,686.

The act adjusts the 2021-22 long bill appropriations to the department of higher education as follows:

- The general fund appropriation for fee-for-service contracts with state institutions for specialty education programs is decreased by $10,231,185; and
- The appropriation for the regents of the university of Colorado is reduced by $10,231,185.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

S.B. 21-214 Hospice providers - residential services - state-only payments - appropriation. The act authorizes a state payment to qualified hospice providers, as defined in the act, that provide hospice services in a licensed hospice facility to persons enrolled in the medical assistance program who are eligible for care in a nursing facility but who are unable to secure a bed in a nursing facility due to the presence of COVID-19 in the state or for other reasons described in the act. The eligible patient, as defined in the act, must have a hospice diagnosis.

To receive a payment, the qualified hospice provider must provide residential services to an eligible patient during the fourth quarter of the 2020-21 fiscal year or during the 2021-22 fiscal year. The state payment to a qualified hospice provider is limited to not more than 28 days for each eligible patient. The state payment is an amount equal to one-half of the statewide average per diem rate for nursing facilities.

The department of health care policy and financing shall administer the state payment

and shall seek input from qualified hospice providers concerning the administration of the payment and the allocation of available appropriations.

For the 2020-21state fiscal year, the act appropriates $684,000 of general fund to the department of health care policy and financing to implement the act. Unexpended money is further appropriated for the 2021-22 state fiscal year for the same purpose.

APPROVED by Governor May 4, 2021 **EFFECTIVE** May 4, 2021

H.B. 21-1166 Comprehensive care coordination and treatment training model for persons who work with persons with intellectual and developmental disabilities - selection of providers - appropriation. The act directs the state department of health care policy and financing (department) to obtain a vendor to provide a comprehensive care coordination and treatment training model (model) for persons who work with persons with intellectual and developmental disabilities and co-occurring behavioral health needs. The selected vendor must be able to provide the model using teleconferencing formats to better reach rural areas of the state. Case management agencies, mental health centers, and program-approved service agencies shall nominate up to 20 providers to receive the training. The department may select an additional 10 providers from underserved areas of the state to receive the training.

For the 2021-22 state fiscal year, $67,680 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. The office may use this appropriation for general professional services and special projects to implement the provisions of the act.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

H.B. 21-1187 Long-term services and supports - redesigned case management system. Current law provides for the establishment of a single entry point system that consists of single entry point agencies throughout the state for the purpose of enabling persons 18 years of age or older in need of long-term care to access appropriate long-term care services.

The act requires the state board of the department of health care policy and financing (department) to adopt rules providing for the establishment of a redesigned case management system (system), no later than July 1, 2024, that consists of case management agencies throughout the state for the purpose of enabling individuals in need of long-term care to access appropriate long-term services and supports. No later than December 31, 2021, the department shall work with stakeholders to develop a timeline for the implementation of the system. No later than December 31, 2022, the department shall issue a competitive solicitation in order to select case management agencies for the system.

The act makes conforming amendments to replace the terms "community-centered board" and "single entry point agency" with "case management agency".

APPROVED by Governor May 1, 2021 **PORTIONS EFFECTIVE** September 7, 2021
PORTIONS EFFECTIVE July 1, 2024

NOTE: This act was passed without a safety clause. The majority of the act takes effect July

1, 2024.

H.B. 21-1190 Health care - definition of "telemedicine". The act amends the definition of "telemedicine" in the "Colorado Medical Practice Act" to state that the term means the delivery of medical services through technologies that are used in a manner that is compliant with the federal "Health Insurance Portability and Accountability Act of 1996", including information, electronic, and communication technologies, remote monitoring technologies, and store-and-forward transfers, to facilitate the assessment, diagnosis, consultation, or treatment of a patient while the patient is located at an originating site and the person who provides the service is located at a distant site. The act amends and preserves the existing statutory definition of "telemedicine" for purposes of the "Colorado Medical Assistance Act".

APPROVED by Governor May 18, 2021 **EFFECTIVE** May 18, 2021

H.B. 21-1227 Medicaid - nursing facility providers - demonstration of need. The act requires the department of health care policy and financing (department) to develop, analyze, and enforce a demonstration of need for each new nursing facility provider seeking medicaid certification. The requirement does not apply to a nursing facility provider certified prior to June 30, 2021. The act allows the department to exempt nursing facilities with 5 or fewer medicaid beds from the current reimbursement methodology and instead require the facilities to be reimbursed at the statewide average rate.

The act requires the medical services board to promulgate rules, no later than June 30, 2022, addressing the establishment of criteria to be used in determining a nursing facility provider's medicaid certification.

APPROVED by Governor May 27, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1256 Medicaid - telemedicine - delivery of services. Current law states that in-person contact between a health-care provider or mental health-care provider and a patient is not required under the state's medicaid program for services delivered through telemedicine that are otherwise eligible for reimbursement under medicaid. The act requires the department of health care policy and financing to promulgate rules specifically relating to entities that deliver health-care or mental health-care services exclusively or predominately through telemedicine.

APPROVED by Governor May 27, 2021 **EFFECTIVE** May 27, 2021

HUMAN SERVICES - BEHAVIORAL HEALTH

H.B. 21-1021 Medical assistance program reimbursements - recovery support services organizations - peer support professional services - appropriation. The act requires the department of human services (state department) to establish procedures to approve recovery support services organizations for reimbursement of peer support professional services. The act also gives the executive director of the state department rule-making authority to establish other criteria and standards as necessary.

The act permits a recovery support services organization to charge and submit for reimbursement from the medical assistance program certain eligible peer support services provided by peer support professionals.

The act authorizes the department of health care policy and financing to reimburse recovery support services organizations for permissible claims for peer support services submitted under the medical services program.

The act requires contracts entered into between the state department's office of behavioral health and designated managed service organizations to include terms and conditions related to the support of peer-run recovery support services organizations.

For the 2021-22 state fiscal year, $28,654 is appropriated to the state department from the general fund for use by the office of behavioral health to implement this act.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1097 Behavioral health administration - creation - timeline - plan. The act addresses multiple recommendations from the Colorado behavioral health task force (task force), created in 2019, related to the creation of a behavioral health administration (BHA). The BHA would be a single state agency to lead, promote, and administer the state's behavioral health priorities.

The act requires the department of human services (department) to submit a plan for the creation of the BHA on or before November 1, 2021, to the joint budget committee and to the department's committees of reference. The act outlines what the plan must, at a minimum, include. The essential duties of the BHA, once established, are set forth.

A timeline is described for the establishment of the BHA in the department and for a future determination of the state department in which the BHA will exist, if different than the department of human services.

APPROVED by Governor April 22, 2021 **EFFECTIVE** April 22, 2021

H.B. 21-1130 Community transition specialist program. The act expands the community transition specialist program (program) by redefining "high-risk individual" to allow more individuals to access program services. The act also expands facilities that can access

program services.

APPROVED by Governor April 20, 2021 **EFFECTIVE** April 20, 2021

H.B. 21-1258 Youth mental health services - access to services - provider reimbursement - appropriation. The act establishes a temporary youth mental health services program (program) in the office of behavioral health within the department of human services (department) to facilitate access to mental health services, including substance use disorder services, for youth to respond to identified mental health needs, including those needs that may have resulted from the COVID-19 pandemic. The program reimburses providers for up to 3 mental health sessions with a youth and may provide additional reimbursement subject to available money.

As soon as practicable, but no later than August 1, 2021, the department is required to enter into an agreement with a vendor to create, or use an existing, website or web-based application as a portal available to youth and providers to facilitate the program.

The program is repealed, effective June 30, 2022.

The act appropriates $9,000,000 to the department of human services from the general fund to implement the act.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

HUMAN SERVICES - SOCIAL SERVICES

S.B. 21-118 Adult protective services - at-risk adults - alternative response pilot program - appropriation. Current law allows for only one type of response for a county department of human or social services (county department) to follow after a report of mistreatment or self-neglect of an at-risk adult, regardless of the level of risk reported. That type of response requires a full investigation, including unannounced initial in-person interviews, and a finding by the county department.

The act creates, on or after January 1, 2022, an alternative response pilot program (pilot) that a participating county department can utilize when it receives a report, related to an at-risk adult, of mistreatment or self-neglect (report), and the report has identified the risk as lower risk, as defined by rules promulgated by the state department of human services (state department).

The state department shall select a maximum of 15 rural and urban county departments to participate in the pilot. Upon receipt of a report, a participating county department will not make a finding nor will it be required to complete unannounced initial in-person interviews, so long as the report has identified the risk as lower risk, as defined by rule of the state department. If, upon further review, the participating county department determines the situation is more severe, it shall revert to the process that is currently set forth in law for investigating a report.

The state department shall provide initial training on the pilot to participating county departments, as well as ongoing technical assistance.

The state department shall promulgate rules for the implementation and administration of the pilot. The rules must include, at a minimum, a description of the risk levels and the parameters around unannounced initial in-person interviews.

The state department shall contract with a third-party evaluator to evaluate the pilot's success or failure, including a consideration of the pilot's effectiveness in achieving outcomes over a 2-year period.

Each participating county department shall submit a report to the state department, as necessary, regarding the county department's use of the pilot and any data required by the state department to effectively evaluate the pilot.

The state department shall submit a summary report to the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentations in January 2025 and January 2026.

The pilot is repealed, effective July 1, 2027.

For the 2021-22 state fiscal year, the act appropriates $173,351 to the department of human services for use by adult protective services. This appropriation is from the general fund and is based on an assumption that adult protective services will require an additional 0.9 FTE. To implement this act, adult protective services may use this appropriation for state

administration.

APPROVED by Governor June 17, 2021 **EFFECTIVE** June 17, 2021

S.B. 21-167 Child care centers - inspections - fire or radon - playgrounds - medication on premise. The act eliminates duplicate fire or radon inspections for a child care center that provides child care exclusively to school-age children on the property of a school district, charter school, or institute charter school if a satisfactory inspection was completed within the preceding 12 months.

The act requires an annual inspection of playground facilities on the property where a child care center operates and prohibits a duplicate inspection if a satisfactory inspection was completed within the preceding 12 months.

The act permits the possession and self-administration of medication for asthma, a food allergy, or anaphylaxis if certain requirements are satisfied and if:

- The child is a school-age child enrolled in a child care center that provides child care exclusively to school-age children on the property of a school, district, charter school, or institute charter school; or
- The child is enrolled in a large child care center.

The act provides for staffing flexibility during emergency circumstances, so long as certain requirements are satisfied.

APPROVED by Governor May 13, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-216 Deaf, hard of hearing, and deafblind - auxiliary services - provision in rural areas - cost-recovery mechanism. Section 1 of the act is a nonstatutory legislative declaration stating the critical need for the provision and financing of auxiliary services throughout rural areas of the state. Auxiliary services are aids and services that assist in effective communication with a person who is deaf, hard of hearing, or deafblind.

Section 2 requires the Colorado commission for the deaf, hard of hearing, and deafblind (commission) to arrange for the provision of auxiliary services in rural areas of the state, including the provision of training and outreach regarding the auxiliary services. The commission is required to report annually on the program to the joint budget committee.

Section 3 amends the definition of "entity" regarding entities eligible to apply to the commission for grant money to remove the requirement that a not-for-profit organization must be a community-based organization to be eligible to apply for grant money.

Section 4 directs the public utilities commission to implement a cost-recovery mechanism to support the provision of auxiliary services in rural areas of the state.

APPROVED by Governor April 30, 2021 **EFFECTIVE** April 30, 2021

S.B. 21-217 Colorado child care assistance program - market rate study. Current law requires the department of human services to contract annually for a market rate study of provider rates for the Colorado child care assistance program. The act adjusts the contractual and reporting requirement to every 3 years.

APPROVED by Governor May 4, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1018 Adoption assistance agreements - medicaid benefits - adoptive parent payments to nonenrolled providers. So long as it is not prohibited under federal law, the act permits adoptive parents who are parties to an adoption assistance agreement (agreement) to pay for services or items from a provider that is not enrolled in the medical assistance program. The services or items would otherwise be reimbursable under the medical assistance program pursuant to the terms of the agreement.

The adoptive parents must determine if the special needs of the child or youth require items or services from the provider and must enter into a written agreement with the provider in which the adoptive parents agree to bear the cost of the items or services. The adoptive parents shall not seek reimbursement from the adoption assistance program or the medical assistance program after such items and services have been provided and paid for pursuant to the written agreement. Further, a county department of human or social services is not required to cover the cost of the items or services as part of the circumstances of the family or the anticipated needs of the eligible child or youth during subsidy negotiations; however, the act does not preclude consideration of any other family circumstances or anticipated needs for purposes of negotiating adoption assistance.

The act requires the department of health care policy and financing to seek any federal authorization necessary pursuant to the medical assistance program to implement the policy.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

H.B. 21-1123 CAPS check by DORA and court - notification - prior to appointment of conservator or guardian. The act authorizes the department of human services (state department) to disclose the results of a CAPS check without a court order to:

- A health oversight agency within the department of regulatory agencies (DORA), or a regulator within such a health oversight agency, for the purpose of a regulatory investigation; or
- The court if an individual is petitioning the court for conservatorship or guardianship of an at-risk adult.

The act requires an employer and a current or former employee to provide, upon request of a county department of human or social services and for the purposes of an investigation into an allegation of mistreatment, the professional license number issued by DORA for the employee who holds a health-care provider or health-care occupation license and who, as a result of the investigation, is substantiated in a case of mistreatment of an

at-risk adult.

Current law requires the state department to promulgate rules to establish a process at the state level by which a person who is substantiated in a case of mistreatment of an at-risk adult may appeal the finding to the state department. The act requires the state department to promulgate rules to address the process to share information on the outcome of an appeal with a health oversight agency within DORA, or a regulator within such health oversight agency, if the health oversight agency or its regulator requests information for the purpose of a regulatory investigation. Appeal information is confidential and used only for the regulatory investigation.

Beginning January 1, 2022, the state department shall provide the court the results of a CAPS check, upon the court's request, to determine if the person is substantiated in a case of mistreatment of an at-risk adult.

The act requires the state department to promulgate rules that address:

- The process for the state department to notify a health oversight agency within DORA or a regulator within such health oversight agency when a professional regulated by a regulator within such health oversight agency is substantiated in a case of mistreatment of an at-risk adult; and
- The information that will be made available to a health oversight agency within DORA or a regulator within such health oversight agency for the purpose of conducting a regulatory investigation.

A person who may be appointed as a conservator or guardian of an at-risk adult who knowingly provides inaccurate information to the court for a CAPS check commits a class 1 misdemeanor.

Beginning January 1, 2022, prior to appointing a person as a conservator or guardian of an at-risk adult, the court shall request a CAPS check by the state department to determine if the person is substantiated in a case of mistreatment of an at-risk adult. Within 7 calendar days after the date of the court's request, if the person has been substantiated in a case of mistreatment of an at-risk adult, the state department shall provide the court with information concerning the mistreatment, unless the finding was expunged through a successful appeal to the state department. The state department shall disclose to the court that the person substantiated in a case of mistreatment of an at-risk adult has the right to initiate an appeal of the substantiated finding within the time frame set forth in state department rules. If the appeal is active, the state department shall inform the court that such appeal is active. The court shall have the discretion to consider the results of the CAPS check and determine the weight of the information and its probative value. Nothing delays or precludes the court's appointment of an emergency guardian or conservator of an at-risk adult, regardless of the timing of the state department's notification of the CAPS check results.

The act requires the state department to notify the court within 7 calendar days after a substantiated finding of mistreatment by a person appointed as a conservator or guardian for an at-risk adult is subsequently entered into CAPS.

The act requires the state department to notify a health oversight agency within DORA or a regulator within such health oversight agency within 10 calendar days after a substantiated finding of mistreatment by a professional regulated by DORA. Any information

provided to a health oversight agency is confidential. A health oversight agency shall have the discretion to consider the results of the CAPS check and determine the weight of the information and its probative value.

The act requires a licensee, certificate holder, or registrant substantiated in a case of mistreatment of an at-risk adult to provide the person's professional license number to county adult protective services.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1222 Child care - family child care homes. The act requires that family child care homes be classified as residences for purposes of licensure and local regulations, including zoning, land use development, fire and life safety, and building codes. The act also adds a provision stating that whenever the state department of human services reviews and rewrites its rules concerning child care agencies or facilities, it shall seek advice from the department of public safety when such rules relate to specific types of child care agencies or facilities.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1270 Supplemental nutrition assistance program - Colorado employment first program - appropriation. The act appropriates $3,000,000 to the department of human services (department) in order to seek a 50% match from the federal government for the Colorado employment first program within the supplemental nutrition assistance program. The act requires the department to direct county departments and any third-party partners to prioritize any state or federal money received to fund employment support and job retention services and to support work-based learning opportunities for Colorado employment first participants. Any remaining money may be used to initiate and enhance current and additional state- or county-initiated third-party partnerships.

APPROVED by Governor June 17, 2021 **EFFECTIVE** June 17, 2021

H.B. 21-1277 Public assistance - death reimbursements - definitions. Current law does not include the definitions "public assistance" and "medical assistance" relating to death reimbursements for funeral, cremation, and burial expenses for deceased public assistance or medical assistance recipients. The act adds the definitions "public assistance" and "medical assistance" to clarify who qualifies as a public assistance or medical assistance recipient.

Current law authorizes death reimbursements for a person who has applied or was eligible for public benefits. The act requires the person to be receiving the public benefits at the time of death.

APPROVED by Governor June 18, 20021 **EFFECTIVE** June 18, 20021

H.B. 21-1304 Department of early childhood - transition plan - new preschool program recommendations - appropriation. Effective July 1, 2022, the act creates the department of early childhood (new department) to:

- Provide early childhood opportunities;
- Coordinate the availability of early childhood programs and services throughout Colorado;
- Establish state and community partnerships for a mixed delivery of child care and early childhood programs through school- and community-based providers;
- Prioritize the interests and input of children, parents, providers, and the community in designing and delivering early childhood services and programs;
- Prioritize the equitable delivery of resources and supports for early childhood; and
- Unify the administration of early childhood programs and services.

