

CHAPTER 186

STATUTES

HOUSE BILL 99-1360

BY REPRESENTATIVES Grossman, Kaufman, Chavez, Clarke, Coleman, Gagliardi, George, Gordon, Gotlieb, McKay, Miller, Saliman, Tate, and Vigil;
also SENATORS Wham, Nichol, Perlmutter, Wattenberg, and Dennis.

AN ACT

CONCERNING THE REVISION OF STATUTES IN THE COLORADO REVISED STATUTES, AS AMENDED,
AMENDING OR REPEALING OBSOLETE, INCONSISTENT, AND CONFLICTING PROVISIONS OF LAW AND
CLARIFYING THE LANGUAGE TO REFLECT THE LEGISLATIVE INTENT OF THE LAWS.

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

SECTION 1. 1-13-722, Colorado Revised Statutes, is amended to read:

1-13-722. Defacing or removing abstract of votes. Any person who defaces, mutilates, alters, or removes the abstract of votes posted upon the outside of the polling place in accordance with section ~~1-7-311~~ 1-7-602 is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

SECTION 2. 4-2-103 (3), Colorado Revised Statutes, is amended to read:

4-2-103. Definitions and index of definitions. (3) The following definitions in other articles apply to this article:

"Check". Section 4-3-104.

"Consignee". Section 4-7-102.

"Consignor". Section 4-7-102.

"Consumer goods". Section 4-9-109.

"Dishonor". Section ~~4-3-507~~ 4-3-502.

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

"Draft". Section 4-3-104.

SECTION 3. Repeal. 7-90-312, Colorado Revised Statutes, is repealed as follows:

7-90-312. Restated constituent filed documents. ~~(1) Unless the organic statute governing an entity expressly provides otherwise:~~

~~(a) An entity may restate its constituent filed document at any time by action of its owners or of any other person or entity authorized by the entity's organic statute to file documents with the secretary of state on behalf of the entity.~~

~~(b) The restatement may include one or more amendments to the constituent filed document, if any amendment to the constituent filed document has been approved in the manner provided in the organic statute governing the entity.~~

~~(c) An entity restating its constituent filed document shall deliver to the secretary of state for filing, articles of restatement setting forth:~~

~~(I) The name of the entity;~~

~~(II) The text of the restated constituent filed document;~~

~~(III) If the restatement contains an amendment to the constituent filed document, a statement that the amendment has been adopted in accordance with the organic statute governing the entity and, if the organic statute governing the entity requires that the amendment be approved by the owners, a statement that the number of votes cast, and, if appropriate, that the number of votes cast by particular owners for the amendment was sufficient for approval.~~

~~(d) Upon filing by the secretary of state or at any later effective date provided in the constituent filed document, determined pursuant to section 7-90-304, restated articles of incorporation supersede the original articles of incorporation and all prior amendments to the original articles of incorporation.~~

SECTION 4. 8-44-112 (7), Colorado Revised Statutes, is amended to read:

8-44-112. Surcharge on workers' compensation insurance premiums - funds. (7) All moneys collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the workers' compensation cash fund, which fund is hereby created. The moneys in the workers' compensation cash fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of the "Workers' Compensation Act of Colorado", articles 40 to 47 of this title. Any interest earned on the investment or deposit of moneys in the workers' compensation cash fund shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year. ~~No investment earnings or other moneys in the workers' compensation cash fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 5. 8-46-102 (2) (g), Colorado Revised Statutes, is amended to read:

8-46-102. Funding for subsequent injury fund and major medical insurance fund. (2) (g) All moneys collected pursuant to this subsection (2) shall be transmitted to the state treasurer, as custodian, who shall credit the same to the subsequent injury fund and to the major medical insurance fund as determined by the director in accordance with subsection (3) of this section. Any interest earned on the investment or deposit of moneys in said funds shall remain in the funds and shall not revert to the general fund of the state at the end of any fiscal year. ~~No investment earnings or other moneys in said funds shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 6. 8-46-210 (1), Colorado Revised Statutes, is amended to read:

8-46-210. State treasurer to invest funds. (1) The state treasurer shall invest any portion of the major medical insurance fund, including its surplus and reserves, which the director of the division of workers' compensation determines is not needed for immediate use. All interest earned upon such invested portion shall be credited to the fund and used for the same purposes and in the same manner as other moneys in the fund. ~~No investment earnings or other moneys in the major medical insurance fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~ Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

SECTION 7. 10-4-724 (2), (4), and (6) (a) (II), Colorado Revised Statutes, are amended to read:

