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Colorado Secretary of State

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** article 86.1 to title 22 as follows:

ARTICLE 86.1

COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM

**22-86.1-101. Legislative declaration.** THE VOTERS OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(1) OUT-OF-SCHOOL LEARNING OPPORTUNITIES ARE CRITICAL FOR ALL COLORADO CHILDREN AND YOUTH. THESE OPPORTUNITIES, DURING PERIODS AND TIMEFRAMES OUTSIDE OF THEIR REGULAR SCHOOL SCHEDULES, PROVIDE ESSENTIAL ACADEMIC AND LIFE SKILLS FOR CHILDREN AND YOUTH TO THRIVE IN SCHOOL AND LIFE. THESE OPPORTUNITIES ARE CRITICAL TO MAINTAINING AND ENHANCING MENTAL HEALTH FOR ALL CHILDREN.

(2) PROVIDING CONSISTENT AND RELIABLE ACCESS TO OUT-OF-SCHOOL LEARNING OPPORTUNITIES TO ALL OF COLORADO'S CHILDREN WILL ALLOW FOR: TUTORING AND SUPPLEMENTAL ACADEMIC INSTRUCTION IN CORE SUBJECT AREAS, INCLUDING READING, MATHEMATICS, SCIENCE, AND WRITING; TARGETED SUPPORT FOR CHILDREN AND YOUTH WITH SPECIAL NEEDS AND LEARNING DISABILITIES; ENGLISH LANGUAGE AND FOREIGN LANGUAGE ACQUISITION; IN-DEPTH PROGRAMS THAT TEACH YOUTH NEW SKILLS IN THE CONTEXT OF OUTDOOR ACTIVITIES; CHALLENGING REAL WORLD EXPERIENCES THAT BUILD ESSENTIAL SKILL SETS; AND OTHER PROGRAMS THAT PROVIDE ACADEMIC OR ENRICHMENT OPPORTUNITIES NO LONGER OFFERED IN MANY SCHOOLS, INCLUDING MUSIC, DANCE, ARTS, AND CAREER AND TECHNICAL EDUCATION TRAINING.

(3) CREATING THE OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM WILL ENSURE THAT THESE LEARNING EXPERIENCES ARE EQUALLY AVAILABLE TO ALL COLORADO STUDENTS AND THAT FAMILIES WILL HAVE THE AUTHORITY AND RESPONSIBILITY TO DIRECT PROGRAM FUNDS TO THE EXPERIENCES AND ACTIVITIES THEY BELIEVE TO BE THE BEST FIT FOR THEIR CHILD OR YOUTH.

(4) ENCOURAGING INNOVATION IN THE CREATION AND PROVISION OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES WILL BENEFIT COLORADO'S CHILDREN AND YOUTH.

**22-86.1-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTERING NONPROFIT" MEANS THE ORGANIZATION SELECTED BY THE AGENCY PURSUANT TO SECTION 22-86.1-103(2)(m).

(2) "AGENCY" MEANS THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES AGENCY CREATED BY SECTION 22-86.1-103.

(3) "ELIGIBLE CONTRIBUTION" MEANS ANY MONETARY OR IN-KIND CONTRIBUTION FOR WHICH AN INCOME TAX CREDIT IS AUTHORIZED PURSUANT TO SECTION 39-22-121.5.

(4) "ELIGIBLE STUDENT" MEANS A CHILD WHO TURNS FIVE YEARS OF AGE IN A QUALIFYING YEAR BUT WHO HAS NOT ATTAINED EIGHTEEN YEARS OF AGE AND WHO RESIDES IN COLORADO AND IS OR WILL BE ELIGIBLE FOR ADMISSION TO PUBLIC SCHOOL WITHIN THE STATE.

(5) "ELIGIBLE TAXPAYER" MEANS AN INDIVIDUAL, ESTATE, TRUST, OR CORPORATION FOR WHOM A CREDIT IS AUTHORIZED FOR ELIGIBLE CONTRIBUTIONS UNDER SECTION 39-22-121.5.

## 2019-2020 #171 – Original Draft

(6) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, A DISTRICT CHARTER SCHOOL, OR AN INSTITUTE CHARTER SCHOOL.

(7) "OUT-OF-SCHOOL LEARNING OPPORTUNITY" MEANS ANY PROGRAM, SERVICE, SYSTEM, ACTIVITY, OR OTHER PURSUIT OR PURCHASE THAT PROVIDES SUPPLEMENTAL EDUCATIONAL OR DEVELOPMENTAL SUPPORT TO ELIGIBLE STUDENTS OUTSIDE OF NORMAL SCHOOL OPERATIONS. "OUT-OF-SCHOOL LEARNING OPPORTUNITY" DOES NOT INCLUDE IN-SCHOOL INSTRUCTION, SERVICES, MATERIALS, CURRICULA, OR PROGRAMS PROVIDED AS PART OF A NORMAL COURSE OF STUDY CONDUCTED IN ACCORDANCE WITH A PUBLIC OR PRIVATE SCHOOL STUDENT'S COMPULSORY ATTENDANCE REQUIREMENTS UNDER SECTION 22-33-104 OR A HOME SCHOOL STUDENT'S COMPULSORY INSTRUCTION REQUIREMENTS UNDER SECTION 22-33-104.5. "OUT-OF-SCHOOL LEARNING OPPORTUNITY" DOES NOT INCLUDE CREDIT RECOVERY PROGRAMS REGARDLESS OF THE TIME OF DAY OR DAY OF THE WEEK THEY ARE OFFERED. "OUT-OF-SCHOOL LEARNING OPPORTUNITY" DOES NOT INCLUDE PAYMENT OF IN-SCHOOL PRIVATE SCHOOL TUITION.

