

AGENDA
Statutory Revision Committee (SRC)
Thursday, April 13, 2023
HCR 107 8:00 a.m.

Discussion of Revisor's Bill, Jennifer Gilroy, Revisor of Statutes, OLLS

Discussion of Statutory Revision Committee charge, Kristen Forrestal, OLLS

Discussion of memos and bill drafts:

1. [Prohibit a corporation from issuing scrip in bearer form upon holder surrendering enough scrip to equal full share to conform with federal law](#)
Drafter: Kristen Forrestal / LLS 23-1003
2. Reconsideration of LLS 23-0202 - [Proposed corrections to erroneous cross references in the "Mobile Home Park Act"](#)
Drafter: Jessica Herrera
3. Reconsideration of LLS 23-0735 - [Correction of miscellaneous technical defects in statutes as requested by the Department of Revenue](#)
Drafter: Jason Gelender
4. [Updating obsolete cross references in fire and police pension law](#)
Drafter: Jason Gelender / LLS 23-0889

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

**COLORADO STATE CAPITOL
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TO: Statutory Revision Committee

FROM: Kristen Forrestal, Office of Legislative Legal Services

DATE: April 6, 2023

SUBJECT: LLS 23-1003, Concerning prohibiting a corporation from issuing a scrip in bearer form upon the holder surrendering enough scrip to equal a full share.

The attached bill draft prohibits a corporation from issuing a scrip in bearer form upon the holder surrendering enough scrip to equal a full share.

This issue was brought to the attention of the Office of Legislative Legal Services by Tyler Mounsey, representing the Colorado Bar Association. A memo from the Business Entities Subsection of the Business Section of the Colorado Bar Association explaining the issue is attached for your review.

The Office of Legislative Legal Services believes this proposed change to the Colorado Revised Statutes fits under the charge of the Statutory Revision Committee as the authorization for a corporation to issue a scrip in bearer form is prohibited by federal law.

A representative from the Colorado Bar Association will attend the Statutory Revision Committee hearing scheduled for April 13, 2023, to explain the issue and to answer any questions from the members of the committee.



HERRICK K. LIDSTONE, JR.
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MEMORANDUM

TO: The Business Entities Subsection of the Business Section of the Colorado Bar Association (the “Subsection”)

Any addressee who does not want to receive this information or participate in the subsection’s work, please let us know at hklidstone@bfwlaw.com and pbrunson@bfwlaw.com.

CC: Steve Mulligan and Elizabeth Pope, the Section’s legislative liaisons;
Tyler Mounsey, CBA Director of Legislative Affairs

FROM: Herrick K. Lidstone, Jr., Chair, Business Entities Subsection of the Business Section of the Colorado Bar Association (the “Subsection”)

RE: Start of 2023 planning

DATE: June 27, 2022

As discussed in my earlier, May 2, 2022, memorandum, H.B. 22-1250 (a bill that contained some non-substantive changes to title 7 of the Colorado Revised Statutes) omitted one change that we had wanted to include and which the Business Law Section Executive Committee had approved:

In Colorado Revised Statutes, section 7-106-104, **amend** subsection (1)(c) as follows:

§ 7-106-104. Fractional shares. (1) A corporation may:

- (a) Issue fractions of a share or pay in cash the value of fractions of a share;
- (b) Arrange for disposition of fractional shares by the shareholders; or
- (c) Issue scrip in registered **or bearer** form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

The reason for this proposed change is that 31 U.S.C. § 5336(f) (enacted in the federal Corporate Transparency Act, effective January 1, 2021) states that a corporation, limited liability company, or similar entity “*may not issue a certificate in bearer form evidencing either a whole or fractional interest in the entity.*”

Memorandum to the CBA Business Law Section Entities Subsection
Re: Start of 2023 Planning

Thus, issuing shares, scrip, or other securities in bearer form, as permitted by § 7-106-104(1)(c), is illegal under federal law. We should delete it from Title 7.

As a matter of information, § 7-106-104(1)(c) is the only place in Title 7 where the term “bearer” is used in connection with the issuance of an owner’s interests. For example, § 7-106-206 (Form and content of certificates), subsection (2)(b), does not give a Colorado corporation the option of issuing bearer certificates for shares – it requires that the certificate state “The name of the person to whom the certificate is issued.”

Please do not hesitate to let me know if you find other places where the term “bearer” is used in Title 7 (or other CRS Titles that should be modified). Also, please let me know if you have any objections or improvement to the change that I have suggested above.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/30/23

DRAFT

LLS NO. 23-1003.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: Prohibit Corporation Issuing Scrip In Bearer Form

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING A CORPORATION FROM ISSUING A SCRIP IN**
102 **BEARER FORM UPON THE HOLDER SURRENDERING ENOUGH**
103 **SCRIP TO EQUAL A FULL SHARE.**

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 the allowance for a corporation to issue a scrip in bearer form upon the holder surrendering enough scrip to equal a full share. This repeal is in conformance with federal law, which has prohibited such practice since 2021.

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

2 **SECTION 1.** In Colorado Revised Statutes, 7-106-104, **amend**
3 (1)(c) as follows:

4 **7-106-104. Fractional shares.** (1) A corporation may:

5 (c) Issue scrip in registered ~~or bearer~~ form entitling the holder to
6 receive a full share upon surrendering enough scrip to equal a full share.