10-4-724. Reduction in rates for drivers aged fifty-five or older who complete a driver's education course - legislative declaration. (2) Effective July 1, 1991, all rates, rating schedules, and rating manuals for liability, personal injury protection, and collision coverages of a motor vehicle insurance policy submitted to or filed with the commissioner under this part 7 shall provide for an appropriate reduction in premium charges based on justifiable data when the vehicle is a covered vehicle and when the principal operator is fifty-five or older and has successfully completed a driver's education course taught by a driving school licensed pursuant to article 15 of title 12, C.R.S., or by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been preapproved by the ~~department~~ DIVISION of motor vehicles. Any discount used by an insurer shall be presumed appropriate unless credible data demonstrates otherwise. Insurers shall provide the commissioner with data reflecting the claims experience of drivers who have received reductions in premium charges compared with the claims experience of drivers who have not received such reductions.

(4) Each person who successfully completes a driver's education course taught by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been preapproved by the ~~department~~ DIVISION of motor vehicles, shall be issued a certificate by the nonprofit corporation offering the course, which certificate shall be evidence of qualification for the premium discount required by this section.

(6) An insured may renew qualification for the discount provided by this section by:

(a) (II) Retaking a driver's education course taught by a nonprofit corporation

subject to articles 121 to 137 of title 7, C.R.S., if such course has been preapproved by the ~~department~~ DIVISION of motor vehicles; and

SECTION 8. 10-8-530 (3), Colorado Revised Statutes, is amended to read:

10-8-530. Funding of plan. (3) Premiums shall be collected by the administering carrier in accordance with section 10-8-509 (1), ~~(e)~~; with all premiums collected used to pay the administrative expenses and the losses of the plan. Any funds that are not immediately needed to pay administrative expenses shall be invested as determined by the board.

SECTION 9. Repeal. 10-8-606 (3) (c), Colorado Revised Statutes, is repealed as follows:

10-8-606. Health benefit plan advisory committee - repeal. (3) (c) ~~The committee shall provide the Colorado cost containment and guaranteed access commission created pursuant to section 24-40.5-103, C.R.S., with a report concerning the recommendations of the committee for the creation of basic and standard health benefit plan packages best suited to small employers in Colorado. Such report shall be transmitted to the Colorado cost containment and guaranteed access commission by July 1, 1993.~~

SECTION 10. 11-51-402 (6), Colorado Revised Statutes, is amended to read:

11-51-402. Exempt broker-dealers, sales representatives - sanctions - exempt investment advisers and investment adviser representatives. (6) Investment adviser representatives employed by or otherwise associated with an investment adviser exempt under subsection ~~(4)~~ (5) of this section are exempt from the license requirement of section 11-51-401 (1.5).

SECTION 11. 12-47-902 (1) and (2), Colorado Revised Statutes, are amended to read:

12-47-902. Testing for intoxication by law enforcement officers - when prohibited. (1) No person who is patronizing a licensed premises as defined in sections ~~12-47-103 (13)~~ 12-47-103 (14) and 12-46-103 (3) shall be required or solicited by any law enforcement officer to submit to any mechanical test for the purpose of determining the alcohol content of such person's blood or breath while such person is upon such licensed premises except to determine if there is a violation of section 42-4-1301, C.R.S., by a driver of a motor vehicle unless the law enforcement officer is acting pursuant to a court order obtained in the manner described in subsection (2) of this section. No such test may be performed upon any licensed premises to obtain evidence of alleged intoxication, except pursuant to a court order as provided in this section or in case of a medical emergency, regardless of whether such alleged intoxication is a violation of any provision of this article.

(2) An ex parte order to permit any law enforcement officer to solicit any person who is patronizing a licensed premises as defined in sections ~~12-47-103 (13)~~ 12-47-103 (14) and 12-46-103 (3) to submit to any mechanical test for the purpose of determining the alcohol content of such person's blood or breath while such person is upon such licensed premises may be issued by any judge of competent jurisdiction

in the state of Colorado, including a district, county, or municipal court judge, upon application of a district attorney or a law enforcement agency showing probable cause to believe that evidence will be obtained of the commission of the crime of providing any alcohol beverage to a visibly intoxicated person or minor in violation of section 12-47-901 (1) (a) or (5) (a) (I).

