

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 11-0633.01 Bob Lackner

HOUSE BILL 11-1211

HOUSE SPONSORSHIP

Pace,

SENATE SPONSORSHIP

Tochtrop, Carroll

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON TRAVEL-RELATED EXPENDITURES BY**
102 **STATE-CHARTERED ENTITIES ON BEHALF OF PERSONS**
103 **AFFILIATED WITH SUCH ENTITIES.**

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://www.leg.state.co.us/billsummaries>.)

The bill prohibits any state-chartered entity from making travel-related expenditures on behalf of a board member, officer, or employee of the entity (covered person) in an amount that would exceed, on a daily basis, 2 times the maximum allowable federal per diem rate

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.*

that governs the location in which the person is traveling, rounded up to the nearest whole dollar, as determined by the United States general services administration, as of October 1 of the calendar year immediately preceding the fiscal year in which the per diem rate is to be used. If the state-chartered entity expends moneys on travel-related expenses on behalf of a covered person in excess of the amount authorized by this section, the bill requires the covered person to reimburse the fund of the state-chartered entity for the entire sum in excess of the authorized amount.

The bill also prohibits a state-chartered entity from making travel-related expenditures on behalf of the spouse or a member of the immediate family of a covered person. In the event a state-chartered entity makes travel-related expenditures on behalf of the spouse or a member of the immediate family of a covered person, the covered person is required to reimburse the fund of the state-chartered entity for the entire sum spent by the entity on such expenditures.

The bill authorizes any person who believes that a violation of its terms has occurred to file a complaint with the secretary of state. The bill establishes procedures for the adjudication of the complaint. The bill establishes penalties for a violation of its terms, including an order directing the covered person, or the spouse or a member of the immediate family of a covered person, as applicable, on whose behalf illegal travel-related expenditures were made to reimburse the fund of the state-chartered entity for some or all of the expenditures in accordance with the requirements of the bill.

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

2 **SECTION 1.** Title 24, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 19.9**

5 **Restrictions on Travel-related Expenditures**

6 **by State-chartered Entities**

7 **24-19.9-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "COVERED PERSON" MEANS A MEMBER OF THE BOARD OF
10 DIRECTORS OR COMPARABLE GOVERNING BODY, OFFICER, OR EMPLOYEE
11 OF A STATE-CHARTERED ENTITY.

1 (2) "INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
2 UNIVERSITY OR COLLEGE, COMMUNITY COLLEGE, JUNIOR COLLEGE, LOCAL
3 DISTRICT COLLEGE, OR AREA VOCATIONAL SCHOOL DESCRIBED IN TITLE 23,
4 C.R.S.

5 (3) "SPECIAL PURPOSE AUTHORITY" SHALL HAVE THE SAME
6 MEANING AS SET FORTH IN SECTION 24-77-102 (15).

7 (4) "STATE-CHARTERED ENTITY" MEANS ANY POLITICAL
8 SUBDIVISION OF THE STATE OR ANY INSTRUMENTALITY OF THE STATE THAT
9 IS NOT AN AGENCY OF THE STATE AND THAT IS NOT SUBJECT TO
10 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BUREAU,
11 OR AGENCY OF THE STATE AND INCLUDES, WITHOUT LIMITATION, ANY
12 SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT,
13 LAW ENFORCEMENT AUTHORITY, SPECIAL PURPOSE AUTHORITY,
14 INSTITUTION OF HIGHER EDUCATION, OR WATER, SANITATION, FIRE
15 PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE, OR OTHER SPECIAL
16 DISTRICT, OR ANY OTHER KIND OF PUBLIC CORPORATION ORGANIZED
17 PURSUANT TO STATE LAW.