7 **SECTION 2. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.

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MEMORANDUM

TO: Statutory Revision Committee

FROM: Jessica Herrera, Office of Legislative Legal Services

DATE: March 2, 2023

SUBJECT: Proposed corrections to erroneous cross references in the "Mobile Home Park Act"¹

Summary

The Office of Legislative Legal Services (office) proposes that the Statutory Revision Committee (SRC) introduce legislation to correct two erroneous cross references in statutes concerning mobile home parks. The proposed draft bill makes these corrections.

Analysis

During the 2022 legislative session, the general assembly enacted H.B. 22-1287, concerning protections for mobile home park residents. Due to errors that occurred during the drafting process, the bill included two erroneous cross references.

First, the bill amended subsection 38-12-203 (1)(d)(II),² C.R.S., which requires a landlord to give notice to mobile home owners of a proposed change in the use of the land comprising the park. The bill added a requirement that the notice "must advise the home owner of the home owner's right to compensation pursuant to subsection (3) of this section." However, the home owner's right to compensation is addressed in section

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.

² See Addendum B.

38-12-203.5,³ C.R.S., not in subsection (3) of section 38-12-203, C.R.S. This cross reference should also be corrected.

Second, the bill enacted a new statutory section, 38-12-223,⁴ C.R.S., establishing record retention requirements related to park tenancy and sales. Subsection (1)(d) of that section requires park managers to retain a copy of each request from a home owner or resident related to various matters related to tenancy in the park, such as guests, pets, accessory buildings or structures, and other uses of property within the park. Subsection (4) addresses how an issue related to a resident's right with regard to any of those matters should be handled in the event the records are not retained. However, subsection (4) incorrectly cross references subsection (1)(c) instead of (1)(d), stating, "If an issue arises as to a resident's right to any of the matters described in subsection (1)(c) ...of this section and the landlord has not retained adequate records for that resident, the landlord shall be presumed to have violated this part 2 unless the landlord demonstrates compliance by a preponderance of the evidence." This cross reference is incorrect, as subsection (1)(c) requires the landlord to retain records of the written rules and regulations for the park, and does not have any requirements relating to the rights of individual residents. Instead, the reference should be to (1)(d), which addresses the record retention requirements for requests from individual residents relating to their use of property within the park. This cross reference should be corrected.

The Department of Local Affairs and the Office of Legislative Legal Services identified these errors.

Statutory Charge⁵

Section 2-3-902, C.R.S., authorizes the SRC to identify defects in the statutes and recommend needed reforms. The proposed bill fits within the committee's charge because it would correct defects in the law.

³ See Addendum B.

⁵ 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

If the SRC wishes to introduce legislation to address this issue, the proposed draft bill to correct the erroneous cross references is attached for review.

ADDENDUM A

38-12-223. Tenancy and park sale records. (1) A landlord shall retain records for each home owner and resident throughout the home owner's or resident's tenancy and for twelve months after the tenancy ends, including documentation of:

(a) Each rental agreement signed by the home owner or resident and the current or previous landlord;

(b) The date and amount of any change in rent during the home owner's or resident's tenancy;

(c) Written rules and regulations adopted by the current or previous landlord during the home owner's or resident's tenancy;

(d) Each request from the home owner or resident relating to the following, including whether the landlord at the time approved or disapproved each request:

(I) Guests, roommates, occupants, co-lessees, or sub-lessees;

(II) Pets or service animals;

(III) Accessory buildings or structures, including sheds and carports;

(IV) Decks, fences, wheelchair ramps, or other structural changes to the home or lot; and

(V) Use of property related to parking of vehicles and use of vehicles.

(2) A landlord who is selling or transferring a mobile home park shall maintain all records related to compliance with section 38-12-217 for a minimum of forty-eight months after any sale or transfer of a mobile home park is complete, including but not limited to:

(a) Notices mailed or given to home owners pursuant to section 38-12-217 (1) and (2);

(b) Postings pursuant to section 38-12-217 (1)(c), including any forms for home owners to provide notice that they do not wish to participate in efforts to purchase the community;

(c) Signed writings provided by home owners to the park owner declining to participate in purchasing the park pursuant to section 38-12-217 (1)(c);

(d) Offers to purchase and proposed purchase and sale agreements submitted to the landlord by a group or association of home owners or their assignees pursuant to section 38-12-217 (4);

(e) Requests for information from a group or association of home owners or their assignees participating in the opportunity to purchase and the landlord's responses to the requests for information pursuant to section 38-12-217 (5)(a); and

(f) Offers to purchase and any conditional and unconditional purchase and sale agreements submitted by the successful purchaser of the mobile home park.

(3) Upon the sale or transfer of a mobile home park, the seller must transfer all records maintained under subsection (1) of this section to the new owner.

(4) If an issue arises as to a resident's right to any of the matters described in subsection (1)(c) or (2) of this section and the landlord has not retained adequate records for that resident, the landlord shall be presumed to have violated this part 2 unless the landlord demonstrates compliance by a preponderance of the evidence.

(5) The division may promulgate rules concerning the implementation of this section, including requirements concerning:

(a) How a person may access or obtain copies of records retained pursuant to this section and any restrictions on who may access records retained pursuant to this section;

(b) What fees or costs, if any, may be imposed for obtaining copies of records retained pursuant to this section;

(c) Confidentiality protections for personally identifying information included in records retained pursuant to this section;

(d) Secure destruction of records once the period of retention has passed; and

(e) Penalties for violations of this section.