SECTION 12. 12-64-111 (1.5), Colorado Revised Statutes, is amended to read:

12-64-111. Discipline of licensees. (1.5) When a complaint or an investigation discloses an instance of misconduct which, in the opinion of the board, does not warrant formal action but which should not be dismissed as being without merit, the board may send a letter of admonition to any licensed veterinarian. Such letter shall be sent to the veterinarian by certified mail, with a copy to the complainant, and shall advise such veterinarian that he may, within twenty days after receipt of the letter, make a written request to the board to institute a formal hearing pursuant to section ~~12-2-125~~ 24-4-105 to determine the propriety of the alleged misconduct. If such request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal proceedings.

SECTION 13. 13-54-104 (1) (b) (II) (B), Colorado Revised Statutes, is amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(b) (II) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means:

(B) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, 54.6, and 54.7 of title 24, C.R.S., and article 30 of title 31, C.R.S.; ~~and section 35-65-402 (2); C.R.S.;~~

SECTION 14. 13-54.5-101 (2) (b) (II), Colorado Revised Statutes, is amended to read:

13-54.5-101. Definitions. As used in this article, unless the context otherwise requires:

(2) (b) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means:

(II) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, 54.6, and 54.7 of title 24, C.R.S., and article 30 of title 31, C.R.S.; ~~and section 35-65-402 (2); C.R.S.;~~

SECTION 15. 14-10-115 (7) (a) (I) (A), Colorado Revised Statutes, is amended to read:

14-10-115. Child support - guidelines - schedule of basic child support obligations - repeal. (7) Determination of income. (a) For the purposes of the guideline specified in subsections (3) to (14) of this section, "income" means actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to the following guidelines:

(I) (A) "Gross income" includes income from any source and includes, but is not limited to, income from salaries; wages, including tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater; commissions; payments received as an independent contractor for labor or services; bonuses; dividends; severance pay; pensions and retirement benefits, including but not limited to those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, 54.6, and 54.7 of title 24, C.R.S., AND article 30 of title 31, C.R.S.; ~~and section 35-65-402 (2), C.R.S.~~; royalties; rents; interest; trust income; annuities; capital gains; any moneys drawn by a self-employed individual for personal use; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; workers' compensation benefits; unemployment insurance benefits; disability insurance benefits; funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; monetary gifts; monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office; taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies; and alimony or maintenance received. "Gross income" does not include child support payments received.

SECTION 16. 14-14-102 (9), Colorado Revised Statutes, is amended to read:

14-14-102. Definitions. As used in this article, unless the context otherwise requires:

(9) "Wages" means income to an obligor in any form, including, but not limited to, actual gross income; compensation paid or payable for personal services, whether denominated as wages; earnings from an employer; salaries; payment to an independent contractor for labor or services; commissions; tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater; rents; bonuses; severance pay; retirement benefits and pensions, including, but not limited to, those paid pursuant to article 64 of title 22, C.R.S., articles 51, 54, 54.5, 54.6, and 54.7 of title 24, C.R.S., AND article 30 of title 31, C.R.S.; ~~and section 35-65-402 (2), C.R.S.~~; workers' compensation benefits; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; disability benefits; dividends; royalties; trust account

distributions; any moneys drawn by a self-employed individual for personal use; funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; monetary gifts; monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office; taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies; interest; trust income; annuities; payments received from a third party to cover the health care cost of the child but which payments have not been applied to cover the child's health care costs; state tax refunds; and capital gains. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

SECTION 17. 14-14-113 (3), Colorado Revised Statutes, is amended to read:

14-14-113. Recordation of social security numbers in certain family matters. (3) In addition to the provisions of subsection (2) of this section, the child support enforcement agency and the delegate child support enforcement units, when exercising authority pursuant to this section, shall be subject to the privacy provisions of section ~~26-2-102.7~~ 26-13-102.7, C.R.S.

SECTION 18. 15-15-310 (1), Colorado Revised Statutes, is amended to read:

15-15-310. Terms, conditions, and forms for registration. (1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per ~~stripes~~ STIRPES". This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

SECTION 19. Repeal. 17-30-101 (2), Colorado Revised Statutes, is repealed as follows:

17-30-101. Interdepartmental cooperation concerning offenders. (2) ~~The report required in subsection (1) of this section shall address the following subjects:~~

~~(a) The development of an implementation plan to consider consolidation of the~~

~~administration of probation, parole, community corrections, and intensive supervision programs into one department, and recommendations concerning the degree to which such a consolidation would be desirable or feasible, and how such a consolidation should be carried out to better assure safety in the community, completion of sentences which are imposed, and fulfillment of conditions of placement in a community-based facility;~~

~~(b) Recommendations concerning any methods to increase the efficiency of the state administration of community-based correctional services and methods to lower the cost of such services;~~

