

CHAPTER 305

TAXATION

HOUSE BILL 00-1257

BY REPRESENTATIVES Piffner, Allen, Clapp, Fairbank, Hoppe, King, Lee, May, McKay, Miller, Mitchell, Nuñez, Spradley, Swenson, Taylor, Webster, Coleman, Hefley, Kester, Spence, Stengel, and Young;
also SENATORS Congrove, Andrews, Arnold, Blickensderfer, Chlouber, Dennis, Dyer, Evans, Hillman, Musgrave, Sullivant, Tebedo, Wattenberg, Lamborn, Powers, and Teck.

AN ACT

CONCERNING TAXATION OF PROPERTY UTILIZED FOR POLLUTION CONTROL, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 5**SALES AND USE TAX REFUND FOR
POLLUTION CONTROL EQUIPMENT**

39-26-501. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "POLLUTION CONTROL EQUIPMENT" MEANS ANY PERSONAL PROPERTY THAT IS CERTIFIED AS POLLUTION CONTROL EQUIPMENT PURSUANT TO SECTION 25-6.5-202, C.R.S., OR ANY EQUIPMENT, MACHINERY, DEVICE, OR SYSTEM THAT IS INSTALLED, CONSTRUCTED, OR USED:

(I) FOR THE PURPOSE OF ELIMINATING, REDUCING, OR PREVENTING THE EMISSION OF AIR POLLUTANTS, AS DEFINED IN SECTION 25-7-103 (1.5), C.R.S., INTO THE ATMOSPHERE FROM A STATIONARY SOURCE, AS DEFINED IN SECTION 25-7-103 (23), C.R.S.;

(II) FOR THE PURPOSE OF ELIMINATING, REDUCING, OR PREVENTING THE

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

DISCHARGE OF POLLUTANTS, AS DEFINED IN SECTION 25-8-103 (15), C.R.S., INTO STATE WATERS FROM A POINT SOURCE, AS DEFINED IN SECTION 25-8-103 (14), C.R.S.;

(III) FOR THE PURPOSE OF ELIMINATING, REDUCING, OR PREVENTING THE DISCHARGE OF HAZARDOUS WASTE, AS DEFINED IN SECTION 25-15-101 (6), C.R.S., SOLID WASTE, AS DEFINED IN SECTION 30-20-101 (6), C.R.S., LOW-LEVEL RADIOACTIVE WASTE, AS DEFINED IN 42 U.S.C. SEC. 2021b (9), INFECTIOUS WASTE, AS DEFINED IN SECTION 25-15-402 (1), C.R.S., OR EXPLORATION AND PRODUCTION WASTE, AS DEFINED IN SECTION 34-60-103 (4.5), C.R.S., INTO THE ENVIRONMENT;

(IV) FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS OF:

(A) THE "COLORADO MINED LAND RECLAMATION ACT", PART 1 OF ARTICLE 32 OF TITLE 34, C.R.S.;

(B) PART 2 OF ARTICLE 20.5 OF TITLE 8, C.R.S.; OR

(C) THE "COLORADO SURFACE COAL MINING RECLAMATION ACT", PART 1 OF ARTICLE 33 OF TITLE 34, C.R.S.;

(V) FOR TESTING, MONITORING, OR SAMPLING OR FOR GATHERING INFORMATION OR DATA REQUIRED TO BE COLLECTED BY THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION 25-7-104, C.R.S., THE WATER QUALITY CONTROL COMMISSION CREATED IN SECTION 25-8-201, C.R.S., OR ANY OTHER POLLUTION CONTROL AGENCY OF THE STATE, FEDERAL, OR A LOCAL GOVERNMENT; OR

(VI) FOR THE PURPOSES OF PREVENTING NOISE IN EXCESS OF THE LIMITS SPECIFIED IN SECTION 25-12-103, C.R.S., OR PURSUANT TO THE REQUIREMENT OF A STATE OR LOCAL GOVERNMENT AGENCY.

(b) "POLLUTION CONTROL EQUIPMENT" INCLUDES REPAIR, REPLACEMENT, OR OPERATIONAL PARTS, TOOLS, OR SUPPLIES INSTALLED, CONSTRUCTED, OR USED FOR THE PRIMARY PURPOSE OF OPERATING OR MAINTAINING POLLUTION CONTROL EQUIPMENT.

(c) "POLLUTION CONTROL EQUIPMENT" DOES NOT INCLUDE:

(I) ANY EQUIPMENT, MACHINERY, DEVICE, OR SYSTEM THAT IS INSTALLED, CONSTRUCTED, OR USED IN OR ON ANY RESIDENTIAL BUILDING OR STRUCTURE;

(II) ANY MOTOR VEHICLE EMISSION CONTROL DEVICE INSTALLED, CONSTRUCTED, OR USED IN OR ON A MOTOR VEHICLE TO REDUCE AIR POLLUTANT EMISSIONS FROM SUCH MOTOR VEHICLE; OR

(III) ANY RESIDENTIAL SEWAGE DISPOSAL SYSTEM OR DOMESTIC SEWER LINE.