The act moves the early childhood leadership commission (commission) to the new department, effective July 1, 2022.

The act creates a transition working group (working group), consisting of the co-chairs of the commission and representatives of certain state agencies and the governor's office, and directs the co-chairs of the commission to convene a transition advisory group (advisory group).The act directs the working group, working with a consultant and with the advice of the advisory group, to develop a transition plan (plan) for the coordination and administration of early childhood services and programs by the new department and the departments of education, human services, and public health and environment, including, to the extent necessary, the transition of existing programs and services to the new department. The act includes specific requirements for the plan.

The governor's office must submit the plan to the joint budget committee as part of the governor's 2022 budget request, and the working group must submit the plan to the commission for approval. As soon as practicable after the plan is approved, the governor's office must submit the approved plan to the joint budget committee with any necessary budget request amendments. The working group must submit the approved plan to other committees of the general assembly by November 15, 2021, and must meet with the early childhood and school readiness legislative commission by December 1, 2021, to present the plan.

The act also directs the working group, working with the consultant and with the advice of the advisory group, to develop recommendations for a new voluntary, universal preschool program (recommendations) to be funded partially by the recently increased sales tax on tobacco and operated by the new department beginning in the 2023-24 school year. The act specifies requirements that the new preschool program must meet. The working group must also convene and work with a subgroup that focuses on issues relating to serving children with disabilities through the new preschool program. The working group must submit the recommendations to the commission for approval and must then submit the recommendations to the joint budget committee and other committees of the general assembly by January 15, 2022.

The act requires the governor's office to contract with one or more private entities to consult with the working group in developing and implementing the plan and in developing

the recommendations and to analyze the current use of existing early childhood programs in the state.

For the 2021-22 fiscal year, to implement the act, there is appropriated from the general fund:

- $587,500, with the assumption of an additional 3.6 FTE, to the office of the governor;
- $267,161, with the assumption of an additional 1.2 FTE, to the office of early childhood in the department of human services; and
- $96,867, with the assumption of an additional 0.9 FTE, to the department of education.

APPROVED by Governor June 23, 2021

PORTIONS EFFECTIVE June 23, 2021
PORTIONS EFFECTIVE July 1, 2022

INSURANCE

S.B. 21-90 Health insurance - small employers - health benefit plans - renewal. The act clarifies that if a small employer has been issued a health benefit plan subject to small group insurance laws and rules, and then following the issuance date subsequently employs more than 100 employees, the small group insurance laws and rules continue to apply to the plan as long as the employer renews the current health benefit plan. If the employer opts to renew its current plan, the act requires an insurance carrier to offer the employer the same small group health benefit plan or, if the same plan is no longer available, a similar plan that the carrier offers to other small employers.

The act requires an insurance carrier to notify the employer that the small group insurance laws and rules will no longer apply if the employer fails to renew the current plan or elects to enroll in a different health benefit plan.

APPROVED by Governor March 25, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-139 Dental care services - telehealth - mandatory coverage. The act requires each dental plan issued, amended, or renewed in this state to cover services offered to a covered person through telehealth. The act also requires the state's medical assistance program to reimburse providers for dental care services provided through telehealth.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

S.B. 21-175 Health care insurance coverage - prescription drugs - prescription drug affordability review board created - affordability reviews - upper payment limits - enforcement - appropriation. The act creates the Colorado prescription drug affordability review board (board) in the division of insurance (division) in the department of regulatory agencies as an independent unit of state government, requires the board to perform affordability reviews of prescription drugs, and authorizes the board to establish upper payment limits for prescription drugs the board determines are unaffordable for Colorado consumers. The board is also required to promulgate rules as necessary for its purposes.

The board shall determine by rule the methodology for establishing an upper payment limit for a prescription drug. An upper payment limit applies to all purchases of and payer reimbursements for the prescription drug dispensed or administered to individuals in the state in person, by mail, or by other means. Any savings generated for a health benefit plan as a result of an upper payment limit established by the board must be used by the carrier that issued the health benefit plan to reduce costs to consumers, prioritizing the reduction of out-of-pocket costs for prescription drugs.

On and after January 1, 2022, the act prohibits, with certain exceptions, any purchase or payer reimbursement for a prescription drug at an amount that exceeds the upper payment limit established by the board for that prescription drug.

A person aggrieved by a decision of the board may appeal the decision within 60 days.

The board shall consider the appeal and issue a final decision concerning the appeal within 60 days after the board receives the appeal. Final board decisions are subject to judicial review.

Any prescription drug manufacturer (manufacturer) that intends to withdraw from sale or distribution within the state a prescription drug for which the board has established an upper payment limit must notify, at least 180 days before the withdrawal:

- The commissioner;
- The attorney general; and
- Each entity in the state with which the manufacturer has contracted for the sale or distribution of the prescription drug.

The commissioner may impose a penalty of up to $500,000 on a manufacturer that fails to comply with the notice requirement. The board is directed to adopt rules regarding notice to consumers of a manufacturer's intent to withdraw a prescription drug from sale or distribution in the state.

Beginning in the 2022 calendar year, for all prescription drugs dispensed at a pharmacy and paid for by a carrier during the immediately preceding calendar year, the act requires each carrier and each pharmacy benefit management firm acting on behalf of a carrier to report certain information to the all-payer health claims database.

The act creates the Colorado prescription drug affordability advisory council to provide stakeholder input to the board.

The board must submit an annual report to the governor and to subject matter committees of the general assembly summarizing the activities of the board during the preceding calendar year, and the chair of the board must present to those committees information concerning any prescription drug for which the board established an upper payment limit during the preceding calendar year. Upon approval of a majority of the committee members, any member of the committees may pursue legislation to discontinue the upper payment limit for a particular prescription drug, and the legislation does not count against the limit on the number of bills the member may introduce in a regular legislative session.

The board and its functions are repealed, effective September 1, 2026, following a sunset review by the department of regulatory agencies.

For the 2021-2022 state fiscal year, the act appropriates $730,711 from the division of insurance cash fund to the department of regulatory agencies. Of this amount, $325,297 is appropriated for use by the division for personal services, $22,650 is appropriated for use by the division for operating expenses, and $382,824 is appropriated for the purchase of legal services, which amount is reappropriated to the department of law for providing legal services.

APPROVED by Governor June 16, 2021 **EFFECTIVE** June 16, 2021

H.B. 21-1013 Regulation of insurance companies - division of a domestic stock insurer permitted - plans of division required - approval by commissioner of insurance - appropriation. The act states that a domestic stock insurer (dividing insurer) may divide into

2 or more resulting insurers pursuant to a plan of division. A plan of division must include:

- The name of the dividing insurer;
- The name of each resulting insurer created by the proposed division and, for each resulting insurer, a copy of proposed articles of incorporation and proposed bylaws;
- The manner of allocating assets and liabilities, including policy liabilities, between or among all resulting insurers;
- The manner of distributing shares in the resulting insurers to the dividing insurer or the dividing insurer's shareholders;
- A reasonable description of all liabilities and all assets that the dividing insurer proposes to allocate to each resulting insurer, including the manner by which the dividing insurer proposes to allocate all reinsurance contracts;
- All terms and conditions required by the laws of this state and the articles of incorporation and bylaws of the dividing insurer; and
- All other terms and conditions required by the division.

A plan of division must include additional provisions, the nature of which depends on whether the dividing insurer will survive the division.

A dividing insurer shall file a plan of division with the commissioner of insurance (commissioner) only after the plan of division has been approved in accordance with all provisions of the dividing insurer's articles of incorporation and bylaws. The commissioner shall approve the plan of division if, after considering certain criteria, the commissioner finds that certain requirements are met. If the commissioner approves a plan of division, an officer or duly authorized representative of the dividing insurer shall sign a certificate of division that sets forth certain information concerning the division.

The act establishes procedures for amending and abandoning plans of division.

The act provides for the protection of confidential information, documents, and materials that are submitted to, obtained by, or disclosed to the commissioner in connection with a plan of division or in contemplation of a plan of division.

For the 2021-22 state fiscal year, the act appropriates $10,729 from the division of insurance cash fund to the department of regulatory agencies for use by the division of insurance to implement the act.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1063 Reinsurance - credit for extraterritorial assuming insurer. Federal law preempts the extraterritorial application of state credit for reinsurance law but permits a state to enact reinsurance collateral reforms on an individual basis if the state is accredited. The act enacts a model law adopted by the National Association of Insurance Commissioners (NAIC), which is necessary to maintain the continued accreditation of the Colorado division of insurance with the NAIC and makes Colorado's reinsurance statutes substantially similar to those found in other states. The model law specifies the grounds upon which a domestic insurer can get credit in Colorado for reinsurance provided by an assuming insurer that is

domiciled in an extraterritorial jurisdiction and thereby avoids federal preemption that would otherwise occur by 2022.

APPROVED by Governor April 19, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1232 Health insurance - standardized health benefit plan - carriers to offer in individual and small group markets - rules - premium requirements and limitations - hearings - advisory board created - state innovation waiver application - reporting requirements - hospital and health care provider participation - insurance ombudsman - appropriation. The act requires the commissioner of insurance (commissioner) in the department of regulatory agencies to establish a standardized health benefit plan by rule on or before January 1, 2022, to be offered by health insurance carriers (carriers) in the individual and small group markets. The standardized plan must:

- Offer health-care coverage at the bronze, silver, and gold levels of coverage;
- Include pediatric and other essential health benefits;
- Be offered through the Colorado health benefit exchange and in the individual market;
- Have a standardized benefit design that is created through a stakeholder engagement process, has a defined benefit design and cost sharing that improves access and affordability, and is designed to improve racial health equity and decrease racial health disparities;
- Provide by, among other measures, providing first-dollar, predictable coverage for certain high value services;
- Be actuarially sound and allow carriers to meet financial requirements;
- Comply with state and federal law; and
- Have a provider network (network) that is culturally responsive and reflects the diversity of its enrollees and be no more narrow than the most restrictive nonstandardized plan offered by the carrier.

Each carrier must:

- Include, as part of its network access plan for the standardized plan, a description of its efforts to construct diverse, culturally responsive networks;
- Include a majority of the essential community providers in the service area in its network; and
- Allow consumers to easily compare the standardized health benefit plans offered by each carrier.

Additionally, the act requires the commissioner to:

- Promulgate rules regarding network adequacy;
- Contract with an independent third party to conduct an analysis of the implementation of the standardized health benefit plan and the related requirements; and
- Collaborate with the health benefit exchange to conduct a consumer survey.

Beginning January 1, 2023, and each year thereafter, the act requires carriers that

offer:

- An individual health benefit plan in Colorado to offer the standardized health benefit plan in the individual market in each county where the carrier offers an individual plan; and
- A small group health benefit plan in Colorado to offer the standardized health benefit plan in the small group market in each county where the carrier offers a small group plan.

In the individual market and in the small group market, each carrier shall offer a standardized health benefit plan premium that:

- For 2023, is at least 5% less than the premium rate for health benefit plans offered by that carrier in the 2021 calendar year, as adjusted for medical inflation;
- For 2024, is at least 10% less than the premium rate for health benefit plans offered by that carrier in the 2021 calendar year, as adjusted for medical inflation;
- For 2025, is at least 15% less than the premium rate for health benefit plans offered by that carrier in the 2021 calendar year, as adjusted for medical inflation;
- For 2026 and each year thereafter, is increased above the premium in the previous year by no more than medical inflation, relative to the previous year.

The act also requires each carrier to file its premium rates for the standardized health benefit plan with the commissioner. If a carrier or health-care provider anticipates that a carrier will be unable to meet network adequacy standards or the premium rate requirements due to a reimbursement rate dispute, the carrier or the health-care provider may initiate nonbinding arbitration prior to filing rates for the standardized health benefit plan. If a carrier cannot meet the premium rate requirements, the carrier must notify the commissioner of the reasons. The division shall hold a public hearing concerning network adequacy and premium rates. Based on evidence at the hearing, the commissioner may establish carrier reimbursement rates for hospitals and health-care providers and require the hospitals and health-care providers to accept patients and the established reimbursement rates. The act establishes limits on the reimbursement rates that may be set.

The act creates an advisory board, with members appointed by the governor, to implement the standardized health benefit plan. The advisory board is charged with considering recommendations to streamline prior authorization and utilization management processes, recommend ways to keep health-care services in communities where patients live, and to consider alternative payment models.

The commissioner may apply to the secretary of the United States department of health and human services for a state innovation waiver to capture savings as a result of the implementation of the standardized health benefit plan. Upon approval of the waiver, the commissioner is authorized to use any federal money for the implementation of the bill and for the Colorado health insurance affordability enterprise.

The act requires the commissioner to:

- Contract with an independent third party to prepare reports regarding the implementation of the bill;

- Monitor whether there is an adequate number of health-care providers in the carriers' standardized health benefit plan network and the percentage of premiums attributable to health-care providers in the network;
- Contract with an independent third-party organization to evaluate how to phase in a hospital's reimbursement rate methodology;
- Report various findings during the hearings conducted pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act"; and
- Disapprove of a rate filing submitted by a carrier if the rate filing reflects a cost shift between the standardized health benefit plan and the health benefit plan for which rate approval is being sought.

The department of public health and environment, upon notice from the commissioner, may fine or suspend or impose conditions on a hospital that refuses to participate in the standardized health benefit plan.

The act creates the office of the insurance ombudsman in the department of health care policy and financing to act as an advocate for consumer interests in matters related to access to and affordability of the standardized health benefit plan.

To implement this act:

- $1,409,637 is appropriated to the department of regulatory agencies for use by the division of insurance and the executive director's office, $212,680 of which is reappropriated to the department of law for the provision of legal services; and
- $78,993 is appropriated to the department of health care policy and financing.

APPROVED by Governor June 16, 2021 **EFFECTIVE** June 16, 2021

LABOR AND INDUSTRY

S.B. 21-96 Workers' compensation - workers' classification appeals board - continuation under sunset law - members. Current law requires the commissioner of insurance (commissioner) to appoint 2 members to the workers' compensation classification appeals board who are salaried employees of an insurance company that issues workers' compensation insurance policies in this state or who are representatives of Pinnacol Assurance, but both members may not be representatives of Pinnacol Assurance or of the same insurance company.

The act requires the commissioner to appoint:

- One member who is a salaried employee of an insurance company or a representative of Pinnacol Assurance; and
- One member who is a salaried employee of an insurance company, a representative of Pinnacol Assurance, or an insurance agent.

The act maintains the prohibition against appointing a representative of Pinnacol Assurance or of the same insurance company to both positions on the board. The act also gives the commissioner the option to appoint an insurance agent to serve as an alternate member if one of the appointed members recuses himself or herself. The act continues the workers' compensation classification appeals board until 2032.

APPROVED by Governor April 15, 2021 **EFFECTIVE** April 15, 2021

S.B. 21-218 Employment and training technology fund - allocations to and from fund - cap on cumulative revenue - transfer to unemployment compensation fund - future repeal of allocation to fund. Under current law, revenue from an assessment on employers' unemployment insurance premiums, not to exceed $10 million per year and not to exceed cumulative revenue of $100 million, is allocated to the employment and training technology fund (technology fund) in the division of unemployment insurance (division) in the department of labor and employment to fund employment and training automation initiatives established by the director of the division. Any amount of revenues from the assessment that exceeds the $10 million annual cap or the $100 million cumulative revenue cap is allocated to the unemployment compensation fund. Additionally, if the balance in the unemployment compensation fund falls below $100 million, the balance in the technology fund is allocated to the unemployment compensation fund.

The act:

- Eliminates the allocation of the technology fund balance to the unemployment compensation fund when the unemployment compensation fund balance falls below $100 million;
- Eliminates the $10 million cap on annual allocations to the technology fund and adds a new $7 million annual cap starting July 1, 2023;
- Adds a cap of $31 million on cumulative revenue to the technology fund until June 30, 2023;
- Transfers any amounts credited to and remaining in the technology fund between July 1, 2020, and the effective date of the act to the unemployment compensation fund; and

- Repeals the assessment for the technology fund on June 30, 2031.

APPROVED by Governor April 27, 2021 **EFFECTIVE** April 27, 2021

S.B. 21-251 Family and medical leave program - fund - loan from general fund - repayment terms - appropriation. The act requires the state treasurer to transfer $1,500,000 from the general fund to the family and medical leave insurance fund for the purpose of defraying expenses incurred by the division of family and medical leave insurance (division) before the division receives premium revenue or revenue bond proceeds. The transfer is a loan from the state treasurer to the division that is required to be repaid and is not a grant for purposes of the state constitution or any other state law.

The division is required to repay the loan and accumulated interest by December 31, 2023.

Of the $1,500,000 transferred pursuant to the act:

- $1,162,202 is available for use by the division for program costs, including an additional 6.0 FTE;
- $231,920 is reappropriated to the office of the governor for use by the office of information technology to provide information technology services for the department of labor and employment; and
- $105,878 is reappropriated to the department of law to provide legal services for the department of labor and employment.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

H.B. 21-1007 State apprenticeship agency - oversight of apprentices and registered apprenticeship programs - state apprenticeship counsel - interagency advisory committee on apprenticeship - joint resolution committee - registration - deregistration - hearings - rules - appropriation. The act creates the state apprenticeship agency (SAA) in the department of labor and employment (department) and specifies that it exercises its powers, duties, and functions, including rule-making, regulation, licensing, and registration, the promulgation of rates and standards, and the rendering of findings, orders, and adjudications, independently of the executive director of the department. The executive director of the department is required to appoint the director of the SAA. The purpose of the SAA is to:

- Serve as the primary point of contact with the United States department of labor's office of apprenticeship concerning apprentices and registered apprenticeship programs;
- Accelerate new apprenticeship program growth and assist in promotion and development; and
- Oversee apprenticeship programs, including registration, required standards for registration, certification, quality assurance, record-keeping, compliance with federal laws and standards, and provision of administrative and technical assistance.

