

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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Statutory Revision Committee (SRC)

Tuesday, October 23, 2018

State Capitol, 9:00 AM, SCR 352

1. Election of a new chair and vice-chair in January
2. Presentation of memoranda describing potential SRC legislation
 - a. Department of Health and Environment: Presentation of memorandum and 15 bill drafts. *Drafter: Kristen Forrestal*
 - i. Division of Administration personnel policy (LLS NO. 19-0112)
 - ii. Child care in nursing homes (LLS NO. 19-0113)
 - iii. Emergency medical & trauma care system (LLS NO.19-0114)
 - iv. Blood lead levels in children (LLS NO. 19-0115)
 - v. Cancer Drug Repository Act (LLS NO. 19-0116)
 - vi. Cancer drug testing (LLS NO. 19-0117)
 - vii. Health facility life safety (LLS NO. 19-0118)
 - viii. Board of Health authority over CDPHE funds (LLS NO. 19-0119)
 - ix. Board of Health compliance with requirements concerning preparation of operational planning (LLS NO. 19-0120)
 - x. Board of Health approval for legal services (LLS NO. 19-0121)
 - xi. Hospital license requirements (LLS NO.19-0122)
 - xii. Air quality control programs (LLS NO. 19-0123)
 - xiii. Water quality control (LLS NO. 19-0125)
 - xiv. Emergency epidemic preparedness (LLS NO. 19-0126)
 - xv. Radiation Advisory Committee compensation (LLS NO. 19-0127)
 - b. Department of Natural Resources: Update outdated language regarding receipt of gifts, grants, and donations. *Drafter: Kristen Forrestal* (LLS NO. 19-0296)
 - c. Department of Regulatory Agencies: Align definition of “appraisal management company” with federal law in statutes regulating appraisal management companies. *Drafter: Kristen Forrestal* (LLS NO. 19-0309)

- d. Professional Teacher and Professional Special Services License Requirements: Remove duplicate language concerning applicants from other states. *Drafter: Brita Darling* (LLS NO. 19-0308)
 - e. Department of Revenue: Electronic Funds transfer correction. *Drafter: Esther van Mourik* (LLS NO. 19-0320)
 - f. Department of Revenue: Manufactured housing definition cleanup. *Drafter: Jason Gelender* (LLS NO. 19-0259)
3. Other business
- a. Annual Report due November 15; staff suggests changing future due date of report
 - b. Next meeting in January 2019 – Can schedule after meeting of the Committee on Legal Services in January

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MEMORANDUM 2a ¹

TO: Statutory Revision Committee

FROM: Kristen Forrestal, Office of Legislative Legal Services

DATE: October 10, 2018

SUBJECT: Concerning provisions relating to the Colorado Department of Public Health and Environment that are purportedly obsolete or antiquated

Summary

At the March 23, 2018, meeting of the Statutory Revision Committee (SRC), the SRC considered a bill draft (LLS 18-1161.01²) dated March 19, 2018, with the title "Concerning the repeal of obsolete statutory provisions within the department of public health and environment." At that time, the SRC also considered a six-page draft amendment³ proposed by the Department of Public Health and Environment (department).

The bulk of the testimony at the March 23rd meeting concerned the proposed amendment and was provided by Anne Hause (director of legal and regulatory compliance for the department).

After testimony concluded, the SRC discussed the bill and the amendment. Rep. McKean expressed concern that the amendment (and the bill, as amended)

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

² See **Addendum A**.

³ See **Addendum B**.

addressed a wide range of seemingly unrelated subject matters. Rep. Thurlow expressed concern that SRC bills must be thoroughly vetted by the SRC before they are introduced and referred to committees of reference. Senator Zenzinger suggested breaking the bill into smaller bills with discrete subject matters to be considered for introduction in the 2019 regular legislative session. Rep. Hooton agreed with this suggestion.

After further discussion, the SRC decided to continue discussion of the proposed bill(s) after the conclusion of the 2018 legislative session.

Since the March 23, 2018, meeting, OLLS staff have followed Senator Zenzinger's suggestion to break the draft bill and the draft amendment into smaller draft bills, each with a discrete subject matter, which has resulted in 15 bill drafts.

Analysis

1. Bill draft LLS 19-0112, "Concerning the elimination of redundant statutory provisions regarding personnel policies of the division of administration within the department of public health and environment."

This bill draft proposes to repeal section 25-1-106, C.R.S., which reads as follows:

25-1-106. Division personnel. The executive director of the department shall appoint the director of the division of administration, pursuant to the provisions of section 13 of article XII of the state constitution. Each subdivision (and section) of the division of administration shall be under the management of a head, and such heads and all other subordinate personnel of the division shall be appointed by the director of the division, subject to the constitution and state personnel system laws of the state, and shall possess qualifications approved by the board. All personnel shall receive such compensation as fixed by the executive director **with the approval of the board**, subject to the constitution and state personnel system laws of the state and within the limits of funds made available to the department by appropriation of the general assembly or otherwise. With the approval of the executive director, employees shall also be allowed traveling and subsistence expenses actually and necessarily incurred in the performance of their official duties when absent from their places of residence. **(Emphasis added)**

The statutory section concerns personnel policies of the division of administration within the department. This statutory section has existed since at least 1947 and has not been amended since 1971.

The section appears to be duplicative of other sections of law, except for the sentence of the section that requires compensation of all personnel that is fixed by the executive director to be approved by the state board of health. The required approval by the state board of health does not appear in any other section of law. Because this sentence is not redundant of other existing law, it is not clear that the repeal of the entire section fits within the charge of the SRC.

2. Bill draft LLS 19-0113, "Concerning the elimination of certain statutory provisions encouraging the department of public health and environment to develop child care centers within nursing home facilities."

This bill draft proposes to repeal part 10 of article 1 of title 25, C.R.S., which encourages the department to establish child care centers in nursing home facilities. These sections were enacted in 1988 ([House Bill 88-1022](#)), and provisions of sections 25-1-1003 and 25-1-1004 received nonsubstantive conforming amendments in 1994, 1996, and 2006.

The department has never implemented the program described by these sections, and therefore the department would like to see it repealed. It is not clear that repealing these sections of law fits within the charge of the SRC.

3. Bill draft LLS 19-0114, "Concerning the statewide emergency medical and trauma system in the department of public health and environment, and, in connection therewith, eliminating the requirement that the state board of health cooperate with the department of personnel in adopting certain criteria."

This bill draft repeals language in section 25-3.5-704, C.R.S., that requires the department to implement a statewide emergency and trauma care system by July 1, 1997, and language that requires the state board of health to cooperate with the department of personnel in adopting certain criteria that counties must identify in their own regional systems. This provision and the rest of part 7 of article 3.5 of title 25, C.R.S., were repealed and reenacted, with amendments, in 1995 ([Senate Bill 95-076](#)). Section 25-3.5-704 (1), C.R.S., received nonsubstantive conforming amendments in 1996, 2002, and 2004.

Although the communication systems referenced in the sentence proposed for repeal are referenced in other areas of statute, the repeal of this sentence would remove the requirement for cooperation with the department of personnel and is not duplicative of other existing law. Therefore, it is not clear that the proposed repeal fits under the charge of the SRC.

4. Bill draft LLS 19-0115, "Concerning the elimination of the requirement that the department of public health and environment establish a comprehensive plan related to blood lead levels in children."

This bill draft repeals section 25-5-1104, C.R.S., and makes conforming amendments. Section 25-5-1104, C.R.S., requires the department to establish a comprehensive plan to prevent elevated blood lead levels in children and to control exposure of children to lead-based paint hazards in residences and child-occupied facilities. The section also describes the mandatory components of the comprehensive plan. Section 25-5-1104, C.R.S., and the other provisions of part 11 of article 5 of title 25, C.R.S., were enacted in 1997 ([Senate Bill 97-136](#)). The section has never been amended.

Although the department asserts that there is no ongoing requirement for continuous use or updating of the plan and that federal funding has not been consistently available, the section proposed for repeal creates a record that the plan was established by the department. The General Assembly has not taken action to indicate that it no longer wants the plan to remain in place. It is not clear that the repeal of this section is within the charge of the SRC.

5. Bill draft LLS 19-0116, "Concerning the repeal of the 'Colorado Cancer Drug Repository Act.'"

Section 12-42.5-133, C.R.S., allows a licensed facility to return unused drugs to a pharmacist within the facility or to a prescription drug outlet. The section proposed for repeal in this bill draft requires the department to administer a program for the purpose of allowing patients to donate unused cancer drugs to uninsured and underinsured cancer patients within the state. The Act outlines specific guidelines for the acceptance and dispensing of cancer drugs.

The Act is not duplicative of existing statute, specifically [section 12-42.5-133, C.R.S.](#), and therefore it is unclear whether the repeal of the Act fits within the charge of the SRC.

6. Bill draft LLS 19-0117, "Concerning the repeal of statutory provisions requiring the department of public health and environment to test substances that are purported to have value in the treatment of cancer."

This bill draft repeals article 50 of title 25, C.R.S., which requires the department to test substances that any individual, person, firm, association, or other entity has held out to have value in the diagnosis, treatment, alleviation, or cure of cancer.

The cancer drug review and approval functions currently fall within the purview of the United States Food and Drug Administration. Therefore, this article 50 is obsolete, and its repeal falls within the charge of the SRC.

7. Bill draft LLS 19-0118, "Concerning conforming amendments necessitated by the transfer of certain safety authorities from the department of public health and environment to the department of public safety pursuant to House Bill 12-1268."

This bill draft includes portions of the draft amendment discussed at the March 23, 2018, meeting that amend or repeal sections 25-1-108 (1)(c)(II), (1)(c)(III), and (1)(c)(IV) and 25-1.5-103 (3.5), C.R.S.

In 2012, the General Assembly enacted [House Bill 12-1268](#), which transferred certain functions pertaining to health facilities' compliance with certain building safety standards from the department to the department of public safety. Each of the provisions of this bill are conforming amendments that were omitted from House Bill 12-1268.

For these reasons, the repeal of these provisions falls within the charge of the SRC.

8. Bill draft LLS 19-0119, "Concerning clarification that the state board of health has no authority over money allocated to the department of public health and environment."

This bill draft repeals sections 25-1-108 and 25-1-111, C.R.S., which grant the state board of health the authority to accept, use, disburse, and administer money allotted to the department for state and local public works or public health functions.

The state board of health does not accept, handle, or act as a custodian for department money, therefore these provisions are obsolete. The proposed repeal of these sections falls within the charge of the SRC.

9. Bill draft LLS 19-0120, "Concerning the elimination of the requirement that the state board of health comply with certain statutory requirements concerning the preparation of operational planning functions as if the state board were the executive director of the department."

This bill draft repeals a part of section 25-1-108, C.R.S., that requires that the state board of health comply with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans, as if the board were the executive director of the department.

The state board of health has no role in the preparation of operational master plans, facilities master plans, or facilities program plans; therefore, these provisions are obsolete. The proposed repeal falls within the charge of the SRC.

10. Bill draft LLS 19-0121, "Concerning eliminating the requirement that the state board of health approve the retention of counsel in certain circumstances."

The bill draft removes the requirement in section 25-1-112, C.R.S., that requires the executive director of the department to obtain the approval of the state board of health before retaining special counsel to represent the executive director when the executive director brings a civil or criminal action and the district attorney fails to act on his or her behalf. It also requires a county or district public health agency to obtain the approval of the state board of health before retaining an attorney to advise and defend actions brought against the agency or the officers or employees of the agency.

When the General Assembly repealed and reenacted section 25-1-514 in 2008, it amended both instances of the phrase "with the approval of the board." To the first instance, the General Assembly added "county or district" to precede "board." To the second instance, the General Assembly added "state" to precede "board."

The fact that the General Assembly amended section 25-1-514, C.R.S., in such a manner as recently as 2008 casts doubt upon the notion that the use of the phrase

"with the approval of the [state] board" in that section has become obsolete. Rather, it appears that the General Assembly considered this very language merely 10 years ago and elected to retain the language, as amended then.

Given this statutory history, it is not clear that this proposed bill draft fits under the SRC's charge, as the repeal of the existing language may be contrary to the intent of the 2008 General Assembly.

11. Bill draft LLS 19-0122, "Concerning the mandatory contents of each license issued to a hospital by the department of public health and environment."

This bill draft repeals the first sentence of section 25-3-102 (1)(d), C.R.S. which requires a license issued to a hospital or health facility to include the signature of the president of the state board of health, the attestation of the secretary of the state board of health, and the seal of the state board of health. The sentence was enacted into law in 1909 and subsequently codified at section 25-3-102, C.R.S. Although the General Assembly has expanded and reorganized section 25-3-102, C.R.S., by amendment many times since 1909, the section has always included the sentence in question.

Although the department asserts that the president and the state board of health currently have no involvement in the license process, the General Assembly did not amend this section when making changes as late as 2012. It is not clear that the suggested change fits within the charge of the SRC.

12. Bill draft LLS 19-0123, "Concerning air quality control, and, in connection therewith, eliminating the requirement that the state board of health supervise certain air quality control programs and removing statutory provisions relating to the air pollution variance board and the air quality hearings board."

This bill draft eliminates the requirement in sections 25-7-111 and 25-7-127, C.R.S., that the state board of health supervise certain air quality control programs and removes statutory provisions relating to the air pollution variance board and the air quality hearings board.

The department asserts that this work is now under the oversight of the air quality control commission. It appears that there is not a conflict in existing statute. It is unclear whether this proposed change falls within the charge of the SRC.

13. Bill draft LLS 19-0125, "Concerning water quality control, and, in connection therewith, eliminating the requirement that the state board of health approve a municipality's entrance into a joint operating agreement with an industrial enterprise for work relating to sewage facilities and clarifying that the board of directors of a water conservancy district must comply with the rules of the water control commission concerning the manner in which watercourses of the district are used for waste disposal."

Section 31-15-710, C.R.S., requires the state board of health to approve a municipality's entrance into a joint operating agreement with an industrial enterprise for work relating to sewerage facilities. The department proposes that the approval requirement be removed from statute.

Section 37-3-106, C.R.S., requires the board of directors of a water conservancy district to comply with rules of the state board of health concerning the manner in which watercourses of the district are used for waste disposal. The department proposes that the statute clarify that the rules are those of the water quality control commission.

It is unclear whether eliminating approval of the state board of health in section 31-15-710, C.R.S., fits within the charge of the SRC.

The proposed change in section 37-3-106, C.R.S., is a clarifying change to identify the correct rule-making authority in statute. Therefore, this change appears to fit within the charge of the SRC.

14. Bill draft LLS 19-0126, "Concerning eliminating the duty of the state board of health to adopt rules establishing standards to ensure that certain entities are prepared for an emergency epidemic."

This bill draft includes a portion of the draft amendment from the March 23, 2018, meeting that amends section 25-1-108 (1)(c)(VI), C.R.S. Subsection (1)(c)(VI) was added to section 25-1-108 in 2000 ([House Bill 00-1077](#)), as part of the creation of the governor's expert emergency epidemic response committee.

"Area trauma councils" is an obsolete term and the department does not oversee managed care organizations. Therefore, the recommended changes fit within the charge of the SRC.

15. Bill draft LLS 19-0127, "Concerning clarifying that members of the radiation advisory committee shall be reimbursed for expenses incurred for authorized business of the committee."

Section 25-11-105, C.R.S., establishes the radiation advisory committee within the department. This section incorrectly states that committee members will be reimbursed for necessary and actual expenses incurred in attendance at meetings or for authorized business of the "board," a reference to the state board of health. The bill fixes this error to correctly state that the members of the committee will be reimbursed for necessary and actual expenses incurred in attendance at meetings or authorized business of *the committee*.

Striking "the board" and replacing it with "the committee" is correcting an error in the law. This correction fits within the charge of the SRC.

Proposed Bills

Drafts of the above bills are attached. OLLS staff has been in contact with the department concerning these issues.

