

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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Statutory Revision Committee (SRC)

7:30am, Tuesday, January 16, 2020

Senate Committee Room 352, State Capitol

SRC leadership change

Discussion of memos and bill drafts:

1. Align state financial aid statutes with current practice (*memo presented at October 2019 meeting*) *Drafter: Julie Pelegrin / LLS 20-0399*
2. Bills related to the Department of Revenue and Title 39
Drafter: Esther van Mourik
 - a. Amendments due to automatic repeal of tax credit / *LLS 20-0575*
 - b. Income tax statute modifications to address defects / *LLS 20-0827*
 - c. Sales tax statute modifications to address defects / *LLS 20-0828*
 - d. Enterprise zone statute fix defects / *LLS 20-0830*
 - e. Modify certain tax statutes to address defects / *LLS 20-0831*
3. Correction of S.B. 19-263 effective date clause
Drafter: Jason Gelender / LLS 20-0801
4. Relocate "Alternative Fuel" Definition
Drafter: Jennifer Berman / LLS 20-0897
5. Bills from the Tax Expenditure Evaluation Interim Study Committee
Drafter: Pierce Lively
 - a. Ending the income tax deduction for previously taxed income or gain for C corporations / *LLS 20-0565*
 - b. Ending the pre-1987 net operating loss deduction / *LLS 20-0566*
 - c. Repeal of the residents bordering states sales tax exemption / *LLS 20-0567*
 - d. Repeal of the nonprofit transit agency fuel tax exemption / *LLS 20-0568*
 - e. Repeal of the crop hail insurance premium tax exemption / *LLS 20-0569*
6. Concerning the method used to estimate non-fee revenue credited to a cash fund for the calculation of uncommitted reserves in the cash fund at the end of a fiscal year
Drafter: Nicole Myers / LLS 20-0913
7. Previously approved omnibus with numerous minor changes/repeals (*bill only*)
Drafter: Jane Ritter / LLS 20-0420

Further discussion

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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Julie Pelegren, Office of Legislative Legal Services

DATE: October 1, 2019

SUBJECT: Concerning changes to align state financial aid statutes with current practice

Summary

The statutes concerning student financial aid – section 23-3.3-101, et seq., C.R.S., – were originally enacted in 1979, and although they have been amended over the years, they do not reflect the current practice of appropriating money for student financial aid programs by line item and are ambiguous as to the duties and authority that the Colorado Commission on Higher Education (Commission) and the Department of Higher Education (CDHE) currently exercise in allocating student financial aid money to institutions of higher education.

Parts 1, 2, 3, 4, and 5 of article 3.3 and article 3.5 of title 23, C.R.S., may be amended or repealed to provide an accurate description of the existing powers, duties, and practices regarding the student financial aid program and to remove obsolete statutes. Amending and repealing some of these statutes would result in streamlining and reducing the statutes.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

The Joint Budget Committee staff brought this issue to the attention of the Joint Budget Committee, which requested the OLLS to prepare a bill draft for the Statutory Revision Committee's consideration. In reviewing the requested changes, the OLLS believes the changes may require significant policy decisions by the General Assembly, which may place this bill beyond the Statutory Revision Committee's charge to "modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions ...".²

It is the understanding of the OLLS staff that the Joint Budget Committee staff and staff from the CDHE have discussed these proposed changes and that the CDHE and the Commission do not support amending or repealing any portion of article 3.3 of title 23, C.R.S., or repealing article 3.5 of title 23, C.R.S.

Analysis

Under current law, part 1 of article 3.3 of title 23, C.R.S., generally authorizes the Commission to establish a program of financial assistance. Further, the statute requires the Commission to:

- Adopt guidelines for determining which institutions are eligible to participate in the program and annually allocate money to each institution;
- Provide information in its annual budget request for the proposed distribution of money among financial aid programs created in the remaining parts of article 3.3; and
- After the final appropriations, provide to the Joint Budget Committee a proposal for allocating the appropriations among the programs in the coming year.

Parts 3, 4, and 5 of article 3.3 of title 23, C.R.S., consistent with the language in part 1, direct the Commission, out of any money remaining after allocating money to financial aid for dependents of deceased or disabled prisoners of war, National Guard members, law enforcement officers, or firefighters, to allocate money first to the student loan matching program and next to work-study programs and scholarship and grant programs based on need and merit. The statutes do not define need-based or merit-based grants or programs.

In actual practice, the Joint Budget Committee appropriates money for financial aid to dependents of deceased or disabled prisoners of war, National Guard members, law

² § 2-3-902 (1)(d), C.R.S.

enforcement officers, or firefighters and for work-study, need-based, and merit-based financial aid programs by separate line items in the annual long bill. The Commission does not provide a proposal for allocations following the appropriation, and it does not itself decide how much of the total student financial aid appropriation is allocated to work-study programs or need-based or merit-based grants or programs.

In addition, the Commission has adopted policies:

- Limiting financial aid funding to only students who are Colorado residents;
- Limiting the eligibility of students for financial aid based on other factors;
- Setting goals for the various financial aid programs;
- Establishing procedures for determining residency and student need; and
- Establishing minimum administrative requirements for implementing the financial aid programs at institutions of higher education.

While section 23-3.3-102 (1), C.R.S., grants the Commission broad authority "to establish a program of financial assistance," it is arguably ambiguous as to whether the Commission's authority extends to adopting all of these policies. In addition, section 23-3.3-102 (3), C.R.S., directs each state institution and each private institution that participates in the financial aid programs to administer their programs according to policies and procedures established by their respective governing boards. The statute authorizes both the Commission and the institutional governing boards to establish policies and procedures for financial aid programs, but does not allocate the authority to address specific issues between the Commission and the institutions' governing boards.

Article 3.5 of title 23, C.R.S., concerning the Colorado student incentive grant program, was enacted two years before article 3.3 of title 23, C.R.S., and it appears to be completely redundant to article 3.3. Further, article 3.5 has not been funded in several years, because all of the student financial aid funding is appropriated pursuant to article 3.3 of title 23, C.R.S.

Statutory Charge³

The financial aid program statutes do not reflect actual practice in appropriating and allocating money for these programs, and they are ambiguous with regard to the

³ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes

allocation of authority to adopt policies and procedures concerning these programs. Clarifying the statutory appropriations process and distribution of regulatory authority to reflect what has been the practice of the Joint Budget Committee, the Commission, and the institutional governing boards for several years could be described as removing anachronisms from the law and correcting defects in the law, thereby falling within the Committee's charge. However, amending the statutes to clarify and assign responsibilities and duties with regard to financial aid programs would likely raise many policy considerations and decisions, which suggests a bill making these changes may not fit within the Committee's charge.

Proposed Bill

If approved by the Statutory Revision Committee, a bill to address the issues discussed in this memo would:

- Amend section 23-3.3-101, C.R.S., to add and clarify definitions;
- Repeal and reenact section 23-3.3-102, C.R.S., to specify the appropriations process for student financial aid programs and describe the regulatory authority of the Commission and institutional governing boards regarding student financial aid programs;
- Repeal parts 3 through 5 of article 3.3 and article 3.5 of title 23, C.R.S.; and
- Make necessary conforming amendments.

in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

ADDENDUM A

Part 1 of article 3.3 of Title 23, C.R.S.

23-3.3-101. Definitions. As used in this article 3.3, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(1.5) "Cost of attendance at a nonpublic institution of higher education" means:

(a) Allowances specified by the commission for room and board and miscellaneous expenses, which shall be the same for nonpublic institutions of higher education as for a representative group of comparable state institutions, as determined by the commission; and

(b) An allowance for tuition and fees equal to the lesser of:

(I) The actual tuition and fees charged by the nonpublic institution of higher education; or

(II) One hundred percent of the combination of actual in-state tuition and fees charged by a representative group of comparable state institutions plus the general fund moneys allocated to support such comparable state institutions.

(2) "In-state student" means a student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) "Institution" means an educational institution operating in this state that meets all of the following:

(a) Admits as regular students persons having a certification of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully;

(b) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate in accordance with the provisions of article 64 of this title 23;

(c) (I) Provides an educational program for which it awards a bachelor's degree;

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(d) Is not a branch program of an institution of higher education whose principal campus and facilities are located outside this state.

(3.5) "Nonpublic institution of higher education" shall have the same meaning as provided in section 23-3.7-102 (3).

(3.7) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(4) "State institution" means an institution supported in whole or in part by general fund moneys.

(5) "Undergraduate" refers to any program leading toward a bachelor's degree or associate degree or any nondegree program providing training for employment in a recognized occupation.

23-3.3-102. Assistance program authorized - procedure - audits. (1) The general assembly hereby authorizes the commission to establish a program of financial assistance, to be operated during any school sessions, including summer sessions for students attending institutions.

(2) The commission shall determine, by guideline, the institutions eligible for participation in the program and shall annually determine the amount allocated to each institution.

(3) Each state institution shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each private institution of higher education, as defined in section 23-18-102 (9), that participates in the program of financial assistance established pursuant to this section shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each participating nonpublic institution that is not a private institution of higher education shall administer a financial assistance program according to policies and procedures established by the commission. Each institution shall fund its assistance program using state moneys allocated to the institution and institutional moneys.

(3.5) Notwithstanding any provision of this article to the contrary, each participating institution shall adopt policies and procedures to allow a person who meets the following criteria to qualify for financial assistance through the financial assistance programs established pursuant to this article:

(a) The person qualifies as an in-state student; and

(b) The person is enrolled at an institution that participates in the programs of financial assistance established pursuant to this article; and

(c) The person is enrolled in an approved program of preparation, as defined in section 22-60.5-102 (8), C.R.S., for principals.

(4) Program disbursements shall be handled by the institution subject to audit and review.

(5) Upon commencement of participation in the program, no participating institution shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the program.

(6) In determining the amount allocated to each institution that is not a state institution or a nonpublic institution of higher education, the commission shall consider only that portion of financial need which would have existed were the institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution. In determining the amount allocated to each nonpublic institution of higher education, the commission shall base its determination upon the cost of attendance at a nonpublic institution of higher education.

(7) Each annual budget request submitted by the commission shall provide information on the proposed distribution of moneys among the programs developed under this article. Subsequent to final appropriation, the commission shall provide to the

joint budget committee an allocation proposal specifically identifying the distributions among programs for the coming year. Expenditures in any program shall not exceed the allocation for that program by more than ten percent of such allocation, and the total appropriation for all student aid programs shall not be exceeded. The commission may require such reports from institutions as are necessary to fulfill the reporting requirements of this subsection (7) and to perform other administrative tasks.

(8) The state auditor or his or her designee shall audit, in accordance with state statute and federal guidelines, the program at any participating institution every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the program is being properly administered, but the audit shall be limited to the administration of the program at the participating institution. The state auditor may accept an audit of the program from an institution that is not a state institution from such institution's independent auditor. The cost of conducting audits of the program at an institution that is not a state institution shall be borne by such institution.

(9) Repealed.

Part 3 of Article 3.3 of Title 23, C.R.S.

23-3.3-301. Student loan matching program - funding. Out of any moneys provided for the financial assistance program authorized by section 23-3.3-102 and remaining after meeting the requirements of part 2 of this article, the commission shall provide the matching funds required for federal allocations to institutions for student loan programs.

Part 4 of Article 3.3 of Title 23, C.R.S.

23-3.3-401. Work-study program established - requirements. (1) The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide a work-study program of employment of qualifying students in good standing with the institution in which they are enrolled in positions that are directly under the control of the institution in which the student is enrolled or in positions with nonprofit organizations, governmental agencies, or for-profit organizations with which the institution may execute student employment contracts.

(2) Any in-state student who is enrolled or accepted for enrollment at an institution as an undergraduate may qualify for participation in the work-study program established pursuant to this section.

(3) Funds appropriated to the commission may also be used by the commission in conjunction with and to supplement funds for current job opportunities or to supplement or match funds made available through any other public or private program for financial assistance. A sum not to exceed thirty percent of the funds allocated by the commission for the work-study program may be used to provide funding on a basis other than financial need. A sum of not less than seventy percent of such money shall be used for students demonstrating financial need.

Part 5 of Article 3.3 of Title 23, C.R.S.

23-3.3-501. Scholarship and grant program - funding. The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide other programs of financial assistance based upon financial need, merit, talent, or other criteria established by the commission for students enrolled at institutions.

Article 3.5 of Title 23, C.R.S.

23-3.5-101. Legislative declaration. The general assembly hereby declares that it is the policy of this state, within appropriations available for such purpose, to provide assistance to Colorado in-state students attending institutions of higher education, by utilizing federal and other moneys available for such purpose.

23-3.5-102. Definitions. As used in this article 3.5, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(2) "In-state student" means an undergraduate student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) (a) "Institution of higher education" means an educational institution operating in this state that:

(I) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(II) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate from the private occupational school division in accordance with the provisions of article 64 of this title 23, or is regulated or approved pursuant to any other statute;

(III) (A) Provides an educational program for which it awards a bachelor's degree; or

(B) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(C) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(D) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(IV) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years.

(b) The term "institution of higher education" does not include a branch program of an institution of higher education whose principal campus and facilities are located outside this state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of this title 23.

(4) "Nonpublic institution" means an educational institution which receives no support from general fund moneys in support of its operating costs.

(5) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

- (a) Devotional in nature or designed to induce religious faith; and
- (b) Offered by an institution as preparation for a career in the clergy.

23-3.5-103. Grant program authorized - administration. (1) The general assembly hereby authorizes the commission to establish a grant program for in-state students having financial need, to be administered in accordance with federal law and regulations and guidelines established by the commission.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the grant program, and each eligible institution of higher education shall recommend in-state students to the commission for receipt of a grant.

(3) Grant program disbursements shall be handled by the institution of higher education, subject to audit and review as provided in section 23-3.5-104.

(4) Upon commencement of participation in the grant program, no participating institution of higher education shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the grant program.

(5) In determining the amount of a grant, the commission shall consider only that portion of an in-state student's financial need which would have existed were the non-public institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution of higher education.

23-3.5-103.5. Assistance to professional theology students prohibited. (1) The guidelines established by the commission pursuant to section 23-3.5-103 (1) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

23-3.5-104. Audit and review. The state auditor or his designee shall audit, in accordance with federal and commission guidelines, the grant program at any participating institution of higher education every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the grant program is being properly administered, but such audit shall be limited to the administration of the grant program at the participating institution of higher education. The state auditor may accept an audit of the program from an institution not supported in whole or in part by the general fund from the institution's independent auditor. The cost of conducting audits of the program at an institution not supported in whole or in part by the general fund shall be borne by the institution.

23-3.5-105. Determination of eligibility. (Repealed)

23-3.5-106. Determination of invalidity. A final judicial determination that this article is invalid as applied to any individual institution of higher education or student shall not operate to terminate any grant provided pursuant to this article to any other institution of higher education or student.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.9.20

DRAFT

LLS NO. 20-0399.01 Julie Pelegrin x2700

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Align Student Financial Aid With Practice"

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO ALIGN FINANCIAL AID STATUTES WITH**
102 **PRACTICE IN ALLOCATING FINANCIAL AID.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Existing statutes set priorities for the Colorado commission on higher education (commission) to follow in allocating money to various forms of student financial aid, including aid to dependents of certain military and public safety personnel, need-based financial aid, work study programs, and merit-based financial aid. Under the bill, the general assembly will appropriate specific amounts by separate line item for the various forms of student financial aid. Each

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

institution of higher education must ensure that it uses the amounts it receives in accordance with the purposes of the various line item appropriations. Under existing law, funding for financial aid for dependents of certain military personnel and public safety personnel have priority over other forms of financial aid, and the bill maintains that priority.

The bill clarifies the commission's and the department of higher education's responsibilities and powers in establishing the state financial aid program and the powers and responsibilities of the various institutions in establishing and administering the institutional financial aid programs.

The bill allows the commission to transfer money between financial aid line items and between a financial aid line item and the appropriation for the Colorado opportunity fund stipend for students enrolled in participating private institutions of higher education, but a transfer cannot increase the spending authority for a line item by more than 10%. The commission must submit an annual report concerning the state student financial assistance program to the joint budget committee and the education committees of the general assembly.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 23-3.3-101
3 as follows:

4 **23-3.3-101. Definitions.** As used in this article 3.3, unless the
5 context otherwise requires:

6 (1) "Commission" means the Colorado commission on higher
7 education ESTABLISHED IN SECTION 23-1-102.

8 (1.5) "~~Cost of attendance at a nonpublic institution of higher~~
9 ~~education~~" means:

10 (a) Allowances specified by the commission for room and board
11 and miscellaneous expenses, which shall be the same for nonpublic
12 institutions of higher education as for a representative group of
13 comparable state institutions, as determined by the commission, and

14 (b) An allowance for tuition and fees equal to the lesser of:

15 (f) The actual tuition and fees charged by the nonpublic institution

1 of higher education; or

2 (H) One hundred percent of the combination of actual in-state
3 tuition and fees charged by a representative group of comparable state
4 institutions plus the general fund moneys allocated to support such
5 comparable state institutions.

6 (2) "In-state student" means a student ~~at~~ ENROLLED IN an
7 institution ~~of higher education~~ who meets the criteria established by
8 article 7 of this ~~title~~ TITLE 23 for classification as an in-state student, ~~at a~~
9 state institution ~~of higher education~~; but "in-state student" does not
10 include a member of the armed forces of the United States or ~~his~~ THE
11 MEMBER'S dependents who are eligible to obtain in-state tuition status
12 upon moving to Colorado on a permanent change-of-station basis until
13 ~~such individual~~ THE MEMBER OR THE DEPENDENT meets the one-year
14 domicile requirement of section 23-7-102 (5).

15 (3) "Institution" means an educational institution operating in this
16 state that meets all of the following:

17 (a) Admits as regular students persons having a certification of
18 graduation from a school ~~providing~~ THAT PROVIDES secondary education
19 or comparable qualifications and persons for enrollment in courses ~~which~~
20 THAT they reasonably may be expected to complete successfully;

21 (b) Is accredited by a nationally recognized accrediting agency or
22 association and, in the case of private occupational schools, holds a
23 regular certificate in accordance with the provisions of article 64 of this
24 title 23;

25 (c) (I) Provides an educational program for which it awards a
26 bachelor's degree;

27 (II) Provides not less than a two-year program ~~which~~ THAT is

1 acceptable for full credit towards TOWARD such a degree; or
2 (III) Provides not less than a six-month program of training to
3 prepare students for gainful employment in a recognized occupation;
4 (d) Is not a branch program of an institution of higher education
5 whose principal campus and facilities are located outside this state; AND
6 (e) HAS OPERATED WITHIN THE STATE FOR AT LEAST TEN
7 ACADEMIC YEARS.

8 (4) "MERIT-BASED ASSISTANCE" MEANS FINANCIAL AID THAT AN
9 INSTITUTION AWARDS TO A STUDENT BASED ON THE STUDENT'S ACADEMIC,
10 ARTISTIC, ATHLETIC, OR OTHER SPECIAL ACCOMPLISHMENTS.

11 (5) "NEED-BASED ASSISTANCE" MEANS FINANCIAL AID THAT AN
12 INSTITUTION AWARDS TO A STUDENT TO OFFSET THE STUDENT'S
13 DEMONSTRATED FINANCIAL NEED. FOR THE PURPOSES OF DETERMINING
14 STATE AND FEDERAL NEED-BASED FINANCIAL ASSISTANCE, AN
15 INSTITUTION SHALL CALCULATE NEED AS THE COST OF ATTENDANCE, LESS
16 THE EXPECTED FAMILY CONTRIBUTION.

17 (3.5) (6) "Nonpublic institution of higher education" shall have
18 HAS the same meaning as provided in section 23-3.7-102 (3).

19 (7) "PRIVATE INSTITUTION" HAS THE SAME MEANING AS THE TERM
20 "PRIVATE INSTITUTION OF HIGHER EDUCATION" DEFINED IN SECTION
21 23-18-102 (9).

22 (3.7) (8) "Professional degree in theology" means a certificate
23 signifying a person's graduation from a degree program that is:
24 (a) Devotional in nature or designed to induce religious faith; and
25 (b) Offered by an institution as preparation for a career in the
26 clergy.

27 (4) (9) "~~State institution~~" "PUBLIC INSTITUTION" means an

1 institution supported in whole or in part by general fund moneys THAT
2 ENTERS INTO A FEE-FOR-SERVICE CONTRACT WITH THE DEPARTMENT OF
3 HIGHER EDUCATION PURSUANT TO SECTION 23-18-303, A LOCAL DISTRICT
4 COLLEGE THAT OPERATES PURSUANT TO ARTICLE 71 OF THIS TITLE 23, OR
5 AN AREA TECHNICAL COLLEGE AS DEFINED IN SECTION 23-60-103 (1).

6 (10) "STATE PROGRAM" MEANS THE STATE PROGRAM OF STUDENT
7 FINANCIAL ASSISTANCE ESTABLISHED BY THE COMMISSION PURSUANT TO
8 SECTION 23-3.3-102 (2).

9 (5) (11) "Undergraduate" refers to any program leading MEANS A
10 PROGRAM THAT LEADS toward a bachelor's degree, or AN associate degree,
11 or any nondegree program providing A CERTIFICATE OR A PROGRAM THAT
12 PROVIDES training for employment in a recognized occupation AND THAT
13 DOES NOT REQUIRE A PERSON TO HOLD A BACHELOR'S DEGREE OR HIGHER
14 AS A CONDITION OF ADMISSION.

15 (12) "WORK STUDY" MEANS A PROGRAM FOR EMPLOYMENT OF A
16 QUALIFYING STUDENT IN GOOD STANDING WITH THE INSTITUTION IN WHICH
17 THE STUDENT IS ENROLLED IN A POSITION THAT IS DIRECTLY UNDER THE
18 CONTROL OF THE INSTITUTION IN WHICH THE STUDENT IS ENROLLED OR IN
19 A POSITION WITH A NONPROFIT ORGANIZATION, GOVERNMENTAL AGENCY,
20 OR FOR-PROFIT ORGANIZATION WITH WHICH THE INSTITUTION MAY
21 EXECUTE A STUDENT EMPLOYMENT CONTRACT. AN IN-STATE STUDENT
22 WHO IS ENROLLED OR ACCEPTED FOR ENROLLMENT AT AN INSTITUTION AS
23 AN UNDERGRADUATE MAY QUALIFY FOR PARTICIPATION IN A WORK STUDY
24 PROGRAM.

25 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
26 **with amendments,** 23-3.3-102 as follows:

27 **23-3.3-102. Assistance program authorized - procedure -**

1 **audits - report.** (1) THE GENERAL ASSEMBLY SHALL ANNUALLY
2 APPROPRIATE MONEY THAT THE COMMISSION SHALL ALLOCATE TO
3 INSTITUTIONS FOR STUDENT FINANCIAL ASSISTANCE PROGRAMS. IT IS THE
4 INTENT OF THE GENERAL ASSEMBLY TO ANNUALLY APPROPRIATE AN
5 AMOUNT FOR FINANCIAL ASSISTANCE FOR STUDENTS WHO QUALIFY UNDER
6 PART 2 OF THIS ARTICLE 3.3. IN ADDITION, THE GENERAL ASSEMBLY MAY
7 ANNUALLY APPROPRIATE, AS SEPARATE LINE ITEMS, MONEY FOR STUDENT
8 FINANCIAL ASSISTANCE IN THE FORM OF NEED-BASED ASSISTANCE, WORK
9 STUDY ASSISTANCE, AND MERIT-BASED ASSISTANCE.

10 (2) (a) THE COMMISSION SHALL ESTABLISH A STATE PROGRAM OF
11 STUDENT FINANCIAL ASSISTANCE TO ALLOCATE TO INSTITUTIONS THE
12 AMOUNTS THE GENERAL ASSEMBLY APPROPRIATES PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION. IN ESTABLISHING THE STATE PROGRAM,
14 THE COMMISSION SHALL SPECIFY THE STATEWIDE GOALS FOR THE STATE
15 PROGRAM AND ADOPT POLICIES, AND THE DEPARTMENT OF HIGHER
16 EDUCATION SHALL ADOPT GUIDELINES AS NECESSARY, TO IDENTIFY THE
17 INSTITUTIONS THAT ARE ELIGIBLE TO PARTICIPATE IN THE STATE
18 PROGRAM, AND TO ALLOCATE THE MONEY APPROPRIATED FOR THE STATE
19 PROGRAM. THE COMMISSION SHALL DESIGN THE STATE PROGRAM TO
20 DISTRIBUTE AMOUNTS FOR STUDENT FINANCIAL ASSISTANCE THROUGHOUT
21 THE FISCAL YEAR.

22 (b) THE COMMISSION SHALL ADOPT POLICIES, AND THE
23 DEPARTMENT OF HIGHER EDUCATION SHALL ADOPT GUIDELINES AS
24 NECESSARY, TO ANNUALLY ESTABLISH THE STUDENT BUDGET IN
25 ACCORDANCE WITH TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT
26 OF 1965", 20 U.S.C. SEC. 1070, ET SEQ., FOR PURPOSES OF DETERMINING
27 THE LEVEL OF STUDENT NEED.

1 (c) THE COMMISSION MAY ADOPT ADDITIONAL POLICIES, AND THE
2 DEPARTMENT OF HIGHER EDUCATION MAY ADOPT ANY NECESSARY
3 GUIDELINES, TO:

4 (I) LIMIT STUDENT ELIGIBILITY FOR AID BASED ON ONE OR MORE
5 OF THE FOLLOWING FACTORS:

6 (A) WHETHER THE STUDENT IS SEEKING A DEGREE OR A
7 CERTIFICATE;

8 (B) WHETHER THE STUDENT IS AN UNDERGRADUATE STUDENT OR
9 A GRADUATE STUDENT;

10 (C) IF THE STUDENT IS A GRADUATE STUDENT, WHETHER THE
11 DEGREE PROGRAM IN WHICH THE STUDENT IS ENROLLED MEETS A STATE
12 EMPLOYMENT NEED; AND

13 (D) WHETHER THE STUDENT IS IN GOOD ACADEMIC STANDING AND
14 DEMONSTRATING SATISFACTORY ACADEMIC PROGRESS;

15 (II) ESTABLISH PROCEDURES FOR DETERMINING STUDENT
16 RESIDENCY AND STUDENT NEED, CONSISTENT WITH STATUTORY
17 REQUIREMENTS;

18 (III) FACILITATE COMPLIANCE WITH OTHER STATE AND FEDERAL
19 REQUIREMENTS; AND

20 (IV) ESTABLISH MINIMUM ADMINISTRATIVE REQUIREMENTS TO
21 ENSURE THAT EACH INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM
22 COMPLIES WITH STATE AND FEDERAL LAW, COMMISSION POLICIES, AND
23 DEPARTMENT OF HIGHER EDUCATION GUIDELINES AND THAT EACH
24 PARTICIPATING INSTITUTION HAS ADOPTED POLICIES AND PRACTICES
25 NECESSARY TO ENSURE PROPER PROGRAM ADMINISTRATION.

