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HOUSE BILL 25-1271

BY REPRESENTATIVE(S) Gilchrist and Brown, Camacho, Froelich, Rutinel, Stewart R., Willford, Bacon, Bradley, Clifford, Duran, English, Espenosa, Garcia, Jackson, Keltie, Lieder, Lindsay, Lindstedt, Lukens, Martinez, Mauro, McCormick, Paschal, Pugliese, Sirota, Smith, Stewart K., Story, Valdez, Velasco, Weinberg, McCluskie, Bird, Hamrick, Joseph, Phillips, Woodrow, Zokaie;
also SENATOR(S) Daugherty and Michaelson Jenet, Amabile, Carson, Cutter, Exum, Jodeh, Kipp, Weissman, Winter F.

CONCERNING CHANGES TO PRACTICES RELATED TO FEDERAL BENEFITS FOR
YOUTH IN FOSTER CARE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 19-7-105 as follows:

19-7-105. Federal benefits for children and youth in foster care - rules - definitions - legislative intent - legislative declaration.

(1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) THE FEDERAL GOVERNMENT PROVIDES VARIOUS BENEFITS AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

RESOURCES TO PROMOTE THE WELL-BEING, EDUCATION, HEALTH, AND SAFETY OF CHILDREN OR YOUTH IN FOSTER CARE;

(II) IN ADDITION TO THEIR NEEDS AND CIRCUMSTANCES MAKING THEM ELIGIBLE FOR BENEFITS, CHILDREN OR YOUTH IN FOSTER CARE OFTEN FACE SIGNIFICANT CHALLENGES, INCLUDING INSTABILITY IN LIVING ARRANGEMENTS, LACK OF FINANCIAL RESOURCES, AND LIMITED ACCESS TO LONG-TERM CARE AND SUPPORT;

(III) INDIVIDUALIZED ALLOCATION OF FEDERAL BENEFITS IS CRITICAL FOR ADDRESSING THE SPECIFIC NEEDS AND CIRCUMSTANCES OF EACH CHILD OR YOUTH IN FOSTER CARE, PROVIDING THEM WITH THE RESOURCES NECESSARY TO PROMOTE HEALTH, EDUCATION, AND LONG-TERM SUCCESS; AND

(IV) INDIVIDUALIZED ALLOCATION OF FEDERAL BENEFITS IS CONSISTENT WITH THE POLICY OF THE STATE OF COLORADO TO PRIORITIZE THE NEEDS OF CHILDREN OR YOUTH IN FOSTER CARE, PARTICULARLY THEIR FINANCIAL SECURITY AND INDEPENDENCE, AS THEY TRANSITION TO ADULTHOOD OR REUNIFICATION WITH FAMILIES.

(b) THE GENERAL ASSEMBLY FURTHER DECLARES ITS INTENT TO ENSURE THAT FEDERAL BENEFITS PROVIDED TO CHILDREN OR YOUTH IN FOSTER CARE ARE SET ASIDE SPECIFICALLY FOR THE USE OF INDIVIDUAL CHILDREN OR YOUTH IN FOSTER CARE, THEREBY:

(I) ENABLING CHILDREN OR YOUTH IN FOSTER CARE TO ACCESS BENEFITS DIRECTLY FOR THEIR PERSONAL CARE, EDUCATION, AND WELFARE;

(II) HELPING TO MITIGATE THE EFFECTS OF INSTABILITY BY GIVING CHILDREN OR YOUTH IN FOSTER CARE ACCESS TO THE RESOURCES THEY NEED TO THRIVE IN THEIR CURRENT FOSTER CARE ENVIRONMENT OR TRANSITION TO INDEPENDENCE; AND

(III) PROVIDING TRANSPARENCY AND ACCOUNTABILITY IN THE USE OF FEDERAL BENEFITS, ENSURING THAT CHILDREN OR YOUTH IN FOSTER CARE RECEIVE THE FULL SUPPORT INTENDED FOR THEIR UNIQUE NEEDS.

