

CHAPTER 1

TAXATION

HOUSE BILL 98S-1003

BY REPRESENTATIVES Taylor, George, T. Williams, K. Alexander, Allen, Anderson, Arrington, Bacon, G. Berry, Clarke, Dyer, Epps, Gordon, Gotlieb, Hagedorn, June, Kaufman, Leyba, Mace, May, McPherson, Miller, Morrison, Musgrave, Nichol, Reeser, Saliman, Schauer, Sinclair, Smith, Snyder, Sullivant, Tate, Tucker, Tupa, Udall, Veiga, S. Williams, and Zimmerman; also SENATORS Schroeder, B. Alexander, Ament, Arnold, Bishop, Blickensderfer, Chlouber, Coffman, Congrove, Dennis, Feeley, Hernandez, Hopper, J. Johnson, Lacy, Lamborn, Linkhart, Martinez, Matsunaka, Mutzebaugh, Norton, Pascoe, Perlmutter, Phillips, Powers, Reeves, Rizzuto, Rupert, Tanner, Tebedo, Thiebaut, Wattenberg, Weddig, Wells, and Wham.

AN ACT

CONCERNING THE REFUNDING OF ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING THAT THE VOTERS STATEWIDE HAVE NOT AUTHORIZED THE STATE TO RETAIN, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 39-22-120 (1) (b), (1) (e), (1) (f), (1) (i), (2), (3), (4), (5), (6), and (7), Colorado Revised Statutes, are amended, and the said 39-22-120 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

39-22-120. Legislative declaration - state sales tax refund - offset against state income tax. (1) The general assembly hereby finds and declares that:

(b) During the ~~1996-97~~ 1997-98 fiscal year, state revenues from sources not excluded from state fiscal year spending exceeded the limitation on state fiscal year spending;

(e) ~~Since voters have not approved a revenue change,~~ The state is required to refund during the ~~1997-98~~ 1998-99 fiscal year ~~the~~ ALL revenues in excess of the state fiscal year spending limitation for the ~~1996-97~~ 1997-98 fiscal year; EXCEPT THAT, IF AT THE 1998 GENERAL ELECTION VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, THE STATE IS REQUIRED TO REFUND ONLY THAT PORTION OF THE STATE EXCESS REVENUES FOR THE 1997-98 FISCAL YEAR THAT THE VOTERS HAVE NOT AUTHORIZED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE STATE TO RETAIN;

(f) It is within the legislative prerogative of the general assembly to enact legislation to implement the refund of state excess revenues for the ~~1996-97~~ 1997-98 fiscal year in compliance with section 20 of article X of the state constitution;

(i) It is the considered judgment of the general assembly that:

(I) The state excess revenues for the ~~1996-97~~ 1997-98 fiscal year are derived from a wide variety of state taxes and fees ranging from state sales tax to severance and transportation taxes to health service fees to court fines to permit and license fees and to higher education fees and should, therefore, be returned to as large a group of Colorado residents as is identifiable and economically feasible;

(II) It is not feasible to make proportional refunds of state excess revenues for the ~~1996-97~~ 1997-98 fiscal year due to the impossibility of identifying or returning prior payments;

(III) It is reasonable and fair to refund state excess revenues for the ~~1996-97~~ 1997-98 fiscal year to a large group of individuals as a refund of state sales tax revenues since more Coloradans pay state sales tax than any other state tax;

(IV) The state collected over one billion ~~three~~ FOUR HUNDRED FOURTEEN million dollars in state sales tax revenues during the ~~1996-97~~ 1997-98 fiscal year from which the refund of state excess revenues may be made;

(V) Refunding state excess revenues for the ~~1996-97~~ 1997-98 fiscal year through the state income tax system in the manner set forth in this section is a reasonable method for refunding such excess revenues; and

(VI) The most cost-effective and expeditious method of refunding state excess revenues for the ~~1996-97~~ 1997-98 fiscal year is through the state income tax system but that a ~~credit~~ REFUND OFFSET against state income tax LIABILITY is merely a mechanism for refunding said state excess revenues to a broad spectrum of persons.