26 (3) (a) TO RECEIVE MONEY FOR STUDENT FINANCIAL ASSISTANCE
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION, AN INSTITUTION MUST

1 ESTABLISH A FINANCIAL ASSISTANCE PROGRAM FOR STUDENTS ENROLLED
2 IN THE INSTITUTION. IN ESTABLISHING AND IMPLEMENTING A FINANCIAL
3 ASSISTANCE PROGRAM, AN INSTITUTION SHALL CREATE POLICIES AND
4 PROGRAMS THAT ALIGN WITH THE COMMISSION'S FINANCIAL AID POLICIES.
5 AT A MINIMUM, THE FINANCIAL ASSISTANCE PROGRAM MUST INCLUDE
6 DISTRIBUTION OF STUDENT FINANCIAL ASSISTANCE IN THE FORMS
7 DESCRIBED IN THIS PART 1 AND IN PART 2 OF THIS ARTICLE 3.3; EXCEPT
8 THAT, IN A FISCAL YEAR IN WHICH THE GENERAL ASSEMBLY DOES NOT
9 APPROPRIATE MONEY FOR A PARTICULAR FORM OF FINANCIAL ASSISTANCE,
10 THE INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM IS NOT REQUIRED TO
11 DISTRIBUTE MONEY FOR THAT FORM OF FINANCIAL ASSISTANCE.

12 (b) EACH INSTITUTION SHALL DISTRIBUTE THROUGH ITS FINANCIAL
13 ASSISTANCE PROGRAM THE STATE MONEY THAT THE COMMISSION
14 ALLOCATES TO THE INSTITUTION PURSUANT TO THIS SECTION. THE
15 INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM IS SUBJECT TO AUDIT AS
16 PROVIDED IN SUBSECTION (10) OF THIS SECTION. A PARTICIPATING
17 INSTITUTION SHALL NOT DECREASE THE AMOUNT OF INSTITUTIONAL FUNDS
18 DISTRIBUTED THROUGH ITS STUDENT FINANCIAL ASSISTANCE PROGRAM
19 BELOW THE AMOUNT DISTRIBUTED BEFORE THE INSTITUTION BEGAN
20 PARTICIPATING IN THE STATE PROGRAM OF STUDENT FINANCIAL
21 ASSISTANCE. AN INSTITUTION MAY DESIGNATE A PORTION OF THE STATE
22 MONEY IT RECEIVES FOR USE AS MATCHING FUNDS REQUIRED FOR FEDERAL
23 ALLOCATIONS TO INSTITUTIONS FOR STUDENT LOAN PROGRAMS.

24 (4)(a) EACH PUBLIC INSTITUTION AND EACH PRIVATE INSTITUTION
25 SHALL ADMINISTER ITS STUDENT FINANCIAL ASSISTANCE PROGRAM
26 ACCORDING TO POLICIES AND PROCEDURES ESTABLISHED BY THE
27 GOVERNING BOARD OF THE PUBLIC INSTITUTION OR PRIVATE INSTITUTION.

1 AT A MINIMUM, THE POLICIES AND PROCEDURES MUST:

2 (I) ENSURE THAT THE EXPENDITURES OF STATE MONEY ALLOCATED
3 TO THE PUBLIC INSTITUTION OR PRIVATE INSTITUTION PURSUANT TO THIS
4 SECTION ARE CONSISTENT WITH THE PURPOSE DESCRIBED IN EACH LINE
5 ITEM APPROPRIATION IN THE ANNUAL GENERAL APPROPRIATIONS BILL; AND

6 (II) COMPLY WITH THE FINANCIAL AID PROGRAM DEFINITIONS AND
7 DESCRIPTIONS SPECIFIED IN THIS ARTICLE 3.3 AND THE COMMISSION
8 POLICIES AND DEPARTMENT GUIDELINES.

9 (b) EACH PARTICIPATING NONPUBLIC INSTITUTION OF HIGHER
10 EDUCATION THAT IS NOT A PRIVATE INSTITUTION SHALL ADMINISTER ITS
11 STUDENT FINANCIAL ASSISTANCE PROGRAM IN ACCORDANCE WITH THE
12 COMMISSION POLICIES.

13 (5) TO BE ELIGIBLE FOR THE FORMS OF STUDENT FINANCIAL
14 ASSISTANCE DESCRIBED IN THIS PART 1 AND IN PART 2 OF THIS ARTICLE 3.3
15 THROUGH A STUDENT FINANCIAL ASSISTANCE PROGRAM, A STUDENT MUST
16 BE CLASSIFIED AS AN IN-STATE STUDENT.

17 (6) IN DETERMINING THE AMOUNT ALLOCATED TO EACH
18 NONPUBLIC INSTITUTION OF HIGHER EDUCATION, INCLUDING EACH
19 PRIVATE INSTITUTION, THE COMMISSION SHALL CONSIDER ONLY THAT
20 PORTION OF STUDENT FINANCIAL NEED THAT WOULD EXIST IF THE
21 INSTITUTION'S TUITION WAS NO GREATER THAN THE HIGHEST IN-STATE
22 TUITION RATE CHARGED BY A COMPARABLE PUBLIC INSTITUTION.

23 (7) IN THE ANNUAL BUDGET REQUEST, THE COMMISSION SHALL
24 SPECIFY THE AMOUNTS REQUESTED FOR EACH FORM OF STUDENT
25 FINANCIAL ASSISTANCE INCLUDED IN THE STATE FINANCIAL ASSISTANCE
26 PROGRAM. THE COMMISSION MAY TRANSFER MONEY BETWEEN THE LINE
27 ITEM APPROPRIATIONS FOR THE VARIOUS FORMS OF STUDENT FINANCIAL

1 ASSISTANCE AND FROM ONE OR MORE OF THE FINANCIAL ASSISTANCE LINE
2 ITEM APPROPRIATIONS TO THE COLLEGE OPPORTUNITY FUND STIPEND
3 PROGRAM FOR UNDERGRADUATE STUDENTS WHO ATTEND PARTICIPATING
4 PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND RECEIVE STIPENDS
5 PURSUANT TO SECTION 23-18-202 (2)(e); EXCEPT THAT A TRANSFER MUST
6 NOT INCREASE THE SPENDING AUTHORITY FOR A LINE ITEM BY MORE THAN
7 TEN PERCENT.

8 (8) THE COMMISSION MAY USE AMOUNTS APPROPRIATED FOR THE
9 VARIOUS FORMS OF FINANCIAL ASSISTANCE, AND AN INSTITUTION MAY USE
10 AMOUNTS ALLOCATED FOR THE VARIOUS FORMS OF FINANCIAL
11 ASSISTANCE, TO SUPPLEMENT AMOUNTS FOR CURRENT JOB OPPORTUNITIES
12 OR TO SUPPLEMENT OR MATCH MONEY MADE AVAILABLE THROUGH ANY
13 OTHER PUBLIC OR PRIVATE PROGRAM FOR FINANCIAL ASSISTANCE. IN
14 PROVIDING SUPPLEMENTARY OR MATCHING MONEY FOR PUBLIC OR
15 PRIVATE PROGRAMS FOR FINANCIAL ASSISTANCE, THE COMMISSION AND
16 THE INSTITUTIONS SHALL ENSURE THAT THE PURPOSES OF THE PUBLIC OR
17 PRIVATE PROGRAMS ARE CONSISTENT WITH THE PURPOSES FOR WHICH THE
18 MONEY WAS ORIGINALLY APPROPRIATED.

19 (9) THE COMMISSION SHALL USE AT LEAST SEVENTY PERCENT OF
20 THE AMOUNT APPROPRIATED IN THE WORK STUDY LINE ITEM, AND EACH
21 INSTITUTION SHALL USE AT LEAST SEVENTY PERCENT OF THE AMOUNT
22 RECEIVED FOR WORK STUDY, AS AID TO STUDENTS WHO DEMONSTRATE
23 FINANCIAL NEED. THE COMMISSION MAY USE UP TO THIRTY PERCENT OF
24 THE AMOUNT APPROPRIATED IN THE WORK STUDY LINE ITEM, AND EACH
25 INSTITUTION MAY USE UP TO THIRTY PERCENT OF THE AMOUNT RECEIVED
26 FOR WORK STUDY, TO PROVIDE ASSISTANCE TO STUDENTS ON A BASIS
27 OTHER THAN FINANCIAL NEED.

1 (10) THE STATE AUDITOR OR HIS OR HER DESIGNEE SHALL AUDIT,
2 IN ACCORDANCE WITH STATE STATUTE AND FEDERAL GUIDELINES AND IN
3 ACCORDANCE WITH COMMISSION POLICIES, WHERE APPLICABLE, THE
4 STUDENT FINANCIAL ASSISTANCE PROGRAM AT A PARTICIPATING
5 INSTITUTION EVERY OTHER YEAR TO REVIEW RESIDENCY
6 DETERMINATIONS, NEEDS ANALYSES, AWARDS, PAYMENT PROCEDURES,
7 AND SUCH OTHER PRACTICES AS MAY BE NECESSARY TO ENSURE THAT THE
8 INSTITUTION IS PROPERLY ADMINISTERING THE PROGRAM, BUT THE AUDIT
9 MUST BE LIMITED TO THE ADMINISTRATION OF THE PROGRAM AT THE
10 INSTITUTION. THE STATE AUDITOR MAY ACCEPT AN AUDIT OF THE
11 STUDENT FINANCIAL ASSISTANCE PROGRAM FROM AN INSTITUTION THAT
12 IS NOT A PUBLIC INSTITUTION, WHICH AUDIT WAS PREPARED BY THE
13 INSTITUTION'S INDEPENDENT AUDITOR. AN INSTITUTION THAT IS NOT A
14 PUBLIC INSTITUTION SHALL PAY THE COST OF AUDITING THE STUDENT
15 FINANCIAL ASSISTANCE PROGRAM AT THE INSTITUTION.

16 (11) ON OR BEFORE DECEMBER 1, 2020, AND ON OR BEFORE
17 DECEMBER 1 EACH YEAR THEREAFTER, THE COMMISSION SHALL SUBMIT
18 A REPORT CONCERNING IMPLEMENTATION OF THE STATE PROGRAM AND
19 THE INSTITUTIONS' STUDENT FINANCIAL ASSISTANCE PROGRAMS. THE
20 COMMISSION SHALL SUBMIT THE REPORT TO THE JOINT BUDGET
21 COMMITTEE AND TO THE EDUCATION COMMITTEES OF THE HOUSE OF
22 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.
23 THE REPORT MUST INCLUDE DATA CONCERNING THE EFFICIENCY AND
24 EFFECTIVENESS OF STATE FINANCIAL AID IN EXPANDING ACCESS TO HIGHER
25 EDUCATION FOR COLORADO RESIDENTS AND SUCH RELATED INFORMATION
26 AS THE COMMISSION MAY DEEM APPROPRIATE OR THE JOINT BUDGET
27 COMMITTEE MAY REQUEST. THE COMMISSION MAY REQUIRE FROM

1 INSTITUTIONS SUCH REPORTS AS ARE NECESSARY TO FULFILL THE
2 REPORTING REQUIREMENTS OF THIS SUBSECTION (11) AND TO PERFORM
3 OTHER ADMINISTRATIVE TASKS. NOTWITHSTANDING THE REQUIREMENT
4 IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE
5 REPORT DESCRIBED IN THIS SUBSECTION (11) CONTINUES INDEFINITELY.

6 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
7 **with amendments,** 23-3.3-202 as follows:

8 **23-3.3-202. Program funding.** IT IS THE INTENT OF THE GENERAL
9 ASSEMBLY TO ANNUALLY APPROPRIATE, AS A SEPARATE LINE ITEM, AN
10 AMOUNT FOR FINANCIAL ASSISTANCE FOR STUDENTS WHO QUALIFY UNDER
11 THE PROVISIONS OF THIS PART 2. IN A FISCAL YEAR IN WHICH THE AMOUNT
12 APPROPRIATED FOR PURPOSES OF THIS PART 2 IS LESS THAN THE AMOUNT
13 REQUIRED TO FULLY FUND THIS PART 2, THE COMMISSION SHALL TRANSFER
14 MONEY, TO THE EXTENT AUTHORIZED BY SECTION 23-3.3-102 (7), TO
15 FULLY FUND THIS PART 2.

16 **SECTION 4.** In Colorado Revised Statutes, 23-3.3-204, **amend**
17 (2) as follows:

18 **23-3.3-204. Dependents of prisoners of war and military**
19 **personnel missing in action.** (2) Any dependent of a prisoner of war or
20 a person missing in action, upon being accepted for enrollment into any
21 institution, shall be permitted to pursue studies leading toward a
22 bachelor's degree or a certificate of completion, free of tuition, for so long
23 as said dependent achieves and maintains standards as set by the
24 institution for its students generally, but said benefits shall not be
25 extended beyond twelve academic quarters or eight academic semesters,
26 as the case may be. Such dependents pursuing studies at an institution that
27 is not a ~~state~~ PUBLIC institution shall be eligible for assistance not to

1 exceed the average cost of undergraduate instruction calculated for a
2 full-time equivalent student at a comparable state PUBLIC institution for
3 the previous year. The institution or the commission shall provide tuition
4 assistance to such qualified students from appropriated student financial
5 assistance funds.

6 **SECTION 5.** In Colorado Revised Statutes, 23-3.3-205, amend
7 (1)(a) as follows:

8 **23-3.3-205. Dependents of deceased or permanently disabled
9 National Guardsman, law enforcement officer, or firefighter.**

10 (1) (a) Any dependent of a person who died or was permanently disabled
11 while on state active duty, federalized active duty, or authorized training
12 duty as a Colorado National Guardsman or any dependent of any person
13 who has been permanently disabled or killed while acting to preserve the
14 public peace, health, and safety in the capacity of police officer, sheriff,
15 or other law enforcement officer or firefighter, upon being accepted for
16 enrollment into any state PUBLIC institution, shall be permitted to pursue
17 studies leading toward his or her first bachelor's degree or certificate of
18 completion, free of tuition and free of room and board charges of the
19 institution, for so long as said dependent achieves and maintains a
20 cumulative grade point average of 2.5 or above based upon a 4.0 scale,
21 but said benefits shall not be extended beyond six years from the date of
22 enrollment. Such dependents pursuing studies at a nonpublic institution
23 of higher education within the state of Colorado shall be eligible for
24 assistance not to exceed the average cost of undergraduate instruction
25 calculated for a full-time equivalent student at a comparable state PUBLIC
26 institution for the previous year, and the average cost of room and board
27 calculated for a full-time equivalent student at all state PUBLIC institutions

1 for the previous year. Such dependents pursuing studies at an out-of-state
2 institution of higher education shall be eligible for assistance not to
3 exceed the average cost of undergraduate instruction calculated for a
4 full-time equivalent student at a comparable state PUBLIC institution for
5 the previous year. The commission shall provide tuition and, if
6 appropriate, room and board assistance to such qualified students from
7 appropriated student financial assistance funds.

8 **SECTION 6.** In Colorado Revised Statutes, **repeal** parts 3, 4, and
9 5 of article 3.3 of title 23 and article 3.5 of title 23.

10 **SECTION 7.** In Colorado Revised Statutes, 23-3.1-202, **amend**
11 (19) as follows:

12 **23-3.1-202. Definitions.** As used in this part 2, unless the context
13 otherwise requires:

14 (19) "State institution" ~~shall have the same meaning as provided~~
15 ~~in section 23-3.3-101(4)~~ MEANS AN INSTITUTION SUPPORTED IN WHOLE OR
16 IN PART BY GENERAL FUND MONEY.

17 **SECTION 8.** In Colorado Revised Statutes, 23-3.1-226, **amend**
18 (1)(a) and (1)(b) as follows:

19 **23-3.1-226. Policies for promotion and disclosure of program**
20 **information.** (1) The authority shall design a policy related to the
21 promotion of the prepaid expense program and a policy related to the
22 disclosure of program-related information to purchasers or qualified
23 beneficiaries in a manner consistent with this part 2 and consistent with
24 the requirements of section 529 of the internal revenue code in order to
25 require that:

26 (a) Appropriate promotional material and program-related
27 information disclose the average tuition increase in state institutions of

1 higher education in Colorado, as defined in ~~section 23-3.3-101 (4)~~

2 SECTION 23-3.1-202 (19), over the previous five years;

3 (b) Annual statements to purchasers or qualified beneficiaries
4 disclose the number of tuition units paid for, the payments made for such
5 tuition units, and the current value of such tuition units, as well as the
6 average tuition increases in state institutions of higher education in
7 Colorado, as defined in ~~section 23-3.3-101 (4)~~ SECTION 23-3.1-202 (19),
8 over the five previous years;

9 **SECTION 9.** In Colorado Revised Statutes, 23-3.3-104, **amend**

10 (1) introductory portion as follows:

11 **23-3.3-104. Assistance to professional theology students**
12 **prohibited.** (1) The policies and procedures established by the
13 commission pursuant to ~~section 23-3.3-102 (3)~~ shall SECTION 23-3.3-102
14 (4)(b) MUST include:

15 <Does the committee prefer a safety clause or act-subject-to-petition
16 clause?>>

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COLORADO GENERAL ASSEMBLY



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MEMORANDUM

To: Members of the Statutory Revision Committee
From: Esther van Mourik, Senior Attorney
Date: January 9, 2020
Subject: Potential SRC bills related to the Department of Revenue and Title 39

There are five bill drafts for you to consider related to the Department of Revenue and Title 39. Please see each bill draft for specific summaries. The bills all fall within the SRC's charge because:

- LLS 20-0575 – "Amendments Due To Automatic Repeal of Tax Credit"
 - The bill will eliminate defects in the law.
- LLS 20-0827 – "Inc Tax Statute Modifications To Address Defects"
 - The bill will eliminate defects in the law and repeal obsolete provisions.
- LLS 20-0828 – "Sales Tax Statute Modifications To Address Defects"
 - The bill will eliminate defects in the law and repeal obsolete provisions.
- LLS 20-0830 – "Enterprise Zone Statute Fixes of Defects"
 - The bill will eliminate defects in the law.
- LLS 20-0831 – "Modify Certain Tax Statutes To Address Defects"
 - The bill will eliminate defects in the law.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.6.20

DRAFT

LLS NO. 20-0575.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Amendments Due To Automatic Repeal Of Tax Credit"

A BILL FOR AN ACT

101 **CONCERNING NECESSARY STATUTORY AMENDMENTS DUE TO THE**
102 **AUTOMATIC REPEAL OF AN ENTERPRISE ZONE ACT INCOME TAX**
103 **CREDIT FOR NEW BUSINESS FACILITY EMPLOYEES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Current law includes an income tax credit for new business facility employees in enterprise zones for income tax years commencing prior to January 1, 2014. That statute, found in section 39-30-105, Colorado Revised Statutes, repealed on December 31, 2019. The income tax credit was replaced in 2013 with a

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

modified income tax credit found in section 39-30-105.1, Colorado Revised Statutes, for tax years commencing on or after January 1, 2014. When the modified income tax credit was enacted, certain conforming amendments for the eventual repeal of section 39-30-105, Colorado Revised Statutes, were not made. The bill makes those conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-46-105.7, **amend**
3 (3) as follows:

4 **24-46-105.7. Performance-based incentive for new job**
5 **creation - new jobs incentives cash fund.** (3) An employer that
6 qualifies to receive a performance-based incentive for new jobs created
7 pursuant to this section and that qualifies for an income tax credit
8 pursuant to ~~section 39-30-105, C.R.S.~~ SECTION 39-30-105.1, shall be
9 allowed to receive the incentive allowed pursuant to this section and
10 claim the credit allowed pursuant to ~~section 39-30-105, C.R.S.~~ SECTION
11 39-30-105.1.

12 **SECTION 2.** In Colorado Revised Statutes, 30-11-123, **amend**
13 (1)(b) and (2) as follows:

14 **30-11-123. New business facilities - expansion of existing**
15 **business facilities - incentives - limitations - authority to exceed**
16 **revenue-raising limitations - legislative declaration - definitions.**

17 (1) (b) Notwithstanding any law to the contrary, any county may
18 negotiate for an incentive payment or credit with any taxpayer who
19 establishes a ~~new~~ business facility, as defined in ~~section 39-30-105(7)(e)~~,
20 C.R.S. SECTION 39-30-105.1 (6)(b), in the county. In no instance ~~shall~~
21 MAY any negotiation result in an annual incentive payment or credit that
22 is greater than the amount of the taxes levied by the county upon the

1 taxable personal property located at or within the new business facility
2 and used in connection with the operation of the new business facility for
3 the current property tax year. The term of any agreement made prior to
4 August 6, 2014, pursuant to the provisions of this subsection (1) shall
5 MAY not exceed ten years, including the term of any original agreement
6 being renewed. The term of any agreement made on or after August 6,
7 2014, pursuant to this subsection (1) shall MAY not exceed thirty-five
8 years, which does not include the term of any prior agreement.

9 (2) Notwithstanding any law to the contrary, any county may
10 negotiate for an incentive payment or credit with any taxpayer who
11 expands a facility, as defined in section 39-30-105 (7)(e), C.R.S., the
12 expansion of which constitutes a new business facility, as defined in
13 section 39-30-105 (7)(e), C.R.S., SECTION 39-30-105.1 (6)(e), THE
14 EXPANSION OF WHICH AUTHORIZES A TAXPAYER TO CLAIM A CREDIT
15 DESCRIBED IN SECTION 39-30-105.1, and that is located in the county. In
16 no instance shall MAY any negotiation result in an annual incentive
17 payment or credit that is greater than the amount of the taxes levied by the
18 county upon the taxable personal property directly attributable to the
19 expansion, located at or within the expanded facility, and used in
20 connection with the operation of the expanded facility for the current
21 property tax year. The term of any agreement made prior to August 6,
22 2014, pursuant to the provisions of this subsection (2) shall MAY not
23 exceed ten years, including the term of any original agreement being
24 renewed. The term of any agreement made on or after August 6, 2014,
25 pursuant to this subsection (2) shall MAY not exceed thirty-five years,
26 which does not include the term of any prior agreement.

27 **SECTION 3.** In Colorado Revised Statutes, 31-15-903, amend

1 (1)(b) and (2) as follows:

2 **31-15-903. Legislative declaration - municipalities - new**
3 **business facilities - expanded or existing business facilities - incentives**
4 **- limitations - authority to exceed revenue-raising limitation.**

5 (1) (b) Notwithstanding any law to the contrary, any municipality may
6 negotiate for an incentive payment or credit with any taxpayer who
7 establishes a ~~new~~ business facility, as defined in ~~section 39-30-105 (7)(e)~~,
8 C.R.S. SECTION 39-30-105.1 (6)(b), in the municipality. In no instance
9 shall MAY any negotiation result in an annual incentive payment or credit
10 that is greater than the amount of taxes levied by the municipality upon
11 the taxable personal property located at or within the ~~new~~ business facility
12 and used in connection with the operation of the ~~new~~ business facility for
13 the current property tax year. The term of any agreement made prior to
14 August 6, 2014, pursuant to the provisions of this subsection (1) shall
15 MAY not exceed ten years, including the term of any original agreement
16 being renewed. The term of any agreement made on or after August 6,
17 2014, pursuant to this subsection (1) shall MAY not exceed thirty-five
18 years, which does not include the term of any prior agreement.

19 (2) Notwithstanding any law to the contrary, any municipality may
20 negotiate for an incentive payment or credit with any taxpayer who
21 expands a facility, as defined in ~~section 39-30-105 (7)(e)~~, C.R.S., the
22 expansion of which constitutes a ~~new~~ business facility, as defined in
23 ~~section 39-30-105 (7)(e)~~, C.R.S., SECTION 39-30-105.1 (6)(e), THE
24 EXPANSION OF WHICH AUTHORIZES A TAXPAYER TO CLAIM A CREDIT
25 DESCRIBED IN SECTION 39-30-105.1, and that is located in the
26 municipality. In no instance shall MAY any negotiation result in an annual
27 incentive payment or credit that is greater than the amount of the taxes

1 levied by the municipality upon the taxable personal property directly
2 attributable to the expansion, located at or within the expanded facility,
3 and used in connection with the operation of the expanded facility for the
4 current property tax year. The term of any agreement made prior to
5 August 6, 2014, pursuant to the provisions of this subsection (2) ~~shall~~
6 MAY not exceed ten years, including the term of any original agreement
7 being renewed. The term of any agreement made on or after August 6,
8 2014, pursuant to this subsection (2) ~~shall~~ MAY not exceed thirty-five
9 years, which does not include the term of any prior agreement.

10 **SECTION 4.** In Colorado Revised Statutes, 32-1-1702, **amend**
11 (1) and (2) as follows:

12 **32-1-1702. New business facilities - expanded or existing**
13 **business facilities - incentives - limitations - authority to exceed**
14 **revenue-raising limitation.**(1) Notwithstanding any law to the contrary,
15 a special district may negotiate for an incentive payment or credit with a
16 taxpayer who establishes a ~~new~~ business facility, as defined in ~~section~~
17 ~~39-30-105 (7)(e), C.R.S.~~ SECTION 39-30-105.1 (6)(b), in the special
18 district. In no instance ~~shall~~ MAY any negotiation result in an annual
19 incentive payment or credit that is greater than the amount of taxes levied
20 by the special district upon the taxable business personal property located
21 at or within the ~~new~~ business facility and used in connection with the
22 operation of the ~~new~~ business facility for the current property tax year.
23 The term of any agreement made prior to August 6, 2014, pursuant to the
24 provisions of this subsection (1) ~~shall~~ MAY not exceed ten years, including
25 the term of any original agreement being renewed. The term of any
26 agreement made on or after August 6, 2014, pursuant to this subsection
27 (1) ~~shall~~ MAY not exceed thirty-five years, which does not include the

1 term of any prior agreement.

2 (2) Notwithstanding any law to the contrary, a special district may
3 negotiate for an incentive payment or credit with a taxpayer who expands
4 a facility, as defined in ~~section 39-30-105 (7)(c), C.R.S., the expansion of~~
5 ~~which constitutes a new business facility, as defined in section 39-30-105~~
6 ~~(7)(e), C.R.S., SECTION 39-30-105.1 (6)(e), THE EXPANSION OF WHICH~~
7 ~~AUTHORIZES A TAXPAYER TO CLAIM A CREDIT DESCRIBED IN SECTION~~
8 39-30-105.1, and that is located in the special district. In no instance ~~shall~~
9 ~~MAY~~ any negotiation result in an annual incentive payment or credit that
10 is greater than the amount of the taxes levied by the special district upon
11 the taxable business personal property directly attributable to the
12 expansion located at or within the expanded facility and used in
13 connection with the operation of the expanded facility for the current
14 property tax year. The term of any agreement made prior to August 6,
15 2014, pursuant to the provisions of this subsection (2) ~~shall~~ ~~MAY~~ not
16 exceed ten years, including the term of any original agreement being
17 renewed. The term of any agreement made on or after August 6, 2014,
18 pursuant to this subsection (2) ~~shall~~ ~~MAY~~ not exceed thirty-five years,
19 which does not include the term of any prior agreement.

