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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Esther van Mourik, Office of Legislative Legal Services

DATE: February 19, 2021

SUBJECT: Obsolete Capitol Dome Restoration Fund Statutes

Summary

Section 44-30-1201 (5)(c)(III), C.R.S., creates the capitol dome restoration fund. That section is obsolete. The capitol dome restoration was a capital project that commenced in 2010 and has since been completed. Therefore, section 44-30-1201 (5)(c)(III), C.R.S., should be repealed. The Office of Legislative Legal Services identified this provision.

Analysis

The capitol dome restoration was a capital project that commenced in 2010 and has since been completed. The statutory sections regarding the capitol dome restoration were repealed in July 2015 but the statute establishing the fund and the necessary transfers of money to the fund were inadvertently left in the statutes. The proposed bill addresses this defect.

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 Charge²

The Statutory Revision Committee (SRC) is tasked with discovering "defects and anachronisms in the law" and recommending legislation "to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law." The repeal of section 44-30-1201 (5)(c)(III), C.R.S., fits within the SRC's charge because it would eliminate antiquated rules of law.

Proposed Bill

The attached bill repeals section 44-30-1201 (5)(c)(III), C.R.S., and removes any reference to that section within section 44-30-1201, C.R.S.

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 SRC "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

ADDENDUM A

44-30-1201. State historical fund - administration - legislative declaration - state museum cash fund - capitol dome restoration fund - rules - definition.

(1) The state treasurer shall make annual distributions, from the state historical fund created by section 9 (5)(b)(II) of article XVIII of the state constitution, in accordance with the provisions of section 9 (5)(b)(III) of article XVIII of the state constitution. As specified in section 9 (5)(b)(III) of article XVIII of the state constitution, twenty percent of the money in the state historical fund shall be used for the preservation and restoration of the cities of Central, Black Hawk, and Cripple Creek. The remaining eighty percent of the fund shall be administered by the state historical society in accordance with subsection (5) of this section. Expenditures from the fund shall be subject to the provisions of section 44-30-1202. The society shall make grants from the eighty percent portion of said fund administered by the society for the following historic preservation purposes:

(a) The identification, evaluation, documentation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archaeology, or culture of this state, and the official designation of the properties;

(b) The excavation, stabilization, preservation, restoration, rehabilitation, reconstruction, or acquisition of the designated properties;

(c) Education and training for governmental entities, organizations, and private citizens on how to plan for and accommodate the preservation of historic and archaeological structures, buildings, objects, sites, and districts;

(d) Preparation, production, distribution, and presentation of educational, informational, and technical documents, guidance, and aids on historic preservation practices, standards, guidelines, techniques, economic incentives, protective mechanisms, and historic preservation planning.

(2) (a) The society shall make grants primarily to governmental entities and to nonprofit organizations; except that the society may make grants to persons in the private sector so long as the person requesting the grant makes application through a governmental entity. The selection of recipients and the amount granted to a recipient shall be determined by the society, which determination shall be based on the information provided in the applications submitted to the society.

(b) As used in this subsection (2), "governmental entity" means the state and any state agency or institution, county, city and county, incorporated city or town, school district, special improvement district, authority, and every other kind of district, instrumentality, or political subdivision of the state organized pursuant to law. "Governmental entity" shall include any county, city and county, or incorporated city or town, governed by a home rule charter.

(3) Subject to annual appropriation, the society may employ any personnel in accordance with section 13 of article XII of the state constitution that may be necessary to fulfill its duties in accordance with this section.

(4) The society shall promulgate rules for the purpose of administering the state historical fund, which rules may include criteria for consideration in awarding grants from the fund and standards for preservation that are acceptable to the society and that shall be employed by grant recipients.

(5) (a) (I) The general assembly hereby finds and declares that:

(A) The state historical society, founded in 1879, has a unique role as the state educational institution charged with collecting, preserving, and interpreting the history of Colorado and the west. The state formally recognized the state historical society as a state agency by statute in 1915, and the general assembly has continuously made appropriations for the society since that time.

(B) The state historical fund created by section 9 (5)(b)(II) of article XVIII of the state constitution has grown significantly since its inception in 1991. In accordance with section 9 (5)(b)(III) of article XVIII of the state constitution, the general assembly hereby determines that it is appropriate to provide funding for the state historical society through the state historical fund.

