

CHAPTER 340

GOVERNMENT - STATE

SENATE BILL 00-194

BY SENATORS Rupert, Dyer, Hernandez, Linkhart, Martinez, Pascoe, Powers, Reeves, Tanner, Tebedo, Thiebaut, and Wham; also REPRESENTATIVES Larson, Keller, Alexander, Bacon, Chavez, Clarke, Coleman, Gagliardi, George, Gordon, Gotlieb, Hoppe, Kester, Lawrence, Leyba, Mace, McElhany, Miller, Morrison, Plant, Ragsdale, Saliman, Tapia, Taylor, Tochtrop, Tupa, S. Williams, Windels, and Zimmerman.

AN ACT

CONCERNING THE CREATION OF A COMMISSION TO ADDRESS ISSUES FACING INDIVIDUALS WITH HEARING IMPAIRMENTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 21
Colorado Commission for
the Deaf and Hard of Hearing

26-21-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING ACT".

26-21-102. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT A COMMISSION FOR THE DEAF AND HARD OF HEARING WOULD FACILITATE THE PROVISION OF GENERAL GOVERNMENTAL SERVICES TO THE DEAF AND HARD OF HEARING COMMUNITY WHILE MAKING GOVERNMENT MORE EFFICIENT. UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101, COLORADO HAS A DUTY TO PROVIDE TO THE DEAF AND HARD OF HEARING EQUIVALENT ACCESS TO GOVERNMENTAL SERVICES. THIS DUTY REQUIRES STATE DEPARTMENTS AND AGENCIES TO PROVIDE INTERPRETERS, TELETYPE MACHINES (COMMONLY KNOWN AS TTY), AND OTHER RESOURCES TO ENABLE SUCH ACCESS. CENTRALIZING AND UNIFYING SUCH RESOURCES UNDER A COMMISSION HAS THE POTENTIAL TO CREATE COST SAVINGS FOR BOTH THE STATE AND THE DEAF AND HARD OF HEARING COMMUNITY. IN ADDITION, SUCH CONSOLIDATION OF RESOURCES WILL

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

FACILITATE QUALITY CONTROL, AND THUS INCREASE THE QUALITY OF GOVERNMENTAL SERVICES WHILE INCREASING ACCESS BY THE DEAF AND HARD OF HEARING COMMUNITY TO THOSE SERVICES.

26-21-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMISSION" MEANS THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING.

(2) "DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING.

(3) "FUND" MEANS THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND CREATED IN SECTION 26-21-107.

(4) "LATE DEAFENED" MEANS A PERSON WHO HAD NORMAL HEARING BEFORE AN ILLNESS OR ACCIDENT CAUSED SUCH PERSON TO BECOME FUNCTIONALLY DEAF.

26-21-104. Commission created - appointments. (1) EFFECTIVE JULY 1, 2000, THERE IS HEREBY CREATED THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING IN THE DEPARTMENT OF HUMAN SERVICES. THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING SHALL EXERCISE ITS POWERS, DUTIES, AND FUNCTIONS UNDER THE DEPARTMENT OF HUMAN SERVICES AS IF IT WERE TRANSFERRED TO SAID DEPARTMENT BY A **TYPE 2** TRANSFER UNDER THE PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968".

(2) THE COMMISSION SHALL CONSIST OF SEVEN MEMBERS AS FOLLOWS:

(a) ONE MEMBER WHO IS DEAF;

(b) ONE MEMBER WHO IS HARD OF HEARING;

(c) ONE MEMBER WHO IS A PROFESSIONAL IN THE FIELD OF DEAFNESS WHO IS KNOWLEDGEABLE IN AND HAS EXPERIENCE WITH OTHER TYPES OF DISABILITIES;

(d) ONE MEMBER WHO IS A PARENT OF A DEAF OR HARD OF HEARING PERSON;

(e) ONE MEMBER WHO IS LATE DEAFENED;

(f) ONE MEMBER WHO IS AN INTERPRETER FOR THE DEAF OR HARD OF HEARING;
AND

(g) ONE MEMBER WHO IS A MEMBER OF THE PUBLIC.