~~(c) Recommendations concerning any methods of increasing consistency in the provision of community-based correctional services to offenders;~~

~~(d) Recommendations concerning any methods of providing standardized levels of supervision for offenders placed in community-based correctional programs;~~

~~(e) Recommendations to better utilize communications networks and local law enforcement resources to assure safe and secure management of the offender in the community; and~~

~~(f) Recommendations concerning methods to more fully inform the public about community-based corrections in each community and methods for assuring the safety of the public and informing the public about such methods for assuring public safety and decreasing public concern about community-based corrections.~~

SECTION 20. 18-6-805 (1), Colorado Revised Statutes, is amended to read:

18-6-805. Repeal of sections - repeal. (1) Sections 18-6-802 and 18-6-803 are repealed, effective July 1, 2000. Prior to such repeal, the functions of certifying and setting standards for domestic violence treatment programs by local boards and the commission on domestic violence shall be reviewed as provided for in section 24-34-104, C.R.S. Such review shall be made by the same legislative committee or committees of reference, designated pursuant to section 2-3-1201, C.R.S., that will conduct such review pursuant to section ~~12-43-712~~ 12-43-229, C.R.S.

SECTION 21. 19-1-103 (112), Colorado Revised Statutes, is amended to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(112) "Victim", as used in article 2 of this title, means the party immediately and directly aggrieved by the juvenile, that party's spouse, the party's parent, sibling, or child who is living with the party, a victim compensation board that has paid a victim compensation claim, a person or entity who has suffered losses because of a contractual relationship with such party, including, but not limited to, an insurer, or because of liability under section ~~14-15-707~~ 14-6-110, C.R.S., or, in the absence of any of the above, the state.

SECTION 22. 23-1-123 (5) (c) (III), Colorado Revised Statutes, is amended to read:

23-1-123. Commission directive - fee policies. (5) In adopting fee policies pursuant to this section, the commission shall adopt separate policies for fees used for different purposes, including but not limited to the following fee policies:

(c) **Restrictions on pledging of amounts received in fees.** (III) A governing board may not pledge a user fee assessed against persons using an auxiliary facility that is not designated as an enterprise for repayment of bonds or other debt obligations issued or incurred on behalf of any auxiliary facility that is designated as an enterprise or on behalf of the institution with which the auxiliary facility is associated. Except as otherwise provided in subparagraph (II) of this paragraph (c), a governing board may not pledge a user fee assessed against persons using an auxiliary facility that is designated as an enterprise pursuant to section ~~23-1-101.5~~ 23-5-101.5 for the repayment of bonds or other debt obligations issued or incurred on behalf of any other auxiliary facility, regardless of whether the other auxiliary facility is designated as an enterprise, or on behalf of the institution with which the auxiliary facility is associated.

SECTION 23. 23-20-136 (7), Colorado Revised Statutes, is amended to read:

23-20-136. Fitzsimons trust fund - creation - repeal. (7) All interest derived from the deposit and investment of moneys in the Fitzsimons trust fund shall be credited to said fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the Fitzsimons trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. ~~No investment earnings or other moneys in the Fitzsimons trust fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 24. 24-33-111 (2), Colorado Revised Statutes, is amended to read:

24-33-111. Conservation of native species - fund created. (2) **Species conservation trust fund - creation.** There is hereby created in the state treasury the species conservation trust fund, which shall be subject to annual authorization by the general assembly to carry out the purposes of this section. There is hereby created within the species conservation trust fund the operation and maintenance account and the capital account. The moneys in the operation and maintenance account shall be for administrative and noncapital expenditures necessary for the implementation of this section. The moneys in the capital account shall be used exclusively for capital expenditures including but not limited to property acquisition and project construction. All income derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. ~~No investment earnings or other moneys in the species conservation trust fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~ To the maximum extent practical, only interest from the fund shall be expended for activities pursuant to this section.

SECTION 25. 24-77-105 (2) (a) (II), Colorado Revised Statutes, is amended to read:

24-77-105. Emergency taxes - declaration of emergency - limitation. (2) (a) Any emergency tax may be imposed by the state upon:

(II) The imposition of an emergency tax by the passage of a bill which is approved by a two-thirds majority of the members of both houses of the general assembly and which is approved by the governor in accordance with ~~section 39 of article V~~ SECTION 11 OF ARTICLE IV of the state constitution.

