

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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
Judiciary

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.

SENATE
3rd Reading Unamended
April 29, 2011

SENATE
Amended 2nd Reading
April 28, 2011

HOUSE
3rd Reading Unamended
March 18, 2011

HOUSE
Amended 2nd Reading
March 17, 2011

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 Public 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 PUBLIC 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) "PUBLIC ENTITY" MEANS ANY INSTRUMENTALITY OF THE STATE
6 THAT IS NOT AN AGENCY OF THE STATE AND THAT IS NOT SUBJECT TO
7 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BUREAU,
8 OR AGENCY OF THE STATE AND INCLUDES ANY SERVICE AUTHORITY, LAW
9 ENFORCEMENT AUTHORITY, SPECIAL PURPOSE AUTHORITY, OR INSTITUTION
10 OF HIGHER EDUCATION. "PUBLIC ENTITY" SHALL NOT INCLUDE ANY
11 COUNTY, MUNICIPALITY, SCHOOL DISTRICT, OR ANY SPECIAL DISTRICT
12 FORMED PURSUANT TO TITLE 32, C.R.S.

13 (4) "SPECIAL PURPOSE AUTHORITY" SHALL HAVE THE SAME
14 MEANING AS SET FORTH IN SECTION 24-77-102 (15).

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16 (5) "TRAVEL-RELATED EXPENDITURES" MEANS EXPENDITURES
17 MADE BY A PUBLIC ENTITY TO COVER EXPENSES INCURRED BY A COVERED
18 PERSON FOR LODGING, MEALS, AND INCIDENTAL EXPENSES IN CONNECTION
19 WITH TRAVEL UNDERTAKEN BY THE COVERED PERSON FOR
20 BUSINESS-RELATED PURPOSES.

21 **24-19.9-102. Restrictions on travel-related expenditures -**
22 **covered persons - mandatory reimbursement of excess - exemptions.**

23 (1) (a) IN THE ABSENCE OF EXTENUATING CIRCUMSTANCES, NO PUBLIC
24 ENTITY MAY MAKE TRAVEL-RELATED EXPENDITURES ON BEHALF OF ANY
25 COVERED PERSON IN AN AMOUNT THAT WOULD EXCEED, ON A DAILY BASIS,
26 ONE AND ONE-HALF TIMES THE MAXIMUM ALLOWABLE FEDERAL PER DIEM
27 RATE THAT GOVERNS THE LOCATION IN WHICH THE PERSON IS TRAVELING,

1 ROUNDED UP TO THE NEAREST WHOLE DOLLAR, AS DETERMINED BY THE
2 UNITED STATES GENERAL SERVICES ADMINISTRATION, AS OF OCTOBER 1
3 OF THE CALENDAR YEAR IMMEDIATELY PRECEDING THE FISCAL YEAR IN
4 WHICH THE PER DIEM RATE IS TO BE USED.

5 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
6 THE PUBLIC ENTITY MAY MAKE:

7 (I) LODGING EXPENDITURES THAT ARE ABOVE ONE AND ONE-HALF
8 TIMES THE FEDERAL PER DIEM RATE FOR TRAVEL-RELATED EXPENDITURES
9 IN CONNECTION WITH AN EDUCATIONAL CONFERENCE WHERE AN ENTITY
10 OTHER THAN THE PUBLIC ENTITY IS HOSTING THE CONFERENCE AND THE
11 PERSON OR ENTITY ORGANIZING THE CONFERENCE SELECTED THE
12 CONFERENCE HOTEL OR HOTELS; OR

13 (II) TRAVEL EXPENDITURES THAT ARE DIRECTLY RELATED TO A
14 PROGRAM OR A BUSINESS PURPOSE OF A STATE INSTITUTION OF HIGHER
15 EDUCATION OR A STATE HOSPITAL AUTHORITY.

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

22 (d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
23 "TRAVEL-RELATED EXPENDITURES" SHALL NOT INCLUDE THE ACTUAL
24 COSTS OF TRAVEL UNDERTAKEN BY THE COVERED PERSON FOR
25 BUSINESS-RELATED PURPOSES INCLUDING, WITHOUT LIMITATION, AIRLINE
26 FARES, TAXICAB FARES, AUTOMOBILE RENTALS, OR REIMBURSEMENT FOR
27 AUTOMOBILE MILEAGE EXPENSES.

1 (2) IF THE PUBLIC ENTITY MAKES TRAVEL-RELATED EXPENDITURES
2 ON BEHALF OF A COVERED PERSON IN EXCESS OF THE AMOUNT
3 AUTHORIZED BY SUBSECTION (1) OF THIS SECTION, THE COVERED PERSON
4 SHALL REIMBURSE THE FUND OF THE PUBLIC ENTITY FROM WHICH SUCH
5 MONEYS WERE DIVERTED FOR THE ENTIRE SUM IN EXCESS OF SUCH
6 AUTHORIZED AMOUNT.

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

15 **24-19.9-103. Enforcement - complaint procedure - sanctions.**

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

1 SHALL INCLUDE ANY APPROPRIATE ORDER, SANCTION, OR RELIEF,
2 INCLUDING:

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