

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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Statutory Revision Committee (SRC)

7:30am, Friday, January 24, 2020

Senate Committee Room 357, State Capitol

Discussion of memos and bill drafts:

1. Relocate "Alternative Fuel" Definition
Drafter: Jennifer Berman / LLS 20-0897
2. 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*
3. 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
4. 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: 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which concerns the Colorado clean vehicle fleet program; however, all other provisions in that statute have been repealed.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Section 25-7-106.8, C.R.S., should be repealed and, in conjunction with the repeal, the definition of "alternative fuel" in section 25-7-106.8, C.R.S., should be moved to one of the statutes that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.

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

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 (c)~~ 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, ~~€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), ~~€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 ~~€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
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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,



Representative Adrienne Benavidez
Chair



Senator Lois Court
Vice-Chair

OFFICE OF LEGISLATIVE LEGAL SERVICES

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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

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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

DRAFT

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

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 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, 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

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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 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

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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.



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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 be 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 (H) 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) ~~(f) 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 ~~(H) In making initial appointments to the commission under~~
16 ~~subparagraph (f) 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 ~~(II) 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),~~
8 ~~(V), and (VI) of this paragraph (g)~~ SUBSECTIONS (5)(g)(IV), (5)(g)(V),
9 AND (5)(g)(VI) OF THIS SECTION, the amount of the surcharge ~~shall~~ MUST
10 not exceed:

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

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

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

20 (32) "Other outlet" means:

21 (a) A hospital that does not operate a registered pharmacy, a rural
22 health clinic, 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 family planning clinic, an acute treatment unit licensed by the
25 department of public health and environment, a school, a jail, a county or
26 district public health agency, a community health clinic, a university, or
27 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 (1)(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

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

23 (II) ~~For the city and county of Denver only, if the city and county~~
24 ~~of Denver elects to use the pilot alternate protest procedure established in~~
25 ~~section 39-5-122.8, the notice mailed pursuant to subparagraph (I) of this~~
26 ~~paragraph (a) shall state that, to preserve the taxpayer's right to object and~~
27 ~~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**
11 **issues - working group.** ~~(1)(a) The executive director shall convene a~~
12 ~~working group to address issues relating to evidence retention. Beginning~~
13 ~~in 2008, the working group shall meet at least annually.~~

14 ~~(b) The working group convened pursuant to paragraph (a) of this~~
15 ~~subsection (1) shall include the executive director, or his or her designee,~~
16 ~~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~~
19 ~~her designee;~~

20 ~~(III) The director of the Colorado district attorneys' council or his~~
21 ~~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~~
25 ~~by the executive director;~~

26 ~~(VII) Two members of the house of representatives, one appointed~~
27 ~~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 (II) 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 (f)~~ 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.