SECTION 26. 25-1-1112 (2), Colorado Revised Statutes, is amended to read:

25-1-1112. Limitations on services and programs provided - available funds. (2) The department of ~~public health and environment~~ HUMAN SERVICES is authorized to accept, on behalf of the state of Colorado, and expend any grants of federal funds for all or any purposes of this part 11.

SECTION 27. 25-11-113 (2) (a) and (4) (a), Colorado Revised Statutes, are amended to read:

25-11-113. Forfeitures - deposit - radiation control - decommissioning fund - long-term care fund. (2) (a) A fund to be known as the decommissioning fund is hereby created and established in the state treasury. Such fund shall be interest-bearing and invested to return the maximum income feasible as determined by the state treasurer and consistent with otherwise applicable state law. All moneys collected from decommissioning warranties pursuant to this section shall be transmitted to the state treasurer who shall credit the same to the decommissioning fund. All moneys deposited in the fund and all interest earned on moneys in the fund shall remain in the fund for the purposes set forth in this part 1 and no part thereof shall be expended or appropriated for any other purpose. ~~No investment earnings or other moneys in the fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~

(4) (a) A fund to be known as the long-term care fund is hereby created and established in the state treasury. Such fund shall be interest-bearing and invested to return the maximum income feasible as determined by the state treasurer and consistent with otherwise applicable state law. All moneys collected from long-term care warranties pursuant to this section shall be transmitted to the state treasurer who shall credit the same to the long-term care fund. All moneys deposited in the fund and all interest earned on moneys in the fund shall remain in the fund for the purposes set forth in this part 1 and no part thereof shall be expended or appropriated for any other purpose. ~~No investment earnings or other moneys in the fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 28. 26-2-106 (6) (a), Colorado Revised Statutes, is amended to read:

26-2-106. Applications for public assistance. (6) (a) No application for aid to the needy disabled shall be approved until the applicant has been examined by a doctor of medicine or a doctor of osteopathy. The examining doctor shall certify in writing upon forms prescribed by the state department as to the diagnosis, prognosis, and other relevant medical or mental factors relating to the disability of the applicant. No applicant disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall be approved for aid to the needy disabled except as provided in section ~~26-2-111 (4) (d)~~ 26-2-111 (4) (e).

SECTION 29. 26-2-108 (1) (d) (II), Colorado Revised Statutes, is amended to

read:

26-2-108. Granting of assistance payments and social services. (1) (d) (II) Assistance in the form of aid to the needy disabled for persons who are disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall be paid on the person's behalf to the treatment program in which the person is participating as required pursuant to section ~~26-2-111 (4) (d) (I)~~ 26-2-111 (4) (e) (I) or to the person directly upon the person providing the documentation required pursuant to section ~~26-2-111 (4) (d) (II)~~ 26-2-111 (4) (e) (II).

SECTION 30. 26-4-506 (1) (a) and (1) (d) (II), Colorado Revised Statutes, are amended to read:

26-4-506. Spousal protection - protection of income and resources for community spouse - definitions - amounts retained - responsibility of state department - right to appeal. (1) As used in this section, unless the context otherwise requires:

(a) ~~(I)~~ "Community spouse" means the spouse of a person who is in an institution or nursing facility or the spouse of a person who is enrolled in the PACE program authorized pursuant to section 26-4-124. The provisions of this subparagraph ~~(I)~~ shall be effective until July 1, 1999.

~~(H)~~ "Community spouse" means the spouse of a person who is in an institution or nursing facility, the spouse of a person who is enrolled in the PACE program authorized pursuant to section 26-4-124, the spouse of a person who is receiving home- and community-based services pursuant to part 6 of this article, or the spouse of a person who is receiving equivalent services under the integrated care and financing project authorized pursuant to section 26-4-122. ~~The provisions of this subparagraph (H) shall become effective on and after July 1, 1999.~~

(d) (II) ~~(A)~~ For purposes of this section, "institutionalized spouse" includes an individual who is enrolled in the PACE program authorized pursuant to section 26-4-124 and who is married to a spouse who is not enrolled in the PACE program. ~~The provisions of this sub-subparagraph (A) shall be effective until July 1, 1999.~~

~~(B)~~ For purposes of this section, "institutionalized spouse" includes an individual who is enrolled in the PACE program authorized pursuant to section 26-4-124 or is receiving home- and community-based services pursuant to part 6 of this article or is receiving equivalent services under the integrated care and financing project authorized pursuant to section 26-4-122, and who is married to a spouse who is not enrolled in the PACE program or receiving home- and community-based services or receiving equivalent services under the integrated care and financing project authorized pursuant to section 26-4-122. ~~The provisions of this sub-subparagraph (B) shall become effective on and after July 1, 1999.~~

