

2017 COLORADO LAWS ENACTED AFFECTING MUNICIPAL GOVERNMENTS



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FOREWORD

During the 2017 session of the Colorado General Assembly, CML tracked 257 of the 684 bills and resolutions introduced. Of the 41 bills that CML supported, nearly 61 percent passed. Of the 29 bills that CML opposed, 93 percent were defeated or were amended such that the League dropped its opposition.

Each year, CML analyzes the laws passed by the General Assembly that affect cities and towns. *2017 Colorado Laws Enacted Affecting Municipal Governments* focuses on selected acts that have a particular significance for municipal operations, services, and powers — it is not a comprehensive listing of all new legislation enacted into law affecting municipal government. For information or assistance on any legislative questions, contact CML at 303-831-6411 or 866-578-0936.

CML is continuing its commitment to its members by providing the information they need as inexpensively and easily as possible. *2017 Colorado Laws Enacted Affecting Municipalities* will be available to all for free — along with several past years' editions — online at www.cml.org under Information > Publications.

Kevin Bommer
CML deputy director
June 2017

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HB 17-1120**BEER & LIQUOR****Campus complex license**

Allows higher education institutions licensed to serve alcoholic beverages for on-premises consumption to apply for “campus liquor complex” designation. Permits institution to designate multiple facilities on campus as locations for serving alcoholic beverages. Institution must designate principal licensed premises and additional separate, related facilities located within campus liquor complex, clearly identify each facility by location within campus, and clearly identify areas where alcoholic beverages will be consumed. Requires each related facility to be permitted and under ownership or control of licensee. Establishes that each facility is deemed separately permitted for purposes of license discipline. Sets state and local permit fees. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1137**BEER & LIQUOR****Statutory reporting requirement**

Repeals requirement for Department of Revenue to submit certain annual reports to General Assembly. Includes requirement that municipal and county liquor licensing authorities report license violations and penalties to the Liquor Enforcement Division. Contains other provisions. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-077**BEER & LIQUOR****Government agency special event permit**

Authorizes state agency, Colorado wine industry development board, or instrumentality of municipality or county that promotes alcoholic beverages manufactured in Colorado or tourism to area of Colorado where alcoholic beverages are manufactured to obtain special event permit. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-134**BEER & LIQUOR****Limitation on penalties related to sales rooms**

Limits penalties for sales to minors or sales to visibly intoxicated persons that occur in sales rooms of beer wholesaler, winery, limited winery, or distillery; as well as brew pub, vintner’s restaurant, or distillery pub. Prohibits licensing authority from basing fine on estimated gross revenues of manufacturing or wholesale activities of licensee or extending any suspension to manufacturing or wholesale activities of licensee. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-237**BEER & LIQUOR****Age of employees serving alcohol**

Permits licensed tavern or lodging & entertainment facility that regularly serves meals to allow employee between 18 and 21 to sell alcoholic beverages if supervised on-site by person 21 or older. Effective: June 5, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-269**BEER & LIQUOR****Sale of nonalcoholic products**

Excludes revenue from cigarettes, tobacco products, nicotine products, lottery products, ice, soft drinks, mixers, and nonfood items related to consumption of alcoholic beverages from calculation of 20-percent cap on retail liquor store’s gross revenues from sale of nonalcoholic products. Effective: June 5, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-267**BUDGET****Hospital provider fee omnibus**

Establishes hospital provider fee as enterprise program under the Taxpayer Bill of Rights (TABOR) and allows full funding of hospitals. Increases state retail marijuana special sales tax to 15 percent, but reduces local shareback to 10 percent to maintain 1.5 percent per transaction shareback to local governments with retail sales. Allows lease purchasing of state buildings for up to \$1.8 billion bonds to issue for state transportation projects. Increases state credit for business personal property taxes paid to \$18,000. Decreases state TABOR spending cap by \$200 million. Contains numerous other provisions. Effective: July 1, 2017 with special exceptions. Lobbyists: Kevin Bommer, kbommer@cml.org, Dianne Criswell, dcriswell@cml.org. *Reprinted.*

SB 17-179**BUILDING REGULATIONS****Fee limits for solar energy device installation**

Extends repeal date of existing statute that limits amount of permit, plan review, or other fees that counties, municipalities or state may charge for installing solar energy devices for residential use at \$500 and commercial use at \$1,000. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

SB 17-247**BUILDING REGULATIONS****Electrical inspectors licensing qualifications**

Waives continuing education requirement upon first license renewal or reinstatement for electricians who successfully complete licensing examination. Repeals provision allowing electricians who have certain certifications and experience but have not passed written residential wireman’s examination to conduct state inspections of family dwellings. Creates exception to repeal for inspectors employed by local government on or before Jan. 1, 2019, who may continue to perform inspections without having passed written examination until Jan. 1, 2023. Adds that after Jan. 1, 2023 all locally employed inspectors must meet same criteria as state inspectors. Effective Jan. 1, 2019. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1179**CRIMINAL JUSTICE****Immunity for emergency rescue from a locked vehicle**

Provides immunity from civil and criminal liability for person who renders emergency assistance to at-risk person or dog

or cat in locked vehicle under certain specified circumstances. Effective Date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1313

CRIMINAL JUSTICE

Civil asset forfeiture

Creates seizure reporting process in Division of Local Affairs (DOLA). Requires creation of reporting form for agencies involved in seizure of property (seizing agencies) to use in submitting biannual seizure reports. Requires DOLA to establish and maintain searchable public access database for seizure-related information. Requires seizing agencies to submit seizure information on form created by DOLA twice annually by June 1 and December 1, unless report could disclose confidential information. Requires DOLA to send notice to any seizing agency that failed to file biannual report within 30 days after report was due. Authorizes DOLA to levy civil fine against seizing agency if there was not good cause for failure to report. Establishes that seizing agencies may only receive forfeiture proceeds from federal government if aggregate value of property and currency seized is more than \$50,000 and if seizure was initiated by federal government and related to a filed criminal case. Requires all property and forfeited proceeds from joint task force, multi-jurisdictional collaboration, or federal distribution to be submitted through state process unless aggregate amount is in excess of \$50,000. Adds that assets above \$50,000 be referred to a federal agency for federal prosecution. Requires DOLA to submit a report summarizing seizure and forfeiture activity in state to governor, attorney general, and General Assembly by Dec. 31, 2019, and each December 31 thereafter. Effective Date: Aug 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org. *Reprinted.*

SB 17-220

CRIMINAL JUSTICE

Restorative Justice Coordinating Council

Continues Restorative Justice Coordinating Council in Judicial Department indefinitely. Effective: April 28, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1356

ECONOMIC DEVELOPMENT

Economic development income tax credits

Authorizes Colorado Economic Development Commission (EDC) to allow certain businesses to treat specific income tax credits as transferable income tax credits. Allows EDC to pre-certify \$10 million in transferable credits in each fiscal year from FY 2017-18 to FY 2019-20 for a total of \$30 million. Any portion of \$10 million not pre-certified by EDC in any fiscal years may not be certified in future years. Requires business to make at least \$100 million capital investment for each precertification that EDC finds will be significant to state productive over time to qualify. Contains numerous other provisions. Effective: May 24, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

SB 17-280

ECONOMIC DEVELOPMENT

Colorado Economic Development Commission

Extends Colorado Economic Development Commission by changing repeal date to July 1, 2025. Authorizes commission

to transfer \$5 million to Colorado Economic Development Fund and expend money without further appropriation. Effective: May 20, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1215

EMPLOYMENT

Mental health support for peace officers

Encourages sheriffs and police departments to adopt policies for mental health professionals to provide on-scene response services to support officers' handling of persons with mental health disorders and counseling services to officers. Creates grant program in Department of Local Affairs. Funds program with gifts, grants, and donations. Repeals grant program Sept. 1, 2027. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1269

EMPLOYMENT

Repeal prohibition of wage sharing information

Repeals reference to exemption for employers exempt from the provisions of National Labor Relations Act in unfair labor practices statute. In effect, now includes state and local governments in current law establishing discriminatory and unfair labor practice for an employer to discharge, discipline, discriminate against, coerce, intimidate, threaten, or interfere with any employee or other person because employee inquired about, disclosed, compared, or otherwise discussed employee's wages. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-214

EMPLOYMENT

Firefighters voluntary cancer benefits trust

Allows employer to participate in voluntary firefighter cancer benefits program, as multiple employer health trust to provide benefits to firefighters by paying contributions into established trust. Requires trust to provide benefits to each firefighter based on cancer diagnosis and award level. Contains numerous other provisions. Effective: May 3, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org. *Reprinted.*

SB 17-252

ENERGY

Utility cost saving contracts

Authorizes local governments to enter into utility cost-savings contracts for increasing meter accuracy and clarifies that operation and maintenance cost-savings calculations must be made on net basis. Effective: June 5, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org

HB 17-1152

FEDERAL MINERAL LEASE

District investment authority

Gives federal mineral lease (FML) district option to invest portion of funding it receives from local government mineral impact fund in a fund and allows part of invested funding to be later disbursed. Requires establishment of certain policies and procedures related to fund investment and establishes allowable investment types. Requires FML district to adopt investment policy resolution that must be reviewed annually and must include certain elements.

Contains several related provisions. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-021 **HOMELESSNESS**

Assistance to released mentally ill offenders

Establishes housing program for persons with mental illness transitioning from incarceration. Requires housing assistance program to be managed by Department of Local Affairs (DOLA). Requires DOLA to provide grants or loans for acquisition, construction, or rehabilitation of rental housing for persons with behavioral or mental health disorders. Creates the Housing Assistance for Persons Transitioning from Incarceration Cash Fund. Effective: June 2, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1279 **HOUSING**

Construction defects informed consent

Requires executive board of homeowners association (HOA) to notify all unit owners before initiating construction defect lawsuit. Requires board also notify builder(s) of development. Specifies that before construction defect lawsuit is filed, HOA board must obtain approval of majority of unit owners. Requires HOA board to convene a meeting for board and developer to present relevant facts and arguments to HOA unit owners before vote. Dictates various disclosures that must be included in notification to HOA unit owners and construction professionals. Sets deadlines for board to provide notifications, convene meeting, and collect votes for or against construction defect lawsuit. Effective Date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org. *Reprinted.*

HB 17-1369 **IMMIGRATION**

Bonds persons fail to appear due to immigration issues

Allows person or professional bail bonding agent (surety) who posts bail bond for defendant to recover bond if surety can provide court satisfactory evidence that defendant was deported. Defines procedures for surety to recover bond. States that law enforcement agencies holding defendant must not notify defendant's surety before bond is posted that his or her bond or fees may be forfeited if defendant is deported. Contains other provisions. Effective: June 6, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1034 **MARIJUANA**

Medical marijuana business operator's license

Creates license equivalent to same license in retail marijuana code. (Note: Authority for local government to issue medical marijuana business operator's license amended into SB 17-192, effective Aug. 9.) Allows medical marijuana licensee to move business anywhere in Colorado upon approval of state and local jurisdiction to conform with retail marijuana code. Gives medical marijuana licensee same opportunity to remediate product determined to be injurious to health due to microbial or destroy product. Allows medical marijuana-infused product manufacturers to sell or buy medical marijuana from another medical marijuana-infused

product manufacturer. Contains other provisions. Effective: March 16, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1148 **MARIJUANA**

Industrial hemp cultivator registration

Requires applicants for commercial industrial hemp cultivation registration to provide names of each officer, director, member, partner, or owner of 10 percent or more in entity applying for registration. Contains provisions for denial and restrictions on reapplication under certain circumstances. Contains other provisions. Effective: March 23, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1203 **MARIJUANA**

Statutory entity special sales tax

Authorizes counties and statutory municipalities to levy, collect, and enforce special sales tax on retail marijuana and retail marijuana products. Restricts counties to tax only in unincorporated areas of county. Allows counties to collect county tax within a municipality if not municipal special sales tax exists or if county enters into intergovernmental agreement with municipality to allow county to tax. Contains provisions requiring voter approval and election dates. Allows county tax approved prior to enactment of this bill, subject to bill's requirements. Contains several other provisions. Effective: May 4, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org. *Reprinted.*

HB 17-1220 **MARIJUANA**

Prevention of diversion to black market

Establishes cap on number of plants that can be possessed or grown on a residential property at 12 plants unless a local jurisdiction permits more. Establishes criminal penalties. Allows medical marijuana patient or primary caregiver permitted to cultivate more than 12 plants to comply with local limitations. Requires compliance with all applicable municipal ordinances, including grow locations and lower plant count caps. Contains other provisions. Effective: Jan. 1, 2018. Lobbyist: Kevin Bommer, kbommer@cml.org. *Reprinted.*

HB 17-1221 **MARIJUANA**

Gray and black market marijuana enforcement efforts

Creates gray and black market marijuana enforcement grant program in Colorado Department of Local Affairs (DOLA). Establishes grant program to reimburse local governments, in part or in full, for law enforcement and prosecution costs associated with gray and black marijuana markets. Rural local governments have priority for grants. Defines constitutional provision creating authority to assist another person in cultivating retail and medical marijuana plants. States person is not in compliance if possessing plants grown on behalf of another, unless he or she is primary caregiver and in compliance with other provisions of law. Effective: July 1, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1367**MARIJUANA****Research and testing licensure**

Creates state and local marijuana research and development license that allows holder to possess marijuana for research purposes and state and local marijuana research and development cultivation license that allows holder to grow, cultivate, possess, and transfer marijuana for research purposes. Requires applicant to describe research to be conducted and if public entity or public money involved. Restricts marijuana research and development cultivation licensee to sell cultivated marijuana only to holders of identical license. Permits both licenses to contract with a public research institution of higher education or marijuana research and development licensee. Allows medical marijuana testing facility licensee to test medical marijuana and medical marijuana-infused products for marijuana research and development licensees and marijuana research and development cultivation licensees, and marijuana or marijuana-infused products grown or produced by a registered patient or registered primary caregiver on behalf of a registered patient. Contains numerous other provisions. Effective July 1, 2018. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-192**MARIJUANA****Transfer and average market rate revisions**

Allows state licensing authority to authorize single-instance transfers of retail marijuana or retail marijuana products from retail marijuana licensee to medical marijuana licensee. Creates limitations. Authorizes Department of Revenue to calculate the average market rate on a quarterly basis, not including taxes paid on sales or transfers. Requires separate average market rate for unprocessed marijuana for extraction that is lower than average market rate for unprocessed marijuana for direct sale. Clarifies that average market rate will be used to calculate excise tax on all county, municipal, or metropolitan district transactions. Contains other provisions. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1083**MUNICIPAL COURTS****Advisement for traffic offenses**

Excludes traffic infractions for which penalty is only a fine and arrest is prohibited from certain advisement requirements in HB 16-1309. Effective Date: July 1, 2018. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1162**MUNICIPAL COURTS****Driving under restraint**

Changes penalty for driving with a license that is restricted by outstanding judgment. Changes penalty from unclassified misdemeanor with maximum penalty of six months of imprisonment and fine of \$500 to class A traffic infraction punishable by assessment of three points to violator's driver license. Allows municipal courts to enforce violations for driving with outstanding judgment, but municipal court cannot waive three-point penalty assessment against driver's license. Effective Date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org. *Reprinted.*

HB 17-1204**MUNICIPAL COURTS****Juvenile record expungement**

Makes a number of changes relating to access to juvenile delinquency records and the eligibility and process for expunging those records. Creates process in municipal court for juvenile expungement of municipal court cases. Defines cases eligible for expungement as well as when they can be expunged. Provides opportunity for objection in municipal courts. Establishes disclosure procedures and potential civil remedies if certain information deemed expunged is released. Contains other provisions. Effective Date: Sept. 1, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org. *Reprinted.*

HB 17-1208**MUNICIPAL COURTS****Record sealing clean-up**

Clarifies process for sealing certain criminal records following creation of simplified process under SB 16-116. Pertains to cases where defendant is acquitted, completes diversion agreement or deferred sentence, or whenever case against defendant is dismissed. Clarifies that municipal courts may collect \$65 fee to seal records under simplified process. Adds that courts may waive fee. Contains other provisions. Effective Date: Sept. 1, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1266**MUNICIPAL COURTS****Seal misdemeanor marijuana conviction records**

Allows defendants convicted of misdemeanor offense for use or possession of marijuana to petition to seal criminal records if offense would not have been a crime if committed on or after Dec. 10, 2012. Specifies that defendants must pay court's filing fee and additional \$65. Requires establishment by preponderance of evidence that offense would not have been a crime on or after Dec. 10, 2012. Requires defendant to provide court order to Colorado Bureau of Investigation (CBI) and appropriate custodians. Requires defendant to pay CBI's record sealing fee. Effective date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1316**MUNICIPAL COURTS****Delay implementation of HB 16-1309**

Delays implementation of HB 16-1309, requiring counsel at first appearance in municipal courts in certain circumstances. Establishes new effect date of July 1, 2018. Effective Date: April 28, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1338**MUNICIPAL COURTS****Bond notification and hearing**

Sets time frames for notification of municipal court of municipal hold when defendant is in jail and does not immediately receive personal recognizance (PR) bond. Requires jail to notify court within four hours. Defines timeline court must hold a hearing as two calendar days. Specifies certain circumstances where court must hold a hearing within four calendar days. Requires municipal courts to

establish email address or telephone line with voicemail, if no Internet service is available, to receive notifications from jails. Specifies that jails may meet notification requirements by sending email, fax, or teletype, or leaving voicemail with municipal court. Requires court, during hearing, to either arraign defendant or, if defendant was arrested for failure to appear, conduct proceedings for which defendant failed to appear. Creates exception when that proceeding is a trial, evidentiary hearing, or requires presence of a witness. Adds that if case is not resolved at hearing, municipal court is required to immediately conduct bond hearing to consider and set least restrictive conditions for defendant's release on bond. Requires each municipal court to adopt standing orders to implement HB 17-1338 and to provide those orders to each jail within county where municipal court is located. Establishes process for court to issue PR bond to defendant if above conditions are not met. Effective Date: Jan. 1, 2018. Lobbyist: Meghan Dollar, mdollar@cml.org. *Reprinted.*

HB 17-1360 MUNICIPAL COURTS

Criminal recording sealing subsequent offense

Establishes that if individuals are convicted of petty offenses or municipal violations and commit another offense within three years, individuals may petition to seal their records 10 years following the second conviction. Requires that offense cannot involve domestic violence. Specifies that individual cannot petition for sealing if he or she commits another offense within 10-year period. Requires individual to pay the civil filing fee required by law. Effective Date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-202 NATURAL RESOURCES

Species Conservation Trust Fund

Appropriates \$1.5 million from species conservation trust fund for programs submitted by Colorado Department of Natural Resources that are designed to conserve native species that state or federal law list as threatened or endangered, or that are candidate species, or are likely to become candidate species as determined by United States Fish and Wildlife Service. Effective: June 2, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

SB 17-259 NATURAL RESOURCES

General Fund transfers

Requires state treasurer to transfer money from general fund for following programs: \$2,272,727 to Forest Restoration and Wildfire Risk Mitigation Grant Program cash fund; \$4,090,909 to Species Conservation Trust Fund; \$2,452,193 to Division of Parks and Outdoor Recreation Aquatic Nuisance Species Fund; and \$1,184,171 to Division of Wildlife Aquatic Nuisance Species Fund. Effective: May 3, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org

HB 17-1177 OPEN RECORDS

Mediation of disputes

Amends the Colorado Open Record Act (CORA) by establishing 14-day period following CORA denial, during which custodian and requester must meet to attempt to

resolve dispute. Effective Aug. 9, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org. *Reprinted.*

SB 17-040 OPEN RECORDS

Public access to government files

Modifies Colorado Open Record Act (CORA) by creating new procedures for sortable or searchable public records, requiring custodians to provide digital public records in these formats unless exception exists (exceptions include when providing record in format would violate copyright or licensing agreements, if it is not technologically or practically feasible to redact information or to provide copy of record, or if custodian would be required to purchase software). Requires that, if custodian cannot produce record in these formats, written declaration must be provided, which is subject to review under arbitrary and capricious standard. Effective Aug. 9, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org. *Reprinted.*

SB 17-013 PENSIONS & RETIREMENT

Fire and police – Multi-employer deferred compensation plan document

Allows Fire and Police Pension Association (FPPA) to provide master document that will assist members in establishing multi-employer deferred compensation plan, in addition to current law which allows plan for FPPA member employers. Effective Aug. 9, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org.

HB 17-1070 PUBLIC SAFETY

Unmanned aircraft systems

Requires Center of Excellence for Advanced Technology and Aerial Firefighting in Department of Public Safety to conduct study on use of unmanned aircraft systems (UAS) within state and local government firefighting operations. Creates UAS pilot program. Specifies that on or before Sept. 1, 2018, results of study and pilot program are to be submitted to Wildfire Matters Review and Agricultural committees of the General Assembly. Funds study and pilot project through gifts, grants, and donations. Effective: June 5, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-050 PUBLIC SAFETY

Forest Risk and Health Grant Programs

Consolidates existing state grant programs related to forest management under Colorado State Forest Service at Colorado State University (CSU). Renames cash funds. Moves Wildfire Risk Reduction Grant Program from Department of Natural Resources (DNR) on Dec. 31, 2017, and transfers balance to Wildfire Risk Reduction and Forest Health Grant Program Cash Fund. Authorizes \$2.5 million in transfers from Severance Tax Operational Fund from July 1, 2017, to Sept. 1, 2023, to Wildfire Risk Reduction and Forest Health Grant Program Cash Fund. Contains other provisions. Effective: March 16, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-066**PUBLIC SAFETY****Municipal authority to employ police**

Clarifies retroactively that home rule and statutory municipalities may create and regulate their own police forces. Clarifies that municipalities are exempt from state sunrise process under certain circumstances. Effective: April 4, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-074**PUBLIC SAFETY****Medication-Assisted Treatment Pilot Program**

Creates pilot program in College of Nursing at University of Colorado to make grants for organizations providing medication-assisted treatment to persons with opioid use disorders in Pueblo and Routt counties. Appropriates \$500,000 annually from Marijuana Tax Cash Fund. Specifies appropriations are from FY 2017-18 and FY 2018-19. Repeals program on June 30, 2020. Contains other provisions. Effective May 22, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-096**PUBLIC SAFETY****Reserve Peace Officer Academy Grant Program**

Creates reserve academy grant program in Division of Homeland Security (DHS) in Department of Public Safety (DPS). Provides one-time grant to create Reserve Peace Officer Training Academy and to train and certify reserve peace officer auxiliary group. Establishes guidelines for grant application and awarding of grants. Repeals grant program on July 1, 2019. Effective: June 2, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

SB 17-261**PUBLIC SAFETY****2013 Flood Recovery Account and Transfer**

Creates 2013 Flood Recovery Account in Disaster Emergency Fund in Department of Public Safety (DPS). Specifies account to be used by governor for costs associated with response and recovery from 2013 flood. Adds that on July 1, 2017, state treasurer must transfer \$12.5 million from General Fund to account. Requires that funds in account are only for 2013 flood response and recovery efforts. Repeals account June 30, 2021. Effective: April 28, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1065**SPECIAL DISTRICTS****Formation of metropolitan districts**

Expands current law regarding agricultural land in parks and recreation districts to include tracts of land within metropolitan district that provide parks or recreational facilities and programs. Specifies that landowners affected must provide written consent before that land is included in metropolitan district. Clarifies that only signatures collected after governing body's approval of special district service plan may be considered by district court to determine if required number of eligible voters in proposed special district have signed petition for organization. Effective: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1198**SPECIAL DISTRICTS****Special district board composition**

Allows special district with five-member board of directors to increase to seven board members. Requires board to hold a public meeting and adopt a resolution before increasing membership. Specifies that adopted resolution must then be filed with county or municipality that approved special district's service plan. Requires municipality or county to notify special districts board within 45 days if increase is considered material modification. Allows special district board to file resolution, with clerk of district court for order establishing number of board members, if they have not heard from municipality or county within 45 days. Requires court order be filed with county clerk. Specifies process for filling two additional board positions. Adds that any special district that increases to seven board members is not allowed to decrease board to five members. Effective Date: Aug. 9, 2017. Lobbyist: Meghan Dollar, mdollar@cml.org.

HB 17-1018**TAXATION****Property – Regional transportation authority**

Extends authorization to regional transportation authorities to seek voter approval for property tax levy for an additional 10 years to 2029. Effective Aug. 9, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org.

HB 17-1216**TAXATION****Sales and use – Interim Task Force**

Creates a legislative task force to study sales and use tax simplification between state and local governments to identify opportunities and challenges within existing fiscal frameworks to adopt innovative revenue-neutral solutions, including: the feasibility of a third-party entity for state or local sales and use tax administration, return processing, and audits; making audits more uniform; utilizing certified software for tax administration and sales tax remittance; and utilizing a single tax return. Effective: June 5, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org. *Reprinted.*

HB 17-1349**TAXATION****Property – Residential assessment**

Sets residential assessment rate, pursuant to Gallagher Amendment, at 7.2 percent for tax years 2017 and 2018. Effective: June 5, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org.

SB 17-034**TAXATION****Property – Transfer from General Fund for disaster to Road & Bridge Fund**

Extends for another four years existing authority for county to transfer county general fund money to county road and bridge fund for purposes of disaster response and recovery under specified circumstances. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-112**TAXATION****Sales and use – Erroneously sourced tax**

Changes statutory remedy for taxpayers who paid sales or use tax to one local government in error (when it should have paid the amount to a different local government) by removing time restrictions and requiring that remedy only be available if taxpayer has followed previous reporting instructions. Effective April 18, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org. *Reprinted.*

HB 17-1193**TELECOMMUNICATIONS****Small cell wireless facilities siting**

Clarifies that expedited permitting process established for broadband facilities applies to small cell facilities and small cell networks. Clarifies that rights-of-way access afforded to telecommunications providers for construction, maintenance, and operation of telecommunications and broadband facilities extends to broadband providers, small cell facilities, and small cell networks. Provides that telecommunications provider has right to locate or collocate small cell facilities and small cell networks on local government entity's light poles, light standards, traffic signals, or utility poles in rights-of-way owned by local government, subject applicable law. Contains other provisions. Effective: July 1, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org. *Reprinted.*

SB 17-306**TELECOMMUNICATIONS****High cost support mechanism transfer to broadband grants**

Updates language regarding use of money from high cost support mechanism (HCSM) for broadband deployment grant applications approved by broadband deployment board to allow direct transfer of money from HCSM to approved broadband deployment grant applicants. Directs Public Utilities Commission (PUC) to determine amount of HCSM money available for broadband deployment and related administrative costs, and requires that amount to be held in separate account. Effective: June 6, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-153**TRANSPORTATION****Southwest Chief and Front Range Passenger Rail Commission**

Replaces Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Commission with Southwest Chief and Front Range Passenger Rail Commission, also housed in Colorado Department of Transportation (CDOT). Will assume powers and duties of old commission. Effective: May 22, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org.

SB 17-213**TRANSPORTATION****Automated driving motor vehicles**

Declares regulation of automated driving systems is matter of statewide concern and prohibits local authorities from setting different standards for these systems than for human drivers. Authorizes use of automated driving systems if

system is capable of conforming to every state and federal law that applies to driving; otherwise, a person testing system is required to obtain approval from Colorado State Patrol and Colorado Department of Transportation. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org

SB 17-262**TRANSPORTATION****HUTF and capital construction fund transfers**

Reduces state General Fund transfer to Highway Users Tax Fund (HUTF) to be made for current fiscal year on June 30, 2017, from \$158 million to \$79 million and \$79 million on June 30, 2018. Future statutory transfers in fiscal years 2018-19 and 2019-20, reduced in SB 17-262, were eliminated by SB 17-267. Effective April 28, 2017. Lobbyist: Dianne Criswell, dcriswell@cml.org.

SB 17-278**TRANSPORTATION****Nuisance exhibition of motor vehicle exhaust**

Prohibits engaging in nuisance exhibition of motor vehicle exhaust, defined as act of knowingly blowing black smoke through one or more exhaust pipes attached to motor vehicle with gross vehicle weight rating of 14,000 pounds or less in manner that obstructs or obscures view of another driver, bicyclist, or pedestrian. Person who violates prohibition commits a class A traffic infraction, punishable by fine of \$100. Effective: June 5, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org

HB 17-1016**URBAN RENEWAL****Exclusion of mineral resources from tax increment financing**

Permits municipal governing body to provide in urban renewal plan that valuation attributable to extraction of mineral resources located within urban renewal area is not subject to tax increment calculation. Treats distribution of tax revenue as if urban renewal plan does not exist. Defines certain terms. Effective: Aug. 9, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

SB 17-279**URBAN RENEWAL****Applicability of legislation impacting urban renewal authorities**

Clarifies applicability provisions HB 15-1348 and SB 16-177 in connection with urban redevelopment projects allocating tax revenues. Clarifies that substantial modification of urban renewal plan is proposed modification that substantially changes specified aspects of urban renewal plan. Specifies that if modification is deemed substantial, modification is subject requirements of urban renewal law addressing modifications. Clarifies that pledge to secure payment of refunding bonds is not substantial modification and is not subject to modification requirements of urban renewal law. Establishes procedure for notification of proposed plan modifications before approval and process for other taxing entities to seek relief if governing body or urban renewal authority does not deem modification substantial. Clarifies that HB 15-1348, SB 16-177, and SB 17-279 applies to municipalities, authorities, and plans

created on or after Jan. 1, 2016, and to substantial modification of any plan. Effective: May 25, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org. *Reprinted.*

HB 17-1008 **WATER & WASTEWATER**
**Graywater regulation exemption
for scientific research**

Authorizes use of graywater for scientific research involving human subjects and sets minimum requirements for conducting such research, including research must be conducted on behalf of an educational institution. Graywater research conducted need not comply with commission's water quality control regulations. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1030 **WATER & WASTEWATER**
Irrigation District Law

Amends 1921 irrigation district law to remove inconsistencies and updates antiquated, obsolete provisions. Clarifies water acquired in excess of irrigation district's own needs can be leased for all beneficial purposes permitted by decree or applicable law, rather than only for domestic, agricultural, and power and mechanical purposes. Contains numerous other provisions. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1219 **WATER & WASTEWATER**
Fallowing and Leasing Pilot Program

Expands and extends Agricultural Water Leasing Pilot Program, administered by Colorado Water Conservation Board, established to demonstrate practice of fallowing agricultural land and leasing associated water rights for temporary municipal, agricultural, environmental, industrial, or recreational use. Extends pilot program by increasing number of projects board may authorize from 10 to 15 and limit on number of projects board may authorize in any of four major river basins from three to five. Extends application deadline from December 2018 to December 2023 and extends repeal date to September 2035. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1233 **WATER & WASTEWATER**
Historical consumptive use analysis

Limits amount of water that can be changed to historical consumptive use of water right if water right owner wishes to change. Expands application of rule that reduced water usage resulting from participation in government-sponsored water conservation program will not be considered in calculation. Includes water conservation pilot programs. Limits state agencies that can approve a water conservation program to those with explicit statutory jurisdiction over water conservation or water rights. Effective: May 3, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1285 **WATER & WASTEWATER**
Water Quality Pollution Control Program

Raises fees paid by sources that discharge pollutants in state's waters and establishes goals for future adjustments of ratio of revenue from fees and General Fund for all sectors. Contains other provisions. Effective: July 1, 2017; except section 2, which takes effect July 1, 2018. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1289 **WATER & WASTEWATER**
Historical consumptive use

Directs state engineer in Department of Natural Resources to adopt rules taking into account local conditions that applicant can use to calculate historical consumptive use of water right. Provides that use of methodology, approach, or local factors developed by state engineer is voluntary, and resulting calculation of historical consumptive use carries no presumptive effect in determination by state engineer, water referee, or water judge. Effective: May 22, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1306 **WATER & WASTEWATER**
Test lead in public schools' drinking water

Authorizes Colorado Department of Public Health and Environment (CDPHE) to establish grant program to test for lead in drinking water in public schools that receive drinking water from public water systems. CDPHE may specify testing protocols and guidelines and provide technical assistance. Requires grant recipient to contribute at least 10 percent of the grant amount toward the cost of testing recipient's water supply. Requires CDPHE to give priority to oldest elementary schools. Contains numerous other provisions. Effective: June 6, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

SB 17-036 **WATER & WASTEWATER**
**Appellate process concerning
groundwater decisions**

Limits evidence that may be considered when appealing decision by Ground Water Commission or state engineer to district court. Restricts evidence district court may consider on appeal of a decision regarding groundwater to what was presented to commission or state engineer in administrative proceeding. Requires district court to review same evidence *de novo*; if district court determines that evidence was wrongly excluded from administrative hearing, district court may take and consider wrongly excluded evidence. Effective: Aug. 9, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

SB 17-117 **WATER & WASTEWATER**
Industrial hemp agricultural products

Confirms that person with absolute or conditional water right decreed for agricultural use can use that water for growth or cultivation of industrial hemp if water right holder is registered with Colorado Department of Agriculture to grow industrial hemp for commercial or research and development purposes. Effective: May 21, 2017. Lobbyist: Morgan Cullen, mcullen@cml.org.

HB 17-1119**WORKERS' COMPENSATION**

Payment of benefits

Creates new mechanism for payment of covered claims to injured workers employed by employers who do not carry workers' compensation insurance. Creates Colorado uninsured employer fund that consists of penalties from uninsured employers. Creates board to establish criteria for payment of benefits, set rates, adjust claims, and adopt rules. Contains other provisions. Effective: July 1, 2017. Lobbyist: Kevin Bommer, kbommer@cml.org.

HB 17-1229**WORKERS' COMPENSATION**

Mental impairment

Adds definitions "psychologically traumatic event" and "serious bodily injury" to workers' compensation statutes for purposes of clarifying worker's right to compensation for any claim of mental impairment. Effective: July 1, 2018. Lobbyist: Kevin Bommer, kbommer@cml.org.

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An Act

HOUSE BILL 17-1162

BY REPRESENTATIVE(S) Gray, Becker K., Benavidez, Exum, Foote, Hansen, Herod, Kennedy, Kraft-Tharp, Lebsock, Lee, Lontine, Pettersen, Singer, Weissman, Young, Duran;
also SENATOR(S) Gardner, Kefalas.

CONCERNING ACTION THAT CAN BE TAKEN AGAINST AN INDIVIDUAL BASED ON THE INDIVIDUAL'S FAILURE TO PAY FOR A TRAFFIC VIOLATION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 42-2-138, **amend** (1)(a) and (3); and **add** (1.5) and (2.5) as follows:

42-2-138. Driving under restraint - penalty. (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, any person who drives a motor vehicle or off-highway vehicle upon any highway of this state with knowledge that the person's license or privilege to drive, either as a resident or a nonresident, is under restraint for any reason other than conviction of DUI, DUI per se, DWAI, or UDD is guilty of a misdemeanor. A court may sentence a person convicted of this misdemeanor to imprisonment in the county jail for a period of not more than six months and may impose a fine of not more than five hundred dollars.

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

(1.5) ANY PERSON WHO DRIVES A MOTOR VEHICLE OR OFF-HIGHWAY VEHICLE UPON ANY HIGHWAY OF THIS STATE WITH KNOWLEDGE THAT THE PERSON'S LICENSE OR PRIVILEGE TO DRIVE, EITHER AS A RESIDENT OR A NONRESIDENT, IS UNDER RESTRAINT FOR AN OUTSTANDING JUDGMENT IS GUILTY OF A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3).

(2.5) A MUNICIPALITY MAY ENFORCE VIOLATIONS OF SUBSECTION (1.5) OF THIS SECTION IN MUNICIPAL COURT. A MUNICIPAL COURT SHALL NOT WAIVE OR REDUCE THE THREE-POINT PENALTY.

(3) The department, upon receiving a record of conviction or accident report of any person for an offense committed while operating a motor vehicle, shall immediately examine its files to determine if the license or operating privilege of such person has been restrained. If it appears that said offense was committed while the license or operating privilege of such person was restrained FOR A REASON OTHER THAN AN OUTSTANDING JUDGMENT, except as permitted by section 42-2-132.5, the department shall not issue a new license or grant any driving privileges for an additional period of one year after the date such person would otherwise have been entitled to apply for a new license or for reinstatement of a suspended license and shall notify the district attorney in the county where such violation occurred and request prosecution of such person under subsection (1) of this section.

SECTION 2. In Colorado Revised Statutes, 42-2-127, add (5)(mm) as follows:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:

Type of conviction	Points
(mm) DRIVING UNDER RESTRAINT IN VIOLATION OF SECTION 42-2-138 (1.5)	3

SECTION 3. In Colorado Revised Statutes, 42-2-202, amend (2)(a)(III) as follows:

42-2-202. Habitual offenders - frequency and type of violations.

(2) (a) An habitual offender is a person having three or more convictions of any of the following separate and distinct offenses arising out of separate acts committed within a period of seven years:

(III) Driving a motor vehicle upon a highway while such person's license or privilege to drive a motor vehicle has been denied, suspended, or revoked, in violation of section ~~42-2-138~~ 42-2-138 (1);

SECTION 4. Appropriation. For the 2017-18 state fiscal year, \$108,000 is appropriated to the department of revenue. This appropriation is from the licensing services cash fund created in section 42-2-114.5 (1), C.R.S. To implement this act, the department may use this appropriation for DMV IT system (DRIVES) support.

SECTION 5. Act subject to petition - effective date - applicability. (1) 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 9, 2017, if adjournment sine die is on May 10, 2017); 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.

(2) This act applies to offenses committed on or after the applicable effective date of this act.



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

11:37 am 5/18/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1177

BY REPRESENTATIVE(S) Wist and Garnett, Arndt, Becker K., Buckner, Carver, Catlin, Exum, Herod, Hooton, Lee, Melton, Michaelson Jenet, Neville P., Pabon, Ransom, Saine, Salazar, Young;
also SENATOR(S) Cooke, Court, Donovan, Gardner, Kefalas, Martinez Humenik, Merrifield, Scott, Tate, Todd.

CONCERNING THE USE OF ALTERNATIVE METHODS OF RESOLVING DISPUTES
THAT ARISE UNDER THE "COLORADO OPEN RECORDS ACT".

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

SECTION 1. In Colorado Revised Statutes, 24-72-204, **amend** (5) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (5) (a) Except as provided in subsection (5.5) of this section, any person denied the right to inspect any record covered by this part 2 may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record; except that, at least ~~three business~~ **FOURTEEN** days prior to filing an application with the district court, the person who has been denied the right to inspect the record shall file a written notice with the custodian who has

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

denied the right to inspect the record informing said THE custodian that the person intends to file an application with the district court. DURING THE FOURTEEN-DAY PERIOD BEFORE THE PERSON MAY FILE AN APPLICATION WITH THE DISTRICT COURT UNDER THIS SUBSECTION (5)(a), THE CUSTODIAN WHO HAS DENIED THE RIGHT TO INSPECT THE RECORD SHALL EITHER MEET IN PERSON OR COMMUNICATE ON THE TELEPHONE WITH THE PERSON WHO HAS BEEN DENIED ACCESS TO THE RECORD TO DETERMINE IF THE DISPUTE MAY BE RESOLVED WITHOUT FILING AN APPLICATION WITH THE DISTRICT COURT. THE MEETING MAY INCLUDE RECOURSE TO ANY METHOD OF DISPUTE RESOLUTION THAT IS AGREEABLE TO BOTH PARTIES. ANY COMMON EXPENSE NECESSARY TO RESOLVE THE DISPUTE MUST BE APPORTIONED EQUALLY BETWEEN OR AMONG THE PARTIES UNLESS THE PARTIES HAVE AGREED TO A DIFFERENT METHOD OF ALLOCATING THE COSTS BETWEEN OR AMONG THEM. IF THE PERSON WHO HAS BEEN DENIED ACCESS TO INSPECT A RECORD STATES IN THE REQUIRED WRITTEN NOTICE TO THE CUSTODIAN THAT THE PERSON NEEDS TO PURSUE ACCESS TO THE RECORD ON AN EXPEDITED BASIS, THE PERSON MUST PROVIDE SUCH WRITTEN NOTICE, INCLUDING A FACTUAL BASIS OF THE EXPEDITED NEED FOR THE RECORD, TO THE CUSTODIAN AT LEAST THREE BUSINESS DAYS PRIOR TO THE DATE ON WHICH THE PERSON FILES THE APPLICATION WITH THE DISTRICT COURT AND, IN SUCH CIRCUMSTANCES, NO MEETING TO DETERMINE IF THE DISPUTE MAY BE RESOLVED WITHOUT FILING AN APPLICATION WITH THE DISTRICT COURT IS REQUIRED.


(b) Hearing on such THE application shall DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION MUST be held at the earliest practical time. Unless the court finds that the denial of the right of inspection was proper, it shall order the custodian to permit such inspection and shall award court costs and reasonable attorney fees to the prevailing applicant in an amount to be determined by the court; except that no court costs and attorney fees shall be awarded to a person who has filed a lawsuit against a state public body or local public body and who applies to the court for an order pursuant to ~~this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION for access to records of the state public body or local public body being sued if the court finds that the records being sought are related to the pending litigation and are discoverable pursuant to chapter 4 of the Colorado rules of civil procedure. In the event the court finds that the denial of the right of inspection was proper, the court shall award court costs and reasonable attorney fees to the custodian if the court finds that the action was frivolous, vexatious, or groundless.

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SECTION 2. Act subject to petition - effective date - applicability. (1) 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 9, 2017, if adjournment sine die is on May 10, 2017); 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.

(2) This act applies to requests for inspections of public records submitted on or after the applicable effective date of this act.

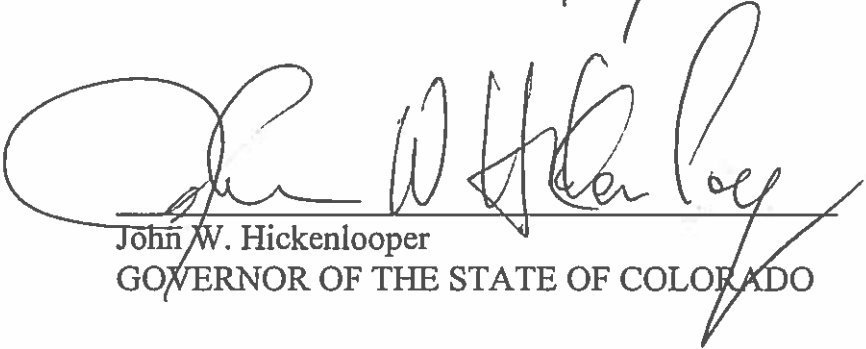

Crisanta Duran
SPEAKER OF THE HOUSE
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Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES


Effie Ameen
SECRETARY OF
THE SENATE

APPROVED 10518 dm 5/4/17


John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1193

BY REPRESENTATIVE(S) Kraft-Tharp and Becker J., Arndt, Becker K., Danielson, Ginal, Hansen, Hooton, Kennedy, McKean, Melton, Pabon, Van Winkle, Gray, Lontine, Wilson, Duran;
also SENATOR(S) Tate and Kerr, Crowder, Donovan, Fields, Garcia, Guzman, Hill, Holbert, Jahn, Kefalas, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Priola, Scott, Todd, Williams A., Zenzinger, Grantham.

