

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## Statutory Revision Committee (SRC)

October 19, 2017

State Capitol, SCR 352, 1:30pm

1. Discussion/vote on bill drafts authorized at August 21, 2107 SRC meeting<sup>1</sup>
  - a. Align reports from the Colorado Department of Transportation with § 24-1-136 (11), C.R.S. (*Kristen Forrestal*)<sup>2</sup>
  - b. Rectify statutory conflict regarding deputy sheriffs uncertified by the P.O.S.T. Board (*Richard Sweetman*)
  - c. Update state officials' bonds and oaths requirements (*Kip Kolkmeier*)
  - d. Remove unfunded/obsolete Department of Human Services funds and programs (*Jane Ritter*)
  - e. Address unconstitutional provisions relating to same-sex marriage (*Jane Ritter*)
2. Presentation of memoranda describing potential SRC legislation<sup>3</sup>
  - a. Repeal unnecessary process in the "Colorado Municipal Election Code of 1965" (*Kate Meyer*)
  - b. Remove requirement that local governments create a special capital improvement fund prior to issuing sales tax revenue bonds (*Esther van Mourik*)
  - c. Update references to repealed § 33-10-111 (5), C.R.S. (*Jennifer Berman*)
  - d. Repeal DPA report provisions rendered obsolete by House Bill 17-1058 (*Nicole Myers*)
  - e. Align § 24-50-134, C.R.S., with federal law (*Nicole Myers*)
  - f. Align the "State Employees Group Benefits Act" with federal law (*Nicole Myers*)
  - g. Clarify language in the "Colorado Mental Health Act" concerning "generally accepted standards" of practice (*Jane Ritter*)
  - h. Modernize outdated "mental retardation" and "mentally retarded" terminology (*Jane Ritter*)
  - i. Update language relating to early childhood councils (*Jane Ritter*)
3. Committee business (*Kristen Forrestal*)
  - a. Discuss annual report<sup>4</sup>
  - b. Chair/vice-chair designations
  - c. Next SRC meeting?

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<sup>1</sup> Pursuant to § 2-3-902 (1)(d), C.R.S., legislation recommended by the Statutory Revision Committee must be made by an affirmative vote from at least five legislative members of the Committee.

<sup>2</sup> Presenters are all staff members with the Office of Legislative Legal Services.

<sup>3</sup> Please refer to the attached memoranda for details regarding the origins of, and impetus for, each issue.

<sup>4</sup> Pursuant to §2-3-902 (1)(e), C.R.S., the SRC must report its findings and recommendations to the General Assembly on or before November 15<sup>th</sup> each year.



Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
9.26.17

BILL 1A

LLS NO. 18-0291.01 Kristen Forrestal x4217

COMMITTEE BILL

Statutory Revision Committee

**BILL TOPIC: "Reporting Requirements DOT To GA"**

**A BILL FOR AN ACT**

101 **CONCERNING THE SCHEDULED REPEAL OF REPORTS TO THE GENERAL**  
102 **ASSEMBLY, AND, IN CONNECTION THEREWITH, CONTINUING THE**  
103 **REQUIREMENTS FOR REPORTS BY THE DEPARTMENT OF**  
104 **TRANSPORTATION AND THE DEPARTMENT OF PUBLIC SAFETY.**

**Bill Summary**

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

**Statutory Revision Committee.** Pursuant to section 24-1-136 (11)(a)(I), Colorado Revised Statutes, any report that is required to be made to the general assembly by an executive agency or the judicial branch on a periodic basis expires on the day after the third anniversary

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

of the date on which the first report was due unless the general assembly, acting by bill, continues the requirement. The bill continues reporting requirements of the departments of transportation and public safety.

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

2           **SECTION 1.** In Colorado Revised Statutes, 43-4-206, **amend**  
3 (2)(b) introductory portion as follows:

4           **43-4-206. State allocation.** (2) (b) NOTWITHSTANDING SECTION  
5 24-1-136 (11)(a)(I), beginning in 1998, the department of transportation  
6 shall report annually to the transportation committee of the senate and the  
7 transportation and energy committee of the house of representatives  
8 concerning the revenue expended by the department pursuant to  
9 subsection (2)(a) of this section and, beginning in 2018, any proceeds of  
10 lease-purchase agreements executed as required by section 24-82-1303  
11 (2)(a) that are credited to the state highway fund pursuant to section  
12 24-82-1303 (4)(b) and expended by the department pursuant to subsection  
13 (1)(b)(V) of this section. The department shall present the report at the  
14 joint meeting required under section 43-1-113 (9)(a), and the report shall  
15 describe for each fiscal year, if applicable:

16           **SECTION 2.** In Colorado Revised Statutes, **amend** 43-5-506 as  
17 follows:

18           **43-5-506. Report.** NOTWITHSTANDING SECTION 24-1-136  
19 (11)(a)(I), no later than September 1 of each year, the department of  
20 public safety shall report to the legislative audit committee and the house  
21 and senate transportation committees, or their successor committees. The  
22 report must comment on the effectiveness of the program, annual  
23 motorcycle accidents or fatalities, availability of training throughout the  
24 state, historic and current training costs, and other performance measures.

1           **SECTION 3. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, and safety.



Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
8.23.17

**BILL 1B**

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LLS NO. 18-#### Richard Sweetman x4333

**COMMITTEE BILL**

**Statutory Revision Committee**

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**BILL TOPIC: "Deputy Sheriffs No P.O.S.T. Certification"**

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**A BILL FOR AN ACT**

101 **CONCERNING CLARIFYING THAT CERTAIN DEPUTY SHERIFFS MAY**  
102 **SERVE WITHOUT ATTAINING CERTIFICATION FROM THE PEACE**  
103 **OFFICERS STANDARDS AND TRAINING BOARD.**

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**Bill Summary**

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

**Statutory Revision Committee.** Two provisions of current law require deputy sheriffs to be certified by the peace officers standards and training (P.O.S.T.) board, but another provision describes the authority of a "noncertified deputy sheriff". The bill clarifies that some deputy sheriffs

may serve without P.O.S.T. certification under certain circumstances.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds that:

4           (a) Two provisions of current law state that a deputy sheriff must  
5 be certified by the peace officers standards and training board;

6           (b) Another provision of current law describes the authority of a  
7 "noncertified deputy sheriff"; and

8           (c) This inconsistency must be corrected.

9           (2) The general assembly further finds that:

10           (a) It is common practice for law enforcement agencies to employ  
11 noncertified deputy sheriffs with specifically limited authorities and  
12 duties; and

13           (b) This common practice should continue.

14           (3) Now, therefore, the general assembly clarifies that a  
15 noncertified deputy sheriff is a peace officer employed by a county or city  
16 and county whose authority is limited to the duties assigned by and while  
17 working under the direction of the chief of police, sheriff, an official who  
18 has the duties of a sheriff in a city and county, or chief executive of the  
19 employing law enforcement agency.

20           **SECTION 2.** In Colorado Revised Statutes, **amend** 16-2.5-102  
21 as follows:

22           **16-2.5-102. Certified peace officer - P.O.S.T. certification**  
23 **required.** The following peace officers shall meet all the standards  
24 imposed by law on a peace officer and, EXCEPT AS DESCRIBED IN SECTION  
25 16-2.5-103 (2), shall be certified by the peace officers standards and

1 training board, referred to in this ~~article~~ ARTICLE 2.5 as the "P.O.S.T.  
2 board": A chief of police; a police officer; a sheriff; an undersheriff; a  
3 deputy sheriff; a Colorado state patrol officer; a town marshal; a deputy  
4 town marshal; a reserve police officer; a reserve deputy sheriff; a reserve  
5 deputy town marshal; a police officer or reserve police officer employed  
6 by a state institution of higher education; a Colorado wildlife officer; a  
7 Colorado parks and recreation officer; a Colorado police administrator or  
8 police officer employed by the Colorado mental health institute at Pueblo;  
9 an attorney general criminal investigator; a community parole officer; a  
10 public transit officer; a municipal court marshal; and the department of  
11 corrections inspector general.

12 **SECTION 3.** In Colorado Revised Statutes, 16-2.5-103, **amend**  
13 (1) as follows:

14 **16-2.5-103. Sheriff - undersheriff - certified deputy sheriff -**  
15 **noncertified deputy sheriff.** (1) A sheriff, an undersheriff, and a deputy  
16 sheriff are peace officers whose authority ~~shall include~~ INCLUDES the  
17 enforcement of all laws of the state of Colorado. A sheriff shall be  
18 certified by the P.O.S.T. board pursuant to section 30-10-501.6. ~~C.R.S.~~  
19 EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, an  
20 undersheriff and a deputy sheriff shall be certified by the P.O.S.T. board.

21 **SECTION 4. Act subject to petition - effective date.** This act  
22 takes effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part will not take effect

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

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
10.10.17

BILL 1C-i

LLS NO. 18-0158.01 Kip Kolkmeier x4510

COMMITTEE BILL

Statutory Revision Committee

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**BILL TOPIC:** "Public Official Oaths & Affirmations"

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**A BILL FOR AN ACT**

101 **CONCERNING STANDARDIZING PUBLIC OFFICIAL OATHS OF OFFICE,**  
102 **AND, IN CONNECTION THEREWITH, PROVIDING A UNIFORM OATH**  
103 **TEXT, AND ESTABLISHING REQUIREMENTS FOR TAKING,**  
104 **SUBSCRIBING, ADMINISTERING, AND FILING PUBLIC OATHS OF**  
105 **OFFICE.**

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**Bill Summary**

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

**Statutory Revision Committee.** Current law requires most public officials and many public employees to swear or affirm an oath of office.

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The bill establishes a single uniform text for swearing or affirming an oath of office and the requirements regarding how and when an oath or affirmation of office must be taken, subscribed, administered, and filed. All requirements must be completed prior to the official or employee entering upon the office.

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

**SECTION 1.** In Colorado Revised Statutes, **amend** 24-12-101 as follows:

**24-12-101. Form of oath or affirmation for public office - requirements for oath or affirmation.** (1) ~~Whenever any~~ WHEN A person is required to take an oath OR AFFIRMATION before ~~he~~ THE PERSON enters upon the discharge of ~~any~~ A PUBLIC office or position, ~~or business or on any other lawful occasion,~~ it is lawful for any person employed to administer the oath to administer it in the following form: The person ~~swearing, with his hand uplifted, shall swear "by the everliving God"~~ THE FORM OF THE OATH OR AFFIRMATION IS AS FOLLOWS:

I [NAME], DO [SELECT SWEAR OR AFFIRM] THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF THE STATE OF COLORADO, AND THE LAWS OF THE STATE OF COLORADO, AND WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF [NAME OF OFFICE OR POSITION] UPON WHICH I AM ABOUT TO ENTER TO THE BEST OF MY ABILITY.

IT IS LAWFUL FOR A PERSON ELECTING TO SWEAR AN OATH TO "SWEAR BY THE EVERLIVING GOD" IF THAT PERSON SO CHOOSES.

(2) THE OATH OR AFFIRMATION MUST BE:

(a) IN WRITING AND SIGNED BY THE PERSON TAKING THE OATH OR AFFIRMATION;

1 (b) Administered as provided in section 24-12-103; and

2 (c) TAKEN, SIGNED, ADMINISTERED, AND FILED AS SPECIFIED IN  
3 SUBSECTION (3) OF THIS SECTION BEFORE THE PERSON ENTERS UPON THE  
4 PUBLIC OFFICE OR POSITION.

5 (3) OFFICERS OF THE EXECUTIVE DEPARTMENT, JUDGES OF THE  
6 SUPREME AND SUBSIDIARY COURTS, AND DISTRICT ATTORNEYS SHALL FILE  
7 THEIR OATHS OR AFFIRMATIONS OF OFFICE WITH THE SECRETARY OF  
8 STATE. EVERY OTHER PERSON REQUIRED BY LAW TO FILE AN OATH OR  
9 AFFIRMATION OF OFFICE SHALL FILE WITH THE COUNTY CLERK OF THE  
10 COUNTY WHEREIN THE PERSON WAS ELECTED OR APPOINTED.

11 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-12-102 as  
12 follows:

13 **24-12-102. Form of oaths or affirmations for purposes other**  
14 **than public office.** Whenever any person is required to take or subscribe  
15 an oath ~~and in all cases where an oath is to be administered upon any~~  
16 ~~lawful occasion, and such person has conscientious scruples against~~  
17 ~~taking an oath, he shall be permitted to make his solemn affirmation or~~  
18 ~~declaration in the following form: "You do solemnly, sincerely, and truly~~  
19 ~~declare and affirm", which solemn affirmation or declaration is equally~~  
20 ~~valid as if such person had taken an oath in the usual form; and every~~  
21 ~~person guilty of falsely declaring shall incur and suffer the penalties~~  
22 ~~inflicted on persons guilty of perjury in the first degree~~ OR AFFIRMATION,  
23 OTHER THAN AN OATH FOR PUBLIC OFFICE OR POSITION, THE PERSON SHALL  
24 TAKE OR SUBSCRIBE THE OATH OR AFFIRMATION IN THE MANNER SPECIFIED  
25 IN THE PARTICULAR LAW THAT IMPOSES THE REQUIREMENT.

26 <{*The stricken language regarding false oaths and affirmations in*  
27 *section 24-12-102 is redundant because section 24-12-106 already*

1 *provides for perjury prosecution for false oaths and affirmations.*>

2           **SECTION 3.** In Colorado Revised Statutes, **amend** 24-12-103 as  
3 follows:

4           **24-12-103. Who may administer oaths or affirmations.** All  
5 courts in this state and each judge, justice, magistrate, referee, clerk, and  
6 ~~any~~ deputy clerk thereof; members and referees of the division of labor  
7 standards and statistics; members of the public utilities commission; and  
8 ~~all~~ notaries public have power to administer oaths and affirmations to  
9 witnesses and others concerning any matter, thing, process, or proceeding  
10 pending, commenced, or to be commenced before them respectively. The  
11 courts, judges, magistrates, referees, clerks, and deputy clerks within their  
12 respective districts or counties; A PERSON DESIGNATED BY THE  
13 GOVERNING BODY; and notaries public within any county of this state  
14 have the power to administer all oaths OR AFFIRMATIONS of office and  
15 other oaths OR AFFIRMATIONS required to be taken by any person upon  
16 any lawful occasion and to take affidavits and depositions concerning any  
17 matter or thing, process, or proceeding pending, commenced, or to be  
18 commenced in any court or on any occasion ~~wherein such~~ AN affidavit or  
19 A deposition is authorized or by law required to be taken.

20           **SECTION 4.** In Colorado Revised Statutes, 24-12-104, **amend**  
21 (3) as follows:

22           **24-12-104. Officers in armed forces empowered to perform**  
23 **notarial acts.** (3) In the taking of acknowledgments and the performing  
24 of other notarial acts requiring certification, a certificate indorsed upon  
25 or attached to the instrument or document ~~which~~ THAT shows the date of  
26 the notarial act and ~~which~~ THAT states, in substance, that the person  
27 appearing before the officer acknowledged the instrument as his OR HER

1 act or made or signed the instrument or document under oath OR  
2 AFFIRMATION shall be sufficient for all intents and purposes. The  
3 instrument or document shall not be rendered invalid by the failure to  
4 state the place of execution or acknowledgment.

5 **SECTION 5.** In Colorado Revised Statutes, 20-1-101, **amend** (1)  
6 as follows:

7 **20-1-101. Bond and oath or affirmation of district attorney**  
8 **and staff.** (1) Every district attorney, ~~before entering upon the duties of~~  
9 ~~his office, shall take and subscribe an oath to support the constitution of~~  
10 ~~the United States and the organic law of the state and that he will~~  
11 ~~faithfully discharge the duties of his office~~ CHIEF DEPUTY DISTRICT  
12 ATTORNEY, DEPUTY DISTRICT ATTORNEY, SPECIAL DEPUTY DISTRICT  
13 ATTORNEY, AND ASSISTANT DISTRICT ATTORNEY SHALL TAKE AN OATH OR  
14 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101. ~~He~~ A DISTRICT  
15 ATTORNEY shall also execute to the people of the state of Colorado a bond  
16 in the sum of five thousand dollars with a good and sufficient individual,  
17 schedule, or blanket corporate surety bond or other acceptable security,  
18 to be approved by the secretary of state, conditioned for the faithful  
19 discharge of the duties of his OR HER office, as the same are prescribed by  
20 law, and upon any breach of such bond, an action shall lie thereon for the  
21 benefit of any county fund or person injured thereby.

22 **SECTION 6.** In Colorado Revised Statutes, 20-1-201, **repeal** (3)  
23 as follows:

24 **20-1-201. Deputies - chief deputies - staff.** (3) ~~Before such~~  
25 ~~deputy district attorneys, chief deputy district attorneys, or special deputy~~  
26 ~~district attorneys enter upon the duties of their office, they shall file with~~  
27 ~~the secretary of state the oath of office required by law to be filed by~~

1 ~~district attorneys and may be required, as the district attorney shall direct,~~  
2 ~~to file a like bond as that required to be filed by district attorneys.~~

3 **SECTION 7.** In Colorado Revised Statutes, 20-1-205, **repeal** (2)  
4 as follows:

5 **20-1-205. Assistant district attorneys.** (2) ~~Every such assistant~~  
6 ~~district attorney, before entering upon the duties of office, shall file with~~  
7 ~~the secretary of state the oath of office required by law to be filed by~~  
8 ~~district attorneys and shall hold office at the pleasure of the district~~  
9 ~~attorney by whom he is appointed. Such assistant district attorney, before~~  
10 ~~entering upon the duties of office, may be required, as the district attorney~~  
11 ~~may direct, to file like bond as that required to be filed by district~~  
12 ~~attorneys.~~

13 **SECTION 8.** In Colorado Revised Statutes, **amend** 23-20-103 as  
14 follows:

15 **23-20-103. Oath or affirmation of regents.** The members of the  
16 board of regents ~~before entering upon their duties,~~ shall take and  
17 ~~subscribe to the following~~ AN oath or affirmation "I do solemnly swear  
18 (or affirm) that I will support the constitution of the United States and of  
19 the state of Colorado, and that I will perform the duties of regent of the  
20 university of Colorado faithfully and to the best of my ability." Said oath  
21 ~~or affirmation shall be filed in the office of the secretary of state~~ IN  
22 ACCORDANCE WITH SECTION 24-12-101.

23 **SECTION 9.** In Colorado Revised Statutes, **amend** 23-20-109 as  
24 follows:

25 **23-20-109. Treasurer - duties - bond.** The board of regents shall  
26 elect a treasurer of the university, who shall hold his or her office at the  
27 pleasure of the board. The treasurer shall keep a true and faithful account

1 of all ~~moneys~~ MONEY received and paid out by him or her and shall pay  
2 all warrants and checks as presented. ~~Before entering upon the duties of~~  
3 ~~his or her office, he or she~~ THE TREASURER shall take ~~and subscribe~~ an  
4 oath ~~that he or she will faithfully perform the duties of treasurer~~ OR  
5 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101. He or she shall  
6 also give a bond in the penal sum of not less than twenty-five thousand  
7 dollars, conditioned for the faithful discharge of his or her duties as  
8 treasurer, that he or she will at all times keep and render a true account of  
9 all ~~moneys~~ MONEY and other valuables received by him or her as treasurer  
10 and of the disposition he or she has made of the same, and that he or she  
11 will at all times be ready to discharge himself or herself of the trust and  
12 to deliver up when required by said board all ~~moneys~~ MONEY, notes,  
13 bonds, and other valuables entrusted to him or her. The bond shall have  
14 two or more sureties and be approved as to its form and the sufficiency  
15 of its sureties by the board of regents, the attorney general, and the  
16 secretary of state, who shall endorse their approval on the same. The bond  
17 shall be filed in the office of the secretary of state.

18 **SECTION 10.** In Colorado Revised Statutes, 23-40-104, **amend**  
19 (1)(b)(VIII) as follows:

20 **23-40-104. Board of trustees.** (1) (b) (VIII) Each trustee shall  
21 take ~~and subscribe to the~~ AN oath of office ~~prescribed by the constitution~~  
22 ~~of this state before entering upon the duties of his or her office, which~~  
23 ~~oath shall be placed and kept on file in the office of the secretary of state~~  
24 OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

25 **SECTION 11.** In Colorado Revised Statutes, **amend** 23-41-103  
26 as follows:

27 **23-41-103. Oath or affirmation of trustees.** Every trustee

1 ~~appointed, before entering upon the duties of his office,~~ shall take an oath  
2 ~~to support the constitution of the United States and the constitution of this~~  
3 ~~state and to faithfully perform the duties of his office to the best of his~~  
4 ~~ability and understanding~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION  
5 24-12-101.

6 **SECTION 12.** In Colorado Revised Statutes, 23-51-102, **amend**  
7 (5) as follows:

8 **23-51-102. Board of trustees - creation - members - powers -**  
9 **duties.** (5) A vacancy of an appointed member of the board of trustees  
10 shall be filled by appointment by the governor for the unexpired term. A  
11 vacancy of either of the elected members of the board of trustees shall be  
12 filled by election for the unexpired term. Each member of the board of  
13 trustees shall take ~~and subscribe to the~~ AN oath of office prescribed by the  
14 ~~constitution of this state before entering upon the duties of the office,~~  
15 ~~which oath shall be placed and kept on file in the office of the secretary~~  
16 ~~of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

17 **SECTION 13.** In Colorado Revised Statutes, 23-52-102, **amend**  
18 (5) as follows:

19 **23-52-102. Board of trustees - creation - members - powers -**  
20 **duties.** (5) Any vacancy in the office of an appointed member of the  
21 board of trustees shall be filled by appointment by the governor for the  
22 unexpired term. Any vacancy in either of the elected offices on the board  
23 of trustees shall be filled by reelection for the unexpired term. Each  
24 trustee shall take ~~and subscribe to the~~ AN oath of office prescribed by the  
25 ~~constitution of this state before entering upon the duties of the office,~~  
26 ~~which oath shall be placed and kept on file in the office of the secretary~~  
27 ~~of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

1           **SECTION 14.** In Colorado Revised Statutes, 23-53-102, **amend**  
2 (5) as follows:

3           **23-53-102. Board of trustees - creation - members - powers -**  
4 **duties.** (5) A vacancy of an appointed member of the board of trustees  
5 shall be filled by appointment by the governor for the unexpired term. A  
6 vacancy of either of the elected members of the board of trustees shall be  
7 filled by election for the unexpired term. Each member of the board of  
8 trustees shall take ~~and subscribe to the AN oath of office prescribed by the~~  
9 ~~constitution of this state before entering upon the duties of the office,~~  
10 ~~which oath shall be placed and kept on file in the office of the secretary~~  
11 ~~of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

12           **SECTION 15.** In Colorado Revised Statutes, 23-54-102, **amend**  
13 (5) as follows:

14           **23-54-102. Board of trustees - creation - members - powers -**  
15 **duties.** (5) Any vacancy in the office of an appointed member of the  
16 board of trustees shall be filled by appointment by the governor for the  
17 unexpired term. Any vacancy in either of the elected offices on the board  
18 of trustees shall be filled by reelection for the unexpired term. Each  
19 trustee shall take ~~and subscribe to the AN oath of office prescribed by the~~  
20 ~~constitution of this state before entering upon the duties of the office,~~  
21 ~~which oath shall be placed and kept on file in the office of the secretary~~  
22 ~~of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

23           **SECTION 16.** In Colorado Revised Statutes, 23-56-102, **amend**  
24 (5) as follows:

25           **23-56-102. Board of trustees - creation - members - powers -**  
26 **duties.** (5) A vacancy of an appointed member of the board of trustees  
27 shall be filled by appointment by the governor for the unexpired term. A

1 vacancy of either of the elected members of the board of trustees shall be  
2 filled by election for the unexpired term. Each member of the board of  
3 trustees shall take ~~and subscribe to the AN oath of office prescribed by the~~  
4 ~~constitution of this state before entering upon the duties of the office,~~  
5 ~~which oath shall be placed and kept on file in the office of the secretary~~  
6 ~~of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

7 **SECTION 17.** In Colorado Revised Statutes, 23-70-102, **amend**  
8 (2) as follows:

9 **23-70-102. Auraria board - membership - terms - oath or**  
10 **affirmation - voting.** (2) Each member of the Auraria board shall take  
11 ~~and subscribe to the AN oath of office prescribed by the constitution of~~  
12 ~~this state before entering upon the duties of his office, which oath shall~~  
13 ~~be placed and kept on file in the office of the secretary of state~~ OR  
14 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

15 **SECTION 18.** In Colorado Revised Statutes, 24-22-101, **amend**  
16 (1) as follows:

17 **24-22-101. Oath or affirmation - bond and sureties -**  
18 **conditions of bond.** (1) On or before the second Tuesday in January  
19 after his OR HER election, ~~and before entering upon his duties,~~ the state  
20 treasurer shall take ~~and subscribe to the AN oath required by the state~~  
21 ~~constitution~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101  
22 and shall give a bond to the people of the state of Colorado in the sum of  
23 one million dollars, with not less than ten individual sureties or one or  
24 more surety companies authorized to do business in this state. The bond  
25 and each surety shall be approved by the governor and the attorney  
26 general and held in the custody of the secretary of state.