(2) (a) As used in this section, "qualified individual" means:

~~(a)~~ (I) A natural person who is domiciled in this state for the entire taxable year commencing on January 1, ~~1997~~ 1998, and ending December 31, ~~1997~~ 1998, and who is required to file a Colorado individual income tax return for that tax year pursuant to section 39-22-601 (1) (a) or who files a Colorado individual income tax return to claim a refund of Colorado income tax withheld from wages ~~or estimated Colorado income tax paid~~ for that tax year; or

~~(b)~~ (II) Any natural person who is domiciled in this state for the entire taxable year commencing on January 1, ~~1997~~ 1998, and ending December 31, ~~1997~~ 1998, and who is at least eighteen years of age as of December 31, ~~1996~~ 1997; OR

(III) A NATURAL PERSON WHO DIED DURING THE TAXABLE YEAR COMMENCING ON JANUARY 1, 1998, AND ENDING DECEMBER 31, 1998, WHO WAS DOMICILED IN THIS STATE FROM JANUARY 1, 1998, UNTIL THE DATE OF DEATH, AND WHOSE ESTATE OR

SPOUSE IS REQUIRED TO FILE A COLORADO INDIVIDUAL INCOME TAX RETURN FOR THAT TAX YEAR PURSUANT TO SECTION 39-22-601 (1) (a) OR WHOSE ESTATE OR SPOUSE FILES A COLORADO INCOME TAX RETURN TO CLAIM A REFUND OF COLORADO INCOME TAX WITHHELD FROM WAGES FOR THAT TAX YEAR; OR

(IV) A NATURAL PERSON WHO DIED DURING THE TAXABLE YEAR COMMENCING ON JANUARY 1, 1998, AND ENDING DECEMBER 31, 1998, WHO WAS DOMICILED IN THIS STATE FROM JANUARY 1, 1998, UNTIL THE DATE OF DEATH, AND WHO WAS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31, 1997.

(b) "QUALIFIED INDIVIDUAL" DOES NOT INCLUDE:

(I) ANY NATURAL PERSON WHO WAS CONVICTED OF A FELONY AND WHO SERVED A SENTENCE OF INCARCERATION IN A CORRECTIONAL FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS OR IN A COUNTY OR MUNICIPAL JAIL AWAITING TRANSFER TO THE DEPARTMENT OF CORRECTIONS PURSUANT TO SECTION 16-11-308, C.R.S., OR IN BOTH SUCH FACILITY AND JAIL FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE 1997-98 FISCAL YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2);

(II) ANY NATURAL PERSON WHO IS CONVICTED OF A MISDEMEANOR OR IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND WHO IS INCARCERATED IN A COUNTY OR MUNICIPAL JAIL FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE 1997-98 FISCAL YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2);

(III) ANY PERSON UNDER EIGHTEEN YEARS OF AGE WHO IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT AND WHO WAS COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE 1997-98 FISCAL YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) With respect to the taxable year commencing on January 1, ~~1997~~ 1998, and ending December 31, ~~1997~~ 1998, there shall be allowed to each qualified individual a state sales tax refund ~~credit~~ in an amount specified in subsection (4) of this section with respect to the income taxes imposed by this article.

(4) The amount of the ~~credit~~ REFUND allowed under this section shall be as follows:

(a) For a qualified individual filing a single return ~~a married filing separate return,~~ or as a head of a household for the ~~1997~~ 1998 tax year:

(I) If the qualified individual's federal adjusted gross income for the ~~1997~~ 1998 tax year is less than or equal to ~~fifteen~~ TWENTY thousand dollars, the ~~credit~~ REFUND shall be in the amount of ~~thirty-seven~~ ONE HUNDRED FORTY-TWO dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY,

IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF NINETY-TWO DOLLARS;