(8) "PARENT" MEANS A PARENT OR LEGAL GUARDIAN OF AN ELIGIBLE STUDENT.

(9) "PROGRAM" MEANS THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM CREATED AND ADMINISTERED UNDER THIS ARTICLE.

### **22-86.1-103. Out-of-school learning opportunities agency — establishment — purposes — powers.**

(1) THERE IS ESTABLISHED, AS AN INDEPENDENT AGENCY IN THE DEPARTMENT OF EDUCATION, THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES AGENCY. THE AGENCY IS GOVERNED AND ADMINISTERED BY A BOARD OF DIRECTORS AND SHALL EXERCISE SUCH POWERS AND PERFORM SUCH DUTIES AND FUNCTIONS AS IF IT WERE TRANSFERRED TO THE DEPARTMENT BY A TYPE 1 TRANSFER UNDER THE PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(2) THE PURPOSES AND POWERS OF THE AGENCY ARE TO:

(a) ESTABLISH AND OVERSEE THE ADMINISTRATION OF COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM CREATED BY THIS ARTICLE;

(b) CREATE AND DEVELOP CRITERIA FOR THE PROVISION AND SELECTION OF ALLOWABLE USES FOR FUNDS DISTRIBUTED BY THE ADMINISTERING NONPROFIT, CONSISTENT WITH AND IN FURTHERANCE OF THE GOALS AND PURPOSES STATED IN SECTION 22-86.1-101, TO BE PROVIDED WITHIN THE STATE OF COLORADO FOR ELIGIBLE STUDENTS. AT A MINIMUM, THESE ALLOWABLE USES INCLUDE: TUTORING AND SUPPLEMENTAL ACADEMIC INSTRUCTION IN CORE SUBJECT AREAS, INCLUDING READING, MATHEMATICS, SCIENCE, AND WRITING; TARGETED SUPPORT FOR CHILDREN AND YOUTH WITH SPECIAL NEEDS AND LEARNING DISABILITIES; ENGLISH LANGUAGE AND FOREIGN LANGUAGE ACQUISITION; IN-DEPTH PROGRAMS THAT TEACH YOUTH NEW SKILLS IN THE CONTEXT OF OUTDOOR ACTIVITIES; CHALLENGING REAL WORLD EXPERIENCES THAT BUILD ESSENTIAL SKILL SETS; OTHER PROGRAMS THAT PROVIDE ACADEMIC OR ENRICHMENT OPPORTUNITIES INCLUDING MUSIC, DANCE, ARTS, AND CAREER AND TECHNICAL EDUCATION TRAINING; AND REASONABLE AND NECESSARY MATERIALS AND SUPPLIES TO COMPLETE OR PARTICIPATE IN AN OUT-OF-SCHOOL LEARNING OPPORTUNITY. AN ALLOWABLE USE OF FINANCIAL AID INCLUDES REASONABLE EXPENSES FOR TRANSPORTATION OF AN ELIGIBLE STUDENT TO AND FROM OUT-OF-SCHOOL LEARNING OPPORTUNITIES. IT IS THE INTENT OF THE PEOPLE THAT THE FINANCIAL AID DISTRIBUTED BY THE ADMINISTERING NONPROFIT WILL BE NEW DOLLARS TO SPEND ON NEW SERVICES AND SHALL NOT SUPPLANT EXISTING FUNDING FOR PROGRAMS AVAILABLE TO ELIGIBLE STUDENTS.

(c) CREATE AND DEVELOP CRITERIA FOR PUBLICATION, SOLICITATION, RECEIPT, AND EVALUATION BY THE ADMINISTERING NONPROFIT OF APPLICATIONS FROM POTENTIAL PROVIDERS OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM. SUCH CRITERIA SHALL MAXIMIZE THE NUMBER AND DIVERSITY OF PROVIDERS THAT PARENTS AND

## 2019-2020 #171 – Original Draft

ELIGIBLE STUDENTS CAN CHOOSE AND SHALL ALSO ENSURE THAT SMALL COMMUNITY-BASED PROVIDERS ARE ELIGIBLE AND ABLE TO PARTICIPATE IN THE PROGRAM.

(d) CREATE A WAIVER PROCESS WITH ESTABLISHED CRITERIA FOR ACTIVITIES THAT FALL OUTSIDE OF THE PROGRAM'S STATUTORILY ALLOWABLE USES, TIMES WHEN ACTIVITIES MAY OCCUR, OR TYPES OF ACTIVITIES ALLOWED, AS PETITIONED BY ELIGIBLE STUDENTS OR THEIR PARENTS.