The director of the SAA is authorized to promulgate rules to implement the state apprenticeship registration program.

The director of the SAA is required to establish the state apprenticeship council (SAC) and an interagency advisory committee (IAC) on apprenticeship. The governor and the director of the SAA appoint the members of the state apprenticeship council and the interagency advisory committee.

The SAC is charged with overseeing registered apprenticeship programs for the building and construction trades in this state and ensuring compliance with state and federal laws and standards. The IAC is charged with the same responsibilities for all other apprenticeships not in the building and construction trades. Both entities are charged with:

- Registering with and maintaining the standards of the United States department of labor's office of apprenticeship and developing standards for registration for their respective apprenticeship programs;
- Resolving conflicts and complaints that arise between parties to apprenticeship agreements;
- Reviewing apprenticeship program performance;
- Making recommendations concerning apprenticeship programs to the director of the state apprenticeship agency;
- Providing technical and professional guidance and promoting best practices;
- Developing administrative policies to ensure safety and quality standards;
- Providing an annual report to the executive director of the department of labor and employment; and
- Advising the SAA concerning their assigned functions and formulating policies for their respective industries.

The act establishes a joint resolution committee of the state apprenticeship council and the interagency advisory committee to resolve conflicts between the 2 entities and to define their respective jurisdictions.

Additionally, the act requires the state apprenticeship agency to accept applications for registration of apprenticeship programs beginning July 1, 2023. The state apprenticeship agency may deregister an apprenticeship program for noncompliance with the requirements in the act. The state apprenticeship agency shall conduct a hearing upon request of the SAC or the IAC regarding issues of noncompliance and deregistration.

The apprenticeship program is repealed, effective September 1, 2029, after a review of the director's functions is performed.

To implement this act:

$485,249 is appropriated to the department of labor and employment for use by the SAA. From this amount $85,072 is appropriated to the department of law, and $78,598 is appropriated to the office of the governor.

APPROVED by Governor June 23, 2021 **EFFECTIVE** July 1, 2021

H.B. 21-1065 Private employers - veterans' preference hiring policy - office of economic development - office of film, television, and media - production materials to educate and encourage employers to hire veterans - appropriation. The act creates a statutory basis to allow a private employer to give preference to a veteran of the armed forces or the National Guard and the spouse of a service member killed in the line of duty when hiring a new

employee, as long as the veteran or the spouse is as qualified as other applicants for employment. The act allows a private employer's veterans' preference employment policy to also include the preferential hiring of a veteran who has been discharged from active duty within the last 5 years, a spouse of a veteran killed in the line of duty within 5 years after the death, and a veteran with a disability within 10 after the date of discharge. The act creates a rebuttable presumption that a private employer that adopts a program that gives preferences to veterans or their spouses is not committing a discriminatory or unfair labor practice.

The act requires the office of economic development to begin the development of production materials to educate and encourage employers to hire veterans.

$25,000 is appropriated to the office of economic development for allocation to the office of film, television, and media for the development of production materials.

APPROVED by Governor June 23, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1095 Maintenance of county gravel or dirt road right-of-way - exemption from excavation notification requirements. An individual or entity must generally notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities that the excavation might affect, such as water and sewer pipes, gas lines, and electric or cable lines, can be located and marked before excavation begins. Underground facilities are often located beneath the right-of-way of county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of county roads and such county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than 6 inches in depth. Before the passage of the act, these maintenance activities triggered the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. The act specifies that excavation that is routine or emergency maintenance of the right-of-way of a county-maintained gravel or dirt road and is performed by county employees does not require notification of the notification association or location marking unless the excavation will:

- Lower the existing grade or elevation of the road or any adjacent shoulder or the designed and constructed elevation of any adjacent ditch flowline; or
- Disturb more than 6 inches in depth as it is conducted.

APPROVED by Governor May 21, 2021 **EFFECTIVE** June 1, 2022

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1149 Strengthening photovoltaic and renewable careers (SPARC) workforce development program - energy sector career pathway - Colorado work force development council - workforce centers - community colleges - appropriation. The act requires the Colorado work force development council (council), in collaboration with local work force

boards, the department of education, superintendents of local school districts, the state board for community colleges and occupational education (community college board), and other postsecondary partners, to design a career pathway for students in the energy sector using an existing statutory model for the design and implementation of career pathways. The act defines "energy sector" to include electromechanical generation and maintenance, electrical energy transmission and distribution, energy efficiency and environmental technology, and renewable energy production.

The act creates the strengthening photovoltaic and renewable careers (SPARC) workforce development program (SPARC program) in the department of labor and employment (department). The purpose of the SPARC program is to create capacity for and bolster training, apprenticeship, and education programs in the energy sector career pathway to increase employment in the energy sector, prioritizing in-demand and growing occupations in the energy sector. The department, the council, the community college board, and the department of higher education shall use money appropriated by the general assembly to expand the capacity of training programs and support the energy sector career pathway, as described in the act. The department, in consultation with the council, the community college board, and the department of higher education, shall determine the amount of money allocated to public institutions of higher education, local workforce development areas, and others. The act creates the SPARC program fund.

By November 1, 2022, and each November 1 thereafter, the act requires the council to submit an annual report to the house of representatives business affairs and labor committee, energy and environment committee, and education committee, or their successor committees, and to the senate business, labor, and technology committee, transportation and energy committee, and education committee, or their successor committees, concerning the implementation of the SPARC program and the use of funding, and to present a summary of the report at the department's annual presentation to the general assembly. The act repeals the program, effective July 1, 2026.

For the 2021-22 state fiscal year, the act appropriates:

- $90,048 and 1.3 FTE to the department from the SPARC program fund for one-stop workforce center contracts and the Colorado work force development council; and
- $1,724,590 to the department of higher education from the SPARC program fund for the community college board and state system community colleges.

APPROVED by Governor June 16, 2021 **EFFECTIVE** June 16, 2021

H.B. 21-1204 Common paymaster - employee leasing company exception - medical or retail marijuana business - employment security act. Current law states that a common paymaster is not a single employing unit for purposes of considering the services performed by another employing unit subject to a single or common payroll. The act creates an exception for an employee leasing company or other employing entity that is owned by one or more persons who have a medical or retail marijuana license and who own at least 50% of an entity that shares the employee leasing company's or other employing entity's services. The employee leasing company or other employing entity is not considered a common paymaster for the purposes of the "Colorado Employment Security Act".

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

H.B. 21-1207 Workers' compensation - overpayment of benefits - definition - credits against overpayments - reopening an award. The act defines "overpayments" of workers' compensation benefits as money received by a claimant that:

- Is a result of fraud;
- Is the result of an error due only to miscalculation, omission, or clerical error asserted in a new admission of liability;
- Is paid in error or in excess of an admission or order that exists at the time that the benefits are paid to a claimant; or
- Results in duplicate benefits as specified in the act.

The act also:

- Clarifies that these limitations on overpayments do not prevent an insurance carrier or employer from receiving a credit against permanent disability benefits for temporary disability benefits paid beyond the date of maximum medical improvement and do not prevent the director of the division of workers' compensation or an administrative law judge from determining overpayments and requiring repayment of overpayments; and
- Prohibits the director or an administrative law judge from reopening an award of benefits paid to a claimant due to an overpayment except in limited, specific circumstances.

APPROVED by Governor May 17, 2021 **EFFECTIVE** January 1, 2022

MILITARY AND VETERANS

S.B. 21-15 Veterans - funeral services - stipend - appropriation. The act requires the department of military and veterans affairs (department) to pay, subject to available money, a stipend of up to $75 to a veterans service organization for each time the organization performs a basic military funeral honors ceremony or other funeral-related services for an honorably discharged veteran. The act requires the department to create a process for veteran service organizations to apply for and receive a stipend.

The act appropriates $30,930 from the general fund and provides for an additional 0.3 FTE to the department for the western slope veterans cemetery.

APPROVED by Governor May 27, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-26 LGBT veteran status - state veteran benefit eligibility. The act establishes a "discharged LGBT veteran" status for the purposes of Colorado law. A person is a discharged LGBT veteran if the person was discharged from the armed services due to:

- The person's sexual orientation, gender identity, or gender expression;
- Statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity, or gender expression unless the statements, conduct, or acts are prohibited by the uniform code of military justice on grounds other than the person's sexual orientation, gender identity, or gender expression; or
- The disclosure of statements, conduct, or acts relating to sexual orientation, gender identity, or gender expression that were prohibited by the armed services at the time of discharge.

A person who received a dishonorable discharge, bad conduct discharge, or, if the person was an officer, a dismissal from the armed services is not eligible to be a discharged LGBT veteran.

Pursuant to a process established by the division of veterans affairs, the board of veterans affairs determines whether a person qualifies as a discharged LGBT veteran. This determination does not change the veteran's official character of discharge on the veteran's discharge paperwork, nor does it affect a person's eligibility for federal veterans programs or benefits. The act amends various existing state programs and benefits to make a discharged LGBT veteran eligible for those programs and benefits.

APPROVED by Governor April 19, 2021 **EFFECTIVE** November 11, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1116 State parks - free entrance - purple heart recipients. The act allows Colorado residents who display a purple heart special license plate free entrance to any state park or recreation area, not including campgrounds, on any day of the year that such park or area is

open.

The act also allows a Colorado resident to acquire a free transferable annual state parks pass by presenting the same documents required for a purple heart special license plate at a regional office or the central office of the division of parks and wildlife, or at any other locations the division determines. Thus, Colorado residents who have received a purple heart will be able to obtain free access to state parks without acquiring a purple heart special license plate.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1231 Military forces - Space National Guard and Space Force. The act authorizes the Space National Guard to be added to provisions in statute that mention the Army National Guard and Air National Guard. The federal government is likely to create the Space National Guard in the "FY 2022 National Defense Authorization Act". Implementing the Space National Guard in existing statute now will allow the Air National Guard space units to transition to the Space National Guard once the federal government establishes the Space National Guard.

The act also adds "Space Force" to provisions in statute that list the branches of the armed forces: Army, Navy, Air Force, Marines, and the Coast Guard.

APPROVED by Governor May 28, 2021 **PORTIONS EFFECTIVE** May 28, 2021

Note: Portions of this act take effect only if the federal government creates the Space National Guard in the "FY 2022 National Defense Authorization Act" and take effect on the date of written notice to the revisor of statutes.

MOTOR VEHICLES AND TRAFFIC REGULATION

S.B. 21-84 Local governments - roughed-in roads - authority to prohibit operation of motor vehicles and off-highway vehicles. The act authorizes local governments to prohibit the operation of motor vehicles or off-highway vehicles on roughed-in roads, which are areas where the ground has been cut with the intention to make a road but has not been improved enough to qualify as a road.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1024 Certificates of title - off-highway vehicles - taxes - appropriation. The act requires an off-highway vehicle to have a certificate of title in order to be transferred on or after July 1, 2023, unless the vehicle is exempt. Personal watercraft is added to the definition of off-highway vehicles, which requires registration.

The act also exempts private transfers of off-highway vehicles from sales and use tax if the transfer occurred between individuals who are not dealers on or after July 1, 2014, and before July 1, 2023.

Off-highway vehicle dealers are authorized to access the department of revenue's ownership and lienholder records to verify motor vehicle ownership and lienholding information to prevent fraud.

Notwithstanding the requirement that an off-highway vehicle have a title to be transferred, the act authorizes a dealer to purchase an off-highway vehicle that was never titled if the dealer obtains an affidavit from the owner and the vehicle was:

- Privately transferred before July 1, 2023; or
- Used exclusively for agricultural purposes on private land.

The act appropriates $45,887 for use by the division of motor vehicles and $53,422 for use by the Colorado state patrol to implement the act.

VETOED by Governor July 2, 2021

H.B. 21-1084 Drivers' licenses - acquisition by individuals in foster care - county departments to provide driving instruction - immunity from liability - appropriation. The act requires the state department of human services (state department) to reimburse a county or district department of human or social services (county department) for costs paid by the county department to a public or private driving school for the provision of driving instruction to an individual in the custody of the county department who is 15 to 20 years of age.

The act does not waive or limit a county department's governmental immunity or place any liability on a county department for:

- Contracting with a driving school to provide driving instruction to an

individual who is in the custody of the county department; or

- An injury alleged to have occurred while an individual in the custody of the county department received driving instruction.

The act requires the state board of human services to promulgate rules on or before December 1, 2021, to administer the new requirements.

The act states that:

- A guardian ad litem, an official of a county department, or an official of the division of youth services in the state department who signs a minor's application for an instruction permit or a minor driver's license but does not sign an affidavit of liability does not impute liability on themselves, on the county, or on the state for any damages caused by the negligence or willful misconduct of the applicant; and
- An individual who is in the custody of the state department or a county department who does not possess all of the required documents to apply for an instruction permit or a minor driver's license may be eligible for exception processing pursuant to rules of the department of revenue.

The act requires the executive director of the department of revenue to promulgate rules on or before November 1, 2021, establishing, to the extent permissible under federal law, forms of documentation that are acceptable for the purpose of allowing individuals who are in the custody of the state department or a county department to verify their legal residence in the United States, establish identity, and satisfy any other prerequisites for the acquisition of an instruction permit or a minor driver's license.

For the 2021-22 state fiscal year, the act appropriates $54,180 to the department of human services for use by the division of child welfare to implement the act.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1138 Off-highway vehicles - unlawful operation on public streets, roads, and highways. The act clarifies that it is unlawful to operate an off-highway vehicle on the public streets, roads, or highways of the state, regardless of the state or other jurisdiction in which the off-highway vehicle is registered or titled, except under certain existing exceptions.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

H.B. 21-1139 Drivers' licenses - identification cards - renewal by mail and electronic means - renewal by seniors - issuance to minors - report to general assembly. Current law allows renewal of a driver's license by mail only every other renewal period. The act eliminates this restriction and allows renewal by mail only if the photo of the person that is on file with the department of revenue (department) is at least as recent as required by federal law.

Under current law, to renew a driver's license by mail, a person who is under 66 years

of age must attest under penalty of law that the person has had an eye examination within the preceding 3 years. A person who is 66 years of age or older must obtain a signed statement from an optometrist or ophthalmologist attesting that the person has had an eye examination within the last 6 months and attesting to the results of the examination. For both of these requirements, the act changes the threshold from 66 to 80 years of age. The act also requires a person who is under 80 years of age and renewing by mail to attest that the person has had an eye examination within one year before the renewal.

Current law allows electronic renewal of a driver's license only for drivers who are 21 to 65 years of age and only for 2 consecutive driver's license renewal periods. The act eliminates the upper age limit for electronic renewal and the renewal period restriction and allows a person to renew a driver's license electronically only if the photo of the person that is on file with the department is at least as recent as required by federal law.

Current law requires a person renewing a driver's license electronically to attest under penalty of law that the person has had an eye examination within the preceding 3 years. The act requires a person who is under 80 years of age and renewing electronically to attest that the person has had an eye examination within one year before the renewal. A person who is 80 years of age or older and renewing electronically must obtain a signed statement from an optometrist or ophthalmologist attesting that the person has had an eye examination within the preceding 6 months and attesting to the results of the examination.

Current law allows an applicant to renew an identification card electronically if the applicant is 21 to 64 years of age. The act allows applicants who are 65 years of age or older to renew an identification card electronically.

Under current law, the department may not issue a driver's license to a person under 18 years of age unless the person has submitted a log or other written evidence certifying that the person has completed a minimum amount of actual driving experience, and the form must be signed by the person who signed an affidavit of liability for the person. The act allows this form to be signed by the person's parent or guardian or by a responsible adult.

The act requires the department, on or before June 1, 2022, and on or before June 1 each of the next two years thereafter, to provide to the general assembly a report concerning motor vehicle accidents in Colorado, which report includes data, organized by the age of each at-fault driver, concerning the cause of each such accident, including data related to driver actions and the most apparent human contributing factor of each accident.

APPROVED by Governor May 24, 2021 **EFFECTIVE** May 24, 2021

H.B. 21-1145 Registration - special license plates - support pollinators - fees - appropriation. The act creates the support pollinators license plate for vehicles. A person qualifies for issuance of the plate if the person makes a donation to a designated nonprofit organization that supports pollinators. The organization must meet specified criteria, including having existed for at least 5 years, and use the donation for pollination programs and education.

In addition to the normal fees for a license plate, a person must pay 2 additional one-time fees for the issuance of the plate. One of these fees is credited to the highway users tax fund and the other fee is credited to the licensing services cash fund.

For the 2021-22 state fiscal year, the act appropriates $22,544 to the department of revenue for use by the division of motor vehicles to implement the act.

APPROVED by Governor June 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1193 Supplemental restraint system components - deceptive trade practices - prohibitions related to installation or reinstallation. The act makes it a deceptive trade practice for a person to knowingly or intentionally manufacture, import, distribute, sell, offer for sale, install, or reinstall a device intended to replace a supplemental restraint system component if the device is:

- A counterfeit supplemental restraint system component;
- A nonfunctional airbag; or
- Any object in lieu of a supplemental restraint system component that was not designed in accordance with federal safety regulations for the make, model, and year of the motor vehicle in which it is or will be installed.

