SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

<u>April 23, 2012</u> Date

Committee on State, Veterans & Military Affairs.

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

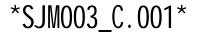
<u>SJM12-003</u> be amended as follows, and as so amended, be referred out to the Senate for final action:

- 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:
- WHEREAS, In 2004, the United States Senate Finance
 Committee issued a white paper proposing reforms to federal oversight
 of nonprofit organizations; and

WHEREAS, Senator Charles Grassley, Chair of the Senate
Finance Committee, encouraged formation of a panel of nonprofit leaders
to examine these issues in the white paper and submit recommendations
to Congress; and

WHEREAS, In 2005, the Panel on the Nonprofit Sector (panel)
issued a "Report to Congress and the Nonprofit Sector on Governance,
Transparency, and Accountability"; and

WHEREAS, As part of its report, the panel recommended that small nonprofit organizations be required to file an annual notice with the Internal Revenue Service. The report also recommended that the Internal Revenue Service should have the authority, "[a]fter an appropriate phase-in period, . . . to suspend the tax-exempt status of organizations that 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

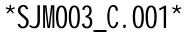
8 WHEREAS, Section 1223 of the act, codified at 26 U.S.C. sec. 9 6033, created new and unfamiliar annual filing requirements for many 10 small nonprofit organizations by requiring those organizations to annually 11 file Form 990-N, also known as the e-Postcard; and

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

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resources to alert these affected nonprofit organizations of the new filing requirements, nonprofit organizations with outdated contact information with the Internal Revenue Service did not receive these notices, and many others were not sufficiently aware of how to comply with their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

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

27 WHEREAS, Approximately 400,000 nonprofit organizations across the United States, including thousands of organizations in 28 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.

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

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