Statutory Revision Committee

BILL TOPIC: "Repeal Obsolete Statutes CDPHE"

DEADLINES: File by: 3/21/2018

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF OBSOLETE STATUTORY PROVISIONS**
102 **WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 2 of the bill repeals antiquated statutory hiring requirements within the department of public health and environment (department).

Section 3 repeals the establishment of child care programs in nursing home facilities. The statute was enacted in 1988 and never

implemented.

Section 4 repeals a 1997 deadline for the state board of health to implement a statewide trauma system.

Sections 5, 6, and 7 change references to "mental retardation" to "intellectual or developmental disability".

Section 8 repeals a 1998 requirement that the department create a plan related to blood lead levels in children.

Section 9 repeals the Colorado cancer drug repository program, which is not utilized.

Section 10 repeals the cancer cure control program that was originally enacted in the 1960s. These functions are now performed by the federal food and drug administration.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal obsolete statutory
4 references within the Colorado department of public health and
5 environment. The general assembly further declares that repealing these
6 statutory references does not alter the scope or applicability of the
7 remaining statutes.

8 **SECTION 2.** In Colorado Revised Statutes, **repeal** 25-1-106 as
9 follows:

10 **25-1-106. Division personnel.** ~~The executive director of the~~
11 ~~department shall appoint the director of the division of administration,~~
12 ~~pursuant to the provisions of section 13 of article XII of the state~~
13 ~~constitution. Each subdivision (and section) of the division of~~
14 ~~administration shall be under the management of a head, and such heads~~
15 ~~and all other subordinate personnel of the division shall be appointed by~~
16 ~~the director of the division, subject to the constitution and state personnel~~
17 ~~system laws of the state, and shall possess qualifications approved by the~~
18 ~~board. All personnel shall receive such compensation as fixed by the~~
19 ~~executive director with the approval of the board, subject to the~~

1 ~~constitution and state personnel system laws of the state and within the~~
2 ~~limits of funds made available to the department by appropriation of the~~
3 ~~general assembly or otherwise. With the approval of the executive~~
4 ~~director, employees shall also be allowed traveling and subsistence~~
5 ~~expenses actually and necessarily incurred in the performance of their~~
6 ~~official duties when absent from their places of residence.~~

7 **SECTION 3.** In Colorado Revised Statutes, **repeal** part 10 of
8 article 1 of title 25.

9 **SECTION 4.** In Colorado Revised Statutes, 25-3.5-704, **amend**
10 (1) as follows:

11 **25-3.5-704. Statewide emergency medical and trauma care**
12 **system - development and implementation - duties of department -**
13 **rules adopted by board.** (1) The department shall develop, implement,
14 and monitor a statewide emergency medical and trauma care system in
15 accordance with the provisions of this part 7 and with rules adopted by
16 the state board. ~~The system shall be implemented statewide no later than~~
17 ~~July 1, 1997. In addition, the board shall cooperate with the department~~
18 ~~of personnel in adopting criteria for adequate communications systems~~
19 ~~that counties shall be required to identify in regional emergency medical~~
20 ~~and trauma system plans in accordance with subsection (2) of this section.~~
21 Pursuant to section 24-50-504 (2) C.R.S., the department may contract
22 with any public or private entity in performing any of its duties
23 concerning education, the statewide trauma registry, and the verification
24 process as set forth in this part 7.

25 **SECTION 5.** In Colorado Revised Statutes, 25-4-802, **amend** (2)
26 as follows:

27 **25-4-802. Tests for metabolic defects.** (2) The state board of

1 health has the duty to prescribe from time to time effective tests and
2 examinations designed to detect phenylketonuria and such other
3 metabolic disorders or defects likely to cause ~~mental retardation~~ AN
4 INTELLECTUAL OR DEVELOPMENTAL DISABILITY as accepted medical
5 practice indicates.

6 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-4-803 as
7 follows:

8 **25-4-803. Rules.** (1) The state board of health shall promulgate
9 rules ~~and regulations~~ concerning the obtaining of samples or specimens
10 from newborn infants required for the tests prescribed by the state board
11 of health for the handling and delivery of the ~~same~~ SAMPLES AND
12 SPECIMENS and for the testing and examination thereof to detect
13 phenylketonuria or other metabolic disorders found likely to cause ~~mental~~
14 ~~retardation~~ AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY.

15 (2) The department of public health and environment shall furnish
16 all physicians, public health nurses, hospitals, maternity homes, county
17 departments of social services, and the state department of human
18 services available medical information concerning the nature and effects
19 of phenylketonuria and other metabolic disorders and defects found likely
20 to cause ~~mental retardation~~ AN INTELLECTUAL OR DEVELOPMENTAL
21 DISABILITY.

22 **SECTION 7.** In Colorado Revised Statutes, 25-4-1004.5, **amend**
23 (1)(b) as follows:

24 **25-4-1004.5. Follow-up testing and treatment - second**
25 **screening - legislative declaration - fee - rules.** (1) The general
26 assembly finds that:

27 (b) Newborn testing is designed to identify metabolic disorders

1 that cause ~~mental retardation~~ INTELLECTUAL OR DEVELOPMENTAL
2 DISABILITIES and other health problems unless they are diagnosed and
3 treated early in life;

4 **SECTION 8.** In Colorado Revised Statutes, **repeal** 25-5-1104.

5 **SECTION 9.** In Colorado Revised Statutes, **repeal** article 35 of
6 title 25.

7 **SECTION 10.** In Colorado Revised Statutes, **repeal** article 50 of
8 title 25.

9 **SECTION 11. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2018 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.

Statutory Revision Committee

LLS No. 18-1161.01 be amended as follows:

1 Amend proposed bill 18-1161.01, page 5, after line 8 insert:

2 **"SECTION 11.** In Colorado Revised Statutes, 25-1-108, **amend**
3 (1)(c)(II) and (1)(c)(VI); and **repeal** (1)(c)(III), (1)(c)IV),(1)(f), and
4 (1)(h) as follows:

5 **25-1-108. Powers and duties of state board of health.** (1) In
6 addition to all other powers and duties conferred and imposed upon the
7 state board of health by the provisions of this part 1, the board has the
8 following specific powers and duties:

9 (c) (II) To adopt rules and regulations and standards concerning
10 building regulations ~~and fire safety~~ for skilled and intermediate health
11 care facilities. The enforcement of these rules and regulations may be
12 waived by the board for periods of time as recommended by the
13 department if the rigid application thereof would result in demonstrated
14 financial hardship to a skilled or intermediate facility, but only if the
15 waiver will not adversely affect the health and safety of patients.

16 (III) ~~All rules, regulations, and standards adopted prior to~~
17 ~~February 21, 1947, by the board concerning building regulations or fire~~
18 ~~safety for nursing homes which are more strict than those provided by the~~
19 ~~highest standards as set forth in this paragraph (c) are nullified by this~~
20 ~~section, but nothing contained in this paragraph (c) shall be construed to~~
21 ~~prevent the department from adopting and enforcing, with respect to~~
22 ~~projects for which federal assistance has been obtained or shall be~~
23 ~~requested, such higher standards as may be required by applicable federal~~
24 ~~laws or regulations of federal agencies responsible for the administration~~
25 ~~of such federal laws.~~

26 (IV) ~~For the purpose of this part 1, all rules, regulations, and~~
27 ~~standards adopted prior to February 21, 1947, by the board or any board,~~
28 ~~office, or bureau whose duties are by virtue of this section transferred to~~
29 ~~the board or the department, in effect immediately prior to February 21,~~
30 ~~1947, and not inconsistent with the authority of the board as provided in~~
31 ~~this part 1 shall remain in full force and effect until superseded by rules,~~
32 ~~regulations, or standards duly adopted pursuant to this paragraph (c) by~~
33 ~~the board in conformance with this part 1, to the same effect as though~~
34 ~~such rules, regulations, and standards were adopted subsequent to the~~
35 ~~passage of this part 1 in full conformance therewith.~~

36 (VI) To adopt rules and to establish such standards as the board
37 may deem necessary or proper to assure that hospitals, other acute care
38 facilities, county, district, and municipal public health agencies
39 AND trauma centers ~~area trauma advisory councils, and managed care~~
40 ~~organizations~~ are prepared for an emergency epidemic, as defined in

1 section 24-33.5-703 (4), C.R.S., that is declared to be a disaster
2 emergency, including the immediate investigation of any case of a
3 suspected emergency epidemic.

4 ~~(f) To accept and, through the division of administration, use,
5 disburse, and administer all federal aid or other property, services, and
6 moneys allotted to the department for state and local public works or
7 public health functions, or allotted without designation of a specific
8 agency for purposes which are within the functions of the department;
9 and to prescribe, by rule or regulation not inconsistent with the laws of
10 this state, the conditions under which such property, services, or moneys
11 shall be accepted and administered. On behalf of the state, the board is
12 empowered to make such agreements, with the approval of the attorney
13 general, not inconsistent with the laws of this state, as may be required as
14 a condition precedent to receiving such funds or other assistance.~~

15 ~~(h) To comply with the requirements of section 24-1-136.5, C.R.S.,
16 concerning the preparation of operational master plans, facilities master
17 plans, and facilities program plans, as if the state board of health were the
18 executive director of the department.~~

19 **SECTION 12.** In Colorado Revised Statutes, **repeal** 25-1-111(2).

20 **SECTION 13.** In Colorado Revised Statutes, **amend** 25-1-112 as
21 follows:

22 **25-1-112. Legal adviser - actions.** The attorney general shall be
23 the legal adviser for the department and shall defend it in all actions and
24 proceedings brought against it. The district attorney of the judicial district
25 in which a cause of action may arise shall bring any action, civil or
26 criminal, requested by the executive director of the department to abate
27 a condition which exists in violation of, or to restrain or enjoin any action
28 which is in violation of, or to prosecute for the violation of or for the
29 enforcement of the public health laws or the standards, orders, rules, and
30 regulations of the department established by or issued under the
31 provisions of this part 1. If the district attorney fails to act, the executive
32 director may bring any such action and shall be represented by the
33 attorney general or, ~~with the approval of the board,~~ by special counsel.

34 **SECTION 14.** In Colorado Revised Statutes, **amend** 25-1-514 as
35 follows:

36 **25-1-514. Legal actions - legal adviser.** The county attorney for
37 the county or the district attorney of the judicial district in which a cause
38 of action arises shall bring any civil or criminal action requested by a
39 county or district public health director to abate a condition that exists in
40 violation of, or to restrain or enjoin any action that is in violation of, or
41 to prosecute for the violation of or for the enforcement of, the public
42 health laws and the standards, orders, and rules of the state board or a
43 county or district board of health. If the county attorney or the district

1 attorney fails to act, the public health director may bring an action and be
2 represented by special counsel employed by him or her with the approval
3 of the county or district board. An agency, through its county or district
4 board of health or through its public health director ~~with the approval of~~
5 ~~the state board~~, may employ or retain and compensate an attorney to be
6 the legal adviser of the agency and to defend all actions and proceedings
7 brought against the agency or the officers and employees of the agency.

8 **SECTION 15.** In Colorado Revised Statutes, 25-1.5-103, **amend**
9 (3.5) as follows:

10 **25-1.5-103. Health facilities - powers and duties of department**
11 **- limitations on rules promulgated by department - definitions.**

12 (3.5) (a) (I) The department of public health and environment may
13 establish ~~life safety code and~~ physical plant requirements for an
14 occupancy that is contiguous with an acute treatment unit if the
15 occupancy is operated by the acute treatment unit licensee and the
16 services provided by the occupancy are outpatient services certified in
17 accordance with article 65 of title 27, C.R.S., to determine appropriate
18 placement or detoxification services licensed by the department of human
19 services. The services provided by the occupancy shall benefit acute
20 treatment unit clients, although the occupancy may also provide such
21 services to other populations. It shall be at the discretion of the acute
22 treatment unit licensee to either construct the necessary fire safety
23 separations between the occupancy and the acute treatment unit or to
24 assume fiscal and administrative responsibility for assuring that the
25 occupancy meets the life safety code requirements as specified and
26 verified by the department of public health and environment.

27 (II) ~~The state board of health may promulgate rules authorizing~~
28 ~~the department of public health and environment to assess a penalty of up~~
29 ~~to one hundred dollars per day if the department finds that an occupancy~~
30 ~~does not comply with life safety code requirements. The department shall~~
31 ~~only assess the penalty after the acute treatment unit licensee has had an~~
32 ~~opportunity to correct the noncompliance.~~

33 (III) ~~Nothing in this subsection (3.5) shall be construed to extend~~
34 ~~the life safety code authority of the department of public health and~~
35 ~~environment to an occupancy that is not subject to licensure by the~~
36 ~~department and that has the appropriate fire safety separations between~~
37 ~~the occupancy and the acute treatment unit.~~

38 (b) ~~A licensee that is subject to life safety code oversight of one~~
39 ~~or more occupancies pursuant to paragraph (a) of this subsection (3.5)~~
40 ~~shall pay a fee or fees in accordance with rules promulgated by the state~~
41 ~~board of health.~~

42 (c) ~~Any moneys collected pursuant to this subsection (3.5) shall~~
43 ~~be transmitted to the state treasurer, who shall credit the same to the~~

1 ~~health facilities general licensure cash fund created in section 25-3-103.1.~~
2 ~~or prevents the department from accessing related funds.~~

3 **SECTION 16.** In Colorado Revised Statutes, 25-3-102, **amend**
4 (1)(d) as follows:

5 **25-3-102. License - application - issuance - certificate of**
6 **compliance required.** (1) (d) ~~The license shall be signed by the~~
7 ~~president and attested by the secretary of the state board of health and~~
8 ~~have the state board's seal affixed to the license.~~ The license expires one
9 year from the date of issuance.

10 **SECTION 17.** In Colorado Revised Statutes, 25-7-111, **amend**
11 (1) as follows:

12 **25-7-111. Administration of air quality control programs -**
13 **directive - prescribed fire - review.** (1) The division shall administer
14 and enforce the air quality control programs adopted by the commission.
15 In furtherance of such responsibility of the division, the executive director
16 of the department of public health and environment shall establish within
17 the division a separate air quality control agency, the head of which shall
18 be a licensed professional engineer or shall have a graduate degree in
19 engineering or other specialty dealing with the problems of air quality
20 control. Such person shall also have appropriate practical and
21 administrative experience related to air quality control. Such person shall
22 not be the technical secretary employed pursuant to section 25-7-105 (3).
23 Any potential conflict of interest of such person shall be adequately
24 disclosed prior to appointment and as may from time to time arise. ~~All~~
25 ~~policies and procedures followed in the administration and enforcement~~
26 ~~of the air quality control programs that have been adopted by the~~
27 ~~commission shall be subject to supervision by the state board of health.~~

28 **SECTION 18.** In Colorado Revised Statutes, 25-7-127, **repeal**
29 (3), (4), and (5) as follows:

30 **25-7-127. Continuance of existing rules and orders.** (3) ~~All~~
31 ~~actions, orders, and determinations of the air pollution variance board~~
32 ~~created by article 29 of chapter 66, C.R.S. 1963, as that article existed on~~
33 ~~January 1, 1970, shall remain in full force and effect unless~~
34 ~~countermanded or modified by said board prior to July 1, 1984, or until~~
35 ~~countermanded or modified by the commission created by this article.~~

36 (4) ~~All actions, orders, and determinations of the air pollution~~
37 ~~variance board created by this article as it existed prior to June 20, 1979,~~
38 ~~shall remain in full force and effect unless countermanded or modified by~~
39 ~~said board prior to July 1, 1984, or until countermanded or modified by~~
40 ~~the commission created by this article.~~

41 (5) ~~All actions, orders, and determinations of the air quality~~
42 ~~hearings board created by this article as this article existed prior to July~~
43 ~~1, 1984, shall remain in full force and effect until countermanded or~~

1 ~~modified by the commission created by this article.~~

2 **SECTION 19.** In Colorado Revised Statutes, 25-11-105, **amend**
3 (1) as follows:

4 **25-11-105. Radiation advisory committee.** (1) The governor
5 shall appoint a radiation advisory committee of nine members, no more
6 than four of whom shall represent any one political party and three of
7 whom shall represent industry, three the healing arts, and three the public
8 and private institutions of higher education. Members of the committee
9 shall serve at the discretion of the governor and shall be reimbursed for
10 necessary and actual expenses incurred in attendance at meetings. ~~or for~~
11 ~~authorized business of the board.~~ The committee shall furnish to the
12 department such technical advice as may be desirable or required on
13 matters relating to the radiation control program.