CONCERNING THE INSTALLATION OF SMALL WIRELESS SERVICE INFRASTRUCTURE WITHIN A LOCAL GOVERNMENT'S JURISDICTION, AND, IN CONNECTION THEREWITH, CLARIFYING THAT AN EXPEDITED PERMITTING PROCESS APPLIES TO SMALL CELL FACILITIES AND SMALL CELL NETWORKS AND THAT THE RIGHTS-OF-WAY ACCESS AFFORDED TELECOMMUNICATIONS PROVIDERS EXTENDS TO BROADBAND PROVIDERS AND TO SMALL CELL FACILITIES AND SMALL CELL NETWORKS.

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

SECTION 1. In Colorado Revised Statutes, 29-27-401, add (2) as follows:

29-27-401. Legislative declaration. (2) THE GENERAL ASSEMBLY

FURTHER FINDS AND DECLARES THAT:

(a) SMALL CELL FACILITIES OFTEN MAY BE DEPLOYED MOST EFFECTIVELY IN THE PUBLIC RIGHTS-OF-WAY; AND

(b) ACCESS TO LOCAL GOVERNMENT STRUCTURES IS ESSENTIAL TO THE CONSTRUCTION AND MAINTENANCE OF WIRELESS SERVICE FACILITIES OR BROADBAND FACILITIES.

SECTION 2. In Colorado Revised Statutes, 29-27-402, amend (1), (4), and (7); and add (1.5), (3.5), and (6.5) as follows:

29-27-402. Definitions. As used in this part 4, unless the context otherwise requires:

~~(1) "Broadband facility" means any infrastructure used to deliver broadband service or for the provision of broadband service. "ANTENNA" MEANS COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS USED TO PROVIDE WIRELESS SERVICE.~~

(1.5) "BROADBAND FACILITY" MEANS ANY INFRASTRUCTURE USED TO DELIVER BROADBAND SERVICE OR FOR THE PROVISION OF BROADBAND SERVICE.

(3.5) "MICRO WIRELESS FACILITY" MEANS A SMALL WIRELESS FACILITY THAT IS NO LARGER IN DIMENSIONS THAN TWENTY-FOUR INCHES IN LENGTH, FIFTEEN INCHES IN WIDTH, AND TWELVE INCHES IN HEIGHT AND THAT HAS AN EXTERIOR ANTENNA, IF ANY, THAT IS NO MORE THAN ELEVEN INCHES IN LENGTH.

(4) (a) "Small cell facility" means either:

~~(a)~~ (I) A personal wireless service facility as defined by the federal "Telecommunications Act of 1996", as amended as of August 6, 2014; or

~~(b)~~ (II) A wireless service facility that meets both of the following qualifications:

~~(A)~~ Each antenna is located inside an enclosure of no more than

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three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(H) (B) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

(b) "SMALL CELL FACILITY" INCLUDES A MICRO WIRELESS FACILITY.

(6.5) "TOWER" MEANS ANY STRUCTURE BUILT FOR THE SOLE OR PRIMARY PURPOSE OF SUPPORTING ANTENNAS LICENSED OR AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION AND THE ANTENNAS' ASSOCIATED FACILITIES, INCLUDING STRUCTURES THAT ARE CONSTRUCTED FOR WIRELESS COMMUNICATIONS SERVICES INCLUDING PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES; UNLICENSED WIRELESS SERVICES; FIXED WIRELESS SERVICES SUCH AS BACKHAUL; AND THE ASSOCIATED SITE.

(7) "Wireless service facility" means a facility for the provision of wireless services; EXCEPT THAT "WIRELESS SERVICE FACILITY" DOES NOT INCLUDE COAXIAL OR FIBER-OPTIC CABLE THAT IS NOT IMMEDIATELY ADJACENT TO, OR DIRECTLY ASSOCIATED WITH, A PARTICULAR ANTENNA.

SECTION 3. In Colorado Revised Statutes, 29-27-403, **amend** (1) and (3) as follows:

29-27-403. Permit - approval - deadline - exception. (1) A local government may take up to:

(a) NINETY DAYS TO PROCESS A COMPLETE APPLICATION FOR:

(I) LOCATION OR COLLOCATION OF A SMALL CELL FACILITY OR A SMALL CELL NETWORK; OR

(II) REPLACEMENT OR MODIFICATION OF A SMALL CELL FACILITY OR

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FACILITIES OR SMALL CELL NETWORK.

(a) (b) Ninety days to process a complete application that involves a collocation of a tower, building, structure, or replacement structure OTHER THAN A SMALL CELL FACILITY OR SMALL CELL NETWORK; or

(b) (c) One hundred fifty days to process a complete application that involves a new structure or a new wireless service facility, OTHER THAN A SMALL CELL FACILITY OR SMALL CELL NETWORK AND other than a collocation.

(3) An applicant and a local government ENTITY may mutually agree that an application may be processed in a longer period than set forth in subsection (1) of this section.

SECTION 4. In Colorado Revised Statutes, 29-27-404, amend (1) and (2) introductory portion; and add (3) as follows:

29-27-404. Permit process. (1) (a) For small cell networks involving multiple individual small cell facilities within the jurisdiction of a single local government ENTITY, the local government ENTITY shall allow the applicant, at the applicant's discretion, to file a consolidated application and receive a single permit for the small cell network instead of filing separate applications for each individual small cell facility.

(b) FOR A CONSOLIDATED APPLICATION FILED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, EACH SMALL CELL FACILITY WITHIN THE CONSOLIDATED APPLICATION REMAINS SUBJECT TO REVIEW FOR COMPLIANCE WITH OBJECTIVE REQUIREMENTS AND APPROVAL AS PROVIDED IN THIS ARTICLE 27. THE LOCAL GOVERNMENT'S DENIAL OF ANY INDIVIDUAL SMALL CELL FACILITY IS NOT A BASIS TO DENY THE CONSOLIDATED APPLICATION AS A WHOLE OR ANY OTHER SMALL CELL FACILITY INCORPORATED WITHIN THE CONSOLIDATED APPLICATION.

(2) If a wireless service provider applies to LOCATE OR collocate several wireless service facilities within the jurisdiction of a single local government ENTITY, the local government ENTITY shall:

(3) THE SITING, MOUNTING, PLACEMENT, CONSTRUCTION, AND OPERATION OF A SMALL CELL FACILITY OR A SMALL CELL NETWORK IS A

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PERMITTED USE BY RIGHT IN ANY ZONE.

SECTION 5. In Colorado Revised Statutes, **amend** 38-5.5-102 as follows:

38-5.5-102. Definitions. As used in this article ARTICLE 5.5, unless the context otherwise requires:

(1) "Broadband" or "broadband service" has the same meaning as set forth in 7 U.S.C. sec. 950bb (b)(1) as of August 6, 2014, and includes "cable service", as defined in 47 U.S.C. sec. 522 (6) as of August 6, 2014.

~~(1.2)~~ (2) "Broadband facility" means any infrastructure used to deliver broadband service or for the provision of broadband service.

~~(1.3)~~ (3) "Broadband provider" means a person that provides broadband service, and includes a "cable operator", as defined in 47 U.S.C. sec. 522 (5) as of August 6, 2014.

(4) "COLLOCATION" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-27-402 (3).

~~(1.7)~~ (5) "Political subdivision" OR "LOCAL GOVERNMENT ENTITY" means a county; city and county; city; town; service authority; school district; local improvement district; law enforcement authority; water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district; or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

~~(2)~~ (6) "Public highway" or "highway" for purposes of this article ARTICLE 5.5 includes all roads, streets, and alleys and all other dedicated rights-of-way and utility easements of the state or any of its political subdivisions, whether located within the boundaries of a political subdivision or otherwise.

(7) "SMALL CELL FACILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-27-402 (4).

(8) "SMALL CELL NETWORK" HAS THE SAME MEANING AS SET FORTH IN SECTION 29-27-402 (5).

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(3) (9) "Telecommunications provider" or "provider" means a person that provides telecommunications service, as defined in section 40-15-102 (29), C.R.S., with the exception of cable services as defined by section 602 (5) of the federal "Cable Communications Policy Act of 1984", 47 U.S.C. sec. 522 (6), pursuant to authority granted by the public utilities commission of this state or by the federal communications commission. "Telecommunications provider" or "provider" does not mean a person or business using antennas, support towers, equipment, and buildings used to transmit high power over-the-air broadcast of AM and FM radio, VHF and UHF television, and advanced television services, including high definition television. The term "telecommunications provider" is synonymous with "telecommunication provider".

SECTION 6. In Colorado Revised Statutes, amend 38-5.5-103 as follows:

38-5.5-103. Use of public highways - discrimination prohibited - content regulation prohibited. (1) (a) Any domestic or foreign telecommunications provider or broadband provider authorized to do business under the laws of this state shall have HAS the right to construct, maintain, and operate conduit, cable, switches, and related appurtenances and facilities, AND COMMUNICATIONS AND BROADBAND FACILITIES, INCLUDING SMALL CELL FACILITIES AND SMALL CELL NETWORKS, along, across, upon, ABOVE, and under any public highway in this state, subject to the provisions of this article ARTICLE 5.5 and of article 1.5 of title 9. C.R.S., and

(b) The construction, maintenance, operation, and regulation of such THE facilities DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, including the right to occupy and utilize the public rights-of-way, by telecommunications providers and broadband providers are hereby declared to be matters of statewide concern. Such THE facilities shall be so constructed and maintained SO as not to obstruct or hinder the usual travel on such A highway.

(2) No A political subdivision shall NOT discriminate among or grant a preference to competing telecommunications providers OR BROADBAND PROVIDERS in the issuance of permits or the passage of any ordinance for the use of its rights-of-way, nor create or erect any unreasonable requirements for entry to the rights-of-way for such THE

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providers.

(3) ~~No~~ A political subdivision shall NOT regulate A telecommunications providers PROVIDER OR A BROADBAND PROVIDER based upon the content or type of signals that are carried or capable of being carried over the provider's facilities; except that nothing in this subsection (3) ~~shall be construed to prevent such~~ PREVENTS regulation by a political subdivision when the authority to ~~so~~ regulate has been granted to the political subdivision under federal law.

SECTION 7. In Colorado Revised Statutes, **amend** 38-5.5-104 as follows:

38-5.5-104. Right-of-way across state land. Any domestic or foreign telecommunications provider OR BROADBAND PROVIDER authorized to do business under the laws of this state ~~shall have~~ HAS the right to construct, maintain, and operate lines of communication, switches, and related facilities, AND COMMUNICATIONS AND BROADBAND FACILITIES, INCLUDING SMALL CELL FACILITIES AND SMALL CELL NETWORKS, and obtain A permanent right-of-way ~~therefor~~ FOR THE FACILITIES over, upon, under, and across all public lands owned by or under the control of the state, upon the payment of ~~such~~ just compensation and upon compliance with ~~such~~ reasonable conditions as ~~may be required by~~ the state board of land commissioners MAY REQUIRE.

SECTION 8. In Colorado Revised Statutes, **add** 38-5.5-104.5 as follows:

38-5.5-104.5. Use of local government entity structures.
(1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF THIS ARTICLE 5.5, SECTIONS 29-27-403 AND 29-27-404, AND A LOCAL GOVERNMENT ENTITY'S POLICE POWERS, A TELECOMMUNICATIONS PROVIDER OR A BROADBAND PROVIDER HAS THE RIGHT TO LOCATE OR COLLOCATE SMALL CELL FACILITIES OR SMALL CELL NETWORKS ON THE LIGHT POLES, LIGHT STANDARDS, TRAFFIC SIGNALS, OR UTILITY POLES IN THE RIGHTS-OF-WAY OWNED BY THE LOCAL GOVERNMENT ENTITY; EXCEPT THAT, A SMALL CELL FACILITY OR A SMALL CELL NETWORK SHALL NOT BE LOCATED OR MOUNTED ON ANY APPARATUS, POLE, OR SIGNAL WITH TOLLING COLLECTION OR ENFORCEMENT EQUIPMENT ATTACHED.

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(2) IF, AT ANY TIME, THE CONSTRUCTION, INSTALLATION, OPERATION, OR MAINTENANCE OF A SMALL CELL FACILITY ON A LOCAL GOVERNMENT ENTITY'S LIGHT POLE, LIGHT STANDARD, TRAFFIC SIGNAL, OR UTILITY POLE FAILS TO COMPLY WITH APPLICABLE LAW, THE LOCAL GOVERNMENT ENTITY, BY PROVIDING THE TELECOMMUNICATIONS PROVIDER OR THE BROADBAND PROVIDER NOTICE AND A REASONABLE OPPORTUNITY TO CURE THE NONCOMPLIANCE, MAY:

(a) CAUSE THE ATTACHMENT ON THE AFFECTED STRUCTURE TO BE REMOVED; AND

(b) PROHIBIT FUTURE, NONCOMPLIANT USE OF THE LIGHT POLE, LIGHT STANDARD, TRAFFIC SIGNAL, OR UTILITY POLE.

(3) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c) OF THIS SECTION, A LOCAL GOVERNMENT ENTITY SHALL NOT IMPOSE ANY FEE OR REQUIRE ANY APPLICATION OR PERMIT FOR THE INSTALLATION, PLACEMENT, OPERATION, MAINTENANCE, OR REPLACEMENT OF MICRO WIRELESS FACILITIES THAT ARE SUSPENDED ON CABLE OPERATOR-OWNED CABLES OR LINES THAT ARE STRUNG BETWEEN EXISTING UTILITY POLES IN COMPLIANCE WITH NATIONAL SAFETY CODES.

(b) A LOCAL GOVERNMENT ENTITY WITH A MUNICIPAL OR COUNTY CODE THAT REQUIRES AN APPLICATION OR PERMIT FOR THE INSTALLATION OF MICRO WIRELESS FACILITIES MAY, BUT IS NOT REQUIRED TO, CONTINUE THE APPLICATION OR PERMIT REQUIREMENT SUBSEQUENT TO THE EFFECTIVE DATE OF THIS SECTION.

(c) A LOCAL GOVERNMENT ENTITY MAY REQUIRE A SINGLE-USE RIGHT-OF-WAY PERMIT IF THE INSTALLATION, PLACEMENT, OPERATION, MAINTENANCE, OR REPLACEMENT OF MICRO WIRELESS FACILITIES:

(I) INVOLVES WORKING WITHIN A HIGHWAY TRAVEL LANE OR REQUIRES THE CLOSURE OF A HIGHWAY TRAVEL LANE;

(II) DISTURBS THE PAVEMENT OR A SHOULDER, ROADWAY, OR DITCH LINE;

(III) INCLUDES PLACEMENT ON LIMITED ACCESS RIGHTS-OF-WAY; OR

(IV) REQUIRES ANY SPECIFIC PRECAUTIONS TO ENSURE THE SAFETY OF THE TRAVELING PUBLIC; THE PROTECTION OF PUBLIC INFRASTRUCTURE; OR THE OPERATION OF PUBLIC INFRASTRUCTURE; AND SUCH ACTIVITIES EITHER WERE NOT AUTHORIZED IN, OR WILL BE CONDUCTED IN A TIME, PLACE, OR MANNER THAT IS INCONSISTENT WITH, THE APPROVAL TERMS OF THE EXISTING PERMIT FOR THE FACILITY OR STRUCTURE UPON WHICH THE MICRO WIRELESS FACILITY IS ATTACHED.

SECTION 9. In Colorado Revised Statutes, amend 38-5.5-105 as follows:

38-5.5-105. Power of companies to contract. Any domestic or foreign telecommunications provider ~~shall have~~ OR BROADBAND PROVIDER HAS THE power to contract with any ~~person or~~ INDIVIDUAL; corporation; OR the owner of any lands, ~~or any~~ franchise, easement, or interest therein over or under which the provider's conduits; cable; switches; ~~and~~ COMMUNICATIONS OR BROADBAND FACILITIES, INCLUDING SMALL CELL FACILITIES AND SMALL CELL NETWORKS; OR related appurtenances and facilities are proposed to be laid or created for the right-of-way for the construction, maintenance, and operation of ~~such~~ THE facilities ~~and~~ OR for the erection, maintenance, occupation, and operation of offices at suitable distances for the public accommodation.

SECTION 10. In Colorado Revised Statutes, amend 38-5.5-106 as follows:

38-5.5-106. Consent necessary for use of streets. (1) (a) ~~Nothing in This article shall be construed to~~ ARTICLE 5.5 DOES NOT authorize any telecommunications provider OR BROADBAND PROVIDER to erect, WITHIN A POLITICAL SUBDIVISION, any poles or construct any COMMUNICATIONS OR BROADBAND FACILITIES, INCLUDING SMALL CELL FACILITIES AND SMALL CELL NETWORKS; conduit; cable; switch; or related appurtenances and facilities along, through, in, upon, under, or over any public highway ~~within a political subdivision~~ without first obtaining the consent of the authorities having power to give the consent of ~~such~~ THE political subdivision.

(b) A telecommunications provider OR BROADBAND PROVIDER that, on or before ~~April 12, 1996~~ JULY 1, 2017, either has obtained consent of the political subdivision having power to give ~~such~~ consent or is lawfully

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occupying a public highway in a political subdivision shall NEED not be required to apply for additional or continued consent of such THE political subdivision under this section.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLITICAL SUBDIVISION'S CONSENT GIVEN TO A TELECOMMUNICATIONS PROVIDER OR A BROADBAND PROVIDER TO ERECT OR CONSTRUCT ANY POLES, OR TO LOCATE OR COLLOCATE COMMUNICATIONS AND BROADBAND FACILITIES ON VERTICAL STRUCTURES IN A RIGHT-OF-WAY, DOES NOT EXTEND TO THE LOCATION OF NEW FACILITIES OR TO THE ERECTION OR CONSTRUCTION OF NEW POLES IN A RIGHT-OF-WAY NOT SPECIFICALLY REFERENCED IN THE GRANT OF CONSENT.

(2) (a) THE consent OF A POLITICAL SUBDIVISION for the use of a public highway within ~~a political subdivision~~ ITS JURISDICTION shall be based upon a lawful exercise of ~~the ITS police power of such political subdivision~~ and shall not be unreasonably withheld. nor

(b) A POLITICAL SUBDIVISION shall NOT CREATE any preference or disadvantage ~~be created~~ through the granting or withholding of ~~such~~ ITS consent. A POLITICAL SUBDIVISION'S DECISION THAT A VERTICAL STRUCTURE IN THE RIGHT-OF-WAY, INCLUDING A VERTICAL STRUCTURE OWNED BY A MUNICIPALITY, LACKS SPACE OR LOAD CAPACITY FOR COMMUNICATIONS OR BROADBAND FACILITIES, OR THAT THE NUMBER OF ADDITIONAL VERTICAL STRUCTURES IN THE RIGHTS-OF-WAY SHOULD BE REASONABLY LIMITED, CONSISTENT WITH PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE, DOES NOT CREATE A PREFERENCE FOR OR DISADVANTAGE ANY TELECOMMUNICATIONS PROVIDER OR BROADBAND PROVIDER, PROVIDED THAT SUCH DECISION DOES NOT HAVE THE EFFECT OF PROHIBITING A PROVIDER'S ABILITY TO PROVIDE SERVICE WITHIN THE SERVICE AREA OF THE PROPOSED FACILITY.

SECTION 11. In Colorado Revised Statutes, 38-5.5-107, amend (7) as follows:

38-5.5-107. Permissible taxes, fees, and charges. (7) As used in this section, "public highway" or "highway" as otherwise defined in section 38-5.5-102 ~~(2)~~ (6) does not include excess and remainder rights-of-way under the department of transportation's jurisdiction.

SECTION 12. In Colorado Revised Statutes, amend 38-5.5-108 as follows:

38-5.5-108. Pole attachment agreements - limitations on required payments. (1) ~~NEITHER A LOCAL GOVERNMENT ENTITY NOR~~ A municipally owned utility shall request or receive from a telecommunications provider, BROADBAND PROVIDER, or a cable television provider, as defined in section 602 (5) of the federal "Cable Communications Policy Act of 1984", in exchange for permission to attach SMALL CELL FACILITIES, BROADBAND DEVICES, OR telecommunications devices to poles OR STRUCTURES IN A RIGHT-OF-WAY, any payment in excess of the amount that would be authorized if the LOCAL GOVERNMENT ENTITY OR municipally owned utility were regulated pursuant to 47 U.S.C. sec. 224, as amended.

(2) ~~A municipality shall NOT request or receive from a telecommunications provider OR A BROADBAND PROVIDER, in exchange for or as a condition upon a grant of permission to attach telecommunications OR BROADBAND devices to poles, any in-kind payment.~~

SECTION 13. Effective date - applicability. This act takes effect July 1, 2017, and applies to permit applications received on or after said date.

SECTION 14. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



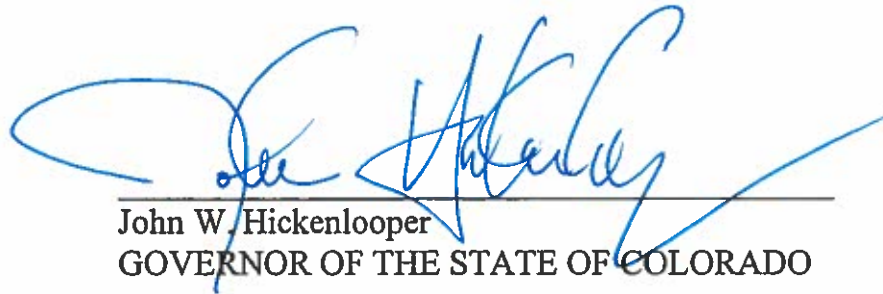
Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Effie Ameen
SECRETARY OF
THE SENATE

APPROVED

3:09 PM 9/18/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1203

BY REPRESENTATIVE(S) Lebsack, Becker K., Esgar, Hooton, Pabon, Singer;
also SENATOR(S) Martinez Humenik and Crowder.

CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO LEVY
A SPECIAL SALES TAX ON RETAIL MARIJUANA IN CERTAIN
CIRCUMSTANCES SUBJECT TO VOTER APPROVAL BY THE ELIGIBLE
ELECTORS OF THE LOCAL GOVERNMENT.

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

SECTION 1. In Colorado Revised Statutes, **add 29-2-115** as follows:

29-2-115. Retail marijuana sales tax - county - municipality - election - legislative declaration - definition. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE SPECIAL SALES TAX RECOGNIZED IN THIS SECTION PERMITS COUNTIES AND STATUTORY MUNICIPALITIES TO ENACT AN ADDITIONAL TAX SPECIFIC TO THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, SUBJECT TO VOTER APPROVAL. THIS DISTINCT TAXING AUTHORITY IS IN ADDITION TO THE STATUTORY AUTHORITY FOR COUNTIES AND STATUTORY MUNICIPALITIES TO IMPOSE A GENERAL SALES TAX, WHILE HOME RULE MUNICIPALITIES DERIVE

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

ALL SALES TAXING AUTHORITY FROM THE HOME RULE AUTHORITY GRANTED BY THE COLORADO CONSTITUTION.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT ANY SPECIAL SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PROPOSED BY COUNTIES AND STATUTORY MUNICIPALITIES SHOULD TAKE INTO ACCOUNT THE TOTAL TAX RATE THAT WOULD EXIST IF THE TAX IS ADOPTED BY VOTERS. IT IS THEREFORE ALSO THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION TO ENSURE THAT THE IMPOSITION OF A COUNTY SPECIAL SALES TAX WITHIN A HOME RULE MUNICIPALITY OR STATUTORY MUNICIPALITY OCCURS ONLY WHEN THE MUNICIPALITY DOES NOT HAVE ITS OWN SPECIAL SALES TAX, AND OTHERWISE ONLY AFTER AN INTERGOVERNMENTAL AGREEMENT WITH A MUNICIPALITY THAT DOES IMPOSE, OR IMPOSES AT ANY TIME, ITS OWN SPECIAL SALES TAX.

(2) FOR PURPOSES OF THIS SECTION, "SPECIAL SALES TAX" MEANS A SALES TAX IMPOSED BY A LOCAL GOVERNMENT IN ADDITION TO THE GENERAL SALES TAX IMPOSED PURSUANT TO SECTION 29-2-102 OR SECTION 29-2-103, AS APPLICABLE, AND IN ADDITION TO THE TAXES IMPOSED PURSUANT TO ARTICLES 26 AND 28.8 OF TITLE 39.

(3) (a) EACH COUNTY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A COUNTY SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AS THOSE TERMS ARE DEFINED IN SECTION 12-43.4-103, UNDER THE FOLLOWING CIRCUMSTANCES:

(I) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (3) IN THE UNINCORPORATED AREAS OF THE COUNTY;

(II) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (3) IN THE MUNICIPALITIES WITHIN THE BOUNDARIES OF THE COUNTY, IN WHOLE OR IN PART, THAT DO NOT LEVY A MUNICIPAL SPECIAL SALES TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS. THE COUNTY MAY LEVY A SPECIAL SALES TAX IN A MUNICIPALITY PURSUANT TO THIS

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SUBSECTION (3)(a)(II) ONLY UNTIL THE MUNICIPALITY OBTAINS VOTER APPROVAL TO LEVY A MUNICIPAL SPECIAL SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS. IF THE MUNICIPALITY OBTAINS SUCH VOTER APPROVAL, THE COUNTY SPECIAL SALES TAX AUTHORIZED BY THIS SUBSECTION (3)(a)(II) IS INVALID WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY UNLESS THE COUNTY ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPALITY PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION THAT AUTHORIZES THE COUNTY TO CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY.

(III) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (3) IN EACH MUNICIPALITY WITHIN THE BOUNDARIES OF THE COUNTY, IN WHOLE OR IN PART, THAT LEVIES A MUNICIPAL SPECIAL SALES TAX ON THE SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, IF THE GOVERNING BODY OF THE COUNTY AND THE GOVERNING BODY OF THE MUNICIPALITY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PERTAINING TO THE COUNTY'S LEVY, COLLECTION, AND ENFORCEMENT OF A COUNTY SPECIAL SALES TAX UPON ALL SALES OF ALL RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY. AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO THIS SUBSECTION (3)(a)(III) MAY INCLUDE A PROVISION FOR THE APPORTIONMENT OF A SPECIFIED PERCENTAGE OF THE GROSS COUNTY RETAIL MARIJUANA SPECIAL SALES TAX REVENUE COLLECTED BY THE COUNTY TO THE MUNICIPALITY.

(b) NOTWITHSTANDING SECTION 29-2-103 (2), A COUNTY MAY LEVY, COLLECT, AND ENFORCE A SPECIAL SALES TAX PURSUANT TO THIS SUBSECTION (3) IN LESS THAN THE ENTIRE COUNTY WHEN THE COUNTY SATISFIES ONE OR MORE OF THE CONDITIONS OF THIS SUBSECTION (3).

(c) NO SPECIAL SALES TAX SHALL BE LEVIED PURSUANT TO THIS SUBSECTION (3) UNTIL THE PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY IN ACCORDANCE WITH THIS ARTICLE 2. ANY PROPOSAL FOR THE LEVY OF A SPECIAL SALES TAX IN ACCORDANCE WITH THIS SUBSECTION (3) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE COUNTY ONLY ON THE DATE OF THE STATE

GENERAL ELECTION OR ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR. ANY ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK AND RECORDER IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1.

(4) (a) EACH MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A MUNICIPAL SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AS THOSE TERMS ARE DEFINED IN SECTION 12-43.4-103.

(b) NO SPECIAL SALES TAX SHALL BE LEVIED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION UNTIL THE PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH ARTICLE 10 OF TITLE 31. ANY PROPOSAL FOR THE LEVY OF A SPECIAL SALES TAX IN ACCORDANCE WITH SUBSECTION (4)(a) OF THIS SECTION MUST BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ON THE DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10 OF TITLE 31.

(5) IF A COUNTY OR MUNICIPALITY OBTAINED APPROVAL FROM THE ELIGIBLE ELECTORS OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS SECTION TO LEVY, COLLECT, AND ENFORCE A SPECIAL SALES TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, THE SPECIAL SALES TAX IS VALID AND THE COUNTY OR MUNICIPALITY IS AUTHORIZED TO CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL SALES TAX; EXCEPT THAT, IN THE CASE OF A COUNTY, THE COUNTY IS AUTHORIZED TO CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL SALES TAX SO LONG AS THE COUNTY COMPLIES WITH SUBSECTION (3) OF THIS SECTION. IF A COUNTY LEVIES, COLLECTS, AND ENFORCES A SPECIAL SALES TAX IN A MUNICIPALITY THAT HAS ALREADY OBTAINED VOTER APPROVAL TO LEVY A MUNICIPAL SPECIAL SALES TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, THE COUNTY SPECIAL SALES TAX IS INVALID WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY UNLESS THE COUNTY ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPALITY PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION THAT AUTHORIZES THE COUNTY TO

CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY.

(6)(a) NOTWITHSTANDING THIS ARTICLE 2, ANY RETAIL MARIJUANA SPECIAL SALES TAX IMPOSED BY A COUNTY OR MUNICIPALITY PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR MUNICIPALITY IMPOSING THE SPECIAL SALES TAX.

(b) A COUNTY OR MUNICIPALITY IN WHICH A SPECIAL SALES TAX IS IMPOSED PURSUANT TO THIS SECTION MAY AUTHORIZE A RETAIL MARIJUANA STORE TO RETAIN A PERCENTAGE OF THE RETAIL MARIJUANA SPECIAL SALES TAX COLLECTED PURSUANT TO THIS SECTION TO COVER THE EXPENSES OF COLLECTING AND REMITTING THE SPECIAL SALES TAX TO THE COUNTY OR MUNICIPALITY. THE COUNTY OR MUNICIPALITY SHALL DETERMINE THE PERCENTAGE THAT A RETAIL MARIJUANA STORE MAY RETAIN PURSUANT TO THIS SUBSECTION (6)(b).

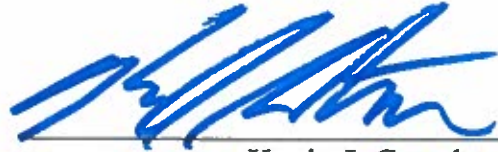
(7) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS HAVE APPROVED A SPECIAL SALES TAX PURSUANT TO THIS SECTION MAY CREDIT THE REVENUES COLLECTED FROM THE SPECIAL SALES TAX TO THE GENERAL FUND OF THE COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN THE COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE SPECIAL SALES TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS DETERMINED BY THE GOVERNING BODY OF THE COUNTY OR THE MUNICIPALITY.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



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

10:16 am

5/4/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1204

BY REPRESENTATIVE(S) Lee, Arndt, Benavidez, Buckner, Coleman, Covarrubias, Esgar, Exum, Foote, Garnett, Gray, Hamner, Herod, Hooton, Humphrey, Jackson, Kennedy, Kraft-Tharp, Lebsock, Lontine, McKean, Melton, Michaelson Jenet, Mitsch Bush, Neville P., Pettersen, Ransom, Rosenthal, Saine, Salazar, Singer, Valdez, Weissman, Williams D., Wilson, Winter, Wist, Young, Duran, Becker K.;
also SENATOR(S) Cooke, Aguilar, Court, Crowder, Fenberg, Fields, Guzman, Jahn, Kagan, Kefalas, Kerr, Marble, Martinez Humenik, Moreno, Neville T., Priola, Tate, Williams A., Grantham.

CONCERNING JUVENILE DELINQUENCY RECORD EXPUNGEMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-1-304, amend (1)(a) introductory portion, (1)(a)(II), (1)(a)(XIII)(A), (1)(b.5) introductory portion, (1)(b.7), (1)(b.8), (1)(c) introductory portion, (1)(c)(VIII), (1)(d), (2)(a) introductory portion, (2)(a)(I), (2)(a)(XIV)(A), (2.5), (3), (5.5), (6), (7) introductory portion, (7)(d), and (7)(e); and add (1)(c)(VII.5) and (7)(f) as follows:

19-1-304. Juvenile delinquency records - division of youth

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

corrections critical incident information - definitions. (1) (a) **Court records - open.** Except as provided in ~~paragraph (b.5) of this subsection~~ ~~(1)~~ SUBSECTION (1)(b.5) OF THIS SECTION, court records in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance are open to inspection to the following persons without court order:

(II) The juvenile's parent, guardian, or legal custodian, OR ATTORNEY;

(XIII) Any person or agency for research purposes, if all of the following conditions are met:

(A) The person or agency conducting the research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of human services to conduct the research; except that the department of public safety is not required to obtain prior authorization from the department of human services for purposes of this subparagraph ~~(XIII)~~ SUBSECTION (1)(a)(XIII);

(b.5) Arrest and criminal records - certain juveniles - public access - information limited. The public has access to ~~arrest and criminal records information, as defined in section 24-72-302 (1), C.R.S., and including a person's physical description, that~~ INFORMATION REPORTING THE ARREST OR OTHER FORMAL FILING OF CHARGES AGAINST A JUVENILE; THE IDENTITY OF THE CRIMINAL JUSTICE AGENCY TAKING SUCH OFFICIAL ACTION RELATIVE TO AN ACCUSED JUVENILE; THE DATE AND PLACE THAT SUCH OFFICIAL ACTION WAS TAKEN RELATIVE TO AN ACCUSED JUVENILE; THE NATURE OF THE CHARGES BROUGHT OR THE OFFENSES ALLEGED; AND ONE OR MORE DISPOSITIONS RELATING TO THE CHARGES BROUGHT AGAINST AN ACCUSED JUVENILE, WHEN THIS INFORMATION:

(b.7) The information ~~which shall be~~ THAT IS open to the public pursuant to ~~paragraph (b.5)~~ SUBSECTION (1)(b.5) OF THIS SECTION regarding a juvenile who is charged with the commission of a delinquent act shall not include records of investigation as such records are described in section 24-72-305 (5). ~~C.R.S.~~ In addition, any psychological profile of any such juvenile, any intelligence test results for any such juvenile, or any information regarding whether such juvenile has been sexually abused ~~shall not be~~ IS NOT open to the public unless released by an order of the court.

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THE INFORMATION THAT IS OPEN TO THE PUBLIC PURSUANT TO SUBSECTION (1)(b.5) OF THIS SECTION REGARDING A JUVENILE WHO IS CHARGED WITH A DELINQUENT ACT SHALL NOT INCLUDE THE JUVENILE'S NAME, BIRTH DATE, OR PHOTOGRAPH.

(b.8) The court shall report the final disposition concerning a juvenile who has been adjudicated a juvenile delinquent to the Colorado bureau of investigation in a form that is electronically consistent with applicable law. The report shall ~~shall~~ MUST be made within seventy-two hours after the final disposition; except that the time period shall not include Saturdays, Sundays, or legal holidays. The report shall ~~shall~~ MUST include ~~the information provided to the court in accordance with paragraph (b.7) of this subsection (1);~~ the disposition of each charge and the court case number, and the Colorado bureau of investigation shall reflect any change of status but shall not delete or eliminate information concerning the original charge. COLORADO BUREAU OF INVESTIGATION RECORDS REGARDING JUVENILE OFFENSES ARE NOT OPEN TO THE PUBLIC.

(c) **Probation records - limited access.** Except as otherwise authorized by section 19-1-303, a juvenile probation officer's records, whether or not part of the court file, ~~shall not be~~ ARE NOT open to inspection, except as provided in ~~subparagraphs (I) to (XI) of this paragraph (c)~~ SUBSECTIONS (1)(c)(I) TO (1)(c)(XI) OF THIS SECTION:

(VII.5) TO THE JUVENILE NAMED IN THE RECORD;

(VIII) To the juvenile's parent, guardian, or legal custodian, OR ATTORNEY;

(d) **Social and clinical studies - closed - court authorization.** Except as otherwise authorized by section 19-1-303, any social and clinical studies, INCLUDING ALL FORMAL EVALUATIONS OF THE JUVENILE COMPLETED BY A PROFESSIONAL, whether or not part of the court file OR ANY OTHER RECORD, ~~shall not be~~ ARE NOT open to inspection, except: by ~~consent of the court.~~

(I) TO THE JUVENILE NAMED IN THE RECORD;

(II) TO THE JUVENILE'S PARENT, GUARDIAN, LEGAL CUSTODIAN, OR ATTORNEY; OR

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(III) BY ORDER OF THE COURT, UPON A FINDING OF A LEGITIMATE INTEREST IN AND NEED TO REVIEW THE SOCIAL AND CLINICAL STUDIES.

(2) (a) **Law enforcement records in general - closed.** Except as otherwise provided by ~~paragraph (b.5) of subsection (1)~~ SUBSECTION (1)(b.5) of this section and otherwise authorized by section 19-1-303, the records of law enforcement officers concerning juveniles, including identifying information, ~~shall~~ MUST be identified as juvenile records and ~~shall~~ MUST not be inspected by or disclosed to the public, except:

(I) To the juvenile and the juvenile's parent, guardian, or legal custodian, OR ATTORNEY;

(XIV) To any person or agency for research purposes, if all of the following conditions are met:

(A) The person or agency conducting such research is employed by the state of Colorado or is under contract with the state of Colorado and is authorized by the department of human services to conduct such research; EXCEPT THAT THE DEPARTMENT OF PUBLIC SAFETY DOES NOT NEED TO OBTAIN PRIOR AUTHORIZATION FROM THE DEPARTMENT OF HUMAN SERVICES FOR THE PURPOSES OF THIS SUBSECTION (2)(a)(XIV)(A); and

(2.5) **Parole records.** Parole records ~~shall be~~ ARE open to inspection by the principal of a school, or such principal's designee, in which the juvenile is or will be enrolled as a student and, if the student is or will be enrolled in a public school, by the superintendent of the school district in which the student is or will be enrolled, or such superintendent's designee. Parole records ~~shall also be~~ ARE ALSO open to inspection by assessment centers for children AND BY THE JUVENILE NAMED IN THE RECORD AND THE JUVENILE'S PARENT, GUARDIAN, LEGAL CUSTODIAN, OR ATTORNEY.

(3) Prior to adjudication, the defense counsel, the district attorney, the prosecuting attorney, or any other party TO A PENDING DELINQUENCY PETITION with consent of the court ~~shall~~ MUST have access to records of any proceedings pursuant to this ~~title~~ TITLE 19, except as provided in section 19-1-309, which involve a juvenile against whom criminal or delinquency charges have been filed. No new criminal or delinquency charges against such juvenile ~~shall~~ MAY be brought based upon information gained initially

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or solely from such examination of records.

(5.5) Whenever a petition is filed in juvenile court involving a ~~felony or a class 1 misdemeanor or the following offenses of any degree:~~ ALLEGING A CLASS 1, CLASS 2, CLASS 3, OR CLASS 4 FELONY; A LEVEL 1, LEVEL 2, OR LEVEL 3 DRUG FELONY; AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9); A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406; A BURGLARY OFFENSE AS DESCRIBED IN PART 2 OF ARTICLE 4 OF TITLE 18; FELONY menacing, in violation of section 18-3-206; ~~C.R.S.~~; harassment, in violation of section 18-9-111; ~~C.R.S.~~; fourth degree arson, in violation of section 18-4-105; ~~C.R.S.~~; ~~theft, in violation of section 18-4-401, C.R.S.~~; aggravated motor vehicle theft, in violation of section 18-4-409; ~~C.R.S.~~; ~~criminal mischief, in violation of section 18-4-501, C.R.S.~~; ~~defacing property, in violation of section 18-4-509, C.R.S.~~; ~~disorderly conduct, in violation of section 18-9-106, C.R.S.~~; hazing, in violation of section 18-9-124; ~~C.R.S.~~; or possession of a handgun by a juvenile, in violation of section 18-12-108.5, ~~C.R.S.~~; OR WHEN A PETITION IS FILED IN JUVENILE COURT IN WHICH THE ALLEGED VICTIM OF THE CRIME IS A STUDENT OR STAFF PERSON IN THE SAME SCHOOL AS THE JUVENILE OR IN WHICH IT IS ALLEGED THAT THE JUVENILE POSSESSED A DEADLY WEAPON DURING THE COMMISSION OF THE ALLEGED CRIME, the prosecuting attorney, within three working days after the petition is filed, shall make good faith reasonable efforts to notify the principal of the school in which the juvenile is enrolled and shall provide such principal with the arrest and criminal records information, as defined in section 24-72-302 (1). ~~C.R.S.~~ In the event the prosecuting attorney, in good faith, is not able to either identify the school ~~which~~ THAT the juvenile attends or contact the principal of the juvenile's school, then the prosecuting attorney shall contact the superintendent of the juvenile's school district.

(6) The department of human services shall release to the committing court, the ~~district~~ PROSECUTING attorney, the Colorado bureau of investigation, and local law enforcement agencies basic identification information as defined in section 24-72-302 (2) ~~C.R.S.~~, concerning any juvenile released or released to parole supervision or any juvenile who escapes. THIS INFORMATION IS NOT OPEN TO THE PUBLIC.

(7) In addition to the persons who have access to court records pursuant to ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this

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section, statewide electronic read-only access to the name index and register of actions of the judicial department must be allowed to the following agencies or ~~attorneys appointed by the court~~ PERSONS:

(d) Attorneys under contract with the office of the alternate defense counsel, created in section 21-2-101, ~~C.R.S.~~, as it relates to a case in which they are appointed by the court; ~~and~~

(e) A respondent parent's counsel under contract with the office of the respondent parents' counsel, created in section 13-92-103, ~~C.R.S.~~, or authorized by the office of the respondent parents' counsel to act as a respondent parent's counsel, as it relates to a case in which they are appointed by the court; AND

(f) A LICENSED ATTORNEY WORKING WITH A NONPROFIT ASSOCIATION PROVIDING FREE LEGAL ASSISTANCE AS IT RELATES TO SCREENING AN APPLICANT FOR ELIGIBILITY FOR FREE SERVICES OR TO A CASE IN WHICH THE ORGANIZATION HAS ENTERED AN APPEARANCE TO PROVIDE FREE REPRESENTATION, IF THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL AGREES TO MONITOR THE ATTORNEY'S USE OF THE ELECTRONIC NAME INDEX AND REGISTER OF ACTIONS.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 19-1-306 as follows:

19-1-306. Expungement of juvenile delinquent records - definition. (1) (a) FOR THE PURPOSES OF THIS SECTION, "EXPUNGEMENT" IS DEFINED IN SECTION 19-1-103 (48). UPON THE ENTRY OF AN EXPUNGEMENT ORDER, THE PERSON WHO IS THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY ASSERT THAT HE OR SHE HAS NO JUVENILE DELINQUENCY RECORD. FURTHER, THE PERSON WHO IS THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY LAWFULLY DENY THAT HE OR SHE HAS EVER BEEN ARRESTED, CHARGED, ADJUDICATED, CONVICTED, OR SENTENCED IN REGARD TO THE EXPUNGED CASE, MATTER, OR CHARGE.