(C) The use of a portion of the state historical fund for the support needs of the state historical society is consistent with the preservation purposes of the fund and of the society.

(D) Grants from the state historical fund by the society pursuant to subsection (1) of this section serve the state and its people well in promoting preservation purposes and economic development throughout the state.

(II) Accordingly, it is the intent of the general assembly that the majority of the gaming revenues deposited in and available for distribution from the eighty percent portion of the state historical fund administered by the society shall continue to be used for the grants.

(III) Notwithstanding the findings in subsection (5)(a)(II) of this section, as a result of the severe losses in gaming revenues and earned revenues of the state historical society caused by the COVID-19 pandemic, the general assembly finds it of critical importance to support the needs of the society and, consistent with the preservation purposes of the state historical fund, to allow a limited amount of money normally used for grants to be transferred to the museum and preservation operations account for the fiscal years commencing July 1, 2020, and July 1, 2021, only.

(b) Subject to annual appropriation, the society may make expenditures from the museum and preservation operations account for the reasonable costs incurred by the society in connection with fulfilling the society's mission as a state educational institution to collect, preserve, and interpret the history of Colorado and the west and carrying out other activities and programs authorized by statute or rule. The reasonable costs may include capital construction and controlled

maintenance expenditures relating to properties owned, managed, or used by the society.

(c) (I) All money received by the society from limited gaming revenues pursuant to section 44-30-701 (1)(d)(II) shall be transmitted to the state treasurer, who shall credit the same to the state historical fund. Eighty percent of the state historical fund administered by the society is divided into the following two accounts:

(A) The preservation grant program account, hereby created in the state historical fund, that consists of fifty and one-tenth of one percent of the money received from the society in a fiscal year. Money in the account is subject to annual appropriation by the general assembly to the society to cover the reasonable costs as may be incurred in the selection, monitoring, and administration of grants for historic preservation purposes. Any money not appropriated for the costs is continuously appropriated to the society for the purpose of making grants pursuant to subsection (1) of this section.

(B) The museum and preservation operations account, hereby created in the state historical fund, that consists of forty-nine and nine-tenths of one percent of the money received from the society in a fiscal year. Money in the account is subject to annual appropriation by the general assembly for the purposes set forth in subsection (5)(b) of this section.

(II) Except as otherwise specified in subsection (5)(c)(III) of this section, all interest and income derived from the deposit and investment of money in the state historical fund, including the accounts created in subsections (5)(c)(I)(A) and (5)(c)(I)(B) of this section, shall remain in the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains therein and shall not be transferred or revert to the general fund or any other fund; except that, for the fiscal year commencing July 1, 2008, and for each fiscal year thereafter through the fiscal year commencing July 1, 2045, the society may direct the state treasurer to transfer any unexpended and unencumbered money in the museum and preservation operations account at the end of the fiscal year to the state museum cash fund created pursuant to section 24-80-214. The state treasurer shall be the custodian of the funds pursuant to section 24-80-209.

(III) (A) For the fiscal year commencing July 1, 2010, the state treasurer shall transfer four million dollars from the state historical fund, from the portion reserved for the statewide grant program for preservation pursuant to subsection (5)(d)(II)(A) of this section, at the beginning of the fiscal year to the capitol dome restoration fund, also referred to in this subsection (5)(c)(III) as the "fund", hereby created in the state treasury. Money in the fund is subject to appropriation by the general assembly for repairs and safety improvements to the state capitol dome and supporting structures and for no other purpose, and any unexpended and unencumbered money remaining in the fund as of June 30, 2011, shall not

revert to the state historical fund or any other fund. The four million dollar transfer specified in this subsection (5)(c)(III)(A) shall be reduced, dollar for dollar, by money deposited into the capitol dome restoration trust fund as specified in section 2-3-1304.3 (6)(b), if any. This dollar-for-dollar reduction shall not reduce the authorized fees and expenses of any fund-raising firm selected by the capital development committee for cause-related marketing for capitol dome repairs.