(e) CREATE AND DEVELOP CRITERIA UNDER WHICH THE ADMINISTERING NONPROFIT MUST CERTIFY PROVIDERS OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM, TO INCLUDE PRE-CERTIFICATION OF LOCAL SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND OTHER LOCAL EDUCATION PROVIDERS. NEITHER THE ADMINISTERING NONPROFIT NOR ANY SUBSIDIARY THEREOF SHALL BE ELIGIBLE FOR CERTIFICATION AS A PROVIDER. MINIMUM REQUIREMENTS TO BE AN ELIGIBLE PROVIDER MUST INCLUDE BEING AUTHORIZED TO DO BUSINESS IN COLORADO AND CARRYING SUFFICIENT LIABILITY INSURANCE AS DETERMINED BY THE AGENCY.

(f) CREATE AND DEVELOP CRITERIA FOR THE ADMINISTERING NONPROFIT TO ESTABLISH PROCEDURES TO ENSURE STUDENT SAFETY, INCLUDING THE PROVISION OF RECENT BACKGROUND CHECKS PROVIDED THROUGH THE COLORADO BUREAU OF INVESTIGATION OR SIMILAR FEDERAL AGENCY FOR PROVIDERS WHO COME IN CONTACT WITH STUDENTS.

(g) CREATE AND DEVELOP CRITERIA FOR THE ADMINISTERING NONPROFIT TO ESTABLISH AND MANAGE PARENT-DIRECTED INDIVIDUAL LEARNING ACCOUNTS TO BE FUNDED THROUGH ELIGIBLE CONTRIBUTIONS AND OTHER GIFTS, GRANTS, AND DONATIONS TO THE ADMINISTERING NONPROFIT, TO COMPENSATE APPROVED PROVIDERS OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES. THE INDIVIDUAL LEARNING ACCOUNT FUNDS, ALSO REFERRED TO IN THIS ARTICLE AS "FINANCIAL AID" AND "FINANCIAL AID LEARNING ACCOUNTS" MUST BE PROVIDED AND ADMINISTERED BY THE ADMINISTERING NONPROFIT ON A SLIDING SCALE, WITH THE AMOUNT OF FINANCIAL AID BEING INVERSELY RELATED TO THE FAMILY INCOME AND FINANCIAL MEANS OF AN ELIGIBLE STUDENT, WITH SUCH SLIDING SCALE TO BE DETERMINED AT LEAST ONCE PER CALENDAR YEAR BY THE AGENCY AND SUBJECT TO THE MAXIMUM FINANCIAL AID AMOUNT PER ELIGIBLE STUDENT AS DETERMINED BY THE AGENCY. THIS PROGRAM IS INTENDED TO: PROVIDE GREATER FINANCIAL AID AWARDS TO MIDDLE- AND LOWER-INCOME STUDENTS WHO COULD NOT OTHERWISE AFFORD EXPANDED EDUCATIONAL SERVICES; HELP STUDENTS WHO ARE NOT PROFICIENT AT GRADE LEVEL IN READING, MATH, OR OTHER CORE ACADEMIC AREAS REACH GRADE LEVEL PROFICIENCY; AND PROVIDE ADDITIONAL LEARNING OPPORTUNITIES TO STUDENTS ATTENDING SCHOOLS THAT UNDERPERFORM STATEWIDE AVERAGES FOR ACADEMIC OUTCOMES. THE ADMINISTERING NONPROFIT SHALL HAVE CONTROL OVER WHEN AND HOW FINANCIAL AID IS DISTRIBUTED TO APPROVED PROVIDERS THAT THE PARENTS CHOOSE, SUBJECT TO ADMINISTRATIVE RULES ADOPTED BY THE BOARD. SUCH FINANCIAL AID SHALL FURTHER BE PROVIDED AND ADMINISTERED IN A MANNER THAT DOES NOT DISCRIMINATE AGAINST ANY RECIPIENT, RECIPIENT'S FAMILY, PROVIDER, OR OUT-OF-SCHOOL LEARNING OPPORTUNITY ON THE BASIS OF RACE, COLOR, RELIGIOUS AFFILIATION, NATIONAL ORIGIN, GENDER, MILITARY STATUS, SEXUAL ORIENTATION, GENDER VARIANCE, MARITAL STATUS, OR PHYSICAL OR MENTAL DISABILITY. THE AGENCY SHALL ENSURE THAT FINANCIAL AID IS UTILIZED IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF THE CONSTITUTION OF THE UNITED STATES AND THE COLORADO CONSTITUTION.

(h) DIRECT THE ADMINISTERING NONPROFIT TO CREATE MULTIPLE-YEAR AWARDS AS PRACTICABLE FOR STUDENTS WITH UNIQUE LEARNING NEEDS AND LOW-INCOME ELIGIBLE STUDENTS AS NECESSARY TO ENSURE ELIGIBLE STUDENTS HAVE THE ASSURANCE OF FUNDING FOR A MINIMUM OF A THREE-YEAR PERIOD REGARDLESS OF CHANGES TO THE FAMILY'S INCOME LEVEL AND TO PROVIDE STABILITY FOR STUDENTS WITH UNIQUE LEARNING NEEDS.