SECTION 31. 26-4-531 (11) (b), Colorado Revised Statutes, is amended to read:

26-4-531. Health services - provision by school districts. (11) (b) ~~The implementation of this section is conditioned upon written approval of a state~~

~~medicaid plan amendment by the federal health care financing administration, and, if such written approval is not received by the state department on or before June 30, 1998, this section is repealed, as of July 1, 1998. In addition, This section shall remain in effect only for so long as federal financial participation is available for reimbursements to school districts. In the event, as specified in writing by the attorney general to the governor that federal law does not allow or is amended to disallow reimbursements to school districts or otherwise prevent the implementation of this section, this section is repealed, effective on the date of the attorney general's opinion.~~

SECTION 32. 26-12-102 (5), Colorado Revised Statutes, is amended to read:

26-12-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "State veterans nursing home" means a state nursing home that has been designed and constructed so as to qualify for federal funds under the provisions of federal Public Law 88-450, as amended, and that is operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. ~~641~~ 1741.

SECTION 33. 26-12-201 (4), Colorado Revised Statutes, is amended to read:

26-12-201. State nursing homes authorized. (4) The state veterans nursing homes shall be designed and constructed so as to qualify for federal funding under the provisions of federal Public Law 88-450, as amended. The state veterans nursing homes shall be under the control and supervision of the state department, and they shall be operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. ~~641~~ 1741.

SECTION 34. 26-19-105 (1), Colorado Revised Statutes, is amended to read:

26-19-105. Trust - created. (1) A fund to be known as the children's basic health plan trust is hereby created and established in the state treasury. All moneys deposited in the trust and all interest earned on moneys in the trust shall remain in the trust for the purposes set forth in this article, and no part thereof shall be expended or appropriated for any other purpose. ~~No investment earnings or other moneys in the trust shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 35. 35-14-134, Colorado Revised Statutes, is amended to read:

35-14-134. Repeal of sections - review of functions. Sections 35-14-102 (3), 35-14-121 to 35-14-124.5, 35-14-127, 35-14-129, ~~35-14-131 (1) (d), (1) (j), and (1) (m)~~ 35-14-131 (2) (d), (2) (j), AND (2) (m) are repealed, effective July 1, 2010. Prior to such repeal, the licensing and certification functions of the department shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 36. 37-60-122.2 (2) (a), Colorado Revised Statutes, is amended to read:

37-60-122.2. Fish and wildlife resources - legislative declaration - fish and wildlife resources account. (2) (a) Moneys transferred to the fish and wildlife resources account in the Colorado water conservation board construction fund pursuant to the provisions of section 37-60-121 (6) are hereby continuously appropriated to the Colorado water conservation board for the purpose of making grants pursuant to this subsection (2) and for offsetting the direct and indirect costs of the board for administering the grants. The interest earned from the investment of the moneys in the account shall be credited to the account. ~~No investment earnings or other moneys in the fish and wildlife resources account in the Colorado water conservation board construction fund shall be subject to any management fee imposed by law for the benefit of the general fund.~~

SECTION 37. 38-30-109, Colorado Revised Statutes, is amended to read:

38-30-109. Existing conveyances not notice of beneficiary unless statement filed in five years. After March 16, 1926, all such instruments of conveyance to lands, or interests therein, within the state of Colorado, naming a grantee in such representative capacity and failing to name the beneficiary and defining the trust or other agreement under which the grantee takes title, which has been executed prior to March 16, 1921, shall cease to be notice of such trust or representative capacity of such grantee and shall be considered and held to be a description of the person of the grantee only. This shall not apply if such grantee, or the beneficiary or other interested person, ~~after March 16, 1926, files~~ WITHIN FIVE YEARS AFTER MARCH 16, 1921, FILED for record in the county in which such land is situated, so that such record appears in the chain of title to such land, a statement duly verified setting forth the name of such beneficiary and defining the terms of the trust or other agreement establishing such representative relationship or referring by proper description to an instrument of public record in such county in which such matters shall appear.

SECTION 38. 38-33.3-217 (1), Colorado Revised Statutes, is amended to read:

38-33.3-217. Amendment of declaration. (1) Except in cases of amendments that may be executed by a declarant under section ~~38-33-205~~ 38-33.3-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210, or 38-33.3-222, or by the association under section 38-33.3-107, 38-33.3-206 (4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and (12) and except as limited by subsection (4) of this section, the declaration, including the plats and maps, may be amended only by vote or agreement of unit owners of units to which more than fifty percent of the votes in the association are allocated or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use.