27 **SECTION 19.** In Colorado Revised Statutes, 30-10-105, **amend**

1 (1)(e) as follows:

2 **30-10-105. When office becomes vacant.** (1) Every county  
3 office shall become vacant, on the happening of any one of the following  
4 events, before the expiration of the term of office:

5 (e) The incumbent's refusal or neglect to take ~~his~~ AN oath of office  
6 OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101, to give or  
7 renew his OR HER official bond, or to deposit such ~~oath and~~ bond within  
8 the time prescribed by law;

9 **SECTION 20.** In Colorado Revised Statutes, 30-10-110, **amend**  
10 (1) as follows:

11 **30-10-110. Bonds or insurance of officers - oath or**  
12 **affirmation.** (1) Except as provided in subsection (2) of this section,  
13 every county officer named in section 30-10-101, before entering upon  
14 the duties of office, on or before the day of the commencement of the  
15 term for which the officer was elected, shall execute and deposit an  
16 official bond, as prescribed by law. Any such officer shall also take ~~and~~  
17 ~~subscribe the~~ AN oath of office ~~prescribed by law, before some officer~~  
18 ~~authorized to administer oaths, and deposit the same with the official~~  
19 ~~bond to be filed and preserved therewith~~ OR AFFIRMATION IN  
20 ACCORDANCE WITH SECTION 24-12-101.

21 **SECTION 21.** In Colorado Revised Statutes, **amend** 30-10-301  
22 as follows:

23 **30-10-301. Oath or affirmation of commissioners.** Each person  
24 elected as commissioner, on receiving a certificate of his OR HER election,  
25 shall take an oath ~~to support the constitution of the United States and of~~  
26 ~~the state of Colorado, and to perform the duties of his office to the best~~  
27 ~~of his ability, which oath, being endorsed upon said certificate, under the~~

1 ~~hand and seal of the person administering it, shall be sufficient for said~~  
2 ~~person to act as such commissioner~~ OR AFFIRMATION IN ACCORDANCE  
3 WITH SECTION 24-12-101.

4 **SECTION 22.** In Colorado Revised Statutes, **repeal** 30-10-416  
5 as follows:

6 **30-10-416. Clerk to administer oaths - take affidavit or**  
7 **deposition.** ~~The county clerk and recorders of the several counties in the~~  
8 ~~state of Colorado are authorized, within their respective counties, to~~  
9 ~~administer all oaths of office, and other oaths required to be taken by any~~  
10 ~~person upon any lawful occasion, and to take affidavits and depositions~~  
11 ~~concerning any matter or thing, process, or proceeding pending or to be~~  
12 ~~commenced in any court, or any occasion wherein such affidavit or~~  
13 ~~deposition is authorized or required by law to be taken.~~

14 <{*Section 30-10-416 is redundant because of section 24-12-103.*}>

15 **SECTION 23.** In Colorado Revised Statutes, 30-10-602, **amend**  
16 (1) as follows:

17 **30-10-602. Coroner and deputy coroner - duties - oath or**  
18 **affirmation - bond - insurance.** (1) The coroner of each county is  
19 authorized to appoint a deputy. Any such appointment shall be in writing  
20 and shall be filed in the office of the coroner. The coroner of each county  
21 may delegate any of the coroner's powers to one or more deputies who  
22 shall then have the same duties with respect thereto as the coroner has.  
23 Any act of a deputy shall be done in the name of the coroner and signed  
24 by the deputy performing such act. A deputy coroner shall hold office  
25 during and subject to the pleasure of the coroner. Except as provided in  
26 subsection (2) of this section, each CORONER AND deputy coroner, ~~before~~  
27 ~~entering the duties of office, shall file with the county clerk and recorder~~

1 ~~of the county the bond and oath of office~~ SHALL TAKE AN OATH OR  
2 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101 AND FILE THE  
3 BOND required by law to be filed by the coroner.

4 <{*Section 30-10-101, which applies oath requirements to other county*  
5 *officials, does not include the coroner. Section 30-10-602 requires a*  
6 *deputy coroner to take an oath, so the coroner oath or affirmation*  
7 *requirement was added to section 30-10-602.*>

8 **SECTION 24.** In Colorado Revised Statutes, **repeal** 30-10-607  
9 as follows:

10 **30-10-607. Talesmen - oath.** ~~If any juror fails to appear, the~~  
11 ~~coroner shall immediately summon the proper number from the~~  
12 ~~bystanders, and proceed to impanel them, and administer the following~~  
13 ~~oath in substance: "You do solemnly swear, or affirm, that you will~~  
14 ~~diligently inquire, and true presentment make, when, how, and by what~~  
15 ~~means the person about whom this inquest is being held came to his~~  
16 ~~death, according to your knowledge and the evidence given you, so help~~  
17 ~~you God."~~

18 **SECTION 25.** In Colorado Revised Statutes, 30-10-801, **amend**  
19 (1) as follows:

20 **30-10-801. Assessor - election - bond - insurance - term - oath**  
21 **or affirmation.** (1) A county assessor shall be elected in each county at  
22 a general election and, except as provided in subsection (2) of this  
23 section, shall: Give bond to the people of the state of Colorado with two  
24 or more sufficient sureties, in a sum of not less than six thousand dollars  
25 for the performance of the assessor's duties according to law and to the  
26 satisfaction of the board of county commissioners; ~~and subscribe~~ TAKE an  
27 oath or affirmation ~~for the faithful performance of the assessor's duties as~~

1 ~~such assessor, and who shall~~ IN ACCORDANCE WITH SECTION 24-12-101;  
2 be a qualified elector of ~~said~~ THE county; and ~~shall~~ hold office for four  
3 years and until a successor is elected and qualified.

4 **SECTION 26.** In Colorado Revised Statutes, 30-10-802, **amend**  
5 (1) as follows:

6 **30-10-802. Assessment district - deputy in each - oath or**  
7 **affirmation - bond.** (1) When the board of county commissioners of any  
8 county is of the opinion that the assessor is unable to perform the duties  
9 of office within the time prescribed by law, the board shall divide ~~such~~  
10 THE county into assessment districts and shall require the assessor to  
11 appoint a deputy in each district, who shall: Be a qualified elector of the  
12 district; ~~and who shall be sworn~~ TAKE AN OATH OR AFFIRMATION IN  
13 ACCORDANCE WITH SECTION 24-12-101; and, except as provided in  
14 subsection (2) of this section, give bond to the principal.

15 **SECTION 27.** In Colorado Revised Statutes, 31-25-815, **amend**  
16 (1)(a) as follows:

17 **31-25-815. Employees - duties - compensation.** (1) The board  
18 shall employ and fix the compensation, subject to the approval of the  
19 governing body, of the following, who shall serve at the pleasure of the  
20 board:

21 (a) A director, who shall be a person of good moral character and  
22 possessed of a reputation for integrity, responsibility, and business ability.  
23 No member of the board shall be eligible to hold the position of director.  
24 ~~Before entering upon the duties of his office,~~ The director shall take ~~and~~  
25 ~~subscribe to the~~ AN oath ~~of office~~ OR AFFIRMATION IN ACCORDANCE WITH  
26 SECTION 24-12-101 and furnish a bond as required by the board. ~~He~~ THE  
27 DIRECTOR shall be the chief executive officer of the authority. Subject to

1 the approval of the board and directed by it when necessary, ~~he~~ THE  
2 DIRECTOR shall have general supervision over and be responsible for the  
3 preparation of plans and the performance of the functions of the authority  
4 in the manner authorized by this part 8. ~~He~~ THE DIRECTOR shall attend all  
5 meetings of the board and shall render to the board and to the governing  
6 body a regular report covering the activities and financial condition of the  
7 authority. In the absence or disability of the director, the board may  
8 designate a qualified person to perform the duties of the office as acting  
9 director. The director shall furnish the board with such information or  
10 reports governing the operation of the authority as the board may from  
11 time to time require.

12 **SECTION 28.** In Colorado Revised Statutes, **amend** 31-4-304 as  
13 follows:

14 **31-4-304. Appointment of officers - compensation.** The board  
15 of trustees shall appoint a clerk, treasurer, and town attorney, or shall  
16 provide by ordinance for the election of such officers, and may appoint  
17 such other officers, including a town administrator, as it deems necessary  
18 for the good government of the corporation, and it shall prescribe by  
19 ordinance their duties when the same are not defined by law and the  
20 compensation or fees they are entitled to receive for their services. The  
21 board of trustees may require ~~of them an oath of office and~~ OFFICERS TO  
22 TAKE AN OATH OR AFFIRMATION IN ACCORDANCE WITH SECTION  
23 24-12-101 AND FILE a bond, with surety, for the faithful discharge of their  
24 duties. The election of officers shall be at the regular election, and no  
25 appointment of any officer shall continue beyond thirty days after  
26 compliance with section 31-4-401 by the members of the succeeding  
27 board of trustees.

1           **SECTION 29.** In Colorado Revised Statutes, **amend** 31-4-401 as  
2 follows:

3           **31-4-401. Oath or affirmation of officers - bonds - waiver -**  
4 **declaring office vacant.** (1) All officers elected or appointed in any  
5 municipality shall take an oath or affirmation ~~administered by the~~  
6 ~~municipal judge, clerk, or other person who is designated by the~~  
7 ~~governing body or who is authorized by law to administer oaths, to~~  
8 ~~support the constitution of the United States and the state constitution~~ IN  
9 ACCORDANCE WITH SECTION 24-12-101.

10           (2) The governing body of any city or town may require, from the  
11 treasurer and such other officers as it determines proper, a bond, with  
12 proper penalty and surety, for the care and disposition of municipal funds  
13 in their hands and the faithful discharge of the duties of their offices.  
14 Such governing body has the power to declare vacant the office of any  
15 person appointed or elected to any office who fails to take ~~the~~ AN oath of  
16 ~~office~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101 or give  
17 bond when required within ten days after he OR SHE has been notified of  
18 his OR HER appointment or election, and it shall proceed to appoint his OR  
19 HER successor as in other cases of vacancy.

20           **SECTION 30.** In Colorado Revised Statutes, **amend** 32-1-901 as  
21 follows:

22           **32-1-901. Oath or affirmation and bond of directors.** (1) Each  
23 director ~~within thirty days after his or her election or appointment to fill~~  
24 ~~a vacancy, except for good cause shown, shall appear before an officer~~  
25 ~~authorized to administer oaths and~~ SHALL take an oath that he or she will  
26 ~~faithfully perform the duties of his or her office as required by law and~~  
27 ~~will support the constitution of the United States, the constitution of the~~

1 ~~state of Colorado, and the laws made pursuant thereto~~ OR AFFIRMATION  
2 IN ACCORDANCE WITH SECTION 24-12-101. When an election is cancelled  
3 in whole or in part pursuant to section 1-13.5-513, ~~C.R.S.~~, each director  
4 who was declared elected shall take ~~the~~ AN oath ~~required by this~~  
5 ~~subsection (1) within thirty days after the date of the regular election,~~  
6 ~~except for good cause shown. The oath may be administered by the~~  
7 ~~county clerk and recorder, by the clerk of the court, by any person~~  
8 ~~authorized to administer oaths in this state, or by the chairman of the~~  
9 ~~board and shall be filed with the clerk of the court and with the division~~  
10 OR AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101.

11 (2) ~~At the time of filing said oath, there shall also be filed for each~~  
12 ~~director an individual, schedule, or blanket surety~~ EACH DIRECTOR SHALL  
13 FILE A bond at the expense of the special district, in an amount determined  
14 by the board of not less than one thousand dollars each, conditioned upon  
15 the faithful performance of his OR HER duties as director.

16 (3) If any director fails to take ~~the~~ AN oath OR AFFIRMATION IN  
17 ACCORDANCE WITH SECTION 24-12-101 or furnish the requisite bond  
18 within the period allowed, except for good cause shown, his OR HER  
19 office shall be deemed vacant, and the vacancy thus created shall be filled  
20 in the same manner as other vacancies in the office of director.

21 **SECTION 31.** In Colorado Revised Statutes, 35-70-105, **amend**  
22 (5)(e)(II) as follows:

23 **35-70-105. Hearing on petition - election.** (5) (e) (II) The  
24 candidates, according to the number of supervisors to be elected,  
25 receiving the most votes cast shall be elected. The supervisors elected  
26 shall take ~~office upon the taking of~~ an oath OR AFFIRMATION IN  
27 ACCORDANCE WITH SECTION 24-12-101 and, if required by the state or

1 local board, ~~the filing of~~ FILE a bond in the same manner as specified in  
2 section 32-1-901. ~~C.R.S.~~ Failure to take ~~the~~ AN oath OR AFFIRMATION IN  
3 ACCORDANCE WITH SECTION 24-12-101 or TO furnish a bond, if required,  
4 except for good cause shown, shall create a vacancy in the office, and the  
5 vacancy shall be filled by the next candidate receiving the highest number  
6 of votes in the case of a new district or by the remaining supervisors as  
7 specified in section 35-70-107 (4).

8 **SECTION 32.** In Colorado Revised Statutes, **amend** 37-3-102 as  
9 follows:

10 **37-3-102. Oath or affirmation - organization.** Each director  
11 ~~before entering upon his or her official duties,~~ shall take ~~and subscribe to~~  
12 ~~an oath before an officer authorized to administer oaths, that the director~~  
13 ~~will honestly, faithfully, and impartially perform the duties of his or her~~  
14 ~~office and that he or she will not be interested directly or indirectly in any~~  
15 ~~contract let by said district, which oath shall be filed in the office of the~~  
16 ~~clerk of said court in the original case. Upon taking the oath, the~~ OR  
17 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101. THE board of  
18 directors shall choose one of its number as ~~chairman~~ CHAIRPERSON of the  
19 board and president of the district and shall elect some suitable person  
20 secretary of the board and of the district who may or may not be a  
21 member of the board. Such board shall adopt a seal and shall keep in a  
22 visual text format that may be transmitted electronically a record of all of  
23 its proceedings, minutes of all meetings, certificates, contracts, bonds  
24 given by employees, and corporate acts, which shall be open to the  
25 inspection of all owners of property in the district as well as to all other  
26 interested parties.

27 **SECTION 33.** In Colorado Revised Statutes, **amend** 37-21-106

1 as follows:

2 **37-21-106. Directors to qualify.** ~~Within ten days after receiving~~  
3 ~~a certificate of election as provided in section 37-21-124,~~ Each of said  
4 ~~directors~~ DIRECTOR shall take ~~and subscribe the official~~ AN oath ~~and file~~  
5 ~~the same together with his~~ OR AFFIRMATION IN ACCORDANCE WITH  
6 SECTION 24-12-101 AND FILE THE DIRECTOR'S official bond in the office  
7 of the county clerk and recorder of the county where the organization of  
8 the district was effected. ~~and thereupon assume the duties of his office.~~

9 **SECTION 34.** In Colorado Revised Statutes, **amend** 37-31-115  
10 as follows:

11 **37-31-115. Canvass of vote - certificate of election.** Within  
12 seven days after said election, the board shall meet at the office of the  
13 drainage district for the purpose of canvassing the vote cast at said  
14 election, and shall issue a certificate of election to the candidate receiving  
15 the highest number of votes for said office, and shall file a statement of  
16 the result of said election in the clerk and recorder's office of Mesa  
17 county, Colorado. ~~Within ten days after receiving a certificate of election,~~  
18 The director certified to be elected shall take ~~and subscribe the official~~ AN  
19 oath ~~and file the same, together with his official bond, in the office of the~~  
20 ~~county clerk and recorder of Mesa county, Colorado, and thereupon~~  
21 ~~assume the duties of his office~~ OR AFFIRMATION IN ACCORDANCE WITH  
22 SECTION 24-12-101.

23 **SECTION 35.** In Colorado Revised Statutes, 37-41-106, **amend**  
24 (2) as follows:

25 **37-41-106. Directors - election - term.** (2) ~~Within ten days~~ After  
26 receiving their certificates of election provided for in section 37-41-112  
27 (2), said officers shall take ~~and subscribe the official~~ AN oath ~~and file the~~

1 ~~same in the office of the county clerk and recorder wherein the~~  
2 ~~organization was effected and on January 1 following shall assume the~~  
3 ~~duties of their respective offices~~ OR AFFIRMATION IN ACCORDANCE WITH  
4 SECTION 24-12-101. Each member of the board of directors shall execute  
5 an official bond in the sum of three thousand dollars, which bond shall be  
6 approved by the county judge of the county wherein such organization  
7 was effected, and shall be recorded in the office of the county clerk and  
8 recorder thereof. Such official bond may be signed by a surety company  
9 authorized to do business in the state of Colorado, in which case the  
10 district shall be liable for and shall pay premium on said bond. All official  
11 bonds shall be in THE form prescribed by law for official bonds for county  
12 officials; except that the obligee named in said bonds shall be to the  
13 district and shall be filed with the county clerk and recorder at the same  
14 time as the filing of the oath OR AFFIRMATION provided for in this section.

15 **SECTION 36.** In Colorado Revised Statutes, 37-44-126, **amend**  
16 (2) as follows:

17 **37-44-126. Election of officers - oath or affirmation - bond.**  
18 (2) ~~Within ten days~~ After receiving their certificates of election provided  
19 for in section 37-44-135, said officers shall take ~~and subscribe the official~~  
20 ~~AN oath and file the same in the office of the county clerk and recorder~~  
21 ~~wherein the organization was effected and, January 1 following, shall~~  
22 ~~assume the duties of their respective offices~~ OR AFFIRMATION IN  
23 ACCORDANCE WITH SECTION 24-12-101. Each member of the board of  
24 directors shall execute an official bond in the sum of five thousand  
25 dollars, which bond shall be approved by the judge of the district court of  
26 the county wherein such organization was effected and shall be filed in  
27 the office of the county clerk and recorder thereof. All official bonds shall

1 be in THE form prescribed by law for official bonds for county  
2 commissioners; except that the obligee named in said bonds shall be the  
3 internal improvement district and shall be filed with the county clerk and  
4 recorder at the same time as the filing of the oath OR AFFIRMATION  
5 required by this section.

6 <{Section 37-44-130 is not included in this draft. That section applies  
7 to oaths of election judges and could not be adapted to meet all the  
8 requirements of Section 24-12-101.}>

9 SECTION 37. In Colorado Revised Statutes, 37-45-115, **amend**  
10 (1) as follows:

11 **37-45-115. Organization of the board of directors.** (1) ~~Before~~  
12 ~~entering upon his official duties~~ Each director shall take and subscribe to  
13 an oath ~~before an officer authorized to administer oaths that he will~~  
14 ~~support the constitutions of the United States and of the state of Colorado~~  
15 ~~and will honestly, faithfully, and impartially perform the duties of his~~  
16 ~~office and that he will not be interested directly or indirectly in any~~  
17 ~~contract let by said district, which oath shall be filed in the office of the~~  
18 ~~clerk of said court in the original case~~ OR AFFIRMATION IN ACCORDANCE  
19 WITH SECTION 24-12-101.

20 SECTION 38. In Colorado Revised Statutes, **amend** 37-46-106  
21 as follows:

22 **37-46-106. Vacancies - secretary and treasurer.** The office of  
23 director shall become vacant when any member ceases to reside in the  
24 county from which ~~he~~ THE DIRECTOR was appointed. In the event a  
25 vacancy occurs in said office by reason of death, resignation, removal, or  
26 otherwise, it shall be filled by the board of county commissioners of the  
27 county from which said member originally came. ~~Before entering upon~~

1 ~~the discharge of his duties,~~ Each director shall take an oath to support and  
2 defend the constitutions of the United States and of the state of Colorado  
3 and to impartially, without fear or favor, discharge the duties of a director  
4 of said district OR AFFIRMATION IN ACCORDANCE WITH SECTION  
5 24-12-101. The board of directors of said district shall appoint a secretary  
6 and a treasurer. The same individual may at the election of the board hold  
7 both of said offices. The board shall likewise hire such other employees,  
8 including engineers and attorneys, as may be required to properly transact  
9 the business of the district, and said board is authorized to provide for the  
10 compensation of the secretary and treasurer and other appointees. The  
11 treasurer shall be required by the board to give bond with corporate surety  
12 in such amount as the board may fix and which it deems sufficient to  
13 protect the funds in the hands of the treasurer or under ~~his~~ THE  
14 TREASURER'S control. Such bond is subject to the approval of the board.

15 **SECTION 39.** In Colorado Revised Statutes, **amend** 37-47-106  
16 as follows:

17 **37-47-106. Vacancy in office of director.** The office of director  
18 shall become vacant when any member ceases to reside in the county  
19 from which ~~he~~ THE DIRECTOR was appointed. In the event a vacancy  
20 occurs in said office by reason of death, resignation, removal, or  
21 otherwise, it shall be filled by the board of county commissioners of the  
22 county from which said member originally came. ~~Before entering upon~~  
23 ~~the discharge of his duties,~~ Each director shall take an oath to support and  
24 defend the constitutions of the United States and of the state of Colorado  
25 and to impartially, without fear or favor, discharge the duties of a director  
26 of said district OR AFFIRMATION IN ACCORDANCE WITH SECTION  
27 24-12-101. The board of directors of said district shall appoint a secretary

1 and a treasurer. The same individual, at the election of the board, may  
2 hold both of said offices. The board shall likewise hire such other  
3 employees, including engineers and attorneys, as may be required to  
4 properly transact the business of the district, and said board is authorized  
5 to provide for the compensation of the secretary and treasurer and other  
6 appointees. The treasurer shall be required by the board to give bond with  
7 corporate surety in such amount as the board may fix and which it deems  
8 sufficient to protect the funds in the hands of the treasurer or under his  
9 THE TREASURER'S control. Such bond is subject to the approval of the  
10 board.

11 **SECTION 40.** In Colorado Revised Statutes, 37-48-103, **amend**  
12 (2) as follows:

13 **37-48-103. Board of directors.** (2) The office of a director shall  
14 become vacant when any director ceases to reside in the county from  
15 which ~~he~~ THE DIRECTOR was appointed or when declared vacant by a  
16 majority vote of all of the members of the board when any director has  
17 failed to attend two consecutive regular meetings without having been  
18 excused from attendance by the president. In the event a vacancy occurs  
19 in said office by reason of death, resignation, removal, or otherwise, it  
20 shall be filled for the remainder of the unexpired term by the board of  
21 county commissioners of the county from which said director originally  
22 came. ~~Before entering upon the discharge of his duties, Each director~~  
23 ~~shall take an oath to support and defend the constitutions of the United~~  
24 ~~States and of the state of Colorado and to impartially, without fear or~~  
25 ~~favor, discharge the duties of a director of said district~~ OR AFFIRMATION  
26 IN ACCORDANCE WITH SECTION 24-12-101.

27 **SECTION 41.** In Colorado Revised Statutes, 37-50-104, **amend**

1 (2) as follows:

2           **37-50-104. Board of directors.** (2) The office of a director shall  
3 become vacant when the director ceases to reside in the county or ground  
4 water management district from which ~~he or she~~ THE DIRECTOR was  
5 appointed, or in the case of the director appointed by the Colorado ground  
6 water commission when the director ceases to reside in the district or is  
7 no longer a member of the Colorado ground water commission, or when  
8 declared vacant by a majority vote of all of the members of the board  
9 when a director has failed to attend two consecutive regular meetings  
10 without having been excused from attendance by the president. If a  
11 vacancy occurs in the office by reason of death, resignation, removal, or  
12 otherwise, it shall be filled for the remainder of the unexpired term by the  
13 board of county commissioners of the county, or the ground water  
14 management district from which the director was originally appointed.  
15 ~~Before entering upon the discharge of his or her duties,~~ Each director  
16 shall take an oath ~~to support and defend the constitutions of the United~~  
17 ~~States and of this state and to impartially, without fear or favor, discharge~~  
18 ~~the duties of a director of the district~~ OR AFFIRMATION IN ACCORDANCE  
19 WITH SECTION 24-12-101.

20           **SECTION 42.** In Colorado Revised Statutes, 37-60-104, **amend**  
21 (2) as follows:

22           **37-60-104. Personnel.** (2) The appointed members of said board  
23 shall be chosen geographically as follows: Four from the western slope  
24 and five from the eastern slope; but, of the five members to be appointed  
25 from the eastern slope, one shall be from the Rio Grande drainage basin,  
26 one from the North Platte drainage basin, one from the Arkansas drainage  
27 basin, one from the South Platte drainage basin outside of the city and

1 county of Denver, and one from the city and county of Denver and  
2 intimately familiar with its water problems; and that of the four members  
3 to be appointed from the western slope, one shall be from the  
4 Yampa-White drainage basin, one from the main Colorado drainage  
5 basin, one from the Gunnison-Uncompahgre drainage basin, and one  
6 from the San Miguel-Dolores-San Juan drainage basins. ~~Before entering~~  
7 ~~upon the discharge of his duties,~~ Each appointed member shall ~~make,~~  
8 ~~subscribe, and file with the secretary of state the~~ TAKE AN oath ~~prescribed~~  
9 ~~by the constitution~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION  
10 24-12-101.

11 **SECTION 43.** In Colorado Revised Statutes, **amend** 37-90-126  
12 as follows:

13 **37-90-126. Management district - directors - qualifications -**  
14 **oath or affirmation - bond - vacancies.** The members of the board of  
15 directors shall meet the qualifications established in section 37-90-121  
16 (1)(b). Each member of the board shall take an oath ~~of office~~ OR  
17 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101, shall give bond  
18 in the sum of five thousand dollars conditioned that he or she shall  
19 faithfully perform the duties of director and of such further office to  
20 which he or she may be elected in such district, and shall account for all  
21 funds or property coming into his or her hands as such director or other  
22 officer. Such bonds shall run to the district, shall be signed by a surety  
23 approved by the ground water commission, and shall be filed and  
24 recorded in the office of the state engineer. When such bond is so filed  
25 and approved, such person so elected shall take and hold office until his  
26 or her successor is elected and qualified. When a vacancy occurs on the  
27 board, such vacancy shall be filled by the remaining members of the

1 board.

2 **SECTION 44.** In Colorado Revised Statutes, 37-92-204, **amend**  
3 (3) as follows:

4 **37-92-204. Water clerks - duties.** (3) Subject to the approval of  
5 the water judge, the water clerk in each division shall employ such  
6 assistants and deputies as may be necessary for him OR HER to carry out  
7 his OR HER duties. The water clerk, assistants, and deputies shall ~~execute~~  
8 ~~such~~ TAKE AN oath of office and OR AFFIRMATION IN ACCORDANCE WITH  
9 SECTION 24-12-101 AND FILE such bond as may be prescribed by the  
10 supreme court.