20 **SECTION 5.** In Colorado Revised Statutes, 39-30-103, **amend**
21 (4)(b) introductory portion, (4)(b)(IX), (4)(b)(X), (6)(a), and (7)(a)
22 introductory portion as follows:

23 **39-30-103. Zones established - review - termination -**
24 **repeal.** (4) (b) The Colorado economic development commission shall
25 work with the zone administrators of each enterprise zone to ensure that
26 each zone has specific economic development objectives with outcomes
27 that can be measured with specific, verifiable data. The director of the

1 Colorado office of economic development shall require the zone
2 administrators for each zone to submit annual documentation of efforts
3 to improve conditions in areas designated as enterprise zones and the
4 results of those efforts. Such annual documentation ~~shall~~ MUST include
5 specific, verifiable data that can be used to measure whether the zone has
6 achieved the specific economic development objectives for the zone that
7 have measurable outcomes. In order for the commission to determine if
8 the enterprise zones or portions thereof are achieving the specific
9 economic development objectives submitted pursuant to this ~~paragraph~~
10 ~~(b) or to paragraph (d) of subsection (3) of this section~~ SUBSECTION (4)(b)
11 OR TO SUBSECTION (3)(d) OF THIS SECTION, such annual documentation
12 ~~shall~~ MUST include, but need not be limited to, the most recent statistics
13 available for companies claiming enterprise zone tax credits on:

14 (IX) ~~The number of employees employed in new or expanded~~
15 ~~business facilities for which a credit is claimed pursuant to section~~
16 ~~39-30-105 and the number of business facility employees for which a~~
17 credit is claimed pursuant to section 39-30-105.1;

18 (X) ~~The amount of investment tax credits claimed pursuant to~~
19 ~~section 39-30-104, the amount of credits claimed for new business facility~~
20 ~~employees pursuant to section 39-30-105, SECTION 39-30-104 and the~~
21 amount of credits claimed pursuant to section 39-30-105.1;

22 (6) (a) When the termination of an enterprise zone or portion of
23 an enterprise zone would prevent a taxpayer from qualifying for tax
24 benefits under this ~~article~~ ARTICLE 30 and the taxpayer can identify job
25 creation or capital expansion activities that were planned prior to the
26 termination announcement and that would have otherwise entitled the
27 taxpayer to claim tax benefits under section 39-30-103.5, 39-30-104,

1 39-30-105, or 39-30-105.1, the enterprise zone administrator and the
2 taxpayer shall jointly certify detailed information about such planned
3 activities. A taxpayer who files such certification with the taxpayer's state
4 income tax return may claim tax benefits otherwise actually earned up to
5 the limits of such certified information for a period not to exceed the ten
6 tax years following the year in which the enterprise zone or portion of an
7 enterprise zone was terminated. It is the intent of this subsection (6) only
8 to permit taxpayers to claim tax benefits on which they demonstrably
9 relied in making business planning decisions, and, except as specifically
10 provided in this subsection (6), nothing in this subsection (6) shall MAY
11 be construed to authorize the commission or any enterprise zone
12 administrator to grant tax benefits that have been repealed by the general
13 assembly or to grant tax benefits in excess of the limits established by
14 law.

15 (7) (a) Beginning on January 1, 2012, before a taxpayer engages
16 in any activity for which the taxpayer intends to claim an income tax
17 credit pursuant to section 39-30-104, 39-30-105, 39-30-105.1,
18 39-30-105.5, or 39-30-105.6, an authorized company official of the
19 taxpayer's business or the taxpayer who is the owner of the business shall
20 submit a pre-certification form to the enterprise zone administrator as
21 specified in this subsection (7). A taxpayer that completes an activity
22 prior to January 1, 2012, for which the taxpayer intends to claim an
23 income tax credit pursuant to this article ARTICLE 30 shall submit to the
24 zone administrator on or before December 31, 2012, any information
25 related to such completed activity that is necessary to receive certification
26 from the zone administrator that the taxpayer's business is located in the
27 enterprise zone. Nothing in this subsection (7) shall MAY be construed to

1 require a taxpayer to submit a pre-certification form to the zone
2 administrator for activities completed prior to January 1, 2012. In
3 connection with the pre-certification, the taxpayer shall be required to:

4 **SECTION 6.** In Colorado Revised Statutes, 39-30-103.2, **amend**
5 (5) as follows:

6 **39-30-103.2. Enhanced rural enterprise zones - criteria -**
7 **termination.** (5) If the termination of an enhanced rural enterprise zone
8 would prevent a taxpayer from qualifying for tax benefits under this
9 ~~article~~ ARTICLE 30 and the taxpayer can identify job creation or capital
10 expansion activities that were planned before the director of the Colorado
11 office of economic development issued the list of eligible counties and
12 that would have otherwise entitled the taxpayer to claim tax benefits
13 under ~~section 39-30-105 or~~ SECTION 39-30-105.1, the enterprise zone
14 administrator and the taxpayer shall jointly certify detailed information
15 about such planned activities. A taxpayer who files such certification with
16 the taxpayer's state income tax return may claim tax benefits otherwise
17 actually earned up to the limits of such certified information for a period
18 not to exceed the five tax years following the year in which the enhanced
19 rural enterprise zone was terminated. It is the intent of this subsection (5)
20 to permit taxpayers to claim only those tax benefits on which they
21 demonstrably relied in making business planning decisions, and, except
22 as specifically provided in this subsection (5), nothing in this subsection
23 (5) ~~shall~~ MAY be construed to authorize any enterprise zone administrator
24 to grant tax benefits that have been repealed by law or to grant tax
25 benefits in excess of the limits established by law.

26 **SECTION 7.** In Colorado Revised Statutes, 39-30-104, **amend**
27 (2)(a); and **repeal** (6) as follows:

1 **39-30-104. Credit against tax - investment in certain property**

2 **- definitions.** (2) (a) For income tax years commencing prior to January
3 1, 2014, the amount of the credit set forth in subsection (1) of this section
4 shall be subject to the limitations of section 39-22-507.5; except that, in
5 computing the limitations on credit pursuant to section 39-22-507.5 (3),
6 a taxpayer's actual tax liability for the income tax year shall not be
7 reduced by the amount of credits allowed by ~~section 39-30-105~~ SECTION
8 39-30-105.1 and the limit on that portion of a taxpayer's tax liability that
9 exceeds five thousand dollars shall be fifty percent.

10 (6) ~~For credits claimed for income tax years commencing on or
11 after January 1, 1997, no credit shall be allowed pursuant to this section
12 if the investment resulted from the relocation of a business operation from
13 within the state to an enterprise zone, regardless of whether the original
14 location of the operation was within an enterprise zone, except to the
15 extent such relocation meets the criteria for an expansion pursuant to
16 section 39-30-105 (7)(c)(II) and (7)(c)(III).~~

17 **SECTION 8.** In Colorado Revised Statutes, 39-30-107.5, amend
18 (1)(a) and (2) as follows:

19 **39-30-107.5. Taxable property valuations - sales taxes -
20 incentives - definitions.** (1) (a) Notwithstanding any law to the contrary,
21 any special district, county, municipality, or city and county within an
22 enterprise zone may negotiate with any taxpayer who qualifies for a credit
23 pursuant to ~~section 39-30-105~~ or SECTION 39-30-105.1 for an incentive
24 payment or credit equal to not more than the amount of the taxes levied
25 upon the taxable property of the taxpayer; but in no instance shall any
26 such negotiation result in such an incentive payment or credit which is
27 greater than the difference between the current property tax liability and

1 the tax liability for the same property for the year preceding the year in
2 which the enterprise zone was approved.

3 (2) Notwithstanding any law to the contrary, any county,
4 municipality, or city and county within an enterprise zone may negotiate
5 with any taxpayer who qualifies for a credit pursuant to ~~section 39-30-105~~
6 ~~or SECTION 39-30-105.1~~ a refund of the sales taxes levied by such county,
7 municipality, or city and county for the purchase of equipment,
8 machinery, machine tools, or supplies used in the taxpayer's business in
9 the enterprise zone.

10 **SECTION 9. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety. <{Section 39-30-105
13 repealed automatically on 12/31/2019. These issues should be clarified
14 upon signature of the Governor and not wait for August 2020 or until
15 after a petition might be filed against the bill.}>

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.8.20

DRAFT

LLS NO. 20-0827.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Income Tax Statute Mod To Address Defects"

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE INCOME TAX STATUTES IN**
102 **ORDER TO ADDRESS CERTAIN DEFECTS AND ANACHRONISMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill repeals an income tax deduction for money earned on Colorado investment deposits issued by a qualified financial institution. The repeal is justified because the definition of "Colorado investment deposits" relies on the "Colorado Investment Deposit Act", which was repealed in 2004, so it is unlikely that there have been any new certificates of deposit issued since 2004.

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

There are also no known eligible certificates of deposit that still exist and thus there would be no allowable amount of interest earnings to subtract.

Section 1 also repeals 2 income tax deductions meant to correct for the difference between the standard deduction amounts for federal income tax filings that used to be called the "marriage penalty" approximately 15 years ago. The "marriage penalty" was addressed by Congress in 2003, so the deductions are no longer necessary.

Section 2 repeals an income tax credit for estate taxes paid on the transfer of agricultural land. The Colorado estate tax is effectively zero because it is based on a federal credit in the provisions of the federal estate tax. The federal provision for the credit is not allowed for estates of decedents who passed away after December 31, 2004. Because the federal credit has not been extended, there is no state estate tax, and thus the income tax credit is not useable.

Section 3 addresses some circular cross references within the statutory section.

Section 4 corrects an issue in statute that erroneously requires nonresident beneficiaries to prepay income tax twice, once through estimated payments and again through tax withheld by the fiduciary.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **repeal**

3 (4)(a.5), (4)(j), and (4)(k) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - legislative declaration - definitions - repeal.**

6 (4) There shall be subtracted from federal taxable income:

7 (a.5) ~~For income tax years commencing on and after January 1,~~
8 ~~1990, an amount equal to any interest income earned on Colorado~~
9 ~~investment deposits issued by qualified financial institutions pursuant to~~
10 ~~article 37 of title 11, C.R.S., as that article existed prior to its repeal on~~
11 ~~July 1, 2004, to the extent included in federal taxable income, but not to~~
12 ~~exceed twenty thousand dollars in any taxable year;~~

13 (j) ~~For income tax years commencing on or after January 1, 2000,~~
14 ~~for two individuals whose federal taxable income is determined on a joint~~

1 federal return and who claim the basic standard deduction allowable
2 under section 63 (c)(2) of the internal revenue code, an amount equal to
3 the difference between an amount equal to double the amount of the basic
4 standard deduction allowable under section 63 (c)(2) of the internal
5 revenue code in the case of an individual federal return for an individual
6 who is not the head of a household and the amount of the basic standard
7 deduction allowable under section 63 (c)(2) of the internal revenue code
8 in the case of a joint federal return;

9 (k) For income tax years commencing on or after January 1, 2000,
10 for two individuals whose federal taxable income is determined on a joint
11 federal return and who claim itemized deductions in an amount that is
12 greater than the amount of the basic standard deduction allowable under
13 section 63 (c)(2) of the internal revenue code plus any additional standard
14 deduction allowable under section 63 (c)(3) of the internal revenue code,
15 if applicable, in the case of a joint federal return, but less than double the
16 amount of the basic standard deduction allowable under section 63 (c)(2)
17 of the internal revenue code plus any additional standard deduction
18 allowable under section 63 (c)(3) of the internal revenue code, if
19 applicable, in the case of an individual federal return for an individual
20 who is not the head of a household, an amount equal to the difference
21 between an amount equal to double the amount of such basic standard
22 deduction allowable in the case of an individual federal return for an
23 individual who is not the head of a household plus any additional standard
24 deduction allowable to either individual and the amount of the itemized
25 deductions claimed by the resident individuals;

26 <{There is a possibility to not show this full repeal and instead to do a
27 short repeal of subsection (4)(a.5), (4)(j), and (4)(k) instead.}>

1 **SECTION 2.** In Colorado Revised Statutes, ~~repeal~~ 39-22-534 as
2 follows:

3 **39-22-534. Credit for estate taxes paid - agricultural land -**
4 ~~recapture - definitions.~~ ~~(1) (a)~~ Except as set forth in subsection (3) of
5 this section, for income tax years specified in paragraph (b) of this
6 subsection (1), a person who inherits agricultural land located within the
7 state is allowed a credit in an amount equal to the amount of estate taxes
8 paid pursuant to article 23.5 of this title that are attributable to the transfer
9 of such agricultural land. A taxpayer must claim the credit for the income
10 tax year in which the estate taxes are paid. For purposes of this section,
11 the value of the agricultural land is the current assessed valuation. If more
12 than one person inherits the agricultural land, the tax credit is apportioned
13 among all beneficiaries.

14 ~~(b)~~ The credit shall not apply until the first income tax year.

15 ~~(f)~~ After congress enacts a law delaying to a date after December
16 31, 2012, the sunset of the amendments to section 26 U.S.C. sec. 2011
17 that were included in the "Economic Growth and Tax Relief
18 Reconciliation Act of 2001", Public Law 107-16; and

19 ~~(H)~~ That an estate tax is owed pursuant to article 23.5 of this title.

20 ~~(2)~~ If the amount of the credit exceeds the income taxes owed by
21 the taxpayer, the department of revenue shall refund the excess amount
22 to the taxpayer.

23 ~~(3) (a)~~ If, within ten years from the date the income tax credit
24 created by this section is claimed, the property that was the basis of the
25 credit is no longer classified as agricultural land for property tax
26 purposes, the credit shall be disallowed and, within thirty days of the
27 change in use, the taxpayer who received the tax credit shall file an

1 amended Colorado income tax return for the tax year that the credit was
2 claimed. Interest shall be due on the taxes owed from the due date of the
3 original return. Notwithstanding any provision of law to the contrary, the
4 annual rate of interest for an amount owed pursuant to this subsection (3)
5 for a given year shall be equal to the rate of inflation for the prior year.

6 (b) Notwithstanding the provisions of section 39-21-107 (2), the
7 assessment of the tax due as a result of any disallowance of the credit
8 allowed by this section, plus any penalty or interest, shall be made within
9 eleven years of the due date of the return claiming the credit. If the
10 taxpayer does not file the amended return within the prescribed thirty-day
11 period, then the statute of limitations shall be tolled from the end of such
12 thirty-day period until the date that such amended return is filed with the
13 executive director or until the executive director discovers such
14 determination or change, whichever occurs first.

15 (4) As used in this section:

16 (a) "Agricultural land" has the same meaning as set forth in
17 section 39-1-102.

18 (b) "Rate of inflation" means the annual percentage change in the
19 United States department of labor, bureau of labor statistics, consumer
20 price index for Denver-Aurora-Lakewood for all items and all urban
21 consumers, or its applicable predecessor or successor index.

22 <{There is a possibility to not show this full repeal and instead to do a
23 short repeal of section 39-22-534 instead.}>

24 **SECTION 3.** In Colorado Revised Statutes, 39-22-601, amend
25 (2.5)(f) introductory portion, (2.5)(f)(I), (5)(f) introductory portion, and
26 (5)(f)(I) as follows:

27 **39-22-601. Returns.** (2.5) (f) The agreement referred to in

1 paragraph (e) of this subsection (2.5) SUBSECTION (2.5)(e) OF THIS
2 SECTION is an agreement of a nonresident shareholder of the S
3 corporation:

4 (I) To file a return in accordance with the provisions of paragraph
5 (a) of this subsection (2.5) THIS SECTION and to make timely payment of
6 all taxes imposed on the shareholder by this state with respect to the
7 income of the S corporation; and

8 (5) (f) The agreement referred to in paragraph (e) of this
9 subsection (5) SUBSECTION (5)(e) OF THIS SECTION is an agreement of a
10 nonresident partner of the partnership:

11 (I) To file a return in accordance with the provisions of paragraph
12 (a) of this subsection (5) THIS SECTION and to make timely payment of all
13 taxes imposed on the member by this state with respect to the income of
14 the partnership; and

15 **SECTION 4.** In Colorado Revised Statutes, 39-22-605, amend
16 (2)(c), (7)(a), (8)(a), (8)(b) introductory portion, and (8)(b)(II) as follows:

17 **39-22-605. Failure by individual to pay estimated income tax.**

18 (2) As used in this section, unless the context otherwise requires:

19 (c) "Tax" or "tax liability" means the tax imposed under this
20 article minus the credits against tax provided by this article other than the
21 credits against tax for withholding pursuant to sections **39-22-601 (4)**,
22 39-22-604, and 39-22-604.5 and credits against tax for the sales tax
23 refund pursuant to section 39-22-2003.

24 (7) (a) No addition to tax shall be imposed under subsection (3)
25 of this section for any taxable year if the tax shown on the return for such
26 taxable year or, if no return is filed, the tax, reduced by the credits
27 allowable under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5, and

1 39-22-2003, is less than one thousand dollars.

2 (8) (a) For purposes of applying this section, the amount of the
3 credits allowed under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5,
4 and 39-22-2003 for the taxable year shall be deemed a payment of
5 estimated tax and an equal part of such amount shall be deemed paid on
6 each due date for such taxable year, unless the taxpayer establishes the
7 dates on which all amounts were actually withheld, in which case the
8 amounts so withheld shall be deemed payments of estimated tax on the
9 dates on which such amounts were actually withheld.

10 (b) The taxpayer may apply ~~paragraph (a) of this subsection (8)~~
11 SUBSECTION (8)(a) OF THIS SECTION separately with respect to the
12 following:

13 (II) All other amounts withheld for which credits are allowed
14 under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5, and 39-22-2003.

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly (August 5, 2020, if adjournment sine die is on May 6,
19 2020); except that, if a referendum petition is filed pursuant to section 1
20 (3) of article V of the state constitution against this act or an item, section,
21 or part of this act within such period, then the act, item, section, or part
22 will not take effect unless approved by the people at the general election
23 to be held in November 2020 and, in such case, will take effect on the
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to income tax years on or after the applicable
26 effective date of this act.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0828.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Sales Tax Statute Modifications To Address Defects"

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE SALES TAX STATUTES IN ORDER**
102 **TO ADDRESS CERTAIN DEFECTS AND ANACHRONISMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill makes corrections to the penalty for a taxpayer's failure to pay the correct amount of sales taxes due or for a taxpayer's failure to account for sales taxes correctly so that the statute reads the way the department of revenue applies the law.

Section 2 changes the penalty section for use tax collections so

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

that it is the same as for sales tax collections. Legislative history makes clear that the legislature has intended these sections to be the same, but over the years bills revising these sections did not successfully align the 2 sections.

Section 3 repeals a temporary partial sales tax rate reduction for a new or used commercial truck, truck tractor, tractor, semitrailer, or vehicle used in combination therewith that has a gross vehicle weight rating in excess of 26,000 pounds. While the rate reduction could still be used, it is preempted by a full rate reduction for low-emitting vehicles in another statutory section. Any vehicle that could qualify for the temporary partial rate reduction in a TABOR refund year already qualifies for the full exemption from sales or use tax under the other section, so the partial rate reduction is not used.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-118, **amend**
3 (2)(a) as follows:

4 **39-26-118. Recovery of taxes, penalty, and interest.**
5 (2) (a) (I) If a person neglects or refuses to make a timely return in
6 payment of the tax or to pay or correctly account for any tax as required
7 by this ~~article~~ ARTICLE 26, the executive director of the department of
8 revenue shall make an estimate, based upon the information that may be
9 available, of the amount of taxes due or not accounted for or incorrectly
10 accounted for on a return for the period for which the taxpayer is
11 delinquent. ~~and~~ THE EXECUTIVE DIRECTOR shall add ~~thereto~~ TO THE
12 ESTIMATED AMOUNT OF TAXES DUE OR NOT ACCOUNTED FOR INTEREST IF
13 APPLICABLE UNDER SECTION 39-21-110.5, AND a penalty equal to THE
14 GREATER OF:

15 (A) The sum of fifteen dollars; ~~for the failure or~~
16 (B) Ten percent of such unpaid, unaccounted, or incorrectly
17 accounted amount, plus one-half percent per month from the date when
18 due, not exceeding eighteen percent in the aggregate. ~~and interest if~~

1 applicable on the delinquent taxes at the rate imposed under section
2 39-21-110.5.

3 (II) ~~Promptly thereafter~~; The executive director shall give to
4 PROVIDE the delinquent taxpayer written notice of the estimated taxes,
5 penalty, and interest which notice shall be sent by first-class mail as set
6 forth in section 39-21-105.5.

7 **SECTION 2.** In Colorado Revised Statutes, 39-26-204, amend
8 (5)(a) as follows:

9 **39-26-204. Periodic return - collection - repeal.** (5) (a) (I) If a
10 person neglects or refuses to make a TIMELY return in payment of the tax
11 or to pay OR CORRECTLY ACCOUNT FOR any tax as required by this article
12 ARTICLE 26, the executive director of the department of revenue shall
13 make an estimate, based upon the information that may be available, of
14 the amount of taxes due OR NOT ACCOUNTED FOR OR INCORRECTLY
15 ACCOUNTED FOR ON A RETURN for the period for which the taxpayer is
16 delinquent. ~~and THE EXECUTIVE DIRECTOR~~ shall add ~~thereto~~ TO THE
17 ESTIMATED AMOUNT OF TAXES DUE OR NOT ACCOUNTED FOR INTEREST IF
18 APPLICABLE UNDER SECTION 39-21-110.5, AND a penalty equal to ~~ten~~
19 percent ~~thereof and interest on the delinquent taxes at the rate imposed~~
20 under section 39-21-110.5, plus one-half of one percent per month from
21 the date when due. THE GREATER OF:

22 (A) THE SUM OF FIFTEEN DOLLARS; OR

23 (B) TEN PERCENT OF SUCH UNPAID, UNACCOUNTED, OR
24 INCORRECTLY ACCOUNTED AMOUNT, PLUS ONE-HALF PERCENT PER MONTH
25 FROM THE DATE WHEN DUE, NOT EXCEEDING EIGHTEEN PERCENT IN THE
26 AGGREGATE.

27 (II) ~~Promptly thereafter~~; The executive director shall give to

1 PROVIDE the delinquent taxpayer written notice of the estimated taxes,
2 penalty, and interest ~~which notice shall be sent~~ by first-class mail as set
3 forth in section 39-21-105.5.

4 **SECTION 3.** In Colorado Revised Statutes, 39-26-202, **amend**
5 (1)(a); and **repeal** (3) as follows:

6 **39-26-202. Authorization of tax.** (1) (a) Except as otherwise
7 provided in ~~paragraph (b) of this subsection (1) and in subsection (3)~~
8 ~~SUBSECTION (1)(b) of this section, there is imposed and shall be collected~~
9 from every person in this state a tax or excise at the rate of three percent
10 of storage or acquisition charges or costs for the privilege of storing,
11 using, or consuming in this state any articles of tangible personal property
12 purchased at retail.

13 (3) (a) ~~Notwithstanding the rate provisions of paragraphs (a) and~~
14 ~~(b) of subsection (1) of this section, for any fiscal year commencing on~~
15 ~~or after July 1, 2000, if the revenue estimate prepared by the staff of the~~
16 ~~legislative council in June of the calendar year in which that fiscal year~~
17 ~~ends indicates that the aggregate amount of state revenues will exceed the~~
18 ~~limitation on state fiscal year spending imposed by section 20 (7)(a) of~~
19 ~~article X of the state constitution for that fiscal year by three hundred fifty~~
20 ~~million dollars or more, as adjusted pursuant to paragraph (b) of this~~
21 ~~subsection (3), and voters statewide either have not authorized the state~~
22 ~~to retain and spend all of the excess state revenues or have authorized the~~
23 ~~state to retain and spend only a portion of the excess state revenues for~~
24 ~~that fiscal year, the tax imposed pursuant to subsection (1) of this section~~
25 ~~shall be imposed upon any sale of a new or used commercial truck, truck~~
26 ~~tractor, tractor, semitrailer, or vehicle used in combination therewith that~~
27 ~~has a gross vehicle weight rating in excess of twenty-six thousand pounds~~

1 for the period commencing on July 1 of the calendar year in which that
2 fiscal year ends through June 30 of the immediately subsequent calendar
3 year, at a rate of one one-hundredth of one percent.

4 (b) (I) No later than October 1 of any given calendar year
5 commencing on or after January 1, 2001, the executive director shall
6 annually adjust the dollar amount specified in paragraph (a) of this
7 subsection (3) to reflect the rate of growth of Colorado personal income
8 for the calendar year immediately preceding the calendar year in which
9 such adjustment is made. For purposes of this subparagraph (I), "the rate
10 of growth of Colorado personal income" means the percentage change
11 between the most recent published annual estimate of total personal
12 income for Colorado, as defined and officially reported by the bureau of
13 economic analysis in the United States department of commerce for the
14 calendar year immediately preceding the calendar year in which the
15 adjustment is made and the most recent published annual estimate of total
16 personal income for Colorado, as defined and officially reported by the
17 bureau of economic analysis in the United States department of
18 commerce for the calendar year prior to the calendar year immediately
19 preceding the calendar year in which the adjustment is made.

20 (II) Upon calculating the adjustment of said dollar amount in
21 accordance with subparagraph (I) of this paragraph (b), the executive
22 director shall notify in writing the executive committee of the legislative
23 council created pursuant to section 2-3-301 (1), C.R.S., of the adjusted
24 dollar amount and the basis for the adjustment. Such written notification
25 shall be given within five working days after such calculation is
26 completed, but such written notification shall be given no later than
27 October 1 of the calendar year.

1 (III) It is the function of the executive committee of the legislative
2 council to review and approve or disapprove such adjustment of said
3 dollar amount within twenty days after receipt of such written notification
4 from the executive director. Any adjustment that is not approved or
5 disapproved by the executive committee within said twenty days shall be
6 automatically approved; except that, if within said twenty days the
7 executive committee schedules a hearing on such adjustment, such
8 automatic approval shall not occur unless the executive committee does
9 not approve or disapprove such adjustment after the conclusion of such
10 hearing. Any hearing conducted by the executive committee pursuant to
11 this subparagraph (III) shall be concluded no later than twenty-five days
12 after receipt of such written notification from the executive director.

13 (IV) (A) If the executive committee of the legislative council
14 disapproves any adjustment of said dollar amount calculated by the
15 executive director pursuant to this paragraph (b), the executive committee
16 shall specify such adjusted dollar amount to be utilized by the executive
17 director. Any adjusted dollar amount specified by the executive
18 committee pursuant to this sub-subparagraph (A) shall be calculated in
19 accordance with the provisions of this paragraph (b).

20 (B) For the purpose of determining whether the use tax rate
21 reduction authorized by paragraph (a) of this subsection (3) is to be
22 allowed for any given income tax year, the executive director shall not
23 utilize any adjusted dollar amount that has not been approved pursuant to
24 subparagraph (III) of this paragraph (b) or otherwise specified pursuant
25 to sub-subparagraph (A) of this subparagraph (IV).

26 (V) If one or more ballot questions are submitted to the voters at
27 a statewide election to be held in November of any calendar year

1 commencing on or after January 1, 2001, that seek authorization for the
2 state to retain and spend all or any portion of the amount of excess state
3 revenues for the state fiscal year ending during said calendar year, the
4 executive director shall not determine whether the use tax rate reduction
5 authorized by paragraph (a) of this subsection (3) shall be allowed and
6 shall not promulgate rules containing said use tax rate reduction until the
7 impact of the results of said election on the amount of the excess state
8 revenues to be refunded is ascertained.

9 (c) The general assembly finds and declares that reducing the rate
10 of the use tax imposed on the storage, use, or consumption of a new or
11 used commercial truck, truck tractor, tractor, semitrailer, or vehicle used
12 in combination therewith that has a gross vehicle weight rating in excess
13 of twenty-six thousand pounds is a reasonable method of refunding
14 excess state revenues required to be refunded in accordance with section
15 20 (7)(d) of article X of the state constitution.