(II) If the qualified individual's federal adjusted gross income for the ~~1997~~ 1998 tax year is greater than ~~fifteen~~ TWENTY thousand dollars but not more than ~~one hundred~~ FIFTY thousand dollars, the ~~credit~~ REFUND shall be in the amount of ~~sixty~~ ONE HUNDRED NINETY-FIVE dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF ONE HUNDRED TWENTY-SIX DOLLARS;

(III) If the qualified individual's federal adjusted gross income for the ~~1997~~ 1998 tax year is GREATER THAN FIFTY THOUSAND DOLLARS BUT NOT more than ~~one hundred~~ NINETY-FIVE thousand dollars, the ~~credit~~ REFUND shall be in the amount of ~~eighty~~ TWO HUNDRED SEVENTY-SIX dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF ONE HUNDRED SEVENTY-EIGHT DOLLARS;

(IV) IF THE QUALIFIED INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE 1998 TAX YEAR IS GREATER THAN NINETY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN THE AMOUNT OF THREE HUNDRED EIGHTY-FOUR DOLLARS, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF TWO HUNDRED FORTY-EIGHT DOLLARS;

(b) For two qualified individuals filing a joint return ~~or a qualified individual filing as a surviving spouse~~ for the ~~1997~~ 1998 tax year:

(I) If the qualified individuals' aggregate federal adjusted gross income FOR THE 1998 TAX YEAR is less than or equal to ~~fifteen~~ TWENTY thousand dollars, the ~~credit~~ REFUND shall be in the amount of ~~seventy-four~~ TWO HUNDRED EIGHTY-FOUR dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF ONE HUNDRED EIGHTY-FOUR DOLLARS;

(II) If the qualified individuals' aggregate federal adjusted gross income FOR THE 1998 TAX YEAR is greater than ~~fifteen~~ TWENTY thousand dollars but not more than ~~one hundred~~ FIFTY thousand dollars, the ~~credit~~ REFUND shall be in the amount of ~~one hundred twenty~~ THREE HUNDRED NINETY dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF TWO HUNDRED FIFTY-TWO DOLLARS;

(III) If the qualified individuals' aggregate federal adjusted gross income FOR THE 1998 TAX YEAR is greater than ~~one hundred~~ FIFTY thousand dollars BUT NOT MORE THAN NINETY-FIVE THOUSAND DOLLARS, the ~~credit~~ REFUND shall be in the amount of ~~one hundred sixty~~ FIVE HUNDRED FIFTY-TWO dollars, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE

THE REFUND SHALL BE IN THE AMOUNT OF THREE HUNDRED FIFTY-SIX DOLLARS;

(IV) IF THE QUALIFIED INDIVIDUALS' AGGREGATE FEDERAL ADJUSTED GROSS INCOME FOR THE 1998 TAX YEAR IS GREATER THAN NINETY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN THE AMOUNT OF SEVEN HUNDRED SIXTY-EIGHT DOLLARS, UNLESS, AT THE 1998 GENERAL ELECTION, VOTERS STATEWIDE APPROVE HOUSE BILL 98-1256, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, IN WHICH CASE THE REFUND SHALL BE IN THE AMOUNT OF FOUR HUNDRED NINETY-SIX DOLLARS.

(5) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), any ~~credit~~ REFUND allowed pursuant to this section shall be claimed by a qualified individual as defined in SUBPARAGRAPH (I) OR (III) OF paragraph (a) of subsection (2) of this section by ~~timely~~ filing a ~~1997~~ 1998 income tax return with the department of revenue ~~in compliance with the provisions of this article~~ NO LATER THAN APRIL 15, 1999.

(II) ANY REFUND ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (I) OR (III) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION WHO IS GRANTED AN EXTENSION OF TIME TO FILE A 1998 INCOME TAX RETURN BY FILING A 1998 INCOME TAX RETURN WITH THE DEPARTMENT OF REVENUE NO LATER THAN OCTOBER 15, 1999. SUCH QUALIFIED INDIVIDUAL SHALL NOT BE REQUIRED TO PAY ALL OR ANY PORTION OF THE QUALIFIED INDIVIDUAL'S NET TAX LIABILITY DUE PRIOR TO OCTOBER 15, 1999, IN ORDER TO BE GRANTED AN EXTENSION OF TIME TO FILE SAID TAX RETURN; EXCEPT THAT, PURSUANT TO SECTION 39-22-621, SUCH QUALIFIED INDIVIDUAL MAY BE SUBJECT TO A LATE PAYMENT PENALTY AND INTEREST ON ANY NET INCOME TAX LIABILITY NOT PAID BY APRIL 15, 1999.