(6) If a current or former management or landlord violates this section, a home owner may file a complaint pursuant to section 38-12-1105. On and after July 1, 2024, or earlier if allowed by the division, a resident who does not own a mobile home in the park, a local government, or a nonprofit may file such a complaint.

ADDENDUM B

38-12-203. Reasons for termination. (1) The management of a mobile home park may terminate a tenancy only for one or more of the following reasons:

(a) Except in the case of a home owner who cures a noncompliance as described in section 38-12-202 (3), failure of the home owner to comply with local ordinances and state laws and rules relating to mobile homes and mobile home lots;

(b) Repealed.

(c) Except in the case of a home owner who cures a noncompliance as described in section 38-12-202 (3), failure of the home owner to comply with written rules and regulations of the mobile home park that are enforceable pursuant to section 38-12-214 (1), are necessary to prevent material damage to real or personal property or to the health or safety of one or more individuals, and were:

(I) Established by the management in the rental agreement at the inception of the tenancy;

(II) Amended after the inception of the tenancy with the consent of the home owner; or

(III) Amended after the inception of the tenancy without the consent of the home owner after providing sixty days' prior written notice to the home owner.

(d) (I) Condemnation or change of use of the mobile home park. When the owner of a mobile home park is formally notified by a notice of intent to acquire pursuant to section 38-1-121 (1) or other similar provision of law, or a complaint in a condemnation action from an appropriate governmental agency that the mobile home park, or any portion thereof, is to be acquired by the governmental agency or may be the subject of a condemnation proceeding, the landlord shall, within seventeen days, notify the home owners in writing of the terms of the notice of intent to acquire or complaint received by the landlord.

(II) If a landlord wants to change the use of a mobile home park, and the change of use has been approved by the local or state authority or does not require approval, and the change of use would result in the eviction of inhabited mobile homes, the landlord shall give the owner of each mobile home that is subject to the eviction a written notice of the landlord's intent to evict not less than twelve months before the change of use of the land, which notice must be mailed to each home owner. The notice must advise the home owner of the home owner's right to compensation pursuant to subsection (3) of this section.

(e) The making or causing to be made, with knowledge, of materially false or misleading statements on an application for tenancy;

(f) Conduct of the home owner or any lessee of the home owner or any guest, agent, invitee, or associate of the home owner or lessee of the home owner that:

(I) Occurs on the mobile home park premises and unreasonably endangers the life of the landlord, any home owner or lessee of the mobile home park, any person

living in the park, or any guest, agent, invitee, or associate of the home owner or lessee of the home owner;

(II) Occurs on the mobile home park premises and constitutes willful, wanton, or malicious damage to or destruction of property of the landlord, any home owner or lessee of the mobile home park, any person living in the park, or any guest, agent, invitee, or associate of the home owner or lessee of the home owner;

(III) Occurs on the mobile home park premises, materially harms or threatens real or personal property or the health, safety, or welfare of one or more individuals or animals, including pet animals, as defined in section 35-80-102 (10), and constitutes a felony prohibited under article 3, 4, 6, 7, 9, 10, 12, or 18 of title 18; or

(IV) Was the basis for an action that declared the mobile home or any of its contents a class 1 public nuisance under section 16-13-303.

(2) In an action pursuant to this part 2, the landlord shall have the burden of proving that the landlord complied with the relevant notice requirements and that the landlord provided the home owner with a statement of reasons for the termination. In addition to any other defenses a home owner may have, it shall be a defense that the landlord's allegations are false or that the reasons for termination are invalid.

(3) A landlord shall not make any oral or written statement threatening eviction for a violation or action that is not grounds for terminating a tenancy under subsection (1) of this section. A home owner may file a complaint pursuant to section 38-12-1105 or a civil action pursuant to section 38-12-220 for a violation of this subsection (3). If the court determines that the landlord violated this subsection (3), the court shall award a statutory penalty of up to twenty thousand dollars to the plaintiff in addition to any other remedies authorized by section 38-12-220.

38-12-203.5. Change in use of the park - remedies for home owners - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "In-place fair market value" means the fair market value of the mobile home and any attached appurtenances and structures on the lot owned by the home owner such as porches, decks, skirting, awnings, and sheds, taking into account the actual cost of all improvements made to the mobile home by the home owner. Fair market value is determined based on the value of the mobile home in its current location prior to the decision to change the use of the park.

(b) "Relocation costs" includes:

(I) Any reasonable costs incurred to move the mobile home, furniture, and personal belongings therein to a replacement site;

(II) The reasonable cost of disassembling, moving, and reassembling any attached appurtenances and structures on the lot owned by the home owner such as porches, decks, skirting, awnings, and sheds, which were not acquired by the landlord;

- (III) The costs of anchoring the unit;
- (IV) The costs of connecting or disconnecting the mobile home to utilities;
- (V) Insurance coverage during transport; and
- (VI) The cost to disassemble and reinstall any accessibility improvements such as wheelchair ramps, lifts, and grab bars.