14 **SECTION 20.** In Colorado Revised Statutes, 25-20.5-104, **repeal**
15 (1) and (1) (b) as follows:

16 **25-20.5-104. Functions of division.** (1) The division has the
17 following functions:

18 ~~(a) On or before February 1, 2001, to submit to the executive~~
19 ~~director and to the governor for approval a state plan for delivery of~~
20 ~~prevention, intervention, and treatment services to youth throughout the~~
21 ~~state as provided in section 25-20.5-105, and to biennially review the state~~
22 ~~plan and submit revisions as provided by rule of the state board of health~~
23 ~~to the executive director and the governor for approval;~~

24 ~~(b) To identify performance indicators for prevention, intervention,~~
25 ~~and treatment programs based on the standards adopted by the state board~~
26 ~~of health pursuant to section 25-20.5-106 (2)(d), and to review, as~~
27 ~~provided in section 25-20.5-108, all prevention, intervention, and~~
28 ~~treatment programs operated by the division and by other state~~
29 ~~departments;~~

30 **SECTION 21.** In Colorado Revised Statutes, **repeal** 25-20.5-105.

31 **SECTION 22.** In Colorado Revised Statutes, **repeal** 25-20.5-106.

32 **SECTION 23.** In Colorado Revised Statutes, **repeal** 25-20.5-107.

33 **SECTION 24.** In Colorado Revised Statutes, **repeal** 25-20.5-108.

34 **SECTION 25.** In Colorado Revised Statutes, **repeal** 25-20.5-109.

35 **SECTION 26.** In Colorado Revised Statutes, 26-6.4-104, **amend**
36 (1)(b) as follows:

37 **26-6.4-104. Nurse home visitor program - created - rules.**

38 (1) (b) The nurse home visitor program created in article 31 of title 25,
39 C.R.S., as it existed prior to July 1, 2013, is transferred to the state
40 department of human services. ~~All rules, orders, and awards of the state~~
41 ~~board of health concerning the nurse home visitor program adopted prior~~
42 ~~to July 1, 2013, continue to be effective until revised, amended, repealed,~~
43 ~~or nullified pursuant to law. All grants in existence as of July 1, 2013, are~~

1 ~~valid through June 30, 2014, and may be extended or renewed beyond~~
2 ~~said date.~~

3 **SECTION 27.** In Colorado Revised Statutes, 31-15-710, **amend**
4 (1)(a)(VI) as follows:

5 **31-15-710. Water pollution control.** (1) The governing body of
6 each municipality has the power:

7 (a) To provide for the cleansing and purification of water,
8 watercourses, and canals and the draining or filling of ponds on private
9 property when necessary to prevent or abate nuisances; and for the
10 purpose of aiding in the prevention and abatement of water pollution all
11 municipalities are authorized:

12 (VI) To enter into joint operating agreements with industrial
13 enterprises and to accept gifts or contributions from such industrial
14 enterprises for the construction, reconstruction, improvement, betterment,
15 and extension of sewerage facilities and sewage treatment works. When
16 determined by its governing body to be in the public interest and
17 necessary for the protection of public health, any municipality is
18 authorized to enter into and perform contracts, whether long-term or
19 short-term, with any industrial establishment for the provision and
20 operation by the municipality of sewerage facilities to abate or reduce the
21 pollution of waters caused by discharges of industrial wastes by the
22 industrial establishment and the payment periodically by the industrial
23 establishment to the municipality of amounts at least sufficient, in the
24 determination of such governing body, to compensate the municipality for
25 the cost of providing, including payment of principal and interest charges,
26 if any, and of operating and maintaining the sewerage facilities serving
27 such industrial establishment. ~~The powers set forth in this subparagraph~~
28 ~~(VI) may only be exercised after approval of the state board of health.~~

29 **SECTION 28.** In Colorado Revised Statutes, 37-3-106, **amend**
30 (1) as follows:

31 **37-3-106. Regulations to protect works.** (1) Where necessary,
32 in order to secure the best results from the execution and operation of the
33 plans of the district or to prevent damage to the district by the
34 deterioration or misuse or by the pollution of the waters of any
35 watercourse therein, the board of directors may make regulations for and
36 may prescribe the manner of building bridges, roads, fences, or other
37 works in, into, along, or across any channel, reservoir, or other
38 construction; and may prescribe the manner in which ditches or other
39 works shall be adjusted to or connected with the works of the district or
40 any watercourse therein; and, when not in conflict with the regulations of
41 the ~~state board of health~~, WATER QUALITY CONTROL COMMISSION may
42 prescribe the manner in which the watercourses of the district may be
43 used for sewer outlets or for disposal of waste.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.10.18

DRAFT

LLS NO. 19-0112.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Division Of Administration Personnel Policy"

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF REDUNDANT STATUTORY**
102 **PROVISIONS REGARDING PERSONNEL POLICIES OF THE DIVISION**
103 **OF ADMINISTRATION WITHIN THE DEPARTMENT OF PUBLIC**
104 **HEALTH AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals statutory provisions regarding the personnel policies of the division of administration within the department of public health and environment.

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

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal redundant statutory
4 provisions within the Colorado department of public health and
5 environment. The general assembly further declares that repealing these
6 statutory provisions does not alter the scope or applicability of the
7 remaining statutes.

8 **SECTION 2.** In Colorado Revised Statutes, **repeal** 25-1-106 as
9 follows:

10 **25-1-106. Division personnel.** ~~The executive director of the~~
11 ~~department shall appoint the director of the division of administration,~~
12 ~~pursuant to the provisions of section 13 of article XII of the state~~
13 ~~constitution. Each subdivision (and section) of the division of~~
14 ~~administration shall be under the management of a head, and such heads~~
15 ~~and all other subordinate personnel of the division shall be appointed by~~
16 ~~the director of the division, subject to the constitution and state personnel~~
17 ~~system laws of the state, and shall possess qualifications approved by the~~
18 ~~board. All personnel shall receive such compensation as fixed by the~~
19 ~~executive director with the approval of the board, subject to the~~
20 ~~constitution and state personnel system laws of the state and within the~~
21 ~~limits of funds made available to the department by appropriation of the~~
22 ~~general assembly or otherwise. With the approval of the executive~~
23 ~~director, employees shall also be allowed traveling and subsistence~~
24 ~~expenses actually and necessarily incurred in the performance of their~~
25 ~~official duties when absent from their places of residence.~~

26 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2020 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.13.18

DRAFT

LLS NO. 19-0113.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Child Care In Nursing Homes"

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF CERTAIN STATUTORY PROVISIONS**
102 **ENCOURAGING THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT TO DEVELOP CHILD CARE CENTERS WITHIN**
104 **NURSING HOME FACILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals statutory provisions that encouraged the department of public health and environment to establish child care centers in nursing home facilities.

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

1 of private grants to provide funds to start such centers and by requiring
2 the state agencies which license nursing home facilities and child care
3 centers to study and recommend statutory and regulatory changes to
4 facilitate and encourage the development of child care centers in nursing
5 home facilities.

6 **25-1-1002. Definitions.** As used in this part 10, unless the context
7 otherwise requires:

8 (1) ~~"Nursing home facility" means a facility which provides~~
9 ~~skilled nursing home services or intermediate care nursing home services.~~

10 **25-1-1003. Grant program - requirements - use of medical**
11 **assistance funds prohibited.** (1) ~~The department of public health and~~
12 ~~environment may encourage the development of a private grant program~~
13 ~~to provide start-up funds to nursing home facilities for the purpose of~~
14 ~~establishing child care centers located in such nursing home facilities.~~

15 (2) ~~The state board of health, after consultation with the division~~
16 ~~in the department of human services involved in licensing child care~~
17 ~~centers and if the committee formed in section 25-1-1004 recommends~~
18 ~~the establishment of child care facilities in nursing homes, shall~~
19 ~~promulgate reasonable rules and regulations establishing any necessary~~
20 ~~requirements for operating a day care center in a nursing home facility.~~
21 ~~Such rules and regulations shall include, but need not be limited to, the~~
22 ~~following:~~

23 (a) ~~Requirements for the operation of a safe and good-quality~~
24 ~~child care operation in the nursing home facility or upon the nursing~~
25 ~~home facility's grounds, which shall include:~~

26 (I) ~~Precautions required to be taken to ensure that all staff and~~
27 ~~residents who will participate in the intergenerational programs have not~~

1 ~~been involved in incidents of sexual abuse or child abuse;~~
2 ~~(H) Requirements relating to the ability to properly care for the~~
3 ~~children;~~
4 ~~(HH) Child care ratios of staff to children;~~
5 ~~(IV) Requirements relating to the constant supervision of the~~
6 ~~children by staff members and not by nursing home residents;~~
7 ~~(V) Life safety and fire regulations;~~
8 ~~(b) Requirements on the amount and type of liability insurance~~
9 ~~necessary to insure the risks associated with the child care operation;~~
10 ~~(c) Requirements on the ways in which the nursing home residents~~
11 ~~may be involved in the child care center and the requirement that the~~
12 ~~participation of nursing home residents in intergenerational activities with~~
13 ~~the children in the child care operation shall be on a voluntary basis;~~
14 ~~(d) Requirements that any fees assessed to the employees of the~~
15 ~~nursing home facility whose children participate in the child care program~~
16 ~~will be based on a sliding scale;~~
17 ~~(e) Requirements that the participation of employees of the~~
18 ~~nursing home facility in the enrollment of their children in the~~
19 ~~intergenerational day care program of the nursing home facility shall be~~
20 ~~on a voluntary basis.~~
21 ~~(3) No medical assistance funds under the "Colorado Medical~~
22 ~~Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S., shall be used to~~
23 ~~subsidize the cost of operating a day care center or day care program in~~
24 ~~a nursing home facility.~~

25 **25-1-1004. Study of statutes and rules and regulations**
26 ~~pertaining to nursing home facilities and day care centers. (1) The~~
27 ~~department of public health and environment and the department of~~

1 ~~human services, in conjunction with representatives of the nursing home~~
2 ~~industry, child care operators, and experts on child care programs in~~
3 ~~nursing home facilities, shall examine and study the existing statutes and~~
4 ~~rules and regulations concerning the licensing of child care centers and~~
5 ~~of nursing home facilities to determine what statutory or regulatory~~
6 ~~changes or both would make it easier for a nursing home facility to~~
7 ~~operate a child care center. The study shall also include an examination~~
8 ~~of the advantages and disadvantages of operating such intergenerational~~
9 ~~programs and the most appropriate and practical ways to design such~~
10 ~~intergenerational child care programs which are beneficial both to the~~
11 ~~children and to the elderly persons.~~

12 ~~(2) The study conducted by the department of public health and~~
13 ~~environment and the department of human services shall include, but~~
14 ~~need not be limited to, consideration of the following:~~

15 ~~(a) The establishment of new rules and regulations by the~~
16 ~~department of public health and environment and the department of~~
17 ~~human services which would allow nursing home facilities to operate a~~
18 ~~child care operation in the nursing home facilities;~~

19 ~~(b) A coordinated licensure program to license a child care~~
20 ~~operation in a nursing home facility which would be based on rules and~~
21 ~~regulations designed specifically for the operation of a child care center~~
22 ~~in a nursing home facility.~~

23 ~~(3) Repealed.~~

24 ~~(4) The department of public health and environment and the~~
25 ~~department of human services shall comply with the requirements of this~~
26 ~~part 10 within the current appropriation established for each department.~~
27 ~~No request for appropriations shall be made to the general assembly for~~

1 ~~the implementation of this part 10:~~

2 **SECTION 3.** In Colorado Revised Statutes, 12-39-102, **amend**
3 the introductory portion and (4) as follows:

4 **12-39-102. Definitions.** As used in this article **39**, unless the
5 context otherwise requires:

6 (4) "Nursing home facility" ~~shall have the same meaning as that~~
7 ~~set forth in section 25-1-1002, C.R.S., and shall include~~ MEANS A
8 FACILITY THAT PROVIDES SKILLED NURSING HOME SERVICES OR
9 INTERMEDIATE CARE NURSING HOME SERVICES AND INCLUDES nursing care
10 facilities, whether proprietary or nonprofit, ~~which~~ THAT are licensed
11 under section 25-1.5-103 (1)(a)(I) ~~C.R.S.~~, or pursuant to the rules for
12 nursing homes promulgated by the department of public health and
13 environment. The term "nursing home" includes but is not limited to
14 nursing homes owned or administered by the state government or any
15 agency or political subdivision ~~thereof~~ OF THE STATE GOVERNMENT.
16 <{*The definition referenced here is repealed in section 2 (section*
17 *25-1-1002) above. I copied the definition from that repealed provision*
18 *and inserted here as a conforming amendment.*>

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2020 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.13.18

DRAFT

LLS NO. 19-0114.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Emergency Medical & Trauma Care System"

A BILL FOR AN ACT

101 **CONCERNING THE STATEWIDE EMERGENCY MEDICAL AND TRAUMA**
102 **CARE SYSTEM IN THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT, AND, IN CONNECTION THEREWITH, ELIMINATING**
104 **THE REQUIREMENT THAT THE STATE BOARD OF HEALTH**
105 **COOPERATE WITH THE DEPARTMENT OF PERSONNEL IN**
106 **ADOPTING CERTAIN CRITERIA.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals language:

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

- Requiring the department of public health and environment to implement a statewide emergency medical and trauma care system by July 1, 1997; and
- Requiring the state board of health to cooperate with the department of personnel in adopting certain criteria that counties must identify in their own regional systems.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-3.5-704, **amend**
8 (1) as follows:

9 **25-3.5-704. Statewide emergency medical and trauma care**
10 **system - development and implementation - duties of department -**
11 **rules adopted by board.** (1) The department shall develop, implement,
12 and monitor a statewide emergency medical and trauma care system in
13 accordance with the provisions of this part 7 and with rules adopted by
14 the state board. ~~The system shall be implemented statewide no later than~~
15 ~~July 1, 1997. In addition, the board shall cooperate with the department~~
16 ~~of personnel in adopting criteria for adequate communications systems~~
17 ~~that counties shall be required to identify in regional emergency medical~~
18 ~~and trauma system plans in accordance with subsection (2) of this section.~~
19 Pursuant to section 24-50-504 (2), C.R.S., the department may contract
20 with any public or private entity in performing any of its duties
21 concerning education, the statewide trauma registry, and the verification
22 process as set forth in this part 7.

