

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0419.01 Nicole Myers x4326

SENATE BILL 26-042

SENATE SPONSORSHIP

Weissman and Amabile,

HOUSE SPONSORSHIP

Zokae and Sirota,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CLASSIFICATION OF CERTAIN STATE REVENUE FOR**
102 **THE PURPOSES OF CALCULATING STATE FISCAL YEAR SPENDING**
103 **PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE**
104 **CONSTITUTION, AND, IN CONNECTION THEREWITH, CLARIFYING**
105 **THE STATUTORY DEFINITIONS OF COLLECTIONS FOR ANOTHER**
106 **GOVERNMENT AND DAMAGE AWARDS.**

Bill Summary

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

Section 20 of article X of the state constitution (TABOR) defines

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

"fiscal year spending" as excluding "collections for another government" and "damage awards". Although TABOR does not define either "collections for another government" or "damage awards", the TABOR implementing statutes define both terms. The bill clarifies both of these definitions for state fiscal years commencing on or after July 1, 2025.

The bill clarifies that "collections for another government", as used for the purpose of determining whether specific money received by the state is subject to the TABOR limitation on state fiscal year spending, includes revenue from the excise tax on gasoline used as fuel for the propulsion of specified aircraft collected by the state and distributed to governmental or airport entities operating an FAA-designated public use airport.

The bill also clarifies that "damage award", as used for the purpose of determining whether specific money received by the state is subject to the TABOR limitation on state fiscal year spending, includes certain civil fines and penalties imposed by the state.

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

2 **SECTION 1. Legislative declaration.**

3 (1) The general assembly finds and declares that:

4 (a) Section 20 (2)(e) of article X of the state constitution exempts
5 "collections for another government" and "damage awards" from "fiscal
6 year spending", as defined in section 20 (2)(e) of article X of the state
7 constitution;

8 (b) Under the existing statutory definition of "damage award",
9 some money that the state collects as fines or penalties for violations of
10 certain legal requirements is treated as state fiscal year spending when
11 determining whether the state has exceeded the state's fiscal year
12 spending limit despite the constitutional exemption for such collections;

13 (c) It is inconsistent with section 20 of article X of the state
14 constitution to treat money that the state collects as fines or penalties for
15 violations of certain legal requirements as state revenue in light of the
16 specific exemption for "damage awards";

14 (f) Nothing in this act operates to exclude any money that has
15 been included as "collections for another government" or "damage
16 awards" under the preexisting definition of those terms from the clarified
17 definitions of those terms in this act - that money continues to be included
18 in these clarified definitions.

19 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
20 (1)(b), (2)(a), (2)(b)(IV), and (2)(b)(V); **repeal** (2)(b)(I); and **add** (1)(e)
21 and (2)(c) as follows:

24-77-102. Definitions.

23 As used in this article 77, unless the context otherwise requires:

24 (1)(b) EXCEPT AS OTHERWISE SPECIFIED IN SUBSECTION (1)(b)(IV)
25 OF THIS SECTION, for state fiscal years commencing on or after July 1,
26 2023, notwithstanding the definition of "collections for another
27 government" in subsection (1)(a) of this section, the only revenues

1 collected by the state for the benefit and use of another government other
2 than the state and passed through to that government other than the state
3 for the benefit of and use by that government that qualify as "collections
4 for another government" without further identification by the general
5 assembly are revenues collected pursuant to:

6 (I) The authority of the government for whose benefit the state
7 collects the revenue;

8 (II) The authority of the state and apportioned to another
9 government in connection with that government forgoing the imposition
10 of certain taxes and collecting the corresponding tax revenue; **or**

11 (III) A constitutional requirement that the state collect the revenue
12 for the benefit of another government; **OR**

13 (IV) **FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,**
14 **2025, THE AUTHORITY OF THE STATE TO COLLECT AN EXCISE TAX AND**
15 **SALES AND USE TAX ON GASOLINE THAT IS USED AS JET FUEL AND**
16 **DISTRIBUTE THE REVENUE TO A NON-STATE ENTITY.**