(b) THE COURT, LAW ENFORCEMENT, AND ALL OTHER AGENCIES SHALL REPLY TO ANY INQUIRY REGARDING AN EXPUNGED RECORD THAT NO RECORD EXISTS WITH RESPECT TO THE PERSON NAMED IN THE RECORD, UNLESS INFORMATION MAY BE SHARED WITH THE INQUIRING PARTY PURSUANT TO SUBSECTION (3) OF THIS SECTION.

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(2) (a) AT THE TIME OF THE ADJUDICATION, THE COURT SHALL ADVISE THE ADJUDICATED JUVENILE AND ANY RESPONDENT PARENT OR GUARDIAN, IN WRITING, OF THE RIGHT TO EXPUNGE AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE ORDER. THE COURT, ON ITS OWN MOTION OR THE MOTION OF THE JUVENILE PROBATION DEPARTMENT, THE JUVENILE PAROLE DEPARTMENT, THE JUVENILE, A RESPONDENT PARENT OR GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, MAY INITIATE EXPUNGEMENT PROCEEDINGS CONCERNING THE RECORD OF ANY JUVENILE WHO HAS BEEN UNDER THE JURISDICTION OF THE COURT.

(b) IF A JUVENILE IS SUPERVISED BY PROBATION, THE PROBATION DEPARTMENT, UPON THE TERMINATION OF THE JUVENILE'S SUPERVISION PERIOD, SHALL PROVIDE THE JUVENILE WITH A WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

(c) IF A JUVENILE IS SUPERVISED BY PAROLE, THE DEPARTMENT OR DIVISION SUPERVISING THE JUVENILE'S PAROLE, UPON THE TERMINATION OF THE JUVENILE'S PAROLE SUPERVISION PERIOD, SHALL PROVIDE THE JUVENILE WITH A WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

(d) IF THE JUVENILE IS SUPERVISED BY A DIVERSION OFFICER OR AGENCY OTHER THAN PROBATION, THE AGENCY SUPERVISING THE DIVERSION PROGRAM, UPON THE TERMINATION OF THE JUVENILE'S DIVERSION PERIOD, SHALL PROVIDE THE JUVENILE WITH A WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

(e) IF A JUVENILE IS SENTENCED IN MUNICIPAL COURT, THE MUNICIPAL COURT, AT SENTENCING, SHALL PROVIDE THE JUVENILE AND ANY RESPONDENT PARENT OR GUARDIAN WITH A WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD. THE MUNICIPAL COURT MAY PROVIDE THE NOTICE THROUGH A MUNICIPAL DIVERSION PROGRAM, THE CITY ATTORNEY, OR A MUNICIPAL PROBATION PROGRAM.

(f) IF A JUVENILE IS COMMITTED TO THE DIVISION OF YOUTH CORRECTIONS AND IS RELEASED WITHOUT A REQUIREMENT TO COMPLETE FURTHER PAROLE, THE DIVISION SHALL PROVIDE THE JUVENILE WITH A

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WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

(g) EXPUNGEMENT MUST BE EFFECTUATED BY PHYSICALLY SEALING OR CONSPICUOUSLY INDICATING ON THE FACE OF THE RECORD OR AT THE BEGINNING OF THE COMPUTERIZED FILE OF THE RECORD THAT THE RECORD HAS BEEN DESIGNATED AS EXPUNGED.

(h) THE PROSECUTING ATTORNEY SHALL NOT REQUIRE AS A CONDITION OF A PLEA AGREEMENT THAT THE JUVENILE WAIVE HIS OR HER RIGHT TO EXPUNGEMENT UNDER THIS SECTION UPON THE COMPLETION OF THE JUVENILE'S SENTENCE.

(i) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY FELONY, DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR, PETTY OFFENSE, OR DELINQUENCY ACTIONS PENDING, AND, IF THE COURT DETERMINES THAT THERE IS A FELONY, DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR, PETTY OFFENSE, OR DELINQUENCY ACTION PENDING AGAINST THE JUVENILE, THE COURT SHALL STAY THE PETITION FOR EXPUNGEMENT PROCEEDINGS UNTIL THE RESOLUTION OF THE PENDING CASE.

(3) (a) AFTER EXPUNGEMENT, BASIC IDENTIFICATION INFORMATION ON THE JUVENILE AND A LIST OF ANY STATE AND LOCAL AGENCIES AND OFFICIALS HAVING CONTACT WITH THE JUVENILE, AS THEY APPEAR IN THE RECORDS, ARE NOT OPEN TO THE PUBLIC BUT ARE AVAILABLE TO A PROSECUTING ATTORNEY, LOCAL LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF HUMAN SERVICES, THE STATE JUDICIAL DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION 24-4.1-302 (5); EXCEPT THAT SUCH INFORMATION IS NOT AVAILABLE TO AN AGENCY OF THE MILITARY FORCES OF THE UNITED STATES.

(b) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT PURSUANT TO THIS SECTION, ANY RECORD THAT IS ORDERED EXPUNGED IS AVAILABLE TO ANY JUDGE AND THE PROBATION DEPARTMENT FOR USE IN ANY FUTURE PROCEEDING IN WHICH THE PERSON WHOSE RECORD WAS EXPUNGED IS CHARGED WITH AN OFFENSE AS EITHER A JUVENILE OR AS AN ADULT. A NEW CRIMINAL OR DELINQUENCY CHARGE MAY NOT BE BROUGHT AGAINST THE JUVENILE BASED UPON INFORMATION GAINED INITIALLY OR SOLELY FROM EXAMINATION OF THE EXPUNGED RECORDS.

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(c) NOTWITHSTANDING AN ORDER FOR EXPUNGEMENT PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE SHALL BE AVAILABLE FOR USE BY THE JUVENILE, THE JUVENILE'S ATTORNEY, A PROSECUTING ATTORNEY, ANY LAW ENFORCEMENT AGENCY, OR ANY AGENCY OF THE STATE JUDICIAL DEPARTMENT IN ANY SUBSEQUENT CRIMINAL INVESTIGATION OR PROSECUTION AS A SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF RECORD.

(d) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED PURSUANT TO THIS SECTION, NOTHING PREVENTS THE PROSECUTING ATTORNEY, INCLUDING THE STAFF OF A PROSECUTING ATTORNEY'S OFFICE OR A VICTIM OR WITNESS ASSISTANCE PROGRAM OR A LAW ENFORCEMENT AGENCY OR LAW ENFORCEMENT VICTIM ASSISTANCE PROGRAM, FROM DISCUSSING WITH THE VICTIM THE CASE, THE RESULTS OF ANY EXPUNGEMENT PROCEEDINGS, INFORMATION REGARDING RESTITUTION, AND INFORMATION RELATED TO ANY VICTIM SERVICES AVAILABLE TO THE VICTIM AS DEFINED IN SECTION 24-4.1-302 (5), BUT COPIES OF EXPUNGED RECORDS MUST NOT BE PROVIDED TO THE VICTIM. THE VICTIM MAY PETITION THE COURT AND REQUEST THAT A COPY OF THE EXPUNGED RECORDS BE PROVIDED TO THE VICTIM. IF THE COURT FINDS THAT THERE ARE COMPELLING REASONS FOR THE RELEASE, A COPY OF THE EXPUNGED RECORDS MAY BE RELEASED TO THE VICTIM. IF THE COURT ORDERS THE RELEASE OF A COPY OF THE EXPUNGED RECORDS TO THE VICTIM, THE COURT MUST ISSUE A PROTECTIVE ORDER REGARDING THE USAGE OF THE EXPUNGED RECORDS.

(e) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED PURSUANT TO THIS SECTION, ANY INFORMATION, INCLUDING POLICE AFFIDAVITS AND REPORTS AND RECORDS RELATED TO ANY PRIOR CONVICTION OR ADJUDICATION, ARE AVAILABLE WITHOUT COURT ORDER TO THE PERSONS, GOVERNMENT AGENCIES, OR ENTITIES ALLOWED ACCESS TO OR ALLOWED TO EXCHANGE SUCH INFORMATION PURSUANT TO SECTION 19-1-303 FOR THE PURPOSES DESCRIBED THEREIN. ANY PERSON WHO KNOWINGLY VIOLATES THE CONFIDENTIALITY PROVISIONS OF SECTION 19-1-303 IS SUBJECT TO THE PENALTY IN SECTION 19-1-303 (4.7).

(f) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED PURSUANT TO THIS SECTION, NOTHING IN THIS SECTION PRECLUDES A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES EMPLOYEE FROM

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REVIEWING INTERNAL DEPARTMENT RECORDS THAT ARE ORDERED EXPUNGED AND ARE IN THE COUNTY DEPARTMENT'S POSSESSION FOR PURPOSES OF DEPARTMENT INVESTIGATIONS AND CASE MANAGEMENT IN THE PROVISION OF CHILD WELFARE SERVICES.

(4) (a) THE COURT SHALL ORDER ALL RECORDS IN A JUVENILE DELINQUENCY CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED WITHIN FORTY-TWO DAYS AFTER:

(I) A FINDING OF NOT GUILTY AT AN ADJUDICATORY TRIAL;

(II) DISMISSAL OF THE PETITION IN ITS ENTIRETY; OR

(III) THE COMPLETION OF A SENTENCE FOR A PETTY OFFENSE, DRUG PETTY OFFENSE, CLASS 2 OR CLASS 3 MISDEMEANOR OFFENSE, OR LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR IF THE OFFENSE DOES NOT INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), IS NOT AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, OR IS NOT A CRIME LISTED UNDER SECTION 24-4.1-302 (1), AND THE DEFENDANT WAS UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED.

(b) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE, THE JUVENILE'S LAST ATTORNEY OF RECORD, THE PROSECUTING ATTORNEY, THE LAW ENFORCEMENT AGENCY OR AGENCIES THAT INVESTIGATED THE CASE, THE STATE COURT ADMINISTRATOR'S OFFICE, THE DIVISION OF YOUTH CORRECTIONS, AND THE COLORADO BUREAU OF INVESTIGATION, DIRECTING THE ENTITY TO EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED IN THE ORDER. THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER, AND THE COURT MAY SO ORDER.

(c) THE COURT SHALL, ON OR BEFORE NOVEMBER 1 OF EACH YEAR, REVIEW ALL JUVENILE DELINQUENCY COURT FILES DURING THE TWO PREVIOUS YEARS THAT RESULTED IN A FINDING OF NOT GUILTY; A DISMISSAL OF THE PETITION; A SENTENCE FOR A PETTY OFFENSE; A SENTENCE FOR A

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DRUG PETTY OFFENSE; A SENTENCE FOR A DRUG MISDEMEANOR OFFENSE; OR A SENTENCE FOR A CLASS 2 OR CLASS 3 MISDEMEANOR OFFENSE IF THE OFFENSE DOES NOT INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), IS NOT AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, OR IS NOT A CRIME LISTED UNDER SECTION 24-4.1-302 (1), AND THE DEFENDANT WAS UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED. THE COURT SHALL ENTER AN EXPUNGEMENT ORDER FOR ALL JUVENILES ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS SUBSECTION (4), IF THE EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE.

(5) (a) THE COURT SHALL SEND NOTICE TO THE PROSECUTING ATTORNEY AND SUPERVISING AGENCY OF THE JUVENILE AT LEAST NINETY-ONE DAYS PRIOR TO THE END OF THE JUVENILE'S DIVERSION PROGRAM, DEFERRED ADJUDICATION, INFORMAL ADJUSTMENT, OR SENTENCE THAT ALL RECORDS IN A JUVENILE DELINQUENCY CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, WILL BE EXPUNGED AFTER COMPLETION OF:

(I) A JUVENILE DIVERSION PROGRAM, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT;

(II) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A CLASS 1 MISDEMEANOR OR A PETTY OR A MISDEMEANOR OFFENSE THAT IS NOT ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (4) OF THIS SECTION, IF THE OFFENSE DID NOT INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9);

(III) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A MISDEMEANOR OFFENSE INVOLVING UNLAWFUL SEXUAL CONTACT AS DESCRIBED IN SECTION 18-3-404; OR

(IV) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A FELONY OFFENSE OR FELONY DRUG OFFENSE IF:

(A) THE FELONY OFFENSE DID NOT CONSTITUTE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9);

(B) THE FELONY OFFENSE WAS NOT A CRIME OF VIOLENCE AS

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DESCRIBED IN SECTION 18-1.3-406;

(C) THE FELONY OFFENSE WAS NOT A CLASS 1 OR CLASS 2 FELONY;
AND

(D) THE JUVENILE HAD NO PRIOR FELONY ADJUDICATIONS.

(b) UPON RECEIPT OF THE NOTICE FROM THE COURT IN SUBSECTION (5)(a) OF THIS SECTION, THE PROSECUTING ATTORNEY SHALL CONTACT THE VICTIM REGARDING EXPUNGEMENT.

(c) UPON ISSUANCE OF THE NOTICE FROM THE COURT IN SUBSECTION (5)(a) OF THIS SECTION, THE SUPERVISING AGENCY MUST PREPARE A REPORT AND SUMMARY OF SUPERVISION OUTLINING THE PERFORMANCE OF THE JUVENILE WHILE UNDER SUPERVISION. IF THE JUVENILE IS NO LONGER UNDER SUPERVISION, THE SUPERVISING AGENCY MUST CONTACT THE JUVENILE AND SUMMARIZE THE JUVENILE'S ACTIVITIES SINCE TERMINATION OF SUPERVISION TO ASSIST THE COURT IN MAKING ITS DETERMINATION OF THE APPROPRIATENESS FOR EXPUNGEMENT. THE SUPERVISING AGENCY SHALL PROVIDE THE REPORT TO THE COURT, THE PROSECUTING ATTORNEY, THE JUVENILE, AND THE JUVENILE'S ATTORNEY OF RECORD WITHIN TWENTY-EIGHT DAYS OF THE NOTICE FROM THE COURT.

(d) IF NEITHER THE PROSECUTING ATTORNEY NOR A VICTIM FILES AN OBJECTION WITHIN EIGHTY-FOUR DAYS AFTER THE ISSUANCE OF THE NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, THE COURT SHALL ORDER ALL RECORDS IN THE JUVENILE DELINQUENCY CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED.

(e) IF THE PROSECUTING ATTORNEY OR A VICTIM FILES AN OBJECTION WITHIN EIGHTY-FOUR DAYS AFTER RECEIPT OF THE NOTICE BY THE PROSECUTING ATTORNEY PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE ISSUE OF EXPUNGEMENT. THE COURT SHALL NOTIFY ALL OBJECTING PARTIES OF THE HEARING DATE. THE HEARING MUST BE SET AT LEAST THIRTY-FIVE DAYS AFTER THE DATE THE COURT SENDS NOTICE OF THE HEARING.

(f) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (5)(e) OF

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THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST KNOWN ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS BEEN REHABILITATED AND WHETHER EXPUNGEMENT IS IN THE BEST INTEREST OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT REQUIRED TO APPEAR AT THE HEARING.

(g) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (5), THE COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED IF THE COURT MAKES WRITTEN FINDINGS THAT:

(I) THE REHABILITATION OF THE JUVENILE HAS BEEN ATTAINED TO THE SATISFACTION OF THE COURT; AND

(II) THE EXPUNGEMENT IS IN THE BEST INTEREST OF THE JUVENILE AND THE COMMUNITY.

(h) THE COURT SHALL, STARTING ON NOVEMBER 1, 2019, AND EACH NOVEMBER 1 THEREAFTER, REVIEW ALL JUVENILE DELINQUENCY COURT FILES DURING THE TWO PREVIOUS YEARS THAT RESULTED IN PARTICIPATION IN DIVERSION, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT; A SENTENCE FOR A CLASS 1 MISDEMEANOR OFFENSE, ANY DRUG FELONY OFFENSE, OR A MISDEMEANOR OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3; OR A FELONY OFFENSE THAT DID NOT CONSTITUTE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), WAS NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, AND WAS NOT A CLASS 1 OR CLASS 2 FELONY. THE COURT SHALL SEND THE NOTICE REQUIRED FOR ALL RECORDS ELIGIBLE FOR A NOTICE PURSUANT TO THIS SUBSECTION (5) IF THE NOTICE WAS NOT PREVIOUSLY SENT AND AN EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE. AFTER THE NOTICE IS SENT, THE PROVISIONS OF SUBSECTIONS (5)(b) TO (5)(g) OF THIS SECTION APPLY.

(i) WITH THE VICTIM'S CONSENT, OR IF THERE IS NO NAMED VICTIM, THE PROSECUTING ATTORNEY MAY AGREE AT THE TIME OF A PLEA THAT

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THERE WILL BE NO OBJECTION TO EXPUNGEMENT UPON THE COMPLETION OF THE JUVENILE'S SENTENCE. IN SUCH A CASE, THE COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED UPON COMPLETION OF THE JUVENILE'S SENTENCE. A HEARING IS NOT REQUIRED.

(j) A JUVENILE WHO WAS ADJUDICATED AS A MANDATORY SENTENCE OFFENDER PURSUANT TO SECTION 19-2-516 (1) OR AS A REPEAT JUVENILE OFFENDER PURSUANT TO SECTION 19-2-516 (2) IS NOT ELIGIBLE FOR EXPUNGEMENT UNDER THIS SUBSECTION (5), BUT MAY PETITION FOR EXPUNGEMENT PURSUANT TO SUBSECTION (6)(e) OF THIS SECTION.

(6) (a) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE RECORDS IN A CLOSED CASE PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE RECORDS ARE OTHERWISE ELIGIBLE FOR EXPUNGEMENT, HAVE NOT BEEN EXPUNGED BY THE COURT, AND A PROCEEDING CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT PENDING AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE NOT REQUIRED. IF THE COURT DETERMINES THE RECORDS ARE ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION, THE COURT SHALL GRANT THE PETITION TO EXPUNGE WITHOUT A HEARING AND SHALL ISSUE AN ORDER PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(b) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE RECORDS IN A CLOSED CASE PURSUANT TO SUBSECTION (5) OF THIS SECTION IF THE RECORDS ARE OTHERWISE ELIGIBLE FOR EXPUNGEMENT, HAVE NOT BEEN EXPUNGED BY THE COURT, AND A PROCEEDING CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT PENDING AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE NOT REQUIRED. IF THE RECORDS ARE ELIGIBLE FOR EXPUNGEMENT PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION AND THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

(c) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE RECORDS RELATED TO A LAW ENFORCEMENT CONTACT THAT DID NOT RESULT IN REFERRAL TO ANOTHER AGENCY AFTER ONE YEAR HAS PASSED SINCE THE LAW ENFORCEMENT CONTACT AND A PROCEEDING CONCERNING

A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT PENDING AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE NOT REQUIRED. IF THE RECORDS ARE ELIGIBLE FOR EXPUNGEMENT PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION AND THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

(d) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE RECORDS IN A CLOSED CASED PURSUANT TO SUBSECTION (5) OF THIS SECTION IF THE PERSON WAS PREVIOUSLY DENIED AN EXPUNGEMENT ORDER FOR THOSE SAME RECORDS PURSUANT TO SUBSECTION (5) OF THIS SECTION AND AT LEAST TWELVE MONTHS HAVE PASSED SINCE THE DATE OF THE ORIGINAL DENIAL ORDER, THE PETITIONER PROVIDES NEW INFORMATION NOT PREVIOUSLY CONSIDERED BY THE PRIOR REVIEWING COURT, AND A PROCEEDING CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT PENDING AGAINST THE PETITIONER. THE COURT SHALL SCHEDULE A HEARING AND NOTIFY THE PROSECUTING ATTORNEY OF THE HEARING DATE. THE COURT SHALL SET THE HEARING AT LEAST THIRTY-FIVE DAYS AFTER THE COURT SENDS THE NOTICE OF THE HEARING. ALL OTHER PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

(e) A JUVENILE WHO WAS ADJUDICATED AS A MANDATORY SENTENCE OFFENDER PURSUANT TO SECTION 19-2-516 (1) OR AS A REPEAT OFFENDER PURSUANT TO SECTION 19-2-516 (2), AND IS NOT OTHERWISE INELIGIBLE FOR EXPUNGEMENT PURSUANT TO THE PROVISIONS OF SUBSECTION (8) OF THIS SECTION AND DOES NOT HAVE A PROCEEDING CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION PENDING AGAINST HIMSELF OR HERSELF, MAY PETITION THE COURT TO REQUEST EXPUNGEMENT OF HIS OR HER RECORD THIRTY-SIX MONTHS AFTER THE DATE OF THE PETITIONER'S UNCONDITIONAL RELEASE FROM HIS OR HER JUVENILE SENTENCE. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE NOT REQUIRED. THE COURT SHALL ISSUE A NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, AND THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

(7) UNLESS OTHERWISE STATED IN THE APPLICABLE SECTION, A PERSON MAY FILE A PETITION WITH THE COURT FOR EXPUNGEMENT OF HIS OR HER RECORD PURSUANT TO SUBSECTIONS (4), (5), AND (6) OF THIS SECTION ONLY ONCE DURING A TWELVE-MONTH PERIOD.

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(8) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (4), (5), AND (6) OF THIS SECTION, A COURT SHALL NOT EXPUNGE THE RECORD OF A PERSON WHO IS:

(a) ADJUDICATED AS AN AGGRAVATED JUVENILE OFFENDER PURSUANT TO SECTION 19-2-516 (4) OR AS A VIOLENT JUVENILE OFFENDER PURSUANT TO SECTION 19-2-516 (3);

(b) ADJUDICATED OF HOMICIDE AND RELATED OFFENSES PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18;

(c) ADJUDICATED FOR A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DESCRIBED IN SECTION 16-22-102 (9); OR

(d) CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE OR INFRACTION PURSUANT TO TITLE 42.

(9) **Municipal court records.** (a) THE COURT SHALL SEND NOTICE TO THE PROSECUTING ATTORNEY THAT ALL RECORDS IN A CASE CHARGING A JUVENILE WITH A VIOLATION OF A MUNICIPAL CODE OR ORDINANCE, EXCLUDING OFFENSES CHARGED PURSUANT TO TITLE 42, ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION WILL BE EXPUNGED FORTY-TWO DAYS AFTER COMPLETION OF THE MUNICIPAL SENTENCE.

(b) IF THE PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION, THE MUNICIPAL COURT SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION EXPUNGED.

(c) IF THE PROSECUTING ATTORNEY FILES AN OBJECTION WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE BY THE COURT PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE ISSUE OF EXPUNGEMENT. THE COURT SHALL NOTIFY THE PROSECUTING ATTORNEY OF THE HEARING DATE.

(d) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (9)(c) OF

THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST KNOWN ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS BEEN REHABILITATED AND WHETHER THE EXPUNGEMENT IS IN THE BEST INTEREST OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT REQUIRED TO APPEAR AT THE HEARING.

(e) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (9), THE COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED IF THE COURT MAKES WRITTEN FINDINGS THAT THE JUVENILE SUCCESSFULLY COMPLETED THE SENTENCE OR THE MUNICIPAL COURT CASE IS CLOSED.

(f) ON NOVEMBER 1 OF EACH YEAR, THE MUNICIPAL COURT SHALL REVIEW ALL JUVENILE COURT FILES DURING THE TWO PREVIOUS YEARS THAT RESULTED IN A FINDING OF NOT GUILTY OR GUILTY OR RESULTED IN DIVERSION, DEFERRED JUDGMENT, DISMISSAL, OR OTHER DISPOSITION OR RESOLUTION, AND ENTER AN EXPUNGEMENT ORDER FOR ALL JUVENILES ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS SUBSECTION (9) IF THE EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE.

(g) IN THE EVENT THAT MUNICIPAL RECORDS HAVE NOT BEEN EXPUNGED PURSUANT TO THIS SECTION, AN INDIVIDUAL MAY PETITION THE JUVENILE COURT IN THE JUDICIAL DISTRICT WHERE THE MUNICIPALITY IS LOCATED TO EXPUNGE RECORDS OF A MUNICIPAL CASE BROUGHT AGAINST A JUVENILE. EXPUNGEMENT PROCEEDINGS PURSUANT TO THIS SUBSECTION (9) MUST BE INITIATED BY THE FILING OF A PETITION REQUESTING AN ORDER OF EXPUNGEMENT. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES SHALL NOT BE REQUIRED. IF THE PETITION IS NOT GRANTED WITHOUT A HEARING, THE COURT SHALL SET A DATE FOR A HEARING ON THE PETITION FOR EXPUNGEMENT AND SHALL NOTIFY THE APPROPRIATE PROSECUTING ATTORNEY.

(h) THE COURT SHALL ORDER ALL RECORDS RELATED TO THE MUNICIPAL CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS

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RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED PURSUANT TO THIS SUBSECTION (9) IF THE COURT FINDS THAT THE SENTENCE HAS BEEN COMPLETED OR THE MUNICIPAL COURT CASE IS CLOSED.

(10) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE EXPUNGEMENT OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY EXPUNGEMENT ORDER:

(a) ALL COURT RECORDS;

(b) ALL RECORDS RETAINED WITHIN THE OFFICE OF THE PROSECUTING ATTORNEY;

(c) ALL PROBATION AND PAROLE RECORDS;

(d) ALL LAW ENFORCEMENT RECORDS;

(e) ALL DEPARTMENT OF HUMAN SERVICES RECORDS, INCLUDING DISASSOCIATING THE OFFENSE AND THE DISPOSITION INFORMATION FROM THE NAME OF THE YOUTH IN THE MANAGEMENT INFORMATION SYSTEM;

(f) ALL DIVISION OF YOUTH CORRECTIONS RECORDS;

(g) ALL DEPARTMENT OF CORRECTIONS RECORDS; AND

(h) REFERENCES TO THE CRIMINAL CASE OR CHARGE CONTAINED IN THE SCHOOL RECORDS.

(11) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE, THE JUVENILE'S LAST ATTORNEY OF RECORD, AND EACH AGENCY, PERSON, COMPANY, OR ORGANIZATION NAMED THEREIN, DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN THIRTY-FIVE DAYS AFTER THE RECEIPT OF THE ORDER. EACH SUCH AGENCY, PERSON, COMPANY, OR ORGANIZATION

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SHALL EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED BY THE ORDER. THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER, AND THE COURT MAY SO ORDER.

(12) ANY AGENCY, PERSON, COMPANY, OR ORGANIZATION THAT VIOLATES THIS SECTION AND KNEW THAT THE RECORDS IN QUESTION WERE SUBJECT TO AN EXPUNGEMENT ORDER MAY BE SUBJECT TO CRIMINAL AND CIVIL CONTEMPT OF COURT AND MAY BE PUNISHED BY A FINE.

(13) EMPLOYERS; EDUCATIONAL INSTITUTIONS; LANDLORDS; AND STATE AND LOCAL GOVERNMENT AGENCIES, OFFICIALS, AND EMPLOYEES SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN EXPUNGED RECORDS. IN ANSWER TO ANY QUESTION CONCERNING ARREST OR JUVENILE AND CRIMINAL RECORDS INFORMATION THAT HAS BEEN EXPUNGED, AN APPLICANT NEED NOT INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE EXPUNGED INFORMATION AND MAY STATE THAT NO RECORD EXISTS. AN APPLICATION MAY NOT BE DENIED SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE RECORDS OR INFORMATION THAT HAS BEEN EXPUNGED.

(14) NOTHING IN THIS SECTION AUTHORIZES THE PHYSICAL DESTRUCTION OF ANY JUVENILE OR CRIMINAL JUSTICE RECORD.

SECTION 3. In Colorado Revised Statutes, add 16-18.5-112 as follows:

16-18.5-112. Effect of expungement. NOTWITHSTANDING THE ENTRY OF AN ORDER OF EXPUNGEMENT PURSUANT TO SECTION 19-1-306, THE PROVISIONS OF THIS ARTICLE 18.5 APPLY.

SECTION 4. In Colorado Revised Statutes, 18-1.3-701, add (4.5) as follows:

18-1.3-701. Judgment for costs and fines.
(4.5) NOTWITHSTANDING THE ENTRY OF AN ORDER OF EXPUNGEMENT PURSUANT TO SECTION 19-1-306, THE PROVISIONS OF THIS PART 7 APPLY.

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SECTION 5. In Colorado Revised Statutes, 18-7-201.3, **repeal** (2)(b) as follows:

18-7-201.3. Affirmative defense - human trafficking - expungement of record protective order - definitions. ~~(2) (b) A juvenile charged with or adjudicated of prostitution, as described in section 18-7-201 or any corresponding municipal code or ordinance, for an offense committed before July 1, 2015, which offense was committed as a direct result of being a victim of human trafficking, as defined in subsection (4) of this section, may apply to the court for expungement of his or her record pursuant to section 19-1-306, C.R.S.~~

SECTION 6. In Colorado Revised Statutes, 24-4.1-302, **amend** (2)(r.3) as follows:

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(2) "Critical stages" means the following stages of the criminal justice process:

(r.3) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(r.3)(II) OF THIS SECTION, any hearing concerning a petition for expungement as described in ~~section 19-1-306 (5) (a), C.R.S.;~~ SECTION 19-1-306.

(II) THE ENTRY OF AN ORDER OF EXPUNGEMENT IS NOT A CRITICAL STAGE IF:

(A) THE CASE RESULTED IN A NOT GUILTY VERDICT AT TRIAL;

(B) THE CASE WAS DISMISSED IN ITS ENTIRETY;

(C) THE JUVENILE COMPLETED A SENTENCE FOR A PETTY OFFENSE, ANY DRUG PETTY OFFENSE, ANY LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR, OR A CLASS 2 OR CLASS 3 MISDEMEANOR OFFENSE NOT INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-109 (9), DOMESTIC VIOLENCE AS DESCRIBED IN SECTION 18-6-800.3, OR A CRIME THAT IS A CRIME LISTED UNDER SECTION 24-4.1-302 (1); OR

(D) THE JUVENILE COMPLETED A SENTENCE FOR A MUNICIPAL

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OFFENSE NOT INVOLVING DOMESTIC VIOLENCE AS DESCRIBED IN SECTION 18-6-800.3.

SECTION 7. In Colorado Revised Statutes, 24-4.1-302.5, amend (1)(d)(VIII) as follows:

24-4.1-302.5. Rights afforded to victims. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(d) The right to be heard at any court proceeding:

(VIII) Involving a petition for expungement as described in ~~section 19-1-306 (5) (a)~~, C.R.S. SECTION 19-1-306.

SECTION 8. In Colorado Revised Statutes, 13-1-119.5, amend (1)(e) and (1)(f); and add (1)(g) as follows:

13-1-119.5. Electronic access to name index and register of actions. (1) Statewide electronic read-only access to the name index and register of actions of public case types must be made available to the following agencies or attorneys appointed by the court:

(e) A respondent parent's counsel under contract with the office of the respondent parents' counsel, created in section 13-92-103, or authorized by the office of the respondent parents' counsel to act as a respondent parent's counsel, as it relates to a case in which they are appointed by the court; and

(f) Criminal justice agencies as described in section 24-72-302 (3); C.R.S.; AND

(g) A LICENSED ATTORNEY WORKING WITH A NONPROFIT ASSOCIATION PURSUANT TO THE PROVISIONS OF SECTION 19-1-304 (7)(f).

SECTION 9. Appropriation. (1) For the 2017-18 state fiscal year, \$108,710 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of information technology services.

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(2) For the 2017-18 state fiscal year, \$108,710 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of human services.

(3) For the 2017-18 state fiscal year, \$45,237 is appropriated to the judicial department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$40,534 for trial court programs, which amount is based on an assumption that the department will require an additional 0.8 FTE; and

(b) \$4,703 for capital outlay related to courts administration.

(4) For the 2017-18 state fiscal year, \$12,294 is appropriated to the department of public safety for use by the biometric identification and records unit. This appropriation is from the general fund and is based on an assumption that the unit will require an additional 0.4 FTE. To implement this act, the unit may use this appropriation to seal records for juvenile expungements.

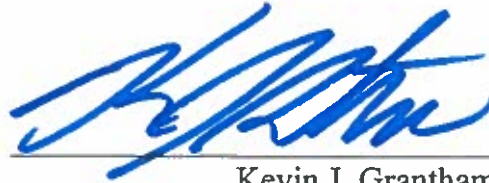
SECTION 10. Effective date. This act takes effect November 1, 2017.

SECTION 11. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Marilyn Edgins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Effie Ameen
SECRETARY OF
THE SENATE

APPROVED 10:58 am 5/18/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1216

BY REPRESENTATIVE(S) Kraft-Tharp and Sias, Becker J., Bridges, Buckner, Ginal, Gray, Hooton, Kennedy, Lontine, McLachlan, Mitsch Bush, Pabon, Rosenthal, Saine, Singer, Williams D., Duran; also SENATOR(S) Neville T. and Jahn, Baumgardner, Cooke, Crowder, Gardner, Hill, Kagan, Kefalas, Kerr, Marble, Moreno, Priola, Smallwood, Tate, Grantham.

CONCERNING THE CREATION OF THE SALES AND USE TAX SIMPLIFICATION TASK FORCE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, add part 8 to article 26 of title 39 as follows:

PART 8 SALES AND USE TAX SIMPLIFICATION TASK FORCE

39-26-801. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) COLORADO HAS A UNIQUE AND COMPLEX STATE AND LOCAL

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

SALES TAX SYSTEM;

(b) HOME RULE JURISDICTIONS HAVE EXERCISED THEIR CONSTITUTIONAL AUTHORITY TO ESTABLISH THEIR OWN SALES AND USE TAX SYSTEMS, INCLUDING THEIR OWN LICENSING REQUIREMENTS, RATES, TAXABLE AND NONTAXABLE ITEMS, AND DEFINITIONS;

(c) THE RESULTING LACK OF UNIFORMITY CAN BE ESPECIALLY CUMBERSOME FOR BUSINESSES OPERATING IN MULTIPLE JURISDICTIONS IN COLORADO; AND

(d) IT IS TIME THAT A GROUP OF KNOWLEDGEABLE CITIZENS COME TOGETHER TO STUDY OPTIONS OF FURTHER SIMPLIFYING OUR TAX SYSTEM.

39-26-802. Sales and use tax simplification task force - creation.

(1) (a) NOTWITHSTANDING SECTION 2-3-303.3, THERE IS CREATED THE SALES AND USE TAX SIMPLIFICATION TASK FORCE, REFERRED TO IN THIS PART 8 AS THE "TASK FORCE", WHICH SHALL MEET AS NECESSARY DURING ANY LEGISLATIVE SESSION OR ANY INTERIM BETWEEN LEGISLATIVE SESSIONS TO STUDY THE NECESSARY COMPONENTS OF A SIMPLIFIED SALES AND USE TAX SYSTEM FOR BOTH THE STATE AND LOCAL GOVERNMENTS, INCLUDING HOME RULE MUNICIPALITIES AND COUNTIES.

(b) THE TASK FORCE SHALL STUDY SALES AND USE TAX SIMPLIFICATION BETWEEN THE STATE AND LOCAL GOVERNMENTS, INCLUDING HOME RULE MUNICIPALITIES, TO IDENTIFY OPPORTUNITIES AND CHALLENGES WITHIN EXISTING FISCAL FRAMEWORKS TO ADOPT INNOVATIVE REVENUE-NEUTRAL SOLUTIONS THAT DO NOT REQUIRE CONSTITUTIONAL AMENDMENTS OR VOTER APPROVAL. THE TASK FORCE SHALL CONSIDER THE FEASIBILITY OF:

(I) HAVING A THIRD-PARTY ENTITY RESPONSIBLE FOR STATE OR LOCAL SALES AND USE TAX ADMINISTRATION, RETURN PROCESSING, AND AUDITS;

(II) MAKING AUDITS OF RETAILERS MORE UNIFORM FOR ALL STATE AND LOCAL TAXING JURISDICTIONS IN THE STATE;

(III) UTILIZATION OF CERTIFIED SOFTWARE FOR SALES AND USE TAX ADMINISTRATION AND COLLECTION OF STATE AND LOCAL SALES AND USE

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TAX; AND

(IV) UTILIZATION OF A SINGLE SALES AND USE TAX RETURN FOR STATE AND LOCAL TAXING JURISDICTIONS.

(2) THE TASK FORCE CONSISTS OF:

(a) TWO MEMBERS FROM THE HOUSE OF REPRESENTATIVES, ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(b) TWO MEMBERS FROM THE SENATE, ONE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(c) A REPRESENTATIVE OF THE DEPARTMENT OF REVENUE WHO IS WELL VERSED IN SALES AND USE TAX COLLECTION AND DISTRIBUTION ISSUES AND WHO IS KNOWLEDGEABLE OF THE POLICY STATEMENTS AND RESOLUTIONS REGARDING SALES AND USE TAX COLLECTION AND UNIFORMITY OF THE MULTISTATE TAX COMMISSION, OF WHICH COLORADO IS A MEMBER;

(d) A REPRESENTATIVE OF THE COLORADO MUNICIPAL LEAGUE;

(e) A REPRESENTATIVE OF COLORADO COUNTIES, INCORPORATED;

(f) A MEMBER OF A STATEWIDE ASSOCIATION OF SMALL BUSINESSES THAT IS ADDRESSING THE SIMPLIFICATION OF SALES AND USE TAX COLLECTION, APPOINTED BY THE GOVERNOR;

(g) A MEMBER OF THE STATEWIDE CHAMBER OF COMMERCE, APPOINTED BY THE GOVERNOR;

(h) A STATE AND LOCAL SALES AND USE TAX LAW PRACTITIONER WHO IS NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY, APPOINTED BY THE GOVERNOR;

(i) A MEMBER WITH STATE AND LOCAL SALES AND USE TAX ACCOUNTING EXPERIENCE WHO IS NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY, APPOINTED BY THE GOVERNOR; AND

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(j) ONE MANAGER, MAYOR, COUNCIL-PERSON, FINANCE OFFICER, OR TAX ADMINISTRATOR OF A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY, APPOINTED BY THE COLORADO MUNICIPAL LEAGUE FROM EACH OF ITS FOUR POPULATION MEMBERSHIP CATEGORIES, ACCORDING TO ITS BYLAWS.

(3) THE TASK FORCE SHALL MEET AT LEAST EIGHT TIMES, WITH THE FIRST MEETING OCCURRING NO LATER THAN JULY 12, 2017. TASK FORCE MEETINGS SHALL BE OPEN TO THE PUBLIC AND THE TASK FORCE SHALL SOLICIT THE TESTIMONY OF THE MEMBERS OF THE PUBLIC.

(4) (a) THE MEMBERS OF THE TASK FORCE APPOINTED PURSUANT TO SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION ARE ENTITLED TO RECEIVE COMPENSATION AND REIMBURSEMENT OF EXPENSES AS PROVIDED IN SECTION 2-2-326.

(b) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL BE AVAILABLE TO ASSIST THE TASK FORCE IN CARRYING OUT ITS DUTIES.

(5) NO LATER THAN NOVEMBER 1, 2017, AND NO LATER THAN EACH NOVEMBER 1 THEREAFTER, THE TASK FORCE SHALL MAKE A REPORT TO THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 THAT MAY OR MAY NOT INCLUDE RECOMMENDATIONS FOR LEGISLATION.

39-26-803. Gifts, grants, or donations. THE TASK FORCE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 8.

39-26-804. Sunset of task force. THIS PART 8 IS REPEALED, EFFECTIVE JULY 1, 2020. BEFORE ITS REPEAL, THIS PART 8 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1201.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, add (10)(a)(III) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (10) (a) The following statutory authorizations for the designated advisory committees will repeal on July 1, 2020:

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(III) THE SALES AND USE TAX SIMPLIFICATION TASK FORCE CREATED IN SECTION 39-26-802.

SECTION 3. Appropriation. (1) For the 2017-18 state fiscal year, \$26,374 is appropriated to the legislative department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$16,879 for the legislative council, which amount is based on an assumption that the council will require an additional 0.3 FTE;

(b) \$6,873 for the committee on legal services, which amount is based on the assumption that the committee will require an additional 0.1 FTE; and

(c) \$2,622 for use by the general assembly for legislative member per diem.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Marilyn Edgins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

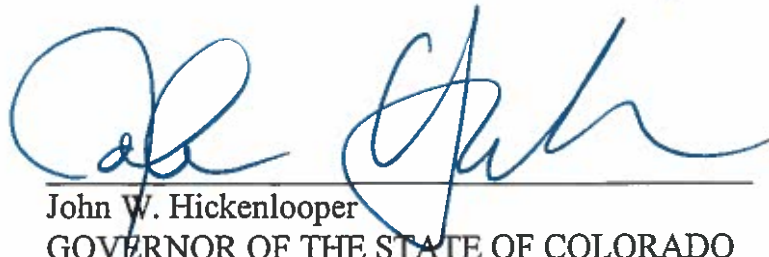


Effie Ameen
SECRETARY OF
THE SENATE

APPROVED

3:52 PM

6/5/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1220

BY REPRESENTATIVE(S) Becker K. and Wist, Carver, Esgar, Landgraf, Lawrence, Pabon, Thurlow, Van Winkle, Young, Arndt, Beckman, Covarrubias, Garnett, Ginal, Liston, Lundeen, McKean, Navarro, Nordberg, Pettersen, Ransom, Sias, Willett, Wilson, Gray, Hamner, Hooton, Kennedy, Kraft-Tharp, Neville P., Valdez, Williams D., Duran; also SENATOR(S) Gardner and Fields, Priola, Cooke, Court, Crowder, Hill, Holbert, Lambert, Martinez Humenik, Neville T., Smallwood, Tate, Todd, Williams A., Grantham.

CONCERNING MEASURES TO STOP DIVERSION OF LEGAL MARIJUANA TO THE ILLEGAL MARKET.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Through citizen-initiated measures, Colorado provided its citizens protections for the cultivation and use of medical marijuana in 2000 and recreational marijuana in 2012;

(b) One of the reasons behind these citizen-initiated measures was to erode the black market for marijuana in Colorado;

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

(c) The constitutional provisions for both medical marijuana and recreational marijuana provide protections for personal marijuana cultivation, but these provisions are silent on the question of where marijuana plants may be grown or processed for medical or recreational use;

(d) Although the authority for marijuana cultivation for both medical and recreational marijuana is generally limited to six plants per person, some provisions allow individuals to grow more plants. In the medical marijuana code, a patient can grow an "extended plant count" if his or her physician, who makes the medical marijuana recommendation, also determines the patient has a medical necessity for more than six plants. As well, a primary caregiver can grow medical marijuana for each of the patients that he or she serves.