16 (d) Any state use tax rate reduction allowed pursuant to this
17 section shall be published in rules promulgated by the executive director
18 of the department of revenue in accordance with article 4 of title 24,
19 C.R.S., and shall be included in such notices and publications as are
20 customarily issued by the department of revenue on at least a quarterly
21 basis concerning exemptions from the state sales and use tax. <{There is
22 a possibility to not show this full repeal and instead do a straight repeal
23 of this subsection (3).}>

24 **SECTION 4. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day
26 following the expiration of the ninety-day period after final adjournment
27 of the general assembly (August 5, 2020, if adjournment sine die is on

1 May 6, 2020); except that, if a referendum petition is filed pursuant to
2 section 1 (3) of article V of the state constitution against this act or an
3 item, section, or part of this act within such period, then the act, item,
4 section, or part will not take effect unless approved by the people at the
5 general election to be held in November 2020 and, in such case, will take
6 effect on the date of the official declaration of the vote thereon by the
7 governor.

8 (2) This act applies to sales and use tax periods commencing on
9 or after the applicable effective date of this act.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0830.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Enterprise Zone Statute Fixes Of Defects"

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE ENTERPRISE ZONE STATUTES IN**
102 **ORDER TO ADDRESS CERTAIN DEFECTS AND ANACHRONISMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill repeals obsolete provisions that allow an income tax credit for contributions to enterprise zone administrators to implement economic development plans.

Section 2 moves certain cross references that are incorrectly placed in the section that allows for an investment tax credit in enterprise

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

zones.

Section 3 fixes an incorrect cross reference in the section that allows a credit for new enterprise zone business employees.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-30-103.5, **amend**

3 (1)(a) as follows:

4 **39-30-103.5. Credit against tax - contributions to enterprise**
5 **zone administrators to implement economic development plans.**

6 (1) (a) (I) ~~Except as otherwise provided in subparagraph (H) of this~~
7 ~~paragraph (a), for income tax years commencing on or after January 1,~~
8 ~~1989, Any taxpayer who makes a monetary or in-kind contribution for the~~
9 ~~purpose of implementing the economic development plan for the~~
10 ~~enterprise zone to the person or agency designated as the enterprise zone~~
11 ~~administrator by the department of local affairs, and on or after July 1,~~
12 ~~2008, by the person or agency designated as the enterprise zone~~
13 ~~administrator by the Colorado economic development commission, shall~~
14 be allowed a credit against the income tax imposed by article 22 of this
15 title ~~TITLE 39~~ in an amount equal to ~~fifty~~ TWENTY-FIVE percent of the total
16 value of the contribution as certified by the enterprise zone administrator.

17 (II) ~~For income tax years commencing on or after January 1, 1996,~~
18 ~~the amount of the credit allowed for contributions made pursuant to this~~
19 ~~paragraph (a) shall be twenty-five percent of the total value of the~~
20 ~~contribution as certified by the enterprise zone administrator, except that~~
21 ~~nothing in this subparagraph (H) shall be construed to affect the amount~~
22 ~~of the credit.~~

23 (A) ~~For contributions made prior to July 1, 1997, To an enterprise~~
24 ~~zone administrator for a project, program, or organization that was~~

1 originally approved by an enterprise zone administrator in writing prior
2 to May 1, 1996; or directly to a project, program, or organization that was
3 originally approved by an enterprise zone administrator prior to May 1,
4 1996, and that is certified by the enterprise zone administrator pursuant
5 to subsection (5) of this section; or

6 (B) For contributions made on or after July 1, 1997, through
7 December 31, 2000, pursuant to a written agreement executed prior to
8 July 1, 1997, between a taxpayer and an enterprise zone administrator in
9 which the taxpayer pledges to make future contributions to a project,
10 program, or organization that was approved by the enterprise zone
11 administrator pursuant to this section prior to May 1, 1996.

12 **SECTION 2.** In Colorado Revised Statutes, 39-30-104, amend
13 (2)(c)(III) and (2.5)(a)(I) as follows:

14 **39-30-104. Credit against tax - investment in certain property**
15 - **definitions.** (2) (c) (III) (A) Except as OTHERWISE provided in
16 sub subparagraph (B) of this subparagraph (III) SECTION 24-46-104.3 AND
17 SUBSECTION (2)(c)(III)(B) OF THIS SECTION, any excess credit allowed
18 pursuant to this paragraph (c) SUBSECTION (2)(c) shall be an investment
19 tax credit carryover to each of the fourteen income tax years following the
20 unused credit year.

21 (B) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-46-104.3, any
22 excess credit allowed pursuant to this paragraph (c) SUBSECTION (2)(c) for
23 a renewable energy investment made in an income tax year commencing
24 before January 1, 2018, shall be an investment tax credit carryover for
25 twenty-two income tax years following the year the credit was originally
26 allowed.

27 (2.5) (a) (I) Notwithstanding section 39-22-507.5 (7)(b), and

1 except as otherwise provided in section 24-46-104.3 and subsections
2 (2.5)(a)(II) and (2.5)(b) of this section, any excess credit allowed pursuant
3 to this section shall be an investment tax credit carryover to each of the
4 twelve income tax years following the unused credit year.

5 **SECTION 3.** In Colorado Revised Statutes, 39-30-105.1, **amend**
6 (4)(a)(II) as follows:

7 **39-30-105.1. Credit for new enterprise zone business**
8 **employees - definitions.** (4) (a) (II) Except as provided in section
9 24-46-104.3, for any income tax year commencing on or after January 1,
10 2014, if the total amount of credits claimed by a taxpayer pursuant to
11 subsections (1)(a)(III) SUBSECTIONS (1)(a)(II) and (3)(b) of this section
12 exceeds the amount of income taxes due on the income of the taxpayer in
13 the income tax year for which the credits are being claimed, the amount
14 of credits not used as an offset against income taxes in said income tax
15 year is not allowed as a refund but may be carried forward as a credit
16 against subsequent years' tax liability for a period not exceeding seven
17 years and is applied first to the earliest income tax years possible. Any
18 amount of the credit that is not used during said period is not refundable
19 to the taxpayer.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

1 November 2020 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.6.20

DRAFT

LLS NO. 20-0831.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Modify Certain Tax Statutes To Address Defects"

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO CERTAIN TAX STATUTES IN ORDER TO**
102 **ADDRESS DEFECTS AND ANACHRONISMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill addresses an inconsistency in statute regarding section 39-21-113 (4), Colorado Revised Statutes, which prohibits the disclosure by the executive director of the department of revenue and his or her agents, clerks, and employees of information obtained during the course of investigations conducted by the department or disclosed in any document, report, or return filed in

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

connection with the collection and payment of tax. Various provisions of the section allow for exceptions to the prohibition, but not all of them are listed together and therefore the bill updates the section to reflect all the exceptions to the prohibition.

Section 2 adds some missed mandatory electronic filing and payment requirements that didn't make it into the correct section of House Bill 19-1256, which broadly authorized the department of revenue to promulgate rules requiring mandatory electronic filing and payment.

Section 3 fixes a conflict with regard to the tax threshold above which a taxpayer must remit estimated payments between 2 statutes that jointly impose payment requirements for severance tax on corporations.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-21-113, **amend**
3 (6) as follows:

4 **39-21-113. Reports and returns - rule.** (6) Except as
5 OTHERWISE provided in ~~subsections (5), (7), (8), (9), and (10)~~ of this
6 section, any person who violates any provision of subsection (4) of this
7 section is guilty of a misdemeanor and, upon conviction thereof, shall be
8 punished by a fine of not more than one thousand dollars, and, if the
9 offender is an officer or employee of the state, he OR SHE shall be
10 dismissed from office.

11 **SECTION 2.** In Colorado Revised Statutes, 39-21-119.5, **amend**
12 (2)(c), and (4)(e); **repeal** (2)(j) and (2)(k); and **add** (4)(g), (4)(h), and
13 (4)(i) as follows:

14 **39-21-119.5. Mandatory electronic filing of returns -**
15 **mandatory electronic payment - penalty - waiver - definitions.**

16 (2) Except as provided in subsection (6) of this section, the executive
17 director may, as specified in subsection (3) of this section, require the
18 electronic filing of returns and require the payment of any tax or fee due
19 by electronic funds transfer for the following:

1 (c) Any annual statement of wage withholding required to be filed
2 or remittance of wage withholding required to be made by an employer
3 pursuant to section 39-22-604 THAT IS NOT ALREADY REQUIRED TO BE
4 REMITTED ELECTRONICALLY PURSUANT TO SUBSECTION (4)(g) OF THIS
5 SECTION;

6 (j) Any cigarette excise tax return required to be filed and payment
7 required to be made pursuant to section 39-28-104;

8 (k) Any tobacco products excise tax return required to be filed and
9 payment required to be made pursuant to section 39-28.5-106;

10 (4) Except as provided in subsection (6) of this section, on and
11 after August 2, 2019, electronic filing of returns and the payment of any
12 tax or fee by electronic funds transfer is required for the following:

13 (e) Any retail marijuana excise tax return required to be filed and
14 payment required to be made pursuant to section 39-28.8-304; and

15 (g) ANY REMITTANCE OF WAGE WITHHOLDING REQUIRED TO BE
16 MADE PURSUANT TO SECTION 39-22-604 BY AN EMPLOYER WHOSE ANNUAL
17 ESTIMATED WAGE WITHHOLDING TAX LIABILITY EXCEEDS FIFTY THOUSAND
18 DOLLARS;

19 (h) ANY CIGARETTE EXCISE TAX RETURN REQUIRED TO BE FILED
20 AND PAYMENT REQUIRED TO BE MADE PURSUANT TO ARTICLE 28 OF TITLE
21 39; AND

22 (i) ANY TOBACCO PRODUCTS EXCISE TAX RETURN REQUIRED TO BE
23 FILED AND PAYMENT REQUIRED TO BE MADE PURSUANT TO ARTICLE 28.5
24 OF TITLE 39.

25 **SECTION 3.** In Colorado Revised Statutes, 39-29-112, amend
26 (2) as follows:

27 **39-29-112. Procedures and reports.** (2) Every corporation

1 subject to taxation under ~~the provisions of this article~~ ARTICLE 29 shall
2 make a declaration and payment of estimated tax if the tax imposed by
3 this ~~article~~ ARTICLE 29 for the taxable year can reasonably be expected to
4 exceed ~~one thousand~~ FIVE THOUSAND dollars. Such declaration and
5 payment shall be made to the department of revenue, separate and apart
6 from other returns required under ~~the provisions of~~ articles 20 to 28 of
7 this ~~title~~ TITLE 39, upon a form prescribed by the executive director. Such
8 declaration shall be filed with and payment made to the department of
9 revenue in accordance with the provisions of section 39-22-606.

10 **SECTION 4. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2020 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

**COLORADO STATE CAPITOL
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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Jason Gelender, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Correction of Senate Bill 19-263 Effective Date Clause

Summary

When reviewing Senate Bill 19-263 for the purpose of preparing a summary of the bill for the "2019 Digest of Bills", I noticed that the effective date section of the bill contains an error. If the error is not corrected and the voters of the state approve the ballot issue authorizing the state to issue transportation revenue anticipation notes (TRANs) that will be referred for their approval or rejection at the November 2020 general election, TRANs will be issued in addition to, rather than in lieu of, Senate Bill 17-267 lease-purchase agreements (lease-purchase agreements) that current law requires the state to execute during the 2020-21 and 2021-22 state fiscal years. That result would be directly contrary to the intent of the general assembly in enacting both Senate Bill 19-263 and Senate Bill 18-001 that any voter-approved TRANs be issued in lieu of, and not in addition to, the as yet unissued lease-purchase agreements.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

1. The clear intent of the general assembly is that TRANs be issued in lieu of, and not in addition to, FY 2020-21 and 2021-22 lease-purchase agreements.

Section 24-82-1303 (2)(a), C.R.S., enacted as part of Senate Bill 17-267, requires the state to execute up to \$2 billion of lease-purchase agreements in four equal tranches of up to \$500 million during each of the 2018-19, 2019-20, 2020-21, and 2021-22 state fiscal years. The state has executed the FY 2018-19 lease-purchase agreements and, as of the date of this memorandum, is expected to execute the FY 2019-20 lease-purchase agreements within the next few weeks. With the exception of the first \$120 million of proceeds of the 2018-19 lease-purchase agreements, all lease-purchase agreement proceeds are credited to the state highway fund for expenditure by the department of transportation for transportation projects that meet specified statutory criteria.²

Senate Bill 18-001 required a statewide ballot issue seeking authorization for the state to issue up to \$2.34 billion of TRANs to be referred to the voters of the state at the November 2019 statewide election unless the voters of the state approved a citizen-initiated ballot issue authorizing the state to issue TRANs at the November 2018 general election.³ Senate Bill 18-001 also provided that, if the voters approved the referred 2019 ballot issue, then the TRANs authorized would be issued in lieu of, rather than in addition to, the FY 2019-20, FY 2020-21, and FY 2021-22 lease-purchase agreements.⁴

² §§ 24-82-1303 (4)(a)(I) and (4)(b) and 43-4-206 (1)(b)(V), C.R.S.

³ At the 2018 general election, the voters rejected two competing citizen-initiated ballot issues, Propositions 109 ("Authorize Bonds for Highway Projects") and 110 ("Authorize Sales Tax and Bonds for Highway Projects") that would have authorized the state to issue TRANs. The referred ballot issue is codified in § 43-4-705 (13)(b)(III), C.R.S., and, as originally enacted in S.B. 18-001, stated:

43-4-705. Revenue anticipation notes - ballot issue - repeal. (13) (b) (III) The secretary of state shall submit to the registered electors of the state for their approval or rejection at the November 2019 statewide election the following ballot issue: "Shall state of Colorado debt be increased \$2,337,000,000, with a maximum repayment cost of \$3,250,000,000, without raising taxes, through the issuance of transportation revenue anticipation notes for the purpose of addressing critical priority transportation needs in the state by financing transportation projects, shall note proceeds and investment earnings on note proceeds be excluded from state fiscal year spending limits, and shall the amount of lease-purchase agreements required by current law to be issued for the purpose of financing transportation projects be reduced?"

⁴ See S.B. 18-001 §§ 3 and 13.

Senate Bill 19-263 delayed the referral of the Senate Bill 18-001 ballot issue from the November 2019 statewide election to the November 2020 general election. In addition, as evidenced by the title of the bill, part of the intent of the general assembly in enacting Senate Bill 19-263, was to ensure that any TRANs authorized would still be issued in lieu of, and not in addition to, as yet unexecuted lease-purchase agreements.⁵ Because, due to the delay in submitting the ballot issue to the November 2020 general election, the 2019-20 lease-purchase agreements would be issued before the submission of the referred ballot issue, the general assembly amended both the ballot issue itself and section 24-82-1303 (2)(a), C.R.S, to ensure that the aggregate amount of transportation funding from TRANs and lease-purchase agreements would remain unchanged by lowering the amount of TRANs authorized to be issued and repealing only the requirement that the state execute the FY 2020-21 and 2021-22 lease-purchase agreements and not the requirement that the state execute the FY 2019-20 lease-purchase agreements.⁶

2. If left uncorrected, an error in the effective date section of Senate Bill 19-263 could force the state to both issue TRANs and execute FY 2020-21 and FY 2021-22 lease-purchase agreements.

The effective date section of Senate Bill 19-263 states as follows:

⁵ The title of S.B. 19-263 is "Concerning the delay until the November 2020 general election of the requirement that a ballot issue seeking approval for the issuance of transportation revenue anticipation notes be submitted to the voters of the state at the November 2019 statewide election, and, in connection therewith, amending the ballot issue to reduce the amount of notes authorized to be issued to offset the additional transportation funding that will result from the repeal of only two, rather than three, tranches of lease-purchase agreements authorized by Senate Bill 17-267 if the ballot issue is approved and extending from twenty to twenty-one years the period for which annual fifty million dollar transfers from the general fund to the state highway fund are required." (Emphasis added)

⁶ See S.B. 19-263 §§ 4 and 5. S.B. 19-263 amended § 43-4-705 (13)(b)(III), C.R.S, which includes the ballot issue language as follows:

43-4-705. Revenue anticipation notes - ballot issue - repeal. (13) (b) (III) The secretary of state shall submit to the registered electors of the state for their approval or rejection at the November 2019 statewide 2020 GENERAL election the following ballot issue: "Shall state of Colorado debt be increased \$2,337,000,000 ~~\$2,560,000,000~~, with a maximum repayment cost of \$3,250,000,000 ~~\$2,560,000,000~~, without raising taxes, through the issuance of transportation revenue anticipation notes for the purpose of addressing critical priority transportation needs in the state by financing transportation projects, shall note proceeds and investment earnings on note proceeds be excluded from state fiscal year spending limits, and shall the amount of lease-purchase agreements required by current law to be issued for the purpose of financing transportation projects be reduced?"

SECTION 8. Effective date. (1) Except as otherwise provided in subsection (2) of this section, this act takes effect upon passage.

(2) Section 24-82-1303 (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b), and (2)(d)(II), Colorado Revised Statutes, as amended in section 4 of this act, takes effect only if a **citizen-initiated ballot issue** that authorizes the state to issue transportation revenue anticipation notes but does not authorize the state to collect additional tax revenue for the purpose of providing a revenue source for repayment of the notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election and a majority of the electors voting on the ballot issue vote "Yes/For", and, in such case, section 24-82-1303 (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b), and (2)(d)(II), Colorado Revised Statutes, as amended in section 4 of this act, takes effect on the date of the official declaration of the vote thereon by the governor.

(Emphasis added)

The purpose of this effective date section was to ensure that if the voters of the state approve the referred ballot issue that authorizes the state to issue TRANs at the November 2020 general election, then the existing statutory language in section 24-82-1303, C.R.S., that requires the state to execute FY 2020-21 and 2021-22 lease-purchase agreement repeals so that the TRANs are issued in lieu of, rather than in addition to, those lease-purchase agreements. However, because the language of the effective date section references a "citizen-initiated ballot issue" rather than the referred ballot issue, it does not accomplish this purpose. Accordingly, it is necessary to amend the effective date section to correct the error and ensure that the intent of the General Assembly, as expressed in both Senate Bill 18-001 and Senate Bill 19-263, that TRANs be issued in lieu of the lease-purchase agreements is realized.

Statutory Charge⁷

This issue fits within the Statutory Revision Committee's charge because it corrects a defect in the law that will, if the voters of the state approve the referred ballot issue that authorizes the state to issue TRANs at the November 2020 general election,

⁷ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

thwart the clear intent of the general assembly that TRANs be issued in lieu of, and not in addition to, FY 2020-21 and FY 2021-22 lease-purchase agreements.

Proposed Bill

If the Statutory Revision Committee directs the Office of Legislative Legal Services to prepare a bill draft, the draft will amend the 2019 Session Laws of Colorado to correct the error in the effective date section of Senate Bill 19-263 and thereby ensure that any TRANs authorized by voter approval of a referred ballot issue at the November 2020 general election state are issued in lieu of, rather than in addition to, FY 2020-21 and FY 2021-22 lease-purchase agreements.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
12.16.19

DRAFT

LLS NO. 20-0801.01 Jason Gelender x4330

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Correct Senate Bill 19-263 Drafting Error"

A BILL FOR AN ACT

101 **CONCERNING CORRECTION OF A DRAFTING ERROR IN THE EFFECTIVE**
102 **DATE CLAUSE OF SENATE BILL 19-263 FOR THE PURPOSE OF**
103 **ENSURING THAT THE BILL ACCOMPLISHES ITS INTENDED LEGAL**
104 **EFFECT OF ELIMINATING THE REQUIREMENT THAT THE STATE**
105 **TREASURER EXECUTE LEASE-PURCHASE AGREEMENTS TO FUND**
106 **TRANSPORTATION PROJECTS DURING THE 2020-21 AND 2021-22**
107 **STATE FISCAL YEARS IF A REFERRED BALLOT ISSUE THAT**
108 **AUTHORIZES THE STATE TO ISSUE TRANSPORTATION REVENUE**
109 **ANTICIPATION NOTES IS APPROVED AT THE 2020 GENERAL**
110 **ELECTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Current law requires the state treasurer to execute up to \$500 million of lease-purchase agreements in each of the 2020-21 and 2021-22 state fiscal years for the purpose of funding transportation projects. Senate Bill 19-263 (SB 263) refers a statewide ballot issue at the 2020 general election which would, if approved, authorize the state to issue up to \$1.837 billion of transportation revenue anticipation notes (TRANs) for the purpose of funding transportation projects.

When enacting SB 263, the general assembly intended that, upon approval of the ballot issue, the TRANs authorized would replace the lease-purchase agreements as a source of funding for transportation projects. However, due to a drafting error in the effective date clause of SB 263, if the TRANs are approved, the state treasurer will still be required to execute the lease-purchase agreements. The bill amends the Session Laws of Colorado 2019 to correct the drafting error and thereby ensure that approval of the ballot issue eliminates the requirement that the state treasurer execute the lease-purchase agreements.

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

2 **SECTION 1.** In Session Laws of Colorado 2019, section 8 of
3 chapter 334, **amend** (2) as follows:

4 Section 8. **Effective date.** (2) Section 24-82-1303 (2)(a)(I),
5 (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b), and (2)(d)(II), Colorado Revised
6 Statutes, as amended in section 4 of this act, takes effect only if a
7 ~~citizen-initiated~~ MAJORITY OF THE ELECTORS VOTING ON THE ballot issue
8 that authorizes the state to issue transportation revenue anticipation notes
9 ~~but does not authorize the state to collect additional tax revenue for the~~
10 ~~purpose of providing a revenue source for repayment of the notes AND~~
11 THAT is submitted to the registered electors of the state for their approval
12 or rejection at the November 2020 general election ~~and a majority of the~~
13 ~~electors voting on the ballot issue PURSUANT TO SECTION 43-4-705~~

1 (13)(b)(III), COLORADO REVISED STATUTES, vote "Yes/For", and, in such
2 case, section 24-82-1303 (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b),
3 and (2)(d)(II), Colorado Revised Statutes, as amended in section 4 of this
4 act, takes effect on the date of the official declaration of the vote thereon
5 by the governor.

6 **SECTION 2. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.

OFFICE OF LEGISLATIVE LEGAL SERVICES

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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Jennifer Berman, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Definition of "alternative fuel"

Summary

The term "alternative fuel" is defined for section 25-7-106.8, C.R.S., which concerns the Colorado clean vehicle fleet program; however, all other provisions in that statute have been repealed. Therefore, section 25-7-106.8, C.R.S., consists of only a definition that is not associated with any substantive law. There are, however, four other statutes where the definition of "alternative fuel" in section 25-7-106.8, C.R.S., is cross-referenced.

Section 25-7-106.8, C.R.S., should be repealed and, in conjunction with the repeal, the definition of "alternative fuel" in section 25-7-106.8, C.R.S., should be moved to one of the statutes that cross-references the definition, while the other statutes that cross-reference the definition should be amended to cross-reference the amended statute.

This issue was brought to my attention while working on an interim committee bill.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

As part of an enactment to implement the 1990 amendments to the federal "Clean Air Act," the general assembly enacted S.B. 92-105 in 1992. The bill, in pertinent part, added section 25-7-106.8, C.R.S., to create a Colorado clean vehicle fleet program within the department of public health and environment as an alternative fuel fleet program mandated by the amendments to the federal act. In 2002, all provisions of section 25-7-106.8, C.R.S., were repealed in S.B. 02-198, except for the definition of "alternative fuel" in subsection (1)(a).

The definition of "alternative fuel" in section 25-7-106.8 (1)(a), C.R.S., is:

25-7-106.8. Colorado clean vehicle fleet program. (1) As used in this section, unless the context otherwise requires:

(a) "Alternative fuel" means compressed natural gas, propane, ethanol, or any mixture of ethanol containing eighty-five percent or more ethanol by volume with gasoline or other fuels, electricity, or any other fuels, which fuels may include, but are not limited to, clean diesel and reformulated gasoline so long as these other fuels make comparable reductions in carbon monoxide emissions and brown cloud pollutants as determined by the air quality control commission. "Alternative fuel" does not include any fuel product, as defined in section 25-7-139 (3), that contains or is treated with methyl tertiary butyl ether (MTBE).

The definition of "alternative fuel" is not referred to in any other statute in article 7 of title 25, C.R.S., the air quality control laws. Four other sections of statute, however, cross-reference the definition of "alternative fuel" in section 25-7-106.8, C.R.S. Those statutes are: Section 24-30-1104 (2)(c)(III)(A), C.R.S., regarding the department of personnel's central state motor vehicle fleet system; section 39-22-516.7 (1)(b), C.R.S., regarding a tax credit for innovative motor vehicles; section 39-22-516.8 (1)(c), C.R.S., regarding a tax credit for innovative trucks; and section 42-4-508 (1.5), C.R.S., regarding the gross weight limit for vehicles operating on state highways or bridges.

Because section 25-7-106.8, C.R.S., consists only of a stand-alone definition that is not relied on anywhere in title 25, C.R.S., the section should be repealed. In conjunction with the repeal, one of the four statutes that cross-references the definition of "alternative fuel" in section 25-7-106.8, C.R.S., should be amended to include the definitional language, while the other three statutes are amended to cross-reference that amended statute.

Statutory Charge²

Because section 25-7-106.8, C.R.S., consists of a stand-alone definition of "alternative fuel" that is not tied to any substantive law, section 25-7-106.8, C.R.S., is an obsolete statute and should be repealed under the committee's charge to streamline the statutes pursuant to section 2-3-902 (3), C.R.S. Since, however, four other statutes cross-reference the definition of "alternative fuel" in section 25-7-106.8, C.R.S., one of the four statutes should be amended to include the definition and the cross-references in the other three statutes should be updated as conforming amendments.

Proposed Bill

If the Statutory Revision Committee directs the Office of Legislative Legal Services to prepare a bill draft, we propose substantially the language contained in the accompanying bill draft.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.2.20

DRAFT

LLS NO. 20-0897.01 Jennifer Berman x3286

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Move Alternative Fuel Definition"

A BILL FOR AN ACT

101 **CONCERNING THE RELOCATION OF THE DEFINITION OF "ALTERNATIVE**
102 **FUEL" FROM A PART OF THE STATUTES IN WHICH THE**
103 **DEFINITION IS NO LONGER REFERENCED TO A PART OF THE**
104 **STATUTES IN WHICH THE DEFINITION IS REFERENCED.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 2 of the bill repeals the definition of "alternative fuel" in the air quality control statutes because there is no longer any reference to the definition in those statutes. Section

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 moves the definition to the statutes regarding the department of personnel's central state motor vehicle fleet system because the definition is referred to there.

2 **Sections 3 through 5** update cross-references to the definition of "alternative fuel" to the statute to which the definition is moved.