1 **SECTION 3. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.21.18

DRAFT

LLS NO. 19-0115.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Blood Lead Levels In Children"

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF THE REQUIREMENT THAT THE**
102 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ESTABLISH**
103 **A COMPREHENSIVE PLAN RELATED TO BLOOD LEAD LEVELS IN**
104 **CHILDREN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals the requirement that the department of public health and environment establish a comprehensive plan to prevent elevated blood lead levels in children and

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

to control exposure of children to lead-based paint hazards in residences and child-occupied facilities.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory references
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory references
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, **repeal** 25-5-1104 as
8 follows:

9 **25-5-1104. Comprehensive plan.** ~~(1) On or before July 1, 1998,~~
10 ~~the department shall establish a comprehensive plan to prevent elevated~~
11 ~~blood lead levels in children and to control exposure of children to~~
12 ~~lead-based paint hazards in residences and child-occupied facilities. The~~
13 ~~plan shall include:~~

14 ~~(a) Development of standards by the state board of health~~
15 ~~concerning the method and frequency of screening of young children for~~
16 ~~elevated blood lead levels. The state board of health shall consult with~~
17 ~~recognized medical, public health, and environmental professionals and~~
18 ~~appropriate professional organizations in the development of such~~
19 ~~standards.~~

20 ~~(b) Development of a comprehensive education program~~
21 ~~regarding lead contamination that makes appropriate educational~~
22 ~~materials available to health care providers, child care providers, schools,~~
23 ~~owners and tenants of residential dwellings built prior to 1978, and~~
24 ~~parents of young children;~~

25 ~~(c) Case management and environmental follow-up services by~~

1 ~~state or local health agencies to ensure that all cases of elevated blood~~
2 ~~lead levels in children receive service appropriate for the severity of the~~
3 ~~lead exposure;~~

4 ~~(d) Recommendations concerning further legislative actions to~~
5 ~~address lead exposure, including, but not limited to, requiring third-party~~
6 ~~insurers or payers, including medicaid, to provide coverage for screening,~~
7 ~~treatment, environmental investigations, and environmental intervention;~~

8 ~~(e) Proposed regulations governing the requirement, timing, and~~
9 ~~conduct of environmental investigations and interventions; and~~

10 ~~(f) A detailed fiscal analysis of the lead hazard reduction program.~~

11 **SECTION 3.** In Colorado Revised Statutes, **amend 25-5-1103**
12 as follows:

13 **25-5-1103. Lead hazard reduction program.** There is hereby
14 created the lead hazard reduction program in the department of public
15 health and environment to perform prevention, intervention, and general
16 hazard reduction activities needed to reduce exposure of children to
17 lead-based paint hazards. ~~As part of the program, the department shall~~
18 ~~coordinate actions between the department and the departments of~~
19 ~~education, human services, health care policy and financing, and local~~
20 ~~affairs to produce a comprehensive plan and program to prevent elevated~~
21 ~~blood lead levels in children and to control exposure to lead-based paint~~
22 ~~hazards in residences and child-occupied facilities in Colorado. The~~
23 ~~provisions of this part 11 apply only to lead-based paint hazards. <{This~~
24 ~~appears to be a conforming amendment.}>~~

25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2020 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.13.18

DRAFT

LLS NO. 19-0116.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Repeal Cancer Drug Repository Act"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE "COLORADO CANCER DRUG**
102 **REPOSITORY ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals the "Colorado Cancer Drug Repository Act".

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

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

1 machine, contrivance, implant, in vitro reagent, or other similar or related
2 article, including a component, part, or accessory that is:

3 (a) ~~Recognized in the official national formulary, or the United~~
4 ~~States pharmacopoeia, or any supplement;~~

5 (b) ~~Intended for use in the diagnosis of disease or other~~
6 ~~conditions, or in the cure, mitigation, treatment, or prevention of disease,~~
7 ~~in humans or animals; or~~

8 (c) ~~Intended to affect the structure or any function of the human~~
9 ~~body or animals, that does not achieve any of its primary intended~~
10 ~~purposes through chemical action within or on the human body or~~
11 ~~animals, and that is not dependent upon being metabolized for the~~
12 ~~achievement of any of its primary intended purposes.~~

13 (8) ~~"Pharmacist" means an individual licensed by this state~~
14 ~~pursuant to article 42.5 of title 12, C.R.S., to engage in the practice of~~
15 ~~pharmacy.~~

16 (9) ~~"Program" means the Colorado cancer drug repository~~
17 ~~program created in section 25-35-103.~~

18 (10) ~~"State board" means the state board of health.~~

19 **25-35-103. Cancer drug repository - administration - donation**
20 **- dispensing - cancer drugs - medical devices.** (1) ~~There is hereby~~
21 ~~established the Colorado cancer drug repository program for the purpose~~
22 ~~of allowing a cancer patient or the patient's family to donate unused~~
23 ~~cancer drugs and medical devices to uninsured and underinsured cancer~~
24 ~~patients in the state of Colorado. The program shall be administered by~~
25 ~~the department.~~

26 (2) ~~The program shall allow a cancer patient or the patient's family~~
27 ~~to donate unused cancer drugs or medical devices to a health care facility,~~

1 ~~medical clinic, or pharmacy that elects to participate in the program. A~~
2 ~~health care facility, medical clinic, or pharmacy that receives a donated~~
3 ~~cancer drug or medical device under the program may distribute the~~
4 ~~cancer drug to another eligible health care facility, medical clinic, or~~
5 ~~pharmacy for use under the program.~~

6 ~~(3) A pharmacist may accept and dispense cancer drugs and~~
7 ~~medical devices donated under the program to eligible patients if all of~~
8 ~~the following requirements are met:~~

9 ~~(a) (I) The cancer drug or medical device is in its original,~~
10 ~~unopened, sealed, and tamper-evident packaging or, if packaged in~~
11 ~~single-unit doses, the single-unit-dose packaging is unopened; or~~

12 ~~(II) The pharmacist has determined that the cancer drug or~~
13 ~~medical device is safe for redistribution;~~

14 ~~(b) The cancer drug bears an expiration date that has not expired;~~

15 ~~(c) The cancer drug or medical device is not adulterated or~~
16 ~~misbranded, as determined by a pharmacist; and~~

17 ~~(d) The cancer drug or medical device is prescribed by a~~
18 ~~practitioner, as defined in section 12-42.5-102 (32), C.R.S., for use by an~~
19 ~~eligible patient and is dispensed by a pharmacist.~~

20 ~~(4) A cancer drug or medical device donated under the program~~
21 ~~may not be resold. A health care facility, medical clinic, or pharmacy may~~
22 ~~charge an eligible patient a handling fee to receive a donated cancer drug~~
23 ~~or medical device, which fee may not exceed the amount specified in rule~~
24 ~~by the state board.~~

25 ~~(5) Nothing in this section requires a health care facility, medical~~
26 ~~clinic, or pharmacy to participate in the program.~~

27 ~~(6) A health care facility, medical clinic, or pharmacy that elects~~

1 ~~to participate in the program shall establish eligibility criteria for~~
2 ~~individuals to receive donated cancer drugs or medical devices.~~
3 ~~Dispensation shall be prioritized to cancer patients who are uninsured or~~
4 ~~underinsured. Dispensation to other cancer patients shall be permitted if~~
5 ~~an uninsured or underinsured cancer patient is not available.~~

6 **25-35-104. Rules.** ~~(1) The state board, in consultation with the~~
7 ~~state board of pharmacy, shall promulgate any rules necessary for the~~
8 ~~implementation and administration of the program. The rules shall~~
9 ~~include, at a minimum:~~

10 ~~(a) Requirements for health care facilities, medical clinics, and~~
11 ~~pharmacies to accept and dispense donated cancer drugs and medical~~
12 ~~devices under the program, including but not limited to:~~

13 ~~(I) Eligibility criteria; and~~

14 ~~(H) Standards and procedures for a health care facility, medical~~
15 ~~clinic, or pharmacy to accept, safely store, and dispense donated cancer~~
16 ~~drugs and medical devices.~~

17 ~~(b) and (c) Repealed.~~

18 ~~(d) The maximum handling fee that a health care facility, medical~~
19 ~~clinic, or pharmacy may charge for distributing or dispensing donated~~
20 ~~cancer drugs or medical devices.~~

21 ~~(e) Repealed.~~

22 **25-35-105. Liability - prescription drug manufacturers.**

23 ~~Nothing in this article shall be construed to create or abrogate any liability~~
24 ~~on behalf of a prescription drug manufacturer for the storage, donation,~~
25 ~~acceptance, or dispensing of a cancer drug or medical device, or to create~~
26 ~~any civil cause of action against a prescription drug manufacturer, in~~
27 ~~addition to that which is available under applicable law.~~

1 **SECTION 3. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.13.18

DRAFT

LLS NO. 19-0117.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Cancer Drug Testing"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF STATUTORY PROVISIONS REQUIRING THE**
102 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO TEST**
103 **SUBSTANCES THAT ARE PURPORTED TO HAVE VALUE IN THE**
104 **TREATMENT OF CANCER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals language requiring the department of public health and environment to test substances that any individual, person, firm, association, or other entity

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

1 the limits imposed by the applicable statutes of the state.

2 **25-50-103. Powers and duties of department.** (1) The
3 department shall:

4 (a) Prescribe reasonable rules with respect to the administration
5 of this article 50;

6 (b) Investigate violations of the provisions of this article 50 and
7 report the violations to the appropriate enforcement authority;

8 (c) Secure the investigation and testing of the content, method of
9 preparation, efficacy, or use of drugs, medicines, compounds, or devices,
10 held out by any individual, person, firm, association, or other entity in the
11 state as of value in the diagnosis, treatment, or cure of cancer, prescribe
12 reasonable regulations with respect to the investigation and testing, and
13 make findings of fact and recommendations upon completion of any
14 investigation and testing;

15 (d) Hold hearings in respect to the investigations made under the
16 provisions of subsection (1)(c) of this section, and subpoena witnesses
17 and documents. Prior to issuance of a cease-and-desist order under
18 section 25-50-107, a hearing shall be held by the department. The person
19 furnishing a sample under section 25-50-104 shall be given due notice of
20 the hearing and an opportunity to be heard.

21 (e) Contract with independent scientific consultants for
22 specialized services and advice.

23 **25-50-104. Investigation by department.** On written request by
24 the department, delivered personally or by mail, any individual, person,
25 firm, association, or other entity that holds out either expressly or
26 impliedly any drug, medicine, compound, or device as being of a value
27 in the diagnosis, treatment, alleviation, or cure of cancer, shall furnish the

1 ~~department with a sample as the department may deem necessary for~~
2 ~~adequate testing of the drug, medicine, compound, or device and shall~~
3 ~~specify the formula of any drug or compound and name all ingredients by~~
4 ~~their common or usual names, and, upon like request by the department,~~
5 ~~shall furnish further necessary information as it may request as to the~~
6 ~~composition and method of preparation of and the manner in which the~~
7 ~~drug, compound, or device is of value in diagnosis, treatment, alleviation,~~
8 ~~or cure of cancer.~~

9 **25-50-105. Failure to comply with request of department.**

10 ~~(1) If there is failure to either provide the sample, disclose the formula,~~
11 ~~or name the ingredients as required by this article 50, it shall be~~
12 ~~conclusively presumed that the drug, medicine, compound, or device that~~
13 ~~is the subject of the department's request has no value in the diagnosis,~~
14 ~~treatment, alleviation, or cure of cancer.~~

15 ~~(2) Any individual, person, firm, association, or other entity that~~
16 ~~fails to comply with any of the provisions of this article 50, or with any~~
17 ~~order of the department validly issued under this article 50, is guilty of a~~
18 ~~misdemeanor and, upon conviction thereof, shall be punished as provided~~
19 ~~in section 18-1.3-505.~~

20 **25-50-106. Unlawful acts.** ~~(1) It is a misdemeanor for an~~
21 ~~individual, person, firm, association, or other entity, other than a licensed~~
22 ~~physician, licensed advanced practice nurse within his or her scope of~~
23 ~~practice, licensed osteopath, or licensed dentist to diagnose, treat, or~~
24 ~~prescribe for the treatment of cancer or to hold himself or herself out to~~
25 ~~any person as being able to cure, diagnose, treat, or prescribe for the~~
26 ~~treatment of the disease of cancer. A licensed chiropractor shall not treat~~
27 ~~cancer or prescribe for the treatment of cancer. A chiropractor may treat~~

1 any person for human ailments within the scope of his or her license even
2 though the person has or may have cancer at the time, but if a chiropractor
3 knows or has reason to believe that any patient has or may have cancer,
4 he or she must refer the patient to a medical doctor or an osteopath.

5 (2) ~~It is a misdemeanor for any individual, person, firm,~~
6 ~~association, or other entity willfully and falsely to represent a device,~~
7 ~~substance, or treatment as being of a value in the treatment, alleviation,~~
8 ~~or cure of cancer. Nothing in this section shall abridge the existent rights~~
9 ~~of the press. Any person who is convicted of a third or any subsequent~~
10 ~~violation of this article 50 commits a class 6 felony and shall be punished~~
11 ~~as provided in section 18-1.3-401.~~

12 **25-50-107. Findings - cease-and-desist order.** (1) ~~Following an~~
13 ~~investigation or testing of the content or composition of any drug,~~
14 ~~medicine, compound, or device held out either expressly or impliedly by~~
15 ~~any individual, person, firm, association, or other entity to be of value in~~
16 ~~the diagnosis, treatment, alleviation, or cure of cancer and after a hearing~~
17 ~~as provided in section 25-50-103, the department may direct that any such~~
18 ~~individual, person, firm, association, or other entity shall cease and desist~~
19 ~~any further holding out, either expressly or impliedly, that any such drug,~~
20 ~~medicine, compound, or device, or any substantially similar drug,~~
21 ~~medicine, compound, or device, is of value in the diagnosis or treatment~~
22 ~~of cancer.~~

23 (2) ~~In the investigation or testing required by this article 50 to~~
24 ~~determine the value or lack of value of any drug, medicine, compound, or~~
25 ~~device in the diagnosis, treatment, or cure of cancer, the department, as~~
26 ~~it deems necessary or advisable, shall utilize the facilities and findings of~~
27 ~~its own laboratories or other appropriate laboratories, clinics, hospitals,~~

1 and nonprofit cancer research institutes recognized by the national cancer
2 institute within this state or the facilities and findings of the federal
3 government or of the national cancer institute. The department may
4 arrange, by contract, for investigation by and submission to it of findings,
5 conclusions, or opinions of trained scientists in the appropriate
6 departments of universities, medical schools, clinics, hospitals, and
7 nonprofit cancer research institutes recognized by the national cancer
8 institute and the submission to it of findings, conclusions, or opinions of
9 other qualified scientists. Prior to the issuance of a cease-and-desist order
10 under this section, the department shall make a written finding of fact
11 based on the investigation that the drug, medicine, compound, or device
12 so investigated has been found to be either definitely harmful or of no
13 value in the diagnosis, treatment, alleviation, or cure of cancer, and the
14 department shall be satisfied beyond a reasonable doubt that the written
15 findings of fact are true.

16 **25-50-108. Injunction.** (1) ~~If an individual, person, firm,~~
17 ~~association, or other entity, after service upon him, her, or it of a~~
18 ~~cease-and-desist order issued by the department under section 25-50-107,~~
19 ~~persists in prescribing, recommending, or using the drug, medicine,~~
20 ~~compound, or device described in the cease-and-desist order, or a~~
21 ~~substantially similar drug, medicine, compound, or device, the district~~
22 ~~court in any county, on application of the department and when satisfied~~
23 ~~by a preponderance of the evidence that the written findings of fact~~
24 ~~required of the department by section 25-50-107 are true, may issue an~~
25 ~~order to show cause why there should not be issued an injunction or other~~
26 ~~appropriate order restraining the individual, person, firm, association, or~~
27 ~~other entity from holding out either expressly or impliedly the drug,~~

1 ~~medicine, compound, or device, or any substantially similar drug,~~
2 ~~medicine, compound, or device, as being of a value in the treatment,~~
3 ~~diagnosis, alleviation, or cure of cancer. After a hearing on the order to~~
4 ~~show cause, an injunction or other appropriate restraining order may be~~
5 ~~issued.~~

6 (2) Any person against whom an injunction has been issued, under
7 subsection (1) of this section, may not undertake to use in the diagnosis,
8 treatment, or cure of cancer any new, experimental, untested, or secret
9 drug, medicine, compound, or device without first submitting it to the
10 department for investigation and testing.