(3) (a) THE GOVERNOR, WITH THE CONSENT OF THE SENATE, SHALL APPOINT THE COMMISSION MEMBERS REFERENCED IN SUBSECTION (2) OF THIS SECTION. BEGINNING JULY 1, 2000, FOUR OF THESE COMMISSION MEMBERS SHALL SERVE INITIAL TERMS OF FOUR YEARS, AND THREE SHALL SERVE INITIAL TERMS OF SIX YEARS. AFTER THE INITIAL APPOINTMENTS OF THE COMMISSION MEMBERS REFERENCED IN SUBSECTION (2) OF THIS SECTION, ALL SUBSEQUENT APPOINTEES SHALL SERVE TERMS OF FOUR

YEARS.

(b) THE GOVERNOR SHALL APPOINT A QUALIFIED PERSON TO FILL ANY VACANCY ON THE COMMISSION FOR THE REMAINDER OF ANY UNEXPIRED TERM.

(4) AT LEAST NINETY DAYS PRIOR TO EXPIRATION OF A MEMBER'S TERM OF OFFICE, THE COMMISSION SHALL CREATE A LIST OF NOMINEES THAT INCLUDES AT LEAST THREE CANDIDATES FOR EACH OPEN POSITION PURSUANT TO SUBSECTION (2) OF THIS SECTION. SUCH NOMINEES' NAMES SHALL BE SUBMITTED TO THE GOVERNOR AT LEAST FORTY-FIVE DAYS PRIOR TO THE EXPIRATION OF THE PRECEDING TERM FOR WHICH SUCH NOMINEES ARE BEING CONSIDERED. IF THE GOVERNOR APPROVES THE NOMINEES, THE GOVERNOR SHALL APPOINT ONE OF THE NOMINEES FROM EACH LIST FOR EACH OPEN POSITION WITHIN NINETY DAYS AFTER THE DATE OF EACH VACANCY; OTHERWISE, THE GOVERNOR SHALL APPOINT QUALIFIED PERSONS IN CONSULTATION WITH THE COMMISSION.

26-21-105. Procedures of the commission. (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL APPOINT A DIRECTOR TO PROVIDE STAFF SERVICES TO THE COMMISSION. THE COMMISSION MAY INTERVIEW CANDIDATES FOR DIRECTOR AND PROVIDE COMMENT AND INPUT ON THE HIRING OF THE DIRECTOR.

(2) (a) THE COMMISSION SHALL CONVENE FOR ITS FIRST MEETING NO LATER THAN SEPTEMBER 1, 2000. AT THE FIRST MEETING, A CHAIR SHALL BE ELECTED BY THE COMMISSION.

(b) THE COMMISSION MAY ADOPT SUCH RULES OF PROCEDURE AS ARE NECESSARY TO FACILITATE ORDERLY CONDUCT OF ITS BUSINESS.

(c) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. MEETINGS SHALL ALSO BE HELD ON CALL OF THE CHAIR OR AT THE REQUEST OF AT LEAST THREE MEMBERS OF THE COMMISSION.

(d) THE COMMISSION SHALL ADOPT NO OFFICIAL POSITION, RECOMMENDATION, OR ACTION EXCEPT BY THE CONCURRENCE OF A MAJORITY OF THE MEMBERS.

(3) (a) THE COMMISSION SHALL HAVE THE POWER TO DIRECT THE DISPOSITION OF THE FUND FOR THE PURPOSES OF THIS ARTICLE.

(b) THE COMMISSION SHALL PREPARE A BUDGET AND APPROVE ALL FUND EXPENDITURES; EXCEPT THAT THE COMMISSION MAY BY INTERNAL RULE DELEGATE ROUTINE APPROVALS TO THE DIRECTOR.

(4) THE COMMISSION MAY CONTRACT WITH PRIVATE PARTIES FOR THE PROVISION OF ANY SERVICES REQUIRED BY THE COMMISSION, AND MAY TAKE SUCH OTHER ACTIONS AS THE COMMISSION MAY DEEM NECESSARY TO FULFILL ITS RESPONSIBILITIES UNDER THIS ARTICLE.