3 **Sections 6 and 7** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-30-1104, **amend**
3 (2)(c)(III) introductory portion and (2)(c)(III)(A) as follows:

4 **24-30-1104. Functions of the department - definitions - rules.**

5 (2) In addition to the county-specific functions set forth in subsection (1)
6 of this section, the department of personnel shall take such steps as are
7 necessary to fully implement a central state motor vehicle fleet system by
8 January 1, 1993. The provisions of the motor vehicle fleet system created
9 pursuant to this subsection (2) apply to the executive branch of the state
10 of Colorado, its departments, its institutions, and its agencies; except that
11 the governing board of each institution of higher education, by formal
12 action of the board, and the Colorado commission on higher education,
13 by formal action of the commission, may elect to be exempt from the
14 provisions of this subsection (2) and may obtain a motor vehicle fleet
15 system independent of the state motor vehicle fleet system. Under the
16 direction of the executive director, the department of personnel shall
17 perform the following functions pertaining to the motor vehicle fleet
18 system throughout the state:

19 (c) (III) For purposes of this paragraph (e) SUBSECTION (2)(c):
20 (A) "Alternative fuel" ~~has the meaning established in section~~
21 25-7-106.8, C.R.S. MEANS COMPRESSED NATURAL GAS, PROPANE,
22 ETHANOL, OR ANY MIXTURE OF ETHANOL CONTAINING EIGHTY-FIVE

1 PERCENT OR MORE ETHANOL BY VOLUME WITH GASOLINE OR OTHER FUELS,
2 ELECTRICITY, OR ANY OTHER FUELS, WHICH FUELS MAY INCLUDE, BUT ARE
3 NOT LIMITED TO, CLEAN DIESEL AND REFORMULATED GASOLINE SO LONG
4 AS THESE OTHER FUELS MAKE COMPARABLE REDUCTIONS IN CARBON
5 MONOXIDE EMISSIONS AND BROWN CLOUD POLLUTANTS AS DETERMINED
6 BY THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION
7 25-7-104. "ALTERNATIVE FUEL" DOES NOT INCLUDE ANY FUEL PRODUCT,
8 AS DEFINED IN SECTION 25-7-139 (3)(c), THAT CONTAINS OR IS TREATED
9 WITH METHYL TERTIARY BUTYL ETHER (MTBE).

10 **SECTION 2.** In Colorado Revised Statutes, ~~repeal~~ 25-7-106.8 as
11 follows:

12 **25-7-106.8. Colorado clean vehicle fleet program.** ~~(1) As used~~
13 in this section, unless the context otherwise requires:

14 ~~(a) "Alternative fuel" means compressed natural gas, propane,~~
15 ~~ethanol, or any mixture of ethanol containing eighty-five percent or more~~
16 ~~ethanol by volume with gasoline or other fuels, electricity, or any other~~
17 ~~fuels, which fuels may include, but are not limited to, clean diesel and~~
18 ~~reformulated gasoline so long as these other fuels make comparable~~
19 ~~reductions in carbon monoxide emissions and brown cloud pollutants as~~
20 ~~determined by the air quality control commission. "Alternative fuel" does~~
21 ~~not include any fuel product, as defined in section 25-7-139 (3), that~~
22 ~~contains or is treated with methyl tertiary butyl ether (MTBE).~~

23 ~~(b) to (f) Repealed.~~

24 ~~(2) to (7) Repealed.~~

25 **SECTION 3.** In Colorado Revised Statutes, 39-22-516.7, ~~amend~~
26 (1)(b) as follows:

27 **39-22-516.7. Tax credit for innovative motor vehicles -**

1 **definitions - repeal.** (1) As used in this section, unless the context
2 otherwise requires:

3 (b) "Alternative fuel" means an alternative fuel as defined in
4 section ~~25-7-106.8 (1)(a), C.R.S.~~ HAS THE MEANING SET FORTH IN
5 SECTION 24-30-1104 (2)(c)(III)(A).

6 **SECTION 4.** In Colorado Revised Statutes, 39-22-516.8, **amend**
7 (1)(c) as follows:

8 **39-22-516.8. Tax credit for innovative trucks - definitions -**
9 **repeal.** (1) As used in this section, unless the context otherwise requires:
10 (c) "Alternative fuel" means an alternative fuel as defined in
11 section ~~25-7-106.8 (1)(a), C.R.S.~~ HAS THE MEANING SET FORTH IN
12 SECTION 24-30-1104 (2)(c)(III)(A).

13 **SECTION 5.** In Colorado Revised Statutes, 42-4-508, **amend**
14 (1.5) as follows:

15 **42-4-508. Gross weight of vehicles and loads - definition.**
16 (1.5) The gross weight limits provided in subsection (1) of this section
17 increase, but by no more than two thousand pounds, for any vehicle or
18 combination of vehicles if the vehicle or combination of vehicles contains
19 an alternative fuel system and operates on alternative fuel or both
20 alternative and conventional fuel. For the purposes of this subsection
21 (1.5), "alternative fuel" has the same meaning provided in section
22 25-7-106.8 (1)(a), C.R.S. 24-30-1104 (2)(c)(III)(A).

23 **SECTION 6.** In Colorado Revised Statutes, 25-7-122, **amend** (1)
24 introductory portion and (1)(b) as follows:

25 **25-7-122. Civil penalties.** (1) Upon application of the division,
26 THE DIVISION MAY COLLECT penalties as determined under this article may
27 be collected by the division ARTICLE 7 by INSTITUTING AN action

1 instituted in the district court for the district in which is located the air
2 pollution source affected IS LOCATED, in accordance with the following
3 provisions:

4 (b) Any person who violates any requirement or prohibition of an
5 applicable emission control regulation of the commission, the state
6 implementation plan, a construction permit, any provision for the
7 prevention of significant deterioration under part 2 of this ~~article~~ ARTICLE
8 7, any provision related to attainment under part 3 of this ~~article~~ ARTICLE
9 7, or ~~any provision of~~ section 25-7-105, 25-7-106, 25-7-106.3,
10 25-7-106.8, 25-7-106.9, 25-7-108, 25-7-109, 25-7-111, 25-7-112,
11 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-206, 25-7-403,
12 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406,
13 42-4-407, 42-4-409, 42-4-410, or 42-4-414 C.R.S., ~~shall be~~ IS subject to
14 a civil penalty of not more than fifteen thousand dollars per day for each
15 day of ~~such~~ THE violation; except that ~~there shall be no~~ civil penalties
16 SHALL NOT BE assessed or collected against persons who violate emission
17 regulations promulgated by the commission for the control of odor until
18 a compliance order issued pursuant to section 25-7-115 and ordering
19 compliance with the odor regulation has been violated.

20 **SECTION 7.** In Colorado Revised Statutes, 25-7-122.1, amend
21 (1)(a) and (1)(b) as follows:

22 **25-7-122.1. Criminal penalties.** (1) **General provisions.**
23 (a) Whenever the division has reason to believe that a person has
24 knowingly, as defined in section 18-1-501 (6), C.R.S., violated any
25 requirement or prohibition of an applicable emission control regulation
26 of the commission, state implementation plan, permit required under this
27 ~~article~~ ARTICLE 7, or any provision for the prevention of significant

1 deterioration under part 2 of this ~~article~~ ARTICLE 7; any provision related
2 to attainment under part 3 of this ~~article~~ ARTICLE 7; or ~~any provision of~~
3 section 25-7-105, 25-7-106, 25-7-106.3, ~~25-7-106.8, 25-7-106.9,~~
4 25-7-108, 25-7-109, 25-7-111, 25-7-112, 25-7-113, 25-7-114.2,
5 25-7-114.5, 25-7-118, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407,
6 42-4-403, 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, or
7 42-4-410, ~~E.R.S.~~, the division may request either the attorney general or
8 the district attorney for the district in which the alleged violation occurs
9 to pursue criminal penalties under this section.

10 (b) Except for those violations identified in ~~paragraph (c) of this~~
11 ~~subsection (1) and~~ subsections (1)(c), (2), and (3) of this section, any
12 person who knowingly, as defined in section 18-1-501 (6), ~~E.R.S.~~,
13 violates any requirement or prohibition of an applicable emission control
14 regulation of the commission, state implementation plan, permit required
15 under this ~~article~~ ARTICLE 7, or any provision for the prevention of
16 significant deterioration under part 2 of this ~~article~~ ARTICLE 7; any
17 provision related to attainment under part 3 of this ~~article~~ ARTICLE 7; or
18 ~~any provision of~~ section 25-7-105, 25-7-106, 25-7-106.3, ~~25-7-106.8,~~
19 ~~25-7-106.9,~~ 25-7-108, 25-7-109, 25-7-109.6, 25-7-111, 25-7-112,
20 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-206, 25-7-403,
21 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406,
22 42-4-407, 42-4-409, or 42-4-410 ~~E.R.S.~~, is guilty of COMMITS a
23 misdemeanor and, upon conviction thereof, may be punished by a fine of
24 not more than twenty-five thousand dollars per day for each day of
25 violation. Upon a second conviction for a violation of this ~~paragraph (b)~~
26 SUBSECTION (1)(b) within two years, the maximum punishment shall be
27 doubled.

1 **SECTION 8. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.

COLORADO GENERAL ASSEMBLY

LEGISLATIVE MEMBERS

Rep. Adrienne Benavidez, Chairman
Sen. Lois Court, Vice-Chair
Rep. Rod Bockenfeld
Sen. Dominick Moreno
Rep. Marc Snyder
Sen. Jack Tate

COMMITTEE STAFF

Greg Sobetski
Elizabeth Burger
Larson Silbaugh
Meredith Moon
Louis Pino



TAX EXPENDITURE EVALUATION INTERIM STUDY COMMITTEE

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us
303-866-3521 FAX: 303-866-3855

Dear Chair Zenzinger:

Senate Bill 16-203 requires the Office of the State Auditor (OSA) to evaluate all state tax expenditures every five years. Publication of evaluation reports began in September 2018. The Tax Expenditure Evaluation Interim Study Committee was convened during the 2019 legislative interim to review the policy considerations identified in the OSA reports.

During the interim, our committee heard presentations from the OSA regarding policy considerations for 29 different tax expenditures under the categories of repeal, clarify statute, effectiveness, and administration. Our committee requested that 19 bills be drafted in response to these policy considerations; however, our committee was authorized to recommend only 5 bills to the Legislative Council.

Five of our committee's draft bills aimed to repeal tax expenditures that are obsolete or that have never been utilized. We received guidance from the Office of Legislative Legal Services (OLLS) that these draft bills would fit within the scope of the duties of the Statutory Revision Committee codified at Section 2-3-902, C.R.S. Following guidance from the OLLS, our committee did not recommend bills that fit within the scope of the Statutory Revision Committee to the Legislative Council. Unanimously, we are requesting that your committee draft, consider, and introduce legislation in line with our committee's draft bills to repeal:

- the crop hail insurance premium tax exemption;
- the nonprofit transit agency fuel tax exemption;
- the sales tax exemption for residents of bordering states;
- the pre-1987 net operating loss deduction for individuals, estates, and trusts; and
- the corporate income tax deduction for previously taxed income or gain.

The OLLS will prepare drafts of bills to repeal these tax expenditures for your committee, together with memoranda explaining how they fit within your committee's charge. These materials will be available for your meeting on January 16, 2020.

If you would like more information about this request or the individual draft bills, please contact Pierce Lively at the OLLS (pierce.lively@state.co.us, 303-866-2059). We also encourage you to contact Michelle Colin at the OSA with any questions regarding their evaluations or reports (michelle.colin@state.co.us, 303-869-2823).

Sincerely,

A blue ink signature of Representative Adrienne Benavidez.

Representative Adrienne Benavidez
Chair

A blue ink signature of Senator Lois Court.

Senator Lois Court
Vice-Chair

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Pierce Lively, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Repeal of the income tax deduction for previously taxed income or gain for C corporations

Summary

Section 39-21-305, C.R.S., requires the Office of the State Auditor (OSA) to evaluate all of the state's tax expenditures every five years. The OSA began to publish its evaluations of these tax expenditures in September 2018. The Tax Expenditure Evaluation Interim Study Committee (committee) convened during the 2019 legislative interim to review the policy considerations in the OSA's tax expenditure evaluations.

The OSA's evaluation of the income tax deduction for previously taxed income or gain for C corporations (deduction) found that it is extremely unlikely that anyone could qualify for this deduction. Therefore, the OSA's evaluation stated that the General Assembly may want to repeal the deduction.

After reviewing the OSA's evaluation of the exemption, the committee requested a draft of a bill repealing the deduction. The Office of Legislative Legal Services (OLLS) prepared the bill draft and informed the committee that the drafted bill fit within the

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

Analysis

The income tax deduction for previously taxed income or gain for C corporations should be repealed.

The deduction is codified in section 39-22-304 (3)(e)(I), C.R.S, and reads as follows:

39-22-304. Net income of corporation – legislative declaration – definitions - repeal. (3) There shall be subtracted from federal tax income: (e)(I) The amount necessary to prevent the taxation under this article of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state, for a taxable year prior to January 1, 1965, to the taxpayer, or to a decedent by reason of who death the taxpayer acquired the right to receive the income or gain, or to trust or estate from which the taxpayer received the income.

Under the deduction, C corporations, when calculating their Colorado taxable income, may deduct from their federal taxable income any income or gain that was taxed by Colorado prior to 1965, to the extent that such income or gain is included in their current federal taxable income. However, to claim this deduction, a C corporation must include the income or gain it intends to deduct in its current federal taxable income, and the C corporation must have been taxed by Colorado on the same income or gain prior to 1965. Therefore, it is unlikely that any C corporation could currently claim this deduction.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

[the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the income tax deduction for previously taxed income or gain for C corporations appears to fall squarely within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

Proposed Bill

The attached bill only allows the income tax deduction for previously taxed income or gain for C corporations to be claimed for tax years prior to January 1, 2021.³

³ The Taxpayer Bill of Rights requires that no "new state definition of taxable income shall apply before the next tax year," Colo. Const., art. X, § 20, thus the exemption cannot be repealed before the beginning of the first full tax year after the bill is signed into law.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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1.7.20

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LLS NO. 20-0565.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Previous Taxed Income Gain Deduction C Corporation"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE INCOME TAX DEDUCTION FOR**
102 **PREVIOUSLY TAXED INCOME OR GAIN FOR C CORPORATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the income tax deduction for previously taxed income or gain for C corporations allows C corporations, when calculating their Colorado taxable income, to deduct from their federal taxable income any income or gain that was taxed by Colorado prior to 1965, to the extent that such income or gain is included in their current federal taxable income. The bill repeals this

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

income tax deduction.

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

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

4 (a) The income tax deduction for previously taxed income or gain
5 for C corporations allows C corporations, when calculating their
6 Colorado taxable income, to deduct from their federal taxable income any
7 income or gain that was taxed by Colorado prior to 1965, to the extent
8 that such income or gain is included in their current federal taxable
9 income.

10 (b) The general assembly enacted this deduction the same year
11 that it established federal taxable income as the basis for Colorado taxable
12 income. Thus, it is likely that this deduction was a structural provision
13 necessary to prevent double taxation of transactions that were previously
14 taxed differently by Colorado and the federal government.

15 (c) To utilize this deduction, a C corporation must include the
16 income or gain it intends to deduct in its current federal taxable income,
17 and it must have been taxed by Colorado on the same income or gain
18 prior to 1965.

19 (2) Therefore, it is the intent of the general assembly to simplify
20 the administration of taxes for the state of Colorado by repealing tax
21 expenditures that are obsolete and can no longer be claimed.

22 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **repeal**
23 (3)(e) as follows:

24 **39-22-304. Net income of corporation - legislative declaration**
25 **- definitions - repeal.** (3) There shall be subtracted from federal taxable

1 income:

2 (e) ~~The amount necessary to prevent the taxation under this article~~
3 ~~of any annuity or other amount of income or gain which was properly~~
4 ~~included in income or gain and was taxed under the laws of this state, for~~
5 ~~a taxable year prior to January 1, 1965, to the taxpayer, or to a decedent~~
6 ~~by reason of whose death the taxpayer acquired the right to receive the~~
7 ~~income or gain, or to a trust or estate from which the taxpayer received~~
8 ~~the income or gain;~~

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect January 1, 2021; except that, if a referendum petition is filed
11 pursuant to section 1 (3) of article V of the state constitution against this
12 act or an item, section, or part of this act within the ninety-day period
13 after final adjournment of the general assembly, then the act, item,
14 section, or part will not take effect unless approved by the people at the
15 general election to be held in November 2020 and, in such case, will take
16 effect January 1, 2021, or on the date of the official declaration of the
17 vote thereon by the governor, whichever is later.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Pierce Lively, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Repeal the pre-1987 net operating loss deduction for individuals, estates, and trusts.

Summary

Section 39-21-305, C.R.S., requires the Office of the State Auditor (OSA) to evaluate all of the state's tax expenditures every five years. The OSA began to publish its evaluations of these tax expenditures in September 2018. The Tax Expenditure Evaluation Interim Study Committee (committee) convened during the 2019 legislative interim to review the policy considerations in the OSA's tax expenditure evaluations.

The OSA's evaluation of the pre-1987 net operating loss deduction for individuals, estates, and trusts (deduction) found that no individual, estate, or trust has been able to qualify for the deduction since 2002. Therefore, the OSA's evaluation stated that the General Assembly may want to repeal the deduction.

After reviewing the OSA's evaluation of the exemption, the committee requested a draft of a bill repealing the deduction. The Office of Legislative Legal Services (OLLS) prepared the bill draft and informed the committee that the drafted bill fit within the

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

Analysis

The pre-1987 net operating loss deduction for individuals, estates, and trusts should be repealed.

The deduction is codified in section 39-22-104 (4)(d), C.R.S, and reads as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – legislative declaration – definitions - repeal. (4) There shall be subtracted from federal taxable income: (d) The net operating loss deduction allowed under section 39-22-504 to the extent carried over from a taxable year beginning prior to January 1, 1987.

Under the deduction, individuals, estates, and trusts may deduct Colorado net operating losses carried forward from tax years beginning prior to January 1, 1987, from their federal taxable income when computing their Colorado taxable income. However, section 39-22-504 (2)(a), C.R.S., only allows taxpayers to carry forward pre-1987 net operating losses for 15 years. Therefore, the last year that an individual, estate, or trust could have used the deduction for a net operating loss generated in tax years beginning prior to January 1, 1987, was 2002.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as [the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the pre-1987 net operating loss deduction for individuals, estates, and

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

trusts appears to fall squarely within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

Proposed Bill

The attached bill only allows the pre-1987 net operating loss deduction for individuals, estates, and trusts to be claimed for tax years prior to January 1, 2021.³

³ The Taxpayer Bill of Rights requires that no "new state definition of taxable income shall apply before the next tax year," Colo. Const., art. X, § 20, thus the exemption cannot be repealed before the beginning of the first full tax year after the bill is signed into law.

Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

Analysis

The pre-1987 net operating loss deduction for individuals, estates, and trusts should be repealed.

The deduction is codified in section 39-22-104 (4)(d), C.R.S, and reads as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – legislative declaration – definitions - repeal. (4) There shall be subtracted from federal taxable income: (d) The net operating loss deduction allowed under section 39-22-504 to the extent carried over from a taxable year beginning prior to January 1, 1987.

Under the deduction, individuals, estates, and trusts may deduct Colorado net operating losses carried forward from tax years beginning prior to January 1, 1987, when computing their Colorado taxable income. However, section 39-22-504 (2)(a), C.R.S., only allows taxpayers to carry forward net operating losses for 15 years. Therefore, the last year that an individual, estate, or trust could have used the deduction for a net operating loss generated in tax years beginning prior to January 1, 1987, was 2002.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as [the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the pre-1987 net operating loss deduction for individuals, estates, and

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

trusts appears to fall squarely within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

Proposed Bill

The attached bill only allows the pre-1987 net operating loss deduction for individuals, estates, and trusts to be claimed for tax years prior to January 1, 2021.³

³ The Taxpayer Bill of Rights requires that no "new state definition of taxable income shall apply before the next tax year," Colo. Const., art. X, § 20, thus the exemption cannot be repealed before the beginning of the first full tax year after the bill is signed into law.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0566.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Pre-1987 Net Operating Loss Deduction"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE PRE-1987 NET OPERATING LOSS**
102 **DEDUCTION FOR INDIVIDUALS, ESTATES, AND TRUSTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the pre-1987 net operating loss deduction for individuals, estates, and trusts allows individuals, estates, and trusts to deduct Colorado net operating losses carried forward from tax years beginning prior to January 1, 1987, when computing their Colorado taxable income. But the latest year that an individual, estate, or trust could have used the pre-1987 net operating loss

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

deduction and carried forward a net operating loss generated in 1987 was 2002. The bill repeals the deduction.

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

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

4 (a) The pre-1987 net operating loss deduction for individuals,
5 estates, and trusts allows individuals, estates, and trusts to deduct
6 Colorado net operating losses carried forward from tax years beginning
7 prior to January 1, 1987, when computing their Colorado taxable income.

8 (b) Section 39-22-504 (2)(a), Colorado Revised Statutes, only
9 allows taxpayers to carry forward net operating losses for 15 years.

10 (c) Thus, the latest year that an individual, estate, or trust could
11 have used the pre-1987 net operating loss deduction and carried forward
12 a net operating loss generated in 1987 was 2002.

13 (2) Therefore, it is the intent of the general assembly to simplify
14 the administration of taxes for the state of Colorado by repealing tax
15 expenditures that are obsolete and can no longer be claimed.

16 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **repeal**
17 (4)(d) as follows:

18 **39-22-104. Income tax imposed on individuals, estates, and
19 trusts - single rate - legislative declaration - definitions - repeal.**

20 (4) There shall be subtracted from federal taxable income:

21 (d) ~~The net operating loss deduction allowed under section
22 39-22-504 to the extent carried over from a taxable year beginning prior
23 to January 1, 1987;~~

24 **SECTION 3. Act subject to petition - effective date.** This act
25 takes effect January 1, 2021; except that, if a referendum petition is filed

1 pursuant to section 1 (3) of article V of the state constitution against this
2 act or an item, section, or part of this act within the ninety-day period
3 after final adjournment of the general assembly, then the act, item,
4 section, or part will not take effect unless approved by the people at the
5 general election to be held in November 2020 and, in such case, will take
6 effect January 1, 2021, or on the date of the official declaration of the
7 vote thereon by the governor, whichever is later.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

**COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716**

**TEL: 303-866-2045 FAX: 303-866-4157
EMAIL: OLLS.GA@STATE.CO.US**

MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Pierce Lively, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Repeal of the residents of bordering states sales tax exemption

Summary

Section 39-21-305, C.R.S., requires the Office of the State Auditor (OSA) to evaluate all of the state's tax expenditures every five years. The OSA began to publish its evaluations of these tax expenditures in September 2018. The Tax Expenditure Evaluation Interim Study Committee (committee) convened during the 2019 legislative interim to review the policy considerations in the OSA's tax expenditure evaluations.

The OSA's evaluation of the residents of bordering states sales tax exemption (exemption) found that no one has been able to qualify for this exemption since 1967. Therefore, the OSA's evaluation stated that the General Assembly may want to either repeal the exemption or clarify its applicability.

After reviewing the OSA's evaluation of the exemption, the committee requested a draft of a bill repealing the exemption. The Office of Legislative Legal Services (OLLS) prepared the bill draft and informed the committee that the drafted bill fit within the Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

The residents of bordering states sales tax exemption should be repealed.

The exemption is codified in section 39-26-704 (2), C.R.S, and reads as follows:

39-2-704. Miscellaneous sales tax exemptions – governmental entities – hotel residents – schools – exchange of property. (2) There shall be exempt from taxation under the provisions of part 1 of this article ... all retail sales within a distance of twenty miles within the boundaries of this state to persons resident, excluding corporations, of adjoining states, which adjoining states do not impose or levy a retail sales tax on such sales, if the residents of the adjoining states are in this state for the express purpose of making purchases and not as tourists.

Under the exemption, individuals who, among other requirements, are from states that border Colorado and that do not have a retail sales tax are exempt from state sales tax. The OSA's evaluation found that at the time the exemption was enacted, Nebraska was the only state bordering Colorado that did not have a retail sales tax, and since the exemption was created, Nebraska has begun assessing a retail sales tax. Thus, no taxpayer can qualify for the exemption because all of the states that border Colorado assess a retail sales tax.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as [the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the residents of bordering states sales tax exemption appears to fall squarely within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

Proposed Bill

The attached bill repeals the residents of bordering states sales tax exemption.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0567.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Residents Of Bordering States Sales Tax Exemption"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE SALES TAX EXEMPTION FOR SALES**
102 **TO RESIDENTS OF BORDERING STATES WITHOUT RETAIL SALES**
103 **TAXES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the sales tax exemption for sales to residents of bordering states without retail sales taxes exempts from state sales tax all retail sales made within 20 miles of the Colorado border to residents of states that border Colorado and do not have a retail sales tax, so long as those residents are in Colorado for the

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

primary purpose of making the purchase. The bill repeals this exemption.

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

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

4 (a) The sales tax exemption for sales to residents of bordering
5 states may only be claimed by residents who, among other requirements,
6 are from states that border Colorado and that do not have a retail sales
7 tax.

8 (b) At the time the exemption was enacted, Nebraska was the only
9 state bordering Colorado that did not have a retail sales tax, and since the
10 exemption was created, Nebraska has begun assessing a retail sales tax.

11 (c) Thus, no taxpayer can qualify for the exemption because all of
12 the states that border Colorado assess a sales tax.

13 (2) Therefore, it is the intent of the general assembly to simplify
14 the administration of taxes for the state of Colorado by repealing tax
15 expenditures that are obsolete and can no longer be claimed.

16 **SECTION 2.** In Colorado Revised Statutes, 39-26-704, **amend**
17 (2) as follows:

18 **39-26-704. Miscellaneous sales tax exemptions - governmental**
19 **entities - hotel residents - schools - exchange of property.** (2) There
20 shall be exempt from taxation under the provisions of part 1 of this ~~article~~
21 ARTICLE 26 all sales that the state of Colorado is prohibited from taxing
22 under the constitution or laws of the United States or the state of
23 Colorado. ~~and all retail sales within a distance of twenty miles within the~~
24 ~~boundaries of this state to persons resident, excluding corporations, of~~
25 ~~adjoining states, which adjoining states do not impose or levy a retail~~

1 sales tax on such sales, if the residents of the adjoining states are in this
2 state for the express purpose of making purchases and not as tourists.

3 **SECTION 3. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

**COLORADO STATE CAPITOL
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DENVER, COLORADO 80203-1716**

**TEL: 303-866-2045 FAX: 303-866-4157
EMAIL: OLLS.GA@STATE.CO.US**

MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Pierce Lively, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Repeal of the nonprofit transit agency fuel tax exemption

Summary

Section 39-21-305, C.R.S., requires the Office of the State Auditor (OSA) to evaluate all of the state's tax expenditures every five years. The OSA began to publish its evaluations of these tax expenditures in September 2018. The Tax Expenditure Evaluation Interim Study Committee (committee) convened during the 2019 legislative interim to review the policy considerations in the OSA's tax expenditure evaluations.

The OSA's evaluation of the nonprofit transit agency fuel tax exemption (exemption) found that the exemption has not been claimed since it was enacted in 1994 and that only a small percentage of vehicles can qualify for the exemption.

After reviewing the OSA's evaluation of the exemption, the committee requested a draft of a bill repealing the exemption. The Office of Legislative Legal Services (OLLS) prepared the bill draft and informed the committee that the drafted bill fit within the Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

The nonprofit transit agency fuel tax exemption should be repealed.