(e) The extended plant count and primary caregiver provisions have created a situation in which individuals are cultivating large quantities of marijuana in residential homes;

(f) These large-scale cultivation sites in residential properties create a public safety issue and are a public nuisance. A site in a residential property can overburden the home's electrical system, resulting in excessive power use and creating a fire hazard that puts first responders at risk. A site can also cause water damage and mold in the residential property. A site in a residential property can produce a noxious smell that limits the ability of others who live in the area to enjoy the quiet of their homes. Often the site is a rental home, and the renters cause significant damage to the home by retrofitting the home to be used as a large-scale cultivation site. When residential property is used for a large-scale cultivation site, it often lowers the value of the property and thus the property value of the rest of the neighborhood. Finally, a site in a residential property can serve as a target for criminal activity, creating an untenable public safety hazard.

(g) Large-scale, multi-national crime organizations have exploited Colorado laws, rented multiple residential properties for large-scale cultivation sites, and caused an influx of human trafficking and large amounts of weapons as well as the potential for violent crimes in residential neighborhoods;

(h) Large-scale cultivation sites in residential properties have been used to divert marijuana out of state and to children.

(2) Therefore, the general assembly determines that it is necessary to impose reasonable limits on residential marijuana cultivation that do not encroach on the protections afforded Colorado citizens in the Colorado constitution.

SECTION 2. In Colorado Revised Statutes, 18-18-406, amend (3)(a); and add (3)(c) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate - definition. (3) (a) (I) It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls.

(II) (A) REGARDLESS OF WHETHER THE PLANTS ARE FOR MEDICAL OR RECREATIONAL USE, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY CULTIVATE, GROW, OR PRODUCE MORE THAN TWELVE MARIJUANA PLANTS ON OR IN A RESIDENTIAL PROPERTY; OR TO KNOWINGLY ALLOW MORE THAN TWELVE MARIJUANA PLANTS TO BE CULTIVATED, GROWN, OR PRODUCED ON OR IN A RESIDENTIAL PROPERTY.

(B) EXCEPT AS PROVIDED IN SECTION 25-1.5-106 (8.5)(a.5)(I) OR SECTION 25-1.5-106 (8.6)(a)(I.5) FOR A MEDICAL MARIJUANA PATIENT OR A PRIMARY CAREGIVER WITH A TWENTY-FOUR-MARIJUANA-PLANT-COUNT EXCEPTION TO SUBSECTION (3)(a)(II)(A) OF THIS SECTION, IT IS NOT A VIOLATION OF SUBSECTION (3)(a)(II)(A) OF THIS SECTION IF A COUNTY, MUNICIPALITY, OR CITY AND COUNTY LAW EXPRESSLY PERMITS THE CULTIVATION, GROWTH, OR PRODUCTION OF MORE THAN TWELVE MARIJUANA PLANTS ON OR IN A RESIDENTIAL PROPERTY AND THE PERSON IS CULTIVATING, GROWING, OR PRODUCING THE PLANTS IN AN ENCLOSED AND LOCKED SPACE AND WITHIN THE LIMIT SET BY THE COUNTY, MUNICIPALITY, OR CITY AND COUNTY WHERE THE PLANTS ARE LOCATED.

(III) A person who violates the provisions of ~~this subsection~~ (3) SUBSECTION (3)(a)(I) OF THIS SECTION commits:

(H) (A) A level 3 drug felony if the offense involves more than thirty

plants;

(H) (B) A level 4 drug felony if the offense involves more than six but not more than thirty plants; or

(H) (C) A level 1 drug misdemeanor if the offense involves not more than six plants.

(IV) A PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (3)(a)(II)(A) OF THIS SECTION COMMITS:

(A) A LEVEL 1 DRUG PETTY OFFENSE FOR A FIRST OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWELVE PLANTS, AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF UP TO ONE THOUSAND DOLLARS;

(B) A LEVEL 1 DRUG MISDEMEANOR FOR A SECOND OR SUBSEQUENT OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWELVE BUT NOT MORE THAN TWENTY-FOUR PLANTS; OR

(C) A LEVEL 3 DRUG FELONY FOR A SECOND OR SUBSEQUENT OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWENTY-FOUR PLANTS.

(V) PROSECUTION UNDER SUBSECTION (3)(a)(II)(A) OF THIS SECTION DOES NOT PROHIBIT PROSECUTION UNDER ANY OTHER SECTION OF LAW.

(c) FOR PURPOSES OF THIS SUBSECTION (3):

(I) "FLOWERING" MEANS THE REPRODUCTIVE STATE OF THE CANNABIS PLANT IN WHICH THERE ARE PHYSICAL SIGNS OF FLOWER BUDDING OUT OF THE NODES IN THE STEM.

(II) "PLANT" MEANS ANY CANNABIS PLANT IN A CULTIVATING MEDIUM WHICH PLANT IS MORE THAN FOUR INCHES WIDE OR FOUR INCHES HIGH OR A FLOWERING CANNABIS PLANT REGARDLESS OF THE PLANT'S SIZE.

(III) "RESIDENTIAL PROPERTY" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS, INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION. "RESIDENTIAL PROPERTY" ALSO INCLUDES THE REAL PROPERTY SURROUNDING A STRUCTURE, OWNED IN COMMON WITH

THE STRUCTURE, THAT INCLUDES ONE OR MORE SINGLE UNITS PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES.

SECTION 3. In Colorado Revised Statutes, 25-1.5-106, amend (7)(e)(I)(A); and add (2)(e.3), (8.5)(a.5), (8.5)(b.5), (8.6)(a)(I.5), and (8.6)(a)(I.6) as follows:

25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created - repeal. (2) **Definitions.** In addition to the definitions set forth in section 14 (1) of article XVIII of the state constitution, as used in this section, unless the context otherwise requires:

(e.3) "RESIDENTIAL PROPERTY" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS, INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION. "RESIDENTIAL PROPERTY" ALSO INCLUDES THE REAL PROPERTY SURROUNDING A STRUCTURE, OWNED IN COMMON WITH THE STRUCTURE, THAT INCLUDES ONE OR MORE SINGLE UNITS PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES.

(7) **Primary caregivers.** (e) (I) (A) In order to be a primary caregiver who cultivates medical marijuana for his or her patients or transports medical marijuana for his or her patients, he or she shall also register with the state licensing authority AND COMPLY WITH ALL LOCAL LAWS, REGULATIONS, AND ZONING AND USE RESTRICTIONS. A person may not register as a primary caregiver if he or she is licensed as a medical marijuana business as described in part 4 of article 43.3 of title 12 ~~C.R.S.~~; or a retail marijuana business as described in part 4 of article 43.4 of title 12. ~~C.R.S.~~ An employee, contractor, or other support staff employed by a licensed entity pursuant to article 43.3 or 43.4 of title 12, ~~C.R.S.~~; or working in or having access to a restricted area of a licensed premises pursuant to article 43.3 or 43.4 of title 12, ~~C.R.S.~~; may be a primary caregiver.

(8.5) **Encourage patient voluntary registration - plant limits.** (a.5) (I) UNLESS OTHERWISE EXPRESSLY AUTHORIZED BY LOCAL LAW, IT IS UNLAWFUL FOR A PATIENT TO POSSESS AT OR CULTIVATE ON A RESIDENTIAL PROPERTY MORE THAN TWELVE MARIJUANA PLANTS REGARDLESS OF THE

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NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY; EXCEPT THAT IT IS UNLAWFUL FOR A PATIENT TO POSSESS AT OR CULTIVATE ON OR IN A RESIDENTIAL PROPERTY MORE THAN TWENTY-FOUR MARIJUANA PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY IF A PATIENT:

(A) LIVES IN A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT DOES NOT LIMIT THE NUMBER OF MARIJUANA PLANTS THAT MAY BE GROWN ON OR IN A RESIDENTIAL PROPERTY;

(B) REGISTERS PURSUANT TO THIS SUBSECTION (8.5) WITH THE STATE LICENSING AUTHORITY'S REGISTRY; AND

(C) PROVIDES NOTICE TO THE APPLICABLE COUNTY, MUNICIPALITY, OR CITY AND COUNTY OF HIS OR HER RESIDENTIAL CULTIVATION OPERATION IF REQUIRED BY THE JURISDICTION. A LOCAL JURISDICTION SHALL NOT PROVIDE THE INFORMATION PROVIDED TO IT PURSUANT TO THIS SUBSECTION (8.5)(a.5)(I)(C) TO THE PUBLIC, AND THE INFORMATION IS CONFIDENTIAL.

(II) A PATIENT WHO CULTIVATES MORE MARIJUANA PLANTS THAN PERMITTED IN SUBSECTION (8.5)(a.5)(I) OF THIS SECTION SHALL LOCATE HIS OR HER CULTIVATION OPERATION ON A PROPERTY, OTHER THAN A RESIDENTIAL PROPERTY, WHERE MARIJUANA CULTIVATION IS ALLOWED BY LOCAL LAW AND SHALL COMPLY WITH ANY APPLICABLE LOCAL LAW REQUIRING DISCLOSURE ABOUT THE CULTIVATION OPERATION. CULTIVATION OPERATIONS CONDUCTED IN A LOCATION OTHER THAN A RESIDENTIAL PROPERTY ARE SUBJECT TO ANY COUNTY AND MUNICIPAL BUILDING AND PUBLIC HEALTH INSPECTION REQUIRED BY LOCAL LAW. A PERSON WHO VIOLATES THIS SUBSECTION (8.5)(a.5) IS SUBJECT TO THE OFFENSES AND PENALTIES DESCRIBED IN SECTION 18-18-406.

(b.5) A PATIENT WHO CULTIVATES HIS OR HER OWN MEDICAL MARIJUANA PLANTS SHALL COMPLY WITH ALL LOCAL LAWS, REGULATIONS, AND ZONING AND USE RESTRICTIONS.

(8.6) Primary caregivers plant limits - exceptional circumstances. (a) (I.5) UNLESS OTHERWISE EXPRESSLY AUTHORIZED BY LOCAL LAW, IT IS UNLAWFUL FOR A PRIMARY CAREGIVER TO POSSESS AT OR CULTIVATE ON A RESIDENTIAL PROPERTY MORE THAN TWELVE MARIJUANA

PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY; EXCEPT THAT IT IS UNLAWFUL FOR A PRIMARY CAREGIVER TO POSSESS AT OR CULTIVATE ON OR IN A RESIDENTIAL PROPERTY MORE THAN TWENTY-FOUR MARIJUANA PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY IF A PRIMARY CAREGIVER:

(A) LIVES IN A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT DOES NOT LIMIT THE NUMBER OF MARIJUANA PLANTS THAT MAY BE GROWN ON OR IN A RESIDENTIAL PROPERTY;

(B) IS REGISTERED PURSUANT TO THIS SUBSECTION (8.6) WITH THE STATE LICENSING AUTHORITY'S REGISTRY; AND

(C) PROVIDES NOTICE TO THE APPLICABLE COUNTY, MUNICIPALITY, OR CITY AND COUNTY OF HIS OR HER RESIDENTIAL CULTIVATION OPERATION IF REQUIRED BY THE JURISDICTION. A LOCAL JURISDICTION SHALL NOT PROVIDE THE INFORMATION PROVIDED TO IT PURSUANT TO THIS SUBSECTION (8.6)(a)(I.5) TO THE PUBLIC, AND THE INFORMATION IS CONFIDENTIAL.

(I.6) ANY PRIMARY CAREGIVER WHO CULTIVATES MORE MARIJUANA PLANTS THAN PERMITTED IN SUBSECTION (8.6)(a)(I.5) OF THIS SECTION SHALL LOCATE HIS OR HER CULTIVATION OPERATION ON A PROPERTY, OTHER THAN A RESIDENTIAL PROPERTY, WHERE MARIJUANA CULTIVATION IS ALLOWED BY LOCAL LAW AND SHALL COMPLY WITH ANY APPLICABLE LOCAL LAW REQUIRING DISCLOSURE ABOUT THE CULTIVATION OPERATION. CULTIVATION OPERATIONS CONDUCTED IN A LOCATION OTHER THAN A RESIDENTIAL PROPERTY ARE SUBJECT TO ANY COUNTY AND MUNICIPAL BUILDING AND PUBLIC HEALTH INSPECTION REQUIRED BY LOCAL LAW. A PERSON WHO VIOLATES SUBSECTION (8.6)(a)(I) OF THIS SECTION IS SUBJECT TO THE OFFENSES AND PENALTIES DESCRIBED IN SECTION 18-18-406.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 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 the ninety-day period after final adjournment of the general assembly, 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

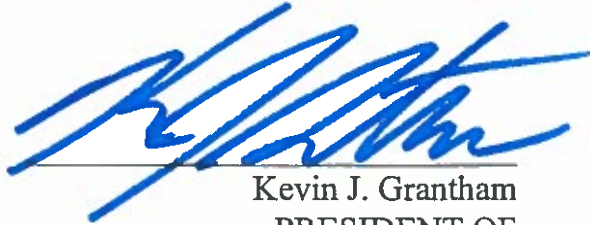
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governor.

(2) Section 2 of this act applies to offenses committed on or after the applicable effective date of this act.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



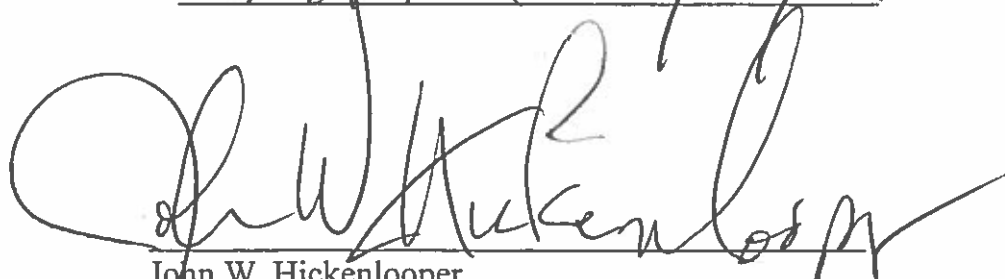
Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Effie Ameen
SECRETARY OF
THE SENATE

APPROVED

3:21 PM 6/8/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1279

BY REPRESENTATIVE(S) Garnett and Saine, Wist, Duran, Arndt, Becker K., Beckman, Benavidez, Bridges, Buck, Buckner, Carver, Catlin, Coleman, Covarrubias, Danielson, Esgar, Exum, Ginal, Gray, Hamner, Hansen, Herod, Hooton, Humphrey, Jackson, Kennedy, Kraft-Tharp, Landgraf, Lawrence, Lee, Leonard, Liston, Lontine, Lundeen, McKean, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Navarro, Neville P., Nordberg, Pabon, Pettersen, Rankin, Ransom, Rosenthal, Sias, Singer, Valdez, Van Winkle, Willett, Williams D., Wilson, Winter, Young; also SENATOR(S) Tate and Guzman, Williams A., Hill, Aguilar, Baumgardner, Cooke, Coram, Court, Crowder, Fenberg, Fields, Gardner, Holbert, Jahn, Kagan, Kefalas, Kerr, Lambert, Lundberg, Martinez Humenik, Merrifield, Moreno, Neville T., Scott, Smallwood, Sonnenberg, Todd, Zenzinger, Grantham.

CONCERNING THE REQUIREMENT THAT A UNIT OWNERS' ASSOCIATION OBTAIN APPROVAL THROUGH A VOTE OF UNIT OWNERS BEFORE FILING A CONSTRUCTION DEFECT ACTION.

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

SECTION 1. In Colorado Revised Statutes, 38-33.3-303.5, **amend (1); repeal (2); and add (4) as follows:**

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

38-33.3-303.5. Construction defect actions - disclosure - approval by unit owners - definitions - exemptions. (1) (a) ~~In the event BEFORE the executive board, pursuant to section 38-33.3-302 (1)(d), institutes an A CONSTRUCTION DEFECT action, asserting defects in the construction of five or more units, the provisions of this section shall apply: For purposes of this section, "action" shall have the same meaning as set forth in section 13-20-803 (1), C.R.S.~~

(b) the executive board shall **substantially** comply with the provisions of this section.

(b) FOR THE PURPOSES OF THIS SECTION ONLY:

(I) "CONSTRUCTION DEFECT ACTION":

(A) MEANS ANY CIVIL ACTION OR ARBITRATION PROCEEDING FOR DAMAGES, INDEMNITY, SUBROGATION, OR CONTRIBUTION BROUGHT AGAINST A CONSTRUCTION PROFESSIONAL TO ASSERT A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM FOR DAMAGES OR LOSS TO, OR THE LOSS OF USE OF, REAL OR PERSONAL PROPERTY OR PERSONAL INJURY CAUSED BY A DEFECT IN THE DESIGN OR CONSTRUCTION OF AN IMPROVEMENT TO REAL PROPERTY, REGARDLESS OF THE THEORY OF LIABILITY; AND

(B) INCLUDES ANY RELATED, ANCILLARY, OR DERIVATIVE CLAIM, AND ANY CLAIM FOR BREACH OF FIDUCIARY DUTY OR AN ACT OR OMISSION OF A MEMBER OF AN ASSOCIATION'S EXECUTIVE BOARD, THAT ARISES FROM AN ALLEGED CONSTRUCTION DEFECT OR THAT SEEKS THE SAME OR SIMILAR DAMAGES.

(II) "CONSTRUCTION PROFESSIONAL" HAS THE MEANING SET FORTH IN SECTION 13-20-802.5 (4).

(c) **Meeting to consider commencement of construction defect action - disclosures - required terms.** (I) THE EXECUTIVE BOARD SHALL MAIL OR DELIVER WRITTEN NOTICE OF THE ANTICIPATED COMMENCEMENT OF THE CONSTRUCTION DEFECT ACTION TO EACH UNIT OWNER AT THE OWNER'S LAST-KNOWN ADDRESS DESCRIBED IN THE ASSOCIATION'S RECORDS AND TO THE LAST-KNOWN ADDRESS OF EACH CONSTRUCTION PROFESSIONAL AGAINST WHOM A CONSTRUCTION DEFECT ACTION IS

PROPOSED; EXCEPT THAT THIS NOTICE REQUIREMENT DOES NOT APPLY TO:

(A) CONSTRUCTION PROFESSIONALS IDENTIFIED AFTER THE NOTICE IS MAILED; OR

(B) JOINED PARTIES IN A CONSTRUCTION DEFECT ACTION PREVIOUSLY APPROVED BY OWNERS PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION.

(II) THE NOTICE GIVEN PURSUANT TO THIS SUBSECTION (1)(c) MUST CALL A MEETING OF THE UNIT OWNERS, WHICH MUST BE HELD NO LESS THAN TEN DAYS AND NO MORE THAN FIFTEEN DAYS AFTER THE MAILING DATE OF THE NOTICE, TO CONSIDER WHETHER TO BRING A CONSTRUCTION DEFECT ACTION. A FAILURE TO HOLD THE MEETING WITHIN THIS TIME PERIOD VOIDS THE SUBSEQUENT VOTE. A QUORUM IS NOT REQUIRED AT THE MEETING. IN NO EVENT SHALL THE TIME PERIOD FOR PROVIDING THE NOTICE REQUIRED PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION, HOLDING THE MEETING REQUIRED PURSUANT TO THIS SUBSECTION (1)(c)(II), AND VOTING AS REQUIRED BY SUBSECTION (1)(d) OF THIS SECTION EXCEED NINETY DAYS. THE NOTICE MUST STATE THAT:

(A) THE CONCLUSION OF THE MEETING INITIATES THE VOTING PERIOD, DURING WHICH THE ASSOCIATION WILL ACCEPT VOTES FOR AND AGAINST PROCEEDING WITH THE CONSTRUCTION DEFECT ACTION. THE DISCLOSURE AND VOTING PERIOD SHALL END NINETY DAYS AFTER THE MAILING DATE OF THE MEETING NOTICE OR WHEN THE ASSOCIATION DETERMINES THAT THE CONSTRUCTION DEFECT ACTION IS EITHER APPROVED OR DISAPPROVED, WHICHEVER OCCURS FIRST.

(B) THE CONSTRUCTION PROFESSIONAL AGAINST WHOM THE CONSTRUCTION DEFECT ACTION IS PROPOSED WILL BE INVITED TO ATTEND AND WILL HAVE AN OPPORTUNITY TO ADDRESS THE UNIT OWNERS CONCERNING THE ALLEGED CONSTRUCTION DEFECT; AND

(C) THE PRESENTATION AT THE MEETING BY THE CONSTRUCTION PROFESSIONAL OR THE CONSTRUCTION PROFESSIONAL'S DESIGNEE OR DESIGNEES MAY, BUT IS NOT REQUIRED TO, INCLUDE AN OFFER TO REMEDY ANY DEFECT IN ACCORDANCE WITH SECTION 13-20-803.5 (3) OF THE "CONSTRUCTION DEFECT ACTION REFORM ACT".

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(III) THE NOTICE GIVEN PURSUANT TO THIS SUBSECTION (1)(c) MUST ALSO CONTAIN A DESCRIPTION OF THE NATURE OF THE CONSTRUCTION DEFECT ACTION, WHICH DESCRIPTION IDENTIFIES ALLEGED DEFECTS WITH REASONABLE SPECIFICITY, THE RELIEF SOUGHT, A GOOD-FAITH ESTIMATE OF THE BENEFITS AND RISKS INVOLVED, AND ANY OTHER PERTINENT INFORMATION. THE NOTICE SHALL ALSO INCLUDE THE FOLLOWING DISCLOSURES:

1. THE ALLEGED CONSTRUCTION DEFECTS MIGHT RESULT IN INCREASED COSTS TO THE ASSOCIATION IN MAINTENANCE OR REPAIR OR CAUSE AN INCREASE IN ASSESSMENTS OR SPECIAL ASSESSMENTS TO COVER THE COST OF REPAIRS.

2. IF THE ASSOCIATION DOES NOT FILE A CLAIM BEFORE THE APPLICABLE LEGAL DEADLINES, THE CLAIM WILL EXPIRE.

3. UNTIL THE ALLEGED DEFECTS ARE REPAIRED, SELLERS OF UNITS WITHIN THE COMMON INTEREST COMMUNITY MIGHT OWE UNIT BUYERS A DUTY TO DISCLOSE KNOWN DEFECTS.

4. THE EXECUTIVE BOARD (INTENDS TO ENTER) (HAS ENTERED) INTO A FEE ARRANGEMENT WITH THE ATTORNEYS REPRESENTING THE ASSOCIATION, UNDER WHICH (THE ATTORNEYS WILL BE PAID A CONTINGENCY FEE EQUAL TO _____ PERCENT OF THE (NET) (GROSS) RECOVERY OF THE AMOUNT THE ASSOCIATION RECOVERS FROM THE DEFENDANT(S)) (THE ASSOCIATION'S ATTORNEYS WILL BE PAID (AN HOURLY FEE OF \$ _____) (A FIXED FEE OF \$ _____)).

5. IN ADDITION TO ATTORNEY FEES, THE ASSOCIATION MAY INCUR UP TO \$ _____ FOR LEGAL COSTS, INCLUDING EXPERT WITNESSES, DEPOSITIONS, AND FILING FEES. THE AMOUNT WILL NOT BE EXCEEDED WITHOUT THE EXECUTIVE BOARD'S FURTHER WRITTEN AUTHORITY. IF THE ASSOCIATION DOES NOT PREVAIL ON ITS CLAIM, THE ASSOCIATION MAY BE RESPONSIBLE FOR PAYING THESE LEGAL EXPENSES.

6. IF THE ASSOCIATION DOES NOT PREVAIL ON ITS CLAIM, THE ASSOCIATION MAY BE RESPONSIBLE FOR PAYING ITS ATTORNEY FEES.

7. IF THE ASSOCIATION DOES NOT PREVAIL ON ITS CLAIM, A COURT OR ARBITRATOR SOMETIMES AWARDS COSTS AND ATTORNEY FEES TO THE OPPOSING PARTY. SHOULD THAT HAPPEN IN THIS CASE, THE ASSOCIATION MAY BE RESPONSIBLE FOR PAYING THE OPPOSING PARTY'S COSTS AND FEES AS A RESULT OF SUCH AWARD.

8. THERE IS NO GUARANTEE THAT THE ASSOCIATION WILL RECOVER ENOUGH FUNDS TO REPAIR THE CLAIMED CONSTRUCTION DEFECT(S). IF THE CLAIMED DEFECTS ARE NOT REPAIRED, ADDITIONAL DAMAGE TO PROPERTY AND A REDUCTION IN THE USEFUL LIFE OF THE COMMON ELEMENTS MIGHT OCCUR.

9. UNTIL THE CLAIMED CONSTRUCTION DEFECTS ARE REPAIRED, OR UNTIL THE CONSTRUCTION DEFECT CLAIM IS CONCLUDED, THE MARKET VALUE OF THE UNITS IN THE ASSOCIATION MIGHT BE ADVERSELY AFFECTED.

10. UNTIL THE CLAIMED CONSTRUCTION DEFECT(S) ARE REPAIRED, OR UNTIL THE CONSTRUCTION DEFECT(S) CLAIM IS CONCLUDED, OWNERS IN THE ASSOCIATION MIGHT HAVE DIFFICULTY REFINANCING AND PROSPECTIVE BUYERS MIGHT HAVE DIFFICULTY OBTAINING FINANCING. IN ADDITION, CERTAIN FEDERAL UNDERWRITING STANDARDS OR REGULATIONS PREVENT REFINANCING OR OBTAINING A NEW LOAN IN PROJECTS WHERE A CONSTRUCTION DEFECT IS CLAIMED, AND CERTAIN LENDERS AS A MATTER OF POLICY WILL NOT REFINANCE OR PROVIDE A NEW LOAN IN PROJECTS WHERE A CONSTRUCTION DEFECT IS CLAIMED.

(IV) THE ASSOCIATION SHALL MAINTAIN A VERIFIED OWNER MAILING LIST THAT IDENTIFIES THE OWNERS TO WHOM THE ASSOCIATION MAILED THE NOTICE REQUIRED PURSUANT TO THIS SUBSECTION (1)(c). THE VERIFIED OWNER MAILING LIST SHALL INCLUDE, FOR EACH OWNER, THE ADDRESS, IF ANY, TO WHICH THE ASSOCIATION MAILED THE NOTICE

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REQUIRED PURSUANT TO THIS SUBSECTION (1)(c). THE ASSOCIATION SHALL PROVIDE A COPY OF THE VERIFIED OWNER MAILING LIST TO EACH CONSTRUCTION PROFESSIONAL WHO IS SENT A NOTICE PURSUANT TO THIS SUBSECTION (1)(c) AT THE OWNER MEETING REQUIRED UNDER SUBSECTION (1)(c)(II) OF THIS SECTION. THE OWNER MAILING LIST SHALL BE DEEMED VERIFIED IF A SPECIMEN COPY OF THE MAILING LIST IS CERTIFIED BY AN ASSOCIATION OFFICER OR AGENT. IF THE ASSOCIATION COMMENCES A CONSTRUCTION DEFECT ACTION AGAINST ANY CONSTRUCTION PROFESSIONAL, THE ASSOCIATION SHALL FILE ITS VERIFIED OWNER MAILING LIST AND RECORDS OF VOTES RECEIVED FROM OWNERS DURING THE VOTING PERIOD WITH THE APPROPRIATE FORUM UNDER SEAL.

(V) THE SUBSTANCE OF A PROPOSED CONSTRUCTION DEFECT ACTION MAY BE AMENDED OR SUPPLEMENTED AFTER THE MEETING, BUT AN AMENDED OR SUPPLEMENTED CLAIM DOES NOT EXTEND THE VOTING PERIOD. THE EXECUTIVE BOARD SHALL GIVE NOTICE TO UNIT OWNERS OF ANY AMENDED OR SUPPLEMENTED CLAIM AND SHALL MAINTAIN RECORDS OF ITS COMMUNICATIONS WITH UNIT OWNERS. OWNER APPROVAL PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION IS NOT REQUIRED FOR AMENDMENTS OR SUPPLEMENTS TO A CONSTRUCTION DEFECT ACTION MADE AFTER THE NOTICE PURSUANT TO THIS SUBSECTION (1)(c) IS SENT.

(d) Approval by unit owners - procedures.

(I) (A) NOTWITHSTANDING ANY PROVISION OF LAW OR ANY REQUIREMENT IN THE GOVERNING DOCUMENTS, THE EXECUTIVE BOARD MAY INITIATE THE CONSTRUCTION DEFECT ACTION ONLY IF AUTHORIZED WITHIN THE VOTING PERIOD BY OWNERS OF UNITS TO WHICH A MAJORITY OF VOTES IN THE ASSOCIATION ARE ALLOCATED. SUCH APPROVAL IS NOT REQUIRED FOR AN ASSOCIATION TO PROCEED WITH A CONSTRUCTION DEFECT ACTION IF THE ALLEGED CONSTRUCTION DEFECT PERTAINS TO A FACILITY THAT IS INTENDED AND USED FOR NONRESIDENTIAL PURPOSES AND IF THE COST TO REPAIR THE ALLEGED DEFECT DOES NOT EXCEED FIFTY THOUSAND DOLLARS. SUCH APPROVAL IS NOT REQUIRED FOR AN ASSOCIATION TO PROCEED WITH A CONSTRUCTION DEFECT ACTION WHEN THE ASSOCIATION IS THE CONTRACTING PARTY FOR THE PERFORMANCE OF LABOR OR PURCHASE OF SERVICES OR MATERIALS.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN OWNER'S VOTE SHALL BE SUBMITTED ONLY ONCE AND MAY BE OBTAINED IN ANY WRITTEN FORMAT CONFIRMING THE OWNER'S VOTE TO APPROVE OR REJECT

THE PROPOSED CONSTRUCTION DEFECT ACTION. THE ASSOCIATION SHALL MAINTAIN A RECORD OF ALL VOTES UNTIL THE CONCLUSION OF THE CONSTRUCTION DEFECT ACTION, INCLUDING ALL APPEALS, IF ANY.

(II) (A) NOTHING IN THIS SECTION ALTERS THE TOLLING PROVISIONS OF SECTION 13-20-805.

(B) ALL STATUTES OF LIMITATION AND REPOSE APPLICABLE TO CLAIMS BASED ON DEFECTS DESCRIBED WITH REASONABLE SPECIFICITY IN THE NOTICE, WHICH MAY BE SUPPLEMENTED OR AMENDED PURSUANT TO SUBSECTION (1)(c)(IV) OF THIS SECTION, ARE TOLLED FROM THE DATE THE NOTICE SENT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION IS MAILED UNTIL EITHER THE NINETY-DAY VOTING AND DISCLOSURE PERIOD ENDS OR UNTIL THE ASSOCIATION DETERMINES THAT THE CONSTRUCTION DEFECT ACTION IS EITHER APPROVED OR DISAPPROVED, WHICHEVER OCCURS FIRST.

(C) THE APPLICABLE STATUTES OF LIMITATION AND REPOSE THAT APPLY TO CLAIMS BASED ON A DEFECT DESCRIBED IN THE NOTICE WITH REASONABLE SPECIFICITY ARE TOLLED PURSUANT TO THIS SUBSECTION (1)(d)(II) ONCE, AND MAY NOT EXTEND THE STATUTES OF LIMITATION AND REPOSE THAT APPLY TO CLAIMS BASED ON THAT DEFECT FOR MORE THAN A TOTAL OF NINETY DAYS, RESPECTIVELY. IF A DEFECT NOT INCLUDED IN THE NOTICE SENT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION IS THE SUBJECT OF A LATER VOTE, TOLLING PURSUANT TO THIS SUBSECTION (1)(d) APPLIES UNLESS THE CLAIM BASED ON THAT DEFECT IS OTHERWISE BARRED BY THE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE.

(III) **Vote count - exclusions.** FOR PURPOSES OF CALCULATING THE REQUIRED MAJORITY VOTE UNDER THIS SUBSECTION (1)(d) ONLY, THE FOLLOWING VOTES ARE EXCLUDED:

(A) ANY VOTES ALLOCATED TO UNITS OWNED BY A DEVELOPMENT PARTY. AS USED IN THIS SUBSECTION (1)(d)(III)(A), "DEVELOPMENT PARTY" MEANS A CONTRACTOR, SUBCONTRACTOR, DEVELOPER, OR BUILDER RESPONSIBLE FOR ANY PART OF THE DESIGN, CONSTRUCTION, OR REPAIR OF ANY PORTION OF THE COMMON INTEREST COMMUNITY AND ANY OF THAT PARTY'S AFFILIATES; AND "AFFILIATE" INCLUDES AN ENTITY CONTROLLED OR OWNED, IN WHOLE OR IN PART, BY ANY PERSON THAT CONTROLS OR OWNS A DEVELOPMENT PARTY OR BY THE SPOUSE OF A DEVELOPMENT PARTY.

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(B) ANY VOTES ALLOCATED TO UNITS OWNED BY BANKING INSTITUTIONS, UNLESS A VOTE FROM SUCH AN INSTITUTION IS ACTUALLY RECEIVED BY THE ASSOCIATION;

(C) ANY VOTES ALLOCATED TO UNITS OF A PRODUCT TYPE IN WHICH NO DEFECTS ARE ALLEGED, IN A COMMON INTEREST COMMUNITY WHOSE DECLARATION PROVIDES THAT COMMON EXPENSE LIABILITIES ARE NOT SHARED BETWEEN THE PRODUCT TYPES.

(D) ANY VOTES ALLOCATED TO UNITS OWNED BY OWNERS WHO ARE DEEMED NONRESPONSIVE. IF THE STATUS OF THE NONRESPONSIVE UNIT OWNERS IS CHALLENGED IN COURT, THE COURT SHALL CONSIDER WHETHER THE EXECUTIVE BOARD HAS MADE DILIGENT EFFORTS TO CONTACT THE UNIT OWNER REGARDING THE VOTE AND MAY CONSIDER: WHETHER A MAILING WAS RETURNED AS UNDELIVERABLE; WHETHER THE OWNER APPEARS TO BE RESIDING AT THE UNIT; AND WHETHER THE ASSOCIATION HAS USED OTHER CONTACT INFORMATION, SUCH AS AN ELECTRONIC MAIL ADDRESS OR TELEPHONE NUMBER FOR THE OWNER.

(e) **Notice to construction professional.** AT LEAST FIVE BUSINESS DAYS BEFORE THE MAILING OF THE NOTICE REQUIRED BY SUBSECTION (1)(c) OF THIS SECTION, THE ASSOCIATION SHALL NOTIFY EACH CONSTRUCTION PROFESSIONAL AGAINST WHOM A CONSTRUCTION DEFECT ACTION IS PROPOSED BY MAIL, AT ITS LAST-KNOWN ADDRESS, OF THE DATE AND TIME OF THE MEETING CALLED TO CONSIDER THE CONSTRUCTION DEFECT ACTION PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION.

~~(2) (a) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the executive board shall mail or deliver written notice of the commencement or anticipated commencement of such action to each unit owner at the last known address described in the association's records.~~

~~(b) The notice required by paragraph (a) of this subsection (2) shall state a general description of the following:~~

~~(i) The nature of the action and the relief sought; and~~

~~(ii) The expenses and fees that the executive board anticipates will be incurred in prosecuting the action;~~

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(4) **Provisions not severable.** NOTWITHSTANDING SECTION 2-4-204, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT IF ANY PROVISION OF THIS SECTION OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE ENTIRE SECTION SHALL BE DEEMED INVALID.

SECTION 2. In Colorado Revised Statutes, 38-33.3-117, add (1.9) as follows:

38-33.3-117. Applicability to preexisting common interest communities. (1.9) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SECTION 38-33.3-303.5 APPLIES TO ALL COMMON INTEREST COMMUNITIES CREATED WITHIN THIS STATE ON, BEFORE, OR AFTER JULY 1, 1992, WITH RESPECT TO EVENTS AND CIRCUMSTANCES OCCURRING ON OR AFTER SEPTEMBER 1, 2017.

SECTION 3. Applicability. This act applies to construction defect actions filed on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

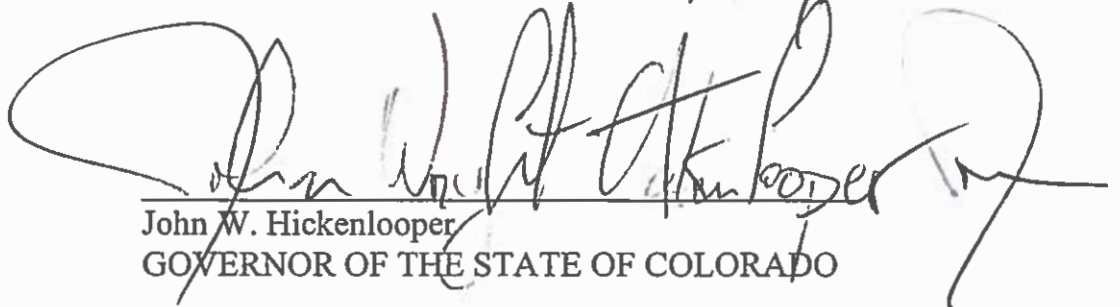


Effie Ameen
SECRETARY OF
THE SENATE

APPROVED

4:30 PM

5/27/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1313

BY REPRESENTATIVE(S) Herod and Humphrey, Lebsack, Van Winkle, Leonard, Coleman, Esgar, Hooton, McKean, Melton, Neville P., Pettersen, Saine, Salazar, Williams D., Bridges, Buckner, Covarrubias, Danielson, Exum, Kennedy, Ransom, Weissman, Duran;
also SENATOR(S) Neville T. and Kagan, Marble, Lundberg, Cooke, Hill, Aguilar, Court, Fenberg, Grantham, Guzman, Holbert, Jahn, Kefalas, Kerr, Lambert, Merrifield, Moreno, Priola, Scott, Smallwood, Tate, Todd, Williams A., Zenzinger, Baumgardner, Garcia.

CONCERNING CIVIL FORFEITURE REFORM, AND, IN CONNECTION THEREWITH,
MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 16-13-701 as follows:

16-13-701. Reports related to seizures and forfeitures - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) UNDER STATE AND FEDERAL FORFEITURE LAWS AND SUBJECT TO THE DUE PROCESS PROVISIONS PROVIDED IN BOTH STATE AND FEDERAL LAW

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

AS APPLICABLE, STATE AND LOCAL LAW ENFORCEMENT AGENCIES ARE AUTHORIZED TO SEIZE MONEY AND OTHER PROPERTY AND TO USE FORFEITURE PROCEEDS AS PERMITTED AND EXPRESSLY LIMITED BY BOTH OPERATION OF STATE AND FEDERAL LAW AND APPLICABLE ASSET FORFEITURE POLICIES AND GUIDELINES;

(b) IT IS THE RESPONSIBILITY OF STATE LEGISLATORS TO MONITOR SEIZURES BY LAW ENFORCEMENT AGENCIES, FORFEITURE LITIGATION BY PROSECUTORS, AND THEIR EXPENDITURES OF FORFEITED PROCEEDS WHEN SUCH MONEY IS RECEIVED BY A LAW ENFORCEMENT AGENCY OR PROSECUTOR'S OFFICE; AND

(c) THIS SECTION PROVIDES LEGISLATORS AND THE PUBLIC WITH THE INFORMATION NECESSARY FOR BASIC OVERSIGHT OF LAW ENFORCEMENT AGENCIES AND PROSECUTORS' OFFICES THAT SEIZE PROPERTY, OBTAIN THE PROCEEDS OF SUCH SEIZURES THROUGH THE ASSET FORFEITURE PROCESS, AND EXPEND THE PROCEEDS OF SUCH FORFEITURES UNDER BOTH STATE AND FEDERAL LAWS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DEPARTMENT" MEANS THE DEPARTMENT OF LOCAL AFFAIRS CREATED PURSUANT TO SECTION 24-1-125.

(b) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS.

(c) "SEIZING AGENCY" HAS THE SAME MEANING AS DEFINED IN SECTION 16-13-301 (2.7).

(3) THIS SECTION APPLIES TO PROPERTY SEIZED UNDER THE FOLLOWING:

(a) PART 3 OF THIS ARTICLE 13, ABATEMENT OF PUBLIC NUISANCE;

(b) PART 5 OF THIS ARTICLE 13, "COLORADO CONTRABAND FORFEITURE ACT";

(c) PART 6 OF THIS ARTICLE 13, RECEIPT OF FEDERALLY FORFEITED

PROPERTY; AND

(d) SECTIONS 18-17-105 AND 18-17-106 OF THE "COLORADO ORGANIZED CRIME CONTROL ACT";

(4)(a) THE EXECUTIVE DIRECTOR SHALL ESTABLISH, MAINTAIN, AND AMEND AS NECESSARY AND POST ON THE DEPARTMENT'S WEBSITE A BIENNIAL REPORTING FORM FOR USE BY SEIZING AGENCIES TO REPORT THE INFORMATION REQUIRED BY SUBSECTION (5) OF THIS SECTION. EACH SEIZING AGENCY THAT RECEIVED ANY FORFEITURE PROCEEDS THROUGH EITHER A STATE OR FEDERAL FORFEITURE PROCESS WITHIN THE REPORTING PERIOD SHALL COMPLETE A FORM ON THE DEPARTMENT'S WEBSITE FOR THAT REPORTING PERIOD. IN CREATING THE FORM, THE EXECUTIVE DIRECTOR SHALL CONSIDER THE INPUT FROM THE FOLLOWING:

- (I) THE COLORADO DISTRICT ATTORNEYS' COUNCIL;
- (II) A STATEWIDE ASSOCIATION OF CHIEFS OF POLICE;
- (III) A STATEWIDE ASSOCIATION OF COUNTY SHERIFFS;
- (IV) THE DEPARTMENT OF PUBLIC SAFETY; AND
- (V) THE ATTORNEY GENERAL.

(b) IF A SEIZING AGENCY HAS NOT RECEIVED ANY FORFEITURE PROCEEDS DURING A REPORTING PERIOD, IT SHALL SUBMIT A REPORT INDICATING THAT NO FORFEITURE PROCEEDS WERE RECEIVED.

(c) ON OR BEFORE DECEMBER 31, 2017, THE EXECUTIVE DIRECTOR SHALL PROVIDE ACCESS TO THE UNIFORM REPORT FORM DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION FOR SEIZING AGENCIES TO FILE OR UPDATE INFORMATION AS REQUIRED BY THIS SECTION.