(B) For the fiscal years commencing July 1, 2011, and July 1, 2012, the state treasurer shall transfer up to four million dollars from the state historical fund, from the portion reserved for the statewide grant program for preservation pursuant to subsection (5)(d)(II)(A) of this section, at the beginning of the fiscal year to the capitol dome restoration fund; except that the said four-million-dollar maximum amount shall be reduced, dollar for dollar, by the combined total of money deposited into the capitol dome restoration trust fund as specified in section 2-3-1304.3 (6)(b), if any, and grants for repairs and safety improvements to the state capitol dome and supporting structures made by the state historical society under the grants process set forth in subsection (1) of this section. This dollar-for-dollar reduction shall not reduce any authorized fees and expenses of any fund-raising firm selected by the capital development committee for cause-related marketing for capitol dome repairs.

(C) In the event of an emergency contingency expenditure deemed necessary by the state architect and approved by the office of state planning and budgeting and the capital development committee, supplemental appropriations out of the capitol dome restoration trust fund created in section 2-3-1304.3 (6)(b), and the capitol dome restoration fund created in subsection (5)(c)(III)(A) of this section may be made from any unexpended and unencumbered money remaining in the specified funds at any time.

(D) Prior to the end of the 2014-15 state fiscal year and after a complete accounting is available of the total in-kind and monetary donations received through the fund-raising program established in section 2-3-1304.3, an end-of-project accounting shall occur based on the final total cost of the dome restoration construction project to ensure, through the annual general appropriations act, supplemental appropriations acts, or transfers between funds, as necessary, that all of the transfers from the state historical fund specified in subsections (5)(c)(III)(A) and (5)(c)(III)(B) of this section, and the 2013-14 appropriation from the capital construction fund specified in Senate Bill 13-230, are reduced, dollar for dollar, by the combined total of money deposited into the capitol dome restoration trust fund as specified in section 2-3-1304.3 (6)(b), grants for repairs and safety improvements to the state capitol dome and supporting structures made by the state historical society under the grants process set forth in subsection (1) of this section, any money received for the recycling of salvaged building materials from the state capitol dome during the construction period, and any

in-kind gifts and donations, such as materials or labor, that resulted in the reduction of the total cost of the construction. The total value of any in-kind gifts and donations for purposes of the dollar-for-dollar reduction specified in this subsection (5)(c)(III)(D) shall be calculated by the department of personnel and approved by the capital development committee as specified in section 2-3-1304.3 (6)(a)(II).

(E) Until completion of the capitol dome restoration project as reported by the state architect pursuant to section 2-3-1304.5, the Colorado historical society shall submit an annual report to the capital development committee on or before December 15 of each year concerning all grants awarded from the state historical fund.

(d) (I) The general assembly finds and declares that:

(A) To better preserve, study, and restore historical sites and objects throughout the state, it is in the best interest of the state to construct a new Colorado state museum and offices for the state historical society; and

(B) Construction of a new Colorado state museum and offices for the state historical society will provide improved historic preservation, education, planning, and interpretation of Colorado's heritage, including the identification, evaluation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archeology, or culture of the state; the official designation of the properties as appropriate for preservation; and other activities described in subsections (1)(c) and (1)(d) of this section.

(II) The general assembly reaffirms its intent that:

(A) The majority of the eighty percent portion of the state historical fund administered by the society shall continue to be used for the statewide grants for historic preservation purposes as described in subsection (1) of this section and may also be used to pay the administrative cost of the society in administering the grant program; and

(B) Costs associated with the new Colorado state museum shall be from the portion of the state historical fund not reserved for the statewide grant program for preservation, or from other money as designated by the general assembly.

(III) On or before October 1, 2008, the state treasurer shall transfer from the state historical fund to the state museum cash fund created pursuant to section 24-80-214 the sum of three million dollars. On or before October 1, 2009, the state treasurer shall transfer from the state historical fund to the state museum cash fund the sum of two million dollars. On or before October 1, 2010, the state treasurer shall transfer from the state historical fund to the state museum cash fund the sum of two million dollars.

(IV) For the fiscal year beginning on July 1, 2011, and for each fiscal year thereafter through the fiscal year beginning on July 1, 2045, so long as there are payments due on an agreement entered into pursuant to the provisions of section 3 of Senate Bill 08-206, as enacted at the second regular session of the sixty-sixth

general assembly, the general assembly shall appropriate to the state historical society from the museum and preservation operations account of the state historical fund, the general fund, or from any other available fund an amount equal to the annual aggregate rentals or other payments due from state funds; except that the amount shall not exceed four million nine hundred ninety-eight thousand dollars in any given fiscal year.