The exemption is codified in section 39-27-102.5 (7), C.R.S, and reads as follows:

39-27-102.5. Exemptions on tax imposed – ex-tax purchases. (7) Motor vehicles that are owned or operated by a nonprofit transit agency that receives public funds and that are used exclusively in performing the agency's nonprofit functions and activities shall be exempt for the special fuel tax imposed by section 29-27-102 (1)(a) upon liquefied petroleum gas and natural gas. A person who purchases special fuel for the purposes set forth in section (7) may, in accordance with section 29-27-103, apply to the department of revenue for a refund of the excise tax paid thereon.

Under the exemption, nonprofit transit agencies are exempt from the fuel excise tax on liquefied petroleum gas and natural gas for vehicles that are used for transit purposes and only use liquefied petroleum gas and natural gas. However, the OSA's evaluation found that there are no transit vehicles in the United States that use liquefied petroleum gas and only 15% of transit vehicles in the United States use natural gas or natural gas blends. The OSA's evaluation further found that, perhaps because of the small number of vehicles that qualify for the exemption, the exemption has not been claimed since it was enacted in 1994.

Additionally, the exemption does not have stated performance measures to determine whether it is meeting its purpose and does not have an expiration date.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as [the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the nonprofit transit agency fuel tax exemption appears to fall squarely

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

Proposed Bill

The attached bill repeals the nonprofit transit agency fuel tax exemption.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0568.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Nonprofit Transit Authority Agency Fuel Tax"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE FUEL TAX EXEMPTION FOR**
102 **NONPROFIT TRANSIT AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the fuel tax exemption for nonprofit transit agencies exempts nonprofit transit agencies from the fuel excise tax on liquefied petroleum gas and natural gas used in vehicles for transit purposes. The bill repeals the tax expenditure.

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

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

4 (a) The fuel tax exemption for nonprofit transit agencies exempts
5 nonprofit transit agencies from the fuel excise tax on liquefied petroleum
6 gas and natural gas used in vehicles for transit purposes.

7 (b) The nonprofit transit agency fuel tax exemption does not have
8 stated performance measures to determine whether it is meeting its
9 purpose.

10 (c) The nonprofit transit agency fuel tax exemption does not have
11 an expiration date and has remained relatively unchanged, even though
12 it has not been claimed since its enactment in 1994.

13 (d) The nonprofit transit agency fuel tax exemption not only has
14 not been claimed since its enactment, but only vehicles using liquefied
15 petroleum gas and natural gas are eligible for the exemption.

16 (e) There are no transit vehicles in the United States that use
17 liquefied petroleum gas.

18 (f) Only 15% of transit vehicles in the United States use natural
19 gas or natural gas blends.

20 (2) Therefore, it is the intent of the general assembly to simplify
21 the administration of taxes for the state of Colorado by repealing tax
22 expenditures that have no evaluative component, no expiration date, and
23 that are unclaimed.

24 **SECTION 2.** In Colorado Revised Statutes, 39-27-102.5, **repeal**
25 (7) as follows:

26 **39-27-102.5. Exemptions on tax imposed - ex-tax purchases.**

1 (7) Motor vehicles that are owned or operated by a nonprofit transit
2 agency that receives public funds and that are used exclusively in
3 performing the agency's nonprofit functions and activities shall be exempt
4 from the special fuel tax imposed by section 39-27-102 (1)(a) upon
5 liquefied petroleum gas and natural gas. A person who purchases special
6 fuel for the purposes set forth in this subsection (7) may, in accordance
7 with section 39-27-103, apply to the department of revenue for a refund
8 of the excise tax paid thereon.

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.

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**TEL: 303-866-2045 FAX: 303-866-4157
EMAIL: OLLS.GA@STATE.CO.US**

MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Pierce Lively, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: Repeal of the crop hail insurance premium tax exemption

Summary

Section 39-21-305, C.R.S., requires the Office of the State Auditor (OSA) to evaluate all of the state's tax expenditures every five years. The OSA began to publish its evaluations of these tax expenditures in September 2018. The Tax Expenditure Evaluation Interim Study Committee (committee) convened during the 2019 legislative interim to review the policy considerations in the OSA's tax expenditure evaluations.

The OSA's evaluation of the crop hail insurance premium tax exemption (exemption) found that no insurers in Colorado have been eligible to claim this exemption since 1979. Therefore, the OSA's evaluation stated that the General Assembly may want to either repeal the exemption or expand its eligibility requirements.

After reviewing the OSA's evaluation of the exemption, the committee requested a draft of a bill repealing the exemption. The Office of Legislative Legal Services (OLLS) prepared the bill draft and informed the committee that the drafted bill fit within the Statutory Revision Committee's (SRC) charge. The committee then unanimously requested that OLLS present the proposed bill to the SRC.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

The crop hail insurance premium tax exemption should be repealed.

The exemption is codified in section 10-3-209 (1)(d)(II), C.R.S, and reads as follows:

10-3-209. Tax on premiums collected – exemptions – penalties

- repeal. (1)(d)(II) Mutual protective associations writing crop hail insurance only and operating on an advanced premium basis shall be exempt from the taxes provided by this section on that portion of the premium designated to the loss fund.

Under the exemption, mutual protective associations are exempt from paying the insurance premium tax on the portion of the insurance premiums they collect that are designated to their loss fund.

To qualify for the exemption, an insurer must, among other requirements, be a "mutual protective association" and only offer crop hail insurance to policyholders. However, the OSA's evaluation found that none of the insurers licensed in Colorado are "mutual protective associations" and there have not been any active "mutual protective associations" in Colorado since 1979. Moreover, the OSA's evaluation also found that all of the insurance companies that offer crop hail insurance in Colorado offer other types of insurance as well. Thus, no insurers are currently eligible to claim the exemption.

Statutory Charge²

The SRC is tasked with both examining Colorado statutes to discover "anachronisms in the law" and with recommending legislation "to effect such changes in the law as [the SRC] deems necessary in order to modify or eliminate antiquated ... rules of law." Thus, removing the crop hail insurance premium tax exemption appears to fall

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

squarely within the SRC's charge because doing so eliminates an anachronism and an antiquated rule of law.

Proposed Bill

The attached bill repeals the crop hail insurance premium tax exemption.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0569.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Crop Hail Insurance Premium Exemption"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE INSURANCE PREMIUM TAX**
102 **EXEMPTION FOR CROP HAIL INSURANCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the insurance premium tax exemption for crop hail insurance states that mutual protective associations that operate on an advanced premium basis and only sell crop hail insurance are exempt from paying the insurance premium tax on the portion of the insurance premiums they collect that are designated to their loss fund. The bill repeals this insurance premium

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

exemption.

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

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

4 (a) The insurance premium tax exemption for crop hail insurance
5 states that mutual protective associations that operate on an advanced
6 premium basis and only sell crop hail insurance are exempt from paying
7 the insurance premium tax on the portion of the insurance premiums they
8 collect that are designated to their loss fund.

9 (b) To qualify for the crop hail insurance premium tax exemption,
10 an insurer must, among other requirements, be a "mutual protective
11 association" and offer only crop hail insurance to policy holders.

12 (c) None of the insurers licensed in Colorado are "mutual
13 protective associations" and there have not been any active "mutual
14 protective associations" in Colorado since 1979.

15 (d) All of the insurance companies that offer crop hail insurance
16 in Colorado also offer other types of insurance.

17 (e) Thus, no insurers are currently eligible to claim the crop hail
18 insurance premium tax exemption.

19 (2) Therefore, it is the intent of the general assembly to simplify
20 the administration of taxes for the state of Colorado by repealing tax
21 expenditures that are obsolete and can no longer be claimed.

22 **SECTION 2.** In Colorado Revised Statutes, 10-3-209, **repeal**
23 (1)(d)(II) as follows:

24 **10-3-209. Tax on premiums collected - exemptions - penalties**
25 - **repeal.** (1) (d) (II) ~~Mutual protective associations writing crop hail~~

1 ~~insurance only and operating on an advance premium basis shall be~~
2 ~~exempt from the taxes provided by this section on that portion of the~~
3 ~~premium designated to the loss fund.~~

4 **SECTION 3. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2020 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.



COLORADO
Office of the State Controller
Department of Personnel & Administration
1525 Sherman St., 5th Floor
Denver, CO 80203

December 17, 2019

Senator Rachel Zenzinger, Chair
Statutory Revision Committee
200 East Colfax Street
Denver, CO 80203

Dear Senator Zenzinger:

The Office of the State Controller (OSC), Department of Personnel & Administration (DPA) requests that the Statutory Revision Committee consider revisions to Section 24-75-402(2)(h)(IV), C.R.S.

Summary of Proposal: DPA requests that the last sentence in Section 24-75-402(2)(h)(IV)), C.R.S. be deleted ("Any portion of the revenues credited to the cash fund that is estimated to be derived from non-fee sources. ~~The estimate shall be equal to the portion of total revenues received from non-fee sources in the prior fiscal year.~~") The OSC would include guidance in the Fiscal Procedures Manual that would indicate that the calculation for the uncommitted reserves estimate would be based on the closing year balances. This deletion would not affect any calculations currently used on the Cash Funds Uncommitted Reserves Report, and it would align the statute to the OSC practice and audited reports.

Rationale for Proposal: The OSC has had questions from departments on this citation related to the meaning of "prior fiscal year." Since the statute became effective in FY98, the OSC has interpreted "prior fiscal year" to mean "closing fiscal year." For instance, for FY19, the OSC uses the balances for FY19 to calculate the uncommitted reserves estimate. By using the closing year (FY19) rather than the prior fiscal year (FY18), all adjustments that a departments made in the closing year are reflected in the fund balance.

We do not know the reason for the use of "prior," but perhaps the word "prior" was used because the report is due after the fiscal year end date (June 30). But this has led to confusion in certain agencies.

Consequences if Request is Denied: If denied, and if the OSC were to change the methodology of this calculation by interpreting the language literally,



(using the prior fiscal year to determine the non-fee sources applicable to the current year report), the uncommitted reserves amount would not reflect any adjustments a department might make in the closing year to reduce the amount of fee revenues for the report. This may delay the ability for a fund to be compliant with the limitations of this statute, thus possibly causing a fund to be restricted, per Section 24-75-402(12), C.R.S.

Thank you for your consideration. We are ready and eager to present our request before the Statutory Revision Committee and answer any questions you or the committee members may have.

Sincerely,



Robert Jaros, CPA, MBA, JD
State Controller

cc: Senator Rob Woodward, Vice Chair
Senator Jack Tate
Senator Dominick Moreno
Representative Donald Valdez
Representative Jeni James Arndt
Representative Kevin Van Winkle
Representative Hugh McKean
Brad Ramming, Esq.
Patrice Bernadette Collins, Esq.



OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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EMAIL: OLLS.GA@STATE.CO.US**

MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Nicole Myers, Office of Legislative Legal Services

DATE: January 9, 2020

SUBJECT: The method used to estimate the non-fee revenue credited to a cash fund for the calculation of uncommitted reserves in the cash fund at the end of a fiscal year

Summary

Section 24-75-402, C.R.S., limits the amount of uncommitted reserves that may remain in a cash fund at the end of a fiscal year. The definition of "uncommitted reserves" excludes revenue credited to a cash fund that is estimated to be derived from non-fee sources. The statute further specifies that when calculating the estimated revenue from non-fee sources, the estimate is required to be an amount "equal to the portion of total revenues received from non-fee sources in the prior fiscal year." The phrase "prior fiscal year" is causing confusion among executive branch departments. The Office of the State Controller directs agencies to use the estimate of revenue from non-fee sources from the closing fiscal year because it is the "prior fiscal year" when an agency determines the actual uncommitted reserves. However, some state agencies interpret this language to require the use of estimated revenue from non-fee sources from the fiscal year prior to the closing fiscal year because the uncommitted reserves are "the fund balance as of June 30 of any fiscal year" and this provides the context for

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

the phrase "prior fiscal year". The Office of the State Controller believes the confusion can be eliminated by repealing the sentence that contains the phrase "prior fiscal year."

OLLS staff interprets section 24-75-402, C.R.S., to require departments to use the estimated revenue from non-fee sources from the fiscal year prior to the closing fiscal year, but acknowledges that this has not been the prevailing interpretation of state agencies since the provision was enacted. Staff also recognizes that the Office of the State Controller's interpretation of the statute is a more logical interpretation and that the literal interpretation of the phrase for the estimate may contradict the general statutory requirement that the uncommitted reserves exclude revenue from non-fee sources. Therefore, it is possible that the change suggested by the Office of the State Controller would correct a defect in the law. It is also possible that the change could eliminate antiquated language in the statute and bring the law of the state into harmony with modern conditions.

This issue was brought to staff's attention by the Department of Personnel.

Analysis

Section 24-75-402, C.R.S., limits the amount of uncommitted reserves that may remain in a cash fund at the end of any fiscal year. "Uncommitted reserves" is defined in section 24-75-402 (2)(h), C.R.S., as the "fund balance of a cash fund as of June 30 of any fiscal year," minus certain assets, funds, and other revenue. Among the assets, funds, and revenue that may be subtracted from a cash fund balance in the calculation of "uncommitted reserves" is revenue credited to the cash fund that is estimated to be from non-fee sources. Specifically, section 24-75-402 (2)(h)(IV) states the following:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions - repeal. (2) (h) "Uncommitted reserves" means the fund balance of a cash fund as of June 30 of any fiscal year, minus the following:

(IV) Any portion of the revenues credited to the cash fund that is estimated to be derived from non-fee sources. The estimate shall be equal to the portion of total revenues received from non-fee sources in the prior fiscal year.

The first sentence in subsection (2)(h)(IV) clearly states that the portion of revenue in the cash fund that is estimated to be from non-fee sources may be subtracted from the balance of the cash fund. The second sentence provides guidance to executive branch agencies regarding how to estimate the portion of revenue that is from non-fee sources by specifying that the estimated amount of non-fee revenue should be equal to the portion of total revenues received from non-fee sources in the prior fiscal year.

From the time section 24-75-402, C.R.S., took effect in 1998, the Office of the State Controller has interpreted the phrase "prior fiscal year" to mean the fiscal year for which the amount of uncommitted reserves in a cash fund is being calculated, as the calculation occurs after the fiscal year is over. To estimate the revenue derived from non-fee sources when calculating a cash fund's uncommitted reserves for the 2018-19 fiscal year, the Office of the State Controller directs state agencies to use estimated revenue from non-fee sources received in the 2018-19 fiscal year, rather than revenue from non-sources received in the "prior fiscal year," which, based on OLLS staff's interpretation of the statute, would be the 2017-18 fiscal year.

In many ways, the Office of the State Controller's interpretation of the statute is more logical, and may be better public policy, than the literal interpretation of the statute. The controller's interpretation allows the uncommitted reserves of cash funds to reflect non-fee revenue that was credited to the cash fund in the same fiscal year for which the uncommitted reserves of a cash fund is calculated. In contrast, the alternative interpretation of "prior fiscal year" dictates that there will be a one year delay before non-fee revenue credited to a cash fund will be reflected in the calculation of the cash fund's uncommitted reserves. This delay could cause a department to arguably misstate the uncommitted reserves for a cash fund and to appear to exceed the maximum reserve of fee revenue for the fund.

For example, in the 2017-18 fiscal year, Cash Fund A consists only of fees that are credited to it and does not receive non-fee revenue from any source. In the 2018-19 fiscal year, Cash Fund A still receives revenue from fees, but the General Assembly also transfers two million dollars from the general fund to Cash Fund A for a specific purpose. The calculation of the uncommitted reserves in Cash Fund A for the 2018-19 fiscal year will be very different, depending on whether the Office of the State Controller's or the alternative interpretation of the statute is used.

Using the Office of the State Controller's interpretation, the two million dollars in non-fee revenue that was transferred to Cash Fund A will be included in the estimate of non-fee revenue credited to Cash Fund A and will subtracted from the balance of uncommitted reserves for the 2018-19 fiscal year. Using the alternative interpretation of the statute, the estimate of non-fee revenue in the cash fund will be zero dollars because there was no non-fee revenues in the prior fiscal year, fiscal year 2017-18. Given that two million dollars was credited to the fund during fiscal year 2018-19, this estimate is wildly inaccurate. Therefore, whether the two-million-dollar-transfer of general fund money is included in the estimate of revenue from non-fee sources could have a significant impact whether Cash Fund A is in compliance with the statutory limitation on uncommitted reserves for the 2018-19 fiscal year.

The Office of the State Controller receives questions from state agencies each year regarding how to interpret the phrase "prior fiscal year" in section 24-75-402 (2)(h)(IV), C.R.S. To avoid further confusion when calculating uncommitted reserves in cash funds, the Office of the State Controller proposes that the Statutory Revision Committee (committee) introduce a bill to repeal the second sentence of section 24-75-402 (2)(h)(IV), C.R.S., which contains the phrase "prior fiscal year." OLLS staff agrees that this sentence is unnecessary for the proper administration of the statute.

Statutory Charge²

The committee is tasked with examining Colorado statutes to discover "defects and anachronisms in the law" and with recommending needed reforms. OLLS Staff acknowledges that the phrase "prior fiscal year" in section 24-75-402 (2)(h)(IV), C.R.S., may create a wholly inaccurate estimate of non-fee revenue for the uncommitted reserves, and, as such, could be construed as a defect or anachronism in the law. Staff also recognizes that a statute with multiple reasonable interpretations could be considered a defect in the law. Therefore, it is reasonable to determine that the change requested by the office of the state controller is within the statutory charge of the committee because it would eliminate a defect in the law.

It is also within the charge of the committee to "eliminate antiquated... rules of law and to bring the law of this state into harmony with modern conditions.... ." The Office of the State Controller's interpretation of the statute has been the prevailing practice for over twenty years and arguably results in more logical public policy and accurate estimate than the alternative, literal interpretation of the statute. Perhaps, cash fund balances twenty years ago were more likely to be stable from one fiscal year to another, and the phrase "prior fiscal year" could have produced a similar amount of estimated non-fee revenue regardless of which fiscal year was used in the estimate. Since section 24-75-204, C.R.S., was enacted however, it has become more common for the General Assembly to transfer general fund money into cash funds. These transfers are not necessarily consistent from year to year, so now the estimated non-fee

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

revenue in a cash fund could be drastically different depending on the interpretation of "prior fiscal year". Therefore, it is also reasonable to determine that an amendment to section 24-75-204 (2)(h)(IV), C.R.S., to eliminate the requirement that the estimate for non-fee revenue is equal to the portion of total revenues received from non-fee sources in the prior fiscal year, is within the statutory charge of the committee because it would eliminate an antiquated rule of law and bring the statute into harmony with modern conditions.

If the committee determines that the requested change to section 24-75-204 (2)(h)(IV), C.R.S., is not within the statutory charge of the committee but is a legitimate issue to address, a member of the committee may choose to carry the bill individually or the committee may refer the issue to the Joint Budget Committee for its consideration.

Proposed Bill

The attached bill draft repeals the last sentence of section 24-75-402 (2)(h)(IV), C.R.S., which requires the estimate of non-fee sources credited to a cash fund to be equal to the portion of total revenues that the cash fund received from non-fee sources in the prior fiscal year.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

DRAFT

LLS NO. 20-0913.01 Nicole Myers x4326

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Estimate Of Non-fee Sources Of Cash Fund Revenue"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF CERTAIN LANGUAGE USED TO**
102 **DETERMINE CASH FUND REVENUE THAT IS DERIVED FROM**
103 **NON-FEE SOURCES WHEN CALCULATING THE AMOUNT OF**
104 **UNCOMMITTED RESERVES IN A CASH FUND AT THE END OF A**
105 **FISCAL YEAR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Current law limits the amount of uncommitted reserves that may remain in a cash fund at the end of any

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

fiscal year. The definition of "uncommitted reserves" excludes revenue credited to a cash fund that is estimated to be derived from non-fee sources.

Current law further specifies that when calculating the estimated revenue from non-fee sources, the estimate is required to be an amount equal to the portion of total revenues received from non-fee sources in the prior fiscal year. This requirement and, in particular, the phrase "prior fiscal year" is causing confusion among executive branch departments and is not necessary for the proper administration of the statute. The bill repeals the requirement that the estimate for non-fee revenue is equal to the portion of total revenues received from non-fee sources in the prior fiscal year.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-75-402, **amend**
3 (2)(h)(IV) as follows:

4 **24-75-402. Cash funds - limit on uncommitted reserves -**
5 **reduction in the amount of fees - exclusions - repeal.** (2) For purposes
6 of this section, unless the context otherwise requires:

7 (h) "Uncommitted reserves" means the fund balance of a cash
8 fund as of June 30 of any fiscal year, minus the following:

9 (IV) Any portion of the revenues credited to the cash fund that is
10 estimated to be derived from non-fee sources. ~~The estimate shall be equal~~
11 ~~to the portion of total revenues received from non-fee sources in the prior~~
12 ~~fiscal year.~~

13 **SECTION 2. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety. <{Ask Committee}>

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
12.30.19

DRAFT

LLS NO. 20-0420.01 Jane Ritter x4342

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Statutory Revision Cmt Omnibus Bill"

A BILL FOR AN ACT

101 **CONCERNING AN OMNIBUS BILL CONTAINING RECOMMENDATIONS OF**
102 **THE STATUTORY REVISION COMMITTEE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill makes the following changes to Colorado Revised Statutes, in accordance with the statutory charge of the statutory revision committee:

- **Section 1** of the bill contains a nonstatutory legislative declaration reflecting the scope of the statutory revision committee as it applies to the bill;

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- **Sections 2-4** update references to the outdated term "regional accountable entity" to the current term "managed care entity";
- **Sections 5-17** update incorrect references in statute related to the term "commitment", as used in the context of treatment and evaluation of mental health disorders, to the current language of "certification";
- **Sections 18-21** repeal subsections in title 33 that reference obsolete or conflicting provisions or actions that have already occurred and are no longer relevant;
- **Sections 22-26** repeal subsections in title 43 that reference obsolete provisions or actions that have already occurred and are no longer relevant, including deleting references to the terms "motorscooter" and "motorbicycle", which were removed from statute by H.B. 09-1026;
- **Sections 27-35** conform and update obsolete federal references for the definition of a "federally qualified health center";
- **Sections 36-39** update outdated references to the "Colorado tourism board" and replace them with the "Colorado tourism office" and repeal a reference to a one-time transfer to a now-defunct tourism promotion fund;
- **Sections 40-45** repeal outdated and previously repealed references to the "pilot alternate protest procedure" in title 39; and
- **Sections 46-61** update, repeal, or correct miscellaneous references to programs, funds, boards or commissions, terminology, or other provisions in statute that conflict with current law.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to conform or repeal statutory
4 provisions that reflect obsolete or conflicting terminology; incorrect
5 statutory citations; or previously repealed programs, funds, boards or
6 commissions, or other provisions. The general assembly further declares
7 that conforming or repealing these statutory provisions does not alter the
8 scope or applicability of the remaining statutes.

1 **SECTION 2.** In Colorado Revised Statutes, 16-11.9-204, amend
2 (1)(f)(IV) as follows:

3 **16-11.9-204. Behavioral health court liaisons - duties and**
4 **responsibilities - consultation and collaboration.** (1) A court liaison
5 hired pursuant to this part 2 has the following duties and responsibilities:

6 (f) Identifying existing programs and resources that are already
7 available in the community, including but not limited to:

8 (IV) Behavioral health services provided for medicaid clients
9 through the ~~regional accountable~~ MANAGED CARE entity that the
10 department of health care policy and financing contracts with for the
11 provision of such services.

12 **SECTION 3.** In Colorado Revised Statutes, 25.5-1-130, amend
13 (2) as follows:

14 **25.5-1-130. Improving access to behavioral health services for**
15 **individuals at risk of entering the criminal or juvenile justice system**
16 **- duties of the state department.** (2) On or before July 1, 2021, the state
17 department shall work collaboratively with managed care entities to
18 create incentives for behavioral health providers to accept medicaid
19 recipients with severe behavioral health disorders. The incentives may
20 include, but need not be limited to, higher reimbursement rates, quality
21 payments to ~~regional accountable~~ MANAGED CARE entities for adequate
22 networks, establishing performance measures and performance
23 improvement plans related to network expansion, transportation solutions
24 to incentivize medicaid recipients to attend health care appointments, and
25 incentivizing providers to conduct outreach to medicaid recipients to
26 ensure that they are engaged in needed behavioral health services,
27 including technical assistance with billing procedures. The state

1 department may seek any federal authorization necessary to create the
2 incentives described in this subsection (2).

3 **SECTION 4.** In Colorado Revised Statutes, 27-63-104, amend
4 (2)(b) as follows:

5 **27-63-104. Community behavioral health safety net system**
6 **advisory body - creation - membership - repeal.** (2) **Safety net system**
7 **comprehensive proposal.** (b) The department and advisory body shall
8 solicit feedback from community stakeholders and engage community
9 stakeholders when developing the proposal described in subsection (2)(a)
10 of this section, including direct engagement of consumers and consumers'
11 families, managed service organizations, health care providers, ~~regional~~
12 ~~accountable~~ MANAGED CARE entities, community mental health centers,
13 and substance use disorder services providers.

14 **SECTION 5.** In Colorado Revised Statutes, 13-5-142, amend
15 (3)(b)(II) and (3)(b)(III) as follows:

16 **13-5-142. National instant criminal background check system**
17 **- reporting.** (3) The state court administrator shall take all necessary
18 steps to cancel a record made by the state court administrator in the
19 national instant criminal background check system if:

20 (b) No less than three years before the date of the written request:
21 (II) The period of CERTIFICATION OR commitment of the most
22 recent order of CERTIFICATION, commitment, RECERTIFICATION, or
23 recommitment expired, or a court entered an order terminating the
24 person's incapacity or discharging the person from CERTIFICATION OR
25 commitment in the nature of habeas corpus, if the record in the national
26 instant criminal background check system is based on an order of
27 CERTIFICATION OR commitment to the custody of the office of behavioral

1 health in the department of human services; except that the state court
2 administrator shall not cancel any record pertaining to a person with
3 respect to whom two recommitment orders have been entered pursuant to
4 section 27-81-112 (7) and (8), or who was discharged from treatment
5 pursuant to section 27-81-112 (11) on the grounds that further treatment
6 is not likely to bring about significant improvement in the person's
7 condition; or

8 (III) The record in the case was sealed pursuant to section
9 27-65-107 (7), or the court entered an order discharging the person from
10 commitment CERTIFICATION in the nature of habeas corpus pursuant to
11 section 27-65-113, if the record in the national instant criminal
12 background check system is based on a court order for involuntary
13 certification for short-term treatment of a mental health disorder.