The act also prohibits a motor vehicle repair facility or any employee or contract laborer of the facility from installing or reinstalling any device that causes the motor vehicle's diagnostic systems to fail to warn that:

- The motor vehicle is equipped with a counterfeit supplemental restraint system component;
- The motor vehicle is equipped with a nonfunctional airbag; or
- No airbag is installed.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1218 Special license plates - professional fire fighters. With regard to the Colorado professional fire fighters special license plate, the act:

- Reduces from 20 years to 15 years the length of time an organization must be in existence to qualify to issue the license plate; and
- Specifies the evidence an organization is to submit to demonstrate compliance with the requirement that an organization have at least 3,000 members residing in Colorado.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1219 License plates - Colorado nurses special license plate established - appropriation. The act establishes a special license plate to recognize Colorado nurses. Beginning the earlier of January 15, 2022, or when the department of revenue (department) is able to issue the plates, the department shall issue Colorado nurses license plates to qualified applicants. The nurses foundation that satisfies all applicable requirements may design the Colorado nurses license plate, but the license plate must conform with standards established by the department. A person may apply for a Colorado nurses license plate if the person pays the required taxes and fees and provides to the department a certificate issued by the nurses foundation confirming that the applicant has made a donation to the nurses foundation in an amount that the nurses foundation may determine but that may not exceed $100.

For the purpose of addressing the existing statutory requirement that a minimum of 3,000 persons commit to purchasing the Colorado nurses license plate, the department is required to include signatures collected by the Stephen T. Marchello Scholarship Foundation.

For each donation that the nurses foundation receives in association with the sale of a Colorado nurses license plate, the nurses foundation shall use a portion of the donation to provide scholarships to nurses from minority populations.

For the 2021-22 state fiscal year, the act appropriates $17,490 to the department for use by the division of motor vehicles. Of this amount, $5,400 is appropriated from the Colorado DRIVES vehicle services account in the highway users tax fund for DRIVES maintenance and support, and $12,090 is appropriated from the license plate cash fund for license plate ordering.

APPROVED by Governor June 18, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1245 Railroad crossings - motor vehicle safety. Colorado law requires a driver or operator of certain types of motor vehicles or equipment to, in certain circumstances, stop at a railroad crossing at a safe place, look for trains at the crossing, proceed safely through the crossing, not block the train's crossing, and obey signals. The act amends these safety provisions to apply to, in addition to trains, any equipment that operates on railroad tracks.

APPROVED by Governor June 7, 2021 **EFFECTIVE** September 7, 2021

H.B. 21-1254 Motor vehicle registration - acquiring residence - taxes and fees - appropriation. Colorado law requires a person who moves to Colorado to register their motor vehicle within 90 days. The act requires a person who registers a vehicle after moving to Colorado to:

- Provide documentation of the vehicle's previous registration that contains the registration dates;
- Provide evidence of the date that the person became a Colorado resident unless the previous registration expired within 90 days before the owner applied to register the vehicle; and
- Pay the vehicle's registration taxes and fees that are prorated from the date the

person became a Colorado resident to the date the person applied to register the vehicle unless the vehicle is used for interstate commerce or unless the owner registered the vehicle within 90 days after becoming a resident.

The effect of these listed changes is that an owner who fails to register the vehicle within 90 days will be assessed back taxes and fees. The additional fees are transferred to the Colorado DRIVES vehicle services account in the highway users tax fund (DRIVES account) that implements the computer system used by the division of motor vehicles and the county clerks. The department of revenue will lower motor vehicle fees to offset the additional revenues. The allocation and use of the taxes does not change. When the amount credited to the DRIVES account exceeds the appropriation to the DRIVES account, the excess money is credited as follows:

- The first $7.5 million to the statewide bridge enterprise special revenue fund; and
- The remainder to the highway users tax fund.

Before the act was passed, Colorado law exempted people with expired temporary tags from paying the late fees for failing to register a vehicle. The act repeals this exemption. The act also imposes prorated registration taxes and fees to capture missed revenue when a person fails to register a vehicle when required by law.

Colorado law limits to 2 the number of temporary plates that may be issued for a vehicle used to transport persons or property over the roads. The purchaser or owner may get a third plate if necessary for title or lien documentation. The act requires the purchaser or owner to pay the vehicle's registration taxes and fees to get the third temporary plate. If the sale is not consummated, the person who attempted to purchase the vehicle is entitled to a 12-month credit toward a subsequent registration of another vehicle.

For the 2021-22 state fiscal year, the act appropriates $160,200 from the DRIVES account for use by the division of motor vehicles to implement the act.

VETOED by Governor July 7, 2021

H.B. 21-1291 Certificates of title - total loss vehicle - agent of an insurers. Under Colorado law, an insurer who has declared a vehicle a total loss may obtain a salvage or nonrepairable title for the vehicle when the owner has failed to cooperate. The act authorizes an agent of an insurer to do the same.

APPROVED by Governor June 18, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

NATURAL RESOURCES

S.B. 21-54 General fund - transfers to cash funds - wildfire response. The act requires the state treasurer to transfer $6 million from the general fund to the forest restoration and wildfire risk mitigation grant program cash fund.

The state treasurer is also required to transfer $3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management in the department of public safety is required to use this money:

- As the state match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
- To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.

The state treasurer is also required to transfer $4 million from the general fund to the Colorado water conservation board construction fund. This money is appropriated to the board for the watershed restoration program to support post-fire recovery and mitigation efforts.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-136 Forest health advisory council - continuation under sunset law. The act continues the forest health advisory council for 5 years, until 2026.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-237 Department of natural resources - Colorado forest health council - sunset. Current law repeals the forest health advisory council, which was created within the Colorado state forest service, on September 1, 2021, subject to sunset review. The act repeals the forest health advisory council and creates the Colorado forest health council within the division of forestry within the department of natural resources and specifies the new council's membership and duties. The council is scheduled for sunset review in 2026.

APPROVED by Governor June 22, 2021 **EFFECTIVE** September 2, 2021

S.B. 21-249 Parks and wildlife - Keep Colorado wild park pass - assessment of pass fee with vehicle registration - allocation of fees - appropriation. The act creates the keep Colorado wild pass (wild pass) for entry into state parks and other participating public lands. Commencing no earlier than January 1, 2023, but no later than January 1, 2024, each resident with one of the following motor vehicles that is not a commercial vehicle is assessed a fee for the wild pass (wild pass fee) when registering the motor vehicle:

- A passenger motor vehicle;
- A light-weight truck with an empty vehicle weight of less than or equal to 16,000 pounds;
- A motorcycle; or

- A recreational vehicle.

A resident may decline to pay the wild pass fee when registering the resident's motor vehicle, and nonpayment of the wild pass fee does not affect the resident's ability to register the motor vehicle. A resident who declines or fails to pay the wild pass fee is presumed to decline to pay the wild pass fee in subsequent years with respect to registration of the same motor vehicle, and the division of parks and wildlife in the department of natural resources (division) is required to develop an opt-in provision on subsequent registration notifications sent to the resident for that motor vehicle.

The parks and wildlife commission in the department of natural resources (commission) is required to adopt rules to set the wild pass fee and, for income-eligible households, a reduced wild pass fee and may establish a process for applying existing discounts or free entry to persons eligible for the discount or free entry to the wild pass. The commission may also adopt rules establishing a separate fee for a pass, including a separate fee for passes for nonresidents, residents who decline to pay the wild pass fee when registering the resident's motor vehicle, and residents who do not possess one of the motor vehicles listed above.

For each state fiscal year, the division will use the wild pass fees collected to achieve stated goals such as providing affordable access to state parks and public lands; managing state parks; supporting search and rescue and avalanche safety efforts; conserving vulnerable species and habitats; funding equity, diversity, and inclusion programs; and financing regional outdoor partnerships for community-driven planning and projects.

The division is required to:

- Develop language to notify motor vehicle registrants of their option to decline to pay the wild pass fee, which notice must be conspicuously placed on registration documents and on the division's and the division of motor vehicles' websites; and
- Implement a public outreach campaign, including outreach to and engagement of disproportionately impacted communities, to educate the public about the availability of the wild pass through the motor vehicle registration process and about access to state parks and public lands that the wild pass will provide.

The division is required to prepare annual reports on, and on or before March 1, 2025, and on or before March 1, 2030, to make presentations to a joint session of the legislative committees with jurisdiction over agriculture matters regarding, the number of wild passes sold in the previous 12 months, an accounting of the expenditures made with the increased revenue generated from sales of the wild pass, and a summary of the effect that those increased expenditures have had on the achievement of the stated goals.

The act also repeals limitations on the amount that the commission may increase fees for daily and annual park passes purchased by individuals who do not purchase the discounted wild pass, authorizes the division to enter into cooperative agreements with other land management agencies, and requires the division to develop a program for seeking, accepting, and expending gifts, grants, or donations.

For state fiscal year 2021-22, the act appropriates $504,646 from the parks and outdoor recreation cash fund to the division for implementation of the wild pass and reappropriates $108,200 of that money to the department of revenue for use by the division

of motor vehicles for maintenance and support of the Colorado driver's license, record, identification, and vehicle enterprise solution (Colorado DRIVES).

APPROVED by Governor June 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1226 Aquatic nuisance species - check stations - failure to stop - civil infraction. Current law allows qualified peace officers to stop a conveyance, including a boat trailer and a boat, and inspect the conveyance for the presence of aquatic nuisance species before the boat is launched onto waters of the state and before departing from the waters of the state or a vessel staging area, and to impound and quarantine a conveyance that is contaminated until it is decontaminated. Authorized agents can detain and inspect conveyances but cannot impound or quarantine conveyances.

Section 1 of the act directs the division of parks and wildlife in the department of natural resources to investigate the methods that other states are using with respect to the location and operation of check stations and report regarding its investigation and the operation of check stations pursuant to the act to the general assembly's committees with jurisdiction over wildlife.

Section 2 authorizes a qualified peace officer to stop and inspect for the presence of aquatic nuisance species a conveyance that has encountered an aquatic nuisance species check station.

Section 3 prohibits a person who encounters a check station from knowingly or willfully failing or refusing to stop at the check station while transporting a conveyance during the check station's hours of operation without presenting the conveyance for inspection and specifies that doing so is a civil infraction with a $100 fine.

APPROVED by Governor May 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

1**H.B. 21-1326** Parks and wildlife - wildlife protection - avalanche safety - search and rescue - outdoor equity - state parks - appropriations. In the 2020-21 state fiscal year, the act transfers $25 million from the general fund as follows:

- Section 1 transfers $750,000 to the Colorado avalanche information center fund for use by the Colorado avalanche information center in the department of natural resources (department) to support backcountry avalanche safety programs;
- Section 2 transfers $3.5 million to the wildlife cash fund for use by the division of parks and wildlife (division) in the department to implement its statewide wildlife action plan and the conservation of native species;
- Section 3 transfers $2.25 million to the search and rescue fund for use by the department of local affairs in consultation with the division to support backcountry search and rescue efforts;

- Section 4 transfers $1 million to the outdoor equity fund for use by the division to implement the outdoor equity grant program; and
- Section 5 transfers $17.5 million to the parks and outdoor recreation cash fund for use by the division as follows:
  - $3.5 million for staffing and maintenance projects; and
  - $14 million for infrastructure and state park development projects.

Section 6 appropriates the amounts transferred in sections 1 to 5 to the department and the department of local affairs for the uses specified in sections 1 to 5 and authorizes the use of the money through the 2023-24 state fiscal year.

APPROVED by Governor June 21, 2021 **EFFECTIVE** June 21, 2021

Note: Certain provisions of the act take effect only if House Bill 21-1318 becomes law. House Bill 21-1318 was signed by the governor on June 21, 2021, and became law.

PROBATE, TRUSTS, AND FIDUCIARIES

S.B. 21-75 Supported decision-making agreements. The act allows an adult with a disability (adult) to voluntarily enter into a supported decision-making agreement (agreement) with one or more members of the supportive community. Under the agreement, the adult may request the member of the supportive community to do any of the following:

- Provide supported decision-making, including assistance in understanding the options, responsibilities, and consequences of the adult's life decisions, without making those decisions on behalf of the adult;
- Assist the adult in accessing, collecting, obtaining, and understanding information that is relevant to a given life decision from any person; and
- Assist the adult in communicating the adult's decisions to appropriate persons when expressly authorized by the adult.

The agreement may be in any form but is only valid if it contains certain information and is voluntarily signed by the adult and each member of the supportive community in the presence of 2 or more attesting and disinterested witnesses who are 18 years of age or older, or a notary public.

The act requires any person who receives the original or a copy of the agreement to rely on the agreement. A person is not subject to criminal and civil liability and does not engage in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on an agreement.

APPROVED by Governor April 26, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-162 Colorado uniform trust code - creditor's claims - spendthrift trusts. The act enacts part 5 of the Uniform Trust Code, including a number of Colorado-specific amendments. The act addresses the validity of spendthrift provisions and the rights of creditors, both of the settlor and beneficiaries, to reach a trust to collect a debt. The act provides certain exceptions that allow children for whom an order or judgment for child support has been entered to reach a trust in order to satisfy the child support order or judgment.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-171 Fiduciaries - Uniform Fiduciary Income and Principal Act. The act repeals the "Uniform Principal and Income Act" and replaces it with the "Uniform Fiduciary Income and Principal Act" (UFIPA), as drafted by the Uniform Law Commission, with Colorado-specific amendments.

The UFIPA includes provisions concerning:

- Duties of fiduciaries;
- Judicial review of fiduciaries;
- Trusts in which the beneficiary receives a periodic payout of a percentage of the net value of trust assets, known as "unitrusts";
- Allocation of trust receipts and disbursements; and
- Procedures followed at the termination of a trust or an income interest in a trust.

APPROVED by Governor May 17, 2021 **EFFECTIVE** January 1, 2022

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-195 Medical treatment declarations - anatomical gift record - execution - notarization. Under existing law, a declaration made pursuant to the "Colorado Medical Treatment Decision Act" must be signed in the presence of 2 witnesses. The act permits the declaration to be witnessed, as described in existing law, or acknowledged before a notary public or other individual authorized by law to take acknowledgments.

A donor may make an anatomical gift by a donor card or other record signed by the donor. If the donor is physically unable to sign a record, the record may be signed by another individual at the direction of the donor and be witnessed by at least 2 adults, at least one of whom is a disinterested witness. The act permits the record of a person unable to sign to be witnessed, as described in existing law, or acknowledged before a notary public or other individual authorized by law to take acknowledgments.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

H.B. 21-1004 Colorado Uniform Electronic Wills Act. The act enacts the "Colorado Uniform Electronic Wills Act", which declares that an electronic will is a will for all purposes of Colorado law. The act specifies the requirements for:

- Executing and revoking an electronic will;
- Simultaneously executing, attesting, and making an electronic will; and
- Certifying a paper copy of an electronic will.

APPROVED by Governor January 21, 2021 **EFFECTIVE** January 21, 2021

PROFESSIONS AND OCCUPATIONS

S.B. 21-3 Occupational therapy practice act - continuation under sunset law - scope of practice - protected titles - grounds for discipline. The act recreates, with amendments, the "Occupational Therapy Practice Act" (Act), which repealed September 1, 2020. Specifically, the act:

- Recreates and extends the Act for 9 years, until 2030;
- Modifies the legislative declaration and definitions related to the scope of practice of occupational therapy;
- Designates "occupational therapy consultant", "M.O.T.", "M.O.T./L.", "occupational therapy assistant", "O.T.A.", and "C.O.T.A." as protected titles and clarifies that individuals who legally practice temporarily as occupational therapists in Colorado may use protected titles;
- Reorders and amends certain provisions concerning examinations and applications for licensure by occupational therapists and occupational therapy assistants; and
- Adds certain prohibited behaviors as grounds for discipline.

APPROVED by Governor January 21, 2021 **EFFECTIVE** January 21, 2021

S.B. 21-6 Mortuary science - natural reduction. The act authorizes human remains to be converted to soil using a container that accelerates the process of biological decomposition, also known as "natural reduction". Natural reduction is added to the statutes that regulate funeral establishments, and this addition will result in the regulation of the natural reduction process. But the definitions of "cremation" and "mortuary science practitioner" are amended so that a practitioner of natural reduction is not regulated as a cremationist or mortuary science practitioner.

The act allows the disposal of abandoned naturally reduced remains if the remains are not claimed within 180 days after natural reduction.

The act prohibits the following when done in the course of business:

- Selling or offering to sell the soil;
- Commingling the soil of more than one person without the consent of the person or persons with the right of final disposition unless the soil is abandoned;
- Commingling the human remains of more than one person without the consent of the person or persons with the right of final disposition within the container wherein natural reduction produces soil; or
- Using the soil to grow food for human consumption.

Colorado law has various provisions that deal with burial, cremation, interment, and entombment. In connection with authorizing natural reduction, the act replaces these terms with the phrase "final disposition", which term is defined to include natural reduction. The act updates the following types of provisions to reflect the option to use natural reduction:

- Life insurance statutes;
- Preneed funeral insurance contracts;

- The "Mortuary Science Code";
- Funeral picketing statutes;
- Litigation damages;
- The "Colorado Probate Code";
- The "Disposition of Last Remains Act";
- The "Revised Uniform Anatomical Gift Act";
- Missing person reports for unidentified human remains;
- Public peace and order statutes;
- Vital statistics statutes;
- The "Colorado Medical Assistance Act";
- The "Colorado Human Services Code";
- The "Colorado Public Assistance Act"; and
- Firefighter pension plans.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-11 Pharmacists - dispensation of opioids - requirement to offer to prescribe opiate antagonist - duty to counsel - exceptions. The act requires a pharmacist who dispenses an opioid to an individual to inform the individual of the potential dangers of a high dose of an opioid and offer to prescribe the individual an opiate antagonist if:

- The individual is, at the same time, prescribed a benzodiazepine, a sedative hypnotic drug, carisoprodol, tramadol, or gabapentin; or
- The opioid prescription being dispensed is at or in excess of 90 morphine milligram equivalent.