(i) CREATE AND DEVELOP CRITERIA FOR THE ADMINISTERING NONPROFIT TO ESTABLISH AND MANAGE A SEPARATE COMPETITIVE GRANT PROGRAM FOR NONPROFIT PROVIDERS, EXCLUDING LOCAL EDUCATIONAL PROVIDERS, THAT CURRENTLY OFFER THEIR PROGRAMS FOR FREE OR AT EXTREMELY NOMINAL AMOUNTS TO ELIGIBLE STUDENTS IN ORDER TO PROVIDE

## 2019-2020 #171 – Original Draft

THEM WITH FUNDS TO INCREASE THE NUMBER OF STUDENTS THEY CAN SERVE, TO IMPROVE THE QUALITY OF THEIR PROGRAMS, AND TO PROVIDE FUNDING FOR INNOVATIVE AND UNIQUE PROGRAMMATIC ACTIVITIES. THIS GRANT PROGRAM MUST NOT CONSTITUTE MORE THAN FIFTEEN PERCENT OF THE TOTAL FUNDS AVAILABLE FOR DISTRIBUTION IN ANY YEAR. TO BECOME AN ELIGIBLE PROVIDER UNDER THIS GRANT PROGRAM, A NONPROFIT PROVIDER MUST DEMONSTRATE DEMAND FOR SERVICES BY FAMILIES THAT IT IS CURRENTLY UNABLE TO MEET OR THE SPECIFIC ADDITIONAL PROGRAM OFFERINGS IT WILL PROVIDE TO EXISTING STUDENTS.

(j) CREATE AND DEVELOP CRITERIA AND PROTOCOLS FOR ROLLOVER OF UNUSED FUNDS IN A LEARNING ACCOUNT FOR USE BY THE RECIPIENT IN ADDITIONAL OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM. ANY FUNDS IN THE INDIVIDUAL LEARNING ACCOUNT WHEN THE STUDENT NO LONGER QUALIFIES AS AN ELIGIBLE STUDENT MUST REVERT BACK TO THE ADMINISTERING NONPROFIT. INDIVIDUAL LEARNING ACCOUNT FUNDS MAY ACCUMULATE FOR THREE YEARS, BUT UPON THE START OF THE FOURTH YEAR OF FUNDING, THE ENTIRETY OF THE FUNDS, EXCEPTING THE NEWLY AWARDED FOURTH-YEAR FUNDS, REVERT BACK TO THE ADMINISTERING NONPROFIT. AT THE TIME AN ELIGIBLE STUDENT REACHES THE AGE OF EIGHTEEN, ANY FUNDS IN THAT STUDENT'S LEARNING ACCOUNT MUST REVERT BACK TO THE ADMINISTERING NONPROFIT FOR DISTRIBUTION TO OTHER ELIGIBLE STUDENTS.

(k) NO LATER THAN AUGUST 1, 2021, ESTABLISH A PROCESS TO SELECT OR CREATE THE NONPROFIT ORGANIZATION TO BE DESIGNATED PURSUANT TO PARAGRAPH (m) OF THIS SUBSECTION. THE AGENCY SHALL CREATE A NEW NONPROFIT ONLY IF THE AGENCY DETERMINES NO EXISTING NONPROFITS MEET THE QUALIFICATIONS NECESSARY TO SUCCESSFULLY ADMINISTER THE PROGRAM.

(l) ANNUALLY CONDUCT, AND MAKE PUBLICLY AVAILABLE, INDEPENDENT FINANCIAL AUDITS OF THE ADMINISTERING NONPROFIT. SUCH AUDITS MUST BE CONDUCTED BY CERTIFIED PUBLIC ACCOUNTANTS WITH EXPERIENCE AUDITING NONPROFIT ORGANIZATIONS AND MUST BE FILED WITH THE AGENCY BY THE ADMINISTERING NONPROFIT NO LATER THAN JULY 1 OF EACH YEAR FOR THE PREVIOUS CALENDAR YEAR. THE AGENCY SHALL REDACT ALL NAMES OF TAXPAYERS AND SOCIAL SECURITY NUMBERS OR TAX IDENTIFICATION NUMBERS BEFORE PUBLICLY RELEASING ANY AUDIT OR OTHER FINANCIAL REPORT.

(m) DESIGNATE AND ENTER INTO AN AGREEMENT WITH A NONPROFIT CORPORATION AUTHORIZED TO DO BUSINESS IN COLORADO THAT MEETS THE REQUIREMENTS SET FORTH IN THIS PARAGRAPH. SUCH AGREEMENT SHALL DEFINE THE RESPONSIBILITIES AND OBLIGATIONS OF THE ADMINISTERING NONPROFIT TO OPERATE AND ADMINISTER THE PROGRAM CREATED BY THIS ARTICLE UTILIZING ELIGIBLE CONTRIBUTIONS. ANY NONPROFIT CORPORATION WITH WHICH THE AGENCY MAY CONTRACT PURSUANT TO THIS SECTION SHALL MEET THE FOLLOWING CRITERIA AND REQUIREMENTS:

(I) THE ADMINISTERING NONPROFIT MUST BE EXEMPT FROM FEDERAL INCOME TAX UNDER 26 U.S.C. § 501(c)(3) OF THE INTERNAL REVENUE CODE;