26-21-106. Powers, functions, and duties of the commission. (1) THE POWERS, FUNCTIONS, AND DUTIES OF THE COMMISSION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(a) THE COMMISSION SHALL SERVE AS A LIAISON BETWEEN THE DEAF AND HARD OF HEARING COMMUNITY AND THE GENERAL ASSEMBLY, GOVERNOR, AND COLORADO DEPARTMENTS AND AGENCIES.

(b) THE COMMISSION SHALL SERVE AS AN INFORMATIONAL RESOURCE TO THE STATE AND THE DEAF AND HARD OF HEARING COMMUNITY.

(c) THE COMMISSION SHALL SERVE AS A REFERRAL AGENCY FOR THE DEAF AND HARD OF HEARING COMMUNITY TO THE STATE AGENCIES AND INSTITUTIONS PROVIDING SERVICES TO SUCH COMMUNITY AND TO THE LOCAL AGENCIES OF GOVERNMENT.

(d) THE COMMISSION SHALL ASSESS HOW TECHNOLOGY HAS AFFECTED THE NEEDS OF THE DEAF AND HARD OF HEARING COMMUNITY. THE COMMISSION SHALL ASSESS THE TYPE AND AMOUNT OF EQUIPMENT NEEDED BY LOW-INCOME DEAF AND HARD OF HEARING PERSONS IN ORDER TO REASONABLY INTERACT WITH SOCIETY.

(e) THE COMMISSION SHALL ASSESS THE NEEDS OF THE DEAF AND HARD OF HEARING COMMUNITY AND RECOMMEND TO THE GENERAL ASSEMBLY ANY LEGISLATION THAT MAY FACILITATE AND STREAMLINE THE PROVISION OF GENERAL GOVERNMENTAL SERVICES TO THE DEAF AND HARD OF HEARING COMMUNITY. THE COMMISSION SHALL CONSIDER THE FOLLOWING:

(I) THE ADVISABILITY OF IMPLEMENTING THE COMMISSION AS A STATEWIDE COORDINATING AGENCY THAT ADVOCATES FOR DEAF AND HARD OF HEARING CITIZENS OF COLORADO;

(II) ANY METHODS, PROGRAMS, OR POLICIES THAT MAY IMPROVE COMMUNICATION ACCESSIBILITY AND QUALITY OF EXISTING SERVICES, PROMOTE OR DELIVER NECESSARY NEW SERVICES, AND ASSIST STATE AGENCIES IN THE DELIVERY OF SERVICES TO THE DEAF AND HARD OF HEARING;

(III) ANY METHODS, PROGRAMS, OR POLICIES THAT MAY MAKE PROVIDING ACCESS TO GOVERNMENTAL SERVICES MORE EFFICIENT;

(IV) ANY METHODS, PROGRAMS, OR POLICIES THAT MAY IMPROVE IMPLEMENTATION OF STATE POLICIES AFFECTING THE DEAF AND HARD OF HEARING COMMUNITY AND THEIR RELATIONSHIP WITH THE GENERAL PUBLIC, INDUSTRY, HEALTH CARE, AND EDUCATIONAL INSTITUTIONS.

(2) THE COMMISSION SHALL CONSIDER THE FINDINGS OF ANY STUDY AUTHORIZED UNDER THIS SECTION AND MAY APPROVE, DISAPPROVE, OR AMEND SUCH FINDINGS. UPON APPROVAL OF THE FINDINGS, THE COMMISSION SHALL SUBMIT A REPORT WITH RECOMMENDATIONS INCLUDING PROPOSED LEGISLATION, IF NECESSARY, TO THE GOVERNOR AND TO THE GENERAL ASSEMBLY.