11 **25-50-109. Investigation by executive director.** (1) ~~The~~
12 ~~executive director shall investigate possible violations of this article 50~~
13 ~~and report violations to the appropriate enforcement authority.~~

14 (2) ~~County or district health officers, district attorneys, and the~~
15 ~~attorney general shall cooperate with the executive director in the~~
16 ~~enforcement of this article 50.~~

17 **25-50-110. Reports of investigation.** ~~The department, in~~
18 ~~accordance with the provisions of section 24-1-136, may publish reports~~
19 ~~based on its investigation or testing of any drug, medicine, compound, or~~
20 ~~device prescribed, recommended, or used by any individual, person, firm,~~
21 ~~association, or other entity; and, when the use of any drug, medicine,~~
22 ~~compound, or device constitutes an imminent danger to health or a gross~~
23 ~~deception of the public, the department may take appropriate steps to~~
24 ~~publicize the same.~~

25 **25-50-111. Investigation not an endorsement.** ~~The investigation~~
26 ~~or testing of any product shall not be deemed to imply or indicate any~~
27 ~~endorsement of the qualifications or value of the product. No person shall~~

1 ~~make any representation that investigation or testing under this article 50~~
2 ~~constitutes any approval or endorsement of his, her, or its activities by the~~
3 ~~department. The investigation or testing of any product shall not be~~
4 ~~deemed to imply or indicate that the product is useless or harmful, and~~
5 ~~during testing no person shall make any representation, except to the~~
6 ~~department, that the product under test is discredited or that it has been~~
7 ~~found useless or harmful.~~

8 **25-50-112. Exceptions.** ~~(1) This article 50 shall not apply to the~~
9 ~~use of any drug, medicine, compound, or device intended solely for~~
10 ~~legitimate and bona fide investigational purposes by experts qualified by~~
11 ~~scientific training and experience to investigate the safety and therapeutic~~
12 ~~value thereof unless the department finds that the drug, medicine,~~
13 ~~compound, or device is being used in diagnosis or treatment for~~
14 ~~compensation and profit.~~

15 ~~(2) The provisions of this article 50 shall not apply to any person~~
16 ~~who depends exclusively upon prayer for healing in accordance with the~~
17 ~~teachings of a bona fide religious sect, denomination, or organization, nor~~
18 ~~practitioner thereof.~~

19 ~~(3) The provisions of this article 50 shall except any drug that is~~
20 ~~being clinically investigated as a cure, treatment, or aid to the diagnosis~~
21 ~~of cancer according to the regulations of the "Federal Food, Drug, and~~
22 ~~Cosmetic Act".~~

23 ~~(4) (a) (I) The provisions of this article 50 shall not apply to the~~
24 ~~compound known as laetrile when manufactured in Colorado and~~
25 ~~prescribed by a licensed physician after fully disclosing to his or her~~
26 ~~patient the known adverse effects and reactions and the known reliability~~
27 ~~or unreliability in cancer treatment of the compound.~~

1 ~~(H) In prescribing the use of laetrile, the licensed physician shall~~
2 ~~do so only upon a request by the patient.~~

3 ~~(HH) In complying with a patient's request concerning the use of~~
4 ~~laetrile, a licensed physician, pharmacist, hospital, or health care facility~~
5 ~~shall be immune from any civil or criminal liability for prescribing or~~
6 ~~administering laetrile as provided for in this subsection (4), but nothing~~
7 ~~in this subsection (4)(a)(HH) shall preclude any cause of action brought by~~
8 ~~a patient against a licensed physician, pharmacist, hospital, or health care~~
9 ~~facility that does not arise from the prescription or administration of~~
10 ~~laetrile in accordance with the provisions of this subsection (4).~~

11 ~~(b) It is the intent of the general assembly that the exception~~
12 ~~granted by this subsection (4) does not constitute an endorsement of the~~
13 ~~use of laetrile nor does it in any way encourage its use.~~

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2020 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.28.18

DRAFT

LLS NO. 19-0118.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Repeal CDPHE Health Facility Life Safety Statutes"

A BILL FOR AN ACT

101 **CONCERNING CONFORMING AMENDMENTS NECESSITATED BY THE**
102 **TRANSFER OF CERTAIN SAFETY AUTHORITIES FROM THE**
103 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO THE**
104 **DEPARTMENT OF PUBLIC SAFETY PURSUANT TO HOUSE BILL**
105 **12-1268.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. In 2012, the general assembly transferred functions related to safety regulations for health facilities from

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Dashes through the words indicate deletions from existing statute.*

the department of public health and environment (CDPHE) to the department of public safety. The bill repeals statutory provisions that:

- Require CDPHE to adopt rules relating to fire safety of health facilities; and
- Allow CDPHE to establish a life safety code for health facilities.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-1-108, **amend**
8 (1)(c)(II); and **repeal** (1)(c)(III) and (1)(c)(IV) as follows:

9 **25-1-108. Powers and duties of state board of health.** (1) In
10 addition to all other powers and duties conferred and imposed upon the
11 state board of health by the provisions of this part 1, the board has the
12 following specific powers and duties:

13 (c) (II) To adopt rules ~~and regulations~~ and standards concerning
14 building regulations ~~and fire safety~~ for skilled and intermediate health
15 care facilities. The enforcement of these rules ~~and regulations~~ may be
16 waived by the board for periods of time as recommended by the
17 department if the rigid application ~~thereof~~ OF THE RULES would result in
18 demonstrated financial hardship to a skilled or intermediate facility, but
19 only if the waiver will not adversely affect the health and safety of
20 patients.

21 (III) ~~All rules, regulations, and standards adopted prior to~~
22 ~~February 21, 1947, by the board concerning building regulations or fire~~

1 ~~safety for nursing homes which are more strict than those provided by the~~
2 ~~highest standards as set forth in this paragraph (c) are nullified by this~~
3 ~~section, but nothing contained in this paragraph (c) shall be construed to~~
4 ~~prevent the department from adopting and enforcing, with respect to~~
5 ~~projects for which federal assistance has been obtained or shall be~~
6 ~~requested, such higher standards as may be required by applicable federal~~
7 ~~laws or regulations of federal agencies responsible for the administration~~
8 ~~of such federal laws.~~

9 (IV) ~~For the purpose of this part 1, all rules, regulations, and~~
10 ~~standards adopted prior to February 21, 1947, by the board or any board,~~
11 ~~office, or bureau whose duties are by virtue of this section transferred to~~
12 ~~the board or the department, in effect immediately prior to February 21,~~
13 ~~1947, and not inconsistent with the authority of the board as provided in~~
14 ~~this part 1 shall remain in full force and effect until superseded by rules,~~
15 ~~regulations, or standards duly adopted pursuant to this paragraph (c) by~~
16 ~~the board in conformance with this part 1, to the same effect as though~~
17 ~~such rules, regulations, and standards were adopted subsequent to the~~
18 ~~passage of this part 1 in full conformance therewith.~~

19 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-103, **amend**
20 (3.5) as follows:

21 **25-1.5-103. Health facilities - powers and duties of department**
22 **- limitations on rules promulgated by department - definitions.**

23 (3.5) (a) (I) The department of public health and environment may
24 establish ~~life safety code~~ and physical plant requirements for an
25 occupancy that is contiguous with an acute treatment unit if the
26 occupancy is operated by the acute treatment unit licensee and the
27 services provided by the occupancy are outpatient services certified in

1 accordance with article 65 of title 27 ~~C.R.S.~~, to determine appropriate
2 placement or detoxification services licensed by the department of human
3 services. The services provided by the occupancy ~~shall~~ MUST benefit
4 acute treatment unit clients, although the occupancy may also provide
5 such services to other populations. ~~It shall be at the discretion of~~ The
6 acute treatment unit licensee ~~to~~ MAY either construct the necessary fire
7 safety separations between the occupancy and the acute treatment unit or
8 ~~to~~ assume fiscal and administrative responsibility for assuring that the
9 occupancy meets the life safety code requirements as specified and
10 verified by the department of public ~~health and environment~~ SAFETY.

11 (II) ~~The state board of health may promulgate rules authorizing~~
12 ~~the department of public health and environment to assess a penalty of up~~
13 ~~to one hundred dollars per day if the department finds that an occupancy~~
14 ~~does not comply with life safety code requirements. The department shall~~
15 ~~only assess the penalty after the acute treatment unit licensee has had an~~
16 ~~opportunity to correct the noncompliance.~~

17 (III) ~~Nothing in this subsection (3.5) shall be construed to extend~~
18 ~~the life safety code authority of the department of public health and~~
19 ~~environment to an occupancy that is not subject to licensure by the~~
20 ~~department and that has the appropriate fire safety separations between~~
21 ~~the occupancy and the acute treatment unit.~~

22 (b) ~~A licensee that is subject to life safety code oversight of one~~
23 ~~or more occupancies pursuant to paragraph (a) of this subsection (3.5)~~
24 ~~shall pay a fee or fees in accordance with rules promulgated by the state~~
25 ~~board of health.~~

26 (c) ~~Any moneys collected pursuant to this subsection (3.5) shall~~
27 ~~be transmitted to the state treasurer, who shall credit the same to the~~

1 ~~health facilities general licensure cash fund created in section 25-3-103.1.~~

2 **SECTION 4. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2020 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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8.17.18

DRAFT

LLS NO. 19-0119.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Repeal Board Of Health Authority Over CDPHE Funds"

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION THAT THE STATE BOARD OF HEALTH HAS**
102 **NO AUTHORITY OVER MONEY ALLOCATED TO THE DEPARTMENT**
103 **OF PUBLIC HEALTH AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals the state board of health's authority to accept, use, disburse, and administer money allotted to the department of public health and environment for state and local public works or public health functions.

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

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-1-108, **amend** (1)
8 introductory portion; and **repeal** (1)(f) as follows:

9 **25-1-108. Powers and duties of state board of health.** (1) In
10 addition to all other powers and duties conferred and imposed upon the
11 state board of health by ~~the provisions of this part 1~~, the board has the
12 following specific powers and duties:

13 (f) ~~To accept and, through the division of administration, use,~~
14 ~~disburse, and administer all federal aid or other property, services, and~~
15 ~~moneys allotted to the department for state and local public works or~~
16 ~~public health functions, or allotted without designation of a specific~~
17 ~~agency for purposes which are within the functions of the department;~~
18 ~~and to prescribe, by rule or regulation not inconsistent with the laws of~~
19 ~~this state, the conditions under which such property, services, or moneys~~
20 ~~shall be accepted and administered. On behalf of the state, the board is~~
21 ~~empowered to make such agreements, with the approval of the attorney~~
22 ~~general, not inconsistent with the laws of this state, as may be required as~~
23 ~~a condition precedent to receiving such funds or other assistance.~~

24 **SECTION 3.** In Colorado Revised Statutes, 25-1-111, **repeal** (2)
25 as follows:

26 **25-1-111. Revenues of department.** (2) ~~The department of the~~

1 ~~treasury of this state is designated as custodian of all funds allotted to the~~
2 ~~state for the purpose outlined by section 25-1-108 (1)(f). Such funds and~~
3 ~~all other funds of the department shall be payable only on voucher signed~~
4 ~~by the executive director of the department and by the president of the~~
5 ~~board and shall be paid by warrant of the controller.~~

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2020 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.28.18

DRAFT

LLS NO. 19-0120.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Repeal CDPHE Preparation Operational Planning"

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF THE REQUIREMENT THAT THE**
102 **STATE BOARD OF HEALTH COMPLY WITH CERTAIN STATUTORY**
103 **REQUIREMENTS CONCERNING THE PREPARATION OF**
104 **OPERATIONAL PLANNING FUNCTIONS AS IF THE STATE BOARD**
105 **WERE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF**
106 **PUBLIC HEALTH AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals the requirement

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

that the state board of health comply with certain statutory requirements concerning the preparation of operational planning functions as if the state board were the executive director of the department of public health and environment.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-1-108, **repeal**
8 (1)(h) as follows:

9 **25-1-108. Powers and duties of state board of health.** (1) In
10 addition to all other powers and duties conferred and imposed upon the
11 state board of health by the provisions of this part 1, the board has the
12 following specific powers and duties:

13 (h) ~~To comply with the requirements of section 24-1-136.5,~~
14 ~~C.R.S., concerning the preparation of operational master plans, facilities~~
15 ~~master plans, and facilities program plans, as if the state board of health~~
16 ~~were the executive director of the department.~~

17 **SECTION 3. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2020 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.14.18

DRAFT

LLS NO. 19-0121.01 Kristen Forrester x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Board Of Health Approval For Legal Services"

A BILL FOR AN ACT

101 **CONCERNING ELIMINATING THE REQUIREMENT THAT THE STATE**
102 **BOARD OF HEALTH APPROVE THE RETENTION OF COUNSEL IN**
103 **CERTAIN CIRCUMSTANCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill removes the requirement that the state board of health (state board) approve the retention of counsel when the executive director of the department of public health and environment seeks to bring an action to enjoin, prosecute, or enforce public health laws or standards and the local district attorney fails to act.

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

The bill also removes the requirement that an agency, through its county or district board of health or through its public health director, acquire the approval of the state board before retaining counsel to defend the agency and its officers and employees against actions brought against them.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-1-112 as
8 follows:

9 **25-1-112. Legal adviser - attorney general - actions.** The
10 attorney general ~~shall be~~ IS the legal adviser for the department and shall
11 defend it in all actions and proceedings brought against it. The district
12 attorney of the judicial district in which a cause of action ~~may arise~~
13 ARISES shall bring any ~~action~~, civil or criminal ACTION requested by the
14 executive director of the department to abate a condition ~~which~~ THAT
15 exists in violation of, or to restrain or enjoin any action ~~which~~ THAT is in
16 violation of, or to prosecute for the violation of or for the enforcement of
17 the public health laws ~~or~~ AND the standards, orders, AND rules ~~and~~
18 ~~regulations~~ of the department established by or issued under the
19 provisions of this part 1. If the district attorney fails to act, the executive
20 director may bring any such action and shall be represented by the
21 attorney general or ~~with the approval of the board~~, by special counsel.

22 **SECTION 3.** In Colorado Revised Statutes, **amend** 25-1-514 as
23 follows:

1 **25-1-514. Legal adviser - county attorney - actions.** The county
2 attorney for the county or the district attorney of the judicial district in
3 which a cause of action arises shall bring any civil or criminal action
4 requested by a county or district public health director to abate a condition
5 that exists in violation of, or to restrain or enjoin any action that is in
6 violation of, or to prosecute for the violation of or for the enforcement of,
7 the public health laws and the standards, orders, and rules of the state
8 board or a county or district board of health. If the county attorney or the
9 district attorney fails to act, the public health director may bring an action
10 and be represented by special counsel employed by him or her with the
11 approval of the county or district board. An agency, through its county or
12 district board of health or through its public health director, ~~with the~~
13 ~~approval of the state board,~~ may employ or retain and compensate an
14 attorney to be the legal adviser of the agency and to defend ~~all actions and~~
15 ~~proceedings brought against~~ the agency ~~or~~ AND the officers and
16 employees of the agency AGAINST ALL ACTIONS AND PROCEEDINGS
17 BROUGHT AGAINST THEM.

18 **SECTION 4. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2020 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.28.18

DRAFT

LLS NO. 19-0122.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Hospital License Requirements"

A BILL FOR AN ACT

101 **CONCERNING THE MANDATORY CONTENTS OF EACH LICENSE ISSUED TO**
102 **A HOSPITAL BY THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals language requiring each hospital license issued by the department of public health and environment to include the signature of the president of the state board of health (state board), the attestation of the secretary of the state board, and the state board's seal.

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

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that repealing these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-3-102, **amend**
8 (1)(d) as follows:

9 **25-3-102. License - application - issuance - certificate of**
10 **compliance required.** (1) (d) ~~The license shall be signed by the~~
11 ~~president and attested by the secretary of the state board of health and~~
12 ~~have the state board's seal affixed to the license.~~ The license expires one
13 year from the date of issuance.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2020 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.21.18

DRAFT

LLS NO. 19-0123.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Air Quality Control"

A BILL FOR AN ACT

101 CONCERNING AIR QUALITY CONTROL, AND, IN CONNECTION
102 THEREWITH, ELIMINATING THE REQUIREMENT THAT THE STATE
103 BOARD OF HEALTH SUPERVISE CERTAIN AIR QUALITY CONTROL
104 PROGRAMS AND REMOVING STATUTORY PROVISIONS RELATING
105 TO THE AIR POLLUTION VARIANCE BOARD AND THE AIR QUALITY
106 HEARINGS BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill:

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

- Eliminates the requirement that the state board of health supervise certain air quality control programs; and
- Removes statutory provisions relating to the air pollution variance board and the air quality hearings board.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 relating to the Colorado department of public health and environment.
5 The general assembly further declares that repealing these statutory
6 provisions does not alter the scope or applicability of the remaining
7 statutes.