(II) THE ADMINISTERING NONPROFIT MUST BE DEEMED BY THE AGENCY TO BE CAPABLE OF EFFECTIVELY ADMINISTERING THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM SUBJECT TO CRITERIA ESTABLISHED BY BOARD RULES AND AS DETERMINED BY THE AGENCY. IN THE EVENT THE ADMINISTERING NONPROFIT CEASES TO BE PARTY TO AN AGREEMENT WITH THE AGENCY FOR THIS PURPOSE, OR UPON TERMINATION OF SUCH AGREEMENT, THE ADMINISTERING NONPROFIT SHALL IMMEDIATELY CEASE ANY REFERENCES OR REPRESENTATION OF ASSOCIATION WITH THE PROGRAM OR THE AGENCY. UPON TERMINATION OF ANY AGREEMENT WITH THE AGENCY, THE ADMINISTERING NONPROFIT SHALL REMIT ALL ELIGIBLE CONTRIBUTIONS IN ITS POSSESSION OR CONTROL, LESS SUCH AMOUNT AS MAY BE RETAINED PURSUANT TO SUBPARAGRAPH (IX) OF THIS PARAGRAPH OR AS MAY OTHERWISE BE SPECIFIED BY THE AGENCY IN ITS AGREEMENT WITH THE ORGANIZATION;

## 2019-2020 #171 – Original Draft

(III) THE ADMINISTERING NONPROFIT SHALL BE GOVERNED BY A VOLUNTEER BOARD OF DIRECTORS. MEMBERS OF THE BOARD OF DIRECTORS MUST NOT BE ENTITLED TO COMPENSATION, BUT MAY BE ENTITLED TO REIMBURSEMENT FOR REASONABLE OUT-OF-POCKET EXPENSES INCURRED IN THE PERFORMANCE OF THEIR BOARD DUTIES;

(IV)(A) ANY RECORDS OF THE ADMINISTERING NONPROFIT RELATED TO THE ADMINISTRATION OF THE PROGRAM SHALL BE AVAILABLE AT ALL TIMES TO THE AGENCY AND SHALL BE TREATED AS PUBLIC RECORDS SUBJECT TO DISCLOSURE UNDER THE “COLORADO OPEN RECORDS ACT”, PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., UPON REQUEST MADE TO THE AGENCY;

(B) THE ADMINISTERING NONPROFIT SHALL FILE PERIODIC REPORTS DETAILING THE CONTRIBUTIONS RECEIVED AND FINANCIAL AID PROVIDED THROUGHOUT EACH CALENDAR YEAR. SUCH REPORTS SHALL BE FILED ON A TIMELINE TO BE DETERMINED BY THE AGENCY, EXCEPT THAT THE AGENCY SHALL NOT REQUIRE THE ADMINISTERING NONPROFIT TO FILE SUCH REPORTS MORE THAN FOUR TIMES PER CALENDAR YEAR;

(C) THE ADMINISTERING NONPROFIT SHALL SUBMIT IN A TIMELY MANNER ANY INFORMATION REQUESTED BY THE AGENCY THAT RELATES TO THE PROGRAM, INCLUDING INFORMATION THAT IS REQUESTED IN SUPPORT OF ANY EVALUATION OF THE PROGRAM OR ITS ADMINISTRATION;

(V) THE ADMINISTERING NONPROFIT MAY SOLICIT AND RECEIVE ELIGIBLE CONTRIBUTIONS. THE ADMINISTERING NONPROFIT MAY ALSO SOLICIT AND RECEIVE GIFTS, GRANTS, AND DONATIONS FOR PURPOSES OF ADMINISTERING AND FUNDING THE PROGRAM. THE SOURCES AND AMOUNTS OF ALL ELIGIBLE CONTRIBUTIONS SHALL BE REPORTED PROMPTLY TO THE AGENCY. NO ELIGIBLE CONTRIBUTIONS MAY BE EARMARKED OR RESTRICTED IN ANY MANNER BY AN ELIGIBLE TAXPAYER OR CONTRIBUTOR FOR THE BENEFIT OR EXCLUSION OF ANY INDIVIDUAL OR CLASS OF RECIPIENTS OR ANY INDIVIDUAL OR CLASS OF PROVIDERS;

(VI) SUBJECT TO CRITERIA DETERMINED AND ESTABLISHED BY THE AGENCY, THE ADMINISTERING NONPROFIT SHALL DEVELOP, ESTABLISH, AND MANAGE SYSTEMS AND PROCEDURES FOR PUBLICATION, SOLICITATION, RECEIPT, EVALUATION, AND SELECTION OF APPLICATIONS FROM POTENTIAL PROVIDERS OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM TO WHICH PARENTS MAY DIRECT FINANCIAL AID; ENTER INTO AGREEMENTS AND CONTRACTS AS NECESSARY WITH APPROVED PROVIDERS OF OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM; DEVELOP, ESTABLISH, AND MANAGE A SYSTEM FOR RECEIPT, PROCESSING, AND EVALUATION OF APPLICATIONS FROM ELIGIBLE STUDENTS; PROVIDE SERVICES DIRECTLY OR THROUGH THIRD-PARTY CONTRACT TO ASSIST ELIGIBLE STUDENTS, PARENTS, AND THEIR FAMILIES IN NAVIGATING AND SELECTING AMONG AVAILABLE OUT-OF-SCHOOL LEARNING OPPORTUNITIES; THROUGH THIRD-PARTY CONTRACTS PROVIDE TECHNICAL, PROGRAMMATIC, AND CAPACITY BUILDING EXPERTISE AND FUNDING TO INCREASE THE NUMBER AND QUALITY OF PROVIDERS; ESTABLISH AND MANAGE INDIVIDUAL LEARNING ACCOUNTS, TO BE FUNDED THROUGH ELIGIBLE CONTRIBUTIONS TO THE ADMINISTERING NONPROFIT, TO PAY APPROVED PROVIDERS OF APPROVED OUT-OF-SCHOOL LEARNING OPPORTUNITIES; AND PROVIDE, DIRECTLY OR BY CONTRACT, TECHNOLOGY SERVICES, SUBJECT TO CRITERIA ESTABLISHED AND DETERMINED BY THE AGENCY, FOR PURPOSES OF MONITORING AND TRACKING THE USE OF INDIVIDUAL LEARNING ACCOUNTS BY ELIGIBLE STUDENTS AND APPROVED PROVIDER PERFORMANCE AND PAYMENTS;