(2) "QUALIFIED TAXPAYER" MEANS A NATURAL PERSON, A C CORPORATION, AS DEFINED IN SECTION 39-22-103 (2.5), A PARTNERSHIP, AS DEFINED IN SECTION 39-22-103 (5.6), A LIMITED LIABILITY COMPANY THAT IS NOT A C CORPORATION, AN S CORPORATION, AS DEFINED IN SECTION 39-22-103 (10.5), OR A SOLE PROPRIETORSHIP THAT PURCHASES, STORES, USES, OR CONSUMES POLLUTION CONTROL

EQUIPMENT.

39-26-502. Fiscal years commencing on or after July 1, 1999 - temporary refund of state sales and use tax paid for pollution control equipment to refund state revenues exceeding TABOR limit - application requirements and procedures - legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT PROVIDING A REFUND OF STATE SALES AND USE TAX PAID IN CONNECTION WITH THE SALE, PURCHASE, STORAGE, USE, OR CONSUMPTION OF POLLUTION CONTROL EQUIPMENT IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (6) OF THIS SECTION, FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1999, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR SAID STATE FISCAL YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR SAID STATE FISCAL YEAR AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES FOR THAT STATE FISCAL YEAR OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT STATE FISCAL YEAR, EACH QUALIFIED TAXPAYER SHALL BE ALLOWED TO CLAIM A REFUND OF ALL STATE SALES AND USE TAX PAID BY THE QUALIFIED TAXPAYER, PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE, ON THE SALE, PURCHASE, STORAGE, USE, OR CONSUMPTION OF POLLUTION CONTROL EQUIPMENT DURING THAT STATE FISCAL YEAR.

(3) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (2) OF THIS SECTION, A QUALIFIED TAXPAYER SHALL SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT. SUCH APPLICATION SHALL BE SUBMITTED NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE STATE FISCAL YEAR IMMEDIATELY FOLLOWING THE STATE FISCAL YEAR FOR WHICH THE REFUND IS CLAIMED. THE APPLICATION SHALL BE ACCOMPANIED BY PROOF OF PAYMENT OF STATE SALES AND USE TAXES PAID BY THE QUALIFIED TAXPAYER ON THE SALE, PURCHASE, STORAGE, USE, OR CONSUMPTION OF POLLUTION CONTROL EQUIPMENT IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR. THE APPLICATION SHALL ALSO INCLUDE ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT OF REVENUE MAY REQUIRE BY RULE, WHICH MAY INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, AND A STATEMENT THAT THE QUALIFIED TAXPAYER AGREES TO FURNISH RECORDS OF ALL SUCH EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST. NO REFUND SHALL BE ALLOWED IF THE QUALIFIED TAXPAYER HAS NOT COMPLIED WITH THE PROVISIONS OF THIS SUBSECTION (3).

(4) ANY REFUND ALLOWED PURSUANT TO THIS SECTION FOR ANY GIVEN STATE FISCAL YEAR SHALL BE PUBLISHED IN RULES PROMULGATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(5) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A

STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOT DETERMINE WHETHER THE REFUND AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SAID REFUND UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(6) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1999, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT STATE FISCAL YEAR BY LESS THAN THREE HUNDRED FIFTY MILLION DOLLARS, THEN THE REFUND AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED IN THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2000.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT STATE FISCAL YEAR BY LESS THAN THREE HUNDRED FIFTY MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6), THEN THE REFUND AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED IN THE STATE FISCAL YEAR IMMEDIATELY FOLLOWING SAID STATE FISCAL YEAR.

(c) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (6) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS SUBPARAGRAPH (I), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(II) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR

THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(III) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(IV) (A) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO THIS PARAGRAPH (c), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH (c).

(B) FOR THE PURPOSE OF DETERMINING WHETHER THE REFUND AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IS TO BE ALLOWED FOR ANY GIVEN STATE FISCAL YEAR, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) OR OTHERWISE SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV).

SECTION 2. Article 6.5 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2

POLLUTION CONTROL EQUIPMENT CERTIFICATION

25-6.5-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIVISION" MEANS THE DIVISION OF ADMINISTRATION OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(2) "POLLUTION CONTROL EQUIPMENT" MEANS ANY PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, EQUIPMENT, MACHINERY, DEVICES, SYSTEMS, BUILDINGS, OR STRUCTURES, THAT IS INSTALLED, CONSTRUCTED, OR USED IN OR AS A PART OF A FACILITY THAT CREATES A PRODUCT IN A MANNER THAT GENERATES LESS

POLLUTION BY THE UTILIZATION OF AN ALTERNATIVE MANUFACTURING OR GENERATING TECHNOLOGY. "POLLUTION CONTROL EQUIPMENT" INCLUDES, BUT IS NOT LIMITED TO, GAS OR WIND TURBINES AND ASSOCIATED COMPRESSORS OR EQUIPMENT OR SOLAR, THERMAL, OR PHOTOVOLTAIC EQUIPMENT.