8 **SECTION 2.** In Colorado Revised Statutes, 25-7-111, **amend** (1)
9 as follows:

10 **25-7-111. Administration of air quality control programs -**
11 **directive - prescribed fire - review.** (1) The division shall administer
12 and enforce the air quality control programs adopted by the commission.
13 In furtherance of such responsibility of the division, the executive director
14 of the department of public health and environment shall establish within
15 the division a separate air quality control agency, the head of which shall
16 be a licensed professional engineer or shall have a graduate degree in
17 engineering or other specialty dealing with the problems of air quality
18 control. Such person shall also have appropriate practical and
19 administrative experience related to air quality control. Such person shall
20 not be the technical secretary employed pursuant to section 25-7-105 (3).
21 Any potential conflict of interest of such person shall be adequately
22 disclosed prior to appointment and as may from time to time arise. ~~All~~
23 ~~policies and procedures followed in the administration and enforcement~~

1 ~~of the air quality control programs that have been adopted by the~~
2 ~~commission shall be subject to supervision by the state board of health.~~

3 **SECTION 3.** In Colorado Revised Statutes, 25-7-127, **repeal** (3),
4 (4), and (5) as follows:

5 **25-7-127. Continuance of existing rules and orders.** (3) ~~All~~
6 ~~actions, orders, and determinations of the air pollution variance board~~
7 ~~created by article 29 of chapter 66, C.R.S. 1963, as that article existed on~~
8 ~~January 1, 1970, shall remain in full force and effect unless~~
9 ~~countermanded or modified by said board prior to July 1, 1984, or until~~
10 ~~countermanded or modified by the commission created by this article.~~

11 (4) ~~All actions, orders, and determinations of the air pollution~~
12 ~~variance board created by this article as it existed prior to June 20, 1979,~~
13 ~~shall remain in full force and effect unless countermanded or modified by~~
14 ~~said board prior to July 1, 1984, or until countermanded or modified by~~
15 ~~the commission created by this article.~~

16 (5) ~~All actions, orders, and determinations of the air quality~~
17 ~~hearings board created by this article as this article existed prior to July~~
18 ~~1, 1984, shall remain in full force and effect until countermanded or~~
19 ~~modified by the commission created by this article.~~

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2020 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.16.18

DRAFT

LLS NO. 19-0125.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Water Quality Control"

A BILL FOR AN ACT

101 CONCERNING WATER QUALITY CONTROL, AND, IN CONNECTION
102 THEREWITH, ELIMINATING THE REQUIREMENT THAT THE STATE
103 BOARD OF HEALTH APPROVE A MUNICIPALITY'S ENTRANCE INTO
104 A JOINT OPERATING AGREEMENT WITH AN INDUSTRIAL
105 ENTERPRISE FOR WORK RELATING TO SEWERAGE FACILITIES
106 AND CLARIFYING THAT THE BOARD OF DIRECTORS OF A WATER
107 CONSERVANCY DISTRICT MUST COMPLY WITH THE RULES OF
108 THE WATER QUALITY CONTROL COMMISSION CONCERNING THE
109 MANNER IN WHICH WATERCOURSES OF THE DISTRICT ARE USED
110 FOR WASTE DISPOSAL.

Bill Summary

(Note: This summary applies to this bill as introduced and does

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Dashes through the words indicate deletions from existing statute.*

not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill:

- Eliminates the requirement that the state board of health approve a municipality's entrance into a joint operating agreement with an industrial enterprise for work relating to sewerage facilities; and
- Clarifies that the board of directors of a water conservancy district must comply with the rules of the water quality control commission concerning the manner in which watercourses of the district are used for waste disposal.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 relating to the Colorado department of public health and environment.
5 The general assembly further declares that repealing these statutory
6 provisions does not alter the scope or applicability of the remaining
7 statutes.

8 **SECTION 2.** In Colorado Revised Statutes, 31-15-710, **amend**
9 (1)(a)(VI) as follows:

10 **31-15-710. Water pollution control.** (1) The governing body of
11 each municipality has the power:

12 (a) To provide for the cleansing and purification of water,
13 watercourses, and canals and the draining or filling of ponds on private
14 property when necessary to prevent or abate nuisances; and for the
15 purpose of aiding in the prevention and abatement of water pollution all
16 municipalities are authorized:

17 (VI) To enter into joint operating agreements with industrial

1 enterprises and to accept gifts or contributions from such industrial
2 enterprises for the construction, reconstruction, improvement, betterment,
3 and extension of sewerage facilities and sewage treatment works. When
4 determined by its governing body to be in the public interest and
5 necessary for the protection of public health, ~~any~~ A municipality is
6 authorized to enter into and perform contracts, whether long-term or
7 short-term, with ~~any~~ AN industrial establishment for the provision and
8 operation by the municipality of sewerage facilities to abate or reduce the
9 pollution of waters caused by discharges of industrial wastes by the
10 industrial establishment and the payment periodically by the industrial
11 establishment to the municipality of amounts at least sufficient, in the
12 determination of such governing body, to compensate the municipality for
13 the cost of providing, including payment of principal and interest charges,
14 if any, and of operating and maintaining the sewerage facilities serving
15 such industrial establishment. ~~The powers set forth in this subparagraph~~
16 ~~(VI) may only be exercised after approval of the state board of health.~~

17 **SECTION 3.** In Colorado Revised Statutes, 37-3-106, **amend** (1)
18 as follows:

19 **37-3-106. Regulations to protect works.** (1) Where necessary,
20 in order to secure the best results from the execution and operation of the
21 plans of the district or to prevent damage to the district by the
22 deterioration or misuse or by the pollution of the waters of any
23 watercourse therein, the board of directors may make ~~regulations~~ RULES
24 for and may prescribe the manner of building bridges, roads, fences, or
25 other works in, into, along, or across any channel, reservoir, or other
26 construction; and may prescribe the manner in which ditches or other
27 works shall be adjusted to or connected with the works of the district or

1 any watercourse therein; and, when not in conflict with the ~~regulations~~
2 ~~RULES of the state board of health~~ WATER QUALITY CONTROL
3 COMMISSION, may prescribe the manner in which the watercourses of the
4 district may be used for sewer outlets or for disposal of waste.

5 **SECTION 4. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2020 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.16.18

DRAFT

LLS NO. 19-0126.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "CDPHE Emergency Epidemic Preparedness"

A BILL FOR AN ACT

101 **CONCERNING ELIMINATING THE DUTY OF THE STATE BOARD OF**
102 **HEALTH TO ADOPT RULES ESTABLISHING STANDARDS TO ENSURE**
103 **THAT CERTAIN ENTITIES ARE PREPARED FOR AN EMERGENCY**
104 **EPIDEMIC.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals the requirement that the state board of health adopt rules and establish standards to assure area trauma advisory councils and managed care organizations are

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

prepared for an emergency epidemic.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal _____ statutory provisions
4 relating to the Colorado department of public health and environment.
5 The general assembly further declares that repealing these statutory
6 provisions does not alter the scope or applicability of the remaining
7 statutes.

8 **SECTION 2.** In Colorado Revised Statutes, 25-1-108, **amend**
9 (1)(c)(VI) as follows:

10 **25-1-108. Powers and duties of state board of health.** (1) In
11 addition to all other powers and duties conferred and imposed upon the
12 state board of health by the provisions of this part 1, the board has the
13 following specific powers and duties:

14 (c) (VI) To adopt rules and to establish such standards as the
15 board may deem necessary or proper to assure that hospitals; other acute
16 care facilities; county, district, and municipal public health agencies; AND
17 trauma centers ~~area trauma advisory councils, and managed care~~
18 ~~organizations~~ are prepared for an emergency epidemic, as defined in
19 section 24-33.5-703 (4), ~~C.R.S.~~, that is declared to be a disaster
20 emergency, including the immediate investigation of any case of a
21 suspected emergency epidemic.

22 **SECTION 3. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2020 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
8.21.18

DRAFT

LLS NO. 19-0127.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Clarify Radiation Advisory Committee Compensation"

A BILL FOR AN ACT

101 CONCERNING CLARIFYING THAT MEMBERS OF THE RADIATION
102 ADVISORY COMMITTEE ARE REIMBURSED FOR EXPENSES
103 INCURRED FOR AUTHORIZED BUSINESS OF THE COMMITTEE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill clarifies that members of the radiation advisory committee are reimbursed for necessary and actual expenses incurred in attendance at meetings or for authorized business of the committee.

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

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to clarify statutory provisions
4 within the Colorado department of public health and environment. The
5 general assembly further declares that clarifying these statutory provisions
6 does not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 25-11-105, **amend**
8 (1) as follows:

9 **25-11-105. Radiation advisory committee.** (1) The governor
10 shall appoint a radiation advisory committee of nine members, no more
11 than four of whom ~~shall~~ represent any one political party and three of
12 whom ~~shall~~ represent industry, three the healing arts, and three the public
13 and private institutions of higher education. Members of the committee
14 ~~shall~~ serve at the discretion of the governor and ~~shall be~~ ARE reimbursed
15 for necessary and actual expenses incurred in attendance at meetings or
16 for authorized business of the ~~board~~ COMMITTEE. The committee shall
17 furnish to the department such technical advice as may be desirable or
18 required on matters relating to the radiation control program.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2020 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716

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MEMORANDUM 2b¹

TO: Statutory Revision Committee

FROM: Kristen Forrestal, Office of Legislative Legal Services

DATE: October 10, 2019

SUBJECT: Department of Natural Resources: Removing outdated statutory language concerning gifts, grants, and donations and replacing with modernized language

Summary

The Department of Natural Resources is authorized to “receive or reject gifts and devises of money or property” in section 24-33-108, C.R.S., to be credited to a special fund known as the Colorado natural resources foundation fund. During the 2017 legislative session, the General Assembly passed [Senate Bill 17-294](#)² to amend subsection (3) of this section, but the language of the entire section has not been modernized to reflect the language currently used in the statutes to reflect a department’s authority to seek, accept, and expend gifts, grants, and donations from public or private sources. The entire section of statute should be updated to reflect current language.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

² Senate Bill 17-294, Concerning the nonsubstantive revision of statutes in the Colorado Revised Statutes, as amended, and, in connection therewith, amending or repealing obsolete, imperfect, and inoperative law to preserve the legislative intent, effect, and meaning of the law.

This issue was brought to staff's attention by the Department of Natural Resources.

Analysis

The language concerning the receipt of gifts and devises of money or property that is currently in statute should be removed and replaced with modern language used when drafting statutory provisions today.

Section 24-33-108, C.R.S., reads in pertinent part:

24-33-108. Gifts and devised to the department. (1) The department of natural resources is authorized to **receive or reject gifts and devises of money or property and, subject to the terms of any gift or devise and to the provisions of any applicable law, to hold such funds or property** in trust or invest, sell, or exchange the same and use either principal or interest or the proceeds of sale or the exchanged property received for the benefit of the department and the public as specified in this section.

(2) The department of natural resources may cooperate with and assist any donor or foundation or similar organization intending to make **gifts and devises of money and property for donation** to or use by the department in the provision and maintenance of parks, recreational areas, or scenic or natural areas and for related uses. The acceptance of any gift or devise shall not commit the state to any expenditure of state funds.

(3) Any money received as gifts under this section and any money received from the investment of such money or property received under this section and any interest therefrom must be credited to a special fund known as the Colorado natural resources foundation fund. The fund and any **gifts or devises** received by the department of natural resources pursuant to this section shall not diminish any appropriations made to the department. Money in the fund shall not be expended in such a manner as to commit expenditures from the general fund or any cash fund that is designated for regulatory purposes within the division of water resources. The use of **gifts and devises** are subject to audit by the state auditor or the state auditor's designee, the cost of which shall be borne by the department.

(4) Repealed. **(Emphases added)**

Statutory Charge³

The Office of Legislative Legal Services currently uses canned language when authorizing an entity to receive gifts, grants, and donations in order to make the authority consistent throughout the statutes. For this reason, the language in section 24-33-108, C.R.S., should be updated.

Proposed Bill

Staff has attached a bill draft to address the issue. The Department of Natural Resources has been advised that we have reviewed the issue and have a proposed bill drafted for review by the SRC.

³ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.9.18

DRAFT

LLS NO. 19-0296.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "DNR Language Update"

A BILL FOR AN ACT

101 **CONCERNING UPDATING STATUTORY LANGUAGE AUTHORIZING THE**
102 **DEPARTMENT OF NATURAL RESOURCES TO RECEIVE DONATIONS**
103 **TO BE CREDITED TO THE COLORADO NATURAL RESOURCES**
104 **FOUNDATION FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Current law authorizes the department of natural resources to "receive or reject gifts and devises of money or property" to be credited to the Colorado natural resources foundation fund. The bill repeals this authorizing language and updates

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

it with authorizing language that is current and consistent with language used throughout the statutes.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to clarify statutory provisions
4 within the Colorado department of natural resources. The general
5 assembly further declares that clarifying these statutory provisions does
6 not alter the scope or applicability of the remaining statutes.

7 **SECTION 2.** In Colorado Revised Statutes, 24-33-108, **amend**
8 (1), (2), and (3) as follows:

9 **24-33-108. Gifts, grants, and donations to the department -**
10 **Colorado natural resources foundation fund.** (1) The department of
11 natural resources is authorized to receive ~~or reject gifts and devises~~ GIFTS,
12 GRANTS, AND DONATIONS of money or property and, subject to the terms
13 of any gift, ~~or devise~~ GRANT, OR DONATION and to the provisions of any
14 applicable law, to hold ~~such funds~~ THE MONEY or property in trust or
15 invest, sell, or exchange the ~~same~~ MONEY OR PROPERTY and use either
16 principal or interest or the proceeds of sale or the exchanged property
17 received for the benefit of the department and the public as specified in
18 this section.

19 (2) The department of natural resources may cooperate with and
20 assist any donor or foundation or similar organization intending to make
21 gifts, ~~and devises of money and property for donation~~ GRANTS, OR
22 DONATIONS to or FOR use by the department in the provision and
23 maintenance of parks, recreational areas, or scenic or natural areas and for
24 related uses. The acceptance of any gift, ~~or devise shall~~ GRANT, OR
25 DONATION MUST not commit the state to any expenditure of state funds.

1 (3) Any money OR PROPERTY received ~~as gifts~~ under this section
2 and any money received from the investment of ~~such~~ THE money or
3 property ~~received under this section and any interest therefrom~~ must be
4 credited to a special fund known as the Colorado natural resources
5 foundation fund. The fund and any gifts, ~~or devises~~ GRANTS, OR
6 DONATIONS received by the department of natural resources pursuant to
7 this section ~~shall~~ MUST not diminish any appropriations made to the
8 department. Money in the fund ~~shall~~ MUST not be expended in such a
9 manner as to commit expenditures from the general fund or any cash fund
10 that is designated for regulatory purposes within the division of water
11 resources. The use of gifts, ~~and devises are~~ GRANTS, AND DONATIONS IS
12 subject to audit by the state auditor or the state auditor's designee, the cost
13 of which AUDIT shall be borne by the department.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2020 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.

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MEMORANDUM 2c¹

TO: Statutory Revision Committee

FROM: Kristen Forrestal, Office of Legislative Legal Services

DATE: October 10, 2018

SUBJECT: The regulation of real estate management companies: Correcting the definition of "appraisal management company" to align with current federal law.