17 (e) "COLLECTIONS FOR ANOTHER GOVERNMENT", WITH RESPECT
18 TO REVENUE THAT IS COLLECTED IN ACCORDANCE WITH SUBSECTION
19 (1)(b)(IV) OF THIS SECTION, INCLUDES THE FOLLOWING REVENUE THAT IS
20 PLACED IN OR CREDITED TO THE AVIATION FUND CREATED IN SECTION
21 43-10-109 AND DISTRIBUTED IN ACCORDANCE WITH SECTION 43-10-110
22 TO GOVERNMENTAL OR AIRPORT ENTITIES OPERATING AN
23 FAA-DESIGNATED PUBLIC-USE AIRPORT:

24 (I) REVENUE FROM THE EXCISE TAX ON GASOLINE USED AS FUEL
25 FOR THE PROPULSION OF NONTURBO-PROPELLER, NONJET ENGINE,
26 TURBO-PROPELLER, OR JET ENGINE AIRCRAFT COLLECTED BY THE STATE
27 PURSUANT TO SECTION 39-27-102 (1)(a)(IV) THAT IS PLACED IN THE

1 AVIATION FUND PURSUANT TO SECTION 39-27-112 (2)(b); AND
2 (II) REVENUE FROM THE SALES AND USE TAXES COLLECTED
3 DURING A FISCAL YEAR BY THE STATE PURSUANT TO SECTIONS 39-26-104
4 AND 39-26-202 ON AVIATION FUELS USED IN TURBO-PROPELLER OR JET
5 ENGINE AIRCRAFT THAT IS CREDITED TO THE AVIATION FUND PURSUANT TO
6 SECTION 43-10-109 (2)(a)(I).

7 (2) "Damage award" means any pecuniary compensation received
8 by the state as a result of:

9 (a) Any judgment or allowance in favor of the state; and
10 (b) For state fiscal years commencing on or after July 1, 2024:
11 (I) A civil monetary penalty assessed by the department of health
12 care policy and financing pursuant to section 25.5-6-205;

13 (IV) A monetary fine or penalty collected by the division of
14 administration of the department of public health and environment
15 pursuant to section 25-7-115, 25-7-122, or 25-7-123 and deposited in the
16 community impact cash fund created in section 25-7-129 or in the motor
17 vehicle emissions assistance fund created in section 25-7-129.5; and

18 (V) A monetary penalty collected by the division of labor
19 standards and statistics of the department of labor and pursuant to section
20 8-1-114; AND

21 (c) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
22 2025:

23 (I) A FINE, PENALTY, OR FORFEITURE THAT IS CREDITED TO THE
24 HIGHWAY USERS TAX FUND PURSUANT TO SECTIONS 18-4-509 (2)(a),
25 39-27-104 (1)(g), 42-1-217 (1)(a), 42-1-217 (1)(b), 42-1-217 (1)(d),
26 42-1-217 (1)(e), 42-1-217 (2), 42-4-225 (3), AND 42-4-235 (2)(a);

27 (II) A MONETARY PENALTY COLLECTED PURSUANT TO SECTION

1 10-1-310, 10-3-1108, OR 10-3-1109, BY THE COMMISSIONER OF
2 INSURANCE IN THE DIVISION OF INSURANCE IN THE DEPARTMENT OF
3 REGULATORY AGENCIES;

4 (III) A CIVIL MONEY PENALTY COLLECTED PURSUANT TO SECTION
5 11-30-106.5 OR 11-44-123, BY THE COMMISSIONER OF FINANCIAL
6 SERVICES IN THE DIVISION OF FINANCIAL SERVICES IN THE DEPARTMENT OF
7 REGULATORY AGENCIES;

8 (IV) A CIVIL MONEY PENALTY COLLECTED PURSUANT TO SECTION
9 11-102-503 OR 11-109-602, BY THE BANKING BOARD IN THE DIVISION OF
10 BANKING IN THE DEPARTMENT OF REGULATORY AGENCIES;

11 (V) A CIVIL MONETARY PENALTY COLLECTED PURSUANT TO
12 SECTION 25-1-107.5 OR 25.5-6-205, BY THE DEPARTMENT OF HEALTH CARE
13 POLICY AND FINANCING;

14 (VI) A FINE COLLECTED PURSUANT TO SECTION 25-1.5-117, BY THE
15 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

16 (VII) AN OVERPAYMENT OR CIVIL MONETARY PENALTY
17 COLLECTED PURSUANT TO SECTION 25.5-4-301 (2)(a)(I), BY THE
18 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