(VII) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IX) OF THIS PARAGRAPH, NO MORE THAN TEN PERCENT OF THE ELIGIBLE CONTRIBUTIONS RECEIVED BY THE ADMINISTERING NONPROFIT IN ANY CALENDAR YEAR MAY BE RETAINED AND SPENT ON ADMINISTRATIVE EXPENSES. ON OR AFTER JANUARY 1, 2024, THE AGENCY SHALL, IN CONSULTATION WITH THE ADMINISTERING NONPROFIT, REVIEW THE PERCENTAGE OF ELIGIBLE CONTRIBUTIONS THAT CAN BE RETAINED AND SPENT ON ADMINISTRATIVE EXPENSES AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING ANY APPROPRIATE CHANGES TO SUCH PERCENTAGE;

## 2019-2020 #171 – Original Draft

(VIII) FINANCIAL AID WILL BE DISTRIBUTED INTO INDIVIDUAL LEARNING ACCOUNTS AS DIRECTED BY THE AGENCY. THIS MAY OCCUR ONE TIME OR MULTIPLE TIMES EACH YEAR AS DIRECTED BY THE AGENCY AND MUST BE MADE PUBLIC BY THE AGENCY IN A REASONABLE MANNER; AND

(IX) ELIGIBLE CONTRIBUTIONS RECEIVED BY THE ORGANIZATION PRIOR TO JANUARY 1, 2022, MUST BE RETAINED BY THE ADMINISTERING NONPROFIT SOLELY FOR ADMINISTRATIVE AND ORGANIZATIONAL START-UP PURPOSES. ALL ELIGIBLE CONTRIBUTIONS RECEIVED BY THE ORGANIZATION PRIOR TO JANUARY 1, 2022 NOT EXPENDED ON ADMINISTRATIVE AND ORGANIZATION START-UP PURPOSES MUST BE TRANSFERRED TO THE OUT-OF-SCHOOL LEARNING OPPORTUNITIES FUND CREATED IN SECTION 22-86.1-105. AFTER JANUARY 1, 2022, FUNDS ARE AVAILABLE FOR ELIGIBLE STUDENTS.

(3) THE AGENCY SHALL BE SUBJECT TO ALL REQUIREMENTS OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(4) THE AGENCY MAY SOLICIT AND RECEIVE GIFTS, GRANTS, AND DONATIONS, WHICH MAY BE RETAINED AND SPENT ON ADMINISTRATIVE EXPENSES, INCLUDING SALARIES AND OFFICE EXPENSES, REIMBURSEMENTS TO MEMBERS OF THE AGENCY BOARD OF DIRECTORS, ROUTINE BUSINESS EXPENSES SUCH AS INSURANCE, ACCOUNTING, AND LEGAL EXPENSES, AND ANY SIMILAR OVERHEAD EXPENSES INCURRED BY THE AGENCY.

**22-86.1-104. Out-of-school learning opportunities agency — board of directors — powers and duties.** (1)(a) THE AGENCY IS GOVERNED AND ADMINISTERED BY A BOARD OF DIRECTORS THAT CONSISTS OF EIGHT MEMBERS APPOINTED BY THE GOVERNOR. THE SPEAKER OR MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, WHOMEVER IS NOT AFFILIATED WITH THE SAME POLITICAL PARTY AS THE GOVERNOR, SHALL PRESENT THE GOVERNOR WITH A LIST OF EIGHT CANDIDATES, WHICH INCLUDES AT LEAST TWO CANDIDATES FROM THE WESTERN SLOPE AND TWO CANDIDATES FROM THE EASTERN PLAINS. THE GOVERNOR SHALL SELECT FOUR MEMBERS FROM THE LIST OF CANDIDATES. FOR THE BOARD AS A WHOLE, THE GOVERNOR SHALL ENSURE THAT THE BOARD INCLUDES AT LEAST TWO MEMBERS FROM THE WESTERN SLOPE AND TWO MEMBERS FROM THE EASTERN PLAINS. THE INITIAL APPOINTMENTS TO THE BOARD OF DIRECTORS MUST BE COMPLETED BY FEBRUARY 1, 2021. MEMBERS SERVE FOR THREE-YEAR TERMS, EXCEPT THAT THE FOUR MEMBERS APPOINTED TO THE FIRST BOARD WHO WERE NOT FROM THE LIST OF CANDIDATES SERVE FOR TWO YEARS. IF THERE IS A VACANCY OF A MEMBER WHO WAS SELECTED FROM THE LIST OF CANDIDATES, THE SPEAKER OR MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, WHOMEVER IS NOT AFFILIATED WITH THE SAME POLITICAL PARTY AS THE GOVERNOR, SHALL PRESENT THE GOVERNOR WITH TWO CANDIDATES FROM WHICH TO SELECT A REPLACEMENT. MEMBERS OF THE BOARD MAY NOT DURING THEIR TERMS OF SERVICE BE EMPLOYED BY OR CONTRACT WITH ORGANIZATIONS, PUBLIC AGENCIES, OR INDIVIDUALS THAT PROVIDE OR OFFER TO PROVIDE OUT-OF-SCHOOL LEARNING OPPORTUNITIES UNDER THE PROGRAM. MEMBERS OF THE BOARD MAY SERVE UP TO THREE CONSECUTIVE TERMS, AND MEMBERS SHALL BE SUBJECT TO REMOVAL AS PROVIDED IN ARTICLE IV, SECTION 6, OF THE COLORADO CONSTITUTION.