(2) If a landlord intends to change the use of the land comprising a mobile home park or part of a mobile home park and the change in use would result in the displacement of one or more mobile homes in the park, for each displaced mobile home, the landlord shall provide the home owner or home owners one of the following at the home owner's or home owners' choosing within thirty days of receiving a written demand by the home owner or home owners:

(a) Payment of relocation costs to relocate the mobile home to a location of the home owner's choosing within one hundred miles by road of the park. Relocation costs are determined based on the lowest estimate obtained by the home owner from a mobile home mover. The landlord may request a copy of the estimate to support the request for payment of relocation costs. If the home owner exercises this option, the home owner must actually relocate the mobile home and all personal belongings in accordance with the estimate used to determine relocation costs prior to the date of the change in use set forth in the notice required by section 38-12-203 (1)(d)(II). The home owner is responsible for additional mileage costs to move the mobile home to a location more than one hundred miles from the park.

(b) Submit a binding offer to purchase the mobile home for the greater of:

(I) Seven thousand five hundred dollars for a single-section mobile home or ten thousand dollars for a multi-section mobile home; or

(II) One hundred percent of the in-place fair market value as determined through the appraisal process set forth in this subsection (2)(b)(II). Within thirty days of submitting the offer, the landlord shall hire a licensed, certified residential, or certified general appraiser from the active appraisers list published by the division of real estate in the department of regulatory agencies to conduct the appraisal. If the home owner disputes the appraised value of the mobile home, the home owner may hire a licensed, certified residential, or certified general appraiser from the active appraisers list to obtain a second appraisal at the home owner's expense. To be considered, the home owner must obtain the appraisal within sixty days of receipt of the landlord's appraisal. The results of all appraisals shall be provided in writing by the appraiser to both landlord and home owner. If a second appraisal is obtained, the home owner is entitled to the average of the appraisals obtained by the landlord and the home owner. If the home owner is not satisfied with the appraisal or appraisals received, the home owner may submit a request for payment of relocation costs as set forth in subsection (2)(a) of this section. If the home owner exercises the option for purchase under this subsection (2)(b)(II), the sale closing must occur prior to the

date of the change in use set forth in the notice provided pursuant to section 38-12-203 (1)(d)(II).

(3) If an appraiser conducting an appraisal pursuant to subsection (2)(b)(II) of this section identifies lack of maintenance, deferred maintenance, or deterioration of the mobile home park beyond normal wear and tear that negatively affects the value of a mobile home, the appraiser shall determine the value of the home with an upward adjustment in value if necessary to eliminate the negative effect in value caused by the lack of maintenance, deferred maintenance, or deterioration of the park beyond normal wear and tear.

(4) On July 1, 2024, and on July 1 of each year thereafter, the department shall adjust the amount specified in subsection (2)(b)(I) of this section in accordance with the percentage change for the previous twelve months at the time of the calculation in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. The department shall publish the adjusted amount on the department's website.

(5) A home owner is entitled to the remedies provided under this section only if the home owner has not given notice to terminate the home owner's lease or rental agreement as of the date of the notice of the change in use.

(6) Any agreement made with a home owner to waive any rights under this section is invalid and ineffective for any purpose.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
1/20/23

DRAFT

LLS NO. 23-0202.01 Jessica Herrera x4218

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: Correct Mobile Home Park Act Cross References

DEADLINES: Finalize by: 1/23/2023 File by: 1/25/2023

A BILL FOR AN ACT

101 **CONCERNING CORRECTIONS TO CROSS REFERENCES IN THE "MOBILE**
102 **HOME PARK ACT".**

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 corrects 2 erroneous cross references in certain statutes in the "Mobile Home Park Act".

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

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

1 **SECTION 1.** In Colorado Revised Statutes, 38-12-203, **amend**
2 (1)(d)(II) as follows:

3 **38-12-203. Reasons for termination.** (1) The management of a
4 mobile home park may terminate a tenancy only for one or more of the
5 following reasons:

6 (d) (II) If a landlord wants to change the use of a mobile home
7 park, and the change of use has been approved by the local or state
8 authority or does not require approval, and the change of use would result
9 in the eviction of inhabited mobile homes, the landlord shall give the
10 owner of each mobile home that is subject to the eviction a written notice
11 of the landlord's intent to evict not less than twelve months before the
12 change of use of the land, which notice must be mailed to each home
13 owner. The notice must advise the home owner of the home owner's right
14 to compensation pursuant to ~~subsection (3) of this section~~ SECTION
15 38-12-203.5.

16 **SECTION 2.** In Colorado Revised Statutes, 38-12-223, **amend**
17 (4) as follows:

18 **38-12-223. Tenancy and park sale records.** (4) If an issue arises
19 as to a resident's right to any of the matters described in subsection ~~(1)(c)~~
20 **(1)(d)** or (2) of this section and the landlord has not retained adequate
21 records for that resident, the landlord shall be presumed to have violated
22 this part 2 unless the landlord demonstrates compliance by a
23 preponderance of the evidence.

24 **SECTION 3. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.

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MEMORANDUM

TO: Statutory Revision Committee

FROM: Jason Gelender, Office of Legislative Legal Services

DATE: March 2, 2023

SUBJECT: Correction of miscellaneous technical defects in statutes as requested by the Department of Revenue¹

Summary

The Office of Legislative Legal Services proposes that the Statutory Revision Committee (SRC) introduce legislation to correct miscellaneous technical defects in the statutes as requested by the Department of Revenue (department). The proposed draft bill corrects these technical defects. Representatives of the department will be available to answer any questions that the members of the SRC may have at the meeting on March 9, 2023.

