

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

PREAMENDED

LLS NO. M12-0894.01 John Kilgour x4338

SJM12-003

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**SENATE JOINT MEMORIAL 12-003**

101     **MEMORIALIZING CONGRESS TO MODIFY CERTAIN REPORTING**  
102             **PROCEDURES FOR SMALL NONPROFIT ORGANIZATIONS TO**  
103             **REQUIRE THE INTERNAL REVENUE SERVICE TO ADEQUATELY**  
104             **NOTIFY SUCH ORGANIZATIONS OF THE PROCEDURES AND TO**  
105             **ALLOW SUCH ORGANIZATIONS TO REMEDY REPORTING**  
106             **DEFICIENCIES.**

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

5             WHEREAS, Senator Charles Grassley, Chair of the Senate

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.*

1 Finance Committee, encouraged formation of a panel of nonprofit leaders  
2 to examine these issues in the white paper and submit recommendations  
3 to Congress; and

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

7 WHEREAS, As part of its report, the panel recommended that  
8 small nonprofit organizations be required to file an annual notice with the  
9 Internal Revenue Service. The report also recommended that the Internal  
10 Revenue Service should have the authority, "[a]fter an appropriate  
11 phase-in period, . . . to suspend the tax-exempt status of organizations that  
12 fail to file the required notification form for three consecutive years"; and

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

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

20 WHEREAS, Section 1223 of the act, codified at 26 U.S.C. sec.  
21 6033, created new and unfamiliar annual filing requirements for many  
22 small nonprofit organizations by requiring those organizations to annually  
23 file Form 990-N, also known as the e-Postcard; and

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

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

33 WHEREAS, Based on some constituent conversations with  
34 Internal Revenue Service representatives and contrary to statements on

1 the Internal Revenue Service's web site, the Internal Revenue Service  
2 does not send reminder notices to organizations that do not file their  
3 e-Postcards on time and only notifies affected organizations after such  
4 revocation has occurred; and

5 WHEREAS, Approximately 400,000 nonprofit organizations  
6 across the United States, including thousands of organizations in  
7 Colorado, many of which have annual budgets of less than \$25,000, have  
8 had their tax-exempt status automatically revoked by the Internal  
9 Revenue Service for failing to file an annual notice for three consecutive  
10 years. Although many of these organizations no longer do business, many  
11 other organizations continue to operate and could have successfully  
12 maintained their tax-exempt status if they had received more timely notice  
13 of the impending revocation; and

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

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

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

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

28 (2) The Internal Revenue Service is required to suspend, not  
29 revoke, the tax-exempt status of any nonprofit organization that fails to  
30 file for three consecutive years so that a nonprofit organization's  
31 tax-exempt status may be simply and retroactively restored without the  
32 organization being required to reapply for a determination of tax-exempt  
33 status.

34 *Be It Further Resolved, That copies of this Joint Memorial be sent*  
35 *to each member of Colorado's congressional delegation, Speaker of the*

1 United States House of Representatives John Boehner, Senate Majority  
2 Leader Harry Reid, Secretary of the United States Senate Nancy Erickson,  
3 Clerk of the United States House of Representatives Karen L. Haas, and  
4 Treasury Secretary Timothy Geithner.