19 (VIII) PROCEEDS OWING TO THE STATE AS A RESULT OF AN ACTION
20 OR SETTLEMENT OF A CLAIM PURSUANT TO SECTION 25.5-4-301,
21 25.5-4-305, OR 25.5-4-306;

22 (IX) A CIVIL PENALTY COLLECTED PURSUANT TO SECTION
23 25-11-107 (4) BY THE DEPARTMENT OF PUBLIC HEALTH AND
24 ENVIRONMENT OR BY THE ATTORNEY GENERAL ON BEHALF OF THE
25 DEPARTMENT;

26 (X) AN ADMINISTRATIVE PENALTY COLLECTED PURSUANT TO
27 SECTION 25-17-407, BY THE DEPARTMENT OF PUBLIC HEALTH AND

1 ENVIRONMENT;

2 (XI) AN ADMINISTRATIVE OR CIVIL PENALTY COLLECTED
3 PURSUANT TO SECTION 25-15-309, BY THE DEPARTMENT OF PUBLIC
4 HEALTH AND ENVIRONMENT;

5 (XII) AN ADMINISTRATIVE OR CIVIL PENALTY COLLECTED
6 PURSUANT TO SECTION 30-20-113 (5), BY THE DEPARTMENT OF PUBLIC
7 HEALTH AND ENVIRONMENT;

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9 (XIII) A PENALTY COLLECTED PURSUANT TO SECTION 38-12-1105,
10 BY THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS;

11 (XIV) A MONETARY PENALTY COLLECTED PURSUANT TO SECTION
12 44-30-524 BY THE COLORADO LIMITED GAMING CONTROL COMMISSION IN
13 THE DIVISION OF GAMING IN THE DEPARTMENT OF REVENUE;

14 (XV) A PENALTY COLLECTED PURSUANT TO SECTION 8-1-116 BY
15 THE DIRECTOR OF THE DIVISION OF LABOR STANDARDS AND STATISTICS IN
16 THE DEPARTMENT OF LABOR AND EMPLOYMENT;

17 (XVI) A PENALTY COLLECTED PURSUANT TO SECTION 25-5-1009
18 BY THE STATE BOARD OF HEALTH IN THE DEPARTMENT OF PUBLIC HEALTH
19 AND ENVIRONMENT;

20 (XVII) MONEY DEPOSITED IN THE CRIME VICTIM COMPENSATION
21 FUND OF EACH JUDICIAL DISTRICT PURSUANT TO SECTION 24-4.1-117 (2)
22 INCLUDING ALL MONEY PAID AS A COST OR SURCHARGE LEVIED ON
23 CRIMINAL ACTIONS PURSUANT TO SECTION 24-4.1-119; ALL MONEY
24 RECEIVED FROM ANY ACTION OR SUIT TO RECOVER DAMAGES FROM AN
25 ASSAILANT FOR A COMPENSABLE CRIME WHICH WAS THE BASIS FOR
26 APPROVAL OF, AND LIMITED TO, COMPENSATION RECEIVED UNDER PART 1
27 OF ARTICLE 4.1 OF THIS TITLE 24; AND ANY RESTITUTION PAID BY AN

1 ASSAILANT TO A VICTIM FOR DAMAGES FOR A COMPENSABLE CRIME WHICH
2 WAS THE BASIS FOR APPROVAL OF COMPENSATION RECEIVED UNDER PART
3 1 OF ARTICLE 4.1 OF THIS TITLE 24 AND FOR DAMAGES FOR WHICH THE
4 VICTIM HAS RECEIVED APPROVAL OF, AND LIMITED TO, COMPENSATION
5 RECEIVED UNDER PART 1 OF ARTICLE 4.1 OF THIS TITLE 24; AND

6 (XVIII) REIMBURSEMENTS COLLECTED PURSUANT TO SECTION
7 25.5-4-301 BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
8 FROM LEGALLY RESPONSIBLE PARTIES WHEN THE DEPARTMENT HAS PAID
9 CLAIMS ON BEHALF OF A MEMBER OF THE STATE'S MEDICAID PROGRAM;

10 **SECTION 3. Safety clause.** The general assembly finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety or for appropriations for
13 the support and maintenance of the departments of the state and state
14 institutions.