Analysis

1. Contradictory rule of law regarding payment of clean fleet per ride fees.

Section 25-7.5-103 (7)(a), C.R.S., requires the clean fleet enterprise to "impose a clean fleet per ride fee to be paid by a transportation network company for each prearranged ride requested and accepted through the company's digital network." However, section 25-7.5-103 (7)(c)(II), C.R.S., refers to the fee as being "paid by a person who requests and accepts a prearranged ride."

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.

Similarly, section 43-4-1303 (7)(a), C.R.S., requires the nonattainment area air pollution mitigation enterprise to "impose an air pollution mitigation per ride fee to be paid by a transportation network company for each prearranged ride requested and accepted through the company's digital network." However, section 43-4-1303 (7)(c)(II), C.R.S., refers to the fee as being "paid by a person who requests and accepts a prearranged ride."

The references in section 25-7.5-103 (7)(c)(II), and 43-4-1303 (7)(c)(II), C.R.S., to the clean fleet per ride fee and air pollution mitigation per ride fee as being "paid by a person who requests and accepts a prearranged ride" are defective and create a contradictory rule of law.

2. Contradictory rule of law in definition of "tax expenditure".

Section 39-21-302 (2), C.R.S., defines "tax expenditure," for purposes of the statutes that impose requirements for legislation that creates a new tax expenditure or extends an expiring tax expenditure and require the department to prepare a biennial tax profile and expenditure report, as "a tax provision that provides a gross or taxable income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue." The definition is defective because it does not include "subtractions."

The average individual who files federal income taxes would typically think of amounts that are excluded from federal taxable income to determine Colorado taxable income as "deductions". But such exclusions are normally referred to in the Colorado Revised Statutes as "subtractions". This makes the absence of the term "subtractions" in the definition of "tax expenditure" inconsistent with other statutes and creates a contradictory rule of law.

3. Technical defect in definition of "motor vehicle" in the tax credit for innovative motor vehicles statute.

Section 39-22-516.7 (4)(a)(V), C.R.S., allows an income tax credit for purchasing or leasing a category 1 motor vehicle to be claimed for income tax years commencing prior to January 1, 2026. However, the definition of "motor vehicle" set forth in section 39-22-516.7 (1)(r)(II), C.R.S., that is used for purposes of section 39-22-516.7, C.R.S., is defective because it is limited to income "tax years commencing ... prior to January 1, 2022."

4. Technically defective definition of "carshare ride."

Section 40-10.1-607.5 (1)(b), C.R.S., defines the term "carshare ride" for purposes of that section, which is the statute that requires transportation network companies to pay the clean fleet per ride fee and the air pollution mitigation per ride fee.² However, the term "carshare ride" is not actually used anywhere else in section 40-10.1-607.5, C.R.S., and is thus unnecessary and technically defective.

Statutory Charge³

Section 2-3-902, C.R.S., authorizes the SRC to correct statutory provisions that are defective or create contradictory rules of law. Therefore, if the SRC finds that the identified inconsistencies and omissions described above are defective or create contradictory rules of law, correcting them fits within the charge of the SRC.

Proposed Bill

If the SRC wishes to introduce legislation to address this issue, the proposed draft bill to do so is attached.

² Section 40-10.1-607.5 (1)(b), C.R.S., states:

40-10.1-607.5. Fees - enterprise per ride fees - collection - distribution of fee proceeds - enterprise per ride fees fund - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(b) "Carshare ride" means a prearranged ride for which the rider agrees, at the time the rider requests the ride through a digital network, to be transported with another rider who has separately requested a prearranged ride.

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

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
2/20/23

DRAFT

LLS NO. 23-0735.01 Jason Gelender x4330

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: Correct Technical Defects In DOR Laws

A BILL FOR AN ACT

101 **CONCERNING THE CORRECTION OF TECHNICAL DEFECTS IN LAWS**
102 **ADMINISTERED BY THE DEPARTMENT OF REVENUE.**

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 corrects technical defects in the law as follows:

- **Sections 1 and 5** replace language that erroneously states that the clean fleet per ride fee and the air pollution mitigation per ride fee, which are respectively imposed by the clean fleet enterprise and the nonattainment area air

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

pollution mitigation enterprise and paid by transportation network companies, are paid by persons who request and accept prearranged rides with language that correctly states that the fees are paid by transportation network companies.

- **Section 2** corrects a defect in the definition of "tax expenditure" used for purposes of the statutes that require tax profile and expenditure reporting and tax preference performance statements for bills that create or extend expiring tax expenditures. Specifically, the bill adds the word "subtraction" to make the definition more precisely reflect that the kinds of income tax expenditures that are referred to as deductions at the federal level are usually referred to as subtractions at the state level.
- **Section 3** corrects a defect in the definition of "motor vehicle" used in the statute that allows an income tax credit for innovative motor vehicles by changing a reference from January 1, 2022, to January 1, 2026, to reflect the extension of the credit for income tax years commencing on and after January 1, 2022, but before January 1, 2026.
- **Section 4** repeals a statutory definition of "carshare ride" that was inadvertently not removed from a bill when the provisions to which it related were removed from the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7.5-103, **amend**
3 (7)(c)(II) as follows:

4 **25-7.5-103. Clean fleet enterprise - creation - board - powers**
5 **and duties - fees - fund.** (7) (c) (II) The enterprise is authorized to adjust
6 the amount of the clean fleet per ride fee for prearranged rides requested
7 and accepted during a state fiscal year only if the rate of inflation is
8 positive and cumulative inflation from the time of the last adjustment in
9 the amount of the fee, when applied to the sum of the current clean fleet
10 per ride fee and the current air pollution mitigation per ride fee imposed
11 as required by section 43-4-1303 (7) and rounded to the nearest whole
12 cent, will result in an increase of at least one whole cent in the total
13 amount of the clean fleet per ride fee and the air pollution mitigation per

1 ride fee paid by a ~~person who requests and accepts a prearranged ride~~
2 TRANSPORTATION NETWORK COMPANY. The amount of cumulative
3 inflation to be applied to the sum of the current clean fleet per ride fee
4 and the current air pollution mitigation per ride fee and rounded to the
5 nearest whole cent is the lesser of actual cumulative inflation or five
6 percent.

7 **SECTION 2.** In Colorado Revised Statutes, 39-21-302, **amend**
8 (2) as follows:

9 **39-21-302. Definitions.** As used in this part 3, unless the context
10 otherwise requires:

11 (2) "Tax expenditure" means a tax provision that provides a gross
12 or taxable income definition, deduction, SUBTRACTION, exemption, credit,
13 or rate for certain persons, types of income, transactions, or property that
14 results in reduced tax revenue.

15 **SECTION 3.** In Colorado Revised Statutes, 39-22-516.7, **amend**
16 (1)(r)(II) introductory portion as follows:

17 **39-22-516.7. Tax credit for innovative motor vehicles -**
18 **definitions - repeal.** (1) As used in this section, unless the context
19 otherwise requires:

20 (r) (II) "Motor vehicle" means, for tax years commencing on or
21 after January 1, 2017, but prior to ~~January 1, 2022~~ JANUARY 1, 2026, a
22 self-propelled vehicle with four wheels, including a truck and a hybrid
23 motor vehicle, that is:

24 **SECTION 4.** In Colorado Revised Statutes, 40-10.1-607.5,
25 **repeal** (1)(b) as follows:

26 **40-10.1-607.5. Fees - enterprise per ride fees - collection -**
27 **distribution of fee proceeds - enterprise per ride fees fund - rules -**

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

3 (b) ~~"Carshare ride" means a prearranged ride for which the rider~~
4 ~~agrees, at the time the rider requests the ride through a digital network, to~~
5 ~~be transported with another rider who has separately requested a~~
6 ~~prearranged ride.~~

7 **SECTION 5.** In Colorado Revised Statutes, 43-4-1303, **amend**
8 (7)(c)(II) as follows:

9 **43-4-1303. Nonattainment area air pollution mitigation**
10 **enterprise - creation - board - powers and duties - rules - fees - fund.**

11 (7) (c) (II) The enterprise is authorized to adjust the amount of the air
12 pollution mitigation per ride fee for prearranged rides requested and
13 accepted during a state fiscal year only if the rate of inflation is positive
14 and cumulative inflation from the time of the last adjustment in the
15 amount of the fee, when applied to the sum of the current air pollution
16 mitigation per ride fee and the current clean fleet per ride fee imposed as
17 required by section 25-7.5-103 (7) and rounded to the nearest whole cent,
18 will result in an increase of at least one whole cent in the total amount of
19 the air pollution mitigation per ride fee and the clean fleet per ride fee
20 paid by a ~~person who requests and accepts a prearranged ride~~
21 TRANSPORTATION NETWORK COMPANY. The amount of cumulative
22 inflation to be applied to the sum of the current air pollution mitigation
23 per ride fee and the current clean fleet per ride fee and rounded to the
24 nearest whole cent is the lesser of actual cumulative inflation or five
25 percent.

26 **SECTION 6. 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; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2024 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Jason Gelender, Office of Legislative Legal Services

DATE: March 6, 2023

SUBJECT: Proposed updating of obsolete statutory cross-references resulting from errors in House Bill 22-1034, which merged three existing fire and police pension plans into a new single statewide plan.

Summary

The Office of Legislative Legal Services proposes that the Statutory Revision Committee (SRC) introduce legislation to update and correct several obsolete statutory cross references. House Bill 22-1034 merged three retirement plans administered by the fire and police pension association into a new single statewide retirement plan. House Bill 22-1034 accomplished the merger in part by repealing several statutes and relocating some of the substantive provisions of those statutes into new statutes. In doing so, certain statutory cross references were not properly updated to reflect the repeals and relocations. The proposed legislation updates the obsolete statutory cross references.