(III) The department of revenue shall not allow said ~~credit~~ REFUND claimed on any ~~1997~~ 1998 income tax return not filed in compliance with the provisions of this article. In no event shall the ~~credit~~ REFUND claimed by a qualified individual as defined in SUBPARAGRAPH (I) OR (III) OF paragraph (a) of subsection (2) of this section on any ~~1997~~ 1998 income tax return be:

(A) DISALLOWED IF SAID RETURN IS FILED ON OR BEFORE OCTOBER 15, 1999; AND

(B) Allowed if said return is filed after October 15, ~~1998~~ 1999.

(b) Any ~~credit~~ REFUND allowed pursuant to this section shall be claimed by a qualified individual as defined in SUBPARAGRAPH (II) OR (IV) OF paragraph ~~(b)~~ (a) of subsection (2) of this section by filing a ~~1997~~ 1998 income tax return with the department of revenue no later than April 15, ~~1998~~ 1999. The department of revenue shall not allow said ~~credit~~ REFUND claimed by a qualified individual as defined in SUBPARAGRAPH (II) OR (IV) OF paragraph ~~(b)~~ (a) of subsection (2) of this section on any ~~1997~~ 1998 income tax return filed with the department of revenue after April 15, ~~1998~~ 1999.

(c) (I) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (b) OF THIS SUBSECTION (5) TO THE CONTRARY, A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION WHO CLAIMS A

PROPERTY TAX ASSISTANCE GRANT PURSUANT TO SECTION 39-31-101 OR A HEAT OR FUEL EXPENSES ASSISTANCE GRANT PURSUANT TO SECTION 39-31-104 MAY CLAIM A REFUND AUTHORIZED BY THIS SECTION ON THE ASSISTANCE GRANT APPLICATION FORM DESCRIBED IN SECTION 39-31-102 (2). CLAIMING A REFUND ON SUCH ASSISTANCE GRANT APPLICATION FORM SHALL BE IN LIEU OF CLAIMING THE REFUND ON AN INCOME TAX RETURN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (5). ANY REFUND CLAIMED PURSUANT TO THIS PARAGRAPH (c) SHALL BE CLAIMED ON OR BEFORE APRIL 15, 1999.

(II) THE DEPARTMENT OF REVENUE SHALL NOT ALLOW A REFUND AUTHORIZED BY THIS SECTION THAT IS CLAIMED ON AN ASSISTANCE GRANT APPLICATION FORM IF:

(A) THE ASSISTANCE GRANT APPLICATION FORM IS FILED AFTER APRIL 15, 1999;
OR

(B) THE QUALIFIED INDIVIDUAL HAS CLAIMED THE REFUND AUTHORIZED BY THIS SECTION ON AN INCOME TAX FORM FILED IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (5) FOR THE TAX YEAR FOR WHICH THE REFUND IS ALLOWED.

(6) If the ~~credit~~ REFUND allowed under this section exceeds the income taxes otherwise due on the claimant's income, the amount of the ~~credit~~ REFUND not used as an offset against income taxes may not be carried forward as a ~~tax credit~~ AN OFFSET against subsequent years' income tax liability and shall be refunded to the claimant.

(7) In addition to any other penalties allowed by law, any person who claims but is not eligible to claim the ~~credit~~ REFUND allowed pursuant to this section shall be subject to the criminal penalties imposed pursuant to section 39-21-118, as applicable.