25-6.5-202. Certification of pollution control equipment. (1) WITHIN TWELVE MONTHS AFTER THE DATE OF ACQUISITION OF AN OWNERSHIP OR LEASE INTEREST, A PERSON OWNING OR LEASING PROPERTY MAY FILE A REQUEST FOR CERTIFICATION OF SUCH PROPERTY AS POLLUTION CONTROL EQUIPMENT WITH THE DIVISION ON FORMS PRESCRIBED BY THE DIVISION.

(2) AT ANY TIME AFTER THE FILING OF A REQUEST FOR CERTIFICATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND PRIOR TO A DETERMINATION, THE DIVISION MAY SCHEDULE A CONFERENCE WITH THE APPLICANT TO OBTAIN FURTHER INFORMATION RELEVANT TO THE DETERMINATION OF ELIGIBILITY FOR CERTIFICATION AS POLLUTION CONTROL EQUIPMENT.

(3) WITHIN SIX MONTHS AFTER THE FILING OF A REQUEST PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL DETERMINE THE ELIGIBILITY OF SUCH PROPERTY AS POLLUTION CONTROL EQUIPMENT AND SHALL CERTIFY ITS DETERMINATION TO THE APPLICANT AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. THE DIVISION MAY CERTIFY AS POLLUTION CONTROL EQUIPMENT ALL OF THE PROPERTY FOR WHICH A REQUEST HAS BEEN FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION, SPECIFIED PORTIONS OF THE PROPERTY, OR NONE OF THE PROPERTY. IN MAKING ITS DETERMINATION, THE DIVISION SHALL CONSIDER ANY AVAILABLE AND PERTINENT INFORMATION.

(4) IF THE DIVISION DENIES A REQUEST FOR CERTIFICATION IN WHOLE OR IN PART, THE APPLICANT MAY FILE WITH THE DIVISION A WRITTEN OBJECTION TO THE DETERMINATION WITHIN THIRTY DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE DETERMINATION. IF A WRITTEN OBJECTION IS FILED, THE DIVISION SHALL GRANT THE APPLICANT A HEARING IN ACCORDANCE WITH SECTION 24-4-105, C.R.S., WITHIN THIRTY DAYS AFTER RECEIPT OF THE WRITTEN OBJECTION AND SHALL MAKE A FINAL DETERMINATION BASED ON THE HEARING.

(5) IF THE FINAL DETERMINATION OF THE DIVISION DENIES THE REQUEST FOR CERTIFICATION IN WHOLE OR IN PART, THE FINAL DETERMINATION SHALL BE SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-106, C.R.S.

(6) THE DIVISION MAY ASSESS AGAINST AN APPLICANT A FEE SUFFICIENT TO COVER THE ACTUAL AND DIRECT COST INCURRED BY THE DIVISION IN MAKING A DETERMINATION PURSUANT TO THIS SECTION, INCLUDING, BUT NOT LIMITED TO, THE ACTUAL AND DIRECT COST OF ANY HEARING OR APPEAL RELATED TO THE DENIAL OF CERTIFICATION IF THE DENIAL IS UPHELD. ANY FEE ASSESSED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6) SHALL BE CREDITED TO THE POLLUTION CONTROL EQUIPMENT CERTIFICATION FUND CREATED IN SECTION 25-6.5-203.

25-6.5-203. Pollution control equipment certification fund - creation - purpose. (1) THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY THE POLLUTION CONTROL EQUIPMENT CERTIFICATION FUND, WHICH SHALL CONSIST OF ALL

MONEYS COLLECTED BY THE DIVISION PURSUANT TO SECTION 25-6.5-202. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED OR UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

(2) THE MONEYS IN THE POLLUTION CONTROL EQUIPMENT CERTIFICATION FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO DEFRAY THE COSTS INCURRED BY THE DIVISION IN PERFORMING ITS OBLIGATIONS PURSUANT TO SECTION 25-6.5-202.

SECTION 3. Appropriation - adjustment in 2000 long bill. (1) 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, 2000, the sum of sixteen thousand five hundred eighty-three dollars (\$16,583) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2000, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by sixteen thousand five hundred eighty-three dollars (\$16,583).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by sixteen thousand five hundred eighty-three dollars (\$16,583).

SECTION 4. 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 31, 2000