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

H.B. 22-1034² merged three existing fire and police pension plans—the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan—into a new single statewide retirement plan. H.B. 22-1034 did so by creating the new single statewide retirement plan in a new article 31.5 of title 31, C.R.S., and by amending, repealing, or relocating the substantive provisions of various statutes relating to the three merged plans. However, certain statutory cross references were not correctly updated to reflect these statutory repeals, amendments, and relocations. The bill updates these obsolete statutory cross references as follows:

- Sections 1 and 3 of the bill change references to section 31-31-407, C.R.S., which was repealed, effective January 1, 2023, to references to section 31-31.5-410.
- Section 2 of the bill changes two references to section 31-31-402 (2), C.R.S., which was repealed, effective January 1, 2023, to references to part 3 of article 31.5 of title 31, C.R.S. Section 2 also reflects the repeal of section 31-31-601, C.R.S., a statute pursuant to which past events—the establishment of police benefit funds—that should still be referenced occurred, by referencing that section "as [it] existed prior to its repeal".
- Sections 4 and 8 of the bill change references to section 31-31-404 (2), C.R.S., which was repealed, effective January 1, 2023, to references to section 31-31.5-401, C.R.S.
- Section 5 of the bill reflects the repeal of section 31-31-601 (1), C.R.S., a statute pursuant to which past events—the establishment of defined benefits for alternative pension plans and certain retirement plan member approvals—that should still be referenced occurred, in two places by referencing that section "as [it] existed prior to its repeal."
- Section 6 of the bill changes a reference to section 31-31-404 (1)(b), C.R.S. which was repealed, effective January 1, 2023, to a reference to section 31-31.5-411 (1)(b), C.R.S., and changes a reference to section 31-31-403 (7),

² The title of House Bill 22-1034 was: "Concerning the administration of retirement plans administered by the fire and police pension association, and, in connection therewith, merging the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan into a single new statewide retirement plan."

C.R.S., which was repealed, effective January 1, 2023, to a reference to section 31-31.5-310, C.R.S.

- Section 7 changes a reference to section 31-31-406, C.R.S., which was repealed, effective January 1, 2023, to a reference to sections 31-31-412 (1)(c) and 31-31.5-304 (2), C.R.S.
- Section 9 of the bill reflects the repeal of section 31-31-405, C.R.S., a statute pursuant to which past events—the establishment of defined benefits for alternative pension plans and certain retirement plan member approvals—that should still be referenced occurred, in two places by referencing that section "as [it] existed prior to its repeal."

Statutory Charge³

Section 2-3-902, C.R.S., charges the SRC with discovering defects and anachronisms in the law and authorizes the SRC to propose legislation to modify or eliminate antiquated provisions of law and bring the law into harmony with modern conditions. Therefore, if the SRC finds that the identified statutory cross references are obsolete, updating them fits within the charge of the SRC.

Proposed Bill

If the SRC wishes to introduce legislation to address this issue, the proposed draft bill to do so is attached.

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

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/6/23

DRAFT

LLS NO. 23-0889.01 Jason Gelender x4330

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: Update Fire & Police Pension Law Cross References

A BILL FOR AN ACT

101 **CONCERNING THE UPDATING OF OBSOLETE CROSS REFERENCES IN THE**
102 **STATUTES THAT GOVERN FIRE AND POLICE PENSIONS.**

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. House Bill 22-1034 merged 3 retirement plans administered by the fire and police pension association, the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan, into a single statewide retirement plan. House Bill 22-1034 accomplished the merger in part by repealing several statutes and relocating some of the substantive provisions of those

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

statutes into new statutes. In doing so, certain statutory cross references were not properly updated to reflect the repeals and relocations. The bill updates the obsolete statutory cross references.

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

2 **SECTION 1.** In Colorado Revised Statutes, 29-5-302, **amend** (6)
3 as follows:

4 **29-5-302. Required benefits - conditions of receiving benefits.**

5 (6) The benefits and maximum payment amount in subsection (2) of this
6 section are increased by the same percentage and at the same time as any
7 fire and police pension association increase in the pension benefit paid to
8 its members pursuant to ~~section 31-31-407, C.R.S.~~ SECTION 31-31.5-410.

9 **SECTION 2.** In Colorado Revised Statutes, 31-30.5-209, **amend**
10 (1) and (2) as follows:

11 **31-30.5-209. Idle funds.** (1) If the governing body of a
12 municipality, by resolution, finds that no person named in this article is,
13 and no such person can become, eligible for payment of a benefit from
14 the municipality's police officers' old hire pension fund established
15 pursuant to section 31-30.5-201 (2), it may authorize use of the money in
16 the fund to make contributions to the defined benefit system trust fund
17 pursuant to ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE
18 31, to make contributions to a police benefit fund established pursuant to
19 section 31-31-601 (1)(b), AS SAID SECTION EXISTED PRIOR TO ITS REPEAL,
20 or to make contributions under the federal social security laws if the
21 municipality's police officers are covered by the social security laws. To
22 the extent that money in the fund exceeds three times the present yearly
23 employer contribution to any of the preceding benefit funds on behalf of
24 the municipality's current police officers, such excess may be used for any

1 law-enforcement-related purpose. If the municipality does not employ any
2 police officer, the governing body may authorize use of the money in the
3 fund for any law-enforcement-related purpose. In addition, any money in
4 the fund that is attributable to contributions by the municipality and to
5 interest on such contributions may be used for any police-related purpose
6 and, if no such police-related need exists, then for any purpose as decided
7 by the governing body of the municipality. For the purposes of this
8 subsection (1), contracting with the county or county sheriff for law
9 enforcement service shall not be considered employment of a police
10 officer.