(5) BASED UPON THE INFORMATION RECEIVED ON THE FORMS SUBMITTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A SEARCHABLE, PUBLIC ACCESS DATABASE THAT INCLUDES THE FOLLOWING, IF KNOWN AT THE TIME OF REPORTING:

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(a) INFORMATION FROM EACH CASE IN WHICH AN AGENCY RECEIVED ANY FORFEITURE PROCEEDS SPECIFYING:

(I) THE NAME OF THE SEIZING AGENCY AND, IF SEIZED BY A MULTIJURISDICTIONAL TASK FORCE, THE NAME OF THE LEAD AGENCY;

(II) THE DATE OF THE SEIZURE;

(III) THE PLACE OF THE SEIZURE, WHETHER A HOME, BUSINESS, OR TRAFFIC STOP, AND, IF A TRAFFIC STOP ON AN INTERSTATE OR STATE HIGHWAY, THE DIRECTION OF THE TRAFFIC FLOW, WHETHER EASTBOUND, WESTBOUND, SOUTHBOUND, OR NORTHBOUND;

(IV) THE BASIS FOR THE LAW ENFORCEMENT CONTACT;

(V) THE TYPE OF PROPERTY SEIZED:

(A) IF CURRENCY, THE AMOUNT OF THE CURRENCY; AND

(B) IF PROPERTY OTHER THAN CURRENCY, ANY MAKE, MODEL, OR SERIAL NUMBER RELATED TO THE PROPERTY AND THE ESTIMATED NET EQUITY OF THE PROPERTY;

(VI) WHETHER A STATE OR FEDERAL CRIMINAL CASE WAS FILED IN RELATION TO THE SEIZURE AND, IF SO, THE COURT IN WHICH THE CASE WAS FILED, THE CASE NUMBER AND CHARGES FILED, AND ANY DISPOSITION OF THE CRIMINAL CASE;

(VII) IF FORFEITURE IS SOUGHT UNDER FEDERAL LAW, THE REASON FOR THE FEDERAL TRANSFER, WHETHER ADOPTION, JOINT TASK FORCE, OR OTHER; AND

(VIII) INFORMATION RELATING TO ANY FORFEITURE PROCEEDING INCLUDING:

(A) THE COURT IN WHICH THE FORFEITURE CASE WAS FILED;

(B) THE FORFEITURE CASE NUMBER;

(C) IF ANY OWNER OR INTEREST OWNER FILED A COUNTERCLAIM;

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(D) IF ANY OWNER WAS DETERMINED BY THE COURT TO BE AN INNOCENT OWNER;

(E) THE DATE OF THE FORFEITURE ORDER;

(F) IF ANY ASSET WAS RETURNED IN WHOLE TO AN OWNER OR INTEREST HOLDER, A DESCRIPTION OF THE ASSET AND THE DATE OF THE RETURN;

(G) IF ANY PROPERTY WAS SOLD, THE PROCEEDS RECEIVED FROM THE SALE;

(H) IF ANY PROPERTY WAS RETAINED BY A STATE OR LOCAL AGENCY, THE PURPOSE FOR WHICH IT WAS USED;

(I) THE DATE OF ANY DISPOSITION OF THE PROPERTY;

(J) IF THE PROPERTY WAS DESTROYED BY A STATE OR LOCAL AGENCY, THE DATE OF DESTRUCTION;

(K) IF AN ORDER FOR DESTRUCTION WAS ISSUED BY THE FEDERAL GOVERNMENT; AND

(L) THE AMOUNT OF ANY PROCEEDS RECEIVED BY THE REPORTING AGENCY; AND

(b) INFORMATION FROM EACH SEIZING AGENCY ON THE USE OF FORFEITURE PROCEEDS REPORTED PURSUANT TO THIS SECTION INCLUDING:

(I) THE TOTAL AMOUNT OF MONEY EXPENDED IN EACH OF THE FOLLOWING CATEGORIES DURING THE REPORTING PERIOD:

(A) DRUG ABUSE, CRIME, AND GANG PREVENTION PROGRAMS;

(B) VICTIM SERVICES PROGRAMS;

(C) INFORMANT FEES AND CONTROLLED BUYS ON CLOSED CASES;

(D) SALARIES, OVERTIME, AND EMPLOYMENT BENEFITS, AS PERMITTED BY LAW;

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(E) PROFESSIONAL OUTSIDE SERVICES, INCLUDING AUDITING, COURT REPORTING, EXPERT WITNESS AND OUTSIDE COUNSEL FEES, AND MEMBERSHIP FEES PAID TO TRADE ASSOCIATIONS;

(F) TRAVEL, MEALS, ENTERTAINMENT, TRAINING CONFERENCES, AND CONTINUING EDUCATION SEMINARS;

(G) OPERATING EXPENSES, INCLUDING OFFICE SUPPLIES, POSTAGE, AND ADVERTISING;

(H) CAPITAL EXPENDITURES, INCLUDING VEHICLES, FIREARMS, EQUIPMENT, COMPUTERS, AND FURNITURE; AND

(I) OTHER EXPENDITURES OF FORFEITURE PROCEEDS; AND

(II) THE TOTAL VALUE OF SEIZED AND FORFEITED PROPERTY HELD BY THE SEIZING AGENCY AT THE END OF THE REPORTING PERIOD.

(6) THE DEPARTMENT SHALL ALSO POST ON THE WEBSITE A SUMMARY OF INFORMATION RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION THAT, TO THE EXTENT AVAILABLE FOR THE REPORTING PERIOD, DESCRIBES:

(a) THE TOTAL NUMBER OF FORFEITURE ACTIONS INITIATED OR ADMINISTERED BY EACH SEIZING AGENCY;

(b) THE TOTAL NUMBER OF FEDERAL JUDICIAL OR ADMINISTRATIVE FORFEITURE ACTIONS INITIATED BY A MULTIJURISDICTIONAL TASK FORCE INCLUDING A FEDERAL AGENCY OR REFERRED BY A SEIZING AGENCY AND ACCEPTED BY THE FEDERAL GOVERNMENT FOR FORFEITURE UNDER FEDERAL LAW;

(c) THE TYPE OF ASSETS SEIZED AND THE TOTAL VALUE OF THE NET PROCEEDS RECEIVED IN ALL REPORTED FORFEITURES; AND

(d) THE RECIPIENTS OF ANY FORFEITURE PROCEEDS INCLUDING THE AMOUNT RECEIVED BY EACH AND THE DATE OF RECEIPT.

(7)(a) EACH SEIZING AGENCY, INCLUDING ANY DISTRICT ATTORNEY OR OTHER PROSECUTOR, THAT RECEIVES OR EXPENDS FORFEITURE-RELATED

MONEY OR PROPERTY SHALL SUBMIT A REPORT WITH ALL THE INFORMATION REQUIRED PURSUANT TO SUBSECTION (5) OF THIS SECTION THAT IS KNOWN TO THE AGENCY AT THE TIME OF THE REPORT ON THE FORM DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION. COMMENCING JULY 1, 2017, FOR THE REPORTING PERIOD BETWEEN JULY 1 AND DECEMBER 31 OF EACH YEAR, THE SEIZING AGENCY SHALL FILE THE REPORT BY JUNE 1 OF THE FOLLOWING CALENDAR YEAR. FOR THE REPORTING PERIOD BETWEEN JANUARY 1 AND JUNE 30, THE SEIZING AGENCY SHALL FILE THE REPORT BY DECEMBER 1 OF THAT CALENDAR YEAR. IF A SEIZING AGENCY HAS PREVIOUSLY FILED A REPORT, BUT FOR THE REPORTING PERIOD IT HAS NOT RECEIVED OR EXPENDED ANY FORFEITURE PROCEEDS, IT SHALL SUBMIT A REPORT INDICATING THAT FACT.

(b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IF THE REPORTING OF ANY INFORMATION REQUIRED BY SUBSECTION (5) OF THIS SECTION IS LIKELY TO DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE; DISCLOSE CONFIDENTIAL INVESTIGATIVE OR PROSECUTION MATERIAL THAT COULD ENDANGER THE LIFE OR PHYSICAL SAFETY OF ANY PERSON; DISCLOSE THE EXISTENCE OF A CONFIDENTIAL SURVEILLANCE OR INVESTIGATION; OR DISCLOSE TECHNIQUES OR PROCEDURES FOR LAW ENFORCEMENT PROCEDURES, INVESTIGATION, OR PROSECUTIONS, THE SEIZING AGENCY IS NOT REQUIRED TO INCLUDE SUCH INFORMATION IN THE REPORT DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL INCLUDE IN THE FORM DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, A BOX FOR A SEIZING AGENCY TO CHECK IF IT IS NOT DISCLOSING INFORMATION PURSUANT TO THIS SUBSECTION (7)(b).

(c) IF A SEIZING AGENCY FAILS TO FILE A REPORT REQUIRED BY SUBSECTION (7)(a) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE DATE THE REPORT IS DUE, THE EXECUTIVE DIRECTOR SHALL SEND NOTICE OF THE FAILURE TO THE SEIZING AGENCY. IF THE REPORT:

(I) IS FILED WITHIN FORTY-FIVE DAYS AFTER THE NOTICE OF FAILURE IS SENT, THE SEIZING AGENCY SHALL PAY A CIVIL FINE OF FIVE HUNDRED DOLLARS; OR

(II) IS NOT FILED WITHIN FORTY-FIVE DAYS AFTER THE NOTICE OF FAILURE IS SENT, THE SEIZING AGENCY SHALL PAY A CIVIL FINE OF THE GREATER OF FIVE HUNDRED DOLLARS OR AN AMOUNT EQUAL TO FIFTY

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PERCENT OF THE FORFEITURE PROCEEDS RECEIVED BY THE SEIZING AGENCY DURING THE REPORTING PERIOD.

(d) IF THE DEPARTMENT PURSUES LEGAL ACTION TO ENFORCE THE CIVIL FINES ESTABLISHED PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION AND THE DEPARTMENT PREVAILS IN THE ACTION, THE DEPARTMENT IS ENTITLED TO ITS REASONABLE ATTORNEY FEES AND COSTS RELATED TO THE ACTION.

(8) (a) NOT LATER THAN DECEMBER 31, 2019, AND EACH DECEMBER 31 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL SUBMIT A REPORT SUMMARIZING SEIZURE AND FORFEITURE ACTIVITY IN THE STATE FOR THE PRIOR FISCAL YEAR TO THE GOVERNOR; THE ATTORNEY GENERAL; AND THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES. THE REPORT MUST ALSO BE POSTED ON THE DIVISION'S WEBSITE. THE REPORT MUST INCLUDE:

(I) THE TYPE, APPROXIMATE VALUE, AND DISPOSITION OF ALL PROPERTY SEIZED;

(II) THE AMOUNT OF ANY FORFEITURE PROCEEDS RECEIVED BY THE STATE AND ANY SUBDIVISION OF THE STATE; AND

(III) A CATEGORIZED ACCOUNTING OF ALL FORFEITURE PROCEEDS EXPENDED BY THE STATE AND ANY SUBDIVISION OF THE STATE.

(b) THE EXECUTIVE DIRECTOR MAY INCLUDE IN THE REPORT PREPARED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION RECOMMENDATIONS TO IMPROVE STATUTES, RULES, OR POLICIES TO BETTER ENSURE THAT SEIZURES, FORFEITURES, AND EXPENDITURES ARE DONE AND REPORTED IN A MANNER THAT IS FAIR TO CRIME VICTIMS, INNOCENT PROPERTY OWNERS, SECURED INTEREST HOLDERS, CITIZENS, LAW ENFORCEMENT PERSONNEL, AND TAXPAYERS.

(c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED IN THIS SUBSECTION (8) CONTINUES INDEFINITELY.

(9) (a) THE OFFICE OF BEHAVIORAL HEALTH SHALL PREPARE AN ANNUAL ACCOUNTING REPORT OF MONEY RECEIVED BY THE MANAGED SERVICE ORGANIZATION PURSUANT TO SECTION 16-13-311 (3)(a)(VII)(B),

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INCLUDING REVENUES, EXPENDITURES, BEGINNING AND ENDING BALANCES, AND SERVICES PROVIDED. THE OFFICE OF BEHAVIORAL HEALTH SHALL PROVIDE THIS REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

(b) PURSUANT TO SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED IN THIS SUBSECTION (9) EXPIRES ON FEBRUARY 1, 2021.

(10) THE EXECUTIVE DIRECTOR MAY ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(11) NOTWITHSTANDING ANY PROVISION IN ARTICLE 72 OF TITLE 24, INFORMATION, EXCEPT FOR INFORMATION DESCRIBED IN SUBSECTION (7)(b) OF THIS SECTION, AND REPORTS PREPARED PURSUANT TO THIS SECTION ARE PUBLIC RECORDS AND SUBJECT TO INSPECTION PURSUANT TO PART 2 OR 3 OF ARTICLE 72 OF TITLE 24.

SECTION 2. In Colorado Revised Statutes, add 16-13-306.5 as follows:

16-13-306.5. Limitations on receipt of forfeiture payments from federal agencies. (1) A SEIZING AGENCY OR PARTICIPANT IN ANY JOINT TASK FORCE OR OTHER MULTIJURISDICTIONAL COLLABORATION SHALL ACCEPT PAYMENT OR DISTRIBUTION FROM A FEDERAL AGENCY OF ALL OR A PORTION OF ANY FORFEITURE PROCEEDS RESULTING FROM ADOPTION OR A JOINT TASK FORCE OR OTHER MULTIJURISDICTIONAL COLLABORATION ONLY IF THE AGGREGATE NET EQUITY VALUE OF THE PROPERTY AND CURRENCY SEIZED IN A CASE IS IN EXCESS OF FIFTY THOUSAND DOLLARS AND A FORFEITURE PROCEEDING IS COMMENCED BY THE FEDERAL GOVERNMENT AND RELATES TO A FILED CRIMINAL CASE.

(2) SUBSECTION (1) OF THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT SEIZING AGENCIES FROM COLLABORATING WITH A FEDERAL AGENCY TO SEIZE PROPERTY THAT THE SEIZING AGENCY HAS PROBABLE CAUSE TO BELIEVE IS THE PROCEEDS OR INSTRUMENTS OF A CRIME THROUGH AN INTERGOVERNMENTAL JOINT TASK FORCE.

SECTION 3. In Colorado Revised Statutes, add 16-13-504.5 as

PAGE 9-HOUSE BILL 17-1313

follows:

16-13-504.5. Limitations on receipt of forfeiture payments from federal agencies. (1) A SEIZING AGENCY OR PARTICIPANT IN ANY JOINT TASK FORCE OR OTHER MULTIJURISDICTIONAL COLLABORATION SHALL ACCEPT PAYMENT OR DISTRIBUTION FROM A FEDERAL AGENCY OF ALL OR A PORTION OF ANY FORFEITURE PROCEEDS RESULTING FROM ADOPTION OR A JOINT TASK FORCE OR OTHER MULTIJURISDICTIONAL COLLABORATION ONLY IF THE AGGREGATE NET EQUITY VALUE OF THE PROPERTY AND CURRENCY SEIZED IN A CASE IS IN EXCESS OF FIFTY THOUSAND DOLLARS AND A FORFEITURE PROCEEDING IS COMMENCED BY THE FEDERAL GOVERNMENT AND RELATES TO A FILED CRIMINAL CASE.

(2) SUBSECTION (1) OF THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT SEIZING AGENCIES FROM COLLABORATING WITH A FEDERAL AGENCY TO SEIZE PROPERTY THAT THE SEIZING AGENCY HAS PROBABLE CAUSE TO BELIEVE IS THE PROCEEDS OR INSTRUMENTS OF A CRIME THROUGH AN INTERGOVERNMENTAL JOINT TASK FORCE.

SECTION 4. In Colorado Revised Statutes, 16-13-702, amend (1) as follows:

16-13-702. Disposition of forfeited property. (1) No forfeited property shall be used nor shall any forfeited proceeds be expended by any seizing agency to whom section 16-13-701 (~~1~~) applies unless such use or expenditure has been approved by a committee on disposition of forfeited property which is created in subsection (2) of this section.

SECTION 5. Appropriation. (1) For the 2017-18 state fiscal year, \$84,451 is appropriated to the department of local affairs. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$24,814 for use by the division of local government for personal services related to local government and community services, which amount is based on an assumption that the division will require an additional 0.5 FTE;

(b) \$10,398 for use by the division of local government for operating expenses related to local government and community services;

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and

(c) \$4,753 for the purchase of legal services; and

(d) \$44,486 for the purchase of information technology services.

(2) For the 2017-18 state fiscal year, \$4,753 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1)(c) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of local affairs.

(3) For the 2017-18 state fiscal year, \$44,486 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1)(d) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of local affairs.

SECTION 6. Act subject to petition - effective date - applicability. (1) 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 9, 2017, if adjournment sine die is on May 10, 2017); 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.

(2) This act applies to seizures conducted on or after the applicable effective date of this act.



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

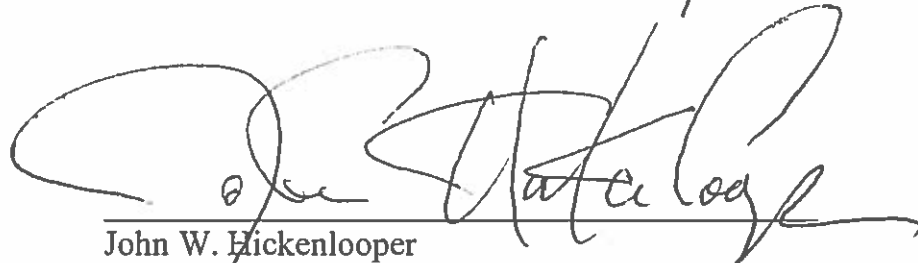


Effie Ameen
SECRETARY OF
THE SENATE

APPROVED

3:31 PM

6/9/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

HOUSE BILL 17-1338

BY REPRESENTATIVE(S) Bridges and Liston, Arndt, Becker K., Exum, Gray, Herod, Lee, Lontine, Melton, Rosenthal, Salazar, Valdez, Weissman, Duran;
also SENATOR(S) Marble and Kagan, Crowder, Jahn, Tate.

CONCERNING A REQUIREMENT FOR A TIMELY HEARING FOR A DEFENDANT
IN JAIL WITH A MUNICIPAL COURT HOLD.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that this act does not in any way change or affect a county sheriff's authority over prisoner intake in a county jail.

SECTION 2. In Colorado Revised Statutes, add 13-10-111.5 as follows:

13-10-111.5. Notice to municipal courts of municipal holds.
(1) IF A PERSON IS DETAINED IN A JAIL ON A MUNICIPAL HOLD AND DOES NOT IMMEDIATELY RECEIVE A PERSONAL RECOGNIZANCE BOND, THE JAIL SHALL PROMPTLY NOTIFY THE MUNICIPAL COURT OF ANY MUNICIPAL HOLD; EXCEPT THAT, IF THE MUNICIPAL HOLD IS THE SOLE BASIS TO DETAIN THE PERSON, THE JAIL SHALL NOTIFY THE MUNICIPAL COURT OF THE MUNICIPAL

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

HOLD WITHIN FOUR HOURS. ALL MUNICIPAL COURTS SHALL ESTABLISH AN E-MAIL ADDRESS, IF INTERNET SERVICE IS AVAILABLE, WHEREBY THE MUNICIPAL COURT CAN RECEIVE NOTIFICATIONS FROM JAILS. IF INTERNET SERVICE IS NOT AVAILABLE, THE MUNICIPAL COURT SHALL ESTABLISH A TELEPHONE LINE WITH VOICEMAIL FOR THE SAME PURPOSE. ALL JAILS SHALL BE DEEMED TO HAVE MET THIS NOTICE REQUIREMENT BY SENDING AN E-MAIL, FAX, OR TELETYPE TO THE MUNICIPAL COURT OR, IF THESE OPTIONS ARE UNAVAILABLE, LEAVING A VOICEMAIL WITH THE MUNICIPAL COURT, RELAYING THE NOTICE REQUIRED IN THIS SECTION.

(2) ONCE A MUNICIPAL COURT RECEIVES NOTICE THAT THE DEFENDANT IS BEING HELD SOLELY ON THE BASIS OF A MUNICIPAL HOLD, THE MUNICIPAL COURT SHALL HOLD A HEARING WITHIN TWO CALENDAR DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS; EXCEPT THAT, IF THE DEFENDANT HAS FAILED TO APPEAR IN THAT CASE AT LEAST TWICE AND THE DEFENDANT IS INCARCERATED IN A COUNTY DIFFERENT FROM THE COUNTY WHERE THE DEMANDING MUNICIPAL COURT IS LOCATED, THE DEMANDING MUNICIPAL COURT SHALL HOLD A HEARING WITHIN FOUR CALENDAR DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS.

(3) (a) AT THE HEARING REQUIRED IN SUBSECTION (2) OF THIS SECTION, THE MUNICIPAL COURT SHALL EITHER:

(I) ARRAIGN THE DEFENDANT; OR

(II) IF THE DEFENDANT WAS ARRESTED FOR FAILURE TO APPEAR, CONDUCT THE PROCEEDINGS FOR WHICH THE DEFENDANT FAILED TO APPEAR, UNLESS THAT PROCEEDING IS A TRIAL OR AN EVIDENTIARY HEARING OR REQUIRES THE PRESENCE OF A WITNESS.

(b) IF THE CASE IS NOT RESOLVED AT THIS HEARING, THE MUNICIPAL COURT SHALL IMMEDIATELY CONDUCT A BOND HEARING TO CONSIDER AND SET THE LEAST RESTRICTIVE CONDITIONS, IF ANY, FOR THE DEFENDANT'S RELEASE ON BOND.

(4) IF THE DEFENDANT DOES NOT APPEAR BEFORE THE MUNICIPAL COURT FOR A HEARING WITHIN THE TIME FRAMES REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE JAIL HOLDING THE DEFENDANT SHALL RELEASE THE DEFENDANT ON AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH NO OTHER CONDITIONS RETURNABLE TO THE MUNICIPAL COURT. THIS

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SUBSECTION (4) DOES NOT APPLY IF THE DEFENDANT REFUSED TO COOPERATE WITH THE COURT'S ATTEMPTS TO HOLD THE HEARING IN COMPLIANCE WITH SUBSECTION (2) OF THIS SECTION.

(5) EACH MUNICIPAL COURT SHALL ADOPT STANDING ORDERS TO IMPLEMENT SUBSECTION (4) OF THIS SECTION AND SHALL PROVIDE THE ORDERS TO EACH JAIL IN THE COUNTY WHERE THE MUNICIPAL COURT IS LOCATED. IN EVERY ARREST WARRANT ISSUED BY A MUNICIPAL COURT, THE MUNICIPAL COURT SHALL ORDER THAT THE DEFENDANT BE RELEASED ON A PERSONAL RECOGNIZANCE BOND WITH NO OTHER CONDITIONS IF THE DEFENDANT DOES NOT APPEAR BEFORE THE MUNICIPAL COURT FOR A HEARING WITHIN THE TIME FRAMES REQUIRED BY SUBSECTION (2) OF THIS SECTION.

SECTION 3. Act subject to petition - effective date. This act takes effect January 1, 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 the ninety-day period after final adjournment of the general assembly, 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

10:26 am

6/6/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 17-040

BY SENATOR(S) Kefalas, Gardner, Aguilar, Cooke, Court, Donovan, Fenberg, Fields, Garcia, Guzman, Jones, Kerr, Zenzinger, Grantham; also REPRESENTATIVE(S) Pabon, Kennedy, Singer, Weissman, Young, Duran.

CONCERNING PUBLIC ACCESS TO FILES MAINTAINED BY GOVERNMENTAL BODIES.

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

SECTION 1. In Colorado Revised Statutes, 24-72-203, **add** (3.5) as follows:

24-72-203. Public records open to inspection. (3.5) (a) EXCEPT AS OTHERWISE REQUIRED BY SUBSECTION (3.5)(b) OF THIS SECTION:

(I) IF A PUBLIC RECORD IS STORED IN A DIGITAL FORMAT THAT IS NEITHER SEARCHABLE NOR SORTABLE, THE CUSTODIAN SHALL PROVIDE A COPY OF THE PUBLIC RECORD IN A DIGITAL FORMAT.

(II) IF A PUBLIC RECORD IS STORED IN A DIGITAL FORMAT THAT IS SEARCHABLE BUT NOT SORTABLE, THE CUSTODIAN SHALL PROVIDE A COPY OF THE PUBLIC RECORD IN A SEARCHABLE FORMAT.

(III) IF A PUBLIC RECORD IS STORED IN A DIGITAL FORMAT THAT IS SORTABLE, THE CUSTODIAN SHALL PROVIDE A COPY OF THE PUBLIC RECORD IN A SORTABLE FORMAT.

(b) A CUSTODIAN IS NOT REQUIRED TO PRODUCE A PUBLIC RECORD IN A SEARCHABLE OR SORTABLE FORMAT IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION IF:

(I) PRODUCING THE RECORD IN THE REQUESTED FORMAT WOULD VIOLATE THE TERMS OF ANY COPYRIGHT OR LICENSING AGREEMENT BETWEEN THE CUSTODIAN AND A THIRD PARTY OR RESULT IN THE RELEASE OF A THIRD PARTY'S PROPRIETARY INFORMATION; OR

(II) AFTER MAKING REASONABLE INQUIRIES, IT IS NOT TECHNOLOGICALLY OR PRACTICALLY FEASIBLE TO PERMANENTLY REMOVE INFORMATION THAT THE CUSTODIAN IS REQUIRED OR ALLOWED TO WITHHOLD WITHIN THE REQUESTED FORMAT, IT IS NOT TECHNOLOGICALLY OR PRACTICALLY FEASIBLE TO PROVIDE A COPY OF THE RECORD IN A SEARCHABLE OR SORTABLE FORMAT, OR IF THE CUSTODIAN WOULD BE REQUIRED TO PURCHASE SOFTWARE OR CREATE ADDITIONAL PROGRAMMING OR FUNCTIONALITY IN ITS EXISTING SOFTWARE TO REMOVE THE INFORMATION.

(c) IF A CUSTODIAN IS NOT ABLE TO COMPLY WITH A REQUEST TO PRODUCE A PUBLIC RECORD THAT IS SUBJECT TO DISCLOSURE IN A REQUESTED FORMAT SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION, THE CUSTODIAN SHALL PRODUCE THE RECORD IN AN ALTERNATE FORMAT OR ISSUE A DENIAL UNDER SECTION 24-72-204 AND SHALL PROVIDE A WRITTEN DECLARATION ATTESTING TO THE REASONS THE CUSTODIAN IS NOT ABLE TO PRODUCE THE RECORD IN THE REQUESTED FORMAT. IF A COURT SUBSEQUENTLY RULES THE CUSTODIAN SHOULD HAVE PROVIDED THE RECORD IN THE REQUESTED FORMAT, ATTORNEY FEES MAY BE AWARDED ONLY IF THE CUSTODIAN'S ACTION WAS ARBITRARY OR CAPRICIOUS.

(d) ALTERING AN EXISTING PUBLIC RECORD, OR EXCISING FIELDS OF INFORMATION PURSUANT TO THIS SUBSECTION (3.5) TO REMOVE INFORMATION THAT THE CUSTODIAN IS EITHER REQUIRED OR PERMITTED TO WITHHOLD, DOES NOT CONSTITUTE THE CREATION OF A NEW PUBLIC RECORD.

(e) NOTHING IN THIS SUBSECTION (3.5) RELIEVES OR MITIGATES THE OBLIGATIONS OF A CUSTODIAN TO PRODUCE A PUBLIC RECORD IN A FORMAT ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES IN ACCORDANCE WITH TITLE II OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12131 ET. SEQ., AND OTHER FEDERAL OR STATE LAWS.

SECTION 2. In Colorado Revised Statutes, 24-72-204, amend (2)(a)(VIII)(A), (3)(a)(I), and (5) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(VIII) (A) Specialized details of EITHER security arrangements or investigations OR THE PHYSICAL AND CYBER ASSETS OF CRITICAL INFRASTRUCTURE, INCLUDING THE SPECIFIC ENGINEERING, VULNERABILITY, DETAILED DESIGN INFORMATION, PROTECTIVE MEASURES, EMERGENCY RESPONSE PLANS, OR SYSTEM OPERATIONAL DATA OF SUCH ASSETS THAT WOULD BE USEFUL TO A PERSON IN PLANNING AN ATTACK ON CRITICAL INFRASTRUCTURE BUT THAT DOES NOT SIMPLY PROVIDE THE GENERAL LOCATION OF SUCH INFRASTRUCTURE. Nothing in this ~~subparagraph~~ (VIII) SUBSECTION (2)(a)(VIII) prohibits the custodian from transferring records containing specialized details of EITHER security arrangements or investigations OR THE PHYSICAL AND CYBER ASSETS OF CRITICAL INFRASTRUCTURE to the division of homeland security and emergency management in the department of public safety, the governing body of any city, county, city and county, or other political subdivision of the state, or any federal, state, or local law enforcement agency; except that the custodian shall not transfer any record received from a nongovernmental entity without the prior written consent of the entity unless such information is already publicly available.

(3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

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(I) Medical, mental health, sociological, and scholastic achievement data, AND ELECTRONIC HEALTH RECORDS, on individual persons, other than scholastic achievement data submitted as part of finalists' records as set forth in subparagraph ~~(XI) of this paragraph~~ (a) SUBSECTION (3)(a)(XI) OF THIS SECTION and exclusive of coroners' autopsy reports and group scholastic achievement data from which individuals cannot be identified; but either the custodian or the person in interest may request a professionally qualified person, who shall be furnished by the said custodian, to be present to interpret the records;

(5) Except as provided in subsection (5.5) of this section, any person denied the right to inspect any record covered by this part 2 OR WHO ALLEGES A VIOLATION OF SECTION 24-72-203 (3.5) may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record; except that, at least three business days prior to filing an application with the district court, the person who has been denied the right to inspect the record shall file a written notice with the custodian who has denied the right to inspect the record informing said custodian that the person intends to file an application with the district court. Hearing on such application shall be held at the earliest practical time. Unless the court finds that the denial of the right of inspection was proper, it shall order the custodian to permit such inspection and shall award court costs and reasonable attorney fees to the prevailing applicant in an amount to be determined by the court; except that no court costs and attorney fees shall be awarded to a person who has filed a lawsuit against a state public body or local public body and who applies to the court for an order pursuant to this subsection (5) for access to records of the state public body or local public body being sued if the court finds that the records being sought are related to the pending litigation and are discoverable pursuant to chapter 4 of the Colorado rules of civil procedure. In the event the court finds that the denial of the right of inspection was proper, the court shall award court costs and reasonable attorney fees to the custodian if the court finds that the action was frivolous, vexatious, or groundless.

SECTION 3. In Colorado Revised Statutes, repeal 24-72-206 as follows:

~~24-72-206. Violation - penalty. Any person who willfully and knowingly violates the provisions of this part 2 is guilty of a misdemeanor~~

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~~and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.~~

SECTION 4. 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 9, 2017, if adjournment sine die is on May 10, 2017); 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.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

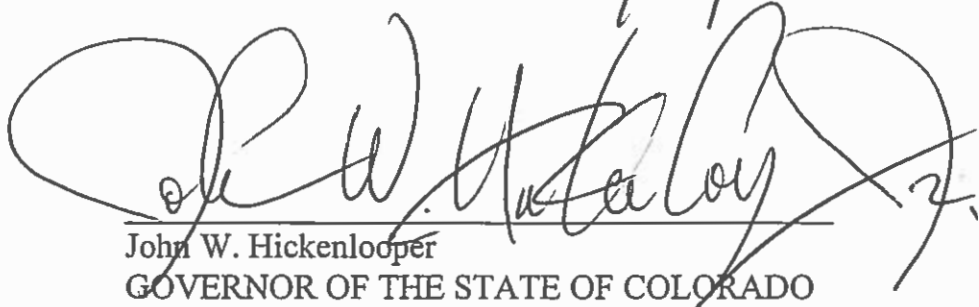


Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 2:20 PM 6/1/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 17-112

BY SENATOR(S) Neville T., Court, Hill, Jahn, Kerr, Tate, Smallwood, Baumgardner, Cooke, Holbert, Kefalas, Lundberg, Marble, Martinez Humenik, Merrifield, Moreno, Priola, Scott, Todd, Grantham; also REPRESENTATIVE(S) Pabon, Covarrubias, Lawrence, Thurlow, Van Winkle, Leonard, Liston, Arndt, Becker K., Exum, Gray, Hooton, Kraft-Tharp, Lee, Neville P., Ransom.

CONCERNING A CLARIFICATION OF THE EFFECT OF STATUTES OF LIMITATIONS ON THE DISPUTE RESOLUTION PROCESS WHEN A TAXPAYER OWES SALES OR USE TAX TO ONE LOCAL GOVERNMENT BUT HAS ERRONEOUSLY PAID THE DISPUTED TAX TO ANOTHER LOCAL GOVERNMENT.

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

SECTION 1. In Colorado Revised Statutes, 29-2-106.1, **amend (5)** as follows:

29-2-106.1. Deficiency notice - dispute resolution. (5) (a) If the taxpayer asserts that all or part of a sales or use tax which is the subject of the hearing has been paid to or is due to another local government, then such other local government shall be joined as a party to the hearing. **NEITHER the taxpayer ~~need not~~ NOR THE ASSESSING LOCAL GOVERNMENT**

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

NEEDS TO file a claim for refund WITH SUCH OTHER LOCAL GOVERNMENT in order to pursue the remedy provided by this subsection (5) SUBSECTION (5)(a). If the executive director determines that the disputed tax was paid, but to the wrong local government, then the taxpayer shall be relieved of the tax due up to the amount paid BY THE TAXPAYER TO THE WRONG LOCAL GOVERNMENT together with an abatement of interest thereon and all penalties.

(b) NOTWITHSTANDING SECTION 29-2-106 (8), THE PERIODS OPEN OR CLOSED TO ASSESSMENT OR REFUND UNDER THE ORDINANCES OF THE LOCAL GOVERNMENTS, UNDER SECTIONS 39-26-210, 39-21-107 (1), 39-26-125, AND 39-26-703, OR UNDER AN INTERGOVERNMENTAL TRANSFER AGREEMENT MAY NOT BAR ANY OF THE REMEDIES SET FORTH IN SUBSECTIONS (5)(a) AND (6) OF THIS SECTION.

(c) (I) FOR ANY TAXABLE EVENT OCCURRING ON OR AFTER JANUARY 1, 2018, IF THE TAXPAYER RECEIVES A NOTICE FROM A LOCAL GOVERNMENT THAT THE TAXPAYER MUST PAY SALES OR USE TAX TO THAT LOCAL GOVERNMENT FOR A PARTICULAR TAXABLE EVENT AND THE TAXPAYER FAILS TO COMPLY WITH THE INSTRUCTIONS IN THE NOTICE WITH RESPECT TO THE SAME TYPE OF TAXABLE EVENT THAT OCCURS MORE THAN NINETY DAYS AFTER THE TAXPAYER RECEIVES THE NOTICE, THEN THE TAXPAYER MAY NOT TAKE ADVANTAGE OF THE REMEDY ALLOWED IN SUBSECTION (5)(a) OF THIS SECTION FOR THAT PARTICULAR TYPE OF TAXABLE EVENT IDENTIFIED IN THE NOTICE THAT OCCURS MORE THAN NINETY DAYS AFTER THE TAXPAYER RECEIVED THE NOTICE, UNLESS THE TAXPAYER RECEIVES, OR HAS PREVIOUSLY RECEIVED, A SIMILAR NOTICE DESCRIBED IN SUBSECTION (5)(c)(II) OF THIS SECTION FROM ANOTHER LOCAL GOVERNMENT THAT PROVIDES CONTRARY INSTRUCTIONS.

(II) THE NOTICE REQUIRED IN SUBSECTION (5)(c)(I) OF THIS SECTION MUST:

(A) BE IN WRITING AND BE SIGNED BY AN APPROPRIATE LOCAL GOVERNMENT OFFICIAL;

(B) BE SENT BY CERTIFIED OR REGISTERED MAIL OR BE DELIVERED BY A NATIONALLY RECOGNIZED COURIER SERVICE THAT PROVIDES A RECEIPT UPON DELIVERY;

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(C) INSTRUCT THE TAXPAYER TO PAY SALES OR USE TAX ON THE PARTICULAR TYPE OF TAXABLE EVENT IDENTIFIED IN THE NOTICE TO THE LOCAL GOVERNMENT; AND

(D) INCLUDE NOTICE THAT FAILURE TO COMPLY WITH THE INSTRUCTIONS WILL RESULT IN THE TAXPAYER BEING DENIED THE REMEDY ALLOWED IN SUBSECTION (5)(a) OF THIS SECTION FOR THE PARTICULAR TYPE OF TAXABLE EVENT IDENTIFIED IN THE NOTICE THAT OCCURS MORE THAN NINETY DAYS AFTER THE TAXPAYER RECEIVED THE NOTICE.

SECTION 2. In Colorado Revised Statutes, amend 39-26-210 as follows:

39-26-210. Limitations. The taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this part 2 shall not be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, EXCEPT AS SET FORTH IN SECTION 29-2-106.1 (5)(b); nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for one year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. Before the expiration of such period of limitation, the taxpayer and the executive director of the department of revenue may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

SECTION 3. In Colorado Revised Statutes, 39-21-107, amend (1) as follows:

39-21-107. Limitations. (1) Except as provided in this section, IN SECTION 29-2-106.1 (5)(b), and unless such time is extended by waiver, the amount of any tax or of any charge on oil and gas production imposed pursuant to articles 24 to 29 of this title TITLE 39 or article 3 of title 42, ~~C.R.S.~~; and the penalty and interest applicable thereto, shall be assessed within three years after the return was filed, whether or not such return was

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filed on or after the date prescribed, and no assessment shall be made or credit taken and no notice of lien shall be filed, nor distraint warrant issued, nor suit for collection instituted, nor any other action to collect the same commenced after the expiration of such period; except that a written proposed adjustment of the tax liability by the department issued prior to the expiration of such period shall extend the limitation of this subsection (1) for one year after a final determination or assessment is made. No lien shall continue after the three-year period provided for in this subsection (1), except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, and except for taxes on which written notice of any proposed adjustment of the tax liability has been sent to the taxpayer during such three-year period, in which case the lien shall continue for one year only after the expiration of such period or after the issuance of a final determination or assessment based on the proposed adjustment issued prior to the expiration of the three-year period. This subsection (1) shall not apply to income tax or to any tax imposed under article 23.5 of this title TITLE 39.

SECTION 4. In Colorado Revised Statutes, amend 39-26-125 as follows:

39-26-125. Limitations. The taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this part 1 shall not be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, EXCEPT AS SET FORTH IN SECTION 29-2-106.1 (5)(b); nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for one year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes, may be begun, at any time. Before the expiration of such period of limitation, the taxpayer and the executive director of the department of revenue may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

SECTION 5. In Colorado Revised Statutes, 39-26-703, amend

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(2)(d) and (2.5)(a) as follows:

39-26-703. Disputes and refunds. (2) (d) An application for refund under paragraph (c) or (c.5) of this subsection (2) SUBSECTION (2)(c) OR (2)(c.5) OF THIS SECTION shall be made within the applicable deadline and shall be made on forms prescribed and furnished by the executive director of the department of revenue, which form shall contain, in addition to the foregoing information, such pertinent data as the executive director prescribes. EXCEPT AS SET FORTH IN SECTION 29-2-106.1 (5)(b), the deadline for a sales tax refund or a refund of any use tax collected by a vendor is three years after the twentieth day of the month following the date of purchase and the deadline for any other use tax refund is three years after the twentieth day of the month following the initial date of the storage, use, or consumption in the state by the person applying for the refund.

(2.5)(a) EXCEPT AS SET FORTH IN SECTION 29-2-106.1 (5)(b), within three years after the due date of the return showing the overpayment or one year after the date of overpayment, whichever is later, a vendor shall file any claim for refund with the executive director of the department of revenue. The executive director shall promptly examine such claim and shall make a refund or allow a credit to any vendor who establishes that such vendor overpaid the tax due pursuant to this article.

SECTION 6. Applicability. This act applies to all assessments of sales or use tax within home rule cities, home rule counties, and home rule cities and counties, as well as within statutory cities and towns, counties, and other taxing districts, issued before, on, or after the effective date of this act that have not otherwise become final by all appeals having been exhausted or times for filing an appeal having lapsed without an appeal being made as of the effective date of this act.

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED

3:10 PM

4/18/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 17-214

BY SENATOR(S) Smallwood and Garcia, Aguilar, Crowder, Donovan, Fenberg, Gardner, Guzman, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Scott, Tate, Todd, Williams A., Zenzinger, Grantham;

also REPRESENTATIVE(S) Exum and Pettersen, Esgar, Pabon, Arndt, Becker K., Benavidez, Bridges, Buck, Buckner, Carver, Catlin, Coleman, Covarrubias, Danielson, Foote, Garnett, Ginal, Gray, Hamner, Hansen, Herod, Hooton, Humphrey, Jackson, Kennedy, Kraft-Tharp, Landgraf, Lawrence, Lebsack, Lee, Lewis, Lontine, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Navarro, Nordberg, Rankin, Ransom, Rosenthal, Saine, Salazar, Sias, Singer, Valdez, Van Winkle, Weissman, Williams D., Wilson, Winter, Wist, Young, Duran.

CONCERNING THE CREATION OF THE VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM.

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

SECTION 1. In Colorado Revised Statutes, add part 4 to article 5 of title 29 as follows:

PART 4 VOLUNTARY FIREFIGHTER CANCER

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

BENEFITS PROGRAM

29-5-401. Legislative declaration. (1) HOUSE BILL 07-1008, ENACTED IN 2007, ESTABLISHED A REBUTTABLE PRESUMPTION IN THE STATE WORKERS' COMPENSATION SYSTEM THAT CERTAIN TYPES OF CANCER, WHEN CONTRACTED BY FIREFIGHTERS, ARE OCCUPATIONAL DISEASES CAUSED BY EMPLOYMENT AS A FIREFIGHTER.

(2) NINE YEARS OF EXPERIENCE HAS SHOWN THAT THE REBUTTABLE PRESUMPTION ESTABLISHED BY HOUSE BILL 07-1008 HAS PRODUCED NO DEMONSTRABLE BENEFIT TO FIREFIGHTERS BUT HAS LED TO SIGNIFICANTLY GREATER COSTS TO EMPLOYERS OF FIREFIGHTERS.