11 **SECTION 45.** In Colorado Revised Statutes, 37-95-104, **amend**  
12 (4) as follows:

13 **37-95-104. Establishment of authority - board of directors -**  
14 **removal - organization - compensation - dissolution.** (4) Each member  
15 may be removed from office by the governor for cause, after a public  
16 hearing, and may be suspended by the governor pending the completion  
17 of such hearing. Each member ~~before entering upon his duties,~~ shall take  
18 ~~and subscribe~~ an oath to perform the duties of his office faithfully,  
19 ~~impartially, and justly to the best of his ability.~~ A record of all such oaths  
20 ~~shall be filed in the office of the secretary of state~~ OR AFFIRMATION IN  
21 ACCORDANCE WITH SECTION 24-12-101.

22 **SECTION 46.** In Colorado Revised Statutes, **amend** 38-36-113  
23 as follows:

24 **38-36-113. Examiner of titles - compensation - oath or**  
25 **affirmation - bond.** The judges of the district court in and for the judicial  
26 districts for which they are elected or appointed shall appoint a competent  
27 attorney in each county within their district as examiner of titles and legal

1 adviser of the registrar. The examiner of titles in each county shall be paid  
2 in each case by the applicant such compensation as the judge of the  
3 district court determines. Every examiner of titles shall ~~before entering~~  
4 ~~upon the duties of his office, take and subscribe~~ an oath of office to  
5 ~~faithfully and impartially perform the duties of his office, OR~~  
6 AFFIRMATION IN ACCORDANCE WITH SECTION 24-12-101 and shall also  
7 give a bond in such amount and with such sureties as shall be approved  
8 by the judge of the district court, payable in like manner and with like  
9 conditions as required of the registrar. A copy of the bond shall be entered  
10 upon the records of said court and the original shall be filed with the  
11 registrar.

12           **SECTION 47.** In Colorado Revised Statutes, **amend** 38-44-105  
13 as follows:

14           **38-44-105. Oath or affirmation - assistants.** The commissioners  
15 so appointed shall ~~subscribe and file with the clerk, within ten days from~~  
16 ~~the date of their appointment, TAKE~~ an oath for the faithful and impartial  
17 ~~discharge of their duties~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION  
18 24-12-101 and shall have power to appoint all necessary assistants.

19           **SECTION 48.** In Colorado Revised Statutes, 43-1-106, **amend**  
20 (5) as follows:

21           **43-1-106. Transportation commission - powers and duties -**  
22 **repeal.** (5) All members of the commission ~~before entering upon the~~  
23 ~~duties of their office, shall take the AN oath prescribed by the constitution~~  
24 ~~of this state for state officers and file the same in the office of the~~  
25 ~~secretary of state~~ OR AFFIRMATION IN ACCORDANCE WITH SECTION  
26 24-12-101.

27           **SECTION 49. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly (August  
3 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
4 referendum petition is filed pursuant to section 1 (3) of article V of the  
5 state constitution against this act or an item, section, or part of this act  
6 within such period, then the act, item, section, or part will not take effect  
7 unless approved by the people at the general election to be held in  
8 November 2019 and, in such case, will take effect on the date of the  
9 official declaration of the vote thereon by the governor.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
10.10.17

Bill 1C-ii

LLS NO. 18-0159.01 Kip Kolkmeier x4510

COMMITTEE BILL

Statutory Revision Committee

**BILL TOPIC:** "Repeal Obsolete County Bond & Oath Provisions"

**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF OBSOLETE REQUIREMENTS REGARDING**  
102 **QUALIFICATIONS OF PERSONS SERVING COUNTY OFFICIALS.**

**Bill Summary**

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

**Statutory Revision Committee. Section 1** of the bill repeals the requirement that a person providing surety on an official bond of a county officer be a real property owner in the county. **Section 2** repeals the process for a board of county commissioners to require a surety on an official bond of a county officer to file a statement of assets and liabilities. **Section 3** repeals the process for selecting a replacement

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

coroner juror and requiring the panel of jurors to swear a talesmen oath.

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

2           **SECTION 1.** In Colorado Revised Statutes, **repeal** 24-13-122 as  
3 follows:

4           **24-13-122. Freeholders only acceptable as surety.** ~~No~~  
5 ~~individual shall be accepted as a surety on any official bond of any county~~  
6 ~~officer unless he is a freeholder of the county in which said officer may~~  
7 ~~be elected or appointed to office.~~

8           **SECTION 2.** In Colorado Revised Statutes, **repeal** 24-13-123 as  
9 follows:

10           **24-13-123. Statement of surety - contents.** ~~Boards of county~~  
11 ~~commissioners, in their respective counties, at any time, whether before~~  
12 ~~or after the approval of the official bond of any county officer, may~~  
13 ~~require any one or more of the sureties on said bond, within six days after~~  
14 ~~the service upon him of a notice in writing to that effect, to make out,~~  
15 ~~subscribe, and deposit in the office of the county clerk and recorder of~~  
16 ~~such county a statement in writing, verified by his affidavit, containing a~~  
17 ~~list of all property owned by said surety in the state of Colorado, its~~  
18 ~~character, in what county situate, its estimated value, and encumbrances~~  
19 ~~thereon, if any, and also the aggregate amount of indebtedness then owing~~  
20 ~~by him or by any other person for the payment of which he was then~~  
21 ~~liable as surety, and any such surety making a false oath or affirmation in~~  
22 ~~such case is guilty of perjury in the second degree and is liable to~~  
23 ~~indictment and prosecution therefor.~~

24           **SECTION 3.** In Colorado Revised Statutes, **repeal** 30-10-607 as  
25 follows:

1           **30-10-607. Talesmen - oath.** ~~If any juror fails to appear, the~~  
2           ~~coroner shall immediately summon the proper number from the~~  
3           ~~bystanders, and proceed to impanel them, and administer the following~~  
4           ~~oath in substance: "You do solemnly swear, or affirm, that you will~~  
5           ~~diligently inquire, and true presentment make, when, how, and by what~~  
6           ~~means the person about whom this inquest is being held came to his~~  
7           ~~death, according to your knowledge and the evidence given you, so help~~  
8           ~~you God."~~

9           **SECTION 4.** In Colorado Revised Statutes, **amend** 24-13-124 as  
10          follows:

11          **24-13-124. Approval or rejection of bonds.** Nothing in this  
12          ~~section or sections 24-13-122 and 24-13-123~~ shall be construed to  
13          abridge, limit, or restrict the powers vested by law in boards of county  
14          commissioners to approve or reject, in their discretion, the bonds of  
15          county officers in their respective counties, to accept or refuse any surety  
16          offered thereon, and to require a new bond to be given in any case when  
17          they may deem the bond of any county officer insufficient from any cause  
18          for the public security.

19          **SECTION 5. Act subject to petition - effective date.** This act  
20          takes effect at 12:01 a.m. on the day following the expiration of the  
21          ninety-day period after final adjournment of the general assembly (August  
22          8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
23          referendum petition is filed pursuant to section 1 (3) of article V of the  
24          state constitution against this act or an item, section, or part of this act  
25          within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2019 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
10.10.17

BILL 1C-iii

LLS NO. 18-0160.01 Kip Kolkmeier x4510

COMMITTEE BILL

Statutory Revision Committee

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**BILL TOPIC: "Public Official Personal Surety Bonds"**

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**A BILL FOR AN ACT**

101 **CONCERNING PUBLIC OFFICIAL PERSONAL SURETY BONDS, AND, IN**  
102 **CONNECTION THEREWITH, REPEALING OBSOLETE PROVISIONS**  
103 **AND AUTHORIZING THE PURCHASE OF INSURANCE IN LIEU OF**  
104 **PUBLIC OFFICIAL PERSONAL SURETY BONDS.**

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**Bill Summary**

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

**Statutory Revision Committee. Section 1** of the bill repeals an obsolete provision regarding personal surety bonds for executive agency personnel. **Sections 2 through 4** repeal obsolete requirements that a

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

person providing a personal surety bond to a county officer be a property owner in the county and, if requested, provide a statement of assets. **Section 5** authorizes a public entity to purchase insurance in lieu of a public official personal surety bond and states the requirements for the insurance.

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

2           **SECTION 1.** In Colorado Revised Statutes, **repeal** 24-2-104 as  
3 follows:

4           **24-2-104. Bonds.** ~~The head of each principal department or any~~  
5 ~~subordinate officer or employee under the same who may be required to~~  
6 ~~handle state funds shall give bond executed by a responsible surety~~  
7 ~~company, authorized to do business within the state, in such sum as may~~  
8 ~~be fixed by law or, in the absence of any such law, such as shall be fixed~~  
9 ~~by the governor as he deems adequate to safeguard the state funds. All~~  
10 ~~such bonds shall be conditioned upon the faithful performance by such~~  
11 ~~head of department, officer, or employee of his duties and, when~~  
12 ~~approved by the governor, shall be filed in the office of the secretary of~~  
13 ~~state. The premiums on all such bonds shall be paid as an ordinary~~  
14 ~~expense of the principal department or the division, section, or unit under~~  
15 ~~the department to which such head of department, officers, or employees~~  
16 ~~are appointed, and due appropriation therefor shall be made by the~~  
17 ~~general assembly.~~

18           **SECTION 2.** In Colorado Revised Statutes, **repeal** 24-13-122 as  
19 follows:

20           **24-13-122. Freeholders only acceptable as surety.** ~~No~~  
21 ~~individual shall be accepted as a surety on any official bond of any county~~  
22 ~~officer unless he is a freeholder of the county in which said officer may~~  
23 ~~be elected or appointed to office.~~

1           **SECTION 3.** In Colorado Revised Statutes, **repeal** 24-13-123 as  
2 follows:

3           **24-13-123. Statement of surety - contents.** ~~Boards of county~~  
4 ~~commissioners, in their respective counties, at any time, whether before~~  
5 ~~or after the approval of the official bond of any county officer, may~~  
6 ~~require any one or more of the sureties on said bond, within six days after~~  
7 ~~the service upon him of a notice in writing to that effect, to make out,~~  
8 ~~subscribe, and deposit in the office of the county clerk and recorder of~~  
9 ~~such county a statement in writing, verified by his affidavit, containing a~~  
10 ~~list of all property owned by said surety in the state of Colorado, its~~  
11 ~~character, in what county situate, its estimated value, and encumbrances~~  
12 ~~thereon, if any, and also the aggregate amount of indebtedness then owing~~  
13 ~~by him or by any other person for the payment of which he was then~~  
14 ~~liable as surety; and any such surety making a false oath or affirmation in~~  
15 ~~such case is guilty of perjury in the second degree and is liable to~~  
16 ~~indictment and prosecution therefor.~~

17           **SECTION 4.** In Colorado Revised Statutes, **amend** 24-13-124 as  
18 follows:

19           **24-13-124. Approval or rejection of bonds.** Nothing in this  
20 section ~~or sections 24-13-122 and 24-13-123~~ shall be construed to  
21 abridge, limit, or restrict the powers vested by law in boards of county  
22 commissioners to approve or reject, in their discretion, the bonds of  
23 county officers in their respective counties, to accept or refuse any surety  
24 offered thereon, and to require a new bond to be given in any case when  
25 they may deem the bond of any county officer insufficient from any cause  
26 for the public security.

27           **SECTION 5.** In Colorado Revised Statutes, **amend** 24-14-102 as

1 follows:

2 **24-14-102. Authorize purchase of liability insurance and**  
3 **insurance in lieu of a public official personal surety bond -**  
4 **definitions.** (1) The head of a department of the state of Colorado, with  
5 the approval of the governor or, in the case of the county or city and  
6 county, the chief executive officer or board of county commissioners,  
7 subject to appropriations being available therefor, is hereby authorized to  
8 procure insurance, through the department of personnel as provided in the  
9 "Procurement Code", articles 101 to 112 of this ~~title~~ TITLE 24, for the  
10 purpose of insuring its officers, employees, and agents against any  
11 liability, other than a liability ~~which~~ THAT may be insured against under  
12 ~~the provisions of~~ the "Workers' Compensation Act of Colorado",  
13 ARTICLES 40 THROUGH 47 OF TITLE 8, for injuries or damages resulting  
14 from their negligence or other tortious conduct during the course of their  
15 service or employment. Counties or cities and counties are authorized to  
16 insure their officers, employees, and agents against similar liabilities.

17 (2) (a) WHENEVER A PERSON IS REQUIRED BY LAW TO PROVIDE OR  
18 PURCHASE A PERSONAL SURETY BOND AS A CONDITION OF SERVING IN A  
19 PUBLIC ELECTED, APPOINTED, OR EMPLOYED POSITION, THE PUBLIC ENTITY  
20 FOR WHICH THE PERSON WILL SERVE MAY, IN LIEU OF THE REQUIRED BOND,  
21 PURCHASE INSURANCE TO PROTECT THE PUBLIC ENTITY FROM ANY  
22 MALFEASANCE, MISFEASANCE, OR NONFEASANCE BY THE PERSON.  
23 HOWEVER, THIS SECTION DOES NOT APPLY TO THE BOND REQUIRED OF THE  
24 STATE TREASURER PURSUANT TO SECTION 24-22-101.

25 (b) IF A PUBLIC ENTITY PURCHASES INSURANCE IN LIEU OF A  
26 PERSONAL SURETY BOND PURSUANT TO THIS SUBSECTION (2), THE PUBLIC  
27 OFFICIAL OR EMPLOYEE IS RELIEVED OF ALL STATUTORY REQUIREMENTS

1 RELATED TO THE PERSONAL SURETY BOND, INCLUDING REQUIREMENTS AS  
2 TO THE TYPE, PROVIDER, FORM, AMOUNT, OR FILING OF THE PERSONAL  
3 SURETY BOND. THE PUBLIC ENTITY IS LIKewise RELIEVED OF ANY  
4 STATUTORY REQUIREMENTS RELATED TO THE PERSONAL SURETY BOND OF  
5 THE PUBLIC OFFICIAL OR EMPLOYEE.

6 (c) INSURANCE PURCHASED PURSUANT TO THIS SUBSECTION (2)  
7 MUST BE PURCHASED FROM AN INSURANCE PROVIDER LICENSED IN THE  
8 STATE OF COLORADO. THE PUBLIC ENTITY SHALL PAY THE PREMIUMS FOR  
9 THE INSURANCE.

10 (d) AS USED IN THIS SUBSECTION (2), UNLESS THE CONTEXT  
11 OTHERWISE REQUIRES:

12 (I) "PERSONAL SURETY BOND" MEANS A BOND, SURETY, SURETY  
13 BOND, SURETY COMPANY BOND, CORPORATE SURETY BOND, CORPORATE  
14 FIDELITY BOND, INDIVIDUAL BOND, SCHEDULE BOND, BLANKET BOND, OR  
15 OFFICIAL BOND.

16 (II) "PUBLIC ENTITY" MEANS THE STATE OF COLORADO, PRINCIPAL  
17 DEPARTMENTS LISTED IN SECTION 24-1-110, PUBLIC COLLEGES AND  
18 UNIVERSITIES, STATE OR LOCAL COMMISSIONS, STATE OR LOCAL  
19 AUTHORITIES, COUNTIES, CITIES, CITIES AND COUNTIES, TOWNS,  
20 MUNICIPALITIES, DISTRICTS, SPECIAL DISTRICTS, BOARDS, AND SCHOOL  
21 DISTRICTS.

22 **SECTION 6. Act subject to petition - effective date.** This act  
23 takes effect at 12:01 a.m. on the day following the expiration of the  
24 ninety-day period after final adjournment of the general assembly (August  
25 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
26 referendum petition is filed pursuant to section 1 (3) of article V of the  
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect  
2 unless approved by the people at the general election to be held in  
3 November 2019 and, in such case, will take effect on the date of the  
4 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**BILL 1D**

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LLS NO. 18-####.## Jane Ritter x4342

**COMMITTEE BILL**

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**Statutory Revision Committee**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF UNFUNDED PROGRAMS IN THE**  
102 **DEPARTMENT OF HUMAN SERVICES.**

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**Bill Summary**

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

**Statutory Revision Committee.** The bill repeals programs, funds, and related reports established in the department of human services that had funding repealed 7 or more years ago or are otherwise obsolete. The bill makes conforming amendments.

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** 19-3-208.5 as  
3 follows:

4 **19-3-208.5. Pilot program - legislative declaration - child**  
5 **welfare - mental health services - rules - repeal.** ~~(1) The general~~  
6 ~~assembly hereby finds and declares that:~~

7 ~~(a) Child abuse and neglect is a serious and reprehensible problem~~  
8 ~~in our society and state;~~

9 ~~(b) A child who has been abused or neglected is at a significantly~~  
10 ~~increased risk of suffering from mental health or behavioral issues;~~

11 ~~(c) If a child who has been abused or neglected does not receive~~  
12 ~~treatment for mental health or behavioral issues, those issues may~~  
13 ~~significantly limit that child's quality of life and future productivity;~~

14 ~~(d) A child who has been abused or neglected and who is not~~  
15 ~~provided with treatment for mental health or behavioral issues has a~~  
16 ~~significantly increased risk of involvement in substance abuse, crime, and~~  
17 ~~teen pregnancy and is more likely to have lower performance results on~~  
18 ~~standardized tests, to repeat a grade, or to experience depression or~~  
19 ~~suicidal behavior;~~

20 ~~(e) The social and medical issues that may arise in the future for~~  
21 ~~a child who has been abused or neglected and who has not received~~  
22 ~~treatment for mental health or behavioral issues will be more likely to~~  
23 ~~result in a substantial increase in costs to the state for juvenile and~~  
24 ~~correctional facilities, alcohol and drug abuse programs, and loss of~~  
25 ~~productivity;~~

26 ~~(f) Providing mental health screenings, evaluations, and mental~~

1 health services is necessary to creating the best opportunity for a child  
2 who is the victim of child abuse or neglect to have a bright future and  
3 lead a productive life;

4 (g) Including mental health screenings, evaluations, and mental  
5 health services for siblings of children who are the subject of a  
6 substantiated case of abuse or neglect may increase the likelihood of more  
7 effective and positive outcomes for everyone involved; and

8 (h) Establishing a pilot program concerning child welfare and  
9 mental health services will provide the opportunity to evaluate the  
10 effectiveness of providing mental health screenings and evaluations and  
11 mental health services for children from four through ten years of age  
12 who are the subject of a substantiated case of abuse or neglect and for  
13 siblings to whom they are related.

14 (2) There is hereby created the child welfare and mental health  
15 services pilot program, referred to in this section as the "pilot program",  
16 in the state department of human services. The purpose of the pilot  
17 program is to provide mental health screenings and evaluations and  
18 mental health services for any child who is from four through ten years  
19 of age and who is the subject of a case of abuse or neglect that has been  
20 substantiated by a county department of social services and to evaluate  
21 the effectiveness of providing such services. The pilot program shall  
22 provide mental health screenings and evaluations and mental health  
23 services regardless of whether the child remains at home with his or her  
24 parents, is placed in foster or kinship care, or is under court supervision.  
25 The pilot program shall also provide mental health screenings and  
26 evaluations and mental health services to siblings of the abused or  
27 neglected child.

1           ~~(3) Notwithstanding the provisions of subsection (2), any child~~  
2           ~~who is receiving services through the pilot program shall continue to be~~  
3           ~~eligible to receive services through the pilot program after his or her tenth~~  
4           ~~birthday.~~

5           ~~(4) On or before July 1, 2015, the state department of human~~  
6           ~~services shall issue a request for proposals for the selection of a~~  
7           ~~contractor for the development of the pilot program pursuant to this~~  
8           ~~section. The state department of human services shall establish criteria for~~  
9           ~~the selection of the pilot program contractor, including the expertise of~~  
10           ~~the contractor related to the requirements of the pilot program, the~~  
11           ~~capabilities and resources of the contractor necessary to perform the~~  
12           ~~work, and the quality of the application. On or before April 1, 2016, the~~  
13           ~~state department of human services shall promulgate rules necessary to~~  
14           ~~implement the provisions of this section. The rules shall include, but need~~  
15           ~~not be limited to, criteria based upon scientifically rigorous methods for~~  
16           ~~evaluating the effectiveness of the pilot program.~~

17           ~~(5) Beginning on or before July 1, 2016, and ending June 30,~~  
18           ~~2019, the pilot program shall be implemented in a minimum of three~~  
19           ~~Colorado counties or regions selected by the executive director of the~~  
20           ~~state department of human services based upon applications submitted by~~  
21           ~~a department of human or social services for one or more counties, in~~  
22           ~~conjunction with local community mental health centers, and criteria~~  
23           ~~established by the state department, including a commitment of resources~~  
24           ~~by or through the county, the quality of the county's application, and the~~  
25           ~~historical practices and collaborative initiatives of the county.~~

26           ~~(6) The pilot program shall provide the following services and~~  
27           ~~programs:~~

1           ~~(a) Age-appropriate mental health screenings for children and~~  
2 ~~their siblings who meet the criteria described in subsection (2) of this~~  
3 ~~section;~~

4           ~~(b) A mental health evaluation if the mental health screening~~  
5 ~~described in paragraph (a) of this subsection (6) determines the child or~~  
6 ~~his or her sibling needs such an evaluation;~~

7           ~~(c) Mental health services, including evidence-based practices or~~  
8 ~~available practices, in community mental health center settings for~~  
9 ~~children and their siblings based upon the results of the mental health~~  
10 ~~evaluation performed pursuant to paragraph (b) of this subsection (6) and~~  
11 ~~included in the case management plan;~~

12           ~~(d) Referrals to other agencies and programs as appropriate for~~  
13 ~~children and their siblings based upon the results of the mental health~~  
14 ~~evaluation performed pursuant to paragraph (b) of this subsection (6);~~

15           ~~(e) Integrated child welfare and mental health programs for~~  
16 ~~children and their siblings eligible for services through the pilot program;~~  
17 ~~and~~

18           ~~(f) Training programs to provide training and consultation on~~  
19 ~~evidence-based and available practices and the provision of integrated~~  
20 ~~child welfare and community mental health center programs.~~

21           ~~(7) If a child is eligible to receive pilot program services pursuant~~  
22 ~~to subsection (3) of this section and he or she is also eligible to receive~~  
23 ~~public assistance funding for those services through the "Colorado~~  
24 ~~Medical Assistance Act", article 4 of title 25.5, C.R.S., or the "Children's~~  
25 ~~Basic Health Plan Act", article 8 of title 25.5, C.R.S., the pilot program~~  
26 ~~services shall be funded with the public assistance moneys first, with any~~  
27 ~~balance to be funded out of moneys available through the pilot program.~~

1           ~~(8) The state department of human services shall conduct an~~  
2 ~~evaluation of the pilot program based upon the criteria established~~  
3 ~~pursuant to subsection (4) of this section, as well as the costs of the pilot~~  
4 ~~program, and submit a report based on its evaluation to the health and~~  
5 ~~human services committees of the house of representatives and the senate,~~  
6 ~~or any successor committees, on or before January 30, 2019.~~

7           ~~(9) This section is repealed, effective July 1, 2019.~~

8           **SECTION 2.** In Colorado Revised Statutes, **repeal** 26-2-720.5 as  
9 follows:

10           **26-2-720.5. County block grant support fund - created.**

11 ~~(1) The state department shall create a county block grant support fund~~  
12 ~~that shall consist of moneys annually appropriated thereto by the general~~  
13 ~~assembly. Any unexpended moneys remaining in the county block grant~~  
14 ~~support fund at the end of a fiscal year shall be remitted to the Colorado~~  
15 ~~long-term works reserve.~~

16           ~~(2) The state department, with input from the works allocation~~  
17 ~~committee, shall allocate moneys in the county block grant support fund~~  
18 ~~to counties according to criteria and procedures established by the state~~  
19 ~~department and the works allocation committee.~~

20           ~~(3) A county that meets the criteria established by the state~~  
21 ~~department and the works allocation committee pursuant to subsection (2)~~  
22 ~~of this section may request moneys from the county block grant support~~  
23 ~~fund. Priority shall be given to any county that exhausts all moneys~~  
24 ~~available in the county's block grant for the Colorado works program for~~  
25 ~~that fiscal year.~~

26           ~~(4) The state department, with input from the works allocation~~  
27 ~~committee, may allocate moneys to counties out of the county block grant~~

1 support fund during the state fiscal year or at the end of a state fiscal year.

2 (5) ~~The state department shall annually report to the joint budget~~  
3 ~~committee on any allocations made from the county block grant support~~  
4 ~~fund, including the amount requested by each county and the county's~~  
5 ~~reason for requesting the moneys, and the amount allocated to each~~  
6 ~~county and the reasons for the state department's decision regarding each~~  
7 ~~request.~~

8 **SECTION 3.** In Colorado Revised Statutes, 26-2-721, **amend** (1)  
9 and (2) introductory portion; and **repeal** (2)(a)(I) as follows:

10 **26-2-721. Colorado long-term works reserve - creation - use.**

11 (1) ~~There is hereby created~~ The Colorado long-term works reserve,  
12 referred to in this section as the "reserve", ~~that shall consist~~ IS CREATED  
13 AND CONSISTS of unappropriated TANF block grant ~~moneys~~ MONEY, state  
14 general fund ~~moneys~~ MONEY appropriated ~~thereto~~ by the general  
15 assembly, and ~~moneys~~ MONEY transferred ~~thereto~~ pursuant to sections  
16 26-2-714 (5)(a) AND 26-2-716 (4)(b). ~~26-2-720.5 (1), and 26-2-721.3 (1).~~  
17 A county's excess unspent TANF reserves that are transferred to another  
18 county pursuant to section 26-2-714 (5)(a)(I)(B) or (5)(a)(I)(C) ~~shall~~ ARE  
19 not ~~be~~ considered unappropriated TANF block grant ~~moneys~~ MONEY for  
20 purposes of this section. Any excess unspent TANF reserves for state  
21 fiscal year 2009-10 shall be excluded from the Colorado long-term works  
22 reserve and ~~shall~~ be available for transfer to a county pursuant to section  
23 26-2-714 (5)(a)(I)(B).