11 (2) If the governing body of a municipality, fire protection district,
12 or county improvement district, by resolution, finds that no person named
13 in this article is, and no such person can become, eligible for payment of
14 a benefit from the employer's firefighters' old hire pension fund, it may
15 authorize use of the money in the fund to make contributions to the
16 defined benefit system trust fund pursuant to ~~section 31-31-402 (2)~~ PART
17 3 OF ARTICLE 31.5 OF THIS TITLE 31 or to make contributions under the
18 federal social security laws if the employer's firefighters are covered by
19 the social security laws. In addition, any money in the fund that is
20 attributable to contributions by the municipality or district and to interest
21 on such contributions may be used for any fire-related purpose and, if no
22 such fire-related need exists, for any purpose as decided by the governing
23 body of the municipality or district.

24 **SECTION 3.** In Colorado Revised Statutes, 31-30.5-307, **amend**
25 (1)(b)(I) as follows:

26 **31-30.5-307. State contribution.** (1) (b) (I) Each employer
27 having rank escalation and having old hire members shall determine for

1 each such employee the percentage that such employee's years served as
2 of January 1, 1980, bear to the total number of years required for
3 retirement. At retirement, the retirement pension shall be divided into that
4 percentage and the remainder. The portion of the retirement pension equal
5 to that percentage earned as of January 1, 1980, shall be subject to rank
6 escalation as provided under the old hire pension plan, and the remainder
7 of the retirement pension shall be subject to the same adjustment as that
8 determined by the fire and police pension association board of directors
9 pursuant to ~~section 31-31-407~~ SECTION 31-31.5-410.

10 **SECTION 4.** In Colorado Revised Statutes, 31-31-102, **amend**
11 introductory portion and (6) as follows:

12 **31-31-102. Definitions.** As used in this ~~article~~ ARTICLE 31, unless
13 the context otherwise requires:

14 (6) "Retired member" means any member who is retired, disabled,
15 or eligible for a benefit as provided in ~~section 31-31-404 (2)~~ SECTION
16 31-31.5-401.

17 **SECTION 5.** In Colorado Revised Statutes, 31-31-202, **amend**
18 (1)(a)(II) and (1)(d) as follows:

19 **31-31-202. Powers and duties of the board.** (1) The board shall:

20 (a) Establish standards for determining the actuarial soundness of:

21 (II) Alternative pension plans having defined benefits in whole or
22 in part established pursuant to section 31-31-601 (1), AS SAID SECTION
23 EXISTED PRIOR TO ITS REPEAL. Based upon such standards, the board shall
24 require biennial actuarial reviews of such plans with the cost of the
25 reviews to be paid by employers having established such plans.

26 (d) Promulgate rules relating to standards for disclosure of all
27 ramifications of and procedures for obtaining the member approval

1 provided for in section 31-31-601 (1), AS SAID SECTION EXISTED PRIOR TO
2 ITS REPEAL;

3 **SECTION 6.** In Colorado Revised Statutes, 31-31-501, **amend**
4 (7) as follows:

5 **31-31-501. Withdrawal into statewide money purchase plan.**

6 (7) The provisions of ~~sections 31-31-404(1)(b) and~~ SECTION 31-31.5-411
7 (1)(b) that relate to the purchase of service credit forfeited by the refund
8 of member contributions shall not apply to members who are employees
9 of an employer that has withdrawn from the statewide defined benefit
10 plan. Such service credit forfeited by such withdrawal may be purchased
11 pursuant to the provisions of section ~~31-31-403 (7)~~ or 31-31.5-310.

12 **SECTION 7.** In Colorado Revised Statutes, 31-31-808, **amend**
13 (2) as follows:

14 **31-31-808. Reduction of survivor benefits.** (2) The benefits
15 payable under sections 31-31-807 and 31-31-807.5 to the surviving
16 spouse and dependent children of any member who are also receiving
17 payments from the member's separate retirement account pursuant to
18 ~~section 31-31-406~~ SECTIONS 31-31-412 (1)(c) AND 31-31.5-304 (2) shall
19 be reduced by an amount that is the actuarial equivalent of the benefits
20 such surviving spouse and dependent children receive from the separate
21 retirement account, whether the benefits received from the account are
22 paid on a periodic basis or in a lump sum.

23 **SECTION 8.** In Colorado Revised Statutes, 31-31.5-101, **amend**
24 (5)(i) as follows:

25 **31-31.5-101. Establishment of the statewide retirement plan**
26 **- definitions.** (5) As used in this article 31.5, unless the context otherwise
27 requires:

1 (i) "Retired member" means any member who is retired, disabled,
2 or eligible for a benefit as provided in ~~section 31-31-404 (2)~~ SECTION
3 31-31.5-401.

4 **SECTION 9.** In Colorado Revised Statutes, 31-31.5-501, **amend**
5 (2)(c) as follows:

6 **31-31.5-501. Vesting.** (2) Employer contributions made to the
7 statewide retirement plan that are credited to the money purchase
8 component account are subject to the following vesting rules:

9 (c) Except as provided in subsections (2)(a) and (2)(b) of this
10 section, a member is vested in the employer contributions made to the
11 money purchase component account in the amount of twenty percent for
12 each full year of service performed for a covered department. Upon
13 attaining five full years of service, a member is one hundred percent
14 vested. Vesting also applies to employer contributions allocated pursuant
15 to subsection 31-31.5-301 (3) or allocated under the predecessor
16 statewide defined benefit plan pursuant to section 31-31-405, AS IT
17 EXISTED PRIOR TO ITS REPEAL.

18 **SECTION 10. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.