14 **SECTION 6.** In Colorado Revised Statutes, 13-6-105, amend
15 (1)(b) as follows:

16 **13-6-105. Specific limits on civil jurisdiction.** (1) The county
17 court has no civil jurisdiction except that specifically conferred upon it by
18 law. In particular, it has no jurisdiction over the following matters:

19 (b) Matters of mental health, including commitment
20 CERTIFICATION, restoration to competence, and the appointment of
21 conservators;

22 **SECTION 7.** In Colorado Revised Statutes, 13-9-123, amend
23 (3)(b)(II) and (3)(b)(III) as follows:

24 **13-9-123. National instant criminal background check system
25 - reporting.** (3) The state court administrator shall take all necessary
26 steps to cancel a record made by the state court administrator in the
27 national instant criminal background check system if:

1 (b) No less than three years before the date of the written request:

2 (II) The period of CERTIFICATION OR commitment of the most
3 recent order of CERTIFICATION, commitment, RECERTIFICATION, or
4 recommitment expired, or the court entered an order terminating the
5 person's incapacity or discharging the person from CERTIFICATION OR
6 commitment in the nature of habeas corpus, if the record in the national
7 instant criminal background check system is based on an order of
8 CERTIFICATION OR commitment to the custody of the office of behavioral
9 health in the department of human services; except that the state court
10 administrator shall not cancel any record pertaining to a person with
11 respect to whom two recommitment orders have been entered pursuant to
12 section 27-81-112 (7) and (8), or who was discharged from treatment
13 pursuant to section 27-81-112 (11), on the grounds that further treatment
14 is not likely to bring about significant improvement in the person's
15 condition; or

16 (III) The record in the case was sealed pursuant to section
17 27-65-107 (7), or the court entered an order discharging the person from
18 commitment CERTIFICATION in the nature of habeas corpus pursuant to
19 section 27-65-113, if the record in the national instant criminal
20 background check system is based on a court order for involuntary
21 certification for short-term treatment of a mental health disorder.

22 **SECTION 8.** In Colorado Revised Statutes, 14-15-107, amend
23 (5)(u) as follows:

24 **14-15-107. Rights, benefits, protections, duties, obligations,
25 responsibilities, and other incidents of parties to a civil union.**
26 (5) Rights, benefits, protections, duties, obligations, responsibilities, and
27 other incidents under law as are granted to or imposed upon spouses, that

1 apply in like manner to parties to a civil union under this section, include
2 but are not limited to:

3 (u) The right to apply for emergency or involuntary commitment
4 CERTIFICATION of a party to a civil union;

5 **SECTION 9.** In Colorado Revised Statutes, 15-18.7-202, amend
6 (4) and (5) as follows:

7 **15-18.7-202. Behavioral health orders for scope of treatment**
8 - **form contents - effect.** (4) Nothing in this part 2 allows an adult to
9 include in his or her behavioral health orders form an instruction that
10 exempts the adult from an involuntary emergency procedure,
11 CERTIFICATION, or commitment authorized pursuant to state law. Any
12 instruction that attempts to exempt the adult from an involuntary
13 emergency procedure, CERTIFICATION, or commitment authorized
14 pursuant to state law is void.

15 (5) A behavioral health orders form may be admissible in a
16 hearing pursuant to section 27-65-111 for the purpose of establishing the
17 adult's behavioral health treatment, medication, and alternative treatment
18 history, decisions, and preferences to be made on behalf of the adult
19 during an involuntary emergency procedure, CERTIFICATION, or
20 commitment authorized pursuant to state law.

21 **SECTION 10.** In Colorado Revised Statutes, 16-8.5-105, amend
22 (6) as follows:

23 **16-8.5-105. Evaluations, locations, time frames, and report.**
24 (6) Whenever a competency evaluation is ordered upon the request of
25 either party, the court may notify the county attorney or district attorney
26 required to conduct proceedings pursuant to section 27-65-111 (6) for the
27 county in which the charges are pending and the court liaison hired

1 pursuant to part 2 of article 11.9 of this title 16 of all court dates for
2 return of the report on competency to ensure that all parties are on notice
3 of the expected need for coordinated services and planning with
4 consideration of possible civil ~~commitment~~ CERTIFICATION.

5 **SECTION 11.** In Colorado Revised Statutes, 16-8.5-111, **amend**
6 (2)(a) as follows:

7 **16-8.5-111. Procedure after determination of competency or**
8 **incompetency.** (2) If the final determination made pursuant to section
9 16-8.5-103 is that the defendant is incompetent to proceed, the court has
10 the following options:

11 (a) If the defendant is charged with an offense as outlined in
12 section 16-8.5-116 (7) or (8), except for an offense enumerated in section
13 24-4.1-302 (1), and the competency evaluation has determined that the
14 defendant meets the standard for civil ~~commitment~~ CERTIFICATION
15 pursuant to article 65 of title 27, the court may forgo any order of
16 restoration and immediately order that proceedings be initiated by the
17 county attorney or district attorney required to conduct proceedings
18 pursuant to section 27-65-111 (6) for the civil ~~commitment~~
19 CERTIFICATION of the defendant and dismiss the charges without
20 prejudice in the interest of justice once civil ~~commitment~~ CERTIFICATION
21 proceedings have been initiated.

22 **SECTION 12.** In Colorado Revised Statutes, 17-2-201, **amend**
23 (10) as follows:

24 **17-2-201. State board of parole - duties - definitions.** (10) The
25 board shall interview all parole applicants at the institution or in the
26 community in which the inmate is physically held or through
27 teleconferencing as provided in ~~subparagraph (II) of paragraph (d) of~~

1 subsection (3) SUBSECTION (3)(d)(II) of this section. The site location of
2 an interview shall MUST not be changed within the thirty days preceding
3 the interview date without the approval of the board. Any inmate of an
4 adult correctional institution who has been transferred by executive order
5 or by civil commitment CERTIFICATION or ordered by a court of law to the
6 Colorado mental health institute at Pueblo may be heard at the Colorado
7 mental health institute at Pueblo upon an application for parole.

8 **SECTION 13.** In Colorado Revised Statutes, **amend** 23-22-109
9 as follows:

10 **23-22-109. Control over voluntary patients.** If any person has
11 been admitted to the hospital as a voluntary patient, the director of the
12 hospital has the same authority and control over him THE PATIENT as if
13 such THE patient had been admitted by order of court; except that a
14 voluntary patient shall MUST not be detained against his THE PATIENT'S
15 will or that of the person having legal custody or control over him THE
16 PATIENT for a period of more than ten days unless said THE HOSPITAL
17 director has within such interval obtained an order of commitment
18 CERTIFICATION FOR THE PATIENT.

19 **SECTION 14.** In Colorado Revised Statutes, 23-22-110, **amend**
20 (2) as follows:

21 **23-22-110. Deposit of money collected.** (2) Every person
22 received as a patient at the psychiatric hospital, whether CERTIFIED,
23 committed, or otherwise, and the estate of such person and of all persons
24 responsible for his THE PATIENT's support are liable for the cost of the
25 inquisition, CERTIFICATION, commitment, transportation, and hospital
26 expenses.

27 **SECTION 15.** In Colorado Revised Statutes, 23-23-103, **amend**

1 (1)(a) as follows:

2 **23-23-103. Evaluations made - when.** (1) A child may be
3 referred to the medical center for diagnostic evaluation and study under
4 the following conditions:

5 (a) A judge who has before him OR HER the matter of possible
6 CERTIFICATION, commitment, or sentencing of a child to one of the
7 institutions of the state may have an evaluation of ~~such~~ THE child made
8 at the diagnostic center; or ~~any such~~ THE judge may send a child to the
9 center for an evaluation of ~~his~~ THE CHILD's mental and physical capacity
10 if ~~such~~ THE judge believes such diagnosis will aid ~~him in his~~ IN THE
11 determination of the matter concerning ~~such~~ THE child, ~~before him~~,
12 regardless of the fact that, because of lack of space, none of the regional
13 centers is able to accept ~~such~~ THE child.

14 **SECTION 16.** In Colorado Revised Statutes, **amend** 23-23-104
15 as follows:

16 **23-23-104. Custody of children - housing.** For the making of any
17 ~~such~~ diagnostic evaluation before CERTIFICATION OR commitment, the
18 district judge or juvenile judge shall give the temporary custody of the
19 child to the executive director of the department of human services for
20 temporary placement at any state institution deemed most suitable by the
21 executive director during the period of evaluation. Subject to the
22 provisions of section 23-23-108, the executive director of the department
23 of human services shall accept all such children assigned to ~~him~~ THE
24 EXECUTIVE DIRECTOR, within the limits of available facilities. Nothing in
25 this section ~~shall be construed to permit~~ PERMITS the designation of the
26 university of Colorado psychiatric hospital as a housing facility for such
27 children.

1 **SECTION 17.** In Colorado Revised Statutes, 28-5-220, amend
2 (2) as follows:

3 **28-5-220. Certification or commitment to veterans**
4 **administration.** (2) The judgment or order of CERTIFICATION OR
5 commitment by a court of competent jurisdiction of another state or of the
6 District of Columbia CERTIFYING OR committing a person to the veterans
7 administration for care or treatment has the same force and effect as to the
8 committed person while in this state as in the jurisdiction in which the
9 court entering the judgment or making the order is situated; and the courts
10 of the CERTIFYING OR committing state or of the District of Columbia
11 shall be ARE deemed to have retained jurisdiction of the person so
12 CERTIFIED OR committed for the purpose of inquiring into the PERSON'S
13 mental condition of such person HEALTH and of determining the necessity
14 for continuance of his or her restraint. Consent is given to the application
15 of the law of the CERTIFYING OR committing state or district in respect to
16 the authority of the chief officer of any facility of the veterans
17 administration to retain custody or transfer, parole, or discharge the
18 committed person.

19 **SECTION 18.** In Colorado Revised Statutes, 33-1-125, amend
20 (3)(b)(I) as follows:

21 **33-1-125. Colorado nongame conservation and wildlife**
22 **restoration cash fund - creation - disbursement of money - wildlife**
23 **rehabilitation grant program - authority and board created - process**
24 **- report - definitions.** (3) (b) (I) Except as provided in subsection
25 (3)(b)(II) of this section, Appointments to the board are for three-year
26 terms. Each member serves at the pleasure of the director and continues
27 in office until the member's successor is appointed and qualified. The

1 director shall make the initial appointments to the board no later than
2 September 1, 2017.

3 **SECTION 19.** In Colorado Revised Statutes, 33-9-101, amend
4 (3)(e)(I); and **repeal** (3)(f) as follows:

5 **33-9-101. Commission - creation - composition - terms -**
6 **vacancies - removal - meetings - strategic plan - legislative**
7 **declaration.** (3) (e) (I) Except as provided in paragraph (f) of this
8 subsection (3), Terms of members serving pursuant to paragraph (b) of
9 subsection (2) SUBSECTION (2)(b) of this section are for four years.

10 (f) (I) Initial appointments of voting members of the commission
11 are as follows: Two members to serve until July 1, 2013; three members
12 to serve until July 18, 2014; three members to serve until July 18, 2015;
13 and three members to serve until July 18, 2016. All subsequent
14 appointments are for terms of four years.

15 (II) In making initial appointments to the commission under
16 subparagraph (I) of this paragraph (f), the governor may select persons
17 serving on the former parks and wildlife board, as that board existed on
18 June 30, 2012. However, a person so appointed is ineligible to serve any
19 of the initial appointments that would result in extending for more than
20 two years the date on which the person's parks and wildlife board term
21 would have expired.

22 **SECTION 20.** In Colorado Revised Statutes, 33-14-106, amend
23 (1) as follows:

24 **33-14-106. Snowmobile recreation fund - creation - use of**
25 **money.** (1) EXCEPT AS PROVIDED PURSUANT TO SUBSECTION (2) OF THIS
26 SECTION, all fees from the registration of snowmobiles, all money
27 collected for fines under PURSUANT TO this article 14, and all interest

1 earned on the fees and fines ~~shall~~ MUST be credited to the snowmobile
2 recreation fund, hereby created, and ~~shall~~ MUST be used for the
3 administration of this article 14 and for the establishment and
4 maintenance of snowmobile trails, vehicle parking areas, and facilities.
5 However, any fee money collected in excess of five dollars per original
6 or renewal registration ~~shall~~ MUST be used exclusively for direct services
7 and not administrative costs.

8 **SECTION 21.** In Colorado Revised Statutes, 33-14.5-112, **repeal**
9 (1)(a) as follows:

10 **33-14.5-112. Off-highway use permit - fees - applications -**
11 **requirements - exemptions - rules.** (1) (a) ~~No later than January 1,~~
12 ~~1990, the division of parks and recreation shall devise a plan for~~
13 ~~implementation of the off-highway use permit program.~~

14 **SECTION 22.** In Colorado Revised Statutes, 43-1-106, **repeal**
15 (4)(b) as follows:

16 **43-1-106. Transportation commission - powers and duties.**
17 (4) (b) ~~The terms of members of the commission who are transferred~~
18 ~~from the state highway commission on July 1, 1991, shall expire as~~
19 ~~follows:~~

20 (I) ~~The terms of members of the commission representing districts~~
21 ~~2, 4, 5, 6, 9, and 11 shall expire on July 1, 1991; and~~

22 (H) ~~The terms of members of the commission representing~~
23 ~~districts 1, 3, 7, 8, and 10 shall expire on July 1, 1993.~~

24 **SECTION 23.** In Colorado Revised Statutes, 43-2-145, **repeal**
25 (1)(d) and (9) as follows:

26 **43-2-145. Transportation legislation review - committee -**
27 **definition - repeal.** (1) (d) ~~Prior to January 1, 2016, the committee shall~~

1 develop and make recommendations concerning the financing of the
2 completion of the strategic transportation projects identified by the
3 department as the "seventh pot projects". No later than February 1, 2016,
4 the committee shall recommend legislation to implement the
5 recommendations, and such legislation shall be treated as legislation
6 recommended by an interim legislative committee for purposes of any
7 introduction deadlines or bill limitations imposed by the joint rules of the
8 general assembly, except that the bills shall not be subject to review by
9 or approval of legislative council.

10 (9) In the 2015 interim between the first regular session of the
11 seventieth general assembly and the second regular session of the
12 seventieth general assembly, the committee shall examine:

- 13 (a) The statutory and regulatory requirements for entry into the
14 market for taxicab service; and
15 (b) Regulations governing the provision of taxicab service.

16 **SECTION 24.** In Colorado Revised Statutes, 43-4-205, repeal
17 (7)(b) as follows:

18 **43-4-205. Allocation of fund.** (7) (b) Not later than July 1, 1997,
19 the general assembly shall review the needs of this state for highway
20 bridge repair, replacement, or posting and shall determine if the fund, as
21 provided in paragraph (a) of subsection (6) of this section, should be
22 continued. If said fund is not continued, the balance of revenues in said
23 fund shall be allocated in accordance with the provisions of paragraph (b)
24 of subsection (6) of this section.

25 **SECTION 25.** In Colorado Revised Statutes, 43-4-804, amend
26 (1)(a)(I) introductory portion and (1)(a)(I)(A) as follows:

27 **43-4-804. Highway safety projects - surcharges and fees -**

1 **crediting of money to highway users tax fund - definition.** (1) On and
2 after July 1, 2009, the following surcharges, fees, and fines shall be
3 collected and credited to the highway users tax fund created in section
4 43-4-201 (1)(a) and allocated to the state highway fund, counties, and
5 municipalities as specified in section 43-4-205 (6.3):

6 (a) (I) A road safety surcharge, which, except as otherwise
7 provided in ~~subparagraphs (III) and (VI) of this paragraph (a), shall be~~
8 SUBSECTIONS (1)(a)(II) AND (1)(a)(VI) OF THIS SECTION, IS imposed for
9 any registration period that commences on or after July 1, 2009, upon the
10 registration of any vehicle for which a registration fee must be paid
11 pursuant to the provisions of part 3 of article 3 of title 42. C.R.S. Except
12 as otherwise provided in ~~subparagraphs (IV) and (V) of this paragraph (a)~~
13 SUBSECTIONS (1)(a)(IV) AND (1)(a)(V) OF THIS SECTION, the amount of
14 the surcharge ~~shall be~~ IS:

15 (A) Sixteen dollars for ~~any vehicle that is~~ a motorcycle,
16 ~~motorscooter, or motorbicycle, as respectively as~~ defined in section
17 42-1-102 (55), and (59), C.R.S. or that weighs two thousand pounds or
18 less;

19 **SECTION 26.** In Colorado Revised Statutes, 43-4-805, **amend**
20 (5)(g)(I) introductory portion and (5)(g)(I)(A) as follows:

21 **43-4-805. Statewide bridge enterprise - creation - board -**
22 **funds - powers and duties - legislative declaration.** (5) In addition to
23 any other powers and duties specified in this section, the bridge enterprise
24 board has the following powers and duties:

25 (g) (I) As necessary for the achievement of its business purpose,
26 to impose a bridge safety surcharge, which, except as otherwise provided
27 in ~~subparagraphs (III) and (VII) of this paragraph (g), shall be~~

1 SUBSECTIONS (5)(g)(III) AND (5)(g)(VII) OF THIS SECTION, IS imposed, on
2 and after July 1, 2009, for any registration period that commences on or
3 after July 1, 2009, or on and after such later date as may be determined by
4 the bridge enterprise, for any registration period that commences on or
5 after the later date, upon the registration of any vehicle for which a
6 registration fee must be paid pursuant to the provisions of part 3 of article
7 3 of title 42. C.R.S. Except as otherwise provided in ~~subparagraphs (IV), (V), and (VI) of this paragraph (g)~~ SUBSECTIONS (5)(g)(IV), (5)(g)(V),
8 AND (5)(g)(VI) OF THIS SECTION, the amount of the surcharge ~~shall~~ MUST
9 not exceed:

10 (A) Thirteen dollars for ~~any vehicle that is~~ a motorcycle,
11 ~~motorscooter, or motorbicycle, as respectively as~~ defined in section
12 42-1-102 (55), and (59), C.R.S. or that weighs two thousand pounds or
13 less;

14 **SECTION 27.** In Colorado Revised Statutes, 12-280-103, amend
15 (32)(a) introductory portion as follows:

16 **12-280-103. Definitions - rules.** As used in this article 280, unless
17 the context otherwise requires or the term is otherwise defined in another
18 part of this article 280:

19 (32) "Other outlet" means:

20 (a) A hospital that does not operate a registered pharmacy, a rural
21 health clinic, a federally qualified health center, as defined in ~~section~~
22 ~~1861(aa)(4)~~ of the federal "Social Security Act", 42 U.S.C. sec. 1395x
23 (aa)(4), a family planning clinic, an acute treatment unit licensed by the
24 department of public health and environment, a school, a jail, a county or
25 district public health agency, a community health clinic, a university, or
26 a college that:

1 **SECTION 28.** In Colorado Revised Statutes, 25-1.5-103, **amend**
2 (2)(a.5)(I) as follows:

3 **25-1.5-103. Health facilities - powers and duties of department**
4 **- limitations on rules promulgated by department - definitions.**

5 (2) For purposes of this section, unless the context otherwise requires:
6 (a.5) "Community clinic" has the same meaning as set forth in
7 section 25-3-101 and does not include:

8 (I) A federally qualified health center, as defined in ~~section 1861~~
9 (aa)(4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4);

10 **SECTION 29.** In Colorado Revised Statutes, 25-3-101, **amend**
11 (2)(a)(III)(A) as follows:

12 **25-3-101. Hospitals - health facilities - licensed - definitions.**

13 (2) As used in this section, unless the context otherwise requires:

14 (a) (III) "Community clinic" does not include:

15 (A) A federally qualified health center, as defined in ~~section 1861~~
16 (aa)(4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4);

17 **SECTION 30.** In Colorado Revised Statutes, 25-3-103.7, **amend**
18 (1)(c) as follows:

19 **25-3-103.7. Employment of physicians - when permissible -**
20 **conditions - definitions.** (1) For purposes of this section:

21 (c) "Federally qualified health center" or "FQHC" ~~shall have~~ HAS
22 the same meaning as set forth in ~~section 1861(aa)(4)~~ of the federal "Social
23 Security Act", 42 U.S.C. sec. 1395x (aa)(4).

24 **SECTION 31.** In Colorado Revised Statutes, 25-4-2502, **amend**
25 (4) as follows:

26 **25-4-2502. Definitions.** As used in this part 25, unless the context
27 otherwise requires:

1 (4) "FQHC" means a provider designated as a federally qualified
2 health center, pursuant to the provisions of 42 U.S.C. sec. 1396d(l)(2)(B)
3 AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC.
4 1395X (aa)(4).

5 **SECTION 32.** In Colorado Revised Statutes, 25-23-103, amend
6 (2)(a) as follows:

7 **25-23-103. State loan repayment program for dentists and**
8 **dental hygienists serving underserved populations - creation -**
9 **conditions.** (2) A dental professional is eligible for loan repayment
10 assistance if the dental professional meets at least one of the following
11 criteria:

12 (a) The dental professional is employed by a federally qualified
13 health center, AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42
14 U.S.C. SEC. 1395X (aa)(4);

15 **SECTION 33.** In Colorado Revised Statutes, 25.5-3-103, amend
16 (3) as follows:

17 **25.5-3-103. Definitions.** As used in this part 1, unless the context
18 otherwise requires:

19 (3) "General provider" means a general hospital, birth center, or
20 community health clinic licensed or certified by the department of public
21 health and environment pursuant to section 25-1.5-103 (1)(a)(I) or
22 (1)(a)(II); C.R.S.; a federally qualified health center, as defined in section
23 1861(aa)(4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x
24 (aa)(4); a rural health clinic, as defined in section 1861(aa)(2) of the
25 federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(2); a health
26 maintenance organization issued a certificate of authority pursuant to
27 section 10-16-402; C.R.S.; and the health sciences center when acting

1 pursuant to section 25.5-3-108 (5)(a)(I) or (5)(a)(II)(A). For the purposes
2 of the program, "general provider" includes associated physicians.

3 **SECTION 34.** In Colorado Revised Statutes, 25.5-3-403, **amend**
4 (6)(c) as follows:

5 **25.5-3-403. Definitions.** As used in this part 4, unless the context
6 otherwise requires:

7 (6) "Qualified grantee" means an entity that can demonstrate that
8 it can provide or arrange for the provision of comprehensive dental and
9 oral care services and may include but is not limited to:

10 (c) A federally qualified health center, AS DEFINED IN THE
11 FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(4);
12 safety-net clinic; or health district;

13 **SECTION 35.** In Colorado Revised Statutes, 25.5-5-408, **amend**
14 (1)(d) as follows:

15 **25.5-5-408. Capitation payments - availability of base data -**
16 **adjustments - rate calculation - capitation payment proposal -**
17 **preference - assignment of medicaid recipients - definition.**

18 (1) (d) THE STATE DEPARTMENT SHALL REIMBURSE a federally qualified
19 health center, as defined in the federal "Social Security Act", ~~must be~~
20 reimbursed by the state department 42 U.S.C. SEC. 1395x (aa)(4), for the
21 total reasonable costs incurred by the center in providing health care
22 services to all recipients of medical assistance.

23 **SECTION 36.** In Colorado Revised Statutes, 24-21-104, **repeal**
24 (3)(d)(IX) as follows:

25 **24-21-104. Fees of secretary of state.**
26 (3) (d) (IX) Notwithstanding any provision of paragraph (b) of this
27 subsection (3) to the contrary, on July 1, 1998, the state treasurer shall

1 deduct one million dollars from the department of state cash fund and
2 transfer such sum to the Colorado tourism promotion fund created in
3 section 24-32-1306.

4 **SECTION 37.** In Colorado Revised Statutes, 24-49.7-104,
5 **amend** (1) introductory portion; and **repeal** (1)(o) as follows:

6 **24-49.7-104. Powers and duties of the board.** (1) The board
7 shall have HAS the following powers and duties:

8 (o) To take appropriate actions to establish the office and to
9 facilitate the transfer of travel and tourism promotional activities from the
10 Colorado tourism board and the Colorado travel and tourism authority to
11 the office;

12 **SECTION 38.** In Colorado Revised Statutes, 24-113-103, **amend**
13 (3)(d) as follows:

14 **24-113-103. State competition with private enterprise**
15 **prohibited - exceptions.** (3) The restrictions on competition with private
16 enterprise contained in this section do not apply to:

17 (d) The Colorado tourism ~~board~~ OFFICE;

18 **SECTION 39.** In Colorado Revised Statutes, 35-29.5-103,
19 **amend** (2)(c) as follows:

20 **35-29.5-103. Colorado wine industry development board -**
21 **creation - members.** (2) (c) A representative of the Colorado tourism
22 ~~board~~ OFFICE, a representative of Colorado state university, and a member
23 of the public ~~shall~~ MUST be invited to serve on the board in an ex officio
24 capacity.

25 **SECTION 40.** In Colorado Revised Statutes, 39-5-121, **amend**
26 (1)(a)(I) and (1.5)(a)(I); and **repeal** (1)(a)(II) and (1.5)(a)(II) as follows:

27 **39-5-121. Notice of valuation - legislative declaration.**

1 (1) (a) (I) No later than May 1 in each year, the assessor shall mail to
2 each person who owns land or improvements a notice setting forth the
3 valuation of such land or improvements. For agricultural property, the
4 notice ~~shall~~ MUST separately state the actual value of such land or
5 improvements in the previous year, the actual value in the current year,
6 and the amount of any adjustment in actual value. For all other property,
7 the notice ~~shall~~ MUST state the total actual value of such land and
8 improvements together in the previous year, the total actual value in the
9 current year, and the amount of any adjustment in total actual value. The
10 notice ~~shall~~ MUST not state the valuation for assessment of such land or
11 improvements or combination of land and improvements. Based upon the
12 classification of such taxable property, the notice ~~shall~~ MUST also set forth
13 either the ratio of valuation for assessment to be applied to said actual
14 value of all taxable real property other than residential real property prior
15 to the calculation of property taxes for the current year or the projected
16 ratio of valuation for assessment to be applied to said actual value of
17 residential real property prior to the calculation of property taxes for the
18 current year and that any change or adjustment of the projected ratio of
19 valuation for assessment for residential real property ~~shall~~ MUST not
20 constitute grounds for the protest or abatement of taxes. With the
21 approval of the board of county commissioners, the assessor may include
22 in the notice an estimate of the taxes ~~that shall be~~ owed for the current
23 property tax year. If such estimate is included, the notice ~~shall~~ MUST
24 clearly state that the tax amount is merely an estimate based upon the best
25 available information. The notice ~~shall~~ MUST state, in bold-faced type,
26 that the taxpayer has the right to protest any adjustment in valuation but
27 not the estimate of taxes if such an estimate is included in the notice, the

classification of the property that determines the assessment percentage to be applied, and the dates and places at which the assessor will hear such protest. ~~Except as otherwise provided in subparagraph (H) of this paragraph (a), such notice shall~~ THE NOTICE MUST also set forth the following: That, to preserve the taxpayer's right to protest, the taxpayer ~~must~~ SHALL notify the assessor either in writing or in person of the taxpayer's objection and protest; that such notice must be delivered, postmarked, or given in person no later than June 1; and that, after such date, the taxpayer's right to object and protest the adjustment in valuation is lost. The notice ~~shall~~ MUST be mailed together with a form that, if completed by the taxpayer, allows the taxpayer to explain the basis for the taxpayer's valuation of the property. Such form may be completed by the taxpayer to initiate an appeal of the assessor's valuation. However, in accordance with section 39-5-122 (2), completion of this form ~~shall~~ DOES not constitute the exclusive means of appealing the assessor's valuation. For the years that intervene between changes in the level of value, if the difference between the actual value of such land or improvements in the previous year and the actual value of such land or improvements in the intervening year as set forth in such notice constitutes an increase in actual value of more than seventy-five percent, the assessor shall mail together with the notice an explanation of the reasons for such increase in actual value.