(8) THE STATE SALES TAX REFUND ALLOWED TO ANY QUALIFIED INDIVIDUAL UNDER THIS SECTION SHALL NOT BE REPORTED BY THE DEPARTMENT OF REVENUE AS A PAYMENT OF A REFUND, CREDIT, OR OFFSET OF STATE INCOME TAXES TO SUCH QUALIFIED INDIVIDUAL IN ANY INFORMATION RETURN REQUIRED TO BE FILED PURSUANT TO FEDERAL LAW.

(9) THE EXECUTIVE DIRECTOR SHALL NOT PRINT INDIVIDUAL INCOME TAX FORMS FOR THE 1998 TAXABLE YEAR UNTIL THE RESULTS OF THE 1998 GENERAL ELECTION ARE KNOWN SO THAT FORMS WILL REFLECT THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE REFUND TO BE ALLOWED IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

(10) THE DEPARTMENT OF REVENUE SHALL IDENTIFY ANY QUALIFIED INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY AND WHO, AT THE TIME OF FILING FOR A REFUND PURSUANT TO THIS SECTION, IS INCARCERATED IN A CORRECTIONAL FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS OR IN A COUNTY OR MUNICIPAL JAIL AWAITING TRANSFER TO A CORRECTIONAL FACILITY PURSUANT TO SECTION 16-11-308, C.R.S. THE DEPARTMENT OF REVENUE SHALL TRANSFER THE AMOUNT OF ANY REFUND OWED TO SAID QUALIFIED INDIVIDUAL TO THE DEPARTMENT OF CORRECTIONS. THE DEPARTMENT OF CORRECTIONS SHALL TRANSMIT THE AMOUNT OF SAID REFUND TO THE CLERK OF THE DISTRICT COURT WHICH ISSUED AN ORDER FOR PAYMENT OF RESTITUTION ENTERED PURSUANT TO SECTION

16-11-101.5, C.R.S., OR AN ORDER FOR COSTS PURSUANT TO SECTION 16-11-501, C.R.S. SUCH REFUND SHALL BE CREDITED IN THE PRIORITY SPECIFIED IN SECTION 16-11-101.6 (1), C.R.S.

(11) THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, AND EACH COUNTY OF THE STATE, TO THE EXTENT EACH SUCH COUNTY HAS THE CAPABILITY WITHIN EXISTING RESOURCES, SHALL PROVIDE IN A TIMELY MANNER THE INFORMATION REQUESTED BY THE DEPARTMENT OF REVENUE NECESSARY TO IDENTIFY THE PERSONS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION AND IN SUBSECTION (10) OF THIS SECTION. THE INFORMATION SHALL BE PROVIDED IN THE FORM REQUESTED BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL MAINTAIN THE CONFIDENTIALITY OF ANY SOCIAL SECURITY NUMBER RECEIVED PURSUANT TO THIS SUBSECTION (11).

SECTION 2. 39-31-102 (2), Colorado Revised Statutes, is amended to read:

39-31-102. Procedures to obtain grant. (2) A grant authorized by section 39-31-101 or 39-31-104 shall be claimed on such forms as prescribed by the executive director. IF A SALES TAX REFUND IS ALLOWED FOR ANY GIVEN INCOME TAX YEAR IN ACCORDANCE WITH SECTION 39-22-120, SUCH FORMS SHALL INCLUDE PROVISIONS ALLOWING QUALIFIED INDIVIDUALS TO APPLY FOR THE REFUND PURSUANT TO SECTION 39-22-120 (5) (c).

SECTION 3. 19-1-305 (1) (e) and (1) (f), Colorado Revised Statutes, are amended, and the said 19-1-305 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-1-305. Operation of juvenile facilities. (1) Except as otherwise authorized by section 19-1-303, all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2 of this title shall be confidential and privileged. Said records may be disclosed only:

(e) To persons authorized by court order after notice and a hearing, to the juvenile, and to the custodian of the record; ~~and~~

(f) For research or evaluation purposes pursuant to rules regarding research or evaluation promulgated by the department of human services. Any rules so promulgated shall require that persons receiving information for research or evaluation purposes are required to keep such information confidential; AND

(g) TO THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-120, C.R.S.