(b) MEMBERS OF THE BOARD SHALL NOT BE ENTITLED TO COMPENSATION, BUT THEY SHALL BE PROVIDED REASONABLE PER DIEM AND REIMBURSEMENT FOR EXPENSES INCURRED IN FURTHERANCE OF THEIR RESPONSIBILITIES AS MEMBERS OF THE BOARD.

(2) THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(a) TO HIRE AN EXECUTIVE DIRECTOR AND STAFF;

(b) TO ESTABLISH AND OVERSEE THE PROGRAM CREATED BY THIS ARTICLE, ASSURING THAT AS MUCH FUNDING AS PRACTICABLE IS DEDICATED TO THE PROVISION OF FINANCIAL AID AND ASSISTANCE TO ELIGIBLE STUDENTS AND THEIR FAMILIES IN FINDING AND SELECTING AVAILABLE OUT-OF-SCHOOL LEARNING OPPORTUNITIES.;

## 2019-2020 #171 – Original Draft

(c) TO PERFORM ALL SUCH ACTIONS AS MAY BE NECESSARY AND APPROPRIATE TO CARRY OUT THE DUTIES AND RESPONSIBILITIES SPECIFIED IN SECTION 22-86.1-103;

(d) TO OBTAIN THE SERVICES OF EXPERT CONSULTANTS AS NECESSARY AND APPROPRIATE FOR THE PERFORMANCE OF ITS DUTIES AND RESPONSIBILITIES;

(e) TO PROMULGATE RULES AND REGULATIONS IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AS ARE NECESSARY OR EXPEDIENT FOR THE CONDUCT OF ITS AFFAIRS AND GENERALLY FOR THE ADMINISTRATION OF THE PROGRAM ESTABLISHED BY THIS ARTICLE;

(f) TO SUE AND BE SUED IN ITS OWN NAME;

(g) TO INCUR DEBTS, LIABILITIES, AND OBLIGATIONS, SUBJECT TO ANY LIMITATIONS IMPOSED THEREON PURSUANT TO LAW;

(h) TO PROVIDE FOR THE NECESSARY EXPENSES OF THE BOARD IN THE EXERCISE OF ITS POWERS AND THE PERFORMANCE OF ITS DUTIES AND TO REIMBURSE A BOARD MEMBER FOR NECESSARY AND APPROPRIATE EXPENSES INCURRED IN THE PERFORMANCE OF THE BOARD MEMBERS' DUTIES;

(i) TO PROVIDE FOR THE PROPER KEEPING OF ACCOUNTS AND RECORDS AND FOR BUDGETING OF FUNDS; AND

(j) TO ACT AS A PUBLIC ENTITY FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

**22-86.1-105. Out-of-school learning opportunities fund — creation — crediting of money to fund — use of fund.** (1) THE OUT-OF-SCHOOL LEARNING OPPORTUNITIES FUND IS HEREBY CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND CONSISTS OF ALL MONEYS TRANSFERRED OR CREDITED TO THE FUND PURSUANT TO SECTION 39-22-504 (7). ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(2) THE MONEYS CREDITED TO THE FUND, INCLUDING ANY INCOME AND INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MONEYS, SHALL BE EXEMPT FROM ANY RESTRICTION ON SPENDING, REVENUE, OR APPROPRIATIONS, INCLUDING THE RESTRICTIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(3) ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE AGENCY FOR OUT-OF-SCHOOL LEARNING OPPORTUNITIES FOR ELIGIBLE STUDENTS AS DEFINED IN SECTION 22-86.1-102, AND THE ADMINISTRATIVE AND OPERATIONAL EXPENSES OF THE AGENCY.

**22-86.1-106. Repeal and reauthorization.** THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2036, UNLESS IT IS CONTINUED OR REESTABLISHED BY THE GENERAL ASSEMBLY ACTING BY BILL PRIOR TO SAID DATE.

