

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 23, 2012
Date

Committee on State, Veterans & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SJM12-003 be amended as follows, and as so amended, be referred out to the Senate for final action:

- 1 Amend printed joint memorial, page 1, strike lines 1 through 6.
- 2 Strike page 2.
- 3 Page 3, strike lines 1 through 28 and substitute:
 - 4 "WHEREAS, In 2004, the United States Senate Finance
 - 5 Committee issued a white paper proposing reforms to federal oversight
 - 6 of nonprofit organizations; and
 - 7 WHEREAS, Senator Charles Grassley, Chair of the Senate
 - 8 Finance Committee, encouraged formation of a panel of nonprofit leaders
 - 9 to examine these issues in the white paper and submit recommendations
 - 10 to Congress; and
 - 11 WHEREAS, In 2005, the Panel on the Nonprofit Sector (panel)
 - 12 issued a "Report to Congress and the Nonprofit Sector on Governance,
 - 13 Transparency, and Accountability"; and
 - 14 WHEREAS, As part of its report, the panel recommended that
 - 15 small nonprofit organizations be required to file an annual notice with the
 - 16 Internal Revenue Service. The report also recommended that the Internal
 - 17 Revenue Service should have the authority, "[a]fter an appropriate
 - 18 phase-in period, . . . to suspend the tax-exempt status of organizations that
 - 19 fail to file the required notification form for three consecutive years"; and

1 WHEREAS, The panel recommended the annual notice because
2 it ". . . will assist the IRS in providing more accurate information to the
3 public about organizations eligible to receive tax-deductible
4 contributions"; and

5 WHEREAS, In 2006, Congress adopted the "Pension Protection
6 Act of 2006" (act), which was based in part on the panel's
7 recommendations; and

8 WHEREAS, Section 1223 of the act, codified at 26 U.S.C. sec.
9 6033, created new and unfamiliar annual filing requirements for many
10 small nonprofit organizations by requiring those organizations to annually
11 file Form 990-N, also known as the e-Postcard; and

12 WHEREAS, The act requires that an affected organization's
13 tax-exempt status "be considered revoked" rather than "suspended" after
14 failing to file the e-Postcard for three consecutive years; and

15 WHEREAS, Although the Internal Revenue Service sent an initial
16 mailing in 2007 and has since developed other resources to alert these
17 affected nonprofit organizations of the new filing requirements, nonprofit
18 organizations with outdated contact information with the Internal
19 Revenue Service did not receive these notices, and many others were not
20 sufficiently aware of how to comply with their new reporting duties; and

21 WHEREAS, Based on some constituent conversations with
22 Internal Revenue Service representatives and contrary to statements on
23 the Internal Revenue Service's web site, the Internal Revenue Service
24 does not send reminder notices to organizations that do not file their
25 e-Postcards on time and only notifies affected organizations after such
26 revocation has occurred; and

27 WHEREAS, Approximately 400,000 nonprofit organizations
28 across the United States, including thousands of organizations in
29 Colorado, many of which have annual budgets of less than \$25,000, have
30 had their tax-exempt status automatically revoked by the Internal
31 Revenue Service for failing to file an annual notice for three consecutive
32 years. Although many of these organizations no longer do business, many
33 other organizations continue to operate and could have successfully
34 maintained their tax-exempt status if they had received more timely notice
35 of the impending revocation; and

1 WHEREAS, Although the Internal Revenue Service allows
2 revoked organizations to apply for retroactive reinstatement of their
3 tax-exempt status, the application process is burdensome and costly for
4 these nonprofit organizations; now, therefore,

5 *Be It Resolved by the Senate of the Sixty-eighth General Assembly*
6 *of the State of Colorado, the House of Representatives concurring herein:*

7 That we, the members of the Colorado General Assembly, hereby
8 memorialize the United States Congress to amend 26 U.S.C. sec. 6033 so
9 that:

10 (1) The Internal Revenue Service is required to send timely
11 notification to remind small nonprofit organizations when they have not
12 filed the e-Postcard on time and to inform them of any impending
13 revocation or other action affecting their tax-exempt status due to their
14 failure to file an annual notice for three consecutive years; and

15 (2) The Internal Revenue Service is required to suspend, not
16 revoke, the tax-exempt status of any nonprofit organization that fails to
17 file for three consecutive years so that a nonprofit organization's
18 tax-exempt status may be simply and retroactively restored without the
19 organization being required to reapply for a determination of tax-exempt
20 status.

21 *Be It Further Resolved*, That copies of this Joint Memorial be sent
22 to each member of Colorado's congressional delegation, Speaker of the
23 United States House of Representatives John Boehner, Senate Majority
24 Leader Harry Reid, Secretary of the United States Senate Nancy Erickson,
25 Clerk of the United States House of Representatives Karen L. Haas, and
26 Treasury Secretary Timothy Geithner."

** *** ** *** **