(6) For the fiscal year commencing July 1, 2014, the state treasurer shall transfer one million dollars from the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(7) For the fiscal year commencing July 1, 2015, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(8) For the fiscal year commencing July 1, 2016, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(9) For the fiscal year commencing July 1, 2017, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund on October 1, 2017, to the capital construction fund created in section 24-75-302 to restore the windows and granite exterior of the state capitol building.

(10) For the fiscal year commencing July 1, 2018, the state treasurer shall transfer eight hundred fifty thousand dollars from the preservation grant program account of the state historical fund on October 1, 2018, to the legislative department cash fund created in section 2-2-1601 to restore the old supreme court chamber in the state capitol building.

(11) For the fiscal year commencing July 1, 2018, the state treasurer shall transfer one hundred fifty thousand dollars from the preservation grant program account of the state historical fund on October 1, 2018, to the capital construction fund created in section 24-75-302 for historical property rehabilitation in the capitol complex.

(12) For the state fiscal year commencing July 1, 2019, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund on October 1, 2019, to the capital construction fund created in section 24-75-302 for repainting of the interior of the dome of the state capitol building. On July 1, 2020, the state treasurer shall transfer an amount equal to the unencumbered portion of the money provided pursuant to

this subsection (12) as of such date for repainting the interior of the dome of the state capitol building from the capital construction fund created in section 24-75-302 to the museum and preservation operations account created in subsection (5)(c)(I)(B) of this section.

(13) Notwithstanding any other provision of this section to the contrary, for each of the state fiscal years commencing July 1, 2020, and July 1, 2021, the state historical society is authorized to direct the state treasurer to transfer a cumulative total of up to one million dollars from the preservation grant program account created in subsection (5)(c)(I)(A) of this section to the museum and preservation operations account created in subsection (5)(c)(I)(B) of this section.

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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2.8.21

DRAFT

LLS NO. 21-0717.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Repeal Obsolete Capitol Dome Restoration Fund"

DEADLINES: Finalize by: FEB 22, 2021 File by: FEB 25, 2021

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF STATUTES RELATED TO THE OBSOLETE**
102 **CAPITOL DOME RESTORATION FUND.**

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 repeals section 44-30-1201 (5)(c)(III), C.R.S., because that section creates the capitol dome restoration fund, which is obsolete. The capitol dome restoration was a capital project that commenced in 2010 and has since been completed. The statutory sections regarding the capitol dome restoration were repealed in July 2015 but the statute establishing the fund and the

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

necessary transfers of money to the fund were inadvertently left in the statutes. The bill addresses that defect.

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

2 **SECTION 1.** In Colorado Revised Statutes, 44-30-1201, **amend**
3 (5)(c)(II); and **repeal** (5)(c)(III) as follows:

4 **44-30-1201. State historical fund - administration - legislative**
5 **declaration - state museum cash fund - rules -**
6 **definition.** (5) (c) (II) ~~Except as otherwise specified in subsection~~
7 ~~(5)(c)(III) of this section~~ All interest and income derived from the deposit
8 and investment of money in the state historical fund, including the
9 accounts created in subsections (5)(c)(I)(A) and (5)(c)(I)(B) of this
10 section, shall remain in the fund. At the end of any fiscal year, all
11 unexpended and unencumbered money in the fund remains therein and
12 shall not be transferred or revert to the general fund or any other fund;
13 except that, for the fiscal year commencing July 1, 2008, and for each
14 fiscal year thereafter through the fiscal year commencing July 1, 2045, the
15 society may direct the state treasurer to transfer any unexpended and
16 unencumbered money in the museum and preservation operations account
17 at the end of the fiscal year to the state museum cash fund created
18 pursuant to section 24-80-214. The state treasurer shall be the custodian
19 of the funds pursuant to section 24-80-209.