Summary

During the 2018 legislative session, the General Assembly passed [Senate Bill 18-210](#)², the intent of which was to amend the definition of "real estate management company" to align with current federal law. The bill amended subsection (2)(a) of section 12-61-702, C.R.S., which defines "appraisal management company." The bill as passed does not accurately reflect the federal definition. This issue was brought to the attention of staff by the Office of the Attorney General.

Analysis

Section 12 U.S.C. 3350 (11) defines "appraisal management company" as follows:

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

² Senate Bill 180219, Concerning the regulation of real estate appraisal management companies, and, in connection therewith, aligning state law with current federal law and regulations.

The term “**appraisal management company**” means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

(A) to recruit, select, and **retain** appraisers;

(B) to contract with licensed and certified appraisers to perform appraisal assignments;

(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

Section 12-61-702 (2), C.R.S., as amended in Senate Bill 18-210, reads in pertinent part:

12-61-702. Definitions. As used in this part 7, unless the context otherwise requires:

(2) (a) "**Appraisal management company**" or "**AMC**" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor in a consumer credit transaction secured by a consumer's principal dwelling that oversees an appraiser panel or by an underwriter of, or other principal in, the secondary mortgage markets that oversees an appraiser panel to:

(I) Recruit, select, and **train** appraisers; (**Emphases added**)

The direction given to staff was to align the state law with current federal law. When Senate Bill 18-210 was drafted, the word "retain" from federal law was written into the bill as "train." The General Assembly passed the bill as drafted. In order to reflect the proper alignment with federal law, section 12-61-702 (2)(a)(I), C.R.S., should be corrected to state "retain."

Statutory Charge³

Removing the word "train" and replacing it with "retain" meets the Committee's statutory charge to correct defects in the law.

Proposed Bill

Staff has attached a bill draft to address the issue. Staff has informed the bill sponsors of both bills that this issue is before the Committee.

³ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions". Section 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." Section 2-3-902 (3), C.R.S.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.10.18

DRAFT

LLS NO. 19-0309.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Appraisal Management Company Definition"

A BILL FOR AN ACT

101 **CONCERNING AN AMENDMENT TO THE DEFINITION OF "APPRAISAL**
102 **MANAGEMENT COMPANY" TO ALIGN WITH THE DEFINITION IN**
103 **FEDERAL LAW.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill amends the definition of "appraisal management company" to align with the definition in federal law.

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

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

1 **SECTION 1. Legislative declaration.** The general assembly
2 declares that the purpose of this act is to clarify statutory provisions
3 within the Colorado department of regulatory agencies. The general
4 assembly further declares that clarifying these statutory provisions does
5 not alter the scope or applicability of the remaining statutes.

6 **SECTION 2.** In Colorado Revised Statutes, 12-61-702, **amend**
7 (2)(a)(I) as follows:

8 **12-61-702. Definitions.** As used in this part 7, unless the context
9 otherwise requires:

10 (2) (a) "Appraisal management company" or "AMC" means, in
11 connection with valuing properties collateralizing mortgage loans or
12 mortgages incorporated into a securitization, any external third party
13 authorized either by a creditor in a consumer credit transaction secured by
14 a consumer's principal dwelling that oversees an appraiser panel or by an
15 underwriter of, or other principal in, the secondary mortgage markets that
16 oversees an appraiser panel to:

17 (I) Recruit, select, and ~~train~~ RETAIN appraisers;

18 **SECTION 3. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2020 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.

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MEMORANDUM 2d¹

TO: Statutory Revision Committee

FROM: Brita Darling, Office of Legislative Legal Services

DATE: October 10, 2018

SUBJECT: Removing duplicate language concerning licensing requirements for teachers and special services providers from other states

Summary

During the 2018 legislative session, the General Assembly passed House Bill 18-1095² and House Bill 18-1130.³ Both bills amended subsection (3) of section 22-60.5-201, C.R.S., and subsection (3) of section 22-60.5-210, C.R.S., which concern the requirements for issuing either a professional teacher license or a professional special services license to applicants who hold a license from another state. House Bill 18-1095 created an exception to the "continuous experience" requirement, which exception applies to military spouses. House Bill 18-1130 amended the "continuous experience" requirement so that the exception created for military spouses in House Bill 18-1095 is now the requirement for all out-of-state applicants. However, both the new, broader requirement and the military spouse exception remain in statute, causing

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² House Bill 18-1095, Concerning Educator Licenses Issued to Military Spouses. See **Addendum A**.

³ House Bill 18-1130, Concerning Increasing the Availability of Qualified Personnel Who are Licensed in Another State to Teach in Public Schools. See **Addendum A**.

confusion to readers trying to assign meaning to the military spouse exception. The military spouse "continuous experience" exception should be removed from the statute as it is redundant and potentially confusing to both the administrators of the licensure program and to teacher and special services applicants from other states trying to navigate Colorado's educator licensing requirements.

This issue was raised by Office of Legislative Legal Services in the course of reviewing statutes as part of the annual publications process for the Colorado Revised Statutes.

Analysis

The specific exception for military spouses to the "continuous experience" requirement for out-of-state teacher and special services applicants should be removed so that the language does not create confusion.

Section 22-60.5-201(3), C.R.S., reads in pertinent part:

22-60.5-201. Types of teacher licenses issued - term - definition - rules. (3)

(b) (I) The department of education may issue a professional teacher license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a teacher license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional teacher license; and

(B) **Except as otherwise provided in subsection (3)(b)(III) of this section, the applicant has had at least three years of successful, evaluated experience within the previous seven years** as a teacher in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(III) (A) **If the applicant is a military spouse, the teaching experience required pursuant to subsection (3)(b)(I)(B) of this section need not be continuous, but must have occurred within the previous seven years.**

(B) As used in subsection (3)(b)(III)(A) of this section, "military spouse" means a spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to Colorado, is domiciled in Colorado, or has moved to Colorado on a permanent change-of-station basis. **(Emphases added)**

Section 22-60.5-210 (3), C.R.S., reads in pertinent part:

22-60.5-210. Types of special services licenses issued - term definition. (3)

(b) (I) The department of education may issue a professional special services license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a special services license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional special services license; and

(B) **Except as otherwise provided in subsection (3)(b)(III) of this section, the applicant has had at least three years of successful, evaluated experience within the previous seven years** as a special services provider in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(III) (A) **If the applicant is a military spouse, the special services provider experience required pursuant to subsection (3)(b)(I)(B) of this section need not be continuous, but must have occurred within the previous seven years.**

(B) As used in subsection (3)(b)(III)(A) of this section, "military spouse" means a spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to Colorado, is domiciled in Colorado, or has moved to Colorado on a permanent change-of-station basis. **(Emphases added)**

While the Office of Legislative Legal Services was able to harmonize the competing amendments to subsection (3) in both section 22-60.5-201 and section 22-60.5-210, the bolded language in subsection (3)(b)(I)(B) of both sections, "**Except as otherwise provided in subsection (3)(b)(III) of this section**" is confusing, because the bolded language does not "otherwise" provide, but in fact provides the identical requirement. All teacher and special services applicants licensed in another state, regardless of whether the applicant is a military spouse, must meet the same requirement of "three years of successful, evaluated experience within the previous seven years".⁴ Laypersons and courts interpreting amendments to statute will attempt to apply meaning to those amendments. In this case, a person reading subsection (3) of either section with clarity will understand that the military spouse exception to the requirement contained in sections 22-60.5-201 (3)(b)(III) and 22-60.5-210(3)(b)(III) is redundant and is subsumed

⁴ Section 22-60.5-201 (3)(b)(I)(B), C.R.S., section 22-60.5-201 (3)(b)(III)(A), C.R.S., section 22-60.5-210 (3)(b)(I)(B), C.R.S., and section 22-60.5-210 (3)(b)(III)(A).

by the broader requirement for all applicants contained in section 22-60.5-201 (3)(b)(I)(B) and section 22-60.5-210(3)(b)(I)(B), respectively. For these reasons, the purported "exception" for military spouses should be removed from statute to avoid redundancy and confusion.

Statutory Charge⁵

Removing the military spouse "continuous experience" exception meets the Committee's statutory charge to remove redundant and contradictory or confusing language from statute.

Proposed Bill

Staff has attached a bill draft to address the issue. Staff has contacted the bill sponsors of House Bill 18-1095, which added the military spouse exception, and those sponsors have indicated their support for this issue.

⁵ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions". Section 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." Section 2-3-902 (3), C.R.S.

An Act

HOUSE BILL 18-1095

BY REPRESENTATIVE(S) Carver and Arndt, Bridges, Buckner, Catlin, Coleman, Esgar, Exum, Garnett, Hansen, Herod, Jackson, Landgraf, Lebsock, Melton, Michaelson Jenet, Pabon, Pettersen, Rankin, Reyher, Rosenthal, Salazar, Valdez, Van Winkle, Weissman, Williams D., Wilson, Winter, Young, Duran;
also SENATOR(S) Gardner and Todd, Aguilar, Cooke, Coram, Court, Crowder, Donovan, Fenberg, Fields, Guzman, Hill, Jahn, Kagan, Kefalas, Martinez Humenik, Merrifield, Moreno, Priola, Sonnenberg, Williams A., Zenzinger, Grantham.

CONCERNING EDUCATOR LICENSES ISSUED TO MILITARY SPOUSES.

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

SECTION 1. In Colorado Revised Statutes, 22-60.5-201, **amend** (3)(b)(I)(B); and **add** (3)(b)(III) as follows:

22-60.5-201. Types of teacher licenses issued - term - definition - rules. (3) (b) (I) The department of education may issue a professional teacher license to any applicant from another state if:

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(b)(III) OF THIS SECTION, the applicant has had at least three years of continuous,

successful, evaluated experience as a teacher in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(III) (A) IF THE APPLICANT IS A MILITARY SPOUSE, THE TEACHING EXPERIENCE REQUIRED PURSUANT TO SUBSECTION (3)(b)(I)(B) OF THIS SECTION NEED NOT BE CONTINUOUS, BUT MUST HAVE OCCURRED WITHIN THE PREVIOUS SEVEN YEARS.

(B) AS USED IN SUBSECTION (3)(b)(III)(A) OF THIS SECTION, "MILITARY SPOUSE" MEANS A SPOUSE OF AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES WHO HAS BEEN TRANSFERRED OR IS SCHEDULED TO BE TRANSFERRED TO COLORADO, IS DOMICILED IN COLORADO, OR HAS MOVED TO COLORADO ON A PERMANENT CHANGE-OF-STATION BASIS.

SECTION 2. In Colorado Revised Statutes, 22-60.5-210, **amend** (3)(b)(I)(B); and **add** (3)(b)(III) as follows:

22-60.5-210. Types of special services licenses issued - term - definition. (3) (b) (I) The department of education may issue a professional special services license to any applicant from another state if:

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(b)(III) OF THIS SECTION, the applicant has had at least three years of continuous, successful, evaluated experience as a special services provider in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(III) (A) IF THE APPLICANT IS A MILITARY SPOUSE, THE SPECIAL SERVICES PROVIDER EXPERIENCE REQUIRED PURSUANT TO SUBSECTION (3)(b)(I)(B) OF THIS SECTION NEED NOT BE CONTINUOUS, BUT MUST HAVE OCCURRED WITHIN THE PREVIOUS SEVEN YEARS.

(B) AS USED IN SUBSECTION (3)(b)(III)(A) OF THIS SECTION, "MILITARY SPOUSE" MEANS A SPOUSE OF AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES WHO HAS BEEN TRANSFERRED OR IS SCHEDULED TO BE TRANSFERRED TO COLORADO, IS DOMICILED IN COLORADO, OR HAS MOVED TO COLORADO ON A PERMANENT CHANGE-OF-STATION BASIS.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 18-1130

BY REPRESENTATIVE(S) Williams D. and Arndt, Humphrey, Van Winkle, Leonard, Lundeen, Lewis, Beckman, Neville P., McKean, Buck, Saine, Everett, Liston, Covarrubias, Ransom, Reyher, Becker J., Becker K., Bridges, Buckner, Carver, Coleman, Exum, Ginal, Hooton, Kennedy, Kraft-Tharp, Lebsock, Lee, Lontine, McLachlan, Michaelson Jenet, Pabon, Pettersen, Rosenthal, Sias, Valdez, Weissman, Wilson, Winter, Wist, Young;
also SENATOR(S) Gardner, Cooke, Crowder, Garcia, Hill, Holbert, Jahn, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Priola, Scott, Smallwood, Tate, Grantham.

CONCERNING INCREASING THE AVAILABILITY OF QUALIFIED PERSONNEL WHO
ARE LICENSED IN ANOTHER STATE TO TEACH IN PUBLIC SCHOOLS.

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

SECTION 1. In Colorado Revised Statutes, 22-60.5-201, **amend** (3)(b)(I)(B) as follows:

22-60.5-201. Types of teacher licenses issued - term - definition - rules. (3) (b) (I) The department of education may issue a professional teacher license to any applicant from another state if:

(B) The applicant has had at least three years of ~~continuous~~; successful, evaluated experience WITHIN THE PREVIOUS SEVEN YEARS as a teacher in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

SECTION 2. In Colorado Revised Statutes, 22-60.5-210, amend (3)(b)(I)(B) as follows:

22-60.5-210. Types of special services licenses issued - term - definition. (3) (b) (I) The department of education may issue a professional special services license to any applicant from another state if:

(B) The applicant has had at least three years of ~~continuous~~; successful, evaluated experience WITHIN THE PREVIOUS SEVEN YEARS as a special services provider in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.10.18

DRAFT

LLS NO. 19-0308.01 Brita Darling x2241

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Remove Redundant Language In Educator Licensing"

A BILL FOR AN ACT

101 **CONCERNING REMOVING REDUNDANT LANGUAGE IN THE EDUCATOR**
102 **LICENSING STATUTE REGARDING REQUIREMENTS FOR**
103 **OUT-OF-STATE APPLICANTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill removes amendments House Bill 18-1095 made to the educator licensing statute regarding the number of years a military spouse licensed in another state must teach continuously or have continuous experience in order to apply for a professional teacher license or professional special services license in

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

Colorado.

House Bill 18-1130 amended statute to apply the same standards to all out-of-state applicants as apply to military spouses. The bill removes the redundant and possibly confusing reference to military spouses in the professional teacher license statute and the professional special services license statute.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that the purpose of this legislation is to remove
4 redundant and confusing references to an exception in the "continuous
5 experience" requirement for out-of-state teacher and special services
6 license applicants that was added during the 2018 legislative session.

7 (2) The general assembly further declares that removing these
8 references does not in any way alter the scope or applicability of the
9 statutory sections in which the references appear.

10 **SECTION 2.** In Colorado Revised Statutes, 22-60.5-201, **amend**
11 (3)(b)(I)(B); and **repeal** (3)(b)(III) as follows:

12 **22-60.5-201. Types of teacher licenses issued - term - rules.**

13 (3) (b) (I) The department of education may issue a professional teacher
14 license to any applicant from another state if:

15 (B) ~~Except as otherwise provided in subsection (3)(b)(III) of this~~
16 ~~section,~~ The applicant has had at least three years of successful, evaluated
17 experience within the previous seven years as a teacher in an established
18 elementary or secondary school and can provide documentation of such
19 experience on forms provided by the department.

20 (III) ~~(A) If the applicant is a military spouse, the teaching~~
21 ~~experience required pursuant to subsection (3)(b)(I)(B) of this section~~
22 ~~need not be continuous, but must have occurred within the previous seven~~

1 years.

2 ~~(B) As used in subsection (3)(b)(III)(A) of this section, "military~~
3 ~~spouse" means a spouse of an active duty member of the armed forces of~~
4 ~~the United States who has been transferred or is scheduled to be~~
5 ~~transferred to Colorado, is domiciled in Colorado, or has moved to~~
6 ~~Colorado on a permanent change-of-station basis.~~

7 **SECTION 3.** In Colorado Revised Statutes, 26-60.5-210, **amend**
8 (3)(b)(I)(B); and **repeal** (3)(b)(III) as follows:

9 **22-60.5-210. Types of special services licenses issued - term.**

10 (3) (b) (I) The department of education may issue a professional special
11 services license to any applicant from another state if:

12 (B) ~~Except as otherwise provided in subsection (3)(b)(III) of this~~
13 ~~section,~~ The applicant has had at least three years of successful, evaluated
14 experience within the previous seven years as a special services provider
15 in an established elementary or secondary school and can provide
16 documentation of such experience on forms provided by the department.