(3) THE PURPOSE OF THIS PART 4 IS TO PROVIDE SUPPLEMENTAL INCOME AND REIMBURSEMENT FOR OUT-OF-POCKET COSTS NOT OTHERWISE PAID FOR BY INSURANCE COVERAGE TO FIREFIGHTERS WHO CONTRACT COVERED CANCERS AND TO REDUCE THE COST OF WORKERS' COMPENSATION INSURANCE FOR EMPLOYERS OF FIREFIGHTERS. THIS PART 4 IS NOT A REPLACEMENT FOR WORKERS' COMPENSATION COVERAGE OR ANY OTHER KIND OF MEDICAL INSURANCE.

(4) THIS PART 4 DOES NOT ELIMINATE OR CURTAIL THE OBLIGATION OF AN EMPLOYER OF FIREFIGHTERS TO PARTICIPATE IN THE STATE WORKERS' COMPENSATION SYSTEM, NOR DOES IT ELIMINATE OR CURTAIL THE RIGHT OF A FIREFIGHTER TO PURSUE BENEFITS UNDER THE STATE WORKERS' COMPENSATION SYSTEM. RATHER, IT PROVIDES A PRACTICAL ALTERNATIVE FOR FIREFIGHTERS TO PURSUE IN DEALING WITH THE COSTS AND BURDENS OF COVERED CANCERS WITHOUT BEING FORCED TO RELY ON RECOVERING COMPENSATION UNDER THE REBUTTABLE PRESUMPTION CREATED BY HOUSE BILL 07-1008.

29-5-402. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CANCER" MEANS CANCER THAT ORIGINATES AS A CANCER OF THE BRAIN, SKIN, DIGESTIVE SYSTEM, HEMATOLOGICAL SYSTEM, OR GENITOURINARY SYSTEM OR AS DEFINED BY THE TRUST.

(2) "COVERED INDIVIDUAL" MEANS A FIREFIGHTER, PART-TIME FIREFIGHTER, OR VOLUNTEER FIREFIGHTER WHO MEETS THE COVERAGE

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REQUIREMENTS IN SECTION 29-5-403 (12).

(3) "EMPLOYER" MEANS A MUNICIPALITY, SPECIAL DISTRICT, FIRE AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT THAT EMPLOYS ONE OR MORE FIREFIGHTERS, PART-TIME FIREFIGHTERS, OR VOLUNTEER FIREFIGHTERS. "EMPLOYER" DOES NOT INCLUDE A POWER AUTHORITY CREATED PURSUANT TO SECTION 29-1-204 OR A MUNICIPALLY OWNED UTILITY.

(4) "FIREFIGHTER" MEANS A FULL-TIME, ACTIVE EMPLOYEE OF AN EMPLOYER WHO REGULARLY WORKS AT LEAST ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR AND WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES, AND WHO IS NOT A VOLUNTEER FIREFIGHTER.

(5) "PART-TIME FIREFIGHTER" MEANS AN ACTIVE EMPLOYEE OF AN EMPLOYER WHO REGULARLY WORKS LESS THAN ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR, WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES, AND WHO IS NOT A VOLUNTEER FIREFIGHTER.

(6) "TRUST" MEANS A MULTIPLE EMPLOYER HEALTH TRUST DESCRIBED IN SECTION 10-3-903.5 (7)(b)(I), ESTABLISHED FOR THE PURPOSES OF THIS PART 4.

(7) "VOLUNTEER FIREFIGHTER" MEANS A VOLUNTEER FIREFIGHTER AS DEFINED IN SECTION 31-30-1102, INCLUDING A PERSON MEETING THIS DEFINITION WHO PROVIDES VOLUNTEER SERVICES TO A FIRE AUTHORITY CREATED BY AN INTERGOVERNMENTAL AGREEMENT PROVIDING FIRE PROTECTION.

29-5-403. Required benefits - conditions of receiving benefits.

(1) AN EMPLOYER MAY PARTICIPATE IN THE VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM BY PAYING CONTRIBUTIONS INTO A MULTIPLE EMPLOYER HEALTH TRUST AS SET FORTH IN SECTION 10-3-903.5 (7)(b)(I), ESTABLISHED FOR THE PURPOSES OF THIS PART 4. THE CONTRIBUTION LEVELS AND AWARD LEVEL DEFINITIONS WILL BE SET BY THE TRUST.

(2) FOR AN EMPLOYER CHOOSING TO PARTICIPATE IN THE VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM, THE TRUST SHALL

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PROVIDE THE MINIMUM BENEFITS SPECIFIED IN SUBSECTION (3) OF THIS SECTION TO COVERED INDIVIDUALS DIAGNOSED WITH CANCER, BASED ON THE AWARD LEVEL OF THE CANCER AT THE TIME OF DIAGNOSIS, AFTER THE EMPLOYER BECOMES A PARTICIPANT.

(3) AWARD LEVELS WILL BE ESTABLISHED BY THE TRUST BASED ON THE CATEGORY AND STAGE OF THE CANCER AS FOLLOWS:

(a) AWARD LEVEL ZERO, ONE HUNDRED DOLLARS UP TO TWO THOUSAND DOLLARS;

(b) AWARD LEVEL ONE, FOUR THOUSAND DOLLARS, WHICH SHALL BE PAID IN ADDITION TO THE AMOUNTS PAID FOR AN AWARD LEVEL TWO OR HIGHER DIAGNOSIS;

(c) AWARD LEVEL TWO, FIVE THOUSAND DOLLARS;

(d) AWARD LEVEL THREE, FIFTEEN THOUSAND DOLLARS;

(e) AWARD LEVEL FOUR, TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS;

(f) AWARD LEVEL FIVE, TWENTY-EIGHT THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS;

(g) AWARD LEVEL SIX, THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS;

(h) AWARD LEVEL SEVEN, SIXTY-FIVE THOUSAND SIX HUNDRED TWENTY-FIVE DOLLARS;

(i) AWARD LEVEL EIGHT, EIGHTY-FOUR THOUSAND THREE HUNDRED SEVENTY-FIVE DOLLARS;

(j) AWARD LEVEL NINE, ONE HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS; OR

(k) AWARD LEVEL TEN, TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

(4) IN ADDITION TO AN AWARD PURSUANT TO SUBSECTION (3) OF THIS SECTION:

(a) A PAYMENT IS MADE TO THE COVERED INDIVIDUAL FOR THE ACTUAL COST, UP TO TWENTY-FIVE THOUSAND DOLLARS, FOR REHABILITATIVE OR VOCATIONAL TRAINING EMPLOYMENT SERVICES AND EDUCATIONAL TRAINING RELATING TO THE CANCER DIAGNOSIS;

(b) A PAYMENT IS MADE TO THE COVERED INDIVIDUAL OF UP TO TEN THOUSAND DOLLARS IF A COVERED INDIVIDUAL INCURS COSMETIC DISFIGUREMENT COSTS RESULTING FROM CANCER.

(5) IF THE CANCER IS DIAGNOSED AS TERMINAL CANCER, THE COVERED INDIVIDUAL WILL RECEIVE A LUMP-SUM PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS AS AN ACCELERATED PAYMENT TOWARD THE BENEFITS DUE IN SUBSECTION (3) OF THIS SECTION.

(6) THE COVERED INDIVIDUAL IS ENTITLED TO ADDITIONAL AWARDS IF THE CANCER INCREASES IN AWARD LEVEL, BUT THE AMOUNT OF ANY AWARD PAID EARLIER FOR THE SAME CANCER WILL BE SUBTRACTED FROM THE NEW AWARD.

(7) IF A COVERED INDIVIDUAL DIES WHILE OWED BENEFITS PURSUANT TO THIS SECTION, THE BENEFITS WILL BE PAID TO THE SURVIVING SPOUSE OR DOMESTIC PARTNER, IF ANY, AT THE TIME OF DEATH, AND IF THERE IS NO SURVIVING SPOUSE OR DOMESTIC PARTNER, ANY SURVIVING CHILDREN EQUALLY. IF THERE IS NO SURVIVING SPOUSE, DOMESTIC PARTNER, OR CHILD, THE OBLIGATION OF THE TRUST TO PAY BENEFITS WILL CEASE.

(8) IF A COVERED INDIVIDUAL RETURNS TO THE SAME POSITION OF EMPLOYMENT AFTER A CANCER DIAGNOSIS, THE COVERED INDIVIDUAL IS ENTITLED TO THE BENEFITS IN THIS SECTION FOR ANY SUBSEQUENT NEW TYPE OF COVERED CANCER DIAGNOSIS.

(9) THE MAXIMUM AMOUNT THAT MAY BE PAID TO A COVERED INDIVIDUAL FOR EACH CANCER DIAGNOSIS IS TWO HUNDRED FORTY-NINE THOUSAND DOLLARS.

(10) UNLESS THE OFFSET PROVISIONS OF SECTION 8-42-103 (1)(h)

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HAVE ALREADY BEEN TAKEN, THE BENEFITS PAID PURSUANT TO THIS SECTION MUST BE OFFSET BY ANY PAYMENTS MADE UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, REGARDLESS OF WHEN THE PAYMENTS ARE MADE. THE TRUST MAY DETERMINE HOW AND WHEN THE OFFSETS ARE IMPLEMENTED.

(11) THE BENEFITS IN THIS SECTION ARE REDUCED BY TWENTY-FIVE PERCENT IF A COVERED INDIVIDUAL USED A TOBACCO PRODUCT WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE CANCER DIAGNOSIS.

(12) (a) IN ORDER FOR A COVERED INDIVIDUAL TO BE ELIGIBLE FOR THE BENEFITS IN THIS SECTION, PRIOR TO THE DIAGNOSIS OF CANCER AND NO MORE THAN FIVE YEARS FOR A FIREFIGHTER OR NO MORE THAN TEN YEARS FOR A VOLUNTEER FIREFIGHTER OR PART-TIME FIREFIGHTER AFTER THE FIREFIGHTER, VOLUNTEER FIREFIGHTER, OR PART-TIME FIREFIGHTER BECAME EMPLOYED BY AN EMPLOYER, THE FIREFIGHTER, VOLUNTEER FIREFIGHTER, OR PART-TIME FIREFIGHTER MUST HAVE HAD A MEDICAL EXAMINATION THAT WOULD REASONABLY HAVE FOUND AN ILLNESS OR INJURY THAT COULD HAVE CAUSED THE CANCER AND NO ILLNESS OR INJURY WAS FOUND.

(b) IN ADDITION TO SUBSECTION (12)(a) OF THIS SECTION, IN ORDER FOR A COVERED INDIVIDUAL TO BE ELIGIBLE FOR THE BENEFITS IN THIS SECTION, THE FOLLOWING CONDITIONS MUST BE MET:

(I) THE FIREFIGHTER:

(A) HAS AT LEAST FIVE YEARS OF CONTINUOUS, FULL-TIME EMPLOYMENT WITH AN EMPLOYER; AND

(B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER CEASING EMPLOYMENT AS A FIREFIGHTER; OR

(II) THE VOLUNTEER FIREFIGHTER:

(A) HAS AT LEAST TEN YEARS OF ACTIVE SERVICE, AS USED IN SECTION 31-30-1122, AND HAS MAINTAINED A MINIMUM TRAINING PARTICIPATION IN THE FIRE DEPARTMENT OF THIRTY-SIX HOURS EACH YEAR; AND

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(B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER CEASING EMPLOYMENT AS A VOLUNTEER FIREFIGHTER; OR

(III) THE PART-TIME FIREFIGHTER:

(A) HAS AT LEAST TEN YEARS OF ACTIVE SERVICE; AND

(B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER CEASING EMPLOYMENT AS A PART-TIME FIREFIGHTER.

(c) THE TRUST SHALL DEVELOP A FORMULA TO ALLOW THE COMBINING OF VOLUNTEER, PART-TIME, AND FULL-TIME FIREFIGHTER SERVICE TO ESTABLISH ELIGIBILITY.

(d) THE CLAIM FOR BENEFITS MUST BE FILED NO LATER THAN TWO YEARS AFTER THE DIAGNOSIS OF THE CANCER. THE CLAIM FOR EACH TYPE OF CANCER NEEDS TO BE FILED ONLY ONCE TO ALLOW THE TRUST TO INCREASE THE AWARD LEVEL PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(13) FOR THE PURPOSE OF EMPLOYER POLICIES AND BENEFITS, A CANCER DIAGNOSIS IS TREATED AS AN ON-THE-JOB INJURY OR ILLNESS. THIS SUBSECTION (13) DOES NOT AFFECT ANY DETERMINATION AS TO WHETHER THE CANCER IS COVERED UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8.

29-5-404. Authority of the trust - rules. (1) IN ADDITION TO ANY AUTHORITY GIVEN TO THE TRUST, THE TRUST HAS THE AUTHORITY TO:

(a) CREATE A PROGRAM DESCRIPTION TO FURTHER DEFINE OR MODIFY, BUT NOT DECREASE, THE BENEFITS OF THIS PART 4;

(b) MODIFY THE CONTRIBUTION RATES, BENEFIT LEVELS, INCLUDING THE MAXIMUM AMOUNT, CONSISTENT WITH SUBSECTION (1)(a) OF THIS SECTION, AND STRUCTURE OF THE BENEFITS BASED ON ACTUARIAL RECOMMENDATIONS AND WITH INPUT FROM A COMMITTEE OF THE TRUST CONSISTING OF REPRESENTATIVES FROM LABOR, MANAGEMENT, VOLUNTEER, AND TRUST ADMINISTRATION; AND

(c) ADOPT RULES AND PROCEDURES FOR THE ADMINISTRATION OF

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THE TRUST.

29-5-405. Exclusion from coverage. AN EMPLOYER WHO PARTICIPATES IN THE VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM CREATED IN THIS PART 4 IS NOT SUBJECT TO SECTION 8-41-209 (1) AND (2) UNLESS THE EMPLOYER ENDS PARTICIPATION IN THE PROGRAM.

SECTION 2. In Colorado Revised Statutes, 8-41-209, add (4) as follows:

8-41-209. Coverage for occupational diseases contracted by firefighters. (4) AN EMPLOYER WHO PARTICIPATES IN THE VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM CREATED IN PART 4 OF ARTICLE 5 OF TITLE 29 IS NOT SUBJECT TO THIS SECTION UNLESS THE EMPLOYER ENDS PARTICIPATION IN THAT PROGRAM.

SECTION 3. In Colorado Revised Statutes, 8-42-103, add (1)(h) as follows:

8-42-103. Disability indemnity payable as wages - period of disability. (1) If the injury or occupational disease causes disability, a disability indemnity shall be payable as wages pursuant to section 8-42-105 (2)(a) subject to the following limitations:

(h) UNLESS THE OFFSET PROVISIONS OF SECTION 29-5-403 (10) HAVE ALREADY BEEN TAKEN, IN CASES WHERE IT IS DETERMINED THAT A FIREFIGHTER HAS RECEIVED AN AWARD OF BENEFITS FOR A CANCER DIAGNOSIS PURSUANT TO SECTION 29-5-403 (3)(b) TO (3)(k), THE AGGREGATE BENEFITS PAYABLE FOR TEMPORARY TOTAL DISABILITY, TEMPORARY PARTIAL DISABILITY, PERMANENT PARTIAL DISABILITY, AND PERMANENT TOTAL DISABILITY SHALL BE REDUCED, BUT NOT BELOW ZERO, BY AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF SUCH CANCER DIAGNOSIS BENEFITS. IN CASES WHERE IT IS DETERMINED THAT A COVERED INDIVIDUAL HAS RECEIVED COSMETIC DISFIGUREMENT BENEFITS PURSUANT TO SECTION 29-5-403 (4)(b), BENEFITS FOR DISFIGUREMENT PAYABLE PURSUANT TO SECTION 8-42-108 SHALL BE REDUCED, BUT NOT BELOW ZERO, BY AN AMOUNT EQUAL TO SUCH COSMETIC DISFIGUREMENT BENEFITS.

SECTION 4. In Colorado Revised Statutes, 10-3-903.5, amend (7)(b)(I) as follows:

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10-3-903.5. Jurisdiction over providers of health care benefits.
(7) (b) A multiple employer health trust is any trust that is:

(I) Sponsored, maintained, and funded by one or more entities of state government or political subdivisions of the state organized pursuant to state law and is for the benefit of the entity's employees, including a multiple employer health trust established for the purposes of ~~part 3~~ PART 3 OR 4 of article 5 of title 29; ~~C.R.S.~~; or

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

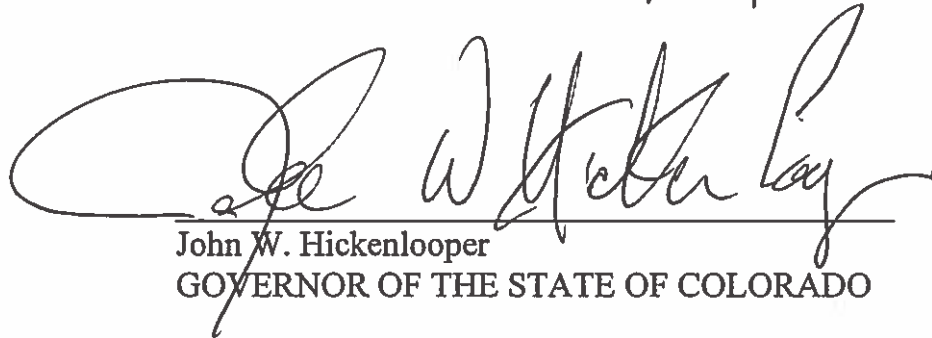


Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 2:18 pm 5/03/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 17-267

BY SENATOR(S) Sonnenberg and Guzman, Aguilar, Coram, Crowder, Donovan, Fenberg, Fields, Garcia, Jahn, Kagan, Kefalas, Kerr, Merrifield, Todd, Williams A.;

also REPRESENTATIVE(S) Becker K. and Becker J., Arndt, Bridges, Buckner, Catlin, Coleman, Covarrubias, Danielson, Esgar, Exum, Garnett, Ginal, Gray, Hamner, Hansen, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Lee, Lontine, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Navarro, Pabon, Pettersen, Rankin, Rosenthal, Valdez, Weissman, Wilson, Winter, Young, Duran.

CONCERNING THE SUSTAINABILITY OF RURAL COLORADO.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) In comparison to the urban and suburban areas of the state, rural Colorado, on average and with some exceptions, faces complex demographic, economic, and geographical challenges including:

(I) An older population that requires more medical care;

(II) Less robust and diverse economic activity and associated lower average wages and household incomes; and

(III) Greater challenges, due to distance and less adequate transportation infrastructure, in accessing critical services such as health care; and

(b) The purpose of this legislation is to ensure and perpetuate the sustainability of rural Colorado by addressing some of these demographic, economic, and geographical challenges and by such other means as the general assembly, in its considered judgment, finds necessary and appropriate.

(2) The general assembly further finds and declares that the sustainability of rural Colorado is directly connected to the economic vitality of the state as a whole, and that all of the provisions of this act, including provisions that on their face apply to and affect all areas of the state but that especially benefit rural Colorado, relate to and serve and are necessarily and properly connected to the general assembly's purpose of ensuring and perpetuating the sustainability of rural Colorado.

SECTION 2. In Colorado Revised Statutes, amend 2-3-119 as follows:

2-3-119. Audit of healthcare affordability and sustainability fee - cost shift. ~~Starting with the second full state fiscal year following the receipt of the notice from the executive director of the department of health care policy and financing pursuant to section 25.5-4-402.3 (7), C.R.S., and thereafter~~ At the discretion of the legislative audit committee, the state auditor shall conduct or cause to be conducted a performance and fiscal audit of the ~~hospital-provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee established pursuant to ~~section 25.5-4-402.3, C.R.S.~~ SECTION 25.5-4-402.4.

SECTION 3. In Colorado Revised Statutes, 2-3-1203, repeal (8)(a)(V) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (8) (a) The following statutory authorizations for the designated advisory committees will repeal on July

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1, 2019:

(V) ~~The hospital provider fee oversight and advisory board created in section 25.5-4-402.3, C.R.S.;~~

SECTION 4. In Colorado Revised Statutes, add 22-54-139 as follows:

22-54-139. Additional funding for schools - use of retail marijuana sales tax revenue transferred to state public school fund - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LARGE RURAL DISTRICT" MEANS A DISTRICT IN COLORADO THAT THE DEPARTMENT OF EDUCATION DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ONE THOUSAND PUPILS OR MORE BUT FEWER THAN SIX THOUSAND FIVE HUNDRED PUPILS.

(b) "PER PUPIL DISTRIBUTION AMOUNT" MEANS:

(I) FOR A LARGE RURAL DISTRICT, AN AMOUNT EQUAL TO THIRTY MILLION DOLLARS MULTIPLIED BY THE PERCENTAGE SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION AND THEN DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ALL LARGE RURAL DISTRICTS; AND

(II) FOR A SMALL RURAL DISTRICT, AN AMOUNT EQUAL TO THIRTY MILLION DOLLARS MULTIPLIED BY THE PERCENTAGE SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION AND THEN DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ALL SMALL RURAL DISTRICTS;

(c) "SMALL RURAL DISTRICT" MEANS A DISTRICT IN COLORADO THAT THE DEPARTMENT OF EDUCATION DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF FEWER THAN ONE THOUSAND PUPILS.

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(2) FOR THE 2017-18 BUDGET YEAR, ALL OF THE GROSS RETAIL MARIJUANA SALES TAX PROCEEDS TRANSFERRED FROM THE GENERAL FUND TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1) AS REQUIRED BY SECTION 39-28.8-203 (1)(b)(I.3)(B) IS APPROPRIATED FROM THE STATE PUBLIC SCHOOL FUND TO THE DEPARTMENT FOR MONTHLY DISTRIBUTION TO EACH LARGE RURAL DISTRICT AND EACH SMALL RURAL DISTRICT FOR THE PURPOSE OF IMPROVING STUDENT LEARNING AND THE EDUCATIONAL ENVIRONMENT, INCLUDING BUT NOT LIMITED TO LOAN FORGIVENESS FOR EDUCATORS AND STAFF, TECHNOLOGY, AND TRANSPORTATION, AS FOLLOWS:

(a) FIFTY-FIVE PERCENT OF THE MONEY IS ALLOCATED TO LARGE RURAL DISTRICTS AND DISTRIBUTED TO EACH LARGE RURAL DISTRICT IN AN AMOUNT EQUAL TO THE PER PUPIL DISTRIBUTION AMOUNT MULTIPLIED BY THE LARGE RURAL DISTRICT'S FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR FOR PROPORTIONAL APPORTIONMENT TO EVERY SCHOOL IN THE DISTRICT BASED ON THE NUMBER OF STUDENTS ENROLLED IN EACH SCHOOL FOR THE PRIOR BUDGET YEAR; AND

(b) FORTY-FIVE PERCENT OF THE MONEY IS ALLOCATED TO SMALL RURAL SCHOOL DISTRICTS AND DISTRIBUTED TO EACH SMALL RURAL DISTRICT IN AN AMOUNT EQUAL TO THE PER PUPIL DISTRIBUTION AMOUNT MULTIPLIED BY THE SMALL RURAL DISTRICT'S FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR FOR PROPORTIONAL APPORTIONMENT TO EVERY SCHOOL IN THE DISTRICT BASED ON THE NUMBER OF STUDENTS ENROLLED IN EACH SCHOOL FOR THE PRIOR BUDGET YEAR.

(3) FOR THE 2018-19 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, ALL OF THE GROSS RETAIL MARIJUANA SALES TAX PROCEEDS TRANSFERRED FROM THE GENERAL FUND TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1) AS REQUIRED BY SECTION 39-28.8-203 (1)(b)(I.5)(B) IS APPROPRIATED FROM THE STATE PUBLIC SCHOOL FUND TO THE DEPARTMENT TO MEET THE STATE'S SHARE OF THE TOTAL PROGRAM OF ALL DISTRICTS AND FUNDING FOR INSTITUTE CHARTER SCHOOLS.

SECTION 5. In Colorado Revised Statutes, 23-1-106, **amend** (10.2)(a) as follows:

23-1-106. Duties and powers of the commission with respect to

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capital construction and long-range planning - legislative declaration - definitions. (10.2) (a) (I) Notwithstanding any law to the contrary AND EXCEPT AS PROVIDED IN SUBSECTION (10.2)(a)(III) OF THIS SECTION, all academic facilities acquired or constructed, or an auxiliary facility repurposed for use as an academic facility, solely from cash funds held by the state institution of higher education and operated and maintained from such cash funds or from state moneys MONEY appropriated for such purpose, or both, including, but not limited to, those facilities described in ~~paragraph (b) of subsection (9)~~ SUBSECTION (9)(b) of this section, that did not previously qualify for state controlled maintenance funding will qualify for state controlled maintenance funding, subject to funding approval by the capital development committee and the eligibility guidelines described in section 24-30-1303.9. ~~C.R.S.~~

(II) For purposes of this ~~paragraph (a)~~ SUBSECTION (10.2)(a), the eligibility for state controlled maintenance funding commences on the date of the acceptance of the construction or repurposing of the facility or the closing date of any acquisition. The date of the acceptance of construction or repurposing shall be determined by the office of the state architect.

(III) IF AN ACADEMIC FACILITY IS ACQUIRED OR CONSTRUCTED, OR IF AN AUXILIARY FACILITY IS REPURPOSED FOR USE AS AN ACADEMIC FACILITY, SOLELY FROM CASH FUNDS HELD BY THE STATE INSTITUTION OF HIGHER EDUCATION AND OPERATED AND MAINTAINED FROM SUCH CASH FUNDS, THEN AS OF THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR REPURPOSING THAT OCCURS ON OR AFTER JULY 1, 2018, THE FACILITY IS NOT ELIGIBLE FOR CONTROLLED MAINTENANCE FUNDING.

SECTION 6. In Colorado Revised Statutes, 24-1-119.5, **add (9)** as follows:

24-1-119.5. Department of health care policy and financing - creation. (9) THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A TYPE 2 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

SECTION 7. In Colorado Revised Statutes, 24-4-103, **amend (8)(c)(I)** as follows:

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24-4-103. Rule-making - procedure - definitions - repeal.
(8) (c) (I) Notwithstanding any other provision of law to the contrary and the provisions of section 24-4-107, all rules adopted or amended on or after January 1, 1993, and before November 1, 1993, shall expire at 11:59 p.m. on May 15 of the year following their adoption unless the general assembly by bill acts to postpone the expiration of a specific rule, and commencing with rules adopted or amended on or after November 1, 1993, all rules adopted or amended during any one-year period that begins each November 1 and continues through the following October 31 shall expire at 11:59 p.m. on the May 15 that follows such one-year period unless the general assembly by bill acts to postpone the expiration of a specific rule; except that a rule adopted pursuant to ~~section 25.5-4-402.3 (5) (b) (III), C.R.S.;~~ shall expire SECTION 25.5-4-402.4 (6)(b)(III) EXPIRES at 11:59 p.m. on the May 15 following the adoption of the rule unless the general assembly acts by bill to postpone the expiration of a specific rule. The general assembly, in its discretion, may postpone such expiration, in which case, the provisions of section 24-4-108 or 24-34-104 shall apply, and the rules shall expire or be ARE subject to review as provided in said THOSE sections. The postponement of the expiration of a rule shall DOES not constitute legislative approval of the rule nor be AND IS NOT admissible in any court as evidence of legislative intent. The postponement of the expiration date of a specific rule shall DOES not prohibit any action by the general assembly pursuant to the provisions of ~~paragraph (d) of this subsection (8)~~ SUBSECTION (8)(d) OF THIS SECTION with respect to such THE rule.

SECTION 8. In Colorado Revised Statutes, 24-30-1303.9, amend (7)(a)(II), (7)(a)(III), and (7)(a)(IV); and add (7)(a)(V) as follows:

24-30-1303.9. Eligibility for state controlled maintenance funding - legislative declaration. (7) (a) Controlled maintenance funds may not be used for:

(II) Auxiliary facilities as defined in section 23-1-106 (10.3);
~~C.R.S.;~~

(III) Leasehold interests in real property; or

(IV) Any work properly categorized as capital construction; OR

(V) FACILITIES DESCRIBED IN SECTION 23-1-106 (10.2)(a)(III).

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SECTION 9. In Colorado Revised Statutes, add 24-37-305 as follows:

24-37-305. 2018-19 fiscal year - required reductions in departmental and executive branch budget requests. (1)(a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, FOR THE 2018-19 BUDGET YEAR, EACH PRINCIPAL DEPARTMENT OF STATE GOVERNMENT THAT SUBMITS A BUDGET REQUEST TO THE OFFICE OF STATE PLANNING AND BUDGETING SHALL REQUEST, WHEN SUBMITTING THE BUDGET REQUEST, A TOTAL BUDGET FOR THE DEPARTMENT THAT IS AT LEAST TWO PERCENT LOWER THAN ITS ACTUAL BUDGET FOR THE 2017-18 FISCAL YEAR.

(b) THE REQUIREMENT SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO THE DEPARTMENT OF EDUCATION CREATED IN SECTION 24-1-115 (1) OR THE DEPARTMENT OF TRANSPORTATION CREATED IN SECTION 24-1-128.7 (1).

(2) THE OFFICE OF STATE PLANNING AND BUDGETING SHALL STRONGLY CONSIDER THE BUDGET REDUCTION PROPOSALS MADE BY EACH PRINCIPAL DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION WHEN PREPARING THE ANNUAL EXECUTIVE BUDGET PROPOSALS TO THE GENERAL ASSEMBLY FOR THE GOVERNOR AS REQUIRED BY SECTION 24-37-302 (1)(g) AND SHALL SEEK TO ENSURE, SUBJECT TO SECTION 24-37-303, THAT THE EXECUTIVE BUDGET PROPOSAL FOR EACH DEPARTMENT IS AT LEAST TWO PERCENT LOWER THAN THE DEPARTMENT'S ACTUAL BUDGET FOR THE 2017-18 FISCAL YEAR.

SECTION 10. In Colorado Revised Statutes, 24-75-219, **repeal as added by Senate Bill 17-262 (2)(c.3)(I) and (2)(c.7)(I)** as follows:

24-75-219. Transfers - transportation - capital construction - definitions. (2)(c.3) On June 30, 2019, the state treasurer shall transfer:

(I) ~~One hundred sixty million dollars from the general fund to the highway users tax fund, and~~

(c.7) On June 30, 2020, the state treasurer shall transfer:

(I) ~~One hundred sixty million dollars from the general fund to the~~

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highway users tax fund; and

SECTION 11. In Colorado Revised Statutes, 24-77-103.6, amend (6)(b)(I) as follows:

24-77-103.6. Retention of excess state revenues - general fund exempt account - required uses - excess state revenues legislative report. (6) As used in this section:

(b) (I) "Excess state revenues cap" for a given fiscal year means: ~~either of the following:~~

~~(A) If the voters of the state approve a ballot issue to authorize the state to incur multiple-fiscal year obligations at the November 2005 statewide election, an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2005-06 fiscal year through the 2009-10 fiscal year, adjusted each subsequent fiscal year for inflation and the percentage change in state population, plus one hundred million dollars, and adjusting such sum for the qualification or disqualification of enterprises and debt service changes; or~~

~~(B) If the voters of the state do not approve a ballot issue to authorize the state to incur multiple-fiscal year obligations at the November 2005 statewide election; FOR EACH FISCAL YEAR UP TO AND INCLUDING THE 2016-17 FISCAL YEAR, an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2005-06 fiscal year through the 2009-10 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes;~~

(C) FOR THE 2017-18 FISCAL YEAR, AN AMOUNT THAT IS EQUAL TO THE EXCESS STATE REVENUES CAP FOR THE 2016-17 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(B) OF THIS SECTION, ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES, LESS TWO HUNDRED MILLION DOLLARS; AND

(D) FOR THE 2018-19 FISCAL YEAR AND EACH SUCCEEDING FISCAL YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE 2017-18 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(C) OF THIS

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SECTION, ADJUSTED EACH SUBSEQUENT FISCAL YEAR FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES.

SECTION 12. In Colorado Revised Statutes, add part 13 to article 82 of title 24 as follows:

PART 13
LEASE-PURCHASE AGREEMENTS FOR STATE PROPERTY

24-82-1301. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) DUE TO INSUFFICIENT FUNDING, NECESSARY HIGH-PRIORITY STATE HIGHWAY PROJECTS AND STATE CAPITAL CONSTRUCTION PROJECTS, INCLUDING PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION, IN ALL AREAS OF THE STATE HAVE BEEN DELAYED, AND THE STATE HAS ALSO DELAYED CRITICAL CONTROLLED MAINTENANCE AND UPKEEP OF STATE CAPITAL ASSETS;

(b) BY ISSUING LEASE-PURCHASE AGREEMENTS USING STATE BUILDINGS AS COLLATERAL AS AUTHORIZED BY THIS PART 13, THE STATE CAN GENERATE SUFFICIENT FUNDS TO ACCELERATE THE COMPLETION OF MANY OF THE NECESSARY HIGH-PRIORITY STATE HIGHWAY PROJECTS AND CAPITAL CONSTRUCTION PROJECTS THAT HAVE BEEN DELAYED AND BETTER MAINTAIN AND PRESERVE EXISTING STATE CAPITAL ASSETS;

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A MAJORITY OF THE ADDITIONAL FUNDING FOR STATE CAPITAL CONSTRUCTION PROJECTS REALIZED FROM ISSUING LEASE-PURCHASE AGREEMENTS BE USED FOR CONTROLLED MAINTENANCE AND UPKEEP OF STATE CAPITAL ASSETS.

24-82-1302. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CAPITAL CONSTRUCTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-30-1301 (2).

(2) "CONTROLLED MAINTENANCE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-30-1301 (4).

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(3) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY THE STATE, INCLUDING A BUILDING, STRUCTURE, OR FACILITY DETERMINED TO BE ELIGIBLE BY A GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, AND DOES NOT INCLUDE ANY BUILDING, STRUCTURE, OR FACILITY THAT IS PART OF THE STATE EMERGENCY RESERVE FOR ANY STATE FISCAL YEAR AS DESIGNATED IN THE ANNUAL GENERAL APPROPRIATION ACT.

(4) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (10), AND THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23.

24-82-1303. Lease-purchase agreements for capital construction and transportation projects. (1) ON OR BEFORE DECEMBER 31, 2017, THE STATE ARCHITECT, THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING OR HIS OR HER DESIGNEE, AND THE STATE INSTITUTIONS OF HIGHER EDUCATION SHALL IDENTIFY AND PREPARE A COLLABORATIVE LIST OF ELIGIBLE STATE FACILITIES THAT CAN BE COLLATERALIZED AS PART OF THE LEASE-PURCHASE AGREEMENTS FOR CAPITAL CONSTRUCTION AND TRANSPORTATION PROJECTS AUTHORIZED IN THIS PART 13. THE TOTAL CURRENT REPLACEMENT VALUE OF THE IDENTIFIED BUILDINGS MUST EQUAL AT LEAST TWO BILLION DOLLARS.

(2)(a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 24-82-102 (1)(b) AND 24-82-801, AND PURSUANT TO SECTION 24-36-121, NO SOONER THAN JULY 1, 2018, THE STATE, ACTING BY AND THROUGH THE STATE TREASURER, SHALL EXECUTE LEASE-PURCHASE AGREEMENTS, EACH FOR NO MORE THAN TWENTY YEARS OF ANNUAL PAYMENTS, FOR THE PROJECTS DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE STATE SHALL EXECUTE THE LEASE-PURCHASE AGREEMENTS ONLY IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

(I) DURING THE 2018-19 STATE FISCAL YEAR, THE STATE SHALL EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE HUNDRED MILLION DOLLARS;

(II) DURING THE 2019-20 STATE FISCAL YEAR, THE STATE SHALL EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE

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HUNDRED MILLION DOLLARS;

(III) DURING THE 2020-21 STATE FISCAL YEAR, THE STATE SHALL EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE HUNDRED MILLION DOLLARS; AND

(IV) DURING THE 2021-22 FISCAL YEAR, THE STATE SHALL EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE HUNDRED MILLION DOLLARS.

(b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION SHALL NOT EXCEED ONE HUNDRED FIFTY MILLION DOLLARS.

(c) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER, AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO ONE OR MORE LEASE-PURCHASE AGREEMENTS AUTHORIZED BY SUBSECTION (2)(a) OF THIS SECTION WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION, TRUST, OR COMMERCIAL BANK AS A TRUSTEE AS THE LESSOR.

(d) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY LEASE-PURCHASE AGREEMENT MUST BE MADE, SUBJECT TO ANNUAL ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) OR SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE FOLLOWING SOURCES OF MONEY:

(I) FIRST, NINE MILLION DOLLARS ANNUALLY, OR ANY LESSER AMOUNT THAT IS SUFFICIENT TO MAKE EACH FULL PAYMENT DUE, SHALL BE PAID FROM THE GENERAL FUND OR ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEY FOR THE PURPOSE OF FULLY FUNDING THE CONTROLLED MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS IN THE STATE TO BE FUNDED WITH THE PROCEEDS OF LEASE-PURCHASE AGREEMENTS AS SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION;

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(II) NEXT, FIFTY MILLION DOLLARS ANNUALLY, OR ANY LESSER AMOUNT THAT IS SUFFICIENT TO MAKE EACH FULL PAYMENT DUE, SHALL BE PAID FROM ANY LEGALLY AVAILABLE MONEY UNDER THE CONTROL OF THE TRANSPORTATION COMMISSION SOLELY FOR THE PURPOSE OF ALLOWING THE CONSTRUCTION, SUPERVISION, AND MAINTENANCE OF STATE HIGHWAYS TO BE FUNDED WITH THE PROCEEDS OF LEASE-PURCHASE AGREEMENTS AS SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION AND SECTION 43-4-206 (1)(b)(V); AND

(III) THE REMAINDER OF THE AMOUNT NEEDED, IN ADDITION TO THE AMOUNTS SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION, TO MAKE EACH FULL PAYMENT DUE SHALL BE PAID FROM THE GENERAL FUND OR ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEY.

(e) EACH AGREEMENT MUST ALSO PROVIDE THAT THE OBLIGATIONS OF THE STATE DO NOT CREATE STATE DEBT WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION. IF THE STATE DOES NOT RENEW A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, THE SOLE SECURITY AVAILABLE TO THE LESSOR IS THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED LEASE-PURCHASE AGREEMENT.

(f) A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON BEHALF OF THE STATE, DEEMS APPROPRIATE, INCLUDING ALL OPTIONAL TERMS; EXCEPT THAT EACH LEASE-PURCHASE AGREEMENT MUST SPECIFICALLY AUTHORIZE THE STATE OR THE GOVERNING BOARD OF THE APPLICABLE STATE INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE LEASE-PURCHASE AGREEMENT ON OR BEFORE THE EXPIRATION OF THE TERMS OF THE AGREEMENT.

(g) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE, DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER THE

LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED, DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS DO NOT CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE TO THE PURCHASERS. THE INSTRUMENTS ARE NOT NOTES, BONDS, OR ANY OTHER EVIDENCE OF STATE DEBT WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.

(h) INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, INCLUDING INTEREST REPRESENTED BY THE INSTRUMENTS, IS EXEMPT FROM COLORADO INCOME TAX.

(i) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER AND THE GOVERNING BOARDS OF THE INSTITUTIONS OF HIGHER EDUCATION, IS AUTHORIZED TO ENTER INTO ANCILLARY AGREEMENTS AND INSTRUMENTS THAT ARE NECESSARY OR APPROPRIATE IN CONNECTION WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT LIMITED TO DEEDS, GROUND LEASES, SUB-LEASES, EASEMENTS, OR OTHER INSTRUMENTS RELATING TO THE REAL PROPERTY ON WHICH THE FACILITIES ARE LOCATED.

(j) THE PROVISIONS OF SECTION 24-30-202 (5)(b) DO NOT APPLY TO A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY OR TO ANY ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (2). THE STATE CONTROLLER OR HIS OR HER DESIGNEE SHALL WAIVE ANY PROVISION OF THE FISCAL RULES PROMULGATED PURSUANT TO SECTION 24-30-202 (1) AND (13) THAT THE STATE CONTROLLER FINDS INCOMPATIBLE OR INAPPLICABLE WITH RESPECT TO A LEASE-PURCHASE AGREEMENT OR AN ANCILLARY AGREEMENT OR INSTRUMENT.

(3) (a) BEFORE EXECUTING A LEASE-PURCHASE AGREEMENT REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, IN ORDER TO PROTECT AGAINST FUTURE INTEREST RATE INCREASES, THE STATE, ACTING BY AND THROUGH THE STATE TREASURER AND AT THE DISCRETION OF THE STATE TREASURER, MAY ENTER INTO AN INTEREST RATE EXCHANGE AGREEMENT

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PURSUANT TO ARTICLE 59.3 OF TITLE 11. A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION IS A PROPOSED PUBLIC SECURITY FOR THE PURPOSES OF ARTICLE 59.3 OF TITLE 11. ANY PAYMENTS MADE BY THE STATE UNDER AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (3) MUST BE MADE SOLELY FROM MONEY MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION OF A LEASE-PURCHASE AGREEMENT OR FROM MONEY DESCRIBED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION.

(b) ANY AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (3) MUST ALSO PROVIDE THAT THE OBLIGATIONS OF THE STATE DO NOT CREATE STATE DEBT WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.

(c) ANY MONEY RECEIVED BY THE STATE UNDER AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (3) SHALL BE USED TO MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO PAY THE COSTS OF THE PROJECT FOR WHICH A LEASE-PURCHASE AGREEMENT WAS EXECUTED.

(4) PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE USED AS FOLLOWS:

(a) (I) THE FIRST ONE HUNDRED TWENTY MILLION DOLLARS OF THE PROCEEDS OF LEASE-PURCHASE AGREEMENTS ISSUED DURING THE 2018-19 STATE FISCAL YEAR SHALL BE USED FOR CONTROLLED MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS IN THE STATE AS FOLLOWS:

(A) THIRTEEN MILLION SIX THOUSAND EIGHTY-ONE DOLLARS FOR LEVEL I CONTROLLED MAINTENANCE;

(B) SIXTY MILLION SIX HUNDRED THIRTY-SEVEN THOUSAND THREE HUNDRED FIVE DOLLARS FOR LEVEL II CONTROLLED MAINTENANCE;

(C) FORTY MILLION TWO HUNDRED NINE THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS FOR LEVEL III CONTROLLED MAINTENANCE; AND

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(D) THE REMAINDER FOR CAPITAL CONSTRUCTION PROJECTS AS PRIORITIZED BY THE CAPITAL DEVELOPMENT COMMITTEE.

(II) THE CAPITAL DEVELOPMENT COMMITTEE SHALL POST THE LIST OF SPECIFIC CONTROLLED MAINTENANCE PROJECTS AND THE COST OF EACH PROJECT FUNDED PURSUANT TO SUBSECTION (4)(a)(I)(A), (4)(a)(I)(B), or (4)(a)(I)(C) OF THIS SECTION ON ITS OFFICIAL WEBSITE NO LATER THAN MAY 11, 2017.