24 (2) The general assembly, upon request of the state department,  
25 may appropriate the ~~moneys~~ MONEY in the reserve for the purposes of:

26 (a) Implementing the works program, including but not limited to:

27 (I) ~~Funding the Colorado works program maintenance fund~~

1 created in section 26-2-721.3; and

2 **SECTION 4.** In Colorado Revised Statutes, 26-2-804, **amend** (2)  
3 introductory portion; and **repeal** (2)(d) as follows:

4 **26-2-804. Funding - allocation - maintenance of effort.** (2) In  
5 state fiscal years 1998-99 and thereafter, the state department may adjust  
6 the county block grant identified in subsection (1) of this section by  
7 increasing or reducing the amount of such grants based upon factors that  
8 shall include but ARE not be limited to:

9 (d) ~~The fact that the county received funds from the county block~~  
10 ~~grant support fund, created in section 26-2-720.5, in the previous fiscal~~  
11 ~~year for allowable child care expenditures, which may indicate that the~~  
12 ~~previous fiscal year's allocation was insufficient to meet the county's~~  
13 ~~needs.~~

14 **SECTION 5.** In Colorado Revised Statutes, **repeal** 26-2-721.3 as  
15 follows:

16 **26-2-721.3. Colorado works program maintenance fund -**  
17 **creation - use - report.** (1) ~~There is hereby created the Colorado works~~  
18 ~~program maintenance fund, referred to in this section as the "maintenance~~  
19 ~~fund". The maintenance fund shall consist of moneys appropriated thereto~~  
20 ~~by the general assembly from the Colorado long-term works reserve. The~~  
21 ~~moneys in the maintenance fund shall be subject to annual appropriation~~  
22 ~~by the general assembly to the executive director for use in responding to~~  
23 ~~emergency or otherwise unforeseen purposes that are authorized by this~~  
24 ~~part 7 or by federal law and that are necessary for the efficient and~~  
25 ~~effective implementation of the Colorado works program at the state and~~  
26 ~~county levels. Any unexpended moneys remaining in the maintenance~~  
27 ~~fund at the end of a fiscal year shall revert to the Colorado long-term~~

1 works reserve.

2 (2) On or before February 15, 2009, and on or before February 15  
3 each year thereafter, the executive director shall report to the joint budget  
4 committee and the health and human services committees of the senate  
5 and the house of representatives, or any successor committees, concerning  
6 the use of moneys appropriated to the maintenance fund in the preceding  
7 fiscal year.

8 **SECTION 6.** In Colorado Revised Statutes, 26-2-712, **amend**  
9 (2)(b) and (5)(e) as follows:

10 **26-2-712. State department duties - authority.** (2) **County**  
11 **block grant allocation.** (b) ~~Except as provided in section 26-2-720.5,~~  
12 The county block grant ~~shall represent~~ REPRESENTS the total amount that  
13 a county ~~shall receive~~ RECEIVES from the state for the administration and  
14 implementation of the Colorado works program.

15 (5) **Oversight.** In connection with overseeing the works program,  
16 the state department ~~shall have~~ HAS the specific ~~duties~~ DUTY to:

17 (e) Monitor the counties' provision of basic cash assistance grants  
18 pursuant to section 26-2-706.6 and, if necessary due to increased  
19 caseloads or economic downturns, do the following to ensure that the  
20 basic cash assistance grant is provided in a consistent manner statewide:

21 ~~(I) Grant moneys to one or more counties from the county block~~  
22 ~~grant support fund administered pursuant to section 26-2-720.5; or~~

23 ~~(II) If no funds administered pursuant to section 26-2-720.5 are~~  
24 ~~available:~~

25 ~~(A)~~ (I) Request supplemental appropriations from the general  
26 assembly, including but not limited to an appropriation from the Colorado  
27 long-term works reserve created pursuant to section 26-2-721; or

1           ~~(B)~~ (II) Reduce the county block grant of any county that  
2 maintains ~~moneys~~ MONEY in a county reserve account pursuant to section  
3 26-2-714 (5) in order that ~~moneys~~ MONEY may be made available to one  
4 or more counties to avoid the need to reduce or eliminate the basic cash  
5 assistance grant statewide. If the state department makes a reduction in a  
6 county's reserve account pursuant to this ~~sub-subparagraph (B)~~  
7 SUBSECTION (5)(e)(II), the state department shall increase the county's  
8 block grant for the following fiscal year by the amount of the reduction  
9 authorized pursuant to this ~~sub-subparagraph (B)~~ SUBSECTION (5)(e)(II);  
10 or

11           (III) After taking the actions described in ~~subparagraphs (I) and~~  
12 ~~(II) of this paragraph (c)~~ SUBSECTIONS (5)(e)(I) AND (5)(e)(II) OF THIS  
13 SECTION, take any actions necessary to reduce the costs of, or reduce or  
14 eliminate, the basic cash assistance grant statewide.

15           **SECTION 7.** In Colorado Revised Statutes, 26-2-716, **repeal**  
16 (1)(c) as follows:

17           **26-2-716. County duties - appropriations - penalties - hardship**  
18 **extensions - domestic violence extensions - incentives - rules.**  
19 (1) (c) ~~Whenever a county anticipates that it may be financially unable~~  
20 ~~to meet requests for assistance from participants, the county may seek~~  
21 ~~additional moneys from the county block grant support fund administered~~  
22 ~~by the state department pursuant to section 26-2-720.5.~~

23           **SECTION 8. Act subject to petition - effective date.** This act  
24 takes effect at 12:01 a.m. on the day following the expiration of the  
25 ninety-day period after final adjournment of the general assembly (August  
26 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act  
2 within such period, then the act, item, section, or part will not take effect  
3 unless approved by the people at the general election to be held in  
4 November 2018 and, in such case, will take effect on the date of the  
5 official declaration of the vote thereon by the governor.



Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**BILL 1E**

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LLS NO. 18-####.## Jane Ritter x4342

**COMMITTEE BILL**

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**Statutory Revision Committee**

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**A BILL FOR AN ACT**

101 **CONCERNING AMENDING STATUTORY PROVISIONS RELATING TO**  
102 **SAME-SEX MARRIAGES THAT WERE RULED UNCONSTITUTIONAL**  
103 **BY THE UNITED STATES SUPREME COURT.**

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**Bill Summary**

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

**Statutory Revision Committee.** The bill amends provisions of statutes related to same-sex marriages to reflect a 2015 decision by the United States supreme court that ruled that the fourteenth amendment requires a state to license a marriage between 2 people of the same sex

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

and to recognize a marriage between 2 people of the same sex when their marriage was lawfully licensed and performed out of state.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 14-2-104 as  
3 follows:

4 **14-2-104. Formalities.** (1) Except as otherwise provided in  
5 subsection (3) of this section, a marriage is valid in this state if:

6 (a) It is licensed, solemnized, and registered as provided in this  
7 part 1; and

8 (b) ~~It is only between one man and one woman~~ BOTH PARTIES ARE  
9 ADULTS, REGARDLESS OF THE GENDER OF EITHER PARTY.

10 (2) Notwithstanding the provisions of section 14-2-112, any  
11 marriage contracted within or outside this state that does not satisfy  
12 ~~paragraph (b) of subsection (1)~~ SUBSECTION (1)(b) of this section ~~shall~~ IS  
13 not be recognized as valid in this state.

14 (3) Nothing in this section ~~shall be~~ IS deemed to repeal or render  
15 invalid any otherwise valid common law marriage between ~~one man and~~  
16 ~~one woman~~ TWO ADULTS, REGARDLESS OF THE GENDER OF EITHER PARTY:

17 (a) Entered into prior to September 1, 2006; or

18 (b) Entered into on or after September 1, 2006, that complies with  
19 section 14-2-109.5.

20 **SECTION 2. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly (August  
23 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
24 referendum petition is filed pursuant to section 1 (3) of article V of the  
25 state constitution against this act or an item, section, or part of this act

1     within such period, then the act, item, section, or part will not take effect  
2     unless approved by the people at the general election to be held in  
3     November 2018 and, in such case, will take effect on the date of the  
4     official declaration of the vote thereon by the governor.



# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2a<sup>1</sup>

TO: Statutory Revision Committee

FROM: Kate Meyer, Office of Legislative Legal Services

DATE: October 12, 2017

SUBJECT: Filling vacancies in nomination under the "Colorado Municipal Election Code of 1965"

### Summary

Currently, a person running for office in an election conducted under the "Colorado Municipal Code of 1965" may withdraw if he or she decides not to run subsequent to acceptance of his or her nomination. The withdrawal process specifies procedures to fill the vacancy in nomination. However, the nomination-filling process appears to exist only as a parallel to partisan elections, despite such process being unsuitable in the context of nonpartisan elections. Furthermore, the optional vacancy committee procedure appears never to have been utilized. Those provisions are therefore being recommended for repeal.

This matter was brought to staff's attention by Karen Goldman, MMC, who contacted several members of the Committee on behalf of the Colorado Municipal Clerks Association and Colorado Municipal League.<sup>2</sup>

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

<sup>2</sup> Ms. Goldman's letter, which describes the issue in more detail, is attached to this memorandum as **Addendum A**.

## Analysis

The "Colorado Municipal Election Code of 1965" (the Code) permits a candidate to withdraw from candidacy if he or she timely submits an affidavit to the clerk. Subsequent to a withdrawal, current law provides for the filling of the vacancy in nomination, which process also contemplates an optional vacancy committee being apprised of such withdrawal:

**31-10-303. Withdrawal from nominations.** (1) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination at any time prior to sixty-three days before election by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the clerk.

**(2) If the nomination petition designates one or more persons as a committee to fill a vacancy, the clerk shall immediately notify such persons of their candidate's withdrawal. If there is no committee designated, the clerk shall immediately notify the three persons whose names appear at the top of the nomination petition of the withdrawal of their candidate. (Emphasis added)**

Absent appointment of a vacancy committee, the first three signers of the withdrawing candidate's nomination petition receive the notification, though these signers (who are registered electors in the municipality of which the candidate sought office) are not required to do anything with this information.

A vacancy committee "may" fill a withdrawing candidate's vacancy, but is not required to do so. Otherwise, the vacancy is filled by nomination petition:

**31-10-304. Vacancies in nominations.** (1) If any candidate dies or withdraws from the nomination prior to twenty-three days before the day of election, the vacancy may be filled by the vacancy committee, if any, designated on the nomination petition or, if no vacancy committee is designated, by petition in the same manner required for original nomination. If any petition of nomination is insufficient or inoperative because of failure to remedy or cure the same, the vacancy thus occasioned may be filled by petition in the same manner required for original nomination.

(2) Any certificate of nomination or petition to fill a vacancy shall be filed with the clerk not later than the twentieth day before the day of election.

The process for filling a vacancy in nomination is similar to what is done in partisan elections, but elections conducted under the Code are nonpartisan elections (i.e., candidates do not run as political party candidates and are not identified by their party

affiliation). While there is clearly a policy reason to provide the ability to fill a nomination in partisan elections (because political parties are essentially represented in, and vested in the outcome of, those elections), nonpartisan municipal elections are not analogous in this context. And, given that it is optional both for a municipal office candidate to appoint a vacancy committee and for a vacancy committee to nominate a successor candidate, removing the provisions would likely promote clarity and consistency in the conduct of elections under the Code.

Both sections 31-10-303 (2) and 31-10-304 have been unamended since at least 1979. It is believed that the vacancy committee process has never been used in an election held pursuant to the "Colorado Municipal Election Code of 1965".<sup>3</sup>

Removing the nomination vacancy-filling procedures from law would not affect a municipal office candidate's ability to withdraw in accordance with current law.

### **Statutory Charge<sup>4</sup>**

Removing an unused and unnecessary process appears to fit within the Committee's charge as it would both eliminate an antiquated rule of law and reduce provisions of the Colorado Revised Statutes.

### **Proposed Bill**

If the Statutory Revision Committee directs the Office of Legislative Legal Services to prepare a bill draft, the bill would repeal subsection (2) of section 31-10-303, C.R.S. Conforming amendments to repeal sections 31-10-304 and 31-10-909 (1)(c) would also be required. These statutes are reproduced in their entirety as **Addendum B**, and a draft bill effecting the repeals is attached to this memorandum as **Addendum C**.

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<sup>3</sup> See **Addendum A**.

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

## **ADDENDUM A**

### **Letter from Karen Goldman, MMC**

The Honorable Beth Martinez Humenik  
Colorado State Senate  
200 E. Colfax Avenue  
Denver, Colorado 80203

The Honorable Dominick Moreno  
Colorado State Senate  
200 E. Colfax Avenue  
Denver, Colorado 80203

The Honorable Jeni James Arndt  
Colorado House of Representatives  
200 E. Colfax Avenue  
Denver, Colorado 80203

Dear Senator Martinez Humenik, Senator Moreno, and Representative Arndt:

I am writing on behalf of the Colorado Municipal Clerks Association and the Colorado Municipal League, requesting that the Statutory Revision Commission consider introducing a bill in the 2018 legislative session deleting certain provisions in the Municipal Election Code of 1965 (title 31, Article 10) regarding the process for dealing with vacancies in nomination when a potential municipal election official withdraws from candidacy. We believe a bill of this nature fits the purpose of the Commission in that the provisions are obsolete, unnecessary, confusing, and have never been used, to my knowledge, in the more than 30 years of my working with municipal elections in Colorado. Please note that the ability to withdraw would remain in statute; we are only requesting deletion of a never-used process.

Specifically, we request that the following sections be deleted:

- 31-10-303(2)
- 31-10-304(1) and (2)- (entire section)
- 31-10-909(b) and (c)

31-10-303(2) identifies how a ‘vacancy’ in nomination is filled when a person withdraws from candidacy. Such a vacancy occurs when someone decides, after filing a nomination petition and having that petition certified, that he/she no longer wishes to run for municipal office. The statute states that IF (emphasis added) a vacancy committee has been designated on the petition, and it is optional to do so, then that committee is notified of the candidate’s withdrawal. However, there is nothing in statute

that requires the vacancy committee to then fill that vacancy in nomination and this has never happened. Unlike state partisan vacancy committees, whose charge is to actually vote on someone to fill a vacancy, whether in nomination or in office, persons who run for municipal office run independently from all other candidates and with no political affiliation. Further, this statute requires that should no vacancy committee be designated, then notification goes to the first three names on the nomination petition, who may only be the first three names purely based on timing and easy availability when the petition was first circulated.

Private companies selling election supplies to municipal clerks decades ago created nomination petitions based on their reading of municipal election law and put this optional vacancy committee on them. Because this section of law has remained on the books, that portion of the nomination petition still exists today as an option. Its presence on the petition is unnecessary and confusing to both municipal clerks and candidates and increases printing costs, even if minimally. More importantly, the vacancy committee serves no real purpose in a municipal election. And while a vacancy committee 'may' fill a vacancy in nomination, this has never actually happened. A legislative purpose is better served if it deals with an actual circumstance rather than a circumstance that has never happened, even if it could.

The other two sections recommended for deletion reference 31-10-303.

Both the Colorado Municipal Clerks Association and the Colorado Municipal League would greatly appreciate your support in selecting this subject for legislation in 2018. My schedule permitting, I will be available to speak to this matter at the meeting of the Statutory Revision Commission, if that would be helpful.

Thank you for your consideration of our request. I am available to answer any questions you might have.

Sincerely,

Karen Goldman, MMC  
Retired Aurora Deputy City Clerk  
Municipal Clerk Advisory Program  
303-981-8022  
[charna48@comcast.net](mailto:charna48@comcast.net)

## ADDENDUM B<sup>5</sup>

### Relevant sections of "Colorado Municipal Election Code of 1965"

**31-10-303. Withdrawal from nominations.** (1) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination at any time prior to sixty-three days before election by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the clerk.

(2) If the nomination petition designates one or more persons as a committee to fill a vacancy, the clerk shall immediately notify such persons of their candidate's withdrawal. If there is no committee designated, the clerk shall immediately notify the three persons whose names appear at the top of the nomination petition of the withdrawal of their candidate.

**31-10-304. Vacancies in nominations.** (1) If any candidate dies or withdraws from the nomination prior to twenty-three days before the day of election, the vacancy may be filled by the vacancy committee, if any, designated on the nomination petition or, if no vacancy committee is designated, by petition in the same manner required for original nomination. If any petition of nomination is insufficient or inoperative because of failure to remedy or cure the same, the vacancy thus occasioned may be filled by petition in the same manner required for original nomination.

(2) Any certificate of nomination or petition to fill a vacancy shall be filed with the clerk not later than the twentieth day before the day of election.

**31-10-909. Nomination of candidates in mail ballot elections.** (1) Any person who desires to be a candidate for a municipal office in a mail ballot election conducted pursuant to this part 9 after May 1, 2014, shall comply with the nominating procedures set forth in this article; except that:

(a) Any nominating petition in a mail ballot election may be circulated and signed beginning on the ninety-first day prior to the election and must be filed with the municipal clerk no later than the close of business on the seventy-first day prior to the election. The petition may be amended to correct or replace signatures that the clerk finds are not in apparent conformity with the requirements of this article by filing such changes by no later than the close of business on the sixty-sixth day before the election.

(b) A withdrawal from nomination must proceed as set forth in section 31-10-303; except that the withdrawal affidavit must be filed by the close of business on the sixty-third day prior to the election.

(c) If any candidate dies or withdraws from nomination prior to the close of business on the sixty-third day prior to the election, the vacancy in nomination is filled as set forth in section 31-10-304.

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<sup>5</sup> The language being proposed for deletion is indicated in highlighted text.

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LLS NO. 18-####.## Kate Meyer x4348

COMMITTEE BILL

Statutory Revision Committee

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A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF PROCEDURES TO FILL VACANCIES IN  
102 CANDIDATE NOMINATIONS FOR ELECTIONS CONDUCTED UNDER  
103 THE "COLORADO MUNICIPAL CODE OF 1965".

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Bill Summary

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

**Statutory Revision Committee.** Current law specifies the process by which a vacancy in nomination may be filled for an election conducted under the "Colorado Municipal Code of 1965". The bill repeals this process. **Section 1** of the makes a conforming amendment.

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2           **SECTION 1.** In Colorado Revised Statutes, **amend** 31-10-103 as  
3 follows:

4           **31-10-103. Computation of time.** Calendar days shall be used in  
5 all computations of time made under ~~the provisions of this article~~ THIS  
6 ARTICLE 10. In computing time for any act to be done before any  
7 municipal election, the first day shall be included, and the last, or  
8 election, day shall be excluded. Saturdays, Sundays, and legal holidays  
9 shall be included, but, if the time for any act to be done or the last day of  
10 any period is a Saturday, Sunday, or a legal holiday, the period is  
11 extended to include the next day which is not a Saturday, Sunday, or legal  
12 holiday. If the time for ending the circulation of and filing nomination  
13 petitions provided by section 31-10-302, the time for withdrawing from  
14 nomination provided by section 31-10-303 (1), ~~the time prior to which~~  
15 ~~vacancies in nominations may be filled and by which certificates of~~  
16 ~~nomination or petitions to fill such vacancies may be filed as provided by~~  
17 ~~section 31-10-304~~, or the time for filing amended or new petitions to  
18 remedy objections as provided by section 31-10-305 falls on Saturday,  
19 Sunday, or a legal holiday, such act shall be done upon the preceding day  
20 which is not a Saturday, Sunday, or legal holiday.

21           **SECTION 2.** In Colorado Revised Statutes, **repeal** 31-10-303 (2),  
22 31-10-304, and 31-10-909 (1)(c).

23           **SECTION 3. Act subject to petition - effective date.** This act  
24 takes effect at 12:01 a.m. on the day following the expiration of the  
25 ninety-day period after final adjournment of the general assembly (August  
26 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part will not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2018 and, in such case, will take effect on the date of the  
6 official declaration of the vote thereon by the governor.



# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY



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

TEL: 303-866-2045 FAX: 303-866-4157  
EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2b<sup>1</sup>

TO: Statutory Revision Committee

FROM: Esther van Mourik, Office of Legislative Legal Services

DATE: September 29, 2017

SUBJECT: Section 29-2-111, C.R.S. (Pledging of sales and use tax for capital improvements)

### Summary

Section 29-2-111, C.R.S, specifies two things related to a county, city, or incorporated town that wishes to pledge sales or use tax revenues to pay for revenue bonds issued for the purpose of financing capital improvements. Both of the items specified, further described below, are unnecessary since the adoption of section 20, article X of the state constitution (TABOR).

This potential legislation to repeal section 29-2-111, C.R.S., and to amend section 29-2-212, C.R.S., to clarify the need for voter approval under TABOR, was recommended by Representative Matt Gray, who represents state and municipal issuers,

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

underwriters, banks, and other participants in public finance transactions as his "day job".

## **Analysis**

Section 29-2-111, C.R.S., specifies that a county, city, or incorporated town may include the creation of a sales and use tax capital improvement fund (special fund) when the county, city, or incorporated town seeks voter approval to levy a sales or use tax. Enacted before the adoption of TABOR, the statute provided that a county, city, or incorporated town needed to create the special fund in order to issue revenue bonds payable solely from the fund for financing capital improvements.

Section 29-2-111, C.R.S., also specifies that, if a county, city, or incorporated town wishes to create such a special fund *after* the county, city, or incorporated town obtained voter approval for the levying of a sales or use tax, then the county, city, or incorporated town must seek voter approval for the creation of the special fund.

The creation of the special fund does not have a purpose in a post-TABOR county, city, or incorporated town because the question of using sales or use tax revenues for financing capital improvements is now asked when the county, city, or incorporated town seeks voter approval for the revenue bond issuance. Thus, the language regarding the creation of the fund is obsolete.

Furthermore, the requirement to seek voter approval for the creation of the special fund after a county, city, or incorporated town has already obtained voter approval to levy a sales or use tax predates the adoption of TABOR. Because TABOR requires any district, including a county, city, or incorporated town, to seek voter approval for the issuance of any revenue bonds, the requirement to seek voter approval for the creation of the special fund is unnecessary and duplicative.

## **Statutory Charge<sup>2</sup>**

The Statutory Revision Committee is explicitly tasked with recommending legislation to eliminate redundant rules of law; thus the repeal of section 29-2-111, C.R.S., and

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<sup>2</sup> The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern

the clarification of section 29-2-112, C.R.S., appears to fall squarely within that prong of the Committee's charge. Such repeal and clarification will shorten the length of the statutes while increasing the comprehensibility of the same.

## **Proposed Bill**

The attached bill draft<sup>3</sup> repeals section 29-2-111, C.R.S., and clarifies in section 29-2-112, C.R.S., that the use of sales or use tax revenue bonds for capital improvements requires voter approval under TABOR.

Staff has sought feedback from the Colorado Municipal League and Colorado Counties, Inc, and both have indicated that there appears to be no unintended consequences that could result from the proposed statutory update.

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conditions". § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

<sup>3</sup> See **Addendum A**.



Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
9.28.17

**BILL 2B**

LLS NO. 18-0121.01 Esther van Mourik x4215

**HOUSE BILL**

**HOUSE SPONSORSHIP**

**Gray,**

**SENATE SPONSORSHIP**

**(None),**

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**BILL TOPIC: "Loc Gov Pledging Sales & Use Tax Cap Improvement"**

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**A BILL FOR AN ACT**

101 **CONCERNING OBSOLETE STATUTORY PROVISIONS RELATED TO A**  
102 **LOCAL GOVERNMENT'S PLEDGING OF SALES OR USE TAX**  
103 **REVENUES TO PAY FOR REVENUE BONDS ISSUED FOR THE**  
104 **PURPOSE OF FINANCING CAPITAL IMPROVEMENTS.**

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**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>.)*

Current law specifies that a county, city, or incorporated town may include the creation of a sales and use tax capital improvement fund (special fund) when the county, city, or incorporated town seeks voter

approval to levy a sales or use tax. Before the adoption of section 20 of article X of the state constitution (TABOR), the statute provided that a county, city, or incorporated town needed to create the special fund in order to issue revenue bonds payable solely from the fund for financing capital improvements.

Current law also specifies that if a county, city, or incorporated town wishes to create a special fund after it has already obtained voter approval for the levying of a sales or use tax then the county, city, or incorporated town must seek voter approval for the creation of the special fund.

The creation of the special fund does not have a purpose for a county, city, or incorporated town post-TABOR because the question of using sales or use tax revenues for financing capital improvements is asked when the county, city, or incorporated town seeks voter approval for the bond issuance. Thus, the language regarding the creation of the fund is unnecessary.

Furthermore, the requirement to seek voter approval for the creation of the special fund after a county, city, or incorporated town has already obtained voter approval for the levying of a sales or use tax predates the adoption of TABOR. Because TABOR requires any district, including a county, city, or incorporated town, to seek voter approval for the issuance of any revenue bonds, the requirement to seek voter approval for the creation of the special fund is unnecessary and duplicative.

The bill repeals the unnecessary and duplicative law and clarifies that the use of sales and use tax revenue bonds for capital improvements requires voter approval under TABOR.