If an individual accepts the offer for an opiate antagonist, the pharmacist is required to counsel the individual on how to use the opiate antagonist and notify the individual of available generic and brand-name opiate antagonists.

The act does not apply to a pharmacist dispensing a prescription medication to a patient in hospice or palliative care or a resident in a veterans community living center.

APPROVED by Governor June 4, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-21 Interstate compact - audiology - speech-language pathology - criminal history record check - rules - appropriations. The act enacts the "Audiology and Speech-language Pathology Interstate Compact", which allows audiologists and speech-language pathologists licensed in any compact state to provide:

- Audiology or speech-language pathology services in each member state under a privilege to practice; and

- Telehealth services in each member state under a privilege to practice.

To obtain a privilege to practice, an audiologist or speech-language pathologist must obtain a fingerprint-based criminal history record check, which is then considered in determining the applicant's qualifications to practice under the compact. The act authorizes the director of the division of professions and occupations in the department of regulatory agencies to promulgate rules and to facilitate Colorado's participation in the compact, including notification to the compact commission of any adverse action taken by the director against a Colorado audiologist or speech-language pathologist.

The act makes the following appropriations:

- $151,440 and 0.3 FTE to the department of regulatory agencies from the division of professions and occupations cash fund, which includes $15,425 for personal services, $19,000 for operating expenses, $17,014 to purchase legal services from the department of law, and $100,000 to purchase information technology services from the governor's office;
- $17,014 and 0.1 FTE to the department of law from reappropriated funds from the department of regulatory agencies;
- $100,000 and 0.1 FTE to the office of the governor for use by the office of information technology from reappropriated funds from the department of regulatory agencies; and
- $140,676 and 0.8 FTE to the department of public safety for use by the Colorado bureau of investigation from the Colorado bureau of investigation identification unit cash fund.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-40 Driver's history - licensing, registration, and certification - discipline. The act limits the conditions under which the appropriate regulatory authority in the department of revenue and the department of regulatory agencies may use a driver's history to make certain decisions about a license, permit, certification, or registration that is necessary to practice an occupation or profession or to operate a business. Felonies and misdemeanors are excluded from the meaning of "driver's history".

The decisions that are limited by the act concern:

- Issuing, renewing, reinstating, or reactivating the license, permit, certification, or registration; and
- Taking disciplinary action against the holder of the license, permit, certification, or registration.

The events in a driver's history used to make these decisions may be used only if the event is relevant to the profession or occupation and:

- The profession or occupation involves driving;
- The event is a part of a pattern of behavior; or

- The event occurred within 3 years before the person applied for the license, permit, certification, or registration or the act upon which the discipline is based.

APPROVED by Governor April 26, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-77 Professional credentialing - department of education - department of regulatory agencies - local governments - verification of lawful presence not required. The act eliminates the requirement that the department of education and each division, board, or agency of the department of regulatory agencies verify the lawful presence of each applicant before issuing or renewing a license.

The act also specifies that lawful presence is not required of any applicant for any state or local license, certificate, or registration. The act is a state law within the meaning of the federal law that gives states authority to provide for eligibility for state and local public benefits to persons who are unlawfully residing in the United States.

APPROVED by Governor May 27, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-92 Surgical assistants and surgical technicians - continuation of regulation under sunset law - waiting period before reapplying for registration - letters of admonition - confidential letters of concern - confidential agreements to limit practice - grounds for discipline. The act implements the recommendations of the department of regulatory agencies (department) in its sunset review and report on the surgical assistants and surgical technologists registration program. Specifically, the act:

- Continues the registration of surgical assistants and surgical technologists for 7 years, until 2028;
- Requires a surgical assistant or surgical technologist whose registration is revoked or who has surrendered a registration in lieu of disciplinary action to wait 2 years before reapplying for registration and authorizes the director of the division of professions and occupations within the department (director) to issue letters of admonition and confidential letters of concern to surgical assistants and surgical technologists;
- Allows the director to enter into confidential agreements with surgical assistants or surgical technologists to limit practice based on an illness or other health condition that affects the ability to safely practice the profession; and
- Clarifies that a registrant may be disciplined for failing to notify the director of the limitations created by an illness or other health condition, act within such limitations, or act within the limitations imposed under a confidential agreement with the director to limit practice. The act also adds the following as grounds for discipline:

    - Habitual or excessive use or abuse of alcohol, a habit-forming drug, or

a controlled substance;
- Failing to notify the director within 30 days of any disciplinary action;
- Failing to respond to a complaint against the registrant in a materially responsive and timely manner within 30 days after receiving the complaint;
- Practicing outside the scope of the practice of a surgical assistant or surgical technologist; and
- Failing to satisfy generally accepted standards of practice as a surgical assistant or surgical technologist.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-97 Health-care professions and occupations - medical transparency - disclosure of information about health-care providers - continuation under sunset law. The act implements the recommendation of the department of regulatory agencies' sunset review and report concerning the "Michael Skolnik Medical Transparency Act of 2010" to continue the act for 7 years, until 2028.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-98 Prescription drug monitoring program - continuation under sunset law - state board of pharmacy - require tracking of additional drugs - access by deputy coroners - create data retention schedule - reporting requirements. The act continues the prescription drug monitoring program (program) indefinitely.

Additionally, the act:

- Authorizes the state board of pharmacy (board) to promulgate rules that identify a list of prescription drugs that are not currently listed as controlled substances and require such drugs to be tracked through the program;
- Authorizes each coroner to authorize deputy coroners to access the program;
- Authorizes the board to create a data retention schedule for information obtained and stored by the program;
- Eliminates the requirements that the board seek gifts, grants, and donations in order to maintain the program and report annually to committees of reference of the general assembly on the gifts, grants, and donations; and
- Makes a technical change to remove a reference to the department of health care policy and financing from the statute as that department does not have access to the program.

APPROVED by Governor June 22, 2021 **EFFECTIVE** July 1, 2021

S.B. 21-101 Direct-entry midwives - continuation under sunset law - administration of group B streptococcus prophylaxis - practice locations - policies for direct-entry midwives in training - additional authorities - removal of data reporting requirement - physical or mental examinations - required reporting on birth certificate worksheet - appropriation. The act implements the recommendations of the department of regulatory agencies' sunset review and report on the registration of direct-entry midwives by:

- Continuing the registration requirements for 7 years, until September 1, 2028;
- Authorizing direct-entry midwives to administer group B streptococcus (GBS) prophylaxis;
- Adding licensed birth centers to the locations where a direct-entry midwife may practice; and
- Requiring the director of the division of professions and occupations (director) to develop policies regarding direct-entry midwives in training.

The act also:

- Specifies that a direct-entry midwife who is granted additional authority is not required to apply for renewal of that authority or pay any renewal fees for the authority;
- Removes the requirement that a direct-entry midwife report certain data at the time of registration renewal;
- Authorizes the director to order the physical or mental examination of a direct-entry midwife if the director has reasonable cause to believe that the direct-entry midwife is subject to a physical or mental disability that renders the direct-entry midwife unable to treat patients with reasonable skill and safety or that may endanger a patient's health or safety; and
- Requires the state registrar to revise the birth certificate worksheet form to include a requirement to report whether the live birth occurred after a transfer to a hospital by a direct-entry midwife.

The act appropriates to the department of public health and environment:

- $50,080 from the health facilities general licensure cash fund for use by the health facilities and emergency medical services division for administration and operations; and
- $30,000 from the vital statistics records cash fund for use by the health statistics and vital records subdivision for operating expenses.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-102 Dental hygienists - placement of interim therapeutic restoration and application of silver diamine fluoride - continuation under sunset law - communication between a dental hygienist and a dentist for prescribing - experience required to place interim therapeutic restoration - dentist supervision using telehealth - technology that may be used in telehealth supervision. The act continues the ability of dental hygienists to place interim therapeutic restorations (ITR) and apply silver diamine fluoride (SDF) until September 1, 2025, to align with the sunset review of the Colorado dental board (board).

The act also:

- Relocates the statutory language granting dental hygienists the authority to apply SDF;
- Specifies the requirements of an articulated plan between a dental hygienist and a collaborating dentist for purposes of dental hygienist prescribing;
- Repeals the requirement that a dental hygienist carry professional liability insurance to place ITR or apply SDF because the requirement exists in another provision of the "Dental Practice Act" that applies to all dental hygienists;

- Removes language specifying the timeline for communication with a distant dentist when using telehealth;
- Removes language specifying the number of hours of experience a dental hygienist is required to obtain before the board may grant the dental hygienist a permit to place ITR;
- Requires a dentist who collaborates with a dental hygienist in ITR placements using telehealth supervision to have an active license issued by the board and have a practice location that is either in Colorado or within reasonable proximity of the location where the ITR is placed;
- Requires the board to develop a waiver process to allow dentists to supervise more than 5 dental hygienists who place ITR; and
- Removes language regarding "store-and-forward transfer" technology to allow both synchronous and asynchronous technology when dental hygienists use telehealth in ITR placements and SDF applications.

APPROVED by Governor April 15, 2021 **EFFECTIVE** September 1, 2021

S.B. 21-147 Athletic trainers - continuation of regulation under sunset law - supervision by physicians and physician assistants - disciplinary actions. The act continues the "Athletic Trainer Practice Act" (practice act) and the licensing of athletic trainers by the director of the division of professions and occupations in the department of regulatory agencies for 10 years, until 2031. The act also makes the following substantive changes to the practice act:

- Allows athletic trainers to practice only under the supervision of a licensed physician or physician assistant;
- Broadens the range of available disciplinary measures to include letters of admonition, confidential letters of concern, and probationary periods;
- Imposes a 2-year waiting period before an athletic trainer whose license has been revoked or who has surrendered a license in lieu of disciplinary proceedings may reapply for a license; and
- Updates the grounds for discipline based on alcohol or drug use to conform to current standards and terminology.

APPROVED by Governor May 22, 2021 **EFFECTIVE** September 1, 2021

H.B. 21-1146 Acupuncture - auricular acudetox - professional practice. In 2020, the general assembly repealed the requirement in the mental health practice act that a professional must be licensed, registered, or certified as a mental health professional in order to practice auricular acudetox. The act makes a conforming amendment to clarify that it is not an unlawful act for a professional who is trained to perform auricular acudetox to perform the practice without a license, registration, or certification as a mental health professional.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

H.B. 21-1147 Architects - continuing education - simplification of requirements. The practice act for professional architects directs the department of regulatory agencies to adopt rules establishing requirements for continuing education and also requiring an architect to demonstrate retention of the material presented in the continuing education program or course.

The act removes the material retention requirement, allowing an architect to renew a license upon demonstrating compliance with the continuing education requirement alone.

APPROVED by Governor April 29, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

PROPERTY

H.B. 21-1167 Construction - contractors and subcontractors - retainage limitation - applicability. The act prohibits a property owner from withholding from a contractor more than 5% of the price of completed work to ensure the work is satisfactorily completed. The contractor and subcontractors are also prohibited from withholding more than 5% from subcontractors and suppliers. The act also clarifies that these prohibitions do not apply to other types of contractual conditions made before payment is due.

The contract may require lien waivers to be executed before payment is made.

The act applies to:

- A contract between a property owner and a contractor that has a price of at least $150,000; and
- A subcontract or supply agreement to such a contract.

The act does not apply to a single contract that governs:

- The building of:
  - A single-family dwelling;
  - A multifamily dwelling with 4 or fewer family dwelling units; or
- A contract with a public entity.

APPROVED by Governor May 17, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1224 Real property - mortgages and trust deeds - foreclosure sales. Under current law, when real property is sold in a foreclosure sale for an amount above the value of the lien on the property, any excess amount (overbid), after paying all junior lienors, is paid to the owner of the property as of the recording of the election to foreclose. The act requires that any overbid is instead paid to the person liable under the related evidence of debt constituting a mortgage loan or deed of trust.

The act also adds to the definition of "qualified holder" a private company that originates, insures, guaranties, or purchases loans on behalf of a holder of evidence of debt that is secured by a deed of trust encumbering a time share estate with a minimum of $5 million in assets or not less than 1,000 loans.

APPROVED by Governor May 28, 2021 **EFFECTIVE** May 28, 2021

PUBLIC UTILITIES

S.B. 21-115 Talking book library services - annual funding - appropriation. Under current law, the general assembly is authorized to annually appropriate money from the Colorado telephone users with disabilities fund (fund) to support talking book library services for persons who are blind or physically disabled.

The act requires an annual appropriation from the fund for the talking book library services and appropriates $250,000 for that purpose.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-156 Telecommunications - 911 services - nurse intake of 911 calls pilot grant program - appropriation - repeal. The act requires the division of homeland security and emergency management in the department of public safety (division), on or before January 1, 2022, to implement a pilot grant program (program) to help finance the use of nurse intake of 911 calls, which involves nurses assisting with 911 dispatch for the purpose of diverting nonurgent 911 calls to medical care that does not require ambulance service or treatment in an emergency room, or the use of a substantially comparable 911 triage system. The division, after reviewing applications, shall designate 4 public safety answering points to participate in the program, one of which is located in a county with 60,000 or more residents and 3 of which are located in a county or counties with fewer than 60,000 residents. To participate in the program, the designated public safety answering points must enter into a contract with an entity that can provide nurses who are trained and equipped to provide nurse intake of 911 calls or operate its own program for nurse intake of 911 calls or a substantially comparable 911 triage system.

On or before September 1, 2023, the division shall report to the judiciary committees in the senate and the house of representatives or their successor committees on the program, including reporting on patient satisfaction and clinical outcomes and on annual cost savings tied to the program.

For the 2021-22 state fiscal year, $865,583 is appropriated from the general fund to the department of public safety for use by the division, based on the assumption that an additional 0.5 FTE will be required. The division may use the appropriation for program administration related to the office of preparedness. The money is further appropriated to the department for the 2022-23 state fiscal year for the same purpose if not fully expended before July 1, 2022.

The program is repealed, effective July 1, 2024.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

S.B. 21-230 Colorado energy office - funding of energy efficiency and energy conservation programs - transfer from general fund - purposes and conditions - deadline for expenditures - report. The act directs the state treasurer to make an immediate, one-time transfer of $40 million from the general fund to the energy fund administered by the Colorado energy office

(CEO). The CEO may use the money for its ongoing programs plus the following enumerated purposes:

- Making grants to the Colorado Clean Energy Fund and the Colorado new energy improvement district totaling up to $30 million and $3 million, respectively;
- Increasing the amounts available through residential energy upgrade loans by up to $2 million; and
- Providing up to $5 million in additional funding to the charge ahead Colorado program administered by the CEO.

The act requires the CEO to devote at least 75% of the transferred money to the specified purposes by July 1, 2022, and at least 85% by July 1, 2023, and to periodically report on its expenditures to the office of state planning and budgeting and the general assembly. Although money in the energy fund is continuously appropriated to the CEO, the money transferred by the act is scheduled to revert to the general fund on June 30, 2025, if not used, expended, or obligated by then.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

S.B. 21-235 Renewable energy - energy efficiency in agricultural applications - agrivoltaics - funding for soil health programs - reports - appropriations. The act directs the state treasurer to make an immediate, one-time transfer of $3 million from the general fund to the agriculture value-added cash fund to augment the department of agriculture's ongoing advancing Colorado's renewable energy and energy efficiency ($ACRE^3$) program. At least $150,000 of this money must be allocated to research, guidance, technical assistance, feasibility studies, and projects related to agrivoltaics. "Agrivoltaics" is defined as solar energy generation facilities located on land that is also used for agricultural production.

The act appropriates the $3 million from the agriculture value-added cash fund to the department of agriculture for use by the commissioner's office to make grants to implement the $ACRE^3$ program.

The act also appropriates $2 million from the general fund to the department of agriculture for use by the conservation services division for the purpose of administering voluntary soil health programs. Of this amount, the department is directed to expend at least $1 million in grants to conservation districts, and all of the money appropriated to the conservation services division must be expended by December 31, 2022.

The act requires the department of agriculture to periodically report on its expenditures to the office of state planning and budgeting and the general assembly.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

S.B. 21-246 Electric utilities - energy efficiency and energy conservation - beneficial electrification - evaluation of plans proposed by utilities - labor standards - appropriations. The act directs the public utilities commission (PUC) to establish energy savings targets and approve plans under which investor-owned electric utilities will promote the use of energy-efficient electric equipment in place of less efficient fossil-fuel-based systems. This

directive would substantially follow the model of existing demand-side management (DSM) policies established by the PUC.

Section 1 of the act declares that DSM has provided substantial economic and environmental benefits, and the PUC's administration of DSM has successfully carried out legislative intent; therefore, the PUC is directed to implement beneficial electrification programs and plans using the same approach.

Sections 3 and 5 specify the parameters for these programs and plans, including the types of systems and appliances that are eligible for installation, the criteria to be considered when the PUC evaluates plan proposals, the implementation of plans, utility cost-recovery mechanisms, and performance incentives. Section 5 also requires that any installation, upgrade, or new construction under a beneficial electrification program must be performed either by utility employees or by qualified, Colorado-licensed contractors. For large projects, contractors must be selected from a list, maintained by the Colorado department of labor and employment, of contractors that participate in apprenticeship programs registered with the United States department of labor.

Section 2 adds heat pumps to the list of energy efficiency measures that cannot be prohibited under the covenants of a homeowners' association.

Section 4 directs the PUC to apply current standards for measurement of the social cost of carbon emissions, including methane, in evaluating the cost, benefit, or net present value of utility plans and proposals for beneficial electrification.

The act appropriates $168,448 to the department of regulatory agencies, for use by the PUC, and $73,351 to the department of labor and employment, for use by the division of employment and training, to implement the act.