17 (III) (A) ~~If the applicant is a military spouse, the special services~~
18 ~~provider experience required pursuant to subsection (3)(b)(I)(B) of this~~
19 ~~section need not be continuous, but must have occurred within the~~
20 ~~previous seven years.~~

21 ~~(B) As used in subsection (3)(b)(III)(A) of this section, "military~~
22 ~~spouse" means a spouse of an active duty member of the armed forces of~~
23 ~~the United States who has been transferred or is scheduled to be~~
24 ~~transferred to Colorado, is domiciled in Colorado, or has moved to~~
25 ~~Colorado on a permanent change-of-station basis.~~

26 **SECTION 4. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.

OFFICE OF LEGISLATIVE LEGAL SERVICES

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MEMORANDUM 2e¹

TO: Statutory Revision Committee

FROM: Esther van Mourik, Office of Legislative Legal Services

DATE: October 16, 2018

SUBJECT: Laws regarding payment of taxes by electronic funds transfer

Summary

Colorado taxpayers are authorized to pay certain state taxes by electronic funds transfers (EFT). An effort is underway to make consistent the laws and administrative rules that allow payment of taxes by EFT. There are two statutory changes necessary to continue this effort. First, an amendment to a severance tax statute is necessary to make EFT payments optional instead of mandatory so that all such EFT statutes in the tax code remain consistent. Second, an amendment to a sales tax statute is necessary to allow the Department of Revenue (Department) to require EFTs to be made at a different time of day on the specified deadline than non-EFT payments.

Analysis

Over the years, statutes were enacted that either required or allowed tax remittances by electronic funds transfers and provided the Department with

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

inconsistent authority to promulgate implementation rules. In 2017, the General Assembly enacted [House Bill 17-1136](#) to establish consistent statutory language for payment of taxes by EFT. The goal was to grant the Department the administrative authority to require taxpayers to pay taxes by EFT (instead of requiring such payment in law) as well as the authority to promulgate any rules to implement remittances by EFT. Unfortunately, the bill inadvertently omitted section 39-29-111 (1)(b), C.R.S., which requires EFT instead of authorizing the Department to require EFT and requires the Department to promulgate rules instead of allowing such promulgation:

39-29-111. Withholding of income from oil and gas interest. (1) (b) On and after July 1, 2007, all amounts paid to the department of revenue pursuant to paragraph (a) of this subsection (1) shall be remitted electronically. The department shall promulgate rules in accordance with article 4 of title 24, C.R.S., governing electronic payment.

This omission creates an inconsistency with respect to payment of taxes by EFT, and the same changes made in House Bill 17-1136 are necessary for this particular section.

Second, section 39-26-105.5, C.R.S. specifies that the Department "shall not require any taxpayer required to remit sales taxes by electronic funds transfers to remit sales tax prior to the deadline specified in section 39-26-105 for taxpayers who remit sales taxes by other means." Such statutory language is not included for any tax other than the sales tax. The Department specifies in rule that all tax remittances (including sales tax) are due by 11:59 p.m. on the due date for timely payment unless the remittance is made by EFT. If the remittance is made by EFT, the remittance is due at 4:00 p.m. on the due date.

While the Department's rule directly contradicts section 39-26-105.5, the Department has a reasonable explanation for requiring EFT remittances to be made by 4:00 p.m. instead of by 11:59 p.m. Financial institutions typically have a daily processing window for EFT payments that closes before the end of the business day. Any EFTs initiated after the daily processing window have to wait until the following day's daily processing window to be processed. As a result, the Department is unable to determine whether an EFT payment made after 4:00 p.m. is made by the due date. An exception to address this issue is necessary.

Statutory Charge²

The Statutory Revision Committee is explicitly tasked with examining the statutes of the state "for the purpose of discovering defects and anachronisms in the law . . . and recommending needed reforms"; thus, amending sections 39-29-111 (1)(b) and 39-26-105.5, C.R.S., appears to fall squarely within that prong of the Committee's charge. Such amendments will both address a defect and bring the laws regarding payment of taxes by EFT into harmony with modern conditions.

Proposed Bill

The attached bill draft amends sections 39-29-111 (1)(b) and 39-26-105.5, C.R.S. as described in this memorandum.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.16.18

DRAFT

LLS NO. 19-0320.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Taxes Paid By Electronic Funds Transfers"

A BILL FOR AN ACT

101 **CONCERNING THE PAYMENT OF TAXES BY ELECTRONIC FUNDS**
102 **TRANSFERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill authorizes the executive director of the department of revenue (director) to require the remittance of severance taxes electronically and allows the department to promulgate rules governing such electronic payment.

The bill authorizes the director to require a taxpayer to remit sales taxes by electronic funds transfers at an earlier hour on the deadline day

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

for making a return and paying the taxes due than taxpayers who remit sales taxes by other means.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this legislation, enacted in 2019, is to amend
4 section 39-29-111, Colorado Revised Statutes, concerning the electronic
5 remittance of severance taxes, in order to make consistent the laws and
6 administrative rules that allow payment of taxes by electronic funds
7 transfers and to amend section 39-26-105.5, Colorado Revised Statutes,
8 concerning the electronic remittance of sales taxes in order to bring the
9 law into harmony with modern banking practices.

10 **SECTION 2.** In Colorado Revised Statutes, 39-29-111, **amend**
11 (1)(b) as follows:

12 **39-29-111. Withholding of income from oil and gas interest.**

13 (1) (b) ~~On and after July 1, 2007,~~ THE EXECUTIVE DIRECTOR MAY
14 REQUIRE all amounts paid to the department of revenue DUE pursuant to
15 ~~paragraph (a) of this subsection (1) shall~~ SUBSECTION (1)(a) OF THIS
16 SECTION TO be remitted electronically. The department ~~shall~~ MAY
17 promulgate rules in accordance with article 4 of title 24 ~~C.R.S.~~, governing
18 electronic payment.

19 **SECTION 3.** In Colorado Revised Statutes, **amend** 39-26-105.5
20 as follows:

21 **39-26-105.5. Remittance of sales taxes - electronic funds**
22 **transfers.** For any calendar year, the executive director may require any
23 vendor whose liability for state sales tax only for the previous calendar
24 year was more than seventy-five thousand dollars to use electronic funds
25 transfers to remit all state and local sales taxes required to be remitted to

1 the executive director of the department of revenue. The executive
2 director may promulgate rules to implement this section, but shall first
3 consult with the state treasurer to ensure that any rules promulgated do
4 not adversely affect the ability of the state treasurer to optimize sales tax
5 investment earnings. Such rules shall be promulgated in accordance with
6 article 4 of title 24. The executive director shall not require any taxpayer
7 required to remit sales taxes by electronic funds transfers to remit sales
8 tax prior to the deadline specified in section 39-26-105 for taxpayers who
9 remit sales taxes by other means; EXCEPT THAT THE EXECUTIVE DIRECTOR
10 MAY REQUIRE A TAXPAYER TO REMIT SALES TAXES BY ELECTRONIC FUNDS
11 TRANSFERS AT AN EARLIER HOUR ON THE DAY OF THE DEADLINE FOR
12 MAKING A RETURN AND PAYING THE TAXES DUE THAT IS SPECIFIED IN
13 SECTION 39-26-105 THAN TAXPAYERS WHO REMIT SALES TAXES BY OTHER
14 MEANS.

15 **SECTION 4. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly (August 2, 2019, if adjournment sine die is on May 3,
19 2019); except that, if a referendum petition is filed pursuant to section 1
20 (3) of article V of the state constitution against this act or an item, section,
21 or part of this act within such period, then the act, item, section, or part
22 will not take effect unless approved by the people at the general election
23 to be held in November 2020 and, in such case, will take effect on the
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to remittances made on or after the applicable
26 effective date of this act.

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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MEMORANDUM 2f¹

TO: Statutory Revision Committee

FROM: Jason Gelender, Office of Legislative Legal Services

DATE: October 16, 2018

SUBJECT: Clarify scope of sales tax exemption for manufactured homes

Summary

Section 39-26-721 (1), C.R.S., exempts from state sales tax and, by operation of section 29-2-105 (1)(d)(I), C.R.S., also exempts from local sales taxes,² 48% of the purchase price for the initial sale of "factory-built housing as ... defined in section 24-32-3302 (10), C.R.S.," and 100% of the purchase price for any subsequent sale of a "manufactured home." However, section 24-32-3302 (10), C.R.S., does not actually define "factory-built housing," which is no longer defined in the Colorado Revised Statutes, but instead defines "factory-built residential structure," which includes a smaller subset of manufactured housing than "factory-built housing" included. This inconsistency creates ambiguity regarding the precise scope of this state sales tax exemption. Section 39-26-721 (1), C.R.S., should therefore be amended to eliminate the reference to "factory-built housing" and replace it with a reference to a specific

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

² § 29-2-105 (1)(d)(I), C.R.S., requires a local sales tax to be levied subject to the same sales tax exemptions as those specified in part 7 of article 26 of title 39, C.R.S., unless the statute specifically provides local governments with the option to allow or not allow a particular exemption. The statute does not provide a local option with respect to this sales tax exemption.

definition of "manufactured home" that includes all of the housing that the repealed definition of "factory-built housing" included.

The Department of Revenue brought this issue to staff's attention.

Analysis

Section 39-26-721 (1), C.R.S., should be amended to clarify that the sales tax exemption that it provides for applies to "manufactured homes," as defined in section 42-1-102 (106), C.R.S.

Section 39-26-721 (1), C.R.S., states:

39-26-721. Manufactured homes. (1) Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in section 24-32-3302 (10), C.R.S., shall be exempt from taxation under part 1 of this article; except that the entire purchase price in any subsequent sale of a manufactured home, as such vehicle is defined in section 42-1-102 (106)(b), C.R.S., after such manufactured home has been once subject to the payment of sales tax by virtue of section 39-26-113, shall be exempt from taxation under part 1 of this article.

This exemption has been allowed for many years, but until 2003 it referenced a definition of "factory-built housing" that was codified in section 24-32-703 (3), C.R.S., and until 2004 the exemption itself was codified in section 39-26-114 (10), C.R.S.

In 2003, the General Assembly enacted [Senate Bill 03-182](#), which consolidated various programs relating to the regulation of manufactured housing. As part of this consolidation, the bill repealed the definition of "factory-built housing" codified in section 24-32-703 (3), C.R.S., and replaced it with a new definition of "factory-built residential structure" codified in section 24-32-3302 (10), C.R.S. The bill also included a conforming amendment that correctly updated the statutory reference for the definition of "factory-built housing" used in section 39-26-114 (10), C.R.S.,³ from section 24-32-703 (3), C.R.S., to section 24-32-3302 (10), C.R.S., but failed to replace the repealed term "factory-built housing" with the new term "factory-built residential structure."

³ In 2004, the General Assembly enacted [Senate Bill 04-087](#), which relocated § 39-26-114 (10), C.R.S., to its present location as § 39-26-721 (1), C.R.S., without making substantive changes.

Unlike the repealed term "factory-built housing," which had been defined to include both residential structures installed on permanent foundations and mobile homes designed to be used as dwellings without a permanent foundation, the term "factory-built residential structure" includes only "structures designed to be installed on a permanent foundation." Consequently, the inconsistency in section 39-26-721 (1), C.R.S., created by the use of the repealed term "factory-built housing" with a statutory reference to the definition of the term "factory-built residential structure" creates ambiguity as to whether the sales tax exemption continues to apply to structures designed for residential occupancy in either temporary or permanent locations or now applies only to those structures designed to be installed on permanent foundations.

Because it does not appear that the General Assembly intended to narrow the scope of the sales tax exemption when enacting Senate Bill 03-182, section 39-26-721 (1), C.R.S., should be amended to clarify that the exemption continues to apply to structures designed for occupancy in either temporary or permanent locations. Since "factory-built housing" is no longer a statutorily defined term, the best way to accomplish this without working any substantive change to the law is to change the reference to "factory-built housing" in section 39-26-721 (1), C.R.S., to a reference to "a manufactured home, as defined in section 42-1-102 (106)(b)," a definition that includes structures designed for residential occupancy "in either temporary or permanent locations." The attached bill draft does that and also includes a nonsubstantive conforming amendment to section 39-26-721 (2), C.R.S.

Statutory Charge⁴

Clarifying the scope of the sales tax exemption provided for in section 39-26-721 (1), C.R.S., falls within the SRC's charge of eliminating an antiquated reference (to the term "factory-built housing") that creates a contradictory rule of law defining the scope of the exemption.

⁴ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

Proposed Bill

Staff has attached a bill draft to address this issue. Staff of the Department of Revenue have reviewed the draft and believe that it provides the necessary clarification regarding the scope of the sales tax exemption provided for in section 39-26-721 (1), C.R.S.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.15.18

DRAFT

LLS NO. 19-0259.01 Jason Gelender x4330

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Scope Of Manufactured Home Sales Tax Exemption"

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE SCOPE OF AN EXISTING SALES**
102 **TAX EXEMPTION FOR MANUFACTURED HOMES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. A state sales and use tax exemption statute (exemption statute) exempts from state sales tax, and through operation of another statute also exempts from local sales taxes, 48% of the purchase price for the initial sale of "factory-built housing" and 100% of the purchase price for any subsequent sale of a "manufactured home" (sales tax exemption). The exemption statute

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

references another statute defining "factory-built housing". In Senate Bill 03-182, however, the general assembly replaced the existing definition of "factory-built housing" with a new definition of "factory-built residential structure", and the statute referenced in the exemption statute actually defines the latter term. The definition of "factory-built residential structure" includes only "structures designed to be installed on a permanent foundation" and therefore arguably limits the sales tax exemption, which had previously clearly applied to structures designed for occupancy in either temporary or permanent locations, to only those structures designed to be installed on permanent foundations.

The bill clarifies the scope of the sales tax exemption by allowing it for "manufactured homes", a term that a specifically referenced statute defines broadly to include homes designed to be installed on either temporary or permanent foundations.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this legislation, enacted in 2019, is to effect
4 a nonsubstantive change in statute to clarify the scope of an existing state
5 sales and use tax exemption for manufactured homes. The general
6 assembly further declares that the addition of such clarifying language to
7 the section does not in any way alter the scope or applicability of the
8 statutory section involved.

9 **SECTION 2.** In Colorado Revised Statutes, 39-26-721, **amend**
10 (1) and (2) as follows:

11 **39-26-721. Manufactured homes.** (1) Forty-eight percent of the
12 purchase price of ~~factory-built housing, as such housing is defined in~~
13 ~~section 24-32-3302 (10), C.R.S., shall be~~ A MANUFACTURED HOME, AS
14 DEFINED IN SECTION 42-1-102 (106)(b), IS exempt from taxation under
15 part 1 of this article **26**; except that the entire purchase price in any
16 subsequent sale of SUCH a manufactured home, ~~as such vehicle is defined~~
17 ~~in section 42-1-102 (106)(b), C.R.S., after such manufactured home~~ IT has

1 been once subject to the payment of sales tax by virtue of section
2 39-26-113, ~~shall be~~ IS exempt from taxation under part 1 of this article **26**.

3 (2) The storage, use, or consumption of a manufactured home, as
4 ~~such vehicle~~ is defined in section 42-1-102 (106)(b), ~~C.R.S.~~, after ~~such~~
5 THE manufactured home has been once subject to the payment of use tax
6 by virtue of section 39-26-208, ~~shall be~~ IS exempt from taxation under ~~the~~
7 ~~provisions of~~ part 2 of this article **26**.

8 **SECTION 3. Effective date.** This act takes effect July 1, 2019.

9 **SECTION 4. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.