20 (III) (A) ~~For the fiscal year commencing July 1, 2010, the state~~
21 ~~treasurer shall transfer four million dollars from the state historical fund,~~
22 ~~from the portion reserved for the statewide grant program for preservation~~
23 ~~pursuant to subsection (5)(d)(H)(A) of this section, at the beginning of the~~
24 ~~fiscal year to the capitol dome restoration fund, also referred to in this~~
25 ~~subsection (5)(c)(III) as the "fund", hereby created in the state treasury.~~

1 Money in the fund is subject to appropriation by the general assembly for
2 repairs and safety improvements to the state capitol dome and supporting
3 structures and for no other purpose, and any unexpended and
4 unencumbered money remaining in the fund as of June 30, 2011, shall not
5 revert to the state historical fund or any other fund. The four million
6 dollar transfer specified in this subsection (5)(c)(III)(A) shall be reduced,
7 dollar for dollar, by money deposited into the capitol dome restoration
8 trust fund as specified in section 2-3-1304.3 (6)(b), if any. This
9 dollar-for-dollar reduction shall not reduce the authorized fees and
10 expenses of any fund-raising firm selected by the capital development
11 committee for cause-related marketing for capitol dome repairs.

12 (B) For the fiscal years commencing July 1, 2011, and July 1,
13 2012, the state treasurer shall transfer up to four million dollars from the
14 state historical fund, from the portion reserved for the statewide grant
15 program for preservation pursuant to subsection (5)(d)(II)(A) of this
16 section, at the beginning of the fiscal year to the capitol dome restoration
17 fund; except that the said four-million-dollar maximum amount shall be
18 reduced, dollar for dollar, by the combined total of money deposited into
19 the capitol dome restoration trust fund as specified in section 2-3-1304.3
20 (6)(b), if any, and grants for repairs and safety improvements to the state
21 capitol dome and supporting structures made by the state historical
22 society under the grants process set forth in subsection (1) of this section.
23 This dollar-for-dollar reduction shall not reduce any authorized fees and
24 expenses of any fund-raising firm selected by the capital development
25 committee for cause-related marketing for capitol dome repairs.

26 (C) In the event of an emergency contingency expenditure deemed
27 necessary by the state architect and approved by the office of state

1 ~~planning and budgeting and the capital development committee,~~
2 ~~supplemental appropriations out of the capitol dome restoration trust fund~~
3 ~~created in section 2-3-1304.3 (6)(b), and the capitol dome restoration fund~~
4 ~~created in subsection (5)(c)(III)(A) of this section may be made from any~~
5 ~~unexpended and unencumbered money remaining in the specified funds~~
6 ~~at any time.~~

7 ~~(D) Prior to the end of the 2014-15 state fiscal year and after a~~
8 ~~complete accounting is available of the total in-kind and monetary~~
9 ~~donations received through the fund-raising program established in~~
10 ~~section 2-3-1304.3, an end-of-project accounting shall occur based on the~~
11 ~~final total cost of the dome restoration construction project to ensure,~~
12 ~~through the annual general appropriations act, supplemental~~
13 ~~appropriations acts, or transfers between funds, as necessary, that all of~~
14 ~~the transfers from the state historical fund specified in subsections~~
15 ~~(5)(c)(III)(A) and (5)(c)(III)(B) of this section, and the 2013-14~~
16 ~~appropriation from the capital construction fund specified in Senate Bill~~
17 ~~13-230, are reduced, dollar for dollar, by the combined total of money~~
18 ~~deposited into the capitol dome restoration trust fund as specified in~~
19 ~~section 2-3-1304.3 (6)(b), grants for repairs and safety improvements to~~
20 ~~the state capitol dome and supporting structures made by the state~~
21 ~~historical society under the grants process set forth in subsection (1) of~~
22 ~~this section, any money received for the recycling of salvaged building~~
23 ~~materials from the state capitol dome during the construction period, and~~
24 ~~any in-kind gifts and donations, such as materials or labor, that resulted~~
25 ~~in the reduction of the total cost of the construction. The total value of~~
26 ~~any in-kind gifts and donations for purposes of the dollar-for-dollar~~
27 ~~reduction specified in this subsection (5)(c)(III)(D) shall be calculated by~~

1 ~~the department of personnel and approved by the capital development~~
2 ~~committee as specified in section 2-3-1304.3 (6)(a)(II).~~

3 ~~(E) Until completion of the capitol dome restoration project as~~
4 ~~reported by the state architect pursuant to section 2-3-1304.5, the~~
5 ~~Colorado historical society shall submit an annual report to the capital~~
6 ~~development committee on or before December 15 of each year~~
7 ~~concerning all grants awarded from the state historical fund.~~

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.