SECTION 4. 39-21-108 (3) (a) (I), Colorado Revised Statutes, is amended to read:

39-21-108. Refunds. (3) (a) (I) Whenever it is established that any taxpayer has, for any period open under the statutes, overpaid a tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34, C.R.S., and article 3 of title 42, C.R.S., and that there is an unpaid balance of tax and interest accrued, according to the records of the executive director, owing by such taxpayer for any other period or that there is an amount required to be repaid to the unemployment compensation fund pursuant

to section 8-81-101 (4), C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment by the division of employment and training in the department of labor and employment, or that there is any unpaid child support debt as set forth in section 14-14-104, C.R.S., or child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., as certified by the department of human services, or that there are any unpaid obligations owing to the state as set forth in section 26-2-133, C.R.S., for overpayment of public assistance or medical assistance benefits, the amount of which has been determined to be owing as a result of final agency determination or judicial decision or which has been reduced to judgment, as certified by the department of human services, or that there is any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, C.R.S., the amount of which has been reduced to judgment, owing to such institution by such taxpayer, as certified by the appropriate institution, or that there is any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1) (p), C.R.S., the amount of which has been reduced to judgment, owing to such division by such taxpayer, as certified by the division, or that there is any unpaid debt owing to the state or any agency thereof by such taxpayer, and which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the controller, OR THAT THE TAXPAYER IS A QUALIFIED INDIVIDUAL IDENTIFIED PURSUANT TO SECTION 39-22-120 (10), so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded. If the taxpayer elects to designate his refund as a credit against a subsequent year's tax liability, the amount allowed to be so credited shall be reduced first by the unpaid balance of tax and interest accrued and then by the unpaid debt. If the taxpayer filed a joint return, the executive director shall notify the taxpayer's spouse that the portion of the overpayment which is generated by the spouse's income shall be refunded upon receipt of a request detailing said amount.

SECTION 5. 39-21-113, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-21-113. Reports and returns. (11) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL SUPPLY THE DEPARTMENT OF CORRECTIONS WITH ANY INFORMATION OBTAINED PURSUANT TO THIS SECTION WHICH IS NECESSARY TO IMPLEMENT THE PROCEDURE TO OFFSET STATE SALES TAX REFUNDS AGAINST RESTITUTION AND COSTS PURSUANT TO SECTION 39-22-120 (10).

SECTION 6. Appropriation. (1) If voters statewide approve at the 1998 general election House Bill 98-1256, enacted at the second regular session of the sixty-first general assembly, it is anticipated that the provisions of this act will require an appropriation of moneys from the general fund for the fiscal year beginning July 1, 1998, the sum of three hundred sixty-eight thousand two hundred twenty-one dollars (\$368,221) and 4.4 FTE. If voters statewide do not approve at the 1998 general election House Bill 98-1256, enacted at the second regular session of the sixty-first general assembly, it is anticipated that the provisions of this act will require an appropriation of moneys from the general fund for the fiscal year

beginning July 1, 1998, the sum of four hundred ten thousand two hundred fifty-six dollars (\$410,256) and 4.4 FTE. However, the amount of general fund moneys that remains available to be appropriated within the limitation on general fund appropriations imposed pursuant to section 24-75-201.1, Colorado Revised Statutes, for the fiscal year beginning July 1, 1998, without further adjustments is two hundred sixty-eight thousand one hundred eighty-three dollars (\$268,183). It is therefore anticipated that, during the 1999 regular session, the department of revenue will request an appropriation of the remainder of the amount of general fund moneys necessary to implement the provisions of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1998, the sum of two hundred sixty-eight thousand one hundred eighty-three dollars (\$268,183) and 4.4 FTE, or so much thereof as may be necessary, for the implementation of this act. The authorization for 4.4 FTE specified in this appropriation is for temporary employees of the department of revenue, and such authorization shall terminate on June 30, 1999.

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

Approved: September 16, 1998