18 (5) "TRAVEL-RELATED EXPENDITURES" MEANS EXPENDITURES
19 MADE BY A STATE-CHARTERED ENTITY TO COVER EXPENSES INCURRED BY
20 A COVERED PERSON FOR LODGING, MEALS, AND INCIDENTAL EXPENSES IN
21 CONNECTION WITH TRAVEL UNDERTAKEN BY THE COVERED PERSON FOR
22 BUSINESS-RELATED PURPOSES. "TRAVEL-RELATED EXPENDITURES" SHALL
23 NOT INCLUDE THE ACTUAL COSTS OF TRAVEL UNDERTAKEN BY THE
24 COVERED PERSON FOR BUSINESS-RELATED PURPOSES INCLUDING, WITHOUT
25 LIMITATION, AIRLINE FARES, TAXICAB FARES, AUTOMOBILE RENTALS, OR
26 REIMBURSEMENT FOR AUTOMOBILE MILEAGE EXPENSES.

27 **24-19.9-102. Restrictions on travel-related expenditures -**

1 **covered persons - mandatory reimbursement of excess.** (1) (a) No
2 STATE-CHARTERED ENTITY MAY MAKE TRAVEL-RELATED EXPENDITURES
3 ON BEHALF OF ANY COVERED PERSON IN AN AMOUNT THAT WOULD
4 EXCEED, ON A DAILY BASIS, TWO TIMES THE MAXIMUM ALLOWABLE
5 FEDERAL PER DIEM RATE THAT GOVERNS THE LOCATION IN WHICH THE
6 PERSON IS TRAVELING, ROUNDED UP TO THE NEAREST WHOLE DOLLAR, AS
7 DETERMINED BY THE UNITED STATES GENERAL SERVICES
8 ADMINISTRATION, AS OF OCTOBER 1 OF THE CALENDAR YEAR
9 IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE PER DIEM RATE
10 IS TO BE USED.

11 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
12 THE STATE-CHARTERED ENTITY MAY MAKE:

13 (I) LODGING EXPENDITURES THAT ARE ABOVE TWO TIMES THE
14 FEDERAL PER DIEM FOR AN EDUCATIONAL CONFERENCE WHERE THE HOTEL
15 IS HOSTING THE CONFERENCE AND THE PERSON OR ENTITY ORGANIZING
16 THE CONFERENCE SELECTED THE HOTEL; OR

17 (II) TRAVEL EXPENDITURES THAT ARE DIRECTLY RELATED TO A
18 PROGRAM OR A BUSINESS PURPOSE OF A STATE INSTITUTION OF HIGHER
19 EDUCATION OR A STATE HOSPITAL AUTHORITY.

20 (c) IN THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OR
21 (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), THE STATE-CHARTERED
22 ENTITY SHALL MAKE AVAILABLE FOR REVIEW BY ITS GOVERNING BODY OR
23 FOR PUBLIC INSPECTION, UPON THE PROVISION OF REASONABLE NOTICE,
24 ITEMIZATION OF ANY EXPENDITURES SATISFYING SUCH EXCEPTIONS TO THE
25 REQUIREMENTS OF THIS SECTION.

26 (2) IF THE STATE CHARTERED ENTITY MAKES TRAVEL-RELATED
27 EXPENDITURES ON BEHALF OF A COVERED PERSON IN EXCESS OF THE

1 AMOUNT AUTHORIZED BY SUBSECTION (1) OF THIS SECTION, THE COVERED
2 PERSON SHALL REIMBURSE THE FUND OF THE STATE-CHARTERED ENTITY
3 FROM WHICH SUCH MONEYS WERE DIVERTED FOR THE ENTIRE SUM IN
4 EXCESS OF SUCH AUTHORIZED AMOUNT.

5 (3) A STATE-CHARTERED ENTITY SHALL MAKE NO
6 TRAVEL-RELATED EXPENDITURES ON BEHALF OF THE SPOUSE OR A
7 MEMBER OF THE IMMEDIATE FAMILY OF A COVERED PERSON. IN THE
8 EVENT A STATE-CHARTERED ENTITY MAKES TRAVEL-RELATED
9 EXPENDITURES ON BEHALF OF THE SPOUSE OR A MEMBER OF THE
10 IMMEDIATE FAMILY OF A COVERED PERSON, THE COVERED PERSON SHALL
11 REIMBURSE THE FUND OF THE STATE-CHARTERED ENTITY FROM WHICH
12 SUCH MONEYS WERE DIVERTED FOR THE ENTIRE SUM SPENT BY THE ENTITY
13 ON SUCH EXPENDITURES.