(b) THE REMAINDER OF THE PROCEEDS SHALL BE CREDITED TO THE STATE HIGHWAY FUND CREATED IN SECTION 43-1-219 AND USED BY THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SECTION 43-4-206 (1)(b)(V).

SECTION 13. In Colorado Revised Statutes, 25.5-3-108, amend (17) as follows:

25.5-3-108. Responsibility of the department of health care policy and financing - provider reimbursement. (17) Subject to adequate funding BEING made available under ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the ~~state department~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall increase hospital reimbursements up to one hundred percent of hospital costs for providing medical care under the program.

SECTION 14. In Colorado Revised Statutes, 25.5-4-209, amend (1)(b); and add (1)(c) and (1)(d) as follows:

25.5-4-209. Payments by third parties - copayments by recipients - review - appeal - children's waiting list reduction fund. (1) (b) Subject to any limitations imposed by Title XIX AND THE REQUIREMENTS SET FORTH IN SUBSECTION (1)(c) OF THIS SECTION, a recipient ~~shall be required to~~ MUST pay at the time of service a portion of the cost of any medical benefit rendered to the recipient or to the recipient's dependents pursuant to this ~~article~~ ARTICLE 4 or article 5 or 6 of this title TITLE 25.5, as determined by ~~rule~~ RULES of the state department.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION, ON AND AFTER JANUARY 1, 2018, FOR PHARMACY AND FOR HOSPITAL OUTPATIENT SERVICES, INCLUDING URGENT CARE CENTERS

AND FACILITIES AND EMERGENCY SERVICES, THE RULES OF THE STATE DEPARTMENT REQUIRED BY SUBSECTION (1)(b) OF THIS SECTION MUST REQUIRE THE RECIPIENT TO PAY:

(A) FOR PHARMACY, AT LEAST DOUBLE THE AVERAGE AMOUNT PAID BY RECIPIENTS IN STATE FISCAL YEAR 2015-16; OR

(B) FOR HOSPITAL OUTPATIENT SERVICES, AT LEAST DOUBLE THE AMOUNT REQUIRED TO BE PAID AS SPECIFIED IN THE RULES AS OF JANUARY 1, 2017.

(II) FOR BOTH PHARMACY AND HOSPITAL OUTPATIENT SERVICES, THE AMOUNT REQUIRED TO BE PAID BY THE RECIPIENT SHALL NOT EXCEED ANY SPECIFIED MAXIMUM DOLLAR AMOUNT ALLOWED BY FEDERAL LAW OR REGULATIONS AS OF JANUARY 1, 2017.

(d) THE STATE DEPARTMENT SHALL EVALUATE OPTIONS TO EXEMPT INDIVIDUALS WHO ARE QUALIFIED FOR INSTITUTIONAL CARE BUT ARE INSTEAD ENROLLED IN HOME- AND COMMUNITY-BASED SERVICE WAIVERS FROM THE INCREASED PAYMENT REQUIREMENTS SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION.

SECTION 15. In Colorado Revised Statutes, 25.5-4-402, amend (3)(a) as follows:

25.5-4-402. Providers - hospital reimbursement - rules.
(3) (a) In addition to the reimbursement rate process described in subsection (1) of this section and subject to adequate funding BEING made available pursuant to ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the ~~state department~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall pay an additional amount based upon performance to those hospitals that provide services that improve health care outcomes for their patients. ~~This amount shall be determined by~~ The state department SHALL DETERMINE THIS AMOUNT based upon nationally recognized performance measures established in rules adopted by the state board. The state quality standards ~~shall~~ MUST be consistent with federal quality standards published by an organization with expertise in health care quality, including but not limited to, the centers for medicare and medicaid services, the agency for healthcare research and quality, or the national quality forum.

SECTION 16. In Colorado Revised Statutes, repeal as amended by Senate Bill 17-256 25.5-4-402.3.

SECTION 17. In Colorado Revised Statutes, add 25.5-4-402.4 as follows:

25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - legislative declaration - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - rules. (1) **Short title.** THE SHORT TITLE OF THIS SECTION IS THE "COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE ACT OF 2017".

(2) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE STATE AND THE PROVIDERS OF PUBLICLY FUNDED MEDICAL SERVICES, AND HOSPITALS IN PARTICULAR, SHARE A COMMON COMMITMENT TO COMPREHENSIVE HEALTH CARE REFORM;

(b) HOSPITALS WITHIN THE STATE INCUR SIGNIFICANT COSTS BY PROVIDING UNCOMPENSATED EMERGENCY DEPARTMENT CARE AND OTHER UNCOMPENSATED MEDICAL SERVICES TO LOW-INCOME AND UNINSURED POPULATIONS;

(c) THIS SECTION IS ENACTED AS PART OF A COMPREHENSIVE HEALTH CARE REFORM AND IS INTENDED TO PROVIDE THE FOLLOWING SERVICES AND BENEFITS TO HOSPITALS AND INDIVIDUALS:

(I) PROVIDING A PAYER SOURCE FOR SOME LOW-INCOME AND UNINSURED POPULATIONS WHO MAY OTHERWISE BE CARED FOR IN EMERGENCY DEPARTMENTS AND OTHER SETTINGS IN WHICH UNCOMPENSATED CARE IS PROVIDED;

(II) REDUCING THE UNDERPAYMENT TO COLORADO HOSPITALS PARTICIPATING IN PUBLICLY FUNDED HEALTH INSURANCE PROGRAMS;

(III) REDUCING THE NUMBER OF PERSONS IN COLORADO WHO ARE WITHOUT HEALTH CARE BENEFITS;

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(IV) REDUCING THE NEED OF HOSPITALS AND OTHER HEALTH CARE PROVIDERS TO SHIFT THE COST OF PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS;

(V) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH CARE FOR LOW-INCOME AND UNINSURED POPULATIONS; AND

(VI) PROVIDING THE ADDITIONAL BUSINESS SERVICES SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION TO HOSPITALS THAT PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION BY THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SUBSECTION (3)(a) OF THIS SECTION;

(d) THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO HOSPITALS WHEN, IN EXCHANGE FOR PAYMENT OF HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEES BY HOSPITALS, IT:

(I) OBTAINS FEDERAL MATCHING MONEY AND RETURNS BOTH THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE FEDERAL MATCHING MONEY TO HOSPITALS TO INCREASE REIMBURSEMENT RATES TO HOSPITALS FOR PROVIDING MEDICAL CARE UNDER THE STATE MEDICAL ASSISTANCE PROGRAM AND THE COLORADO INDIGENT CARE PROGRAM AND TO INCREASE THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE; AND

(II) PROVIDES ADDITIONAL BUSINESS SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION;

(e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION, THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

(f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS

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INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE HOSPITALS; AND

(g) SO LONG AS THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUES FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND COLLECTED BY THE ENTERPRISE ARE NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DO NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

(3) (a) **Colorado healthcare affordability and sustainability enterprise.** THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE, REFERRED TO IN THIS SECTION AS THE "ENTERPRISE", IS CREATED. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT FOR THE PURPOSE OF CHARGING AND COLLECTING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, LEVERAGING HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO OBTAIN FEDERAL MATCHING MONEY, AND UTILIZING AND DEPLOYING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.

(b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS

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THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(c) (I) THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS IT EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL, EFFECTIVE JULY 1, 2017, BY SENATE BILL 17-267, ENACTED IN 2017, AND THE CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS SERVICES TO HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES PREVIOUSLY FUNDED BY HOSPITAL PROVIDER FEES IS THE CREATION OF A NEW GOVERNMENT-OWNED BUSINESS THAT PROVIDES BUSINESS SERVICES TO HOSPITALS AS A NEW ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, DOES NOT CONSTITUTE THE QUALIFICATION OF AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR SECTION 24-77-103.6 (6)(b)(II), AND, THEREFORE, DOES NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

(II) NOTWITHSTANDING SUBSECTION (3)(c)(I) OF THIS SECTION, BECAUSE THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS IT EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL BY SENATE BILL 17-267, ENACTED IN 2017, WILL ALLOW THE STATE TO SPEND MORE GENERAL FUND MONEY FOR GENERAL GOVERNMENTAL PURPOSES THAN IT WOULD OTHERWISE BE ABLE TO SPEND BELOW THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I), IT IS APPROPRIATE TO RESTRAIN THE GROWTH OF GOVERNMENT BY LOWERING THE BASE AMOUNT USED TO CALCULATE THE EXCESS STATE REVENUES CAP FOR THE 2017-18 STATE FISCAL YEAR BY TWO HUNDRED MILLION DOLLARS.

(d) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE:

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(I) TO CHARGE AND COLLECT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION;

(II) TO LEVERAGE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE COLLECTED TO OBTAIN FEDERAL MATCHING MONEY, WORKING WITH OR THROUGH THE STATE DEPARTMENT AND THE STATE BOARD TO THE EXTENT REQUIRED BY FEDERAL LAW OR OTHERWISE NECESSARY;

(III) TO EXPEND HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE, MATCHING FEDERAL MONEY, AND ANY OTHER MONEY FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND AS SPECIFIED IN SUBSECTIONS (4) AND (5) OF THIS SECTION;

(IV) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE ENTERPRISE;

(V) TO ENTER INTO AGREEMENTS WITH THE STATE DEPARTMENT TO THE EXTENT NECESSARY TO COLLECT AND EXPEND HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE;

(VI) TO ENGAGE THE SERVICES OF PRIVATE PERSONS OR ENTITIES SERVING AS CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, INCLUDING THE PROVISION OF ADDITIONAL BUSINESS SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION; AND

(VII) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

(e) THE ENTERPRISE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS IF THE SAME WERE TRANSFERRED TO THE STATE DEPARTMENT BY A TYPE 2 TRANSFER, AS DEFINED IN SECTION 24-1-105.

(4) Healthcare affordability and sustainability fee. (a) FOR THE FISCAL YEAR COMMENCING JULY 1, 2017, AND FOR EACH FISCAL YEAR THEREAFTER, THE ENTERPRISE IS AUTHORIZED TO CHARGE AND COLLECT A HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, AS DESCRIBED IN

42 CFR 433.68 (b), ON OUTPATIENT AND INPATIENT SERVICES PROVIDED BY ALL LICENSED OR CERTIFIED HOSPITALS, REFERRED TO IN THIS SECTION AS "HOSPITALS", FOR THE PURPOSE OF OBTAINING FEDERAL FINANCIAL PARTICIPATION UNDER THE STATE MEDICAL ASSISTANCE PROGRAM AS DESCRIBED IN THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5, REFERRED TO IN THIS SECTION AS THE "STATE MEDICAL ASSISTANCE PROGRAM", AND THE COLORADO INDIGENT CARE PROGRAM DESCRIBED IN PART 1 OF ARTICLE 3 OF THIS TITLE 25.5, REFERRED TO IN THIS SECTION AS THE "COLORADO INDIGENT CARE PROGRAM". THE ENTERPRISE SHALL USE THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO:

(I) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING REIMBURSEMENT TO HOSPITALS FOR PROVIDING MEDICAL CARE UNDER:

(A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

(B) THE COLORADO INDIGENT CARE PROGRAM;

(II) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE AND THEREBY REDUCING THE AMOUNT OF UNCOMPENSATED CARE THAT THE HOSPITALS MUST PROVIDE;

(III) PAY THE ADMINISTRATIVE COSTS TO THE ENTERPRISE IN IMPLEMENTING AND ADMINISTERING THIS SECTION SUBJECT TO THE LIMITATION THAT ADMINISTRATIVE COSTS OF THE ENTERPRISE ARE LIMITED TO THREE PERCENT OF THE ENTERPRISE'S EXPENDITURES BASED ON A METHODOLOGY APPROVED BY THE OFFICE OF STATE PLANNING AND BUDGETING AND THE STAFF OF THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY; AND

(IV) PROVIDE OR CONTRACT FOR OR ARRANGE THE PROVISION OF ADDITIONAL BUSINESS SERVICES TO HOSPITALS BY:

(A) CONSULTING WITH HOSPITALS TO HELP THEM IMPROVE BOTH COST EFFICIENCY AND PATIENT SAFETY IN PROVIDING MEDICAL SERVICES AND THE CLINICAL EFFECTIVENESS OF THOSE SERVICES;

(B) ADVISING HOSPITALS REGARDING POTENTIAL CHANGES TO FEDERAL AND STATE LAWS AND REGULATIONS THAT GOVERN THE

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PROVISION OF AND REIMBURSEMENT PAID FOR MEDICAL SERVICES UNDER THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5;

(C) PROVIDING COORDINATED SERVICES TO HOSPITALS TO HELP THEM ADAPT AND TRANSITION TO ANY NEW OR MODIFIED PERFORMANCE TRACKING AND PAYMENT SYSTEMS FOR THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5, WHICH MAY INCLUDE DATA SHARING, TELEHEALTH COORDINATION AND SUPPORT, ESTABLISHMENT OF PERFORMANCE METRICS, BENCHMARKING TO SUCH METRICS, AND CLINICAL AND ADMINISTRATIVE PROCESS CONSULTING AND OTHER APPROPRIATE SERVICES;

(D) PROVIDING ANY OTHER SERVICES TO HOSPITALS THAT AID THEM IN EFFICIENTLY AND EFFECTIVELY PARTICIPATING IN THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5; AND

(E) PROVIDING FUNDING FOR, AND IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS SUPPORTING THE IMPLEMENTATION OF, A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

(b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE THAT IT INTENDS TO CHARGE AND COLLECT. THE STATE BOARD MUST ESTABLISH THE FINAL AMOUNT OF THE FEE BY RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24. THE STATE BOARD SHALL NOT ESTABLISH ANY AMOUNT THAT EXCEEDS THE FEDERAL LIMIT FOR SUCH FEES. THE STATE BOARD MAY DEVIATE FROM THE RECOMMENDATIONS OF THE ENTERPRISE, BUT SHALL EXPRESS IN WRITING THE REASONS FOR ANY DEVIATIONS. IN ESTABLISHING THE AMOUNT OF THE FEE AND IN PROMULGATING THE RULES GOVERNING THE FEE, THE STATE BOARD SHALL:

(I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

(II) ESTABLISH THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE AND FEDERAL MATCHING FUNDS ASSOCIATED WITH THE FEE ARE SUFFICIENT

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TO PAY FOR THE ITEMS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION, BUT NOTHING IN THIS SUBSECTION (4)(b)(II) REQUIRES THE STATE BOARD TO INCREASE THE FEE ABOVE THE AMOUNT RECOMMENDED BY THE ENTERPRISE; AND

(III) FOR THE 2017-18 FISCAL YEAR, ESTABLISH THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN THE GENERAL APPROPRIATION ACT, SENATE BILL 17-254, ENACTED IN 2017, AND ANY OTHER SUPPLEMENTAL APPROPRIATION ACT.

(c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET FORTH IN 42 CFR 433.68 (e)(1) AND (e)(2), THE ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REQUIREMENT, OR BOTH. IN ADDITION, THE ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION. SUBJECT TO FEDERAL APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF HOSPITALS, INCLUDING BUT NOT LIMITED TO:

(A) PSYCHIATRIC HOSPITALS, AS LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(B) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(C) CRITICAL ACCESS HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND ARE CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT UNDER 42 CFR PART 485, SUBPART F;

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- (D) INPATIENT REHABILITATION FACILITIES; OR
 - (E) HOSPITALS SPECIFIED FOR EXEMPTION UNDER 42 CFR 433.68
- (e).

(II) IN DETERMINING WHETHER A HOSPITAL MAY BE EXCLUDED, THE ENTERPRISE SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

- (A) A HOSPITAL THAT IS LOCATED IN A RURAL AREA;
- (B) A HOSPITAL WITH WHICH THE STATE DEPARTMENT DOES NOT CONTRACT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE PROGRAM;
- (C) A HOSPITAL WHOSE INCLUSION OR EXCLUSION WOULD NOT SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR
- (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL APPROVAL.

(III) THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE FOR CERTAIN HOSPITALS TO OBTAIN FEDERAL APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN HOSPITALS. IN DETERMINING FOR WHICH HOSPITALS THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, THE ENTERPRISE SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

- (A) THE HOSPITAL IS A TYPE OF HOSPITAL DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS SECTION;
- (B) THE HOSPITAL IS LOCATED IN A RURAL AREA;
- (C) THE HOSPITAL SERVES A HIGHER PERCENTAGE THAN THE AVERAGE HOSPITAL OF PERSONS COVERED BY THE STATE MEDICAL ASSISTANCE PROGRAM, MEDICARE, OR COMMERCIAL INSURANCE OR PERSONS ENROLLED IN A MANAGED CARE ORGANIZATION;
- (D) THE HOSPITAL DOES NOT CONTRACT WITH THE STATE

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DEPARTMENT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE PROGRAM;

(E) IF THE HOSPITAL PAID A REDUCED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, THE REDUCED FEE WOULD NOT SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

(F) THE HOSPITAL IS REQUIRED NOT TO PAY A REDUCED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A CONDITION OF FEDERAL APPROVAL.

(IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL REIMBURSEMENT OR QUALITY INCENTIVE PAYMENTS, OR BOTH, IN WHOLE OR IN PART, UNDER THE AUTHORITY OF A FEDERAL WAIVER IF THE TOTAL REIMBURSEMENT TO HOSPITALS IS EQUAL TO OR ABOVE THE FEDERAL UPPER PAYMENT LIMIT CALCULATION UNDER THE WAIVER.

(d) THE ENTERPRISE MAY ALTER THE PROCESS PRESCRIBED IN THIS SUBSECTION (4) TO THE EXTENT NECESSARY TO MEET THE FEDERAL REQUIREMENTS AND TO OBTAIN FEDERAL APPROVAL.

(e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE CALCULATION, ASSESSMENT, AND TIMING OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE. THE ENTERPRISE SHALL ASSESS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON A SCHEDULE TO BE SET BY THE ENTERPRISE BOARD AS PROVIDED IN SUBSECTION (7)(d) OF THIS SECTION. THE PERIODIC HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE PAYMENTS FROM A HOSPITAL AND THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL UNDER SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION ARE DUE AS NEARLY SIMULTANEOUSLY AS FEASIBLE; EXCEPT THAT THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL IS DUE NO MORE THAN TWO DAYS AFTER THE PERIODIC HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE PAYMENT IS RECEIVED FROM THE HOSPITAL. THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE MUST BE IMPOSED ON EACH HOSPITAL EVEN IF MORE THAN ONE HOSPITAL IS OWNED BY THE SAME ENTITY. THE FEE MUST BE PRORATED AND ADJUSTED FOR THE EXPECTED VOLUME OF SERVICE FOR ANY YEAR IN WHICH A HOSPITAL OPENS OR CLOSES.

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(II) THE ENTERPRISE IS AUTHORIZED TO REFUND ANY UNUSED PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE. FOR ANY PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE THAT HAS BEEN COLLECTED BY THE ENTERPRISE BUT FOR WHICH THE ENTERPRISE HAS NOT RECEIVED FEDERAL MATCHING FUNDS, THE ENTERPRISE SHALL REFUND BACK TO THE HOSPITAL THAT PAID THE FEE THE AMOUNT OF THAT PORTION OF THE FEE WITHIN FIVE BUSINESS DAYS AFTER THE FEE IS COLLECTED.

(III) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE. NOTWITHSTANDING THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24 OR SUBSECTION (7)(f) OF THIS SECTION, INFORMATION PROVIDED TO THE ENTERPRISE PURSUANT TO THIS SECTION IS CONFIDENTIAL AND IS NOT A PUBLIC RECORD. NONETHELESS, THE ENTERPRISE MAY PREPARE AND RELEASE SUMMARIES OF THE REPORTS TO THE PUBLIC.

(f) A HOSPITAL SHALL NOT INCLUDE ANY AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A SEPARATE LINE ITEM IN ITS BILLING STATEMENTS.

(g) THE STATE BOARD SHALL PROMULGATE ANY RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE ADMINISTRATION OR IMPLEMENTATION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE TO THE STATE BOARD, THE ENTERPRISE SHALL CONSULT WITH THE STATE BOARD ON THE PROPOSED RULES AS SPECIFIED IN SUBSECTION (7)(d) OF THIS SECTION.

(5) Healthcare affordability and sustainability fee cash fund.

(a) ANY HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE COLLECTED PURSUANT TO THIS SECTION BY THE ENTERPRISE MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEE TO THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO

THE FUND. THE STATE TREASURER SHALL INVEST ANY MONEY IN THE FUND NOT EXPENDED FOR THE PURPOSES SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION AS PROVIDED BY LAW. MONEY IN THE FUND SHALL NOT BE TRANSFERRED TO ANY OTHER FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS SUBSECTION (5) AND IN SUBSECTION (4) OF THIS SECTION.

(b) ALL MONEY IN THE FUND IS SUBJECT TO FEDERAL MATCHING AS AUTHORIZED UNDER FEDERAL LAW AND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE FOLLOWING PURPOSES:

(I) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL REIMBURSEMENTS TO UP TO THE UPPER PAYMENT LIMITS AS DEFINED IN 42 CFR 447.272 AND 42 CFR 447.321;

(II) TO INCREASE HOSPITAL REIMBURSEMENTS UNDER THE COLORADO INDIGENT CARE PROGRAM TO UP TO ONE HUNDRED PERCENT OF THE HOSPITAL'S COSTS OF PROVIDING MEDICAL CARE UNDER THE PROGRAM;

(III) TO PAY THE QUALITY INCENTIVE PAYMENTS PROVIDED IN SECTION 25.5-4-402 (3);

(IV) SUBJECT TO AVAILABLE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND FEDERAL MATCHING FUNDS, TO EXPAND ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY:

(A) INCREASING THE ELIGIBILITY LEVEL FOR PARENTS AND CARETAKER RELATIVES OF CHILDREN WHO ARE ELIGIBLE FOR MEDICAL ASSISTANCE, PURSUANT TO SECTION 25.5-5-201 (1)(m), FROM SIXTY-ONE PERCENT TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL POVERTY LINE;

(B) INCREASING THE ELIGIBILITY LEVEL FOR CHILDREN AND PREGNANT WOMEN UNDER THE CHILDREN'S BASIC HEALTH PLAN TO UP TO TWO HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LINE;

(C) PROVIDING ELIGIBILITY UNDER THE STATE MEDICAL ASSISTANCE PROGRAM FOR A CHILDLESS ADULT OR AN ADULT WITHOUT A DEPENDENT CHILD IN THE HOME, PURSUANT TO SECTION 25.5-5-201 (1)(p), WHO EARNS UP TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL POVERTY

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LINE; AND

(D) PROVIDING A BUY-IN PROGRAM IN THE STATE MEDICAL ASSISTANCE PROGRAM FOR DISABLED ADULTS AND CHILDREN WHOSE FAMILIES HAVE INCOME OF UP TO FOUR HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LINE;

(V) TO PROVIDE CONTINUOUS ELIGIBILITY FOR TWELVE MONTHS FOR CHILDREN ENROLLED IN THE STATE MEDICAL ASSISTANCE PROGRAM;

(VI) TO PAY THE ENTERPRISE'S ACTUAL ADMINISTRATIVE COSTS OF IMPLEMENTING AND ADMINISTERING THIS SECTION, INCLUDING BUT NOT LIMITED TO THE FOLLOWING COSTS:

(A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

(B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO IMPLEMENTING AND MAINTAINING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, INCLUDING PERSONAL SERVICES, OPERATING, AND CONSULTING EXPENSES;

(C) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND UPDATES TO THE MEDICAID MANAGEMENT INFORMATION SYSTEM FOR THE IMPLEMENTATION OF SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS SECTION;

(D) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS RELATED TO PERSONNEL, CONSULTING SERVICES, AND FOR REVIEW OF HOSPITAL COSTS NECESSARY TO IMPLEMENT AND ADMINISTER THE INCREASES IN INPATIENT AND OUTPATIENT HOSPITAL PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, INCREASES IN THE COLORADO INDIGENT CARE PROGRAM PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(II) OF THIS SECTION, AND QUALITY INCENTIVE PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS SECTION;

(E) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND UPDATES TO THE COLORADO BENEFITS MANAGEMENT SYSTEM AND MEDICAID MANAGEMENT INFORMATION SYSTEM TO IMPLEMENT AND MAINTAIN THE EXPANDED ELIGIBILITY PROVIDED FOR IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

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(F) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS RELATED TO PERSONNEL NECESSARY TO IMPLEMENT AND ADMINISTER THE EXPANDED ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE PROVIDED FOR IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION, INCLUDING BUT NOT LIMITED TO ADMINISTRATIVE COSTS ASSOCIATED WITH THE DETERMINATION OF ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY COUNTY DEPARTMENTS; AND

(G) THE ENTERPRISE'S PERSONAL SERVICES, OPERATING, AND SYSTEMS COSTS RELATED TO EXPANDING THE OPPORTUNITY FOR INDIVIDUALS TO APPLY FOR PUBLIC MEDICAL ASSISTANCE DIRECTLY AT HOSPITALS OR THROUGH ANOTHER ENTITY OUTSIDE THE COUNTY DEPARTMENTS, IN CONNECTION WITH SECTION 25.5-4-205, THAT WOULD INCREASE ACCESS TO PUBLIC MEDICAL ASSISTANCE AND REDUCE THE NUMBER OF UNINSURED SERVED BY HOSPITALS;

(VII) TO OFFSET THE LOSS OF ANY FEDERAL MATCHING MONEY DUE TO A DECREASE IN THE CERTIFICATION OF THE PUBLIC EXPENDITURE PROCESS FOR OUTPATIENT HOSPITAL SERVICES FOR MEDICAL SERVICES PREMIUMS THAT WERE IN EFFECT AS OF JULY 1, 2008;

(VIII) SUBJECT TO ANY NECESSARY FEDERAL WAIVERS BEING OBTAINED, TO PROVIDE FUNDING FOR A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION; AND

(IX) TO PROVIDE ADDITIONAL BUSINESS SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION.

(6) Appropriations. (a) (I) THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE IS TO SUPPLEMENT, NOT SUPPLANT, GENERAL FUND APPROPRIATIONS TO SUPPORT HOSPITAL REIMBURSEMENTS. GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS SHALL BE MAINTAINED AT THE LEVEL OF APPROPRIATIONS IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING JULY 1, 2008; EXCEPT THAT GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS MAY BE REDUCED IF AN INDEX OF APPROPRIATIONS TO OTHER PROVIDERS SHOWS THAT GENERAL FUND APPROPRIATIONS ARE REDUCED FOR OTHER PROVIDERS. IF THE INDEX SHOWS THAT GENERAL FUND APPROPRIATIONS ARE REDUCED FOR OTHER PROVIDERS, THE GENERAL FUND APPROPRIATIONS

FOR HOSPITAL REIMBURSEMENTS SHALL NOT BE REDUCED BY A GREATER PERCENTAGE THAN THE REDUCTIONS OF APPROPRIATIONS FOR THE OTHER PROVIDERS AS SHOWN BY THE INDEX.

(II) IF GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS ARE REDUCED BELOW THE LEVEL OF APPROPRIATIONS IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING JULY 1, 2008, THE GENERAL FUND APPROPRIATIONS WILL BE INCREASED BACK TO THE LEVEL OF APPROPRIATIONS IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING JULY 1, 2008, AT THE SAME PERCENTAGE AS THE APPROPRIATIONS FOR OTHER PROVIDERS AS SHOWN BY THE INDEX. THE GENERAL ASSEMBLY IS NOT OBLIGATED TO INCREASE THE GENERAL FUND APPROPRIATIONS BACK TO THE LEVEL OF APPROPRIATIONS IN THE MEDICAL SERVICES PREMIUM LINE ITEM IN A SINGLE FISCAL YEAR AND SUCH INCREASES MAY OCCUR OVER NONCONSECUTIVE FISCAL YEARS.

(III) FOR PURPOSES OF THIS SUBSECTION (6)(a), THE "INDEX OF APPROPRIATIONS TO OTHER PROVIDERS" OR "INDEX" MEANS THE AVERAGE PERCENT CHANGE IN REIMBURSEMENT RATES THROUGH APPROPRIATIONS OR LEGISLATION ENACTED BY THE GENERAL ASSEMBLY TO HOME HEALTH PROVIDERS, PHYSICIAN SERVICES, AND OUTPATIENT PHARMACIES, EXCLUDING DISPENSING FEES. THE STATE BOARD, AFTER CONSULTATION WITH THE ENTERPRISE BOARD, IS AUTHORIZED TO CLARIFY THIS DEFINITION AS NECESSARY BY RULE.

(b) IF THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE IS INSUFFICIENT TO FULLY FUND ALL OF THE PURPOSES DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION:

(I) THE GENERAL ASSEMBLY IS NOT OBLIGATED TO APPROPRIATE GENERAL FUND REVENUES TO FUND SUCH PURPOSES;

(II) THE HOSPITAL PROVIDER REIMBURSEMENT AND QUALITY INCENTIVE PAYMENT INCREASES DESCRIBED IN SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS SECTION AND THE COSTS DESCRIBED IN SUBSECTION (5)(b)(VI) OF THIS SECTION SHALL BE FULLY FUNDED USING REVENUE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND FEDERAL MATCHING FUNDS BEFORE ANY ELIGIBILITY EXPANSION IS FUNDED; AND

(III) (A) IF THE STATE BOARD PROMULGATES RULES THAT EXPAND ELIGIBILITY FOR MEDICAL ASSISTANCE TO BE PAID FOR PURSUANT TO SUBSECTION (5)(b)(IV) OF THIS SECTION, AND THE STATE DEPARTMENT THEREAFTER NOTIFIES THE ENTERPRISE BOARD THAT THE REVENUE AVAILABLE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE FEDERAL MATCHING FUNDS WILL NOT BE SUFFICIENT TO PAY FOR ALL OR PART OF THE EXPANDED ELIGIBILITY, THE ENTERPRISE BOARD SHALL RECOMMEND TO THE STATE BOARD REDUCTIONS IN MEDICAL BENEFITS OR ELIGIBILITY SO THAT THE REVENUE WILL BE SUFFICIENT TO PAY FOR ALL OF THE REDUCED BENEFITS OR ELIGIBILITY. AFTER RECEIVING THE RECOMMENDATIONS OF THE ENTERPRISE BOARD, THE STATE BOARD SHALL ADOPT RULES PROVIDING FOR REDUCED BENEFITS OR REDUCED ELIGIBILITY FOR WHICH THE REVENUE WILL BE SUFFICIENT AND SHALL FORWARD ANY ADOPTED RULES TO THE JOINT BUDGET COMMITTEE. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-4-103 (8) AND (12), FOLLOWING THE ADOPTION OF RULES PURSUANT TO THIS SUBSECTION (6)(b)(III)(A), THE STATE BOARD SHALL NOT SUBMIT THE RULES TO THE ATTORNEY GENERAL AND SHALL NOT FILE THE RULES WITH THE SECRETARY OF STATE UNTIL THE JOINT BUDGET COMMITTEE APPROVES THE RULES PURSUANT TO SUBSECTION (6)(b)(III)(B) OF THIS SECTION.

(B) THE JOINT BUDGET COMMITTEE SHALL PROMPTLY CONSIDER ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION (6)(b)(III)(A) OF THIS SECTION. THE JOINT BUDGET COMMITTEE SHALL PROMPTLY NOTIFY THE STATE DEPARTMENT, THE STATE BOARD, AND THE ENTERPRISE BOARD OF ANY ACTION ON THE RULES. IF THE JOINT BUDGET COMMITTEE DOES NOT APPROVE THE RULES, THE JOINT BUDGET COMMITTEE SHALL RECOMMEND A REDUCTION IN BENEFITS OR ELIGIBILITY SO THAT THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE MATCHING FEDERAL FUNDS WILL BE SUFFICIENT TO PAY FOR THE REDUCED BENEFITS OR ELIGIBILITY. AFTER APPROVING THE RULES PURSUANT TO THIS SUBSECTION (6)(b)(III)(B), THE JOINT BUDGET COMMITTEE SHALL REQUEST THAT THE COMMITTEE ON LEGAL SERVICES, CREATED PURSUANT TO SECTION 2-3-501, EXTEND THE RULES AS PROVIDED FOR IN SECTION 24-4-103 (8) UNLESS THE COMMITTEE ON LEGAL SERVICES FINDS AFTER REVIEW THAT THE RULES DO NOT CONFORM WITH SECTION 24-4-103 (8)(a).

(C) AFTER THE STATE BOARD HAS RECEIVED NOTIFICATION OF THE APPROVAL OF RULES ADOPTED PURSUANT TO SUBSECTION (6)(b)(III)(A) OF

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THIS SECTION, THE STATE BOARD SHALL SUBMIT THE RULES TO THE ATTORNEY GENERAL PURSUANT TO SECTION 24-4-103 (8)(b) AND SHALL FILE THE RULES AND THE OPINION OF THE ATTORNEY GENERAL WITH THE SECRETARY OF STATE PURSUANT TO SECTION 24-4-103 (12) AND WITH THE OFFICE OF LEGISLATIVE LEGAL SERVICES. PURSUANT TO SECTION 24-4-103 (5), THE RULES ARE EFFECTIVE TWENTY DAYS AFTER PUBLICATION OF THE RULES AND ARE ONLY EFFECTIVE UNTIL THE FOLLOWING MAY 15 UNLESS THE RULES ARE EXTENDED PURSUANT TO A BILL ENACTED PURSUANT TO SECTION 24-4-103 (8).

(c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING FUNDS FOR MONEY IN THE FUND, THE AUTHORIZATION IS WITHDRAWN OR CHANGED SO THAT FEDERAL MATCHING FUNDS ARE NO LONGER AVAILABLE, THE ENTERPRISE SHALL CEASE COLLECTING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND SHALL REPAY TO THE HOSPITALS ANY MONEY RECEIVED BY THE FUND THAT IS NOT SUBJECT TO FEDERAL MATCHING FUNDS.

(7) Colorado healthcare affordability and sustainability enterprise board. (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(a)(II) OF THIS SECTION, THE ENTERPRISE BOARD CONSISTS OF THIRTEEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AS FOLLOWS:

(A) FIVE MEMBERS WHO ARE EMPLOYED BY HOSPITALS IN COLORADO, INCLUDING AT LEAST ONE PERSON WHO IS EMPLOYED BY A HOSPITAL IN A RURAL AREA, ONE PERSON WHO IS EMPLOYED BY A SAFETY-NET HOSPITAL FOR WHICH THE PERCENT OF MEDICAID-ELIGIBLE INPATIENT DAYS RELATIVE TO ITS TOTAL INPATIENT DAYS IS EQUAL TO OR GREATER THAN ONE STANDARD DEVIATION ABOVE THE MEAN, AND ONE PERSON WHO IS EMPLOYED BY A HOSPITAL IN AN URBAN AREA;

(B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF HOSPITALS;

(C) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION OF HEALTH INSURANCE CARRIERS OR A HEALTH INSURANCE CARRIER LICENSED PURSUANT TO TITLE 10 AND WHO IS NOT A REPRESENTATIVE OF A HOSPITAL;

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(D) ONE MEMBER OF THE HEALTH CARE INDUSTRY WHO DOES NOT REPRESENT A HOSPITAL OR A HEALTH INSURANCE CARRIER;

(E) ONE MEMBER WHO IS A CONSUMER OF HEALTH CARE AND WHO IS NOT A REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH INSURANCE CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

(F) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH DISABILITIES, WHO IS LIVING WITH A DISABILITY, AND WHO IS NOT A REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH INSURANCE CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

(G) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS EMPLOYEES; AND

(H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

(II) THE INITIAL MEMBERS OF THE ENTERPRISE BOARD ARE THE MEMBERS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD THAT WAS CREATED AND EXISTED PURSUANT TO SECTION 25.5-4-402.3 (6), PRIOR TO JULY 1, 2017, AND SUCH MEMBERS SHALL SERVE ON AND AFTER JULY 1, 2017, FOR THE REMAINDER OF THE TERMS FOR WHICH THEY WERE APPOINTED AS MEMBERS OF THE ADVISORY BOARD. THE POWERS, DUTIES, AND FUNCTIONS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD ARE TRANSFERRED BY A TYPE 3 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE ENTERPRISE, AND THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD IS ABOLISHED.

(III) THE GOVERNOR SHALL CONSULT WITH REPRESENTATIVES OF A STATEWIDE ORGANIZATION OF HOSPITALS IN MAKING THE APPOINTMENTS PURSUANT TO SUBSECTIONS (7)(a)(I)(A) AND (7)(a)(I)(B) OF THIS SECTION. NO MORE THAN SIX MEMBERS OF THE ENTERPRISE BOARD MAY BE MEMBERS OF THE SAME POLITICAL PARTY.

(IV) MEMBERS OF THE ENTERPRISE BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. ALL TERMS ARE FOR FOUR YEARS. A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER.

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(V) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE MEMBERS OF THE ENTERPRISE BOARD APPOINTED PURSUANT TO SUBSECTIONS (7)(a)(I)(A) TO (7)(a)(I)(G) OF THIS SECTION. THE ENTERPRISE BOARD SHALL ELECT A VICE-CHAIR FROM AMONG ITS MEMBERS.

(b) MEMBERS OF THE ENTERPRISE BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

(c) THE ENTERPRISE BOARD MAY CONTRACT FOR A GROUP FACILITATOR TO ASSIST THE MEMBERS OF THE ENTERPRISE BOARD IN PERFORMING THEIR REQUIRED DUTIES.

(d) THE ENTERPRISE BOARD HAS, AT A MINIMUM, THE FOLLOWING DUTIES:

(I) TO DETERMINE THE TIMING AND METHOD BY WHICH THE ENTERPRISE ASSESSES THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE AMOUNT OF THE FEE;

(II) IF REQUESTED BY THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE OR THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, TO CONSULT WITH THE COMMITTEES ON ANY LEGISLATION THAT MAY IMPACT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE OR HOSPITAL REIMBURSEMENTS ESTABLISHED PURSUANT TO THIS SECTION;

(III) TO DETERMINE CHANGES IN THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE THAT INCREASE THE NUMBER OF HOSPITALS BENEFITTING FROM THE USES OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE DESCRIBED IN SUBSECTIONS (5)(b)(I) TO (5)(b)(IV) OF THIS SECTION OR THAT MINIMIZE THE NUMBER OF HOSPITALS THAT SUFFER LOSSES AS A RESULT OF PAYING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE;

(IV) TO RECOMMEND TO THE STATE DEPARTMENT REFORMS OR CHANGES TO THE INPATIENT HOSPITAL AND OUTPATIENT HOSPITAL REIMBURSEMENTS AND QUALITY INCENTIVE PAYMENTS MADE UNDER THE

STATE MEDICAL ASSISTANCE PROGRAM TO INCREASE PROVIDER ACCOUNTABILITY, PERFORMANCE, AND REPORTING;

(V) TO DIRECT AND OVERSEE THE ENTERPRISE IN SEEKING, IN CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, ANY FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION;

(VI) TO RECOMMEND TO THE STATE DEPARTMENT THE SCHEDULE AND APPROACH TO THE IMPLEMENTATION OF SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

(VII) IF MONEY IN THE FUND IS INSUFFICIENT TO FULLY FUND ALL OF THE PURPOSES SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION, TO RECOMMEND TO THE STATE BOARD CHANGES TO THE EXPANDED ELIGIBILITY PROVISIONS DESCRIBED IN SUBSECTION (5)(b)(IV) OF THIS SECTION;

(VIII) TO PREPARE THE REPORTS SPECIFIED IN SUBSECTION (7)(e) OF THIS SECTION;

(IX) TO MONITOR THE IMPACT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTH CARE MARKETPLACE;

(X) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; AND

(XI) TO PERFORM ANY OTHER DUTIES REQUIRED TO FULFILL THE ENTERPRISE BOARD'S CHARGE OR THOSE ASSIGNED TO IT BY THE STATE BOARD OR THE EXECUTIVE DIRECTOR.

(e) ON OR BEFORE JANUARY 15, 2018, AND ON OR BEFORE JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, THE

JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE STATE BOARD. THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) THE RECOMMENDATIONS MADE TO THE STATE BOARD PURSUANT TO THIS SECTION;

(II) A DESCRIPTION OF THE FORMULA FOR HOW THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE IS CALCULATED AND THE PROCESS BY WHICH THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE IS ASSESSED AND COLLECTED;

(III) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE PAID BY EACH HOSPITAL AND ANY PROJECTED REVENUE THAT EACH HOSPITAL IS EXPECTED TO RECEIVE DUE TO:

(A) THE INCREASED REIMBURSEMENTS MADE PURSUANT TO SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION AND THE QUALITY INCENTIVE PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS SECTION; AND

(B) THE INCREASED ELIGIBILITY DESCRIBED IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

(IV) AN ITEMIZATION OF THE COSTS INCURRED BY THE ENTERPRISE IN IMPLEMENTING AND ADMINISTERING THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE;

(V) ESTIMATES OF THE DIFFERENCES BETWEEN THE COST OF CARE PROVIDED AND THE PAYMENT RECEIVED BY HOSPITALS ON A PER-PATIENT BASIS, AGGREGATED FOR ALL HOSPITALS, FOR PATIENTS COVERED BY EACH OF THE FOLLOWING:

(A) MEDICAID;

(B) MEDICARE; AND

(C) ALL OTHER PAYERS; AND

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(VI) A SUMMARY OF:

(A) THE EFFORTS MADE BY THE ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, TO SEEK ANY FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION; AND

(B) THE PROGRESS ACTUALLY MADE BY THE ENTERPRISE, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, TOWARDS THE GOAL OF IMPLEMENTING SUCH A PROGRAM.

(f) (I) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(II) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

(III) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART 2 OF ARTICLE 57 OF TITLE 11.

(8) Health care delivery system reform incentive payments program - funding and implementation. THE ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION, NO EARLIER THAN OCTOBER 1, 2019, OF A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM THAT WILL IMPROVE HEALTH CARE ACCESS AND OUTCOMES FOR INDIVIDUALS SERVED BY THE STATE DEPARTMENT

WHILE EFFICIENTLY UTILIZING AVAILABLE FINANCIAL RESOURCES. SUCH A PROGRAM MUST, AT A MINIMUM:

(a) INCLUDE AN INITIAL PLANNING PHASE TO:

(I) ASSESS NEEDS; AND

(II) DEVELOP ACHIEVABLE OUTCOME-BASED METRICS TO BE USED TO MEASURE PROGRESS TOWARDS PROGRAM GOALS, INCLUDING THE GOALS OF HEALTH CARE DELIVERY SYSTEM INTEGRATION, IMPROVED PATIENT OUTCOMES, AND MORE EFFICIENT PROVISION OF CARE; AND

(b) ADDRESS THE FOLLOWING FOCUS AREAS:

(I) CARE COORDINATION AND CARE TRANSITION MANAGEMENT;

(II) INTEGRATION OF PHYSICAL AND BEHAVIORAL HEALTH CARE SERVICES;

(III) CHRONIC CONDITION MANAGEMENT;

(IV) TARGETED POPULATION HEALTH; AND

(V) DATA-DRIVEN ACCOUNTABILITY AND OUTCOME MEASUREMENT.