26-21-107. Colorado commission for the deaf and hard of hearing cash fund - creation - gifts, grants, and donations - reimbursement. (1) ALL MONEYS APPROPRIATED TO ADMINISTER THIS ARTICLE SHALL BE DEPOSITED IN THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY, AND ALL MONEYS CREDITED TO THE FUND

SHALL BE USED EXCLUSIVELY FOR THE ADMINISTRATION AND DISCHARGE OF THIS ARTICLE. INTEREST EARNED ON THE FUND SHALL REMAIN IN THE FUND.

(2) THE COMMISSION IS AUTHORIZED TO RECEIVE AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM INDIVIDUALS, PRIVATE ORGANIZATIONS, FOUNDATIONS, OR ANY GOVERNMENTAL UNIT; EXCEPT THAT NO GIFT, GRANT, OR DONATION MAY BE ACCEPTED BY THE COMMISSION IF IT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER LAW OF THIS STATE.

(3) COMMISSION MEMBERS SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF THEIR OFFICIAL DUTIES, INCLUDING AN ALLOWANCE FOR MILEAGE AS PROVIDED IN SECTION 24-9-104 (2), C.R.S. THE COMMISSION MAY ESTABLISH A STANDARDIZED PER DIEM DESIGNED TO COVER THE ACTUAL EXPENSES OF THE MEMBERS PURSUANT TO THIS SUBSECTION (3).

26-21-108. Repeal of article - sunset review. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2010.

(2) PRIOR TO SUCH REPEAL, THE COMMISSION SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 2. 24-34-104 (41), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(f) THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING, CREATED BY ARTICLE 21 OF TITLE 26, C.R.S.

SECTION 3. 24-1-120 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-1-120. Department of human services - creation. (5) The department of human services shall include the following:

(h) THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING, CREATED BY ARTICLE 21 OF TITLE 26, C.R.S. SAID COMMISSION SHALL EXERCISE ITS POWERS, DUTIES, AND FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED BY A **TYPE 2** TRANSFER.

SECTION 4. 40-17-104 (1), Colorado Revised Statutes, is amended, and the said 40-17-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

40-17-104. Colorado disabled telephone users fund - creation - purpose - repeal. (1) Except as otherwise authorized to be retained by section 40-17-103 (3) (e), all moneys collected by the local exchange companies in accordance with said section shall be transmitted to the state treasurer, who shall credit the same to the Colorado disabled telephone users fund, which fund is hereby created and is referred

to in this article as the "fund". On July 1, 1992, any moneys in the Colorado disabled telephone users fund created by section 40-17-103, as said section existed prior to July 1, 1992, shall be credited to the fund as created by this section. The general assembly shall make annual appropriations out of such fund for the administration of the fund and shall make annual appropriations to the reading services for the blind cash fund, created in section 24-90-105.5 (5), C.R.S., for use by the state librarian in support of privately operated reading services for the blind. The moneys in such fund not used for administration of such fund, ~~and~~ not used for the reading services for the blind cash fund, AND NOT USED FOR THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND CREATED IN SECTION 26-21-107, C.R.S., are hereby continuously appropriated to the public utilities commission for the reimbursement of providers who render telecommunications services authorized by this article.

(4) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, THE STATE TREASURER SHALL TRANSFER TWENTY-FIVE THOUSAND DOLLARS EACH CALENDAR YEAR FROM THE COLORADO DISABLED TELEPHONE USERS FUND TO THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND, CREATED IN SECTION 26-21-107, C.R.S.

(b) (I) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, ON JULY 1, 2000, THE STATE TREASURER SHALL TRANSFER FIVE HUNDRED THOUSAND DOLLARS FROM THE COLORADO DISABLED TELEPHONE USERS FUND TO THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND, CREATED IN SECTION 26-21-107, C.R.S.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2001.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado commission for the deaf and hard of hearing cash fund created in section 26-21-107, Colorado Revised Statutes, not otherwise appropriated, to the department of human services for allocation to the Colorado commission for the deaf and hard of hearing, for the fiscal year beginning July 1, 2000, the sum of one hundred fifteen thousand five hundred twenty-seven dollars (\$115,527) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. 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: June 1, 2000