APPROVED by Governor June 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-272 Public utilities commission - resources and operations - use of independent consultants - disclosure of interests of parties to proceedings - assessments for utility funds - additional standards for consideration of regulatory impacts - permissible uses of revenue from energy impact bonds - rules - appropriations. Section 1 of the act authorizes the allocation of up to $250,000 per year of the money that the public utilities commission (commission) receives from the public utilities commission fixed utility fund for contracts with outside consultants and experts.

Section 2 requires an intervenor in a proceeding before the commission to disclose, and the commission to publish on its website, any corporate affiliation, receipt of funding, or other financial relationship that exists or, within the prior 2 years, existed between that intervenor and the regulated utility in the matter.

Section 3 directs the commission to adopt rules to require the commission, when considering any matter before the commission, to improve equity for, minimize impacts on, and prioritize benefits to disproportionately impacted communities.

Under current law, the annual fee collected from each regulated public utility to support the fixed utility fund and the telecommunications utility fund is capped at 0.25% of the public utility's gross instrastate utility operating revenue for the preceding calendar year; except that the annual fee collected from a public utility that is a telephone corporation is capped at 0.20% of the telephone corporation's gross intrastate utility operating revenue for the preceding calendar year. Section 4 raises these caps to 0.45% and 0.40%, respectively.

Section 5 requires the commission, when considering electric utilities' plans for acquisition of generation facilities, to consider the economic opportunities that such acquisitions would provide for workforce transition and community assistance plans and the benefits for low-income customers and disproportionately impacted communities.

Section 6 requires the commission to promulgate rules requiring qualifying retail utilities subject to the renewable energy standard to retire renewable energy credits in a manner that benefits cities, counties, and businesses in the state, enables customers to account for the environmental benefits of the renewable energy, and is consistent with timely attainment of the state's clean energy and climate goals. Section 6 also directs that utilities plan their expenditures on renewable energy and retail distributed generation so as to address historical shortfalls in benefits to low-income customers and disproportionately impacted communities before reaching the 2% statutory cap on such expenditures, with at least 40% of new expenditures allocated to this purpose between January 1, 2022, and December 31, 2028.

With respect to the retirement of any electric generating facility, section 7 requires an investor-owned electric utility to submit, and the commission to consider, 2 alternative net present value of revenue requirement projections, one based on using Colorado energy impact bonds and one based on not using Colorado energy impact bonds.

Section 8 requires the commission, in approving a resource plan, to include the social cost of carbon dioxide with regard to a portfolio's net present value of revenue requirements.

Section 9 expands the time for the commission to issue a decision on an application that is not accompanied by prefiled testimony and exhibits from 210 days to 250 days after the commission has deemed the application complete.

Section 10 broadens the purposes for which a utility may seek permission to issue Colorado energy impact bonds to include not only the retirement of electric generating facilities but also other programs or projects approved by the commission, including programs or projects to mitigate the effects of extreme weather, wildfires, climate change, or other hazards, but not to include the utility's own liability for wildfire or other damages.

Sections 11 and 12 make adjustments to appropriations in related acts, and section 13 makes an appropriation for the purposes of the act to draw from the public utilities commission fixed utility fund rather than from the general fund. The total amount appropriated from the fixed utility fund is $971,839, and the total reduction in general fund expenditures is $471,849.

APPROVED by Governor June 10, 2021 **EFFECTIVE** June 10, 2021

H.B. 21-1052 Renewable energy standard - eligible energy resources - recycled energy - pumped hydroelectricity. The act removes the existing restriction on pumped hydroelectric

facilities as a source of recycled energy, which is included in the definition of an eligible energy resource under the renewable energy standard statute, and instead includes any pumped hydroelectric facility under 15 megawatts that:

- Does not combust fossil fuel to pump water;
- Is not located on a natural waterway;
- Includes measures to prevent fish mortality in the facility;
- Does not impact any decreed in-stream flow; and
- Does not cause any violation of state water quality standards when operated.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1131 Cooperative electric associations - transparency - board of directors elections - board members. The act:

- Makes current laws concerning governance and transparency for cooperative electric associations (associations) applicable to nonprofit generation and transmission cooperative electric associations that provide wholesale electric service directly to Colorado cooperative electric associations that are its members;
- Eliminates an exemption to those requirements for associations with fewer than 25,000 members;
- Allows an association to authorize, in its bylaws, its members and directors to participate in meetings electronically;
- Allows an association to authorize, in its bylaws, members to vote in an election through a secure and verifiable electronic voting system;
- Clarifies that members voting or participating in a meeting electronically are considered present in person for the purpose of establishing quorum;
- Defines joint memberships and clarifies how joint memberships can vote;
- Amends the deadlines and requirements for notice of an election;
- Requires an association to adopt written policies concerning the compensation of board members and disclosures of conflicts of interest for board members;
- Requires board members to fulfill their duty of loyalty to the cooperative association at all times; except that, if a director serves on the board of both a generation and transmission association and a distribution association, the director owes fiduciary duties to both associations and shall not be required to give priority to the duties the director owes to one association over the duties the director owes to the other association; and
- Requires associations to post on their websites information about their rates and net metering requirements and to make financial audits available to members on request.

APPROVED by Governor April 29, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

REVENUE - ACTIVITIES REGULATION

S.B. 21-82 Alcohol beverages - festivals - appropriation. The act authorizes the following alcohol beverage licensees to obtain a festival permit, which would allow the licensees to hold festivals where they may conduct joint tastings and engage in any retail operations authorized by their licenses or permits:

- A beer and wine licensee;
- A hotel and restaurant licensee;
- A tavern licensee;
- A brew pub licensee;
- A vintner's restaurant licensee;
- A distillery pub licensee;
- A winery or limited winery licensee;
- A spirits manufacturer; and
- A beer manufacturer.

Local licensing authorities may create a permitting process for these festivals. Licensees may obtain a permit to hold up to 9 festivals in 12 months, with each festival lasting no longer than 72 hours. Other licensees may participate in the festival.

The act appropriates $511,210 to the department of revenue from the liquor enforcement division and state licensing authority cash fund to implement the act.

APPROVED by Governor May 28, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-111 Office of economic development and international trade - program to support entrepreneurs in the marijuana industry - social equity licensees. The act creates a program in the office of economic development and international trade (OEDIT) to support entrepreneurs in the marijuana industry, which will primarily assist social equity licensees, as that term is used in the "Colorado Marijuana Code". The program consists of:

- Loans to social equity licensees for seed capital and ongoing business expenses;
- Grants to social equity licensees to support innovation and job creation and organizations that support marijuana businesses to be used to support innovation and job creation of social equity licensees; and
- Technical assistance for marijuana business owners, prioritizing social equity licensees who have been awarded a loan or grant through the program.

OEDIT is authorized to directly administer the program itself or through one or more partner entities. In consultation with other relevant state agencies, industry experts, and other stakeholders, OEDIT is required to establish policies setting forth the parameters and eligibility for the program. OEDIT is required to consult with the Colorado economic development commission regarding the administration of the program. OEDIT is also required to submit a report by July 1 of 2022 and 2023 to the governor and legislative committees detailing program expenditures.

The program is initially funded with a $4 million transfer from the marijuana tax cash fund to the newly created marijuana entrepreneur fund, from which the money is continuously appropriated to OEDIT for the program. OEDIT may use some of this money for the program's administrative expenses. Beginning with the fiscal year 2022-23, the general assembly may appropriate additional money from the marijuana tax cash fund to the marijuana entrepreneur fund.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-133 Alcohol beverages - club licensees - commingling alcohol beverages purchased for a special event with alcohol beverages in inventory. The act authorizes a person with a club license (licensee) that allows the sale of alcohol beverages by the drink to members of the club and their guests for consumption on the premises of the club to commingle any alcohol beverages purchased by the licensee for the purpose of a special event with alcohol beverages in the licensee's inventory.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1027 Alcohol beverages - authorization for takeout and delivery - appropriation. Colorado law authorizes certain license holders, who normally offer alcohol beverages for consumption on the licensed premises, to offer takeout and delivery of alcohol beverages, but this authorization was scheduled to repeal on July 1, 2021. The act delays the repeal until July 1, 2025; except that manufacturers who have a sales room may continue to deliver alcohol beverages only until January 2, 2022.

The act limits the times that an alcohol beverage may be sold for takeout or delivery from 7 a.m. to midnight. The amounts of alcohol beverages that may be sold for delivery or takeout are increased:

- From 750 milliliters to 1,500 milliliters of vinous liquors;
- From 72 fluid ounces to 144 fluid ounces of malt liquors, fermented malt beverages, and hard cider; and
- From 750 milliliters to one liter of spirituous liquors.

The act also creates a communal outdoor dining area program. The program allows multiple licensees to attach to the area and serve alcohol beverages to the diners in the area. A licensee may attach to the area only if the licencee's premises are within 1,000 feet of the area. The area and attachment must be approved by both the local and state licensing authorities, who may charge a fee for the approval. The following licensees may attach to an area:

- Tavern;
- Hotel and restaurant;
- Brew pub;
- Distillery pub;
- Vintner's restaurant;
- Beer and wine licensee;

- Manufacturer that operates a sales room;
- Beer wholesaler that operates a sales room;
- Limited winery;
- Lodging and entertainment facility;
- Optional premises; or
- Fermented malt beverage retailer licensed for consumption on the premises.

For the 2021-22 state fiscal year, $63,274 is appropriated for use by the liquor and tobacco enforcement division to implement the act.

APPROVED by Governor June 22, 2021 **EFFECTIVE** June 22, 2021

H.B. 21-1044 Wineries - licensed premises - noncontiguous locations - applications - rules - appropriation. The act allows a winery that holds a manufacturer's or limited winery license to maintain licensed premises comprising up to 2 noncontiguous locations within a 10-mile radius. The department of revenue must approve an application for the use of a proposed noncontiguous location if the alcohol and tobacco tax and trade bureau of the United States department of the treasury has approved the description and diagram of the premises at that location, subject to proof of compliance with local codes and zoning requirements. Application and renewal fees are to be established by rule, subject to a limit of $500 per location.

Any additional noncontiguous locations that fall outside the approved boundaries of an entertainment district or a common consumption area are excluded from that district or area, and any noncontiguous location that is to be used as a sales room is subject to individual approval for use as a sales room. Only one sales room may be located at a noncontiguous location.

To implement the act, $13,247 is appropriated from the liquor enforcement division and state licensing authority cash fund to the department of revenue for use by the liquor and tobacco enforcement division.

APPROVED by Governor May 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1132 Limited gaming - local government limited gaming impact fund - clarification of authorized distributions. The act clarifies the authorized distributions from the local government limited gaming impact fund by:

- Specifying that "documented gaming impacts" should be for negative impacts and defining that phrase;
- Requiring grant awards to be prioritized for:
  - Eligible local governmental entities that have lower property values compared to all eligible local governmental entities; or prioritized for eligible local governmental entities located in counties with lower property values compared to the property values of all counties that are eligible local governmental entities. If an eligible local governmental entity has a jurisdictional boundary that includes more than one county,

then the prioritization for that eligible local governmental entity is established based on the county in which the eligible local governmental entity's administrative offices are located; and
    - Based on a methodological approach that incorporates a weighted decision matrix which includes community and impact scoring;
- Defining "property values" as the sum of the actual value of all property, including the actual value of all tax-exempt property, as of December 31 of the prior year;
- Requiring documented negative gaming impacts to be explicitly identifiable;
- Defining "negative impacts"; and
- Allowing grants from the gambling addiction account to be used to provide gambling addiction treatment training to staff at nonprofit community mental health centers or clinics; this is in addition to the current authorized use for gambling addiction counseling services to Colorado residents.

APPROVED by Governor May 24, 2021 **EFFECTIVE** May 24, 2021

H.B. 21-1178 Marijuana code - technical fixes. The act corrects citations in the marijuana code and grammatical and wording issues.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1301 Marijuana and hemp regulation - cross-pollination working group - marijuana laws working group - contingency plans for adverse weather events - appropriation. Section 1 of the act defines "cross-pollination", "licensed outdoor marijuana cultivation", "outdoor cultivation", "registered outdoor hemp cultivation", and "volunteer cannabis plant" in connection with the convening of a working group in section 2 to examine measures to minimize cross-pollination between cannabis plants, which working group is required to report its findings and recommendations on or before November 1, 2022, to the legislative committees with jurisdiction over agricultural matters.

Section 4 requires the state licensing authority created to regulate and control the licensing of the cultivation, manufacture, distribution, sale, and testing of regulated marijuana to convene a working group on or before November 1, 2021, to examine existing rules and tax laws that apply to the wholesale marijuana cultivation market to explore how the rules and laws could be amended to better position Colorado businesses to be competitive if marijuana is legalized federally. The working group is required to report its findings and recommendations to the executive director of the department of revenue and the general assembly on or before June 1, 2022.

Section 5 authorizes the state licensing authority to engage in rule-making on:

- The implementation, including the process, procedures, requirements, and restrictions, of contingency plans for outdoor marijuana cultivation facilities to ameliorate crop loss due to adverse weather; and
- Procedures for the conditional issuance of an employee license identification card.

Sections 6 and 7 authorize medical marijuana cultivation and retail marijuana cultivation facility licensees with outdoor cultivation facilities, starting January 1, 2022, to file with the state licensing authority a contingency plan for when there is a threat to operations due to an adverse weather event and, if approved, to follow the plan if there is an adverse weather event. The state licensing authority is required to notify a local licensing authority of its approval of a contingency plan and the local licensing authority may require that an applicant for a license include with the license application a contingency plan for the local licensing authority's review and approval.

Section 3 defines "adverse weather event" to mean damaging weather, such as drought, freeze, hail, excessive moisture, excessive wind, or tornado, an adverse natural occurrence, such as an earthquake, wildfire, or a flood, or any additional adverse weather event or adverse natural occurrence that the state licensing authority defines by rule.

For the 2021-22 state fiscal year, the act appropriates:

- $104,780 from the industrial hemp registration program cash fund and the marijuana tax cash fund to the department of agriculture for agricultural services for the plant industry division and to purchase legal services, with $21,268 of said amount reappropriated to the department of law for the provision of legal services; and
- $279,194 from the marijuana cash fund to the department of revenue for use by the specialized business group for marijuana enforcement and for the purchase of legal services, with $31,902 of said amount reappropriated to the department of law for the provision of legal services.

APPROVED by Governor June 23, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

STATUTES

S.B. 21-68 Enactment of Colorado Revised Statutes 2020. The act enacts the softbound volumes of the Colorado Revised Statutes 2020, the 2020 Colorado Special Supplement of Voter Approved Changes, and the 2020 Colorado Special Session Supplement as the positive and statutory law of the state of Colorado and establishes the effective date of said publication.

APPROVED by Governor March 25, 2021 **EFFECTIVE** March 25, 2021

TAXATION

S.B. 21-19 Property tax - notices of valuation - authority to mail on postcard. The act allows assessors to mail abbreviated notices of valuation on a postcard for property tax purposes, and specifies the minimum information that must be included on the postcard.

The act applies to notices of valuation required to be mailed no later than May 1, 2021.

APPROVED by Governor March 21, 2021 **EFFECTIVE** March 21, 2021

S.B. 21-20 Property tax - valuation - energy storage systems - renewable energy facilities - income approach. The act ensures that clean energy resources and energy storage systems used to store electricity are assessed for valuation for the purpose of property taxation in a similar manner to renewable energy facility property used to generate and deliver electricity. The act also modifies the income approach for certain renewable energy facilities by extending the"tax factor" from a 20-year period to a 30-year period. It also specifies that after the 20- or 30-year period, as applicable, a tax factor is not applied and the taxable value shall not exceed the depreciated value floor calculated using the cost basis method. The administrator is also required to utilize the income approach for solar energy facilities that generate 2 megawatts or less, so that similar facilities will be valued in the same manner.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-65 Gasoline and special fuels tax - disclosure of information - gasoline distributors. The act allows the executive director of the department of revenue to disclose information relevant to an assessment of a gasoline distributor for the failure to make the required sworn statement and pay the tax for any calendar month or for a gasoline distributor filing an incorrect or fraudulent statement or return for any calendar month. The executive director may only disclose this information to taxpayers with cases involving common or related issues of fact or law. Taxpayers are limited in the use and disclosure of this information.

The act also requires, upon written request by a local government official, a gasoline distributor to disclose certain records to local government officials related to an alleged violation of the administration of the gasoline and special fuels tax.

APPROVED by Governor March 21, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-130 Property tax - business personal property exemption - local authority. The act allows counties, municipalities, and special districts to exempt up to 100% of business personal property from the levy and collection of property taxation for the 2021 property tax year.

APPROVED by Governor April 29, 2021 **EFFECTIVE** April 29, 2021

S.B. 21-145 Income tax - tax check-offs - extension. The voluntary contribution to the Colorado healthy rivers fund, the Alzheimer's Association fund, the military family relief fund, the Colorado cancer fund, the Make-A-Wish Foundation of Colorado fund, and the unwanted horse fund are currently scheduled to appear on the state income tax return form for income tax years beginning prior to January 1, 2021. The act reauthorizes the funds to remain on the form, so long as the funds meet the existing statutory requirement that a voluntary contribution fund must receive at least $50,000 in contributions each tax year.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

S.B. 21-281 Severance tax - allocation - study - metropolitan district reimbursement to state. Currently, 50% of state severance tax revenues are deposited into the severance tax trust fund, which is then typically split between the severance tax perpetual base fund (perpetual base fund) and the severance tax operational fund (operational fund). Money in the operational fund is currently used for core departmental programs and, if there are sufficient available revenues, for transfers to funds that support natural resources and energy grant programs (grant program transfers). The act repeals the grant program transfers, with some, but not all, of the recipient programs receiving alternative funding from severance tax revenues.