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

2           **SECTION 1.** In Colorado Revised Statutes, **repeal** 29-2-111 as  
3 follows:

4           **29-2-111. Pledging of sales and use tax for capital**  
5 **improvements.** ~~(1) A sales or use tax proposal made pursuant to this~~  
6 ~~article by, or on behalf of, any county, city, or incorporated town may~~  
7 ~~contain a provision for the creation of a special fund, to be known as a~~  
8 ~~"sales and use tax capital improvement fund", for the deposit of all or any~~  
9 ~~part of the revenue from the sales or use tax, or both, and to be used~~  
10 ~~solely to provide capital improvements. A sales or use tax proposal of any~~

1 ~~county, city, or incorporated town which has been approved by the~~  
2 ~~registered electors and which does not contain a provision for the creation~~  
3 ~~of such a special fund may be subsequently amended by ordinance or~~  
4 ~~resolution of the governing body to provide for such a special fund. Any~~  
5 ~~such amendment shall take effect only after approval by a majority of the~~  
6 ~~registered electors of the county, city, or town voting at a regular or~~  
7 ~~special election, but no election shall be required in order to create a~~  
8 ~~capital improvement fund for the deposit of any portion of sales or use tax~~  
9 ~~revenue allocated for capital improvement purposes in a sales or use tax~~  
10 ~~proposal previously approved by the voters.~~

11 ~~(2) A city or town by ordinance adopted by the governing body~~  
12 ~~may pledge all or any part of the sales or use tax revenue, or both, it~~  
13 ~~receives from the countywide sales or use tax for capital improvement~~  
14 ~~purposes. Any such pledge shall take effect only after approval by a~~  
15 ~~majority of the registered electors of the city or town voting at a regular~~  
16 ~~or special election.~~

17 ~~(3) When sales or use tax revenue, or both, is pledged solely for~~  
18 ~~capital improvement purposes, it shall be deposited immediately upon~~  
19 ~~being received or collected into the sales and use tax capital improvement~~  
20 ~~fund. Upon deposit in this fund, such revenue is thereafter not available~~  
21 ~~to be pledged or expended for any general municipal or county purpose.~~

22 ~~(4) For purposes of this section and section 29-2-112, "capital~~  
23 ~~improvement purposes" include:~~

24 ~~(a) Paying the costs of acquiring or constructing any capital~~  
25 ~~improvement;~~

26 ~~(b) Acquiring land or equipment;~~

27 ~~(c) The costs of issuing bonds;~~

1           ~~(d) The costs of capitalized interest and reserves; and~~  
2           ~~(e) The costs of operating and maintaining the capital~~  
3           ~~improvements to be financed.~~

4           ~~(5) Notwithstanding any other provision to the contrary, no sales~~  
5           ~~or use tax revenues in the sales and use tax capital improvement fund may~~  
6           ~~be expended in any year for the purposes specified in subsection (4) of~~  
7           ~~this section unless said fund contains sufficient revenues to pay the~~  
8           ~~anticipated annual debt service on any sales and use tax revenue bonds for~~  
9           ~~which moneys in the fund have been pledged.~~

10           **SECTION 2.** In Colorado Revised Statutes, 29-2-112, **amend** (1),  
11           (2), and (9) as follows:

12           **29-2-112. Sales and use tax revenue bonds.** (1) SUBJECT TO THE  
13           APPROVAL OF THE REGISTERED ELECTORS OF A COUNTY, CITY, OR  
14           INCORPORATED TOWN PURSUANT TO SECTION 20 OF ARTICLE X OF THE  
15           STATE CONSTITUTION, any county, city, or incorporated town ~~which has~~  
16           ~~pledged sales or use tax revenue, or both, solely for capital improvement~~  
17           ~~purposes and has created a sales and use tax capital improvement fund~~  
18           may, in anticipation of collection of sales or use tax revenues, issue  
19           revenue bonds payable ~~solely from the fund~~ THE REVENUES for the  
20           purpose of financing capital improvements.

21           (2) The revenue bonds may be authorized and issued by ordinance  
22           or resolution of the governing body of the county, city, or incorporated  
23           town. ~~without further election.~~

24           (9) The revenue bonds shall not constitute an indebtedness of the  
25           county, city, or incorporated town within the meaning of any  
26           constitutional or statutory debt limitation or provision. Each bond issue  
27           under this section shall recite in substance that said bonds, including the

1 interest thereon, are payable solely from ~~a special fund~~ THE SALES AND  
2 USE TAX REVENUES and that said bonds do not constitute a debt within the  
3 meaning of any constitutional or statutory limitation.

4 **SECTION 3. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly (August  
7 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
8 referendum petition is filed pursuant to section 1 (3) of article V of the  
9 state constitution against this act or an item, section, or part of this act  
10 within such period, then the act, item, section, or part will not take effect  
11 unless approved by the people at the general election to be held in  
12 November 2018 and, in such case, will take effect on the date of the  
13 official declaration of the vote thereon by the governor.



# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2c<sup>1</sup>

TO: Statutory Revision Committee

FROM: Jennifer Berman, Office of Legislative Legal Services

DATE: October 6, 2017

SUBJECT: References to repealed statutory section requiring reporting about parks and wildlife commission rules regarding fees

### Summary

H.B. 12-1317, enacted in 2012, repealed section 33-10-111 (5), C.R.S., effective September 1, 2017. The repealed section concerned reporting requirements for the parks and wildlife commission regarding certain fees set by rule. Because subsection (5) has now been repealed as of September 1 of this year, statutory references to section 33-10-111 (5), C.R.S., are now outdated.

This matter was brought to staff's attention through work on interim committee bills.

### Analysis

**Statutory references to section 33-10-111 (5) should be removed because section 33-10-111 (5) has been repealed.**

Until its repeal on September 1, 2017, section 33-10-111 (5), C.R.S., read as follows:

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

**33-10-111. Parks and outdoor recreation cash fund – parks for future generations trust fund – created – fees – accounting expenditures for roads and highways – definition – repeal.** (5) (a) Subject to this subsection (5), the commission may set fees by rule for the use of facilities and programs of the division, including discounts for marketing purposes. The commission shall:

(I) Before adopting any such rule, provide the joint budget committee with the proposed rule and the commission's analysis of the proposed rule;

(II) By November 1 of each year, submit a list of such fees to the general assembly's joint budget committee, the finance committees of the senate and the house of representatives, the house agriculture, livestock, and natural resources committee, and the senate agriculture, natural resources, and energy committee.

(b) (I) All actions of the commission to change fees are subject to the requirements of the "State Administrative Procedure Act", article 4 of title 24, C.R.S. Whenever the commission desires to change any fee, the commission shall conduct rule-making, with timely notice and an opportunity for comment by interested parties.

(II) In its annual budget request to the general assembly, the commission shall include the amount of any fee changed, proposed, or under consideration by the commission.

(III) and (IV) Repealed.

(c) This subsection (5) is repealed, effective September 1, 2017.

Twelve statutory sections in title 33, C.R.S., reference section 33-10-111 (5), C.R.S., in relation to the commission's rule-making authority to set fees. The references to the now-repealed statute should be removed from those statutory sections and replaced with references to the commission's rules.

## **Statutory Charge<sup>2</sup>**

The statutory changes required fit within the statutory charge of the Statutory Revision Committee because the removal of references to a now-repealed section of law would

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<sup>2</sup> The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1),

eliminate outdated statutory references to an obsolete statute, and replacing those outdated references with references to the parks and wildlife commission's rules would better describe the fees at issue in those statutes.

## **Proposed Bill**

The attached bill draft<sup>3</sup> amends the twelve statutory sections that reference now-repealed section 33-10-111 (5), C.R.S., by removing those references and replacing them with references to the parks and wildlife commission's rules.

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C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

<sup>3</sup> See **Addendum A**.



*Temporary storage location: S:\LLS\2018A\Bills\Pre-Draft\18-SRC-outdated parks fee reporting references.wpd*

LLS NO. 18-####.## Jennifer Berman x3286

**COMMITTEE BILL**

**Statutory Revision Committee**

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**BILL TOPIC: "Reporting Requirements For Park Fees Set By Rule"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REMOVAL OF OUTDATED STATUTORY REFERENCES**  
102 **TO REPEALED REPORTING REQUIREMENTS THAT WERE**  
103 **PREVIOUSLY IMPOSED ON THE PARKS AND WILDLIFE**  
104 **COMMISSION WITH REGARD TO ITS RULE-MAKING AUTHORITY**  
105 **TO SET FEES.**

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**Bill Summary**

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

**Statutory Revision Committee.** The bill removes obsolete references to a statutory subsection that was repealed on September 1, 2017. Because the repealed statutory subsection concerned the manner in which the parks and wildlife commission sets fees by rule, the bill replaces the obsolete references with references to the parks and wildlife commission's fee-setting rules.

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

2           **SECTION 1.** In Colorado Revised Statutes, 33-10-107, **amend**  
3 (1)(h) as follows:

4           **33-10-107. Powers of commission - rules - definitions.** (1) The  
5 commission has power to:

6           (h) Establish by ~~rules pursuant to section 33-10-111 (5)~~ RULE the  
7 amounts of fees for certificates, permits, licenses, and passes and any  
8 other special charges in order to provide for cash revenues necessary for  
9 the continuous operation of the state park and recreation system, subject  
10 to section 33-10-115; except that ~~no~~ such fees shall NOT be used for  
11 capital construction other than controlled maintenance activities. Except  
12 as provided in section 33-10-111 (1), fees and charges collected pursuant  
13 to this ~~paragraph (h)~~ SUBSECTION (1)(h) shall be credited to the division  
14 of parks and outdoor recreation cash fund.

15           **SECTION 2.** In Colorado Revised Statutes, 33-13-103, **amend**  
16 (1) introductory portion as follows:

17           **33-13-103. Numbering of vessels required - rules.** (1) It is  
18 unlawful for any person to operate or use a vessel on the waters of this  
19 state or to possess a vessel at a vessel staging area unless the vessel has  
20 been numbered and THE DIVISION HAS ISSUED a certificate of the number,  
21 referred to in this ~~article~~ ARTICLE 13 as a "registration", ~~has been issued~~  
22 to the vessel. ~~by the division.~~ The operator of the vessel shall produce the

1 registration for inspection upon demand of any officer authorized to  
2 enforce articles 10 to 15 and 32 of this ~~title~~ TITLE 33. The following are  
3 exempt from the requirements of this subsection (1) and from the vessel  
4 registration fee as specified ~~pursuant to section 33-10-111 (5)~~ BY RULE:

5 **SECTION 3.** In Colorado Revised Statutes, 33-13-104, **amend**  
6 (1) as follows:

7 **33-13-104. Application for vessel number.** (1) The owner of  
8 each vessel requiring numbering by this state shall file an application for  
9 a number with the division or any representative approved by the division  
10 on forms approved and furnished by the division. The OWNER OF THE  
11 VESSEL MUST SIGN THE application ~~shall be signed by the owner of the~~  
12 ~~vessel and shall be accompanied by a~~ PAY AN APPLICATION fee as  
13 specified ~~pursuant to section 33-10-111 (5)~~ BY RULE; except that those  
14 vessels owned and operated by the state or any political subdivision  
15 ~~thereof shall~~ OF THE STATE MUST be registered without payment of a  
16 registration fee. Upon receipt of the application in approved form, the  
17 division or its representative shall issue to the applicant a registration  
18 stating the number issued to the vessel. The number issued ~~shall~~ MUST be  
19 painted on or attached to each side of the bow on the forward half of the  
20 vessel or, if there are no such sides, at a corresponding location on both  
21 sides of the foredeck of the vessel for which it is issued. The number  
22 issued ~~shall~~ MUST read from left to right in block characters of good  
23 proportion having a minimum of three inches in height, excluding border  
24 or trim, and of a color that contrasts with the color of the background, and  
25 ~~so maintained as to be~~ AND MUST REMAIN clearly visible and legible. ~~No~~  
26 Other ~~number shall~~ NUMBERS MUST NOT be carried on the bow of the  
27 vessel. Any person who fails to display a vessel number as required in this

1 subsection (1) is guilty of a class 2 petty offense and, upon conviction,  
2 shall be punished by a fine of twenty-five dollars.

3 **SECTION 4.** In Colorado Revised Statutes, 33-14-102, **amend**  
4 (3)(a) and (4)(a) as follows:

5 **33-14-102. Snowmobile registration - fees - applications -**  
6 **requirements - penalties - exemptions.** (3) (a) For all or any part of a  
7 year beginning October 1 and ending September 30, the original and each  
8 renewal registration fee TO BE PAID by an owner ~~shall~~ MUST be ~~as~~ IN THE  
9 AMOUNT specified ~~pursuant to section 33-10-111 (5)~~ BY RULE.

10 (4) (a) For each year beginning October 1 and ending September  
11 30 or portion ~~thereof~~ OF THE YEAR for which ~~such~~ THE registration is  
12 made, the AMOUNT OF THE registration fee for all snowmobiles owned by  
13 a dealer or manufacturer ~~which~~ THAT are operated for demonstration or  
14 testing purposes only ~~shall~~ MUST be ~~as~~ IN THE AMOUNT specified ~~pursuant~~  
15 ~~to section 33-10-111 (5)~~ BY RULE.

16 **SECTION 5.** In Colorado Revised Statutes, 33-14-105, **amend**  
17 (2)(a) as follows:

18 **33-14-105. Transfer or other termination of ownership.**  
19 (2) (a) If there is a change of ownership of a snowmobile for which a  
20 registration has been issued, the new owner shall apply for a new  
21 registration from a dealer employed as a licensing agent or from the  
22 division. ~~Such~~ THE application ~~shall~~ MUST set forth the original number  
23 issued and ~~shall~~ MUST be accompanied by the old registration properly  
24 signed by the previous owner and by the required fee for registration ~~as~~  
25 IN THE AMOUNT specified ~~pursuant to section 33-10-111 (5)~~ BY RULE.

26 **SECTION 6.** In Colorado Revised Statutes, 33-14.5-102, **amend**  
27 (1)(b), (3)(a), (4)(a), and (9)(c)(I) as follows:

1           **33-14.5-102. Off-highway vehicle registration -**  
2           **nonresident-owned or -operated off-highway vehicle permits - fees -**  
3           **applications - requirements - exemptions.** (1) (b) The division shall  
4           employ off-highway vehicle agents, including dealers and licensing  
5           agents serving as such for the division, for off-highway vehicle  
6           registration pursuant to section 33-12-104. Upon receiving a registration  
7           application, an agent shall collect the fee specified ~~pursuant to section~~  
8           ~~33-10-111 (5)~~ BY RULE and issue a temporary registration and shall  
9           forward the application to the division, which shall issue the registration.  
10          An agent may retain a commission of not in excess of one dollar, as  
11          authorized by the division, for each registration issued. Any dealer is  
12          authorized to issue a temporary registration when a person purchases an  
13          off-highway vehicle from ~~such~~ THE dealer.

14           (3) (a) For each year, or portion ~~thereof~~ OF THE YEAR, beginning  
15          April 1 and ending the following March 31, the original and each renewal  
16          registration fee TO BE PAID by an owner ~~shall~~ MUST be IN the ~~fee~~ AMOUNT  
17          specified ~~pursuant to section 33-10-111 (5)~~ BY RULE.

18           (4) (a) For each year, or portion ~~thereof~~ OF THE YEAR, beginning  
19          April 1 and ending the following March 31, for which ~~such~~ THE  
20          registration is made, the registration fee for all off-highway vehicles  
21          owned by a dealer or manufacturer and operated solely for demonstration  
22          or testing purposes ~~shall~~ MUST be a ~~fee~~ IN AN AMOUNT specified ~~pursuant~~  
23          ~~to section 33-10-111 (5)~~ BY RULE.

24           (9) (c) (I) Nonresident off-highway vehicle permits shall be sold  
25          by the agents designated pursuant to section 33-12-104, and the fee TO BE  
26          PAID for ~~said~~ THE permits ~~shall~~ MUST be IN the ~~fee~~ AMOUNT provided  
27          ~~pursuant to section 33-10-111 (5)~~ BY RULE.

1           **SECTION 7.** In Colorado Revised Statutes, 33-14.5-105, **amend**  
2 (1) as follows:

3           **33-14.5-105. Transfer or other termination of ownership.**

4 (1) If there is a change of ownership of an off-highway vehicle for which  
5 a registration has been issued, the new owner shall apply for a new  
6 registration from a dealer employed as a licensing agent or from the  
7 division. ~~Such~~ THE application shall set forth the original number issued  
8 and shall be accompanied by the old registration properly signed by the  
9 previous owner and by the ~~required~~ fee for registration ~~pursuant to section~~  
10 ~~33-10-111 (5)~~ IN AN AMOUNT SPECIFIED BY RULE.

11           **SECTION 8.** In Colorado Revised Statutes, 33-14.5-112, **amend**  
12 (2) as follows:

13           **33-14.5-112. Off-highway use permit - fees - applications -**  
14 **requirements - exemptions.** (2) Off-highway use permits shall be sold  
15 by the agents referred to in section 33-12-104, and the fee TO BE PAID for  
16 ~~said~~ THE permits ~~shall~~ MUST be IN the ~~fee~~ AMOUNT provided ~~pursuant to~~  
17 ~~section 33-10-111 (5)~~ BY RULE.

18           **SECTION 9. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly (August  
21 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
22 referendum petition is filed pursuant to section 1 (3) of article V of the  
23 state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2018 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2d<sup>1</sup>

TO: Statutory Revision Committee

FROM: Nicole Myers, Office of Legislative Legal Services

DATE: September 22, 2017

SUBJECT: Annual reports by state agencies to the state controller regarding federal money received by the state agency.

### Summary

Section 24-75-212 (2), C.R.S., which was repealed in 2017, required the state controller to submit to the General Assembly a report of all federal money received by state agencies during the prior fiscal year.<sup>2</sup> A separate requirement in section 24-75-212, C.R.S., that state agencies submit an annual report to the state controller of all federal money received by the state agency, remains in statue. The state controller no longer needs these reports, as he or she is no longer required to submit a report to the General Assembly regarding the receipt of federal money by state agencies.

Staff of the Office of Legislative Legal Services recommends legislation to repeal section 24-75-212, C.R.S., in its entirety.

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

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

<sup>2</sup> **Addendum A** provides the remaining provisions of § 24-75-212, C.R.S.

## **Analysis**

During the 2017 legislative session, the Statutory Revision Committee recommended twenty bills to align reporting requirements with section 24-1-136, C.R.S. One of these bills, House Bill 17-1058, concerned the scheduled repeal of reports by the Department of Personnel to the General Assembly. Section 9 of the bill repealed section 24-75-212 (2), C.R.S., which required the state controller to submit to the General Assembly a report of all federal money received by state agencies during the prior fiscal year. Section 24-75-212 (1), C.R.S., which currently remains in statute, requires state agencies to submit an annual report to the state controller of all federal money received by the state agency. The state controller no longer needs to receive these reports, as he or she is no longer required to gather information from each state agency to prepare a report for the General Assembly regarding the receipt of federal money by state agencies. Therefore, section 24-75-212 (1), C.R.S., may be repealed.

In addition, section 24-75-212 (3) and (4), C.R.S., includes an exemption from a general requirement for reports to the General Assembly and a definition, in that order. If subsection (1) of section 24-75-212, C.R.S., is repealed, subsections (3) and (4) of that section would become obsolete and may also be repealed.

## **Statutory Charge<sup>3</sup>**

The Statutory Revision Committee is tasked with recommending legislation to eliminate antiquated rules of law. The requirement in section 24-75-212 (1), C.R.S., that each state agency submit an annual report to the state controller regarding federal money received by the state agency, is antiquated due to the recent repeal of the statute that required the state controller to submit a report to the General Assembly detailing the receipt of federal money by all state agencies.

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

## **Proposed Bill**

The attached bill<sup>4</sup> draft repeals section 24-75-212, C.R.S., in its entirety.

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<sup>4</sup> See **Addendum B**.

## ADDENDUM A

### **24-75-212. Legislative reporting of federal money - definitions.**

(1) (a) Each state agency shall submit to the controller by October 1 of each year a report of all federal moneys received by the state agency. Except as set forth in paragraph (d) of this subsection (1), for each separate grant of federal moneys received, the state agency shall include in the report the following information:

- (I) The federal program;
- (II) A citation to its federal statutory authority;
- (III) The amount received under such program, including indirect cost recoveries;
- (IV) The purpose for which the moneys were used;
- (V) The percentage of the federal moneys that the state agency used for administrative expenses; and
- (VI) A summary of any obligations imposed on the state as a result of accepting the federal moneys.

(b) The state agency shall also include in the report the following information:

- (I) The total amount of all federal moneys received by the state agency;
- (II) The percentage of the state agency's total spending that was from federal moneys; and
- (III) Plans for operating the state agency if there is a reduction of:
  - (A) Five percent or more in the total amount of all federal moneys that the state agency receives; and
  - (B) Twenty-five percent or more in the total amount of all federal moneys that the state agency receives.

(c) A state agency shall use the most recently completed state fiscal year as of the report deadline in determining the information required by this subsection (1).

(d) A state institution of higher education is not required to include the information required by subparagraphs (IV), (V), and (VI) of paragraph (a) or paragraph (b) of this subsection (1) in its report to the controller.

(2) Repealed.

(3) This section is exempt from the provisions of section 24-1-136 (11)(a)(I).

(4) As used in this section, "state agency" means a principal department of the executive branch of state government specified in section 24-1-110, a state institution of higher education, or an office created in the office of the governor.

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**BILL TOPIC: "Repeal State Agency Reports Of Fed Money Received"**

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**A BILL FOR AN ACT**

101 **CONCERNING A REPEAL OF THE REQUIREMENT THAT EACH STATE**  
102 **AGENCY ANNUALLY REPORT THE AMOUNT OF FEDERAL MONEY**  
103 **IT RECEIVED IN THE PRIOR FISCAL YEAR.**

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**Bill Summary**

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

**Statutory Revision Committee.** During the 2017 legislative session, the statutory revision committee put forth House Bill 17-1058, that, in part, repealed a requirement that the state controller submit to the general assembly a report of all federal money received by state agencies during the prior fiscal year (report). State agencies are still required to

submit an annual report to the state controller of all federal moneys received by the state agency in the prior fiscal year for the state controller's use in preparing the report for the general assembly.

The bill repeals the state agency reporting requirement as the state controller is no longer required to prepare a report for the general assembly.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** 24-75-212.

3 **SECTION 2. Act subject to petition - effective date.** This act  
4 takes effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly (August  
6 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
7 referendum petition is filed pursuant to section 1 (3) of article V of the  
8 state constitution against this act or an item, section, or part of this act  
9 within such period, then the act, item, section, or part will not take effect  
10 unless approved by the people at the general election to be held in  
11 November 2018 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2e<sup>1</sup>

TO: Statutory Revision Committee

FROM: Nicole Myers, Office of Legislative Legal Services

DATE: October 12, 2017

SUBJECT: Moving and relocation expenses for a state employee who is required to change his or her place of residence due to a change in job duties

### Summary

Section 24-50-134, C.R.S., allows an employee in the state personnel system his or her moving and relocation expenses if an appointing authority requires the employee to change his or her place of residence due to a change in job duties.<sup>2</sup> While federal regulations<sup>3</sup> specify which benefits are exempt from taxation, section 24-50-134, C.R.S., is silent in this regard. This has caused confusion among state agencies when determining which benefits allowed by section 24-50-134, C.R.S., are subject to income tax pursuant to federal law. In addition, the administrative nature of some of the details specified in section 24-50-134, C.R.S., may be better suited to rule, as rules promulgated by the state controller could better ensure that the statute is administered in compliance with the regulations of the federal Internal Revenue Service.

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

<sup>2</sup> **Addendum A** includes the provisions of §24-50-134, C.R.S.

<sup>3</sup> Department of the Treasury, Internal Revenue Service Publication 521 regarding Moving Expenses.

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

Based on the information provided by the Department, staff at the Office of Legislative Legal Services recommends legislation to specify which benefits provided by section 24-50-134, C.R.S., are subject to state income tax pursuant to federal law, to eliminate administrative details from the statute and to require the state controller to promulgate rules to ensure that the statute is administered in compliance with the regulations of the federal Internal Revenue Service.

## **Analysis**

### **1. Clarifying section 24-50-134, C.R.S., to specify whether reimbursements for moving and relocation expenses are subject to income tax, would help state agencies comply with federal law.**

Section 24-50-134, C.R.S., specifies that "[w]hen an employee in the state personnel system is required by any appointing authority, because of change in assignment or a promotion or for any other reason related to his duties, to change his place of residence, such employee shall be allowed his moving and relocation expenses incurred by reason of such change or residence, subject to the provisions of this section." The regulations of the federal Internal Revenue Service specify that if an employee meets certain requirements, the employee may deduct moving expenses, which include the expenses of moving household goods and personal effects and the expenses of traveling to the employee's new home, from his or her taxable income. An employee may also be eligible to be reimbursed for deductible moving expenses under certain circumstances. The regulations state that reimbursements for deductible moving expenses *are not* subject to income tax.

The regulations also specify that an employee who is required to change his or her place of residence due to a change in job duties may be reimbursed for expenses that are not deductible moving expenses. Pursuant to the federal regulation, the reimbursements that an employee receives for nondeductible expenses and any allowances for miscellaneous or unspecified expenses are included in the employee's income and *are* subject to income tax.

Section 24-50-134 (1), C.R.S., refers to both moving and relocation expenses but does not specify whether reimbursements for either such expense are subject to income tax. While the tax-exempt status of reimbursements for moving expenses is clearly addressed in the regulations of the federal Internal Revenue Service, reimbursements for relocation expenses are not specifically referenced by the federal regulation. Section

24-50-134 (6), allows an employee to receive a per diem allowance for up to 30 days for necessary expenses incurred while relocating a permanent residence. Because the reimbursements for relocation expenses are not specified as a deductible moving expense pursuant to federal law, these reimbursements are taxable. The statute however, does not specify that the employer is responsible for including such reimbursements in the employee's income or that the reimbursements should be treated as taxable wages pursuant the regulations of the federal internal revenue service.

The lack of specification in section 24-50-134, C.R.S., regarding the taxable or non-taxable nature of the moving and relocation expense reimbursements has led to confusion among state agencies who provide these reimbursements to their employees. As a result, the interpretation and application of the statute has been inconsistent across state agencies. Clarifying section 24-50-134, C.R.S, to specify that reimbursements for moving expenses are tax-exempt, so long as they are in compliance with federal law, and reimbursements for relocation expenses are subject to income tax would prevent this inconsistency and make it easier for each state agency to comply with federal law.