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FEDERAL BENEFITS ARE NOT GENERALIZED OR POOLED FOR INSTITUTIONAL PURPOSES,

BUT ARE INDIVIDUALLY ALLOCATED AND PROTECTED FOR THE DIRECT USE OF EACH CHILD OR YOUTH IN THE FOSTER CARE SYSTEM. INDIVIDUAL ALLOCATION AND PROTECTION OF FEDERAL SURVIVOR BENEFITS IS THE FIRST STEP TOWARD ADDRESSING THIS ISSUE MORE BROADLY. THEREFORE, IT IS FURTHER THE INTENT OF THE GENERAL ASSEMBLY THAT:

(I) FEDERAL SURVIVOR BENEFITS, WHICH ARE THE LEGAL ENTITLEMENT OF INDIVIDUAL CHILDREN AND YOUTH, NOT BE USED TO COVER THE COSTS OF CARE FOR CHILDREN OR YOUTH IN FOSTER CARE;

(II) FEDERAL SURVIVOR BENEFIT FUNDS BE MANAGED AND DISTRIBUTED WITH OVERSIGHT TO ENSURE THAT THEY ARE USED SOLELY FOR THE BENEFIT AND ADVANCEMENT OF AN INDIVIDUAL CHILD OR YOUTH'S WELL-BEING AND DEVELOPMENT; AND

(III) FEDERAL SURVIVOR BENEFIT RESOURCES BE ALLOCATED TO PRIORITIZE THE PERSONAL RIGHTS AND NEEDS OF INDIVIDUAL CHILDREN OR YOUTH IN FOSTER CARE, AFFORDING THEM THE OPPORTUNITIES AND STABILITY NECESSARY TO SUCCEED, REGARDLESS OF THEIR STATUS IN THE FOSTER CARE SYSTEM.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FEDERAL SURVIVOR BENEFITS" MEANS SURVIVOR BENEFITS THAT ARE ADMINISTERED BY THE UNITED STATES SOCIAL SECURITY ADMINISTRATION, VETERANS BENEFITS ADMINISTRATION, OR THE RAILROAD RETIREMENT BOARD AND THAT ARE BASED ON THE ELIGIBILITY OF AN INSURED PARENT.

(b) "INTERESTED PARTY" MEANS A CHILD OR YOUTH; THE CHILD'S OR YOUTH'S COUNSEL FOR YOUTH; A PARENT AND THE PARENT'S COUNSEL, UNLESS PARENTAL RIGHTS HAVE BEEN TERMINATED OR THERE IS A COURT ORDER RESTRICTING ACCESS; THE INDIVIDUAL WITH WHOM THE CHILD OR YOUTH IS CURRENTLY PLACED; THE GUARDIAN AD LITEM; OR OTHER PARTY WHO MAY HAVE INFORMATION ABOUT THE CHILD'S OR YOUTH'S ELIGIBILITY FOR OR RECEIPT OF FEDERAL SURVIVOR BENEFITS.

(3)(a) BEGINNING ON OR BEFORE JULY 1, 2027, WITHIN NINETY DAYS AFTER A COUNTY DEPARTMENT ASSUMES LEGAL CUSTODY OF OR AUTHORITY

OVER A CHILD OR YOUTH, IF THE COUNTY DEPARTMENT ESTABLISHES THAT THE CHILD OR YOUTH HAS A DECEASED PARENT, THE COUNTY DEPARTMENT SHALL DETERMINE WHETHER THE CHILD OR YOUTH MAY BE ELIGIBLE TO RECEIVE FEDERAL SURVIVOR BENEFITS.

(b) BEGINNING ON OR BEFORE JULY 1, 2027, IF A COUNTY DEPARTMENT MAKES AN INITIAL DETERMINATION THAT THE CHILD OR YOUTH IS NOT LIKELY TO BE ELIGIBLE FOR FEDERAL SURVIVOR BENEFITS, THE COUNTY DEPARTMENT SHALL ANNUALLY REVIEW THE CASE OF THE CHILD OR YOUTH TO DETERMINE WHETHER CIRCUMSTANCES HAVE CHANGED TO MAKE THE CHILD OR YOUTH ELIGIBLE FOR FEDERAL SURVIVOR BENEFITS.

(c) IN CONDUCTING AN INITIAL BENEFIT ELIGIBILITY DETERMINATION OR AN ANNUAL REVIEW PURSUANT TO THIS SUBSECTION (3), THE COUNTY DEPARTMENT SHALL CONSULT WITH INTERESTED PARTIES AS NECESSARY TO ASSESS THE CHILD'S OR YOUTH'S ELIGIBILITY FOR FEDERAL SURVIVOR BENEFITS AND TO DETERMINE, IN ACCORDANCE WITH APPLICABLE FEDERAL LAW, THE MOST LIKELY, APPROPRIATE REPRESENTATIVE PAYEE OR FIDUCIARY