14 **24-19.9-103. Enforcement - complaint procedure - sanctions.**

15 (1) ANY PERSON WHO BELIEVES THAT A VIOLATION OF SECTION
16 24-19.9-102 HAS OCCURRED MAY FILE A WRITTEN COMPLAINT WITH THE
17 SECRETARY OF STATE WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE
18 OF THE ALLEGED VIOLATION. THE SECRETARY OF STATE SHALL REFER THE
19 COMPLAINT TO AN ADMINISTRATIVE LAW JUDGE WITHIN THREE DAYS OF
20 THE FILING OF THE COMPLAINT. THE ADMINISTRATIVE LAW JUDGE SHALL
21 HOLD A HEARING WITHIN FIFTEEN DAYS OF THE REFERRAL OF THE
22 COMPLAINT AND SHALL RENDER A DECISION WITHIN FIFTEEN DAYS OF THE
23 HEARING. THE DEFENDANT SHALL BE GRANTED AN EXTENSION OF UP TO
24 THIRTY DAYS UPON THE DEFENDANT'S MOTION OR LONGER UPON A
25 SHOWING OF GOOD CAUSE. IF THE ADMINISTRATIVE LAW JUDGE
26 DETERMINES THAT SUCH VIOLATION HAS OCCURRED, SUCH DECISION
27 SHALL INCLUDE ANY APPROPRIATE ORDER, SANCTION, OR RELIEF,

1 INCLUDING:

2 (a) AN ORDER DIRECTING THE COVERED PERSON, OR THE SPOUSE
3 OR A MEMBER OF THE IMMEDIATE FAMILY OF A COVERED PERSON, AS
4 APPLICABLE, ON WHOSE BEHALF TRAVEL-RELATED EXPENDITURES WERE
5 MADE BY THE STATE-CHARTERED ENTITY IN VIOLATION OF SECTION
6 24-19.9-102, TO REIMBURSE THE FUND OF THE STATE-CHARTERED ENTITY
7 FROM WHICH SUCH MONEYS WERE DIVERTED FOR SOME OR ALL OF THE
8 EXPENDITURES IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION
9 24-19.9-102;

10 (b) INJUNCTIVE RELIEF; OR

11 (c) A RESTRAINING ORDER TO ENJOIN THE CONTINUANCE OF THE
12 VIOLATION.

13 (2) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE SHALL BE
14 FINAL AND SUBJECT TO REVIEW BY THE COURT OF APPEALS, PURSUANT TO
15 SECTION 24-4-106 (11). THE SECRETARY OF STATE AND THE
16 ADMINISTRATIVE LAW JUDGE ARE NOT NECESSARY PARTIES TO THE
17 REVIEW. THE DECISION MAY BE ENFORCED BY THE SECRETARY OF STATE
18 OR, IF THE SECRETARY OF STATE DOES NOT FILE AN ENFORCEMENT ACTION
19 WITHIN THIRTY DAYS OF THE DECISION, IN A PRIVATE CAUSE OF ACTION BY
20 THE PERSON FILING THE COMPLAINT. ANY PRIVATE ACTION BROUGHT
21 UNDER THIS SECTION SHALL BE BROUGHT WITHIN ONE YEAR OF THE DATE
22 OF THE VIOLATION IN STATE DISTRICT COURT. THE PREVAILING PARTY IN
23 A PRIVATE ENFORCEMENT ACTION SHALL BE ENTITLED TO REASONABLE
24 ATTORNEY FEES AND COSTS.

25 **SECTION 2. Effective date - applicability.** This act shall take
26 effect July 1, 2011, and shall apply to travel-related expenditures made on
27 or after said date.

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.