**SECTION 2.** In Colorado Revised Statutes, add 39-22-121.5 as follows:

**39-22-121.5. Credit for contribution toward out-of-school learning opportunities provided under the Colorado out-of-school learning opportunities program.** (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, THERE SHALL BE ALLOWED A CREDIT TO EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ONE HUNDRED PERCENT OF ANY MONETARY AND IN-KIND CONTRIBUTIONS DURING THE INCOME TAX YEAR TO THE NONPROFIT ORGANIZATION SELECTED TO ADMINISTER THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM PURSUANT TO SECTION 22-86.1-102(2)(m). A CREDIT ALLOWED TO ANY

## 2019-2020 #171 – Original Draft

INDIVIDUAL, ESTATE, TRUST, OR CORPORATION SHALL IN NO EVENT EXCEED THE TAXPAYER'S ACTUAL INCOME TAX LIABILITY FOR THE TAX YEAR FOR WHICH THE CREDIT IS CLAIMED, EXCEPT THAT A TAXPAYER MAY CARRY FORWARD ANY PORTION OF CREDIT EARNED IN EXCESS OF INCOME TAX LIABILITY FOR UP TO THREE TAX YEARS. A TAXPAYER MAY NOT CONVEY, ASSIGN, OR TRANSFER A CREDIT OR CARRY-FORWARD PORTION OF A CREDIT TO ANOTHER PERSON OR ENTITY.

(2) THE TOTAL AMOUNT OF CREDITS ALLOWED UNDER THIS SECTION IN ANY STATE FISCAL YEAR (THE "FISCAL YEAR CREDIT CAP") SHALL BE FIFTY MILLION DOLLARS. IN ANY STATE FISCAL YEAR IN WHICH TOTAL CREDITS CLAIMED UNDER THIS SECTION EQUAL OR EXCEED NINETY PERCENT OF THE THEN-APPLICABLE FISCAL YEAR CREDIT CAP, THE FISCAL YEAR CREDIT CAP SHALL AUTOMATICALLY INCREASE BY FIFTY MILLION DOLLARS FOR THE NEXT STATE FISCAL YEAR AND SUCCEEDING STATE FISCAL YEARS, UP TO A MAXIMUM FISCAL YEAR CREDIT CAP OF THREE HUNDRED MILLION DOLLARS. TAXPAYERS SHALL BE ALLOWED CREDITS UNDER THIS SECTION, SUBJECT TO THE THEN APPLICABLE FISCAL YEAR CREDIT CAP, IN THE ORDER IN WHICH SUCH CLAIMS FOR ALLOWANCE ARE RECEIVED BY THE DEPARTMENT. THE DEPARTMENT OF REVENUE SHALL PUBLISH ON ITS WEBSITE INFORMATION IDENTIFYING THE APPLICABLE FISCAL YEAR CREDIT CAP AND ANY THEN APPLICABLE INCREASES IN THE FISCAL YEAR CREDIT CAP REQUIRED BY THIS SUBSECTION.

(3) CONTRIBUTIONS TO THE NONPROFIT ORGANIZATION SELECTED TO ADMINISTER THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM PURSUANT TO SECTION 22-86.1-102 (2)(m) FOR WHICH A CREDIT IS CLAIMED UNDER THIS SECTION MAY NOT BE DIRECTED, RESTRICTED, OR CONDITIONED IN ANY MANNER TO THE BENEFIT OR EXCLUSION OF ANY PARTICULAR ACTUAL OR POTENTIAL INDIVIDUAL OR CLASS OF FINANCIAL AID RECIPIENTS OR ACTUAL OR POTENTIAL INDIVIDUAL OR CLASS OF PROVIDERS CONTRACTING WITH THE NONPROFIT ORGANIZATION SELECTED TO ADMINISTER THE COLORADO OUT-OF-SCHOOL LEARNING OPPORTUNITIES PROGRAM PURSUANT TO SECTION 22-86.1-102 (2)(m).

(4) THIS SECTION 39-22-121.5 IS REPEALED, EFFECTIVE JANUARY 1, 2036, SUBJECT TO REAUTHORIZATION.

**SECTION 3.** In Colorado Revised Statutes, 39-22-504, add (7) as follows:

**39-22-504. Net operating losses.** (7) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE MAXIMUM AMOUNT OF NET OPERATING LOSS THAT A CORPORATION MAY SUBTRACT FROM FEDERAL TAXABLE INCOME PURSUANT TO SECTION 39-22-304(3)(g) FOR A TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2021, BUT PRIOR TO JANUARY 1, 2036, IS TWO HUNDRED FIFTY THOUSAND DOLLARS.

(b) AT THE END OF EACH FISCAL YEAR THE STATE TREASURER SHALL TRANSFER TO THE OUT-OF-SCHOOL LEARNING OPPORTUNITIES FUND CREATED IN SECTION 22-86.1-105 THE ADDITIONAL AMOUNT OF NET TAX REVENUE RECEIVED IN SUCH FISCAL YEAR ATTRIBUTABLE TO LIMITING DEDUCTIONS FOR NET OPERATING LOSSES AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION.

(c) REVENUES COLLECTED UNDER THIS SECTION, AS AUTHORIZED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2020 SHALL BE RETAINED AND SPENT BY THE STATE AS A VOTER-APPROVED REVENUE CHANGE AND SHALL BE EXEMPT FROM ALL REVENUE, SPENDING, AND OTHER LIMITATIONS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER LAW.