Subject to annual appropriation, the Colorado water conservation board is authorized to direct the state treasurer to transfer money from the perpetual base fund to the water supply reserve fund, the interbasin compact committee operation fund, and the water efficiency grant program cash fund, all of which previously received grant program transfers. The general assembly is authorized to directly appropriate or transfer money into the perpetual base fund and the water supply reserve fund.

If less than 100% of the money available in the operational fund is used for the current core departmental programs, then, the general assembly may appropriate money from the operational fund to the species conservation trust fund, the division of parks and wildlife aquatic nuisance species fund, and the conservation district grant fund, all of which previously received grant program transfers. The transfers from the operational fund are subject to the same limits that they had as grant program transfers. On June 30, 2021, and July 1, 2022, the state treasurer is required to transfer $9,456,005 from the general fund to the operational fund.

The director of the office of state planning and budgeting and the executive directors of the departments of revenue, natural resources, education, and local affairs, or their designees, are required to review and analyze various elements of the state severance tax and submit written recommendations for any changes to the joint budget committee. Stakeholders will be involved in the process and may submit responsive comments to the recommendations.

The act also requires metropolitan districts created after July 1, 2021, to annually pay the state an amount equal to the total of all severance tax ad valorem credits claimed for

property taxes that are imposed by the metropolitan district. This money will be allocated like severance tax revenues.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

Note: Certain provisions are contingent on Senate Bill 21-189 and House Bill 21-1242 becoming law. Both Senate Bill 21-189 and House Bill 21-1242 were signed by the governor on June 24, 2021, and became law.

S.B. 21-293 Property tax - residential property - nonresidential property - agricultural property, lodging property, renewable energy production property, and multi-family residential real property - classification for valuation of assessment - assessment rates. The act repeals a moratorium on changing a ratio for valuation for assessment (assessment rate), which is the percentage applied to a property's actual value to determine the taxable amount upon which a mill levy is imposed and classifies agricultural property, lodging property, and renewable energy production property as new subclasses of nonresidential property for purposes of the valuation for assessment. The assessment rate for agricultural property and renewable energy production property is temporarily reduced from 29% to 26.4% for the next 2 property tax years. The law is restructured so that, if an initiated measure to reduce the assessment rate for nonresidential property is approved by voters, then it would only apply to lodging property.

Multi-family residential real property is classified as a new subclass of residential real property. The law is restructured so that, if an initiated measure to reduce the residential assessment rate is approved by voters, then it would only apply to multi-family residential real property. If the initiated measure fails or is not on the ballot, then, the assessment rate for multi-family residential real property is temporarily reduced from 7.15% to 6.8% for the next 2 property tax years. The assessment rate for all residential real property other than multi-family residential real property is temporarily reduced from 7.15% to 6.95% for the next 2 property tax years.

The property tax deferral program is expanded to allow any person to defer the payment of the portion of real property taxes that exceed the tax-growth cap, which is an amount equal to the average of the person's real property taxes paid for the preceding 2 property tax years for the same homestead, increased by 4%. The minimum amount a taxpayer may defer at one time under this authorization is $100, and the total taxes that a taxpayer may defer is $10,000. The taxpayer is treated like a person called into military service for purposes of surviving-spouse eligibility and the equity the person must have in the homestead to qualify for a deferral.

The governor's office, in consultation with the treasurer, is required to commission a study on the property tax deferral program and make recommendations for possible changes to the general assembly by January 1, 2022.

Assessors are required to include information about the assessment rates that apply to the various classes of property, which is prepared by the property tax administrator, along with the notices of valuation that are sent in 2022 or make this information available on the assessor's website.

Finally, the act makes conforming amendments related to the new classifications or

assessment rates.

APPROVED by Governor June 23, 2021 **EFFECTIVE** June 23, 2021

Note: Certain provisions are contingent on the results a measure concerning property tax reductions being either approved or not approved by a majority of voters at the November 2021 statewide election.

H.B. 21-1002 Income tax - subtractions from federal taxable income - expansion of the earned income tax credit - appropriation. Sections 1 and 3 of the act restore, over time, certain business deductions to federal taxable income that were disallowed in Colorado by operation of a department of revenue rule and by House Bill 20-1420. The specific deductions are related to net operating losses, the application of the federal excess business loss rules, interest expenses, and qualified improvement property.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. Section 2 allows taxpayers filing with an individual taxpayer identification number to claim the earned income tax credit for income tax years commencing on or after January 1, 2020.

APPROVED by Governor January 21, 2021 **EFFECTIVE** January 21, 2021

H.B. 21-1061 Property tax - residential real property - classification of a contiguous, identically owned parcel. The act modifies the definition of the term "residential land" for the purpose of property tax classification. Currently, a parcel of land without a residential improvement is classified as residential land if it is contiguous with a parcel of land under common ownership upon which a residential improvement is located and if it is used as a unit in conjunction with the residential improvements located thereon. The act modifies classification for this type of parcel by:

- Requiring the parcel to have the identical owner as the adjacent parcel based on the record title;
- Requiring the parcel to have a related improvement that is essential to the use of a residential improvement located on the identically owned contiguous residential land; and
- Specifying that contiguity in this instance is not interrupted by an intervening local service street, alley, or common element in a common-interest community.

The act also removes from the definition parcels of land in a residential subdivision, the exclusive use of which land is established by the ownership of such residential improvements.

APPROVED by Governor April 27, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1083 Taxable property valuation - valuation appeal. Under current law, when a property owner appeals the valuation of property set by a county board of equalization, the valuation may not be increased on appeal. The act removes this restriction.

APPROVED by Governor April 7, 2021 **EFFECTIVE** April 7, 2021

H.B. 21-1153 Income tax - enterprise zones - child care contribution credit. The act repeals the enterprise zone child care contributions income tax credit that was available for income tax years commencing prior to January 1, 1999.

APPROVED by Governor May 10, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1154 Income tax - in-kind child care contribution credit. House Bill 00-1351, enacted in 2000, removed the provision permitting a child care contribution income tax credit for an in-kind contribution. Accordingly, the act removes all references in the statute to an in-kind contribution. The act also repeals an obsolete provision that was only applicable to the income tax year that commenced on or after January 1, 1999, but prior to January 1, 2000.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1155 Sales and use tax - defects and anachronisms in statute. Section 1 of the act changes the cross references to certain definitions related to bingo that were relocated as a result of Senate Bill 17-232. The statutory references were not correctly changed for purposes of the bingo equipment sales and use tax exemption. This section addresses that defect.

Section 2 removes the words "low-emitting" from the description of a sales tax exemption because the exemption is no longer conditioned on the motor vehicle being "low-emitting".

Section 3 corrects a missed conforming amendment. House Bill 20-1023 provided for the conditional repeal of section 39-26-105.3 to be effectively replaced with section 39-26-105.2. Section 39-26-204.5, a use tax statute, makes reference to section 39-26-105.2 but a conforming amendment to that section was not included in House Bill 20-1023. Section 3 adds the same conditional repeal to the use tax statute and provides the same hold harmless for retailers as is provided in section 39-26-105.2.

Section 4 addresses an anachronism in the sales tax statutes by repealing section 39-26-110. That statute specifies that a retailer doing business in 2 or more locations in Colorado may file one return that will cover all business locations. This statute was added as part of the "Emergency Retail Sales Tax Act of 1935" and has not been amended since, only moved around. With the advent of home rule taxing jurisdictions that can collect and administer their own sales and use tax, it is no longer possible that retailers doing business

in more than one location in Colorado can file only one return to report all sales and use taxes collected because the department of revenue no longer administers all sales and use taxes in the state.

Section 5 addresses a defect in the sales tax statute by updating the statutory reference for the definition of "food" for purposes of a sales tax exemption for certain types of food. The definition of food is no longer located in 7 U.S.C. sec. 2012 (g). It is better to include a more general cross reference to all of 7 U.S.C. sec. 2012 instead of the specific subsection (g), which is now incorrect. A more general reference allows for later amendments to that section.

APPROVED by Governor May 7, 2021 **EFFECTIVE** May 7, 2021

H.B. 21-1156 Oil and gas withholding - fixing defects. Under current law, a producer or purchaser is required to withhold an amount from each disbursement made to an interest owner in any oil and gas produced in the state and pay this amount to the department of revenue. The act fixes defects related to this law by:

- For purposes of electronic payments, replacing a cross-reference to a repealed subsection with a reference to the current statutory requirement;
- Expanding the defined term "producer" to be "producer or purchaser" to eliminate a redundancy in the law; and
- Repealing extraneous references to "oil shale" from the definition.

The act also repeals obsolete filing requirements that applied prior to July 1, 2007.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1157 Department of revenue - scope of department administration. Section 39-21-102 accurately specifies the scope and applicability of article 21 of title 39 and establishes all the taxes that the department of revenue is responsible for administering. However, sections 39-21-119 and 39-21-120 attempt to reference similar lists of taxes in order to specify authorized methods of filing and paying the taxes. Unfortunately, some of the tax types are omitted in these sections, making these sections defective. The act removes the references to the tax types in sections 39-21-119 and 39-21-120 so that section 39-21-102 controls instead.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1158 Sales and use tax - agriculture and livestock - farm equipment and special fuels. The act removes an unused definition of "agricultural compounds" and a redundant reference to a sales and use tax exemption for poultry and livestock. The act also reorganizes

special fuel and farm equipment sales and use tax exemptions so that they are in the same location.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1177 Sales and use tax - add corresponding use tax exemptions to certain existing sales tax exemptions. All of the current law sections presented in the act provide sales tax exemptions for specific items. None of the sales tax exemptions in the act authorize corresponding use tax exemptions. As a result, an item could conceivably become subject to use tax the instant the tax-exempt sale occurs. Most statutory sales tax exemptions have corresponding use tax exemptions to prevent this. Consequently, the act addresses defects in statute by clarifying that an item that is subject to a sales tax exemption is actually exempt from both sales and use tax and makes those statutory sections compatible with the fundamental principles of use tax and Colorado supreme court decisions on the subject.

APPROVED by Governor April 22, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1265 Sales tax - temporary deduction from state net taxable sales for qualifying retailers - COVID-19 relief - extension - expansion of qualifying retailers. The act continues for June 2021, July 2021, and August 2021 a temporary deduction from state net taxable sales for qualifying retailers in the alcoholic beverages drinking places industry, the restaurant and other eating places industry, and the mobile food services industry in the state in order to allow such qualified retailers to retain the resulting sales tax collected as assistance for lost revenue as a result of the economic disruptions due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

The act also expands the definition of qualifying retailers to include those in the catering industry, the food service contractors industry, and the hotel-operated restaurant, bar, or catering service.

APPROVED by Governor June 14, 2021 **EFFECTIVE** June 14, 2021

H.B. 21-1267 Property tax - board of county commissioners - certification of mill levies. After receipt of the amounts to be levied against taxable property in the county, the board of county commissioners or other taxing authority (BOCC) is required to hold a formal hearing and to certify such levies to the county assessor. The act gives the BOCC the option to authorize the levies by written approval rather than by formal hearing and to delegate the certification process to staff or other authorized parties.

APPROVED by Governor June 18, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1312 Insurance premium tax - property tax - sales and use tax - severance tax - modifications. To be deemed to maintain a home office or regional home office and pay the insurance premium tax at a rate of 1%, the act requires a company to have a minimum percentage of its total domestic workforce in the state. This percentage is 2% for 2022, 2.25% for 2023, and 2.5% for 2024 and thereafter. The act also narrows the tax exemption for annuities considerations. For the purpose of auditing a company's tax statement, the commissioner of insurance may appoint an independent examiner to conduct an examination on behalf of the commissioner.

For purposes of imposing the property tax, the act specifies that the actual value of real property reflects the value of the fee simple estate and the actual value of personal property is determined based on the property's value in use, which will be defined by the property tax administrator. The act also increases the per schedule exemption for business personal property from $7,900 to $50,000, adjusted for inflation, and the state is required to reimburse local governments for lost property tax revenue caused by the increase. Assessors are required to provide an estimate of the exempt business personal property along with the certifications to local governments.

The state sales and use tax is imposed on the sale and use of tangible personal property. The act codifies the department of revenue rule that the definition of "tangible personal property" includes "digital goods" and specifies that the state sales tax applies to amounts charged for mainframe computer access, photocopying, and packing and crating. Beginning January 1, 2022, a retailer whose total taxable sales were greater than $1 million for a filing period is not permitted to retain any portion of the sales and use tax collected as compensation for the retailer's tax-collection expenses.

The act limits the allowable deductions, which are used to determine the taxable amount of oil and gas subject to the severance tax, to direct costs actually paid or accrued by the taxpayer for those purposes. Beginning with the 2022 taxable year, the act phases out the quarterly exemption and the tax credits for the severance tax on coal. The additional revenue that results from changes to the coal severance tax is credited to the just transition cash fund.

APPROVED by Governor June 23, 2021 **PORTIONS EFFECTIVE** July 1, 2021
PORTIONS EFFECTIVE January 1, 2022

H.B. 21-1327 Income tax - pass-through entities - authority to elect to pay state income tax at the entity level. The 2017 federal "Tax Cuts and Jobs Act" placed a cap of $10,000 on the amount of state and local taxes paid that an individual can deduct on their federal taxes. This limitation did not apply to C corporations. Consequently, businesses organized as pass-through entities like S corporations and partnerships pay increased taxes on business profits compared to C corporations because pass-through entities pay taxes on business profits at the individual (partner or shareholder) level.

For income tax years commencing on or after January 1, 2022, the act allows pass-through entities to elect to pay their state income tax at the entity level so that the pass-through entity can claim an unlimited deduction at the federal level of state and local taxes paid; except that the election is only allowed in an income tax year where there is a limitation on the deductions allowed to individuals under section 164 of the internal revenue code.

While this reduces federal taxable income for the pass-through entity, it does not reduce Colorado taxable income because, under current law, the individual and the partnership are required to add back any state and local taxes deducted at the federal level.

The act adds an appropriation for the department of revenue to implement the taxpayer's election to pay their state income tax at the entity level.

APPROVED by Governor June 23, 2021 **EFFECTIVE** June 23, 2021

TRANSPORTATION

S.B. 21-260 Transportation system funding, planning, and electrification - general fund and federal fund transfers - retail delivery, per ride, road usage, bridge and tunnel impact, and electric motor vehicle fees - creation and expansion of enterprises and branches of department of transportation - state spending cap restoration - required consideration of environmental impacts of transportation capacity projects - transportation planning organization powers - studies and reports - appropriations - severability. The act creates new sources of dedicated funding and new state enterprises to enable the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system by preserving, improving, and expanding existing transportation infrastructure, developing the modern infrastructure needed to support the widespread adoption of electric motor vehicles, and mitigating adverse environmental and health impacts of transportation system use as follows:

- Section 6 of the act creates the community access enterprise within the Colorado energy office (CEO) for the purpose of supporting the widespread and equitable adoption of electric motor vehicles and electric alternatives to motor vehicles in an equitable manner. The community access enterprise is authorized to impose a community access retail delivery fee to fund its business purpose. The governance and powers and duties of the community access enterprise are specified.
- Section 7 transfers money from the federal coronavirus state fiscal recovery fund (FCSFRF) and the general fund as follows:
    - From the FCSFRF on June 30, 2021:
        - $182,160,000 to the state highway fund (SHF), $22,160,000 of which is dedicated to the revitalizing main streets program of the department of transportation (CDOT) and $500,000 of which is dedicated to acquire, plan the development of, or develop the Burnham Yard rail property in Denver;
        - $161,340,000 to the multimodal transportation and mitigation options fund (MTMOF); and
        - $36,500,000 to the highway users tax fund (HUTF).
    - From the general fund on July 1, 2021, $170,000,000 to the SHF;
    - From the general fund on each July 1 from July 1, 2024, through July 1, 2031:
        - $10,500,000 to the MTMOF; and
        - $7,000,000 to the SHF for the revitalizing main streets program;
    - From the general fund on each July 1 from July 1, 2024, through July 1, 2028, $100,000,000 to the SHF, with $10,000,000 of each transfer required to be spent by CDOT solely to mitigate the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas by funding projects that reduce vehicle miles traveled or that directly reduce air pollution;
    - From the general fund on each July 1 from July 1, 2029, through July 1, 2031, $82,500,000 to the SHF; and
    - From the general fund on June 30, 2022, and, to the extent necessary,

on each June 30 thereafter through June 30, 2026, until a total amount of $115,000,000 has been transferred, the lesser of 50% of all additional revenue retained by the state due to the restoration of the excess state revenues cap (Referendum C cap) by section 8 or $115,000,000.

- Section 8 restores the Referendum C cap, which the general assembly reduced in 2017, to its maximum voter-approved level.
- Section 11 creates the clean fleet enterprise within the department of public health and environment (CDPHE) for the business purpose of incentivizing and supporting the use of electric motor vehicles and other clean fleet technologies by owners and operators of motor vehicle fleets. The clean fleet enterprise is authorized to impose a clean fleet retail delivery fee to be paid by the purchaser of tangible personal property delivered to the purchaser by motor vehicle and a clean fleet per ride fee to be paid by a transportation network company (TNC) on each ride offered and accepted by the TNC to fund the clean fleet enterprise's business purpose. The governance and powers and duties of the clean fleet enterprise are specified.
- Section 25 requires the department of revenue (DOR) to collect the per ride fees imposed by the clean fleet enterprise and the nonattainment area air pollution mitigation enterprise as authorized by sections 11 and 52. Both fees are first imposed for rides offered and accepted in state fiscal year (FY) 2022-23 and are annually adjusted for consumer price index (CPI) inflation thereafter.
- Section 26 indexes the existing $50 registration fee imposed on electric motor vehicles to national highway construction cost index (NHCCI) inflation and imposes additional electric motor vehicle road usage equalization fees on battery electric motor vehicles at a specified level and on plug-in hybrid electric motor vehicles at a lower level, with both additional fees being phased in on a set schedule from state FYs 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation. Section 26 also imposes a commercial electric motor vehicle fee. The increase and new fee revenue is credited to the HUTF for allocation to the state, counties, and municipalities; except that 40% of the revenue generated by inflation indexing of the existing $50 registration fee is credited to the electric vehicle grant fund and 30% of the revenue generated by the commercial electric motor vehicle fee is credited to the SHF for freight-related projects. In 2026, specified executive agencies must jointly review the fees and make recommendations to the transportation legislation review committee of the general assembly as to whether the fees should be adjusted or whether fees should also be imposed on hydrogen fuel cell motor vehicles to ensure continued equalization of the average aggregate amount of registration fees and motor fuel charges annually paid by owners of electric motor vehicles and owners of motor vehicles powered exclusively by internal combustion engines.
- Section 35 imposes road usage fees on gasoline and diesel purchases that are phased in from state FYs 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation, with the road usage fees also being adjusted beginning in state FY 2032-33 in a manner calculated to generate the same amount of additional revenue as would be generated by indexing the existing state excise taxes imposed on gasoline and diesel to construction cost inflation. The fee revenue is credited to the HUTF for allocation to the state, counties, and municipalities.