SECTION 18. In Colorado Revised Statutes, add 25.5-4-402.7 as follows:

25.5-4-402.7. Unexpended hospital provider fee cash fund - creation - transfer from hospital provider fee cash fund - use of fund - repeal. (1) THE UNEXPENDED HOSPITAL PROVIDER FEE CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY. ON JUNE 30, 2017, THE STATE TREASURER SHALL TRANSFER TO THE FUND ALL MONEY IN THE HOSPITAL PROVIDER FEE CASH FUND CREATED IN SECTION 25.5-4-402.3 (4)(a), AS THAT SECTION EXISTED BEFORE ITS REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE GENERAL FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE DEPARTMENT THROUGH OCTOBER 30, 2018, FOR THE PURPOSE OF PAYING

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CLAIMS INCURRED BEFORE JULY 1, 2017, THAT WERE PAYABLE PURSUANT TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED BEFORE ITS REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED FROM HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE OF PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

(2) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2018.

SECTION 19. In Colorado Revised Statutes, 25.5-5-201, amend (1) introductory portion, (1)(o)(II), and (1)(r)(II) as follows:

25.5-5-201. Optional provisions - optional groups - repeal.

(1) The federal government allows the state to select optional groups to receive medical assistance. Pursuant to federal law, any person who is eligible for medical assistance under the optional groups specified in this section shall receive both the mandatory services specified in sections 25.5-5-102 and 25.5-5-103 and the optional services specified in sections 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial aid funds, the following are the individuals or groups that Colorado has selected as optional groups to receive medical assistance pursuant to this article and articles 4 and 6 of this title TITLE 25.5:

(o) (II) Notwithstanding the provisions of ~~subparagraph (f) of this paragraph (o);~~ SUBSECTION (1)(o)(I) OF THIS SECTION, if the ~~moneys~~ MONEY in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding federal matching funds, are IS insufficient to fully fund all of the purposes described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving recommendations from the ~~hospital provider fee oversight and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION 25.5-4-402.4 (3), for individuals with disabilities who are participating in the medicaid buy-in program established in part 14 of article 6 of this title TITLE 25.5, the state board by rule adopted pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) may reduce the medical benefits offered or the percentage of the federal poverty line to below four hundred fifty percent or may eliminate this eligibility group.

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(r) (II) Notwithstanding the provisions of ~~subparagraph (I) of this paragraph (r);~~ SUBSECTION (1)(r)(I) OF THIS SECTION, if the moneys MONEY in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding federal matching funds, are IS insufficient to fully fund all of the purposes described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving recommendations from the ~~hospital provider fee oversight and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in program established pursuant to section 25.5-5-206, the state board by rule adopted pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) may reduce the medical benefits offered, or the percentage of the federal poverty line, or may eliminate this eligibility group.

SECTION 20. In Colorado Revised Statutes, 25.5-5-204.5, amend (2) as follows:

25.5-5-204.5. Continuous eligibility - children - repeal. (2) Notwithstanding the provisions of subsection (1) of this section, if the moneys MONEY in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding federal matching funds, are IS insufficient to fully fund all of the purposes described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving recommendations from the ~~hospital provider fee oversight and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION 25.5-4-402.4 (3), the state board by rule adopted pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) may eliminate the continuous enrollment requirement pursuant to this section.

SECTION 21. In Colorado Revised Statutes, add 25.5-5-420 as follows:

25.5-5-420. Advancing care for exceptional kids. WITHIN ONE HUNDRED TWENTY DAYS OF THE ENACTMENT OF THE FEDERAL "ADVANCING

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CARE FOR EXCEPTIONAL KIDS ACT", SUBJECT TO AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT SHALL SEEK ANY FEDERAL APPROVAL NECESSARY TO FUND, IN COOPERATION WITH HOSPITALS THAT MEET THE SPECIFIED REQUIREMENTS, THE IMPLEMENTATION OF AN ENHANCED PEDIATRIC HEALTH HOME FOR CHILDREN WITH COMPLEX MEDICAL CONDITIONS. REQUIREMENTS FOR PARTICIPATION BY THE STATE DEPARTMENT, ALONG WITH THE REQUIREMENT OF AN ENHANCED PEDIATRIC HEALTH HOME, ARE STIPULATED BY THE "ADVANCING CARE FOR EXCEPTIONAL KIDS ACT" AND SHALL BE COMPLIED WITH ACCORDINGLY.

SECTION 22. In Colorado Revised Statutes, 25.5-8-103, amend the introductory portion, (4)(a)(II), and (4)(b)(II) as follows:

25.5-8-103. Definitions - repeal. As used in this article ARTICLE 8, unless the context otherwise requires:

(4) "Eligible person" means:

(a) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), SUBSECTION (4)(a)(I) OF THIS SECTION, if the moneys MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4 (5), together with the corresponding federal matching funds, are IS insufficient to fully fund all of the purposes described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving recommendations from the hospital provider fee oversight and advisory board COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION 25.5-4-402.4 (3), for persons less than nineteen years of age, the state board may by rule adopted pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (II)~~ SECTION 25.5-4-402.4 (6)(b)(III) reduce the percentage of the federal poverty line to below two hundred fifty percent, but the percentage shall not be reduced to below two hundred five percent.

(b) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b) SUBSECTION (4)(b)(I) OF THIS SECTION, if the moneys MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4 (5), together with the corresponding federal matching funds, are IS insufficient to fully fund all of the purposes described in section

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~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving recommendations from the ~~hospital provider fee oversight and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION 25.5-4-402.4 (3), for pregnant women, the state board by rule adopted pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) may reduce the percentage of the federal poverty line to below two hundred fifty percent, but the percentage shall not be reduced to below two hundred five percent.

SECTION 23. In Colorado Revised Statutes, 29-2-105, amend (1) introductory portion and (1)(d)(I) introductory portion; and add (1)(d)(I)(O) as follows:

29-2-105. Contents of sales tax ordinances and proposals - repeal. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in ~~paragraph (d) of this subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION. Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d) (I) A provision that the sale of tangible personal property and services taxable pursuant to this article shall be the same as the sale of tangible personal property and services taxable pursuant to section 39-26-104, ~~C.R.S.~~, except as otherwise provided in this ~~paragraph (d)~~ SUBSECTION (1)(d). The sale of tangible personal property and services taxable pursuant to this article shall be subject to the same sales tax exemptions as those specified in part 7 of article 26 of title 39 ~~C.R.S.~~; except that the sale of the following may be exempted from a town, city, or county sales tax only by the express inclusion of the exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto:

(O) THE EXEMPTION FOR RETAIL SALES OF MARIJUANA UPON WHICH THE RETAIL MARIJUANA SALES TAX IS IMPOSED PURSUANT TO SECTION 39-28.8-202 AS SPECIFIED IN SECTION 39-26-729.

SECTION 24. In Colorado Revised Statutes, add 39-3-209 as follows:

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39-3-209. State expenditure for property tax exemptions - mechanism for refunding of excess state revenue - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) ALTHOUGH THE EXEMPTIONS ALLOWED BY THIS PART 2 ARE EXEMPTIONS FROM LOCAL GOVERNMENT PROPERTY TAXES, THE STATE MUST REIMBURSE LOCAL GOVERNMENTS FOR THE NET AMOUNT OF PROPERTY TAX REVENUES LOST AS A RESULT OF THE EXEMPTIONS AND THEREFORE BEARS THE FULL COST OF THE EXEMPTIONS;

(b) SECTION 3.5 OF ARTICLE X OF THE STATE CONSTITUTION AUTHORIZES THE GENERAL ASSEMBLY TO RAISE OR LOWER THE MAXIMUM AMOUNT OF ACTUAL VALUE OF RESIDENTIAL REAL PROPERTY OF WHICH FIFTY PERCENT IS EXEMPT PURSUANT TO THIS PART 2;

(c) IN ORDER TO ELIMINATE THE COST OF THE EXEMPTION AND FUND OTHER STATE NEEDS, THE GENERAL ASSEMBLY, AS AUTHORIZED BY SECTION 3.5 OF ARTICLE X OF THE STATE CONSTITUTION, HAS AT TIMES TEMPORARILY SUSPENDED THE EXEMPTION FOR QUALIFYING SENIORS ALLOWED BY THIS PART 2 BY LOWERING TO ZERO THE MAXIMUM AMOUNT OF ACTUAL VALUE OF RESIDENTIAL REAL PROPERTY OF WHICH FIFTY PERCENT IS EXEMPT;

(d) THE GENERAL ASSEMBLY INTENDS TO ALLOW SENIORS TO RELY ON PREDICTABLE AND SUSTAINABLE EXEMPTIONS BY FULLY FUNDING THE PROPERTY TAX EXEMPTION FOR QUALIFYING SENIORS IN THE FUTURE, AND IT IS MORE LIKELY TO BE ABLE TO DO SO IF THE COST OF THE EXEMPTION, WHICH EXCLUSIVELY BENEFITS TAXPAYERS WHO RESIDE IN COLORADO, CONSTITUTES A REFUND OF EXCESS STATE REVENUES FOR STATE FISCAL YEARS FOR WHICH SUCH REFUNDS ARE REQUIRED; AND

(e) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AUTHORIZES THE STATE TO USE ANY REASONABLE METHOD TO MAKE REQUIRED REFUNDS OF EXCESS STATE REVENUES, AND THE PAYMENT BY THE STATE OF REIMBURSEMENT TO LOCAL GOVERNMENTS FOR THE NET AMOUNT OF PROPERTY TAX REVENUES LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY THIS PART 2, WHICH EXEMPTIONS DIRECTLY REDUCE THE TAX LIABILITY OF TAXPAYING COLORADO RESIDENTS THROUGHOUT THE STATE, IS A REASONABLE METHOD OF MAKING SUCH

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REFUNDS.

(2) FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2017, FOR WHICH STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), EXCEED THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(C) OR (6)(b)(I)(D), AND ARE REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE LESSER OF ALL REIMBURSEMENT PAID BY THE STATE TREASURER TO EACH TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING THE STATE FISCAL YEAR OR AN AMOUNT OF SUCH REIMBURSEMENT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR THAT ARE REQUIRED TO BE REFUNDED IS A REFUND OF SUCH EXCESS STATE REVENUES.

SECTION 25. In Colorado Revised Statutes, 39-22-537, amend (3)(a) introductory portion and (6) as follows:

39-22-537. Credit for personal property taxes paid - legislative declaration - definitions - repeal. (3) (a) For any income tax year commencing on or after January 1, 2015, but prior to ~~January 1, 2020~~ JANUARY 1, 2019, a taxpayer who qualifies under ~~paragraph (b) of this subsection~~ (3) SUBSECTION (3)(b) OF THIS SECTION is allowed a credit against the tax imposed by this ~~article~~ ARTICLE 22 that is equal to a percentage of the property taxes paid for personal property in Colorado during the income tax year. For a given income tax year, a taxpayer's percentage is equal to one hundred percent minus the sum of the taxpayer's federal marginal income tax rate for the year and the state income tax rate for the year; except that the percentage is equal to one hundred percent for an organization that:

(6) This section is repealed, effective ~~July 1, 2022~~ JULY 1, 2021.

SECTION 26. In Colorado Revised Statutes, add 39-22-537.5 as follows:

39-22-537.5. Credit for personal property taxes paid - legislative declaration - definitions - repeal. (1) THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THE TAX EXPENDITURE IN THIS SECTION IS TO MINIMIZE THE NEGATIVE IMPACT OF THE BUSINESS PERSONAL PROPERTY TAX ON BUSINESSES.

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(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PROPERTY TAX" MEANS THE AD VALOREM TAX IMPOSED PURSUANT TO SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION BUT DOES NOT INCLUDE PUBLIC UTILITIES ASSESSED PURSUANT TO SECTION 39-4-102, AND DOES NOT INCLUDE THE GRADUATED ANNUAL SPECIFIC OWNERSHIP TAX IMPOSED PURSUANT TO SECTION 6 OF ARTICLE X OF THE STATE CONSTITUTION.

(b) "TAXPAYER" INCLUDES AN ORGANIZATION EXEMPT FROM FEDERAL TAXATION PURSUANT TO SECTION 501 (c) OF THE INTERNAL REVENUE CODE.

(3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 EQUAL TO THE PROPERTY TAX PAID IN COLORADO DURING THE INCOME TAX YEAR ON UP TO EIGHTEEN THOUSAND DOLLARS OF THE TOTAL ACTUAL VALUE OF THE TAXPAYER'S PERSONAL PROPERTY.

(b) A TAXPAYER MAY NOT CLAIM A TAX CREDIT UNDER THIS SECTION FOR THE PAYMENT OF DELINQUENT PROPERTY TAXES THAT WERE OWED FOR A PRIOR PROPERTY TAX YEAR.

(c) THE AMOUNT OF THE CREDIT UNDER THIS SECTION THAT EXCEEDS THE TAXPAYER'S INCOME TAXES DUE IS REFUNDED TO THE TAXPAYER.

(4) TO CLAIM A CREDIT UNDER THIS SECTION, A TAXPAYER MUST SUBMIT TO THE DEPARTMENT OF REVENUE A COPY OF A PROPERTY TAX STATEMENT DESCRIBED IN SECTION 39-10-103 FOR ALL OF THE TAXPAYER'S PERSONAL PROPERTY FOR THE PROPERTY TAX YEAR FOR WHICH THE CREDIT IS CLAIMED.

SECTION 27. In Colorado Revised Statutes, 39-22-627, amend (1)(b), (3), and (6); and repeal (9) as follows:

39-22-627. Temporary adjustment of rate of income tax - refund of excess state revenues - authority of executive director.

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(1) (b) In order for the provisions of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION to take effect, the amount of state revenues required to be refunded for the specified state fiscal year shall ~~shall~~ MUST exceed the total of the ~~adjusted amount set forth in section 39-22-123~~ (4) (c), OF REIMBURSEMENT FOR PROPERTY TAX REVENUES LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY PART 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE TREASURER TO EACH COUNTY TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING THE SPECIFIED STATE FISCAL YEAR plus the estimated amount by which state revenues would be decreased as the result of a reduction in the state income tax rate from four and sixty-three one-hundredths percent to four and one-half percent of federal taxable income, as determined pursuant to this section.

(3) If one or more ballot questions are submitted to the voters at a statewide election to be held in November of any given calendar year that seek authorization for the state to retain and spend all or any portion of the amount of excess state revenues for the state fiscal year ending during said calendar year, the executive director shall not reduce the state income tax rate until the results of said election are known so that the state income tax rate may be reduced only if, after the results of said election, the amount of excess state revenues required to be refunded for the state fiscal year exceeds the total of the ~~adjusted amount set forth in section 39-22-123~~ (4)(c), OF REIMBURSEMENT FOR PROPERTY TAX REVENUES LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY PART 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE TREASURER TO EACH COUNTY TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING THE SPECIFIED STATE FISCAL YEAR plus the estimated amount by which state revenues would be decreased as a result of a reduction in the state income tax rate from four and sixty-three one-hundredths percent to four and one-half percent of federal taxable income pursuant to this section.

(6) If, based on the financial report prepared by the controller in accordance with section 24-77-106.5, ~~C.R.S.~~, the controller certifies that the amount of the state revenues for any state fiscal year commencing on or after ~~July 1, 2010~~ JULY 1, 2017, exceeds the limitation on state fiscal year spending imposed by section 20 (7)(a) of article X of the state constitution for that state fiscal year and exceeds the amount of excess state revenues that the voters statewide have authorized the state to retain and

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spend for that state fiscal year by less than the total of the ~~adjusted amount set forth in section 39-22-123 (4)(c)~~, OF REIMBURSEMENT FOR PROPERTY TAX REVENUES LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY PART 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE TREASURER TO EACH COUNTY TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING THE SPECIFIED STATE FISCAL YEAR plus the estimated amount by which state revenues would be decreased as the result of a reduction in the state income tax rate from four and sixty-three one-hundredths percent to four and one-half percent of federal taxable income as calculated by the executive director pursuant to subsection (2) of this section, then the reduction in the state income tax rate allowed pursuant to subsection (1) of this section shall not be allowed for the income tax year commencing during the calendar year in which the state fiscal year ended.

(9) ~~If, by operation of section 39-22-123 (6), excess state revenues are no longer refunded through an earned income tax credit, the total of the adjusted amount set forth in section 39-22-123 (4)(c) is not added to the estimated amount by which state revenues would be decreased as the result of a reduction in the state income tax rate for purposes of the calculations set forth in paragraph (b) of subsection (1) and subsections (3) and (6) of this section:~~

SECTION 28. In Colorado Revised Statutes, **add** 39-26-729 as follows:

39-26-729. Retail sales of marijuana. ON AND AFTER JULY 1, 2017, ALL RETAIL SALES OF MARIJUANA UPON WHICH THE RETAIL MARIJUANA SALES TAX IS IMPOSED PURSUANT TO SECTION 39-28.8-202 ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26.

SECTION 29. In Colorado Revised Statutes, 39-28.8-202, **amend** (1)(a)(I) as follows:

39-28.8-202. Retail marijuana sales tax. (1) (a) (I) In addition to the tax imposed pursuant to part 1 of article 26 of this title TITLE 39 and the sales tax imposed by a local government pursuant to title 29, 30, 31, or 32, but except as otherwise set forth in subparagraphs ~~(II) and (III)~~ of this paragraph ~~(a)~~ SUBSECTIONS (1)(a)(II) AND (1)(a)(III) OF THIS SECTION, beginning January 1, 2014, ~~and through June 30, 2017~~ AND THROUGH JUNE

30, 2017, there is imposed upon all sales of retail marijuana and retail marijuana products by a retailer a tax at the rate of ten percent of the amount of the sale. ~~and beginning July 1, 2017, there is imposed upon all sales of retail marijuana and retail marijuana products by a retailer a tax at the rate of eight percent of the amount of the sale.~~ BEGINNING JULY 1, 2017, THERE IS IMPOSED UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY A RETAILER A TAX AT THE RATE OF FIFTEEN PERCENT OF THE AMOUNT OF THE SALE. The tax imposed by this section is computed in accordance with schedules or forms prescribed by the executive director of the department; except that a retail marijuana store is not allowed to retain any portion of the retail marijuana sales tax collected pursuant to this part 2 to cover the expenses of collecting and remitting the tax and except that the department of revenue may require a retailer to make returns and remit the tax described in this part 2 by electronic means.

SECTION 30. In Colorado Revised Statutes, 39-28.8-203, **amend** (1) introductory portion, (1)(a)(I), and (1)(b)(I); **repeal** (1)(a)(I.5); and **add** (1)(b)(I.3) and (1)(b)(I.5) as follows:

39-28.8-203. Disposition of collections - definitions. (1) The proceeds of all ~~monneys~~ MONEY collected from the retail marijuana sales tax are INITIALLY credited to the old age pension fund created in section 1 of article XXIV of the state constitution in accordance with paragraphs (a) and (f) of section 2 of article XXIV of the state constitution AND THEREAFTER ARE TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 OF ARTICLE XXIV OF THE STATE CONSTITUTION. For each fiscal year in which a tax is collected pursuant to this part 2, an amount shall be appropriated or distributed from the general fund as follows:

(a) (I) ~~Except as otherwise set forth in subparagraph (I.5) of this paragraph (a)~~ BEFORE JULY 1, 2017, an amount equal to fifteen percent of the gross retail marijuana sales tax ~~revenues~~ REVENUE collected by the department is apportioned to local governments. ON AND AFTER JULY 1, 2017, AN AMOUNT EQUAL TO TEN PERCENT OF THE GROSS RETAIL MARIJUANA SALES TAX REVENUE COLLECTED BY THE DEPARTMENT IS APPORTIONED TO LOCAL GOVERNMENTS. The city or town share is apportioned according to the percentage that retail marijuana sales tax ~~revenues~~ REVENUE collected by the department within the boundaries of the city or town bear to the total retail marijuana sales tax ~~revenues~~ REVENUE

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collected by the department. The county share is apportioned according to the percentage that retail marijuana sales tax revenues REVENUE collected by the department in the unincorporated area of the county bear to total retail marijuana sales tax revenues REVENUE collected by the department.

~~(I.5) If the ballot issue is placed on the November 3, 2015, ballot and a majority of the electors voting thereon vote "No/Against", then beginning January 1, 2016, the amount that would otherwise be distributed to a local government through subparagraph (f) of this paragraph (a) is halved until the total reduction that results from this subparagraph (I.5) is greater than or equal to the amount that was distributed to the local government under this paragraph (a) for the fiscal year 2014-15. Thereafter, the local government receives the full apportioned amount required by subparagraph (f) of this paragraph (a). The reduction in a local government's distribution does not increase the amount apportioned to other local governments.~~

(b) (I) UNTIL JULY 1, 2017, the state treasurer shall transfer from the general fund to the marijuana tax cash fund an amount equal to eighty-five percent of the gross retail marijuana sales tax revenues REVENUE collected by the department.

(I.3) ON AND AFTER JULY 1, 2017, BUT BEFORE JULY 1, 2018, OF THE NINETY PERCENT OF THE GROSS RETAIL MARIJUANA SALES TAX REVENUE IN THE GENERAL FUND REMAINING AFTER THE ALLOCATION TO LOCAL GOVERNMENTS REQUIRED BY SUBSECTION (1)(a)(I) OF THIS SECTION IS MADE, THE STATE TREASURER SHALL RETAIN TWENTY-EIGHT AND FIFTEEN ONE-HUNDREDTHS PERCENT LESS THIRTY MILLION DOLLARS IN THE GENERAL FUND FOR USE FOR ANY LAWFUL PURPOSE AND SHALL TRANSFER FROM THE GENERAL FUND:

(A) SEVENTY-ONE AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT TO THE MARIJUANA TAX CASH FUND; AND

(B) THIRTY MILLION DOLLARS TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1) FOR USE AS SPECIFIED IN SECTION 22-54-139 (2).

(I.5) ON AND AFTER JULY 1, 2018, OF THE NINETY PERCENT OF THE GROSS RETAIL MARIJUANA SALES TAX REVENUE IN THE GENERAL FUND

REMAINING AFTER THE ALLOCATION TO LOCAL GOVERNMENTS REQUIRED BY SUBSECTION (1)(a)(I) OF THIS SECTION IS MADE, THE STATE TREASURER SHALL RETAIN FIFTEEN AND FIFTY-SIX ONE-HUNDREDTHS PERCENT IN THE GENERAL FUND FOR USE FOR ANY LAWFUL PURPOSE AND SHALL TRANSFER FROM THE GENERAL FUND:

(A) SEVENTY-ONE AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT TO THE MARIJUANA TAX CASH FUND; AND

(B) TWELVE AND FIFTY-NINE ONE-HUNDREDTHS PERCENT TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1) FOR USE AS SPECIFIED IN SECTION 22-54-139 (3).

SECTION 31. In Colorado Revised Statutes, 43-4-206, amend (1) introductory portion, (1)(b) introductory portion, (1)(b)(V), (2)(a) introductory portion, (2)(b), and (3) as follows:

43-4-206. State allocation. (1) Except as otherwise provided in ~~subsection (2)~~ SUBSECTIONS (1)(a)(V), (2), AND (3) of this section, after paying the costs of the Colorado state patrol and ~~such~~ ANY other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as THAT are appropriated by the general assembly, ~~sixty-five percent of the balance of~~ MONEY IN the highway users tax fund shall be paid to the state highway fund and ~~shall be~~ expended for the following purposes:

(b) Except as otherwise provided in subsection (2) of this section, all ~~moneys~~ MONEY in the state highway fund not required for the creation, maintenance, and application of the highway anticipation or sinking fund and all ~~moneys~~ MONEY in the state highway supplementary fund are available to pay for:

(V) The construction, reconstruction, repairs, improvement, planning, supervision, and maintenance of the state highway system and other public highways, including any county and municipal roads and highways, together with the acquisition of rights-of-way and access rights for the same. ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 24-82-1303 (4)(b) SHALL BE USED ONLY FOR QUALIFIED FEDERAL AID HIGHWAY PROJECTS THAT ARE

INCLUDED IN THE STRATEGIC TRANSPORTATION PROJECT INVESTMENT PROGRAM OF THE DEPARTMENT OF TRANSPORTATION AND THAT ARE DESIGNATED FOR TIER 1 FUNDING AS TEN-YEAR DEVELOPMENT PROGRAM PROJECTS ON THE DEPARTMENT'S DEVELOPMENT PROGRAM PROJECT LIST, WITH AT LEAST TWENTY-FIVE PERCENT OF THE MONEY BEING USED FOR PROJECTS THAT ARE LOCATED IN COUNTIES WITH POPULATIONS OF FIFTY THOUSAND OR LESS AS OF JULY 2015 AS REPORTED BY THE STATE DEMOGRAPHY OFFICE OF THE DEPARTMENT OF LOCAL AFFAIRS. NO MORE THAN NINETY PERCENT OF THE PROCEEDS SHALL BE EXPENDED FOR HIGHWAY PURPOSES OR HIGHWAY-RELATED CAPITAL IMPROVEMENTS, AND AT LEAST TEN PERCENT OF THE PROCEEDS SHALL BE EXPENDED FOR TRANSIT PURPOSES OR FOR TRANSIT-RELATED CAPITAL IMPROVEMENTS.

(2) (a) ~~Notwithstanding the provisions of subsection (1) of this section, the revenues~~ REVENUE accrued to and transferred to the highway users tax fund pursuant to section 39-26-123 (4)(a) ~~or 24-75-219, C.R.S.,~~ or appropriated to the highway users tax fund pursuant to House Bill 02-1389, enacted at the second regular session of the sixty-third general assembly, and credited to the state highway fund pursuant to section 43-4-205 (6.5) shall be expended by the department of transportation for the implementation of the strategic transportation project investment program: ~~in the following manner:~~

(b) Beginning in 1998, the department of transportation shall report annually to the transportation committee of the senate and the transportation and energy committee of the house of representatives concerning the ~~revenues~~ REVENUE expended by the department pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION AND, BEGINNING IN 2018, ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 24-82-1303 (4)(b) AND EXPENDED BY THE DEPARTMENT PURSUANT TO SUBSECTION (1)(b)(V) OF THIS SECTION. THE DEPARTMENT SHALL PRESENT the report ~~shall be presented~~ at the joint meeting required under section 43-1-113 (9)(a) and THE REPORT shall describe for each fiscal year, if applicable:

(I) The projects on which the ~~revenues credited to the state highway fund pursuant to paragraph (a) of this subsection (2)~~ REVENUE AND NET PROCEEDS are to be expended, including the estimated cost of each project, the aggregate amount of revenue actually spent on each project, and the

amount of revenue allocated for each project in such fiscal year. The department of transportation shall submit a prioritized list of such projects as part of the report.

(II) The status of such projects that the department has undertaken in any previous fiscal year;

(III) The projected amount AMOUNTS of revenue AND NET PROCEEDS that the department expects to receive under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION during ~~such~~ THE fiscal year;

(IV) The amount of revenue AND NET PROCEEDS that the department has already received under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION during ~~such~~ THE fiscal year; and

(V) How the ~~revenues~~ REVENUE AND NET PROCEEDS expended under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION during ~~such~~ THE fiscal year ~~relate~~ RELATES to the total funding of the FEDERAL AID TRANSPORTATION PROJECTS THAT ARE INCLUDED IN THE strategic transportation project investment program.

(3) ~~Notwithstanding the provisions of subsection (1) of this section, the revenues~~ THE REVENUE credited to the highway users tax fund pursuant to section 43-4-205 (6.3) shall be expended by the department of transportation only for road safety projects, as defined in section 43-4-803 (21); except that the department shall, in furtherance of its duty to supervise state highways and as a consequence in compliance with section 43-4-810, expend ten million dollars per year of the revenues for the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation, or administration of transit-related projects, including, but not limited to, designated bicycle or pedestrian lanes of highway and infrastructure needed to integrate different transportation modes within a multimodal transportation system, that enhance the safety of state highways for transit users.

SECTION 32. Appropriation - adjustments to 2017 long bill.

(1) To implement this act, the general fund appropriations made in the annual general appropriation act for the 2017-18 state fiscal year to the department of health care policy and financing are decreased by \$320,035 for medical services premiums.

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(2) To implement this act, cash funds appropriations made in the annual general appropriation act for the 2017-18 state fiscal year from the hospital provider fee cash fund, created in section 25.5-4-402.3 (4)(a), C.R.S., to the department of health care policy and financing are decreased by \$597,380,996 as follows:

Executive director's office, general administration	
Personal services	\$2,480,099
Health, life, and dental	\$278,894
Short-term disability	\$3,870
S.B. 04-257 amortization equalization disbursement	\$107,750
S.B. 06-235 supplemental amortization equalization disbursement	\$107,748
Salary survey	\$26,618
Merit pay	\$13,447
Operating expenses	\$57,372
Legal services	\$123,811
Administrative law judge services	\$72,169
Leased space	\$247,365
Payments to OIT	\$378,109
CORE operations	\$148,145
General professional services and special projects	\$1,202,500
Executive director's office, information technology contracts and projects	
Medicaid management information system maintenance and projects	\$3,794,276
Medicaid management information system procurement contracts	\$708,606
Colorado benefits management systems, operating and contract expenses	\$3,450,954
Colorado benefits management systems, health care and economic security staff development center	\$95,832
Executive director's office, eligibility determinations and client services	
Medical identification cards	\$43,200
Contracts for special eligibility determinations	\$4,338,468
Hospital provider fee county administration	\$4,945,446
Medical assistance sites	\$402,984

Customer outreach	\$336,621
Centralized eligibility vendor contract project	\$1,745,342

Executive director's office, utilization and quality review contracts

Professional services contracts	\$372,339
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Executive director's office, provider audits and services

Professional audit contracts	\$250,000
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Executive director's office, indirect cost recoveries

Indirect cost assessment	\$218,771
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Medical services premiums

Medical and long-term care services for medicaid eligible individuals	\$380,854,898
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Behavioral health community programs

Behavioral health capitation payments	\$25,785,121
Behavioral health fee-for-service payments	\$373,007

Office of community living

Support level administration	\$221
Adult supported living services	\$133,235
Case management	\$28,272

Indigent care program

Safety net provider payments	\$155,648,093
Children's basic health plan administration	\$2,416
Children's basic health plan medical and dental costs	\$8,604,997

(3) For the 2017-18 state fiscal year, \$861,416,161 is appropriated to the department of health care policy and financing. This appropriation is from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5), C.R.S. To implement this act, the department may use this appropriation as follows:

Executive director's office, general administration

Personal services	\$2,480,099
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Health, life, and dental	\$278,894
Short-term disability	\$3,870
S.B. 04-257 amortization equalization disbursement	\$107,750
S.B. 06-235 supplemental amortization equalization disbursement	\$107,748
Salary survey	\$26,618
Merit pay	\$13,447
Operating expenses	\$57,372
Legal services	\$123,811
Administrative law judge services	\$72,169
Leased space	\$247,365
Payments to OIT	\$378,109
CORE operations	\$148,145
General professional services and special projects	\$1,202,500

Executive director's office, information technology

Contracts and projects

Medicaid management information system maintenance and projects	\$3,794,276
Medicaid management information system reprocurement contracts	\$708,606
Colorado benefits management systems, operating and contract expenses	\$3,450,954
Colorado benefits management systems, health care and economic security staff development center	\$95,832

**Executive director's office, eligibility determinations and
client services**

Medical identification cards	\$43,200
Contracts for special eligibility determinations	\$4,338,468
Hospital provider fee county administration	\$4,945,446
Medical assistance sites	\$402,984
Customer outreach	\$336,621
Centralized eligibility vendor contract project	\$1,745,342

**Executive director's office, utilization and quality review
contracts**

Professional services contracts	\$372,339
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Executive director's office, provider audits and services

Professional audit contracts	\$250,000
Executive director's office, indirect cost recoveries	
Indirect cost assessment	\$218,771
Medical services premiums	
Medical and long-term care services for medicaid eligible individuals	\$644,809,063
Behavioral health community programs	
Behavioral health capitation payments	\$25,785,121
Behavioral health fee-for-service payments	\$373,007
Office of community living	
Support level administration	\$221
Adult supported living services	\$133,235
Case management	\$28,272
Indigent care program	
Safety net provider payments	\$155,648,093
Children's basic health plan administration	\$2,416
Children's basic health plan medical and dental costs	\$8,604,997

(4) For the 2017-18 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$262,665,969 in federal funds to implement this act. The appropriation in subsection (2) of this section is based on the assumption that the department will receive this amount of federal funds to be used for medical services premiums.

SECTION 33. Appropriation. For the 2016-17 state fiscal year, \$3,750 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation for tax administration IT system (GenTax) support.

SECTION 34. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Sections 2, 3, 6, 7, 11, 13, 15 through 20, 22, and 32 of this act

take effect July 1, 2017.

(3) (a) Sections 2, 3, 6, 7, 11, 13, 15 through 20, 22, and 32 of this act do not take effect if the centers for medicare and medicaid services determine that the amendments set forth in sections 2, 3, 6, 7, 11, 13, 15 through 20, 22, and 32 of this act do not comply with federal law.

(b) If the centers for medicare and medicaid services make the determination described in subsection (3)(a) of this section, the executive director of the department of health care policy and financing shall, no later than June 1, 2017, notify the revisor of statutes in writing of that determination by e-mailing the notice to revisorofstatutes.ga@state.co.us.

SECTION 35. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

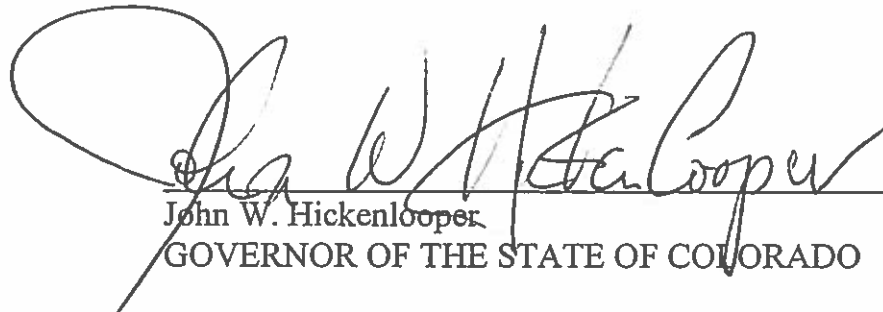


Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 12:20 PM 5/30/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 17-279

BY SENATOR(S) Zenzinger and Martinez Humenik, Kefalas, Merrifield, Todd;
also REPRESENTATIVE(S) Beckman and Gray, Hooton, Kennedy, Kraft-Tharp, Lebsock, Lontine, Mitsch Bush, Williams D., Winter.

CONCERNING CLARIFICATION OF THE APPLICABILITY PROVISIONS OF RECENT LEGISLATION TO PROMOTE AN EQUITABLE FINANCIAL CONTRIBUTION AMONG AFFECTED PUBLIC BODIES IN CONNECTION WITH URBAN REDEVELOPMENT PROJECTS ALLOCATING TAX REVENUES.

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

SECTION 1. In Colorado Revised Statutes, 31-25-107, amend (7) and (9.7); and add (7.5) as follows:

31-25-107. Approval of urban renewal plans by local governing body - definition. (7) An urban renewal plan may be modified at any time; but, if modified after the lease or sale by the authority of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successor in interest may be entitled to assert. Any proposed modification shall be submitted to the governing body for a resolution as to whether or not such APPROVAL. IF THE modification will substantially change PROVISIONS OF the urban

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

renewal plan in REGARDING land area, land use, AUTHORIZATION TO COLLECT INCREMENTAL TAX REVENUE, THE EXTENT OF THE USE OF TAX INCREMENT FINANCING, THE SCOPE OR NATURE OF THE URBAN RENEWAL PROJECT, THE SCOPE OR METHOD OF FINANCING, design, building requirements, timing, or procedure, as previously approved, ~~and, if it finds that there will be a substantial change, its approval of such~~ OR WHERE SUCH MODIFICATION WILL SUBSTANTIALLY CLARIFY A PLAN THAT, WHEN APPROVED, WAS LACKING IN SPECIFICITY AS TO THE URBAN RENEWAL PROJECT OR FINANCING, THEN THE modification ~~shall be~~ IS SUBSTANTIAL AND subject to ALL OF the requirements of this section. FOR URBAN RENEWAL PLANS IN WHICH A PLEDGE OF THE REVENUES DEPOSITED INTO THE SPECIAL FUND CREATED PURSUANT TO SUBSECTION (9) OF THIS SECTION WAS MADE BY AN INDENTURE OR OTHER LEGALLY BINDING DOCUMENT THAT IS SEPARATE FROM THE PLAN ITSELF PRIOR TO JANUARY 1, 2016, A PLEDGE TO SECURE THE PAYMENT OF REFUNDING BONDS IS NOT A SUBSTANTIAL MODIFICATION AND IS NOT SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (7). NOT LESS THAN THIRTY DAYS PRIOR TO APPROVING ANY MODIFICATION OF AN URBAN RENEWAL PLAN, THE GOVERNING BODY OR URBAN RENEWAL AUTHORITY SHALL PROVIDE A DETAILED WRITTEN DESCRIPTION OF THE PROPOSED MODIFICATION TO EACH TAXING ENTITY THAT LEVIES TAXES ON PROPERTY LOCATED WITHIN THE URBAN RENEWAL AREA AND A NOTICE OF THE DATE AND TIME OF THE MEETING AT WHICH THE GOVERNING BODY WILL CONSIDER THE MODIFICATION. ANY TAXING ENTITY THAT LEVIES TAXES ON PROPERTY LOCATED WITHIN THE URBAN RENEWAL AREA MAY FILE AN ACTION IN THE STATE DISTRICT COURT EXERCISING JURISDICTION OVER THE COUNTY IN WHICH THE URBAN RENEWAL AREA IS LOCATED FOR AN ORDER DETERMINING, UNDER A DE NOVO STANDARD OF REVIEW, WHETHER THE MODIFICATION IS A SUBSTANTIAL MODIFICATION. FURTHER, IF REQUESTED BY THE TAXING ENTITY, THE COURT SHALL ENJOIN ANY ACTION BY THE AUTHORITY PURSUANT TO THE MODIFICATION UNTIL THE COURT HAS DETERMINED WHETHER THE MODIFICATION IS A SUBSTANTIAL MODIFICATION AND, IF SO, SHALL FURTHER ENJOIN ANY ACTION BY THE AUTHORITY UNTIL THERE HAS BEEN COMPLIANCE WITH SUBSECTION (9.5) OF THIS SECTION.

(7.5) NO ACTION MAY BE BROUGHT TO ENJOIN ANY UNDERTAKING OR ACTIVITY OF THE AUTHORITY PURSUANT TO AN URBAN RENEWAL PLAN, INCLUDING THE ISSUANCE OF BONDS, THE INCURRENCE OF OTHER FINANCIAL OBLIGATIONS, OR THE PLEDGE OF REVENUE, UNLESS THE ACTION IS COMMENCED WITHIN FORTY-FIVE DAYS AFTER THE DATE ON WHICH THE

AUTHORITY PROVIDED NOTICE OF ITS INTENTION REGARDING SUCH UNDERTAKING OR ACTIVITY. THE NOTICE MUST DESCRIBE THE UNDERTAKING OR ACTIVITY PROPOSED TO BE ENGAGED IN BY THE AUTHORITY AND SPECIFY THAT ANY ACTION TO ENJOIN THE UNDERTAKING OR ACTIVITY MUST BE BROUGHT WITHIN FORTY-FIVE DAYS FROM THE DATE OF THE NOTICE. THE NOTICE MUST BE PUBLISHED ONE TIME IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY. ON OR BEFORE THE DATE OF PUBLICATION OF THE NOTICE, THE AUTHORITY SHALL ALSO MAIL A COPY OF THE NOTICE TO EACH TAXING ENTITY THAT LEVIES TAXES ON PROPERTY WITHIN THE URBAN RENEWAL AREA.

(9.7) Notwithstanding any other provision of law:

(a) Nothing in subsection (9.5) of this section, as added by House Bill 15-1348, enacted in 2015, and as amended by Senate Bill 16-177, enacted in 2016, is intended to impair, jeopardize, or put at risk any existing bonds, investments, loans, contracts, or financial obligations of an urban renewal authority outstanding as of December 31, 2015, or the pledge of pledged revenues or assets to the payment thereof that occurred on or before December 31, 2015.

(b) THE REQUIREMENTS OF SECTION 31-25-104 (2)(a), (2)(b), AND (2.5), SECTION 31-25-115 (1.5), THE INTRODUCTORY PORTION OF SUBSECTION (9)(a) OF THIS SECTION, SUBSECTIONS (9)(a)(II), (9)(i), AND (9.5) OF THIS SECTION, AS ADDED BY HOUSE BILL 15-1348, ENACTED IN 2015, AND AS AMENDED BY SENATE BILL 16-177, ENACTED IN 2016, AND THE REQUIREMENTS OF SUBSECTIONS (7) AND (7.5) OF THIS SECTION AS AMENDED BY SENATE BILL 17-279, ENACTED IN 2017, APPLY TO MUNICIPALITIES, URBAN RENEWAL AUTHORITIES, AND ANY URBAN RENEWAL PLANS CREATED ON OR AFTER JANUARY 1, 2016, AND TO ANY SUBSTANTIAL MODIFICATION OF ANY URBAN RENEWAL PLAN WHERE THE MODIFICATION IS APPROVED ON OR AFTER JANUARY 1, 2016.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



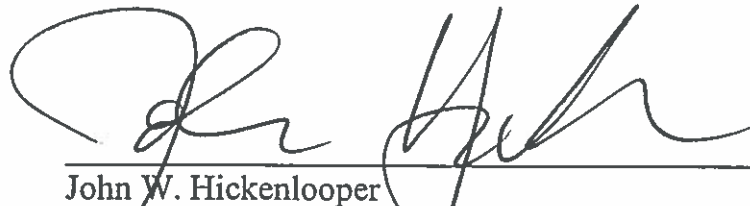
Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED

2:29 PM 5/25/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

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