**2. Removing administrative details from section 24-50-134, C.R.S., and requiring the state controller to promulgate rules to address such details, would streamline the statute and ensure that it is administered in compliance with federal law.**

As mentioned previously, section 24-50-134, C.R.S, allows an employee in the state personnel system his or her moving and relocation expenses if an appointing authority requires the employee to change his or her place of residence due to a change in job duties. While silent regarding the taxable status of these benefits as explained above, the statute does contain significant detail that may be more appropriately included in administrative rules. Such details include, for example, a definition of "promotion", the maximum weight of household effects for which an employee with or without dependents may receive a benefit pursuant to the statute, and the circumstances under which an employee must submit competitive bids for moving services.

Removing the administrative details from the statute and requiring the state controller to promulgate rules in accordance with the "State Administrative Procedures Act" and federal law would streamline section 24-50-134, C.R.S. In addition, shifting the administrative details to administrative rules would enable the state controller to ensure that the statute is being applied and administered in compliance with federal law across all state agencies.

## Statutory Charge<sup>4</sup>

The Statutory Revision Committee is tasked with recommending legislation to modify contradictory rules of law. The Statutory Revision Committee is also authorized to propose legislation to streamline provisions of the Colorado Revised Statutes. Section 24-50-134, C.R.S., is silent in regard to the taxable status of the benefits allowed by the statute and can be interpreted in a manner that contradicts the regulations of the federal internal revenue service. Modifying the provisions of the statute to specifically align with the requirements of the federal internal revenue service would correct this contradiction. Certain other provisions of the statute are unnecessary detailed. Removing the unnecessary details from the statutes and requiring the state controller to promulgate rules for the administration of section 24-50-134, C.R.S., in compliance with the regulations of the federal Internal Revenue Service would streamline the provisions of the Colorado Revised Statutes.

## Proposed Bill

The attached bill draft<sup>5</sup> specifies that moving expenses that are reimbursed by the state pursuant to section 24-50-134, C.R.S., including the reasonable expenses of moving household goods and personal effects and the reasonable costs of traveling to the new residence are exempt from income tax. The bill draft also specifies that relocation expenses allowed pursuant to section 24-50-134, C.R.S., which are provided in the form of a per diem allowance for a certain number of days, are subject to income tax. In addition, the bill draft removes administrative details from the statute and requires the state controller to promulgate rules for the administration of section 24-50-134, C.R.S., in compliance with the regulations of the federal internal revenue service.

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

<sup>5</sup> See **Addendum B**.

## ADDENDUM A

**24-50-134. Moving and relocation expenses.** (1) When an employee in the state personnel system is required by any appointing authority, because of a change in assignment or a promotion or for any other reason related to his duties, to change his place of residence, such employee shall be allowed his moving and relocation expenses incurred by reason of such change of residence, subject to the provisions of this section.

(2) As used in this section, "promotion" means changing an employee from one class of work to a different class of work at a higher pay grade.

(3) As used in this section, "household effects" means and includes only household or personal effects such as furniture, clothing, musical instruments, household appliances, foods, and other items which are usual and necessary for the maintenance of a household.

(4) In addition to the allowances specified under subsections (5.1) and (6) of this section, state payment for moving expenses shall be limited to one of the following methods:

(a) Necessary expenses incurred for the packing, insurance, transportation, storage in transit not to exceed thirty days, unpacking, and installation at the new location of an employee's household effects shall be allowed subject to the provision that state payment shall not be made for household effects in excess of ten thousand pounds net weight for those with dependents and five thousand pounds net weight for those without dependents. Any expenses, including insurance, for household effects exceeding these weight limitations shall be borne by the employee being moved.

(b) Repealed.

(b.1) State payment shall be allowed for rental of trailers or trucks from commercial establishments for movement of household effects and for charges by commercial establishments for towing of house trailers containing the household effects of an employee. If such costs exceed an amount set by fiscal rule promulgated by the controller which fiscal rule may not authorize a sum in excess of one thousand dollars, the claim shall be accompanied by at least two competitive bids, and state payment shall be made at the rates proposed in the lowest bid.

(c) Repealed.

(c.1) An employee, at his option, may pack and unpack his own household effects and move himself by rental trailer or truck. The employee shall be compensated an amount set by fiscal rule promulgated by the controller, which fiscal rule may not authorize a sum in excess of one thousand five hundred dollars, and paid for the truck and trailer rental as prescribed in paragraph (b.1) of this subsection (4).

(5) Repealed.

(5.1) Mileage allowance for one personal automobile shall be authorized and reimbursed at the current rate.

(6) When an employee is required by any appointing authority, because of a change in assignment or a promotion or for any other reason related to his duties, to change his place of residence, such employee shall receive his per diem allowance up to a maximum of thirty days for necessary expenses incurred while locating a permanent residence at the new location. He may exclude at his option interruptions caused by sick leave, vacation, other authorized leave of absence, or ordered travel. The rates of reimbursement under this subsection (6) shall not exceed the rates fixed by executive order.

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**BILL TOPIC: "State Employee Moving And Relocation Expenses"**

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**A BILL FOR AN ACT**

101 **CONCERNING CERTAIN EXPENSES ALLOWED TO A STATE EMPLOYEE**  
102 **WHEN THE EMPLOYEE IS REQUIRED TO CHANGE HIS OR HER**  
103 **PLACE OF RESIDENCE IN CONNECTION WITH A CHANGE IN JOB**  
104 **DUTIES.**

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**Bill Summary**

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

**Statutory Revision Committee.** Current law allows an employee in the state personnel system his or her moving and relocation expenses if an appointing authority requires the employee to change his or her place

of residence due to a change in job duties. While federal regulations specify which benefits are exempt from taxation, state statute is silent in this regard. The bill specifies, in accordance with federal law, that moving expenses including the reasonable expenses of moving household goods and personal effects and the reasonable costs of traveling to a new residence, are exempt from income tax. The bill also specifies, in accordance with federal law, that relocation expenses that are provided in the form of a per diem allowance for a certain number of days are subject to income tax.

In addition, the bill removes administrative details and requires the state controller to promulgate rules for the administration of moving and relocation deductions and reimbursements in compliance with the regulations of the federal internal revenue service.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**  
3 **with amendments,** 24-50-134 as follows:

4 **24-50-134. Moving and relocation expenses.** (1) WHEN AN  
5 EMPLOYEE IN THE STATE PERSONNEL SYSTEM IS REQUIRED BY ANY  
6 APPOINTING AUTHORITY, BECAUSE OF A CHANGE IN ASSIGNMENT OR A  
7 PROMOTION OR FOR ANY OTHER REASON RELATED TO HIS OR HER DUTIES,  
8 TO CHANGE HIS OR HER PLACE OF RESIDENCE, SUCH EMPLOYEE SHALL BE  
9 ALLOWED HIS OR HER MOVING EXPENSES INCURRED BY REASON OF SUCH  
10 CHANGE OF RESIDENCE. MOVING EXPENSES MAY INCLUDE THE  
11 REASONABLE EXPENSES OF MOVING HOUSEHOLD GOODS AND PERSONAL  
12 EFFECTS AND THE REASONABLE COSTS OF TRAVELING TO THE EMPLOYEE'S  
13 NEW RESIDENCE. THE EMPLOYEE MAY EITHER DEDUCT THE MOVING  
14 EXPENSES FROM HIS OR HER TAXABLE INCOME OR THE EMPLOYER MAY  
15 REIMBURSE THE EMPLOYEE FOR SUCH EXPENSES. REIMBURSEMENTS PAID  
16 PURSUANT TO THIS SECTION ARE TAX-EXEMPT AND THE EMPLOYER THAT  
17 REIMBURSES AN EMPLOYEE SHALL EXCLUDE SUCH REIMBURSEMENT FROM  
18 THE EMPLOYEE'S INCOME. ANY DEDUCTION OR REIMBURSEMENT

1 PURSUANT TO THIS SUBSECTION (1) SHALL BE MADE IN ACCORDANCE WITH  
2 RULES PROMULGATED BY THE STATE CONTROLLER AND IN COMPLIANCE  
3 WITH THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE.

4 (2) WHEN AN EMPLOYEE IS REQUIRED BY ANY APPOINTING  
5 AUTHORITY, BECAUSE OF A CHANGE IN ASSIGNMENT OR A PROMOTION OR  
6 FOR ANY OTHER REASON RELATED TO HIS OR HER DUTIES, TO CHANGE HIS  
7 OR HER PLACE OF RESIDENCE, SUCH EMPLOYEE SHALL BE ALLOWED  
8 RELOCATION EXPENSES IN THE FORM OF A PER DIEM ALLOWANCE UP TO A  
9 MAXIMUM OF THIRTY DAYS FOR NECESSARY EXPENSES INCURRED WHILE  
10 RELOCATING A PERMANENT RESIDENCE. THE EMPLOYEE MAY CHOOSE TO  
11 EXCLUDE INTERRUPTIONS CAUSED BY SICK LEAVE, VACATION, OTHER  
12 AUTHORIZED LEAVE OF ABSENCE, OR ORDERED TRAVEL. ANY PER DIEM  
13 ALLOWANCE PAID TO AN EMPLOYEE PURSUANT TO THIS SUBSECTION (2) IS  
14 SUBJECT TO INCOME TAX AND THE EMPLOYER THAT PROVIDES SUCH PER  
15 DIEM ALLOWANCE SHALL INCLUDE THE TOTAL AMOUNT OF THE  
16 ALLOWANCE IN THE EMPLOYEE'S INCOME. THE RATES OF REIMBURSEMENT  
17 FOR RELOCATION EXPENSES SHALL NOT EXCEED THE RATES FIXED BY  
18 EXECUTIVE ORDER. ANY PER DIEM PAYMENTS MADE PURSUANT TO THIS  
19 SUBSECTION (2) SHALL BE IN ACCORDANCE WITH RULES PROMULGATED BY  
20 THE STATE CONTROLLER AND IN COMPLIANCE WITH THE REGULATIONS OF  
21 THE FEDERAL INTERNAL REVENUE SERVICE.

22 (3) THE STATE CONTROLLER SHALL PROMULGATE RULES IN  
23 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",  
24 ARTICLE 4 OF THIS TITLE 24, FOR THE IMPLEMENTATION OF THIS SECTION.  
25 SUCH RULES SHALL BE IN ACCORDANCE WITH THE REGULATIONS OF THE  
26 FEDERAL INTERNAL REVENUE SERVICE AND SHALL INCLUDE THE  
27 FOLLOWING:

1 (a) THE CIRCUMSTANCES UNDER WHICH AN EMPLOYEE IS ELIGIBLE  
2 TO CLAIM MOVING EXPENSES AND RELOCATION EXPENSES PURSUANT TO  
3 THIS SECTION;

4 (b) THE NATURE OF MOVING EXPENSES AND RELOCATION  
5 EXPENSES THAT A STATE EMPLOYEE MAY CLAIM PURSUANT TO THIS  
6 SECTION;

7 (c) THE MAXIMUM AMOUNT OF MOVING EXPENSES AN EMPLOYEE  
8 MAY CLAIM PURSUANT TO THIS SECTION; AND

9 (d) ANY OTHER RULES DEEMED NECESSARY BY THE STATE  
10 CONTROLLER FOR THE ADMINISTRATION OF THIS SECTION IN COMPLIANCE  
11 WITH THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE.

12 **SECTION 2. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2018 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2f<sup>1</sup>

TO: Statutory Revision Committee

FROM: Nicole Myers, Office of Legislative Legal Services

DATE: October 12, 2017

SUBJECT: Modifications to the "State Employees Group Benefits Act" to bring the Act into harmony with modern conditions

### Summary

The "State Employees Group Benefits Act", part 6 of article 50 of title 24, C.R.S.,<sup>2</sup> (Act) authorizes the state personnel director (director) to enter into contracts with carriers to provide medical, dental, life, and disability insurance benefits to state employees. Over many years, several provisions in the Act have become inconsistent with federal law, inconsistent with other provisions of the Colorado Revised Statutes, or obsolete.

This matter was brought to staff's attention by the Department of Personnel (Department).

Based on the information provided by the Department, staff at the Office of Legislative Legal Services recommends legislation to bring the Act into compliance

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

<sup>2</sup> **Addendum A** provides the provisions of the "State Employees Group Benefits Act", part 6 of article 50 of title 24, C.R.S., that are relevant to this Memorandum.

with federal law, address inconsistencies between the Act and other provisions of the Colorado Revised Statutes, and eliminate obsolete provisions from the Act.

## **Analysis**

### **1. Modifying certain provisions of the Act would bring the Colorado Revised Statutes into compliance with the federal "Affordable Care Act."<sup>3</sup>**

#### **1.1. The specifications regarding coverage for dependent children in the Act conflict with the federal "Affordable Care Act."**

Section 24-50-603 (5), C.R.S., defines the term "dependent" for purposes of the Act. Subsection (5)(a) of that section specifies that a dependent includes "each unmarried child... through the end of the month in which the child turns nineteen years of age..." Subsection (5)(a) further states that a dependent includes, in relevant part,

[E]ach unmarried child nineteen years of age, through the end of the month in which that child is no longer a full-time student in an educational or vocational institution, but no longer than through the end of the month in which the full-time student turns twenty-four years of age, and for whom the employee is the major source of financial support or for whom the employee is directed by court order to provide coverage;

The federal "Affordable Care Act" requires plans and carriers that offer dependent child coverage to make the coverage available until the child reaches the age of 26. Both married and unmarried children qualify for this coverage and there is no requirement that the child be a student to be considered a dependent through the age of 26. The "Affordable Care Act" does not contain a caveat that the employee has to be the major source of financial support for the child or under a court order to provide coverage for a child to be covered through the age of 26. These requirements apply to all plans in the individual market and to all employer plans.

Although the state and the insurance carriers who provide health insurance benefits to state employees through the Act are in compliance with the federal requirement to provide coverage until a child turns 26, regardless of whether the child is married, a full-time student, financially dependent on the employee, or receiving benefits through a court order, the Act indicates that dependent coverage is much more limited. Modifying section 24-50-603 (5)(a), C.R.S., to eliminate the requirement that a child be

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<sup>3</sup> 42 U.S.C. § 18001, et seq. (2010).

unmarried to be a dependent, to eliminate the requirement that a child be a full-time student to be a dependent past the age of 19, to eliminate the requirement that a dependent child be financially dependent on the employee or receiving benefits through a court order, and to change the maximum age of a dependent to 26 years, would bring the Act into compliance with the federal "Affordable Care Act."

In addition, section 24-50-608 (4), C.R.S., specifies that "[i]f a dependent is no longer eligible for coverage because the dependent turned twenty-five years old, the director shall remove the dependent from the group benefit plan by the end of the month in which the dependent turned twenty-five years old." For the reasons explained above, changing the reference in section 24-50-608 (4), C.R.S., from a dependent who turns "twenty-five" years old to a dependent who turns "twenty-six" years old would eliminate an additional inconsistency between the Colorado Revised Statutes and the federal "Affordable Care Act."

**1.2. The director's authority pursuant to the Act to prepare specifications for group benefit plans that include a lifetime maximum benefit conflicts with the federal "Affordable Care Act."**

Section 24-50-605 (1)(a), C.R.S., authorizes the director to draw specifications for group benefit plans, including provisions for noncancellation by the carrier for reasons of health of any employee and transferability by the employee to other group benefit coverages or individual policies with the same carrier. The statute contains a caveat that such provisions "do not limit the ability of the director to prepare specifications including a lifetime maximum benefit per employee or employee's covered dependents."

Pursuant to the federal "Affordable Care Act", insurers are prohibited from putting lifetime dollar limits on the amount they will pay out for most health insurance benefits. Although the state and the insurance carriers who provide health insurance benefits to state employees through the Act are in compliance with the federal law that prohibits lifetime maximum benefits, section 24-50-605 (1)(a), C.R.S., indicates that the director could prepare a specification for group benefit plans that includes a lifetime maximum benefit. Repealing the caveat regarding lifetime maximum benefits from section 24-50-605 (1)(a), C.R.S, would eliminate the inconsistency between the Colorado Revised Statutes and federal law.

**2. Modifying certain provisions of the Act would eliminate inconsistencies with other provisions of the Colorado Revised Statutes.**

**2.1. The Act requires the director to provide written notice in a publication with statewide circulation when he or she intends to contract with insurance carriers, which requirement conflicts with the "Procurement Code."**

Section 24-50-605 (1)(b), C.R.S., requires the director to give "written notice ... through an announcement in a publication with statewide circulation", of his or her intent to contract with any carriers to provide state employee group benefits pursuant to the Act. In addition to complying with the requirements of the Act during the process of soliciting carriers to provide state employee group benefits, the director is also required to comply with the requirements of the "Procurement Code", articles 101 to 112 of title 24, C.R.S. Section 24-102-202.5 (2.5)(a), C.R.S., within the "Procurement Code" requires the director to "develop and implement a statewide centralized electronic procurement system to allow the utilization of technology to create a more efficient delivery of state procurement services."

In keeping with this requirement of the "Procurement Code", the director has been posting solicitations in connection with state employees group benefits on a vendor self-service website for many years. The requirement that the director post these notices "in writing" in a "publication with statewide circulation" is in conflict with the provisions of the "Procurement Code" and is no longer the most efficient way to provide notice of the director's intent to enter into a contract for state employee group benefits. Eliminating these requirements from section 24-50-605 (1)(b), C.R.S., and replacing them with a requirement that the director post such notices in a manner to be determined by the director would eliminate this inconsistency between the Act and the "Procurement Code" and give the director the authority to solicit carriers to provide state employees group benefits in a manner consistent with the "Procurement Code".

**2.2. The Act requires the director to hold a public hearing prior to the acceptance of a proposal for a group benefit plan, which conflicts with the "Procurement Code."**

Section 24-50-612 (3), C.R.S., requires the director to "hold a public hearing prior to the acceptance of any proposal for a group benefit plan." Although not specified in the statute, presumably the purpose of a public hearing would be to explain the terms of the proposal to state employees and interested members of the public. As explained above, the director is required to comply with both the Act and the "Procurement Code" when soliciting insurance carriers to provide state employee group benefits. The "Procurement Code" requires a state agency to keep confidential any bids or proposals

that it receives in response to a solicitation until the contract has been awarded in connection with the solicitation. Specifically, section 24-101-401 (1), C.R.S., states that "proposals and bids shall be opened so as to avoid disclosure of the contents of the proposal or bid to competing offerors during the review process. A register of proposals and bids shall be prepared in accordance with rules and such procurement records shall be open for public inspection after the award ...".

The Act and the "Procurement Code" are in conflict, as it is not possible for the director to simultaneously comply with one provision of the Colorado Revised Statutes that requires a public hearing before entering into a contract and another provision that, in effect, prohibits such a hearing. By repealing the public hearing requirement from the Act, the director would be able to follow the competitive solicitation process established in the "Procurement Code" for all state agency procurements without violating another provision of the Colorado Revised Statutes.

### **3. Eliminating obsolete provisions from the Act would streamline the Colorado Revised Statutes.**

As explained in section 1.1 of this memorandum, section 24-50-603 (5), C.R.S., defines the term "dependent" for purposes of the Act. Subsection (5)(c) of that section states that a dependent includes an employee's domestic partner, as authorized by rules promulgated by the director, who has submitted documentation demonstrating a domestic partnership with an employee. Domestic partnerships are no longer required as a result of the United States Supreme Court's decision in *Obergefell v. Hodges*<sup>4</sup>, regarding the constitutionality of marriage between two people of the same sex. Accordingly, the director has repealed the rules concerning the criteria for domestic partners to be dependents under the Act. Therefore, section 24-50-603 (5)(c), C.R.S., is obsolete and may be repealed.

In addition, section 24-50-605 (5), C.R.S., requires the director to evaluate the feasibility of offering a high deductible health plan for state employees that would qualify for a health savings account. The director was required to forward the findings of the evaluation to the members of certain standing committees of the General Assembly by October 1, 2004. Because this was a one-time requirement due over thirteen years ago, this provision of the Act is obsolete and may be repealed.

Finally, section 24-50-609 (2)(b)(II), C.R.S., specifies the amount that the state will contribute each month for each state employee enrolled in group benefit plans that

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<sup>4</sup> *Obergefell v. Hodges*, 576 U.S. \_\_ (2015).

include enrollment in medical benefits during the 2003 calendar year. Although section 24-50-609 (2)(b)(II), C.R.S., allows the state's contribution to be adjusted for future years, section 24-50-104 (4), C.R.S., which requires the director to prepare an annual compensation report, requires the director to make recommendations for adjustments necessary to maintain state contributions for group benefit plans. Because the 2003 calendar year is over and because the requirement to adjust the state's contribution for state employee group benefit plans is included elsewhere in the Colorado Revised Statutes, this provision of the Act is obsolete in part and duplicative in part, and may be repealed.

## **Statutory Charge<sup>5</sup>**

The Statutory Revision Committee is tasked with recommending legislation to modify or eliminate antiquated, redundant, or contradictory rules of law. Sections 24-50-603 (5)(a), 24-50-608 (4), and 24-50-605 (1)(a), C.R.S., are contradictory to federal law as explained in section 1 of this memorandum. Sections 24-50-605 (1)(b) and 24-50-612 (3), C.R.S., are contrary to other provisions of the Colorado Revised Statutes, as explained in section 2 of this memorandum. Finally, sections 24-50-603 (5)(c), 24-50-605 (5), and 24-50-609 (2)(b)(II), C.R.S., are antiquated and may be repealed for the reasons explained in section 3 of this memorandum.

## **Proposed Bill**

The attached bill draft<sup>6</sup> makes the following changes to the Act:

- Changes the definition of "dependent" to include a child through the end of the month in which the child turns 26, regardless of marital status or enrollment as a full-time student and regardless of whether the employee is the major source of financial support or directed by a court to provide coverage for the child;

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

<sup>6</sup> See **Addendum B**.

- Removes a reference to a lifetime maximum benefit;
- Eliminates a provision requiring the director to give written notice of intent to seek a contract with insurance carriers, and authorizes the director to make such announcement in a manner that he or she determines;
- Eliminates a requirement that the director hold a public hearing prior to the acceptance of any proposal for a group benefit plan; and
- Eliminates various obsolete provisions from the Colorado Revised Statutes.

## **ADDENDUM A**

**24-50-603. Definitions.** As used in this part 6, unless the context otherwise requires:

(5) "Dependent" means:

(a) An employee's legal spouse; each unmarried child, including adopted children, stepchildren, and foster children, through the end of the month in which the child turns nineteen years of age, for whom the employee is the major source of financial support or for whom the employee is directed by court order to provide coverage; each unmarried child nineteen years of age, through the end of the month in which that child is no longer a full-time student in an educational or vocational institution, but no longer than through the end of the month in which the full-time student turns twenty-four years of age, and for whom the employee is the major source of financial support or for whom the employee is directed by court order to provide coverage; or an unmarried child of any age who has either a physical or mental disability, as defined by the carrier, not covered under other government programs, and for whom the employee is the major source of financial support or for whom the employee is directed by court order to provide coverage;

(c) An employee's domestic partner, as authorized by the director by rule adopted in accordance with article 4 of this title, who has submitted documentation demonstrating a domestic partnership with an employee as required by such rules;

**24-50-605. Group benefit plans - specifications - contracts.** (1) (a) The specifications drawn by the director for any group benefit plans include those benefits as determined by the director or as otherwise specifically provided in this part 6. Such specifications shall include provisions for noncancellation for reasons of health of any individual employee by the carrier and transferability to other group benefit coverages or individual policies with the same carrier by the employee, if such provisions do not limit the ability of the director to prepare specifications including a lifetime maximum benefit per employee or employee's covered dependents.

(b) At any time the director seeks to contract with any carriers under this section, the director shall first give written notice of such intent through an announcement in a publication with statewide circulation.

(5) The director shall evaluate the feasibility of offering a high deductible health plan that would qualify for a health savings account as described in 26 U.S.C. 223, as amended, for state employees. The director shall forward the findings based on such evaluation to the members of the health, environment, and institutions and business affairs and labor committees of the house of representatives and the senate no later than October 1, 2004. In the director's findings, the director shall list any

impediments to implementing such high deductible health plans and any measures taken to implement such plans for state employees.

**24-50-608. Dependents - eligibility - election of coverage.** (4) If a dependent is no longer eligible for coverage because the dependent turned twenty-five years old, the director shall remove the dependent from the group benefit plan by the end of the month in which the dependent turned twenty-five years old. If the director fails to remove the ineligible dependent, the employee and the employee's department shall not be directly financially liable for the premiums paid for the dependent coverage if no claims have been paid for the ineligible dependent. If the director fails to remove the ineligible dependent and a claim has been paid for the ineligible dependent, the employee and the employee's department shall not be directly financially liable for the paid claim. The costs for premiums and claims paid may be paid from the group benefit plans reserve fund established in section 24-50-613.

**24-50-609. State contributions - supplemental state contribution fund - creation.**

(2) (b) (II) Effective December 1, 2002, for the 2003 calendar year, the state of Colorado shall contribute an amount necessary to pay one hundred sixty-six dollars and twelve cents per month per single employee, two hundred thirty-nine dollars and fifteen cents per month per employee with one covered dependent, and three hundred twenty-eight dollars and eighty-seven cents per month per employee with two or more covered dependents for each employee enrolled in group benefit plans that include enrollment in medical benefits. The amounts specified in this subparagraph (II) may be adjusted for future years in accordance with subparagraph (I) of this paragraph (b) and section 24-50-104 (4).

**24-50-612. Administrative duties.** (3) The director shall hold a public hearing prior to the acceptance of any proposal for a group benefit plan. Notice of the hearing shall be given at least fourteen days in advance by mailing such notice to persons on the list maintained by the department of personnel pursuant to section 24-4-103 (3)(b).