SECTION 39. 38-33.5-104, Colorado Revised Statutes, is amended to read:

38-33.5-104. Financing of cooperative housing - stock certificates held by tenant-stockholders. Stock certificates or membership certificates issued by cooperative housing corporations to tenant-stockholders shall be valid securities for investment by ~~both state banks and~~ savings and loan associations, when the conditions imposed by ~~sections 11-7-103 (6) and~~ SECTION 11-41-119 (13), C.R.S., are met.

SECTION 40. 39-2-109 (1) (I), Colorado Revised Statutes, is amended to read:

39-2-109. Duties, powers, and authority. (1) It is the duty of the property tax administrator, and the administrator shall have and exercise authority:

(I) To resolve valuation disputes concerning property or property interests owned or held by the Southern Ute Indian tribe as provided in the taxation compact set forth in section ~~39-15-102~~ 24-61-102.

SECTION 41. 39-10-106 (1), Colorado Revised Statutes, is amended to read:

39-10-106. Payment of taxes on fractional interests in lands. (1) Where oil, gas, or other hydrocarbon wells or fields belonging to multiple owners are operated as a unit, the owner of each fractional interest in such units shall be liable for the same proportion of the tax levied against the total unit that his net taxable revenues received therefrom bears to the total net taxable revenues received from such unit. In the event a fractional interest owner who takes production in kind does not provide the information to the operator which is required under section ~~39-7-101 (1) (d) (H)~~ 39-7-101 (1.5), such fractional interest owner's tax liability shall be calculated using the net taxable revenues reported by the operator.

SECTION 42. Repeal. 39-22-622 (5), Colorado Revised Statutes, is repealed as follows:

~~**39-22-622. Refunds.** (5) The provisions of this section shall not apply to any grants made pursuant to the provisions of section 39-22-118.~~

SECTION 43. 39-23.5-102 (5.5) and (13.6), Colorado Revised Statutes, are amended to read:

39-23.5-102. Definitions. As used in this article, unless the context otherwise requires:

(5.5) "Federal additional estate tax return" means any federal estate tax return designated for reporting the recapture of estate tax under section 2032A of the internal revenue code, the additional estate tax imposed for failure to materially participate in a business, dispositions of interests, or other noncompliance under section ~~2033A~~ 2057 of the internal revenue code, and the additional estate tax imposed for failure to implement the agreement under section 2031 of the internal revenue code.

(13.6) "Qualified heir" means a qualified heir as defined in section 2032A (e)(1) of the internal revenue code or as defined in section ~~2033A (i)(1)~~ 2057 (i)(1) of the internal revenue code if the family-owned business ~~exclusion~~ DEDUCTION provisions of the internal revenue code are applicable.

SECTION 44. The introductory portion to 39-23.5-107 (8), Colorado Revised Statutes, is amended to read:

39-23.5-107. Tax returns - date to be filed - extension. (8) Any person who makes a family-owned business ~~exclusion~~ DEDUCTION election in a federal return and

who is required to file a federal additional estate tax return as a result of failure to materially participate in the business, disposition of interest, or other noncompliance with the requirements of section ~~2033A~~ 2057 of the internal revenue code shall file with the department on or before the date the federal additional estate tax return is required to be filed:

SECTION 45. 39-23.5-109 (3), Colorado Revised Statutes, is amended to read:

39-23.5-109. Interest. (3) If a qualified family-owned business ~~exclusion~~ DEDUCTION election was made in a federal return and thereafter additional Colorado estate tax is due as a result of failure to materially participate in the business, disposition of interests, or other noncompliance with the requirements of section ~~2033A~~ 2057 of the internal revenue code, interest shall accrue from the due date of the federal additional estate tax return regardless of any federal extension of time for payment.

SECTION 46. 42-2-107 (4) (b) (II), Colorado Revised Statutes, is amended to read:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to organ and tissue donation awareness fund - legislative declaration. (4) (b) (II) There is hereby created in the state treasury the organ and tissue donation awareness fund, which shall consist of all moneys credited thereto from all sources including but not limited to moneys collected from voluntary contributions for organ and tissue donation pursuant to subparagraph (V) of this paragraph (b) and section 42-2-118 (1) (a) (II). All moneys in the fund are hereby continuously appropriated to the department of the treasury and shall remain in the fund to be used for the purposes set forth in subparagraph (III) of this paragraph (b) and shall not revert to the general fund or any other fund. All interest derived from the deposit and investment of this fund shall be credited to the fund. ~~Moneys in the fund shall be exempt from the monthly management fee imposed under section 24-36-114 (2), C.R.S.~~ At least quarterly, the state treasurer shall transfer all available moneys in the organ and tissue donation awareness fund to the transplant council of the rockies (TCOR), as directed by sub-subparagraph (A) of subparagraph (III) of this paragraph (b).