- Section 35 also imposes a retail delivery fee on retail deliveries by motor vehicle that include tangible personal property subject to the state sales tax, requires the fee to be collected from the purchaser by the retailer, and requires simultaneous collection of community access, clean fleet, bridge and tunnel, clean transit, and air pollution mitigation retail delivery fees imposed, respectively, by the community access, clean fleet, statewide bridge and tunnel, clean transit, and nonattainment area air pollution mitigation enterprises. The fees are first collected in state FY 2022-23 and are annually adjusted for CPI inflation thereafter. Retail delivery fee revenue is credited to the HUTF for allocation to the state, counties, and municipalities and to the MTMOF and each enterprise's retail delivery fee revenue is collected by DOR on behalf of and credited to the cash fund controlled by the enterprise.
- Sections 45, 46, and 48 change the name of the statewide bridge enterprise to the statewide bridge and tunnel enterprise, authorize the enterprise to complete tunnel projects, and authorize the enterprise to impose a bridge and tunnel impact fee on diesel fuel and a bridge and tunnel retail delivery fee to fund its business purpose. The bridge and tunnel impact fee is phased in from state FYs 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation.
- Section 47 indexes the existing $2 short-term daily vehicle rental fee to CPI inflation and, on or after July 1, 2022, requires a car sharing program to collect the daily vehicle rental fee for any short-term vehicle rental of 24 hours or longer that is enabled by the car sharing program.

- Sections 49 through 51 change the name of the multimodal transportation options fund to the MTMOF and classify greenhouse gas mitigation projects as multimodal projects eligible for MTMOF funding. Section 51 also requires $12,000,000 to be transferred, on July 1, 2021, from the MTMOF to the southwest chief rail line economic development, rural tourism, and infrastructure repaired and maintenance fund to provide additional funding for the southwest chief La Junta route restoration program and an additional $2,500,000 to be transferred from the MTMOF to that fund on February 15, 2022. On and after October 1, 2022, unless CDOT has adopted implementing guidelines and procedures that require it and metropolitan planning organizations to take additional steps in the planning process for regionally significant transportation capacity projects to account for impacts on statewide greenhouse gas pollution and statewide vehicle miles traveled as required by section 30, section 51 also limits the use of money credited to the MTMOF from some of the general fund transfers made pursuant to section 7 and from the retail delivery fee pursuant to section 35 to multimodal projects that will help bring CDOT's 10-year vision plan or, in specified circumstances a metropolitan planning organization's regional transportation plan, into compliance with section 30 requirements.
- Section 52 creates the clean transit enterprise within CDOT for the business purpose of supporting clean public transit through electrification planning efforts, facility upgrades, fleet motor vehicle replacement, and construction and development of associated electric motor vehicle charging and fueling infrastructure. The clean transit enterprise is authorized to impose a clean transit retail delivery fee of up to a specified amount to fund its business purpose. The governance and powers and duties of the clean transit enterprise are specified. Section 52 also creates the nonattainment area air pollution mitigation enterprise for the purpose of mitigating transportation-related emissions in ozone nonattainment areas. The nonattainment area air pollution

mitigation enterprise is authorized to impose air pollution mitigation per ride and retail delivery fees to fund its business purpose. The governance and powers and duties of the clean transit enterprise are specified.

Section 1 makes legislative findings and declarations that explain the purpose of the act and the reasons why it includes the new sources of dedicated funding and new state enterprises that it does. Section 2 clarifies that an existing fee may be used to fund the functions of the freight mobility and safety branch created in section 29. Sections 3 and 4 respectively clarify that the clean fleet enterprise operates as a **type 1** agency within CDPHE and that the clean transit enterprise and the nonattainment area air pollution mitigation enterprise operate as type 1 agencies within CDOT.

Section 5 requires the CEO and CDPHE, after consultation with CDOT, to jointly and annually prepare a report for specified legislative committees that details the progress made toward the electric motor vehicle adoption goals set forth in the "Colorado Electric Vehicle Plan 2020" and the transportation sector greenhouse gas pollution reduction goals set forth in the "Colorado Greenhouse Gas Pollution Reduction Roadmap". Section 5 also specifies a methodology to be used by the CEO, CDOT, and CDPHE to estimate the social costs of greenhouse gas pollution.

Sections 9, 34, 44, and 53 effectuate the repeal of the requirement that a ballot question seeking approval for the issuance of transportation revenue anticipation notes be submitted to the voters of the state at the November 2021 statewide election.

Section 10 requires CDOT to comply with specified transparency and contractor short-listing requirements when using the integrated project delivery method of contract procurement for a public project that involves infrastructure that is part of the state highway system. Section 14 clarifies that sales and use tax is not levied on the retail delivery fees imposed by or as authorized by the act. Sections 16 through 21 provide legal authority for collection under an existing multistate agreement of the motor fuel road usage and bridge and tunnel impact fees imposed by or as authorized by the act. Section 22 requires the staff of the public utilities commission to prepare an authorized taxi carrier parity report.

Section 27 requires CDPHE to seek approval from the federal environmental protection agency to modify the state implementation plan to expand the exemption from emissions testing for new motor vehicles to 10 model years for internal combustion engine motor vehicles and 12 model years for plug-in hybrid electric motor vehicles and to implement any approved modifications within 12 months following the approval. Section 28 creates the environmental justice and equity branch in CDOT's engineering, design, and construction division and requires the branch to identify and address technological, language, and information barriers that may prevent disproportionately impacted communities from participating fully in transportation decisions that affect health, quality of life, and access for disadvantaged and minority businesses in project delivery. Section 29 creates the freight mobility and safety branch in CDOT's transportation development division for the purpose of planning, designing, and implementing programs and projects that enhance freight mobility and safety within the state.

Section 30 requires CDOT and metropolitan planning organizations to engage in an enhanced level of planning, analysis, community engagement, and air quality monitoring with respect to transportation capacity projects and specifies what that entails and also requires CDOT to conduct a road usage charge study and an autonomous vehicle study. Section 31 allows some of the general fund money transferred to the state highway fund

pursuant to section 7 to be used for multimodal transportation projects. Section 33 specifies the manner in which revenue credited to the HUTF as required by the act is allocated and expended.

Sections 36 through 43 authorize a transportation planning organization (TPO), subject to territorial restrictions and TPO member jurisdiction approval requirements, to exercise the powers of a regional transportation authority (RTA). Among other powers, the powers of a RTA include the power to impose various charges, fees, and, with voter approval, visitor benefit, sales, and use taxes to generate transportation funding for the purpose of financing, constructing, operating, and maintaining regional transportation systems. Any additional transportation funding obtained by a TPO exercising the power of a RTA is intended to supplement and not supplant state and federal transportation funding allocated within the boundaries of the TPO. Therefore, the transportation commission and CDOT are prohibited from taking such additional transportation funding into account when determining the amount of state and federal transportation funding to be allocated within the boundaries of a TPO, and CDOT, when submitting its annual proposed budget allocation plan, is required to provide evidence that the proposed allocation of state and federal transportation funding within the boundaries of any TPO that has obtained such additional transportation funding has not been reduced in any way on account of the additional transportation funding.

Section 47 reduces the amount of each road safety surcharge imposed on motor vehicle registration by $11.10 for registration periods beginning on or after January 1, 2022, but before January 1, 2023, and by $5.55 for registration periods beginning on or after January 1, 2023, but before January 1, 2024. Section 54 amends Senate Bill 21-205 (the FY 2021-22 general appropriations act) to correct an error and clarify that the electric vehicle grant fund is continuously appropriated to the CEO.

Section 55 funds the implementation of the act by making appropriations for FY 2021-22 as follows:

- $161,599,957 to CDOT, which includes $146,840,000 from the MTMOF for multimodal transportation projects, $14,500,000 from the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund for the southwest chief and front range passenger rail commission, and $259,957 from the SHF for administration;
- $1,702,187 from the general fund to CDPHE for use by the air pollution control division, which includes $1,669,333 for transfer to the clean fleet enterprise initial expenses fund, $23,449 for personal services related to mobile sources, and $9,405 for operating expenses related to mobile sources;
- $1,104,661 to DOR, which includes:
    - From the general fund: $412,200 for use by the division of motor vehicles for DRIVES system maintenance and support; $259,875 for use by the taxation business group for tax administration information technology system support; $231,020 for use by the taxation business group for personal services related to taxation services; $109,135 for use by the executive director's office for personal services related to administration and support; and $70,250 for use by the taxation business group for operating expenses related to taxation services; and
    - From the license plate cash fund, $22,181 for use by the division of motor vehicles for license plate ordering

- $504,583 of reappropriated funds, which includes $212,680 from CDPHE, $191,412 from CDOT, and $100,491 from office of the governor, to the department of law to CDOT, the governor's office, and CDPHE to provide legal services related to the implementation of the act to CDPHE, CDOT, and the governor's office; and
- $100,491 from the general fund to the energy fund, which is continuously appropriated to the CEO.

Section 57 specifies that the provisions of the act are severable so that if any provision or its application is held invalid, the invalidity does not affect any other provision or application of a provision that can be given effect without the invalid provision or application.

APPROVED by Governor June 17, 2021 **EFFECTIVE** June 17, 2021

Note: Certain provisions are contingent on Senate Bill 21-238 becoming law. Senate Bill 21-238 was signed by the governor June 30, 2021, and became law.

S.B. 21-265 General fund - transfer - state highway fund. On July 1, 2021, the state treasurer is required to transfer $124 million from the general fund to the state highway fund.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

H.B. 21-1066 Modification of monthly financial reporting requirements. The act modifies monthly financial reporting requirements for the department of transportation to:

- Require the department to include in the monthly report that it submits to the state controller:
  - Sufficient financial information for the controller to complete a review of legal overexpenditures, any deficit fund balances, and a budget to actual report for all budget lines within the annual general appropriations act; and
  - Any additional information that is deemed reasonable and necessary by the controller; and
- Require the department to submit a monthly budget report to the transportation commission of the expenditures made from each budget category and the unexpended and unencumbered balance of each budget subcategory and to make each report publicly available on the department's website.

APPROVED by Governor May 7, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1076 Carpooling service - registration with the department of transportation required - limitations on service - disclosure to passengers. The act requires the owner or operator of a carpooling service internet application (internet application) to register annually with the department of transportation. Owners or operators are also required to disclose to users of the internet application that carpooling service companies are not regulated by the

state; that the state does not conduct medical examinations, vehicle inspections, or insurance verification in relation to the provision of carpooling service; and that background checks on drivers might not be conducted. The act also requires that the amount that can be charged to a user through the internet application be reasonably calculated to cover the direct and indirect costs of providing carpooling service and limits the number of passengers that a driver providing carpooling service through the internet application may transport at any one time.

The act also limits each driver providing carpooling service to one trip per day and defines "carpooling service" as a trip that is at least 23 miles between pick-up and drop-off points or a trip to or from a ski area, regardless of distance.

APPROVED by Governor April 19, 2021 **EFFECTIVE** April 19, 2021

H.B. 21-1186 Regional transportation district - competitive contracts for vehicle service - farebox recovery ratios - developments at district facilities - parking at district facilities. The act amends provisions related to the operation of the regional transportation district (district), including:

- Amending a cap on the amount of all vehicular service the district can allow to be provided by third parties under competitive contracts to be measured by platform time or its equivalent;
- Expanding the types of entities the district can contract with to include nonprofit organizations and local government;
- Repealing farebox recovery ratio requirements and requiring the district to include in its annual financial reports information on annual operating costs, ridership numbers, and operating costs divided by ridership as a measure of the cost efficiency of its services;
- Repealing a limitation on developments that would reduce parking at a facility or result in a competitive disadvantage to private businesses near the facility; and
- Repealing limitations on the district's authority to charge fees and manage parking at district parking facilities.

APPROVED by Governor May 24, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

H.B. 21-1196 Transportation funding - correction of error that could have led to unintended issuance of certificates of participation. In 2017, the general assembly (GA) enacted Senate Bill 17-267, which required the state treasurer to issue up to $500 million of lease-purchase agreements (COPS) in each of the 2018-19, 2019-20, 2020-21, and 2021-22 state fiscal years for the purpose of funding transportation projects. Subsequently, in a series of 4 bills, the GA referred a statewide ballot issue, initially at the November 2019 statewide election but thereafter twice modified and delayed until the 2021 statewide election, that, if approved, would have authorized the state to issue transportation revenue anticipation notes (TRANs) for the purpose of funding transportation projects and prevented the issuance of the state fiscal year 2021-22 COPS.

The GA intended that, upon approval of the ballot issue, the TRANs authorized would replace the unissued COPS as a source of funding for transportation projects. The act amends the effective date clause of one of the 4 bills to prevent the unintended consequence, resulting from the interplay of the bill with another one of the 4 bills, that TRANs could be authorized without preventing the issuance of the state fiscal year 2021-22 COPS. However, the act has no practical effect because Senate Bill 21-260 repealed the requirement that a statewide ballot issue seeking authorization for the issuance of TRANS be referred to the voters at the 2021 statewide election.

VETOED by Governor July 2, 2021

WATER AND IRRIGATION

S.B. 21-234 Department of agriculture - drought resiliency - fund - appropriation. The act creates the agriculture and drought resiliency fund (fund), directs the state treasurer to transfer $3 million from the general fund to the fund, and appropriates the money from the fund to the department of agriculture (department). The department will use the fund to anticipate, prepare for, mitigate, adapt to, or respond to any event, trend, or climatological disturbance related to drought or climate. The department will distribute $15,000 from the fund to each conservation district by July 1, 2021. The fund is repealed, effective September 1, 2022.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

S.B. 21-240 Colorado water conservation board construction fund - watershed restoration program - appropriation. The act transfers $30 million from the general fund to the Colorado water conservation board construction fund and appropriates the money for use by the Colorado water conservation board (CWCB) to protect watersheds against the impacts of wildfires through the existing watershed restoration grant program and for conducting a statewide watershed analysis to investigate the susceptibility of life, safety, infrastructure, and water supplies to wildfire impacts. The CWCB can use up to 5% of the money to administer the grant program and up to 10% to provide technical engineering services to grantees. The CWCB is directed to:

- Spend up to $500,000 by December 31, 2022, to conduct the analysis; and
- Award at least $10 million dollars in grants under the grant program by July 1, 2022, and award the remaining money, less the money the CWCB uses to administer the grant program and provide technical engineering services, in grants by December 31, 2022.

APPROVED by Governor June 15, 2021 **EFFECTIVE** June 15, 2021

H.B. 21-1046 Mutual ditch corporations - distribution of water among stockholders. For a mutual ditch corporation, the act clarifies that, subject to the articles of incorporation and bylaws of the corporation:

- When stockholder demand exceeds supply, the corporation may limit or otherwise rotate delivery of water ratably among the stockholders; and
- When a stockholder is not using some of or all of the available water under the stockholder's shares, the remaining stockholders taking delivery of water through the ditch may use any unused portion of the water that would otherwise have been available to the first stockholder.

The act specifies that it is not intended to prevent a stockholder from changing the use of the water rights represented by the stockholder's shares, create any impediments to changes in use, affect storage water rights, or change the standards for water court approval to change a water right.

APPROVED by Governor May 20, 2021 **EFFECTIVE** September 7, 2021

NOTE: This act was passed without a safety clause. For further explanation concerning the

effective date, see page vi of this digest.

H.B. 21-1268 Measurement of water supplies and usage - emerging technologies - university studies - reports to general assembly - appropriations. The act declares that new technologies, such as blockchain, telemetry, improved sensors, and advanced aerial observation platforms, can improve monitoring, management, conservation, and allocation of water to fulfill obligations under Colorado water law and enhance confidence in the reliability of data underlying water rights transactions. To advance the potential use of these new technologies, the act:

- Authorizes and directs the university of Colorado and Colorado state university, in collaboration with the Colorado water institute at Colorado state university, to conduct feasibility studies and pilot deployments of these new technologies to improve water management in Colorado; and
- Appropriates $20,000 to each university from the general fund, contingent on the universities' receipt of a matching $40,000 in gifts, grants, and donations on or before June 1, 2022, for the purpose of funding the feasibility studies and pilot deployments.

The universities are directed to report on the amounts and sources of money received through gifts, grants, and donations and the purposes to which those amounts were devoted, on their websites, in any published reports produced by the universities, and in the annual "SMART Act" hearings held by the general assembly.

APPROVED by Governor June 18, 2021 **EFFECTIVE** June 18, 2021

Note: The appropriation section of the act takes effect only if the university of Colorado, Colorado state university, or both, certify in writing to the state controller that a total of at least $40,000 in gifts, grants, and donations has been received for the purposes of this act.