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**BILL TOPIC: "State Employees Group Benefits Act Modifications"**

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**A BILL FOR AN ACT**

101 **CONCERNING MODIFICATIONS TO THE "STATE EMPLOYEES GROUP**  
102 **BENEFITS ACT".**

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**Bill Summary**

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

**Statutory Revision Committee.** The "State Employees Group Benefits Act" (act) authorizes the state personnel director (director) to enter into contracts with carriers to provide medical, dental, life, and disability benefits to state employees. The bill modifies several provisions of the act to bring it into compliance with current state and federal law and to eliminate obsolete provisions. Specifically, the bill:

- To bring the act into compliance with federal law, changes the definition of "dependent" to include a child through the end of the month in which the child turns 26, eliminates the requirement that a child be a full-time student to be a dependent past the age of 19, eliminates the requirement that a child be unmarried to be a dependent, and eliminates the requirement that the employee be the major source of financial support or directed by a court to provide coverage for a child to be a dependent;
- Removes an employee's domestic partner from the definition of "dependent" as the director has repealed rules allowing a person to submit documentation demonstrating a domestic partnership with an employee;
- Removes a reference to lifetime maximum benefit per employee or employee's covered dependents to bring the act into compliance with federal law;
- Eliminates a provision requiring the director to give written notice of intent to seek a contract with insurance carriers, and authorizes the director to make such announcement in a manner that he or she determines;
- Eliminates an obsolete provision that required the director to evaluate the feasibility of offering a high deductible health plan and to forward the findings of the evaluation to the general assembly by October 1, 2004;
- Eliminates an obsolete provision that specified the amount of the state's contribution for each employee enrolled in group benefit plans for the 2003 calendar year; and
- Eliminates a requirement that the director hold a public hearing prior to the acceptance of any proposal for a group benefit plan, as this requirement is not in compliance with the "Procurement Code".

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-50-603, **amend**  
3 (5)(a); and **repeal** (5)(c) as follows:

4           **24-50-603. Definitions.** As used in this part 6, unless the context  
5 otherwise requires:

6           (5) "Dependent" means:

7           (a) An employee's legal spouse; each ~~unmarried~~ child, including

1 adopted children, stepchildren, and foster children, through the end of the  
2 month in which the child turns ~~nineteen~~ TWENTY-SIX years of age; for  
3 whom the employee is the major source of financial support or for whom  
4 the employee is directed by court order to provide coverage; each  
5 unmarried child ~~nineteen~~ years of age, through the end of the month in  
6 which that child is no longer a full-time student in an educational or  
7 vocational institution, but no longer than through the end of the month in  
8 which the full-time student turns twenty-four years of age, and for whom  
9 the employee is the major source of financial support or for whom the  
10 employee is directed by court order to provide coverage; or an unmarried  
11 child of any age who has either a physical or mental disability, as defined  
12 by the carrier, not covered under other government programs, and for  
13 whom the employee is the major source of financial support or for whom  
14 the employee is directed by court order to provide coverage;

15 (c) ~~An employee's domestic partner, as authorized by the director~~  
16 ~~by rule adopted in accordance with article 4 of this title, who has~~  
17 ~~submitted documentation demonstrating a domestic partnership with an~~  
18 ~~employee as required by such rules;~~

19 **SECTION 2.** In Colorado Revised Statutes, 24-50-605, **amend**  
20 (1)(a) and (1)(b); and **repeal** (5) as follows:

21 **24-50-605. Group benefit plans - specifications - contracts.**

22 (1) (a) The specifications drawn by the director for any group benefit  
23 plans include those benefits as determined by the director or as otherwise  
24 specifically provided in this part 6. Such specifications shall include  
25 provisions for noncancellation for reasons of health of any individual  
26 employee by the carrier and transferability to other group benefit  
27 coverages or individual policies with the same carrier by the employee.

1 ~~if such provisions do not limit the ability of the director to prepare~~  
2 ~~specifications including a lifetime maximum benefit per employee or~~  
3 ~~employee's covered dependents.~~

4 (b) At any time the director seeks to contract with any carriers  
5 under this section, the director shall first give ~~written~~ notice of such intent  
6 ~~through an announcement in a publication with statewide circulation~~ IN  
7 A MANNER DETERMINED BY THE DIRECTOR.

8 (5) ~~The director shall evaluate the feasibility of offering a high~~  
9 ~~deductible health plan that would qualify for a health savings account as~~  
10 ~~described in 26 U.S.C. 223, as amended, for state employees. The director~~  
11 ~~shall forward the findings based on such evaluation to the members of the~~  
12 ~~health, environment, and institutions and business affairs and labor~~  
13 ~~committees of the house of representatives and the senate no later than~~  
14 ~~October 1, 2004. In the director's findings, the director shall list any~~  
15 ~~impediments to implementing such high deductible health plans and any~~  
16 ~~measures taken to implement such plans for state employees.~~

17 **SECTION 3.** In Colorado Revised Statutes, 24-50-608, **amend**  
18 (4) as follows:

19 **24-50-608. Dependents - eligibility - election of coverage.** (4) If  
20 a dependent is no longer eligible for coverage because the dependent  
21 turned ~~twenty-five~~ TWENTY-SIX years old, the director shall remove the  
22 dependent from the group benefit plan by the end of the month in which  
23 the dependent turned ~~twenty-five~~ TWENTY-SIX years old. If the director  
24 fails to remove the ineligible dependent, the employee and the employee's  
25 department shall not be directly financially liable for the premiums paid  
26 for the dependent coverage if no claims have been paid for the ineligible  
27 dependent. If the director fails to remove the ineligible dependent and a

1 claim has been paid for the ineligible dependent, the employee and the  
2 employee's department shall not be directly financially liable for the paid  
3 claim. The costs for premiums and claims paid may be paid from the  
4 group benefit plans reserve fund established in section 24-50-613.

5 **SECTION 4.** In Colorado Revised Statutes, 24-50-609, **repeal**  
6 (2)(b)(II) as follows:

7 **24-50-609. State contributions - supplemental state**  
8 **contribution fund - creation.** (2) (b) (II) ~~Effective December 1, 2002,~~  
9 ~~for the 2003 calendar year, the state of Colorado shall contribute an~~  
10 ~~amount necessary to pay one hundred sixty-six dollars and twelve cents~~  
11 ~~per month per single employee, two hundred thirty-nine dollars and~~  
12 ~~fifteen cents per month per employee with one covered dependent, and~~  
13 ~~three hundred twenty-eight dollars and eighty-seven cents per month per~~  
14 ~~employee with two or more covered dependents for each employee~~  
15 ~~enrolled in group benefit plans that include enrollment in medical~~  
16 ~~benefits. The amounts specified in this subparagraph (II) may be adjusted~~  
17 ~~for future years in accordance with subparagraph (I) of this paragraph (b)~~  
18 ~~and section 24-50-104 (4).~~

19 **SECTION 5.** In Colorado Revised Statutes, 24-50-612, **repeal** (3)  
20 as follows:

21 **24-50-612. Administrative duties.** (3) ~~The director shall hold a~~  
22 ~~public hearing prior to the acceptance of any proposal for a group benefit~~  
23 ~~plan. Notice of the hearing shall be given at least fourteen days in~~  
24 ~~advance by mailing such notice to persons on the list maintained by the~~  
25 ~~department of personnel pursuant to section 24-4-103 (3)(b).~~

26 **SECTION 6. Act subject to petition - effective date.** This act  
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August  
2 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
3 referendum petition is filed pursuant to section 1 (3) of article V of the  
4 state constitution against this act or an item, section, or part of this act  
5 within such period, then the act, item, section, or part will not take effect  
6 unless approved by the people at the general election to be held in  
7 November 2018 and, in such case, will take effect on the date of the  
8 official declaration of the vote thereon by the governor.

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157  
EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2g<sup>1</sup>

FROM: Jane M. Ritter, Office of Legislative Legal Services  
DATE: September 29, 2017  
SUBJECT: Clarify language in the Mental Health Act concerning "generally accepted standards" of practice

### Summary and Analysis

The Colorado Mental Health Act<sup>2</sup> provides the standards, licensing requirements, disciplinary provisions, and general expectations for professional practice for psychologists, social workers, marriage and family therapists, licensed professional counselors, registered psychotherapists, and addiction counselors.

Practitioners in the field brought to staff's attention that language related to "generally accepted standards" in the section concerning prohibited activities is vague and leaves practitioners with uncertainty about enforcement. Specifically, section 12-43-222 (1)(g)(I), C.R.S., states:

**12-43-222. Prohibited activities - related provisions.** (1) A person licensed, registered, or certified under this article 43 violates this article 43 if the person:

(g) (I) Has acted or failed to act in a manner that does not meet the generally accepted standards of the professional discipline under which the person practices. **Generally accepted standards may include, at the board's**

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

<sup>2</sup> Article 43 of title 12, C.R.S.

**discretion, the standards of practice generally recognized by state and national associations of practitioners in the field of the person's professional discipline. (Emphasis added)**

The preference by representative practitioners in the mental health field is to add clarifying detail to that language.

### **Statutory Charge<sup>3</sup>**

Clarifying vague language meets the Statutory Revision Committee's statutory charge to recommend needed reforms to clarify statutory language.

### **Proposed Bill**

The attached bill draft<sup>4</sup> proposes adding language to section 12-43-222 (1)(g)(I) so that it would read: "Generally accepted standards of practice may include, at the board's discretion, **a malpractice judgment of a court of competent jurisdiction or the ethics code of an association where the practitioner holds membership** in the field of the person's professional discipline."

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

<sup>4</sup> See **Addendum A**.

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LLS NO. 18-####.## Jane Ritter x4342

**COMMITTEE BILL**

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**Statutory Revision Committee**

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**A BILL FOR AN ACT**

101 **CONCERNING CLARIFYING LANGUAGE IN THE MENTAL HEALTH**  
102 **PRACTICE ACT CONCERNING GENERALLY ACCEPTED STANDARDS**  
103 **OF PRACTICE.**

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**Bill Summary**

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

**Statutory Revision Committee.** The bill adds clarifying language to a section in the mental health practice act, article 43 of title 12, Colorado Revised Statutes, concerning prohibited activities. Specifically, the bill clarifies what is included in the phrase "generally accepted

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

standards of practice".

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

2         **SECTION 1. Legislative declaration.** The general assembly  
3 declares that its intent in enacting **House Bill/Senate Bill 18-** is to  
4 effect a nonsubstantive change in statute to clarify language in section  
5 12-43-222, Colorado Revised Statutes, concerning "generally accepted  
6 standards of practice". The general assembly further declares that the  
7 addition of such clarifying language to the section does not in any way  
8 alter the scope or applicability of the statutory section involved.

9         **SECTION 2.** In Colorado Revised Statutes, 12-43-222, **amend**  
10 (1)(g)(I) as follows:

11         **12-43-222. Prohibited activities - related provisions.** (1) A  
12 person licensed, registered, or certified under this article 43 violates this  
13 article 43 if he or she:

14         (g) (I) Has acted or failed to act in a manner that does not meet the  
15 generally accepted standards of the professional discipline under which  
16 the person practices. Generally accepted standards may include, at the  
17 board's discretion, ~~the standards of practice generally recognized by state~~  
18 ~~and national associations of practitioners~~ A MALPRACTICE JUDGMENT OF  
19 A COURT OF COMPETENT JURISDICTION OR THE ETHICS CODE OF AN  
20 ASSOCIATION WHERE THE PRACTITIONER HOLDS MEMBERSHIP in the field  
21 of the person's professional discipline.

22         **SECTION 3. Act subject to petition - effective date.** This act  
23 takes effect at 12:01 a.m. on the day following the expiration of the  
24 ninety-day period after final adjournment of the general assembly (August  
25 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part will not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2018 and, in such case, will take effect on the date of the  
6 official declaration of the vote thereon by the governor.



# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2h<sup>1</sup>

TO: Statutory Revision Committee

FROM: Jane M. Ritter, Office of Legislative Legal Services

DATE: October 5, 2017

SUBJECT: Modernize outdated "mental retardation:/"mentally retarded" terminology

### Summary and Analysis

Over the years, the General Assembly has followed the lead of the disability community regarding the ways in which persons with disabilities are referred to in statute. This includes using "person first" language<sup>2</sup>, referring to "mental health disorder" rather than "mental illness", and more. A community advocate brought to staff's attention that a handful of outdated references to "mental retardation" and "mentally retarded" remain in statute. The more appropriate, and more widespread, terminology is now "a person with an intellectual and developmental disability".

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

<sup>2</sup> See section 2-2-802, C.R.S.

## **Statutory Charge<sup>3</sup>**

Modernizing outdated references to "mental retardation" and "mentally retarded" meets the Statutory Revision Committee's statutory charge to modernize antiquated language and to bring the law of this state into harmony with modern conditions.

## **Proposed Bill**

The attached bill draft<sup>4</sup> makes the necessary changes to modernize outdated statutory references to "mental retardation" and "mentally retarded". Because of the critical nature of the Colorado Criminal Code (title 18, C.R.S.) and the way it is used by practitioners in the field, the bill does not completely eliminate such references that appear in the Criminal Code. Instead, the proposed bill adds the more appropriate language referencing "intellectual and developmental disability" so that a gradual shift can occur over time.

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

<sup>4</sup> See **Addendum A**.

# ADDENDUM A

## Second Regular Session Seventy-first General Assembly STATE OF COLORADO

**BILL 2H**

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LLS NO. 18-######\_ Jane Ritter x4342

**COMMITTEE BILL**

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**Statutory Revision Committee**

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### A BILL FOR AN ACT

101 **CONCERNING MODERNIZING STATUTORY PROVISIONS THAT REFER TO**  
102 **TERMS RELATED TO "MENTAL RETARDATION".**

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#### **Bill Summary**

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

**Statutory Revision Committee.** The bill modernizes and makes nonsubstantive changes to provisions of statute that use terms like "mental retardation" or "mentally retarded" by replacing the terms with more appropriate "intellectual and developmental disability" language.

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 declares that its intent in enacting House Bill/Senate Bill 18-\_\_\_ is to  
4 effect a nonsubstantive change in statute to modernize the outdated use  
5 of the terms "mental retardation" and "mentally retarded" where  
6 appropriate. The general assembly further declares that these terminology  
7 changes do not in any way alter the scope or applicability of the statutory  
8 sections in which the terminology appears.

9           **SECTION 2.** In Colorado Revised Statutes, 18-1.3-1101, **amend**  
10 (2) as follows:

11           **18-1.3-1101. Definitions.** As used in this part 11:

12           (2) "Mentally retarded defendant OR DEFENDANT WITH AN  
13 INTELLECTUAL AND DEVELOPMENTAL DISABILITY" means any defendant  
14 with significantly subaverage general intellectual functioning existing  
15 concurrently with substantial deficits in adaptive behavior and manifested  
16 and documented during the developmental period. The requirement for  
17 documentation may be excused by the court upon a finding that  
18 extraordinary circumstances exist.

19           **SECTION 3.** In Colorado Revised Statutes, **amend** 18-1.3-1102  
20 as follows:

21           **18-1.3-1102. Pretrial motion by defendant in class 1 felony**  
22 **case - determination whether defendant is mentally retarded or has**  
23 **an intellectual and developmental disability - procedure.** (1) Any  
24 defendant may file a motion with the trial court in which the defendant  
25 may allege that such defendant is a mentally retarded defendant ~~Such~~ OR  
26 A DEFENDANT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

1 THE motion ~~shall~~ MUST be filed at least ninety-one days prior to trial.  
2 (2) The court shall hold a hearing upon any motion filed pursuant  
3 to subsection (1) of this section and shall make a determination regarding  
4 ~~such~~ THE motion no later than fourteen days prior to trial. At such  
5 hearing, the defendant ~~shall~~ MUST be permitted to present evidence with  
6 regard to ~~such~~ THE motion and the prosecution ~~shall~~ MUST be permitted  
7 to offer evidence in rebuttal. The defendant ~~shall have~~ HAS the burden of  
8 proof to show by clear and convincing evidence that ~~such defendant~~ HE  
9 OR SHE is mentally retarded OR HAS AN INTELLECTUAL AND  
10 DEVELOPMENTAL DISABILITY.

11 (3) The court shall enter specific findings of fact and conclusions  
12 of law regarding whether or not the defendant is a mentally retarded  
13 defendant OR A DEFENDANT WITH AN INTELLECTUAL AND  
14 DEVELOPMENTAL DISABILITY, as defined in section 18-1.3-1101.

15 **SECTION 4.** In Colorado Revised Statutes, **amend** 18-1.3-1103  
16 as follows:

17 **18-1.3-1103. Mentally retarded defendant or defendant with**  
18 **an intellectual and developmental disability - death penalty not**  
19 **imposed.** A sentence of death shall not be imposed upon any defendant  
20 who is determined to be a mentally retarded defendant OR A DEFENDANT  
21 WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY pursuant to  
22 section 18-1.3-1102. If any person who is determined to be a mentally  
23 retarded defendant OR A DEFENDANT WITH AN INTELLECTUAL AND  
24 DEVELOPMENTAL DISABILITY is found guilty of a class 1 felony, such  
25 defendant shall be sentenced to life imprisonment.

26 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-1104, **amend**  
27 (1), (3), (4), (6) introductory portion, and (6)(c) as follows:

1           **18-1.3-1104. Evaluation and report.** (1) When the defendant  
2 files a motion alleging that the defendant is a mentally retarded defendant  
3 OR A DEFENDANT WITH AN INTELLECTUAL AND DEVELOPMENTAL  
4 DISABILITY, the court shall order one or more evaluations of the defendant  
5 with regard to such motion.

6           (3) The defendant ~~shall have~~ HAS a privilege against  
7 self-incrimination that may be invoked prior to or during the course of an  
8 evaluation ~~under~~ PURSUANT TO this section. A defendant's failure to  
9 cooperate with the evaluators or other personnel conducting the  
10 evaluation may be admissible in the defendant's HEARING CONCERNING  
11 mental retardation ~~hearing~~ OR THE PRESENCE OF AN INTELLECTUAL AND  
12 DEVELOPMENTAL DISABILITY.

13           (4) To aid in the formation of an opinion as to mental retardation  
14 OR THE PRESENCE OF AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY,  
15 it is permissible in the course of an evaluation ~~under~~ CONDUCTED  
16 PURSUANT TO this section to use statements ~~of~~ MADE BY the defendant and  
17 any other evidence, including but not limited to the circumstances  
18 surrounding the commission of the offense as well as the DEFENDANT'S  
19 medical and social history, ~~of the defendant~~, in evaluating the defendant.

20           (6) The report of evaluation ~~shall~~ MUST include, but is not limited  
21 to:

22           (c) Diagnosis and an opinion as to whether the defendant is  
23 mentally retarded OR HAS AN INTELLECTUAL AND DEVELOPMENTAL  
24 DISABILITY.

25           **SECTION 6.** In Colorado Revised Statutes, **amend** 18-1.3-1105  
26 as follows:

27           **18-1.3-1105. Evaluation at insistence of defendant.** (1) If the

1 defendant wishes to be evaluated by an expert ~~in mental retardation~~ of the  
2 defendant's choice IN MENTAL RETARDATION OR INTELLECTUAL AND  
3 DEVELOPMENTAL DISABILITIES in connection with the mental retardation  
4 OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY hearing ~~under~~  
5 PURSUANT TO this part 11, the court, upon timely motion, shall order that  
6 the evaluator chosen by the defendant be given reasonable opportunity to  
7 conduct the evaluation.

8 (2) Whenever an expert is endorsed as a witness by the defendant,  
9 a copy of any report of an evaluation of the defendant shall be furnished  
10 to the prosecution within a reasonable time but not less than thirty-five  
11 days prior to the mental retardation OR INTELLECTUAL AND  
12 DEVELOPMENTAL DISABILITY hearing.

13 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-1201, **amend**  
14 (1)(a) as follows:

15 **18-1.3-1201. Imposition of sentence in class 1 felonies -**  
16 **appellate review.** (1) (a) Upon conviction of guilt of a defendant of a  
17 class 1 felony, the trial court shall conduct a separate sentencing hearing  
18 to determine whether the defendant should be sentenced to death or life  
19 imprisonment, unless the defendant was under the age of eighteen years  
20 at the time of the commission of the offense or unless the defendant has  
21 been determined to be a mentally retarded defendant OR A DEFENDANT  
22 WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY pursuant to  
23 part 11 of this ~~article~~ ARTICLE 1.3, in either of which cases, the defendant  
24 ~~shall~~ MUST be sentenced to life imprisonment. THE TRIAL JUDGE SHALL  
25 CONDUCT the hearing ~~shall be conducted by the trial judge~~ before the trial  
26 jury as soon as practicable. Alternate jurors shall not be excused from the  
27 case prior to submission of the issue of guilt to the trial jury and ~~shall~~

1 MUST remain separately sequestered until a verdict is entered by the trial  
2 jury. If the verdict of the trial jury is that the defendant is guilty of a class  
3 1 felony, the alternate jurors ~~shall~~ MUST sit as alternate jurors on the issue  
4 of punishment. If, for any reason satisfactory to the court, any member or  
5 members of the trial jury are excused from participation in the sentencing  
6 hearing, the trial judge shall replace each juror or jurors with an alternate  
7 juror or jurors. If a trial jury was waived or if the defendant pled guilty,  
8 the hearing shall be conducted before the trial judge. The court shall  
9 instruct the defendant when waiving his or her right to a jury trial or when  
10 pleading guilty that he or she is also waiving his or her right to a jury  
11 determination of the sentence at the sentencing hearing.

12 **SECTION 8.** In Colorado Revised Statutes, 18-1.4-102, **amend**  
13 (1)(a) as follows:

14 **18-1.4-102. Imposition of sentence in class 1 felonies for crimes**  
15 **committed on or after July 1, 1995, and prior to July 12, 2002 -**  
16 **appellate review.** (1) (a) Upon conviction of guilt of a defendant of a  
17 class 1 felony, the trial court shall conduct a separate sentencing hearing  
18 to determine whether the defendant should be sentenced to death or life  
19 imprisonment, unless the defendant was under the age of eighteen years  
20 at the time of the commission of the offense, or unless the defendant has  
21 been determined to be a mentally retarded defendant OR A DEFENDANT  
22 WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY pursuant to  
23 part 4 of article 9 of title 16, ~~C.R.S.~~, as it existed prior to October 1, 2002,  
24 in either of which cases, the defendant shall be sentenced to life  
25 imprisonment. THE TRIAL JUDGE SHALL CONDUCT the hearing ~~shall be~~  
26 ~~conducted by the trial judge~~ before the trial jury as soon as practicable.  
27 Alternate jurors shall not be excused from the case prior to submission of

1 the issue of guilt to the trial jury and ~~shall~~ MUST remain separately  
2 sequestered until a verdict is entered by the trial jury. If the verdict of the  
3 trial jury is that the defendant is guilty of a class 1 felony, the alternate  
4 jurors shall sit as alternate jurors on the issue of punishment. If, for any  
5 reason satisfactory to the court, any member or members of the trial jury  
6 are excused from participation in the sentencing hearing, the trial judge  
7 shall replace such juror or jurors with an alternate juror or jurors. If a trial  
8 jury was waived or if the defendant pled guilty, the hearing shall be  
9 conducted before the trial judge. The court shall instruct the defendant  
10 when waiving his or her right to a jury trial or when pleading guilty, that  
11 he or she is also waiving his or her right to a jury determination of the  
12 sentence at the sentencing hearing.

13 **SECTION 9.** In Colorado Revised Statutes, 22-20-103, **amend**  
14 (25) as follows:

15 **22-20-103. Definitions.** As used in this part 1, unless the context  
16 otherwise requires:

17 (25) "Specific learning disability" means a disorder in one or more  
18 of the basic psychological processes involved in understanding or in using  
19 language, spoken or written. ~~which~~ THE disorder may manifest itself in  
20 the imperfect ability to listen, think, speak, read, write, spell, or do  
21 mathematical calculations, and includes such conditions as perceptual  
22 disabilities, brain injury, minimal brain dysfunction, dyslexia, and  
23 developmental aphasia. "Specific learning disability" does not include a  
24 learning problem that is primarily the result of visual, hearing, or motor  
25 disabilities; ~~of mental retardation,~~ ~~of~~ AN INTELLECTUAL AND  
26 DEVELOPMENTAL DISABILITY; AN emotional disturbance; or ~~of~~ AN  
27 environmental, cultural, or economic disadvantage.

1           **SECTION 10.** In Colorado Revised Statutes, **amend 25-3-403** as  
2 follows:

3           **25-3-403. Department to administer federal mental health**  
4 **construction funds.** The department of public health and environment is  
5 designated as the sole agency for carrying out the purposes of Part C of  
6 Title I and Title II of the federal "Mental Retardation Facilities and  
7 Community Mental Health Centers Construction Act of 1963", Public  
8 Law 88-164 of the 88th congress of the United States, approved October  
9 31, 1963, or any amendments thereto, and is authorized to administer a  
10 state plan for carrying out ~~the~~ ITS provisions ~~thereof~~ and to accept, on  
11 behalf of the state, all funds allotted to the state under the provisions of  
12 ~~said~~ THE federal act. ~~or any amendments thereto.~~ Such THE STATE  
13 MENTAL HEALTH AUTHORITY SHALL FORMULATE THE state plan. ~~shall be~~  
14 ~~formulated by the state mental health and mental retardation authority.~~ In  
15 carrying out the purposes ~~hereof~~ OF THE FEDERAL ACT, the department of  
16 public health and environment is authorized to make such reports as may  
17 be required by ~~said~~ THE federal act, ~~or any amendments thereto,~~ and to do  
18 all things that may be required as a condition precedent to the proper  
19 application for the receipt of federal grants under ~~said~~ THE federal act,  
20 ~~and any amendments thereto and regulations thereof,~~ and to administer  
21 and supervise the expenditure of such grants ~~for the purposes hereof~~ in  
22 consultation with the mental health ~~and mental retardation~~ authority of the  
23 state of Colorado.