(II) ~~For the city and county of Denver only, if the city and county of Denver elects to use the pilot alternate protest procedure established in section 39-5-122.8, the notice mailed pursuant to subparagraph (I) of this paragraph (a) shall state that, to preserve the taxpayer's right to object and protest, the taxpayer must notify the board of county commissioners in~~

1 writing of the taxpayer's objection and protest; that such notice must be
2 delivered or postmarked no later than November 15 of the year in which
3 the notice of valuation was mailed; and that after such date, the taxpayer's
4 right to object and protest the adjustment in valuation is lost.

5 (1.5) (a) (I) Except as otherwise provided in sub-subparagraph (A)
6 of subparagraph (II) of this paragraph (a), No later than June 15 each
7 year, the assessor shall mail to each person who owns taxable personal
8 property a notice setting forth the valuation of the personal property. The
9 notice ~~shall~~ MUST state the actual value of such personal property in the
10 previous year, the actual value in the current year, and the amount of any
11 adjustment in actual value. The notice ~~shall~~ MUST not state the valuation
12 for assessment of the personal property. The notice ~~shall~~ MUST also set
13 forth the ratio of valuation for assessment to be applied to said actual
14 value prior to the calculation of property taxes for the current year. With
15 the approval of the board of county commissioners, the assessor may
16 include in the notice an estimate of the taxes ~~that shall be~~ owed for the
17 current property tax year. If such an estimate is included, the notice ~~shall~~
18 MUST clearly state that the tax amount is merely an estimate based upon
19 the best available information. The notice ~~shall~~ MUST state, in bold-faced
20 type, that the taxpayer has the right to protest any adjustment in valuation
21 but not the estimate of taxes if such an estimate is included in the notice,
22 and the dates and places at which the assessor will hear protests. ~~Except~~
23 ~~as otherwise provided in subparagraph (II) of this paragraph (a),~~ The
24 notice ~~shall~~ MUST also set forth the following: To preserve the taxpayer's
25 right to protest, the taxpayer ~~must~~ SHALL notify the assessor either by mail
26 or in person of the taxpayer's objection and protest; that the notice must
27 be postmarked or physically delivered no later than June 30; and that,

1 after such date, the taxpayer's right to object and protest the adjustment
2 in valuation is lost. The notice ~~shall~~ MUST be mailed together with a form
3 that, if completed by the taxpayer, allows the taxpayer to explain the basis
4 for the taxpayer's valuation of the property. The form may be completed
5 by the taxpayer to initiate an appeal of the assessor's valuation. However,
6 in accordance with section 39-5-122 (2), completion of this form ~~shall~~
7 DOES not constitute the exclusive means of appealing the assessor's
8 valuation.

9 (II) ~~For the city and county of Denver only, if the city and county~~
10 ~~of Denver elects to use the pilot alternate protest procedure established in~~
11 ~~section 39-5-122.8, the notice required pursuant to subparagraph (I) of~~
12 ~~this paragraph (a) shall be modified as follows:~~

13 (A) ~~The assessor shall mail to each person who owns taxable~~
14 ~~personal property the notice setting forth the valuation of the personal~~
15 ~~property no later than July 15 each year; and~~

16 (B) ~~The notice shall state that, to preserve the taxpayer's right to~~
17 ~~object and protest, the taxpayer must notify the board of county~~
18 ~~commissioners in writing of the taxpayer's objection and protest; that such~~
19 ~~notice must be delivered or postmarked no later than November 15 of the~~
20 ~~year in which the notice of valuation was mailed; and that after such date,~~
21 ~~the taxpayer's right to object and protest the adjustment in valuation is~~
22 ~~lost.~~

23 **SECTION 41.** In Colorado Revised Statutes, 39-5-122, **amend**
24 **(1)(a); and repeal (1)(b)** as follows:

25 **39-5-122. Taxpayer's remedies to correct errors.** (1) (a) ~~Except~~
26 ~~as otherwise provided in paragraph (b) of this subsection (1); On or~~
27 ~~before May 1 of each year, the assessor shall give public notice in at least~~

1 one issue of a newspaper published in his or her THE ASSESSOR's county
2 that, beginning on the first working day after notices of adjusted valuation
3 are mailed to taxpayers, the assessor will sit to hear all objections and
4 protests concerning valuations of taxable real property determined by the
5 assessor for the current year; that, for a taxpayer's objection and protest
6 to be heard, notice must be given to the assessor; and that such notice
7 must be postmarked, delivered, or given in person by June 1. The notice
8 shall MUST also state that objections and protests concerning valuations
9 of taxable personal property determined by the assessor for the current
10 year will be heard commencing June 15; that, for a taxpayer's objection
11 and protest to be heard, notice must be given to the assessor; and that
12 such notice must be postmarked or physically delivered by June 30. If
13 there is no such newspaper, then such notice shall MUST be conspicuously
14 posted in the offices of the assessor, the treasurer, and the county clerk
15 and recorder and in at least two other public places in the county seat. The
16 assessor shall send news releases containing such notice to radio stations,
17 television stations, and newspapers of general circulation in the county.

18 (b) For the city and county of Denver only, if the city and county
19 of Denver elects to use the pilot alternate protest procedure established in
20 section 39-5-122.8, the notice required pursuant to paragraph (a) of this
21 subsection (1) shall be modified to state that the city and county of
22 Denver has elected to use the pilot alternate protest procedure established
23 in section 39-5-122.8; that all objections and protests will be determined
24 by the board of county commissioners in accordance with the protest
25 procedures set forth in section 39-5-122.8; that, to preserve the taxpayer's
26 right to object and protest, the taxpayer must notify the board of county
27 commissioners in writing of the taxpayer's objection and protest; that such

1 notice must be delivered or postmarked no later than November 15 of the
2 year in which the notice of valuation was mailed; and that after such date,
3 the taxpayer's right to object and protest the adjustment in valuation is
4 lost.

5 **SECTION 42.** In Colorado Revised Statutes, 39-8-104, **amend**
6 (1); and **repeal** (2.5) as follows:

7 **39-8-104. Notice of meeting.** (1) Except as provided in
8 subsection (2) or (2.5) of this section, prior to July 1 of each year, the
9 county clerk and recorder shall give notice in at least one issue of a
10 newspaper published in his or her THE ASSESSOR's county that beginning
11 on July 1, the county board of equalization will sit in the county's regular
12 public meeting location or other appropriate public meeting place to
13 review the assessment roll of all taxable property located in the county,
14 as prepared by the assessor, and to hear appeals from determinations of
15 the assessor.

16 (2.5) If the city and county of Denver elects to use the pilot
17 alternate protest procedure established in section 39-5-122.8, the county
18 clerk and recorder shall give notice in at least one issue of a newspaper
19 published in the city and county of Denver and on the website for the city
20 and county of Denver that the city and county of Denver has made such
21 election; that all objections and protests will be determined in accordance
22 with the protest and appeal procedures set forth in section 39-5-122.8;
23 and that to preserve the taxpayer's right to protest, the taxpayer must
24 notify the board of county commissioners in writing of the taxpayer's
25 objection and protest; that such notice must be delivered or postmarked
26 no later than November 15 of the year in which the notice of valuation
27 was mailed; and that after such date, the taxpayer's right to object and

1 protest the adjustment in valuation is lost.

2 **SECTION 43.** In Colorado Revised Statutes, 39-8-106, **amend**

3 (1) introductory portion as follows:

4 **39-8-106. Petitions for appeal.** (1) The county board of
5 equalization shall receive and hear petitions from any person whose
6 objections or protests have been refused or denied by the assessor. ~~except~~
7 that, if the city and county of Denver elects to use the pilot alternate
8 protest procedure established in section 39-5-122.8, petitions shall be
9 filed with the board of county commissioners. A petition ~~shall~~ MUST be
10 in a form approved by the property tax administrator pursuant to section
11 39-2-109 (1)(d), the contents of which ~~shall~~ MUST include the following:

12 **SECTION 44.** In Colorado Revised Statutes, 39-8-107, **repeal**(6)

13 as follows:

14 **39-8-107. Hearings on appeal.** (6) If the city and county of
15 Denver elects to use the pilot alternate protest procedure established in
16 section 39-5-122.8, all hearings shall be conducted in accordance with
17 that section.

18 **SECTION 45.** In Colorado Revised Statutes, 39-10-114, **amend**

19 (1)(a)(I)(D) as follows:

20 **39-10-114. Abatement - cancellation of taxes.** (1) (a) (I) (D) ~~No~~
21 AN abatement or refund of taxes ~~shall~~ MUST NOT be made based upon the
22 ground of overvaluation of property if an objection or protest to such
23 valuation has been made and a notice of determination has been mailed
24 to the taxpayer pursuant to section 39-5-122; ~~or a written decision has~~
25 ~~been issued pursuant to section 39-5-122.8;~~ except that this prohibition
26 ~~shall~~ DOES not apply to personal property when a notice of determination
27 has been mailed to the taxpayer, an objection or protest is withdrawn or

1 not pursued, and the county assessor has undertaken an audit of such
2 personal property that shows that a reduction in value is warranted.

3 **SECTION 46.** In Colorado Revised Statutes, 24-30-1510, **amend**
4 (3) introductory portion and (3)(f) as follows:

5 **24-30-1510. Risk management fund - creation - authorized**
6 **and unauthorized payments.** (3) Expenditures shall be made out of the
7 risk management fund MUST BE MADE in accordance with subsection (1)
8 of this section AND only for the following purposes:

9 (f) To make payments in accordance with the provisions of
10 sections 24-30-1510.6 and 24-30-1510.7 SECTION 24-30-1510.7;

11 **SECTION 47.** In Colorado Revised Statutes, 24-33-107, **amend**
12 (2)(a) as follows:

13 **24-33-107. Acquisition of state lands by department - interests**
14 **in land.** (2) (a) Whenever the executive director of the department of
15 natural resources is informed that a specific piece of land held by the state
16 board of land commissioners has a characteristic that is alleged to have
17 a unique economic or environmental value for the public, including land
18 under the control of the division of parks and wildlife that has the
19 potential to support renewable energy generation development as
20 contemplated in section 24-33-114, AS THAT SECTION EXISTED PRIOR TO
21 ITS REPEAL IN 2011, and that such characteristic allegedly would be
22 damaged or destroyed if the land passed to private ownership, the
23 executive director may, with the written consent of either the president of
24 the state board of land commissioners or the commissioner of agriculture,
25 give written notification to the board that said land, other than agricultural
26 or grazing rights, is subject to acquisition by the department of natural
27 resources. The notification by the executive director shall MUST identify

1 said THE lands by their appropriate legal description and shall specify the
2 characteristic of the land that is alleged to have unique economic or
3 environmental value for the public. Not later than during the next regular
4 session of the general assembly, the executive director shall request such
5 THE NECESSARY authorization and appropriation as may be necessary to
6 enable the department to acquire said land or an interest therein in
7 accordance with this section.

8 **SECTION 48.** In Colorado Revised Statutes, ~~repeal~~
9 24-33.5-104.5 as follows:

10 **24-33.5-104.5. Powers of executive director - DNA evidence issues - working group.** (1) (a) ~~The executive director shall convene a working group to address issues relating to evidence retention. Beginning in 2008, the working group shall meet at least annually.~~

14 (b) ~~The working group convened pursuant to paragraph (a) of this subsection (1) shall include the executive director, or his or her designee; and the following persons:~~

17 (I) ~~The state attorney general or his or her designee;~~

18 (II) ~~The director of the Colorado bureau of investigation or his or her designee;~~

20 (III) ~~The director of the Colorado district attorneys' council or his or her designee;~~

22 (IV) ~~The state public defender or his or her designee;~~

23 (V) ~~A defense attorney in private practice;~~

24 (VI) ~~Representatives of local law enforcement agencies selected by the executive director;~~

26 (VII) ~~Two members of the house of representatives, one appointed by the speaker of the house of representatives and the other by the~~

1 minority leader; and

2 (VIII) Two members of the senate, one appointed by the president
3 of the senate and the other by the minority leader.

4 (c) The members of the working group appointed pursuant to
5 subparagraphs (VII) and (VIII) of paragraph (b) of this subsection (1) are
6 entitled to receive compensation and reimbursement of expenses as
7 provided in section 2-2-326, C.R.S.

8 (2) The department of public safety, in conjunction with the
9 working group, shall prepare a report regarding the information collected
10 pursuant to section 18-1-1109, C.R.S. The department shall submit the
11 report to the judiciary committees of the house of representatives and the
12 senate, or any successor committees, no later than October 1, 2010.

13 (3) (a) After completing the report required in subsection (2) of
14 this section, the working group shall convene to make recommendations
15 to the general assembly for legislation addressing the issues of DNA
16 evidence retention and storage. The recommendations shall include, but
17 need not be limited to, standardized timelines for retention of reasonable
18 and relevant DNA evidence, provision of storage facilities, and best
19 practices for evidence collection and storage. The working group shall
20 make its recommendations by December 1, 2010.

21 (b) The working group shall convene to discuss and make
22 recommendations regarding the appropriateness and implementation of
23 Senate Bill 09-241. Prior to January 12, 2010, the working group shall
24 provide a report to the general assembly regarding its discussion and
25 recommendations regarding the appropriateness and implementation of
26 Senate Bill 09-241. The report may include both a majority and minority
27 report.

1 **SECTION 49.** In Colorado Revised Statutes, 25-7-110.8, **amend**
2 (1)(c) as follows:

3 **25-7-110.8. Additional requirements for commission to act**
4 **under section 25-7-110.5.** (1) In issuing any final rule intended to reduce
5 air pollution, except for any rule that adopts by reference applicable
6 federal rules, if the commission has no discretion under state law not to
7 adopt the rules or to adopt any alternative rule, the commission shall
8 make a determination that:

9 (c) On and after July 1, 1997, and in conformance with guidance
10 from the general assembly to incorporate the recommendations of the task
11 force established in section 25-7-110.5 (6), PRIOR TO ITS REPEAL IN 1997,
12 evidence in the record supports the finding that the rule ~~shall~~ MUST bring
13 about reductions in risks to human health or the environment or provide
14 other benefits that will justify the cost to government, the regulated
15 community, and to the public to implement and comply with the rule;

16 **SECTION 50.** In Colorado Revised Statutes, 25-7-408, **amend**
17 (3) as follows:

18 **25-7-408. Required compliance in building codes.** (3) Nothing
19 in this ~~article shall prevent~~ ARTICLE 7 PREVENTS a board of county
20 commissioners or a governing body of a municipality from enacting a
21 building code ~~which~~ THAT requires more stringent standards for wood
22 stoves and for fireplaces, if such standards are necessary and reflect
23 technology suitable for commercial application within the meaning of
24 section 25-7-407 (1), AS THAT SECTION EXISTED PRIOR TO ITS REPEAL IN
25 1993.

26 **SECTION 51.** In Colorado Revised Statutes, 29-1-302, **amend**
27 (2)(c) as follows:

1 **29-1-302. Increased levy - submitted to people at election.**

2 (2) (c) ~~In lieu of utilizing the provisions of section 29-1-303, Any city or~~
3 town having a population of two thousand or less, based upon the latest
4 estimates of the department of local affairs, may utilize the provisions of
5 subsections (1), ~~and~~ (1.5), AND (2)(a) of this section. ~~and paragraph (a) of~~
6 this subsection (2).

7 **SECTION 52.** In Colorado Revised Statutes, 35-14-127, **amend**
8 (12.5)(b)(I) as follows:

9 **35-14-127. Licenses - fees - rules - stickers - certificates.**
10 (12.5) (b) (I) ~~Except as provided in subparagraph (H) of this paragraph~~
11 ~~(b)~~; For each fiscal year, commencing on July 1, twenty-five percent of
12 the direct and indirect costs associated with the licensing, testing,
13 inspection, and regulation of certified weighers, scales with a capacity of
14 greater than one thousand pounds, belt conveyers, in-motion railroad
15 scales, moisture-testing devices, and grain protein analyzers must be
16 funded from the general fund. The commission shall establish a fee
17 schedule to cover any direct and indirect costs not funded from the
18 general fund.

19 **SECTION 53.** In Colorado Revised Statutes, 35-50-115, **amend**
20 (1)(a), (2)(b), and (2)(c) as follows:

21 **35-50-115. Cervidae disease revolving fund - creation.**
22 (1) (a) The commission may levy an assessment on the owners of
23 alternative livestock cervidae or captive wildlife cervidae, which shall be
24 transmitted to the state treasurer, who shall credit the same to the cervidae
25 disease revolving fund, which fund is hereby created. ~~This THE~~
26 COMMISSION SHALL DETERMINE THE assessment. ~~shall be determined by~~
27 the commission, upon the recommendation of the captive wildlife and

1 alternative livestock board created in section 33-1-121, C.R.S., and shall
2 THE ASSESSMENT MUST be in an amount, not to exceed eight dollars per
3 head of cervidae per year, reflecting the direct and indirect expenses of
4 carrying out the purposes of this section. The COMMISSION SHALL
5 ADMINISTER THE fund, ~~shall~~ WHICH MUST be maintained at a level of no
6 more than two hundred thousand dollars. ~~and shall be administered by the~~
7 ~~commission pursuant to the recommendations of the captive wildlife and~~
8 ~~alternative livestock board.~~ Administration of the fund shall include
9 INCLUDES setting a minimum reserve level for the fund. THE COMMISSION
10 SHALL NOT LEVY OR COLLECT an assessment ~~shall not be levied or~~
11 ~~collected on cervidae owned by a zoological park that is accredited by the~~
12 American zoo and aquarium association. A zoological park that does not
13 pay into the fund is not eligible for indemnification ~~under~~ PURSUANT TO
14 this section.

15 (2) (b) Combined state and federal indemnity ~~shall~~ MUST not
16 exceed eighty percent of market value of the destroyed cervidae, as
17 determined by the ~~captive wildlife and alternative livestock board~~
18 COMMISSION.

19 (c) The amount of indemnification payments to owners of
20 cervidae destroyed under order of the state veterinarian for the control of
21 contagious and infectious disease shall be determined by the ~~captive~~
22 ~~wildlife and alternative livestock board, subject to approval by the~~
23 commission.

24 **SECTION 54.** In Colorado Revised Statutes, 35-60-104, amend
25 (2)(a)(I) as follows:

26 **35-60-104. Registration fees.** (2) (a) (I) A person required to be
27 registered pursuant to section 35-60-103 (1) shall pay an annual

1 registration fee as established by the agricultural commission. Except as
2 provided in subparagraph (H) of this paragraph (a), For each fiscal year,
3 commencing on July 1, fifty percent of the direct and indirect costs of
4 administering and enforcing this ~~article shall~~ ARTICLE 60 MUST be funded
5 from the general fund. The agricultural commission shall establish a fee
6 schedule to cover any direct and indirect costs not funded from the
7 general fund.

8 **SECTION 55.** In Colorado Revised Statutes, 35-60-105, amend
9 (1) introductory portion and (1)(c)(I)(A) as follows:

10 **35-60-105. Distribution fees - reports.** (1) Except as provided
11 in subsection (5) of this section, THE PERSON WHOSE NAME APPEARS ON
12 THE LABEL AS THE MANUFACTURER, GUARANTOR, OR DISTRIBUTOR SHALL
13 PAY distribution fees, in an amount established by the agricultural
14 commission, ~~shall be paid on commercial feeds distributed in this state by~~
15 ~~the person whose name appears on the label as the manufacturer,~~
16 ~~guarantor, or distributor subject to the following conditions:~~

17 (c) (I) (A) ~~Except as provided in sub-subparagraph (B) of this~~
18 ~~subparagraph (I),~~ For each fiscal year, commencing on July 1, fifty
19 percent of the direct and indirect costs of administering and enforcing this
20 ~~article shall~~ ARTICLE 60 MUST be funded from the general fund. The
21 agricultural commission shall establish a fee schedule to cover any direct
22 and indirect costs not funded from the general fund.

23 **SECTION 56.** In Colorado Revised Statutes, 39-21-113, repeal
24 (15) as follows:

25 **39-21-113. Reports and returns - rule.** (15) ~~Notwithstanding the~~
26 ~~provisions of this section, the executive director shall provide the~~
27 ~~legislative council staff with any information that the staff deems~~

1 necessary to make the calculation required in section 39-29-109.5 (2).
2 Any information provided to the staff shall remain confidential, and all
3 staff employees shall be subject to the limitations set forth in subsection
4 (4) of this section and the penalties contained in subsection (6) of this
5 section.

6 **SECTION 57.** In Colorado Revised Statutes, 39-29-109, amend
7 (2) introductory portion and (2)(c)(I) introductory portion; and **repeal**
8 (2)(c)(III) as follows:

9 **39-29-109. Severance tax trust fund - created - administration**
10 **- distribution of money - repeal.** (2) State severance tax receipts **shall**
11 **MUST** be credited to the severance tax trust fund as provided in section
12 39-29-108. All income derived from the deposit and investment of the
13 money in the fund **shall** **MUST** be credited to the fund. At the end of any
14 fiscal year, all unexpended and unencumbered money in the fund remains
15 in the fund and **shall** **MUST** not be credited or transferred to the general
16 fund or any other fund. All money in the fund is subject to appropriation
17 by the general assembly for the following purposes:

18 **(c) The water supply reserve fund.** (I) There is hereby created
19 in the office of the state treasurer the water supply reserve fund, also
20 referred to in this paragraph (c) SUBSECTION (2)(c) as the "fund", which
21 shall be administered by the Colorado water conservation board. The state
22 treasurer shall transfer **moneys** MONEY to the fund from the severance tax
23 operational fund as specified in section 39-29-109.3 (2)(a). The **moneys**
24 MONEY in the fund **are hereby** IS continuously appropriated, for purposes
25 authorized by this paragraph (c) SUBSECTION (2)(c), to the Colorado water
26 conservation board, also referred to in this paragraph (c) SUBSECTION
27 (2)(c) as the "board". All interest derived from the investment of **moneys**

1 MONEY in the fund ~~shall~~ MUST be credited to the statewide account of the
2 fund, which account is hereby created. Repayments of both the principal
3 and interest on loans from the fund ~~shall~~ MUST be credited to the fund.
4 Any balance remaining in the fund at the end of any fiscal year remains
5 in the fund. The board shall allocate ~~moneys~~ MONEY by grant or loan from
6 the fund only for water activities approved by a roundtable pursuant to
7 article 75 of title 37. ~~C.R.S.~~ The approving roundtable is the roundtable
8 for the basin in which a proposed water diversion or nonstructural activity
9 would occur. If the applicant is a covered entity, as defined in section
10 37-60-126, ~~C.R.S.~~, the board shall allocate ~~moneys~~ MONEY by grant or
11 loan from the fund only if the applicant has adopted a water conservation
12 plan, as defined in section 37-60-126. ~~C.R.S.~~ The board, in consultation
13 with the interbasin compact committee created in section 37-75-105,
14 ~~C.R.S.~~, shall establish criteria and guidelines for allocating ~~moneys~~
15 MONEY from the fund, including criteria that ensure that the allocations
16 will assist in meeting water supply needs identified ~~under~~ PURSUANT TO
17 section 37-75-104 (2)(c), ~~C.R.S.~~, in a manner consistent with section
18 37-75-102, ~~C.R.S.~~, and ~~shall~~ facilitate both structural and nonstructural
19 projects or methods. Eligible water activities include: ~~the following:~~

20 (III) ~~If the board notifies the state treasurer that a water storage~~
21 ~~study has been authorized pursuant to section 37-60-115 (11), C.R.S., on~~
22 ~~October 15, 2016, the state treasurer shall transfer two hundred eleven~~
23 ~~thousand one hundred sixty-eight dollars from the fund to the Colorado~~
24 ~~water conservation board construction fund, created in section 37-60-121~~
25 ~~(1)(a), C.R.S., for use by the Colorado water conservation board, created~~
26 ~~in section 37-60-102, C.R.S., to implement the South Platte river water~~
27 ~~storage study pursuant to section 37-60-115 (11), C.R.S.~~

1 **SECTION 58.** In Colorado Revised Statutes, 39-29-110, **amend**
2 (1)(a)(I) as follows:

3 **39-29-110. Local government severance tax fund - creation -**
4 **administration - definitions.** (1) (a) (I) There is hereby created in the
5 department of local affairs a local government severance tax fund. In
6 accordance with section 39-29-108, portions of the state severance tax
7 receipts ~~shall~~ MUST be credited to the local government severance tax
8 fund. ~~Except as otherwise provided in section 39-29-109.5,~~ All income
9 derived from the deposit and investment of the ~~moneys~~ MONEY in the
10 local government severance tax fund ~~shall~~ MUST be credited to the local
11 government severance tax fund.

12 **SECTION 59.** In Colorado Revised Statutes, 40-8.5-103.5,
13 **amend** (1) as follows:

14 **40-8.5-103.5. Commission created - duties.** (1) There is hereby
15 created the legislative commission on low-income energy assistance. The
16 commission ~~shall be~~ IS composed of eleven members ~~to be~~ appointed by
17 the governor, each to serve a term of two years; except that the governor
18 shall select seven of the initially appointed members to serve for one-year
19 terms. Of the eleven members, five members ~~shall~~ MUST be from private
20 sector energy-related enterprises, one member ~~shall~~ MUST be the director
21 of the low-income energy assistance program in the state department of
22 human services, one member ~~shall~~ MUST be from the Colorado ENERGY
23 office, ~~of energy conservation;~~ two members ~~shall~~ MUST be consumers
24 who are low-income energy assistance recipients, and two members ~~shall~~
25 MUST be from the general public. Any interim appointment necessary to
26 fill a vacancy ~~which~~ THAT has occurred by any reason other than
27 expiration of term ~~shall be~~ IS for the remainder of the term of the

1 individual member whose office has become vacant.

2 **SECTION 60.** In Colorado Revised Statutes, 42-2-138, **amend**
3 (1)(f) as follows:

4 **42-2-138. Driving under restraint - penalty.** (1) (f) Upon a
5 verdict or judgment of guilt for a violation of ~~paragraph (a) or (d) of this~~
6 ~~subsection (1)~~ SUBSECTION (1)(a) OR (1)(d) OF THIS SECTION, the court
7 shall require the offender to immediately surrender ~~his or her~~ THE
8 OFFENDER'S driver's license, minor driver's license, ~~provisional driver's~~
9 license; temporary driver's license, or instruction permit issued by this
10 state, another state, or a foreign country. The court shall forward to the
11 department a notice of the verdict or judgment of guilt on the form
12 prescribed by the department, together with the offender's surrendered
13 license or permit. Any person who violates the provisions of this
14 ~~paragraph (f)~~ SUBSECTION (1)(f) by failing to surrender his or her license
15 or permit to the court commits a class 2 misdemeanor traffic offense.

16 **SECTION 61.** In Colorado Revised Statutes, 42-4-1208, **amend**
17 (6)(j) as follows:

18 **42-4-1208. Reserved parking for persons with disabilities -**
19 **applicability - rules.** (6) **Enforcement of reserved parking.** (j) In
20 order to stop a vehicle from blocking access or illegally using reserved
21 parking, a peace officer may order a vehicle that is used to violate ~~this~~
22 subsection (4) OF THIS SECTION to be towed to an impound lot or a vehicle
23 storage location. The peace officer shall verify that the vehicle has not
24 been stolen and report the fact of the tow to the department of revenue in
25 accordance with section 42-4-1804.

26 **SECTION 62. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.