SECTION 47. 42-2-111 (1) (a), Colorado Revised Statutes, is amended to read:

42-2-111. Examination of applicants and drivers - when required. (1) (a) The department shall examine every applicant for a driver's, minor driver's, or provisional driver's license. The executive director of the department, in the director's discretion, may conduct the examination in any county convenient for the applicant. The examination shall include a test of the applicant's eyesight, his or her ability to read and understand highway signs that regulate, warn, and direct traffic, and his or her knowledge of the traffic laws of this state, an actual demonstration of the applicant's ability to exercise ordinary and reasonable care and control in the operation of a motor vehicle, and such further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. An applicant seeking renewal of a driver's license by mail under section ~~42-4-118~~ 42-2-118 shall submit a report on a form provided by the department indicating that the applicant has passed a test of the applicant's eyesight

performed by a physician licensed to practice medicine in the state of Colorado under article 36 of title 12, C.R.S., or an optometrist licensed to practice in the state of Colorado under article 40 of title 12, C.R.S.

SECTION 48. 42-4-1701 (4) (a) (I) (B), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(B) Registration and taxation violations:		
42-3-103	\$ 50.00	\$ 6.00
42-3-103.5 (7)(b)	100.00	12.00
42-3-112	15.00	2.00
42-3-123	15.00	2.00
42-3-127	50.00	6.00
42-3-133 (1)(a)	75.00	9.00
42-3-133 (1)(c)	35.00	4.00
42-3-133 (1)(f), (1)(g), and (1)(h)	75.00	9.00
42-3-134	50.00	6.00

SECTION 49. 38-30.5-104 (2), Colorado Revised Statutes, is amended to read:

38-30.5-104. Creation of conservation easements in gross. (2) A conservation easement in gross may only be created through a grant to a governmental entity or to a charitable organization exempt under section 501 (c) (3) of the "~~Internal Revenue Code of 1954~~", "INTERNAL REVENUE CODE OF 1986", as amended, which organization was created at least two years prior to receipt of the conservation easement.

SECTION 50. 10-4-716 (2), Colorado Revised Statutes, is amended to read:

10-4-716. Self-insurers. (2) The commissioner may, in his or her discretion,

upon the application of such person, issue a certificate of self-insurance when the ~~director~~ COMMISSIONER is satisfied that such person is possessed and will continue to be possessed of ability to pay direct benefits as required under section 10-4-706 (1) (b) to (1) (e) and to pay any and all judgments that may be obtained against such person. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any benefits under section 10-4-706 (1) (b) to (1) (e) or failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

SECTION 51. 13-21-705, Colorado Revised Statutes, as enacted by Senate Bill 99-170, enacted at the First Regular Session of the Sixty-second General Assembly, is amended to read:

13-21-705. Repeal. This ~~article~~ PART 7 is repealed, effective December 31, 2006.

SECTION 52. 21-1-101 (1), Colorado Revised Statutes, is amended to read:

21-1-101. Public defender - policy - commission. (1) The office of state public defender is hereby created and established as an agency of the judicial department of state government. The general assembly hereby declares that the state public defender at all times shall serve his clients independently of any political considerations or private interests, provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado ~~code of professional responsibility~~ RULES OF PROFESSIONAL CONDUCT and with the American bar association standards relating to the administration of criminal justice, the defense function.

SECTION 53. 23-20.3-104 (3), Colorado Revised Statutes, as amended by Senate Bill 99-163, enacted in the First Regular Session of the Sixty-second General Assembly, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23-20.3-104. Advisory board. (3) The advisory board shall consist of:

(a.5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION OR HIS OR HER DESIGNEE;

SECTION 54. Section 13 of Senate Bill 99-119, enacted at the First Regular Session of the Sixty-second General Assembly, is amended to read:

Section 13. **Effective date - applicability.** (†) This act shall take effect upon passage and sections 5 and 6 of this act shall apply to offenses committed on or after said date; except that sections 5 and 6 of this act shall only take effect if

(a) section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and ~~the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and~~

Ⓢ House Bill 99-1168 is enacted and becomes law.

SECTION 55. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 18, 1999