24           **SECTION 11.** In Colorado Revised Statutes, **amend 25-4-801** as  
25 follows:

26           **25-4-801. Legislative declaration.** The general assembly declares  
27 that, as a matter of public policy of this state and in the interest of public

1 health, every newborn infant should be tested for phenylketonuria and  
2 other metabolic DISORDERS OR defects in order to prevent ~~mental~~  
3 ~~retardation resulting therefrom~~ INTELLECTUAL AND DEVELOPMENTAL  
4 DISABILITIES RESULTING FROM SUCH CONDITIONS and that the people of  
5 this state should be extensively informed as to the nature and effects of  
6 such METABOLIC DISORDERS OR defects.

7 **SECTION 12.** In Colorado Revised Statutes, 25-4-802, **amend**  
8 (2) as follows:

9 **25-4-802. Tests for metabolic disorders or defects.** (2) The  
10 state board of health has the duty to prescribe from time to time effective  
11 tests and examinations designed to detect phenylketonuria and such other  
12 metabolic disorders or defects likely to cause ~~mental retardation~~  
13 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, as accepted medical  
14 practice indicates.

15 **SECTION 13.** In Colorado Revised Statutes, **amend** 25-4-803 as  
16 follows:

17 **25-4-803. Rules.** (1) The state board of health shall promulgate  
18 rules ~~and regulations~~ concerning ~~the~~ obtaining of samples or specimens  
19 from newborn infants required for the tests prescribed by the state board  
20 of health for the handling and delivery of the same and for ~~the~~ testing and  
21 examination ~~thereof~~ to detect phenylketonuria or other metabolic  
22 disorders THAT HAVE BEEN found likely to cause ~~mental retardation~~  
23 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

24 (2) The department of public health and environment shall furnish  
25 all physicians, public health nurses, hospitals, maternity homes, county  
26 departments of HUMAN OR social services, and the state department of  
27 human services available medical information concerning the nature and

1 effects of phenylketonuria and other metabolic disorders and defects  
2 THAT HAVE BEEN found likely to cause ~~mental retardation~~ INTELLECTUAL  
3 AND DEVELOPMENTAL DISABILITIES.

4 **SECTION 14.** In Colorado Revised Statutes, 25-4-1004.5,  
5 **amend** (1)(b) as follows:

6 **25-4-1004.5. Follow-up testing and treatment - second**  
7 **screening - legislative declaration - fee - rules.** (1) The general  
8 assembly finds that:

9 (b) Newborn testing is designed to identify metabolic disorders  
10 that cause ~~mental retardation~~ INTELLECTUAL AND DEVELOPMENTAL  
11 DISABILITIES and other health problems unless they are diagnosed and  
12 treated early in life;

13 **SECTION 15.** In Colorado Revised Statutes, 25.5-6-403, **amend**  
14 (3.3)(a) as follows:

15 **25.5-6-403. Definitions.** As used in this part 4, unless the context  
16 otherwise requires:

17 (3.3) (a) "Intellectual and developmental disability" means a  
18 disability that manifests before the person reaches twenty-two years of  
19 age, that constitutes a substantial disability to the affected person, and that  
20 is attributable to ~~mental retardation~~ AN INTELLECTUAL AND  
21 DEVELOPMENTAL DISABILITY or related conditions, ~~which include~~  
22 INCLUDING cerebral palsy, epilepsy, autism, or other neurological  
23 conditions, when those conditions result in impairment of general  
24 intellectual functioning or adaptive behavior similar to that of a person  
25 with ~~mental retardation~~ AN INTELLECTUAL AND DEVELOPMENTAL  
26 DISABILITY. Unless otherwise specifically stated, the federal definition of  
27 "developmental disability" found in 42 U.S.C. sec. 15001 et seq. ~~shall~~

1 DOES not apply.

2 **SECTION 16.** In Colorado Revised Statutes, 25.5-10-202,  
3 **amend** (26)(a) as follows:

4 **25.5-10-202. Definitions.** As used in this article 10, unless the  
5 context otherwise requires:

6 (26) (a) "Intellectual and developmental disability" means a  
7 disability that manifests before the person reaches twenty-two years of  
8 age, that constitutes a substantial disability to the affected person, and that  
9 is attributable to ~~mental retardation~~ AN INTELLECTUAL AND  
10 DEVELOPMENTAL DISABILITY or related ~~conditions, which include~~  
11 CONDITIONS, INCLUDING cerebral palsy, epilepsy, autism, or other  
12 neurological ~~conditions when those conditions result~~ CONDITIONS, WHEN  
13 THE CONDITION OR CONDITIONS RESULT in impairment of general  
14 intellectual functioning or adaptive behavior similar to that of a person  
15 with ~~mental retardation~~ AN INTELLECTUAL AND DEVELOPMENTAL  
16 DISABILITY. Unless otherwise specifically stated, the federal definition of  
17 "developmental disability" found in 42 U.S.C. sec. 15001 et seq. ~~shall~~  
18 DOES not apply.

19 **SECTION 17.** In Colorado Revised Statutes, **amend** 25.5-10-239  
20 as follows:

21 **25.5-10-239. Evaluations to determine whether a defendant is**  
22 **mentally retarded or has an intellectual and developmental disability**  
23 **for purposes of class 1 felony trials.** Upon request of the court, the  
24 executive director, or his or her designee, shall recommend specific  
25 professionals who are qualified to perform an evaluation to determine  
26 whether a defendant is mentally retarded OR IS A DEFENDANT WITH AN  
27 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, as defined in section

1 18-1.3-1101. ~~C.R.S. Any professional who is recommended shall~~ A  
2 RECOMMENDED PROFESSIONAL MUST be licensed as a psychologist in the  
3 state of Colorado and ~~shall~~ MUST have experience in and ~~shall have~~  
4 demonstrated competence in determination and evaluation of persons  
5 with ~~mental retardation~~ INTELLECTUAL AND DEVELOPMENTAL  
6 DISABILITIES. The executive director shall convene a panel of not fewer  
7 than three persons with expertise in ~~mental retardation who shall~~  
8 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO assess the  
9 qualifications of licensed psychologists and make recommendations to the  
10 executive director OR HIS OR HER DESIGNEE.

11 **SECTION 18.** In Colorado Revised Statutes, 26-11-207, **amend**  
12 (5) as follows:

13 **26-11-207. Family caregiver support program - creation.**  
14 (5) The area agency on aging shall give priority for services under the  
15 program to older individuals with greatest social and economic need, with  
16 particular attention to low-income older individuals, and to older  
17 individuals providing care and support to persons with ~~mental retardation~~  
18 ~~and related~~ INTELLECTUAL AND developmental disabilities.

19 **SECTION 19.** In Colorado Revised Statutes, 27-66-105, **amend**  
20 (1)(e) as follows:

21 **27-66-105. Standards for approval.** (1) In approving or  
22 rejecting community mental health clinics for the purchase of behavioral  
23 or mental health services, the executive director shall:

24 (e) Require that each clinic from which services may be purchased  
25 be under the control and direction of a county or community board of  
26 health, a board of directors or trustees of a corporation, for profit or not  
27 for profit, a regional mental health ~~and mental retardation~~ board, or a

1 political subdivision of the state;

2           **SECTION 20.** In Colorado Revised Statutes, **amend** 27-66-106  
3 as follows:

4           **27-66-106. Federal grants-in-aid - administration.** The  
5 department is designated the official mental health ~~and mental retardation~~  
6 authority, and is authorized to receive grants-in-aid from the federal  
7 government under the provisions of 42 U.S.C. sec. 246, and shall  
8 administer said grants in accordance therewith.

9           **SECTION 21. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly (August  
12 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
13 referendum petition is filed pursuant to section 1 (3) of article V of the  
14 state constitution against this act or an item, section, or part of this act  
15 within such period, then the act, item, section, or part will not take effect  
16 unless approved by the people at the general election to be held in  
17 November 2018 and, in such case, will take effect on the date of the  
18 official declaration of the vote thereon by the governor.



# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

## MEMORANDUM 2i<sup>1</sup>

TO: Statutory Revision Committee

FROM: Jane M. Ritter, Office of Legislative Legal Services

DATE: October 12, 2017

SUBJECT: Delete outdated use of "early childhood care and education council" terminology

### Summary and Analysis

In 1997, the General Assembly established a pilot program to further a goal of quality early childhood care and education.<sup>2</sup> The pilot program, repealed in 2007, included 17 initial site agencies to provide comprehensive early childhood services to ensure the school readiness of children five years of age or younger in the pilot site community and to assess the possibility of a statewide system of such agencies.

At the same time, to assist with the program and the overall goal of early childhood care and education throughout the state, a statewide system of integrated early childhood councils was established. The councils initially included the 17 original pilot site agencies and any other councils designated and convened pursuant to statutory requirements, subject to available appropriations from the general fund.

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

<sup>2</sup> See article 6.5 of title 26, C.R.S., for legislation related to early childhood and school readiness, and part 1 of article 6.5 of title 26 for legislation related to early childhood councils specifically. § 26-6.5-102, C.R.S., created the pilot program.

Several years later, as part of a school-readiness quality improvement program, the General Assembly approved legislation that allowed for communities throughout the state that did not have a pilot site agency or other early childhood council to identify or establish a new entity to serve as the early childhood *care and education* council in the community.<sup>3</sup> The goals and objectives of both types of councils were the same—to work toward the development and implementation of a comprehensive early childhood system to ensure the school readiness of children ages five and under in the community.

Over time, and after the pilot program had been repealed, all of the councils became known simply as "early childhood councils," and the "early childhood care and education council" distinction was dropped. References to the latter still exist in statute and need to be changed to "early childhood council(s)".

### **Statutory Charge<sup>4</sup>**

Updating outdated references to "early childhood care and education council(s)" meets the Statutory Revision Committee's statutory charge to modernize outdated language and to bring the law of this state into harmony with modern conditions.

### **Proposed Bill**

The attached bill draft<sup>5</sup> makes the necessary changes to modernize outdated statutory references to "early childhood care and education council(s)".

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<sup>3</sup> See § 26-6.5-106 (3.5), C.R.S.

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

<sup>5</sup> See **Addendum A**.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

BILL 2I

*Temporary storage location: S:\LLS\2018A\Bills\Pre-Draft\18-SRC-early childhood care and education councils.wpd*

LLS NO. 18-####.## Jane Ritter x4342

COMMITTEE BILL

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Statutory Revision Committee

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A BILL FOR AN ACT

101 CONCERNING THE REMOVAL OF OUTDATED REFERENCES IN STATUTE  
102 TO "EARLY CHILDHOOD CARE AND EDUCATION COUNCILS".

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**Bill Summary**

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

**Statutory Revision Committee.** The bill removes outdated references in statute to "early childhood care and education councils". The term is no longer used. Instead, these entities are referred to as "early childhood councils".

**Shading denotes HOUSE amendment.** Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 declares that its intent in enacting **House Bill/Senate Bill 18-** is to  
4 effect a nonsubstantive change in statute to modernize the outdated term  
5 "early childhood care and education council" to the term that is currently  
6 utilized, "early childhood council". The general assembly further declares  
7 that these terminology changes do not in any way alter the scope or  
8 applicability of the statutory sections in which the terminology appears.

9           **SECTION 2.** In Colorado Revised Statutes, 22-2-134, **amend** (2)  
10 as follows:

11           **22-2-134. Unique student identifier - early childhood**  
12 **education - rules.** (2) The working group shall adopt protocols by which  
13 the department of education, the department of human services, school  
14 districts, charter schools, AND the early childhood councils, as described  
15 in ~~section 26-6.5-103.3, C.R.S., and the early childhood care and~~  
16 ~~education councils, as defined in section 26-6.5-101.5 (6), C.R.S.,~~ PART  
17 1 OF ARTICLE 6.5 OF TITLE 26 shall cooperate in assigning the uniquely  
18 identifying student numbers. The working group shall also consider  
19 methods by which to encourage and facilitate the assignment of uniquely  
20 identifying student numbers to students who are receiving early childhood  
21 education services that are not subsidized by state or federal funding.

22           **SECTION 3.** In Colorado Revised Statutes, 22-7-304, **amend** (1)  
23 introductory portion as follows:

24           **22-7-304. Council - advisory duties - technical assistance -**  
25 **report.** (1) The council shall inform, at a minimum, the early childhood  
26 councils ~~and the early childhood care and education councils~~ created

1 pursuant to PART 1 OF article 6.5 of title 26, ~~C.R.S.~~, public schools, school  
2 districts, the state charter school institute, the department, the state board,  
3 the department of higher education, the Colorado commission on higher  
4 education, and the governing boards for the state institutions of higher  
5 education concerning best practices and strategies, aligned with the  
6 national standards for family-school partnerships, for increasing parent  
7 involvement in public education and promoting family and school  
8 partnerships, including but not limited to best practices and strategies in  
9 the following areas:

10 **SECTION 4.** In Colorado Revised Statutes, 22-7-1010, **amend**  
11 (1)(a)(II) as follows:

12 **22-7-1010. State board - commission - public input - staff**  
13 **assistance.** (1) In fulfilling their duties under this part 10, the state board  
14 and the commission, at a minimum, shall:

15 (a) Meet with interested persons throughout the state, including  
16 but not limited to:

17 (II) Representatives of early childhood councils; ~~and early~~  
18 ~~childhood care and education councils;~~

19 **SECTION 5.** In Colorado Revised Statutes, 24-37.5-703.5,  
20 **amend** (1) introductory portion and (1)(f)(VII) as follows:

21 **24-37.5-703.5. Education data subcommittee - created - duties**  
22 **- repeal.** (1) The education data subcommittee is ~~hereby~~ created as a  
23 subcommittee of the advisory board. The education data subcommittee  
24 ~~shall consist~~ CONSISTS of the following members:

25 (f) At least ten members appointed by the governor with expertise  
26 in data sharing by education agencies, including at least one  
27 representative from each of the following groups:

1 (VII) Early childhood councils established pursuant to ~~section~~  
2 ~~26-6.5-103, C.R.S., and early childhood care and education councils~~  
3 ~~established pursuant to section 26-6.5-106, C.R.S.~~ PART 1 OF ARTICLE 6.5  
4 OF TITLE 26;

5 **SECTION 6.** In Colorado Revised Statutes, 26-6-121, **amend** (2)  
6 as follows:

7 **26-6-121. Preschools - unique student identifying numbers -**  
8 **rules.** (2) The working group shall adopt protocols by which the  
9 department of education, the department of human services, school  
10 districts, charter schools, AND the early childhood councils, as described  
11 in ~~section 26-6.5-103.3, and the early childhood care and education~~  
12 ~~councils, as defined in section 26-6.5-101.5 (6)~~ PART 1 OF ARTICLE 6.5 OF  
13 TITLE 26, shall cooperate in assigning the uniquely identifying student  
14 numbers. The working group shall also consider methods by which to  
15 encourage and facilitate the assignment of uniquely identifying student  
16 numbers to students who are receiving early childhood education services  
17 that are not subsidized by state or federal funding.

18 **SECTION 7.** In Colorado Revised Statutes, 26-6.5-101.5, **amend**  
19 (2); and **repeal** (6) as follows:

20 **26-6.5-101.5. Definitions.** As used in this part 1, unless the  
21 context otherwise requires:

22 (2) "Council" means an early childhood council identified or  
23 established locally in communities throughout the state pursuant to  
24 section 26-6.5-103 OR 26-6.5-106 for the purpose of developing and  
25 ultimately implementing a comprehensive system of early childhood  
26 services to ensure the school readiness of children five years of age or  
27 younger in the community. ~~A council may be an early childhood care and~~

1 education council so long as no more than one council exists in a given  
2 service area.

3 (6) "Early childhood care and education council" means a council  
4 that represents public and private stakeholders identified or established  
5 locally in communities throughout the state pursuant to section  
6 26-6.5-106. An early childhood care and education council shall provide  
7 school-readiness quality improvement funding to early care and education  
8 providers pursuant to section 26-6.5-106 (3) to enhance the school  
9 readiness of children five years of age or younger.

10 **SECTION 8.** In Colorado Revised Statutes, 26-6.5-106, **amend**  
11 (3), (3.5)(a)(I) introductory portion, (3.5)(a)(II) introductory portion,  
12 (3.5)(b), (4), (6) introductory portion, (7), (8)(a), (8)(b), (9)(a)  
13 introductory portion, (9)(b), (9)(c), and (9)(d) as follows:

14 **26-6.5-106. School-readiness quality improvement program -**  
15 **rules. (3) School-readiness quality improvement program created.**

16 On and after January 1, 2003, and continuing thereafter subject to  
17 sufficient and available federal funding, there is hereby created the  
18 school-readiness quality improvement program, referred to in this section  
19 as the "program", pursuant to which the state department of human  
20 services shall award three years of school-readiness quality improvement  
21 funding to eligible early childhood care and education councils identified  
22 or established throughout the state pursuant to subsection (3.5) of this  
23 section. School-readiness quality improvement funding shall MUST be  
24 awarded to improve the school readiness of children five years of age and  
25 younger who are enrolled in early care and education facilities.  
26 School-readiness quality improvement funding shall MUST be awarded to  
27 eligible early childhood care and education councils based upon

1 allocations made at the discretion of the state department and subject to  
2 available federal funding. Nothing in this section or in any rules  
3 promulgated pursuant to this section ~~shall be interpreted to create~~  
4 ~~CREATES~~ a legal entitlement in any early childhood ~~care and education~~  
5 council to school-readiness quality improvement funding pursuant to the  
6 program. ~~Moneys~~ MONEY awarded through the program ~~shall~~ MUST be  
7 used to improve the school readiness of children, five years of age and  
8 younger, cared for at such facilities, who ultimately attend eligible  
9 elementary schools.

10 (3.5) **Early childhood councils.** (a) (I) Communities throughout  
11 the state that do not have a pilot site agency may identify an existing  
12 entity or establish a new entity to serve as the early childhood ~~care and~~  
13 ~~education~~ council to work toward the development and implementation  
14 of a comprehensive early childhood system to ensure the school readiness  
15 of young children in the community. A community may identify an  
16 existing entity, such as a consolidated child care pilot site agency, ~~or~~ an  
17 interagency coordinating council, or a district preschool program advisory  
18 council, to serve as its early childhood ~~care and education~~ council, or it  
19 may establish a new council. To the extent it is practical, early childhood  
20 ~~care and education councils shall~~ COUNCILS MUST be representative of the  
21 various public and private stakeholders in the community, as specified in  
22 this subsection (3.5), who are committed to supporting the preparedness  
23 of young children for school. ~~Such stakeholders shall~~ STAKEHOLDERS  
24 include:

25 (II) In addition, each early childhood ~~care and education~~ council  
26 may include ~~but is not limited to~~, representation from any combination of  
27 the following:

1 (b) For purposes of this section, ~~the~~ AN early childhood care and  
2 education council, whether newly established in a community or newly  
3 identified to serve as such, shall work toward consolidating and  
4 coordinating funding, including school-readiness quality improvement  
5 funding, to create a seamless early childhood system of collaboration  
6 among the various public and private stakeholders for the effective  
7 delivery of early childhood care and education to young children in the  
8 community.

9 (4) **Application for funding.** (a) (I) An early childhood care and  
10 education council seeking school-readiness quality improvement funding  
11 from the state department pursuant to this section shall apply directly to  
12 the state department in the manner specified by rule of the state board. ~~of~~  
13 ~~human services.~~ An early childhood care and education council applying  
14 for school-readiness quality improvement funding pursuant to this section  
15 shall meet the following minimum criteria:

16 (A) The community represented by the early childhood care and  
17 education council ~~shall~~ COUNCIL MUST include one or more eligible  
18 elementary schools;

19 (B) The early childhood care and education council shall develop  
20 and submit a school-readiness plan to improve the school readiness of  
21 children in the community as described in subsection (6) of this section;  
22 and

23 (C) The early childhood care and education council shall  
24 demonstrate the commitment of the early care and education facilities  
25 identified in the school-readiness plan to cooperate with and participate  
26 in the school-readiness quality rating system described in subsection (5)  
27 of this section.

1 (II) An early childhood ~~care and education~~ council seeking  
2 school-readiness quality improvement funding pursuant to this section  
3 shall, in addition to the requirements set forth in ~~subparagraph (f) of this~~  
4 ~~paragraph (a)~~ SUBSECTION (4)(a)(I) OF THIS SECTION, meet any additional  
5 eligibility requirements specified by rule of the state board.

6 (b) Early childhood ~~care and education~~ councils that receive  
7 school-readiness quality improvement funding pursuant to this section  
8 shall distribute such ~~moneys~~ MONEY to early care and education facilities  
9 identified in the school-readiness plan described in subsection (6) of this  
10 section.

11 (6) **School-readiness plans.** Each early childhood ~~care and~~  
12 ~~education~~ council seeking to apply for school-readiness quality  
13 improvement funding pursuant to this section shall prepare and submit to  
14 the state department a three-year school-readiness plan that outlines  
15 strategies to improve the school readiness of children who reside in  
16 neighborhoods with eligible elementary schools. The school-readiness  
17 plan, at a minimum, ~~shall~~ MUST include:

18 (7) **Rules.** (a) The state board of ~~human services~~ shall promulgate  
19 rules for the implementation of this section, including but not limited to  
20 rules that:

21 (I) Specify the procedure by which an early childhood ~~care and~~  
22 ~~education~~ council may apply for school-readiness quality improvement  
23 funding pursuant to the program;

24 (II) Specify the manner in which school-readiness quality  
25 improvement funding is distributed to early childhood ~~care and education~~  
26 councils, ensuring an equitable distribution between rural and urban  
27 communities; and

1 (III) Identify any additional eligibility requirements for early  
2 childhood ~~care and education~~ councils seeking school-readiness quality  
3 improvement funding, as described in ~~subparagraph (H) of paragraph (a)~~  
4 ~~of subsection (4)~~ SUBSECTION (4)(a)(II) of this section.

5 (b) At a minimum, the rules promulgated pursuant to this  
6 subsection (7) ~~shall~~ MUST identify a specific and measurable level of  
7 improvement in the school-readiness quality rating that an early care and  
8 education provider must achieve over the course of the funding  
9 distribution period after receiving an initial funding distribution through  
10 the program in order for the provider to continue receiving  
11 school-readiness quality improvement funding, as well as the eligibility  
12 criteria for continued participation in the program.

13 (8) **Funding.** (a) The school-readiness quality improvement  
14 program ~~shall be~~ IS funded using federal child care development fund  
15 ~~moneys~~ MONEY annually appropriated for the program. ~~Such moneys shall~~  
16 ~~be allocated by~~ The state department SHALL ALLOCATE THE MONEY to the  
17 eligible early childhood ~~care and education~~ councils for implementation  
18 of the rating system and for distribution to early care and education  
19 providers, as provided in this section.

20 (b) (I) If ~~moneys are~~ MONEY IS required to match the federal child  
21 care development funds, such matching ~~moneys~~ MONEY may be from, but  
22 need not be limited to, general fund ~~moneys~~ MONEY appropriated by the  
23 general assembly, local ~~moneys~~ MONEY, or private matching ~~moneys~~  
24 MONEY. Any state department staff that may be necessary to support the  
25 school-readiness quality improvement program ~~shall~~ MUST be funded by  
26 federal child care development funds appropriated for the program and  
27 not from general funds. The FTE authorization for any staff necessary to

1 support the school-readiness quality improvement program ~~shall~~ MUST be  
2 eliminated should federal funds no longer be available for the program.

3 (II) Notwithstanding the provisions of ~~subparagraph (f) of this~~  
4 ~~paragraph (b)~~ SUBSECTION (8)(b)(I) OF THIS SECTION, the general  
5 assembly shall not be obligated to appropriate general fund ~~moneys~~  
6 MONEY if private matching ~~moneys are~~ MONEY IS not available or later  
7 ~~become~~ BECOMES unavailable.

8 (9) **Evaluation - report.** (a) Each early childhood ~~care and~~  
9 ~~education~~ council shall submit to the state department a summative  
10 thirty-month report on or before January 1, 2009, and on or before  
11 January 1 every three years thereafter. The report ~~shall~~ MUST address the  
12 quality improvement of the participating early care and education  
13 facilities and the overall effectiveness of the school-readiness quality  
14 improvement program at preparing low-income children, residing in  
15 communities with eligible elementary schools, for school. ~~Such~~ THE  
16 reports, at a minimum, ~~shall~~ MUST address:

17 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), on or before  
18 April 1, 2009, and on or before April 1 every three years thereafter, the  
19 state department, or any private entity with which the state department is  
20 ~~hereby~~ authorized to contract for this purpose, shall submit a consolidated  
21 statewide report, based upon the reports prepared and submitted by the  
22 early childhood ~~care and education~~ councils, addressing the items set  
23 forth in ~~paragraph (a) of this subsection (9)~~ SUBSECTION (9)(a) OF THIS  
24 SECTION to the early childhood and school-readiness legislative  
25 commission and to the members of the education committees of the house  
26 of representatives and the senate of the general assembly, OR ANY  
27 SUCCESSOR COMMITTEES.

1 (c) Reporting early childhood ~~care and education~~ councils, as well  
2 as the state department or any private entity with which it may contract  
3 for reporting purposes, may draw upon the evaluations and studies  
4 prepared by a nationally recognized research firm to report on the  
5 school-readiness of children in quality-rated early care and education  
6 facilities.

7 (d) Each early childhood ~~care and education~~ council shall work  
8 with state and local agencies, such as school districts, to support efforts  
9 to track, through high school graduation, the future academic  
10 performance of children who receive school-readiness services from early  
11 care and education providers who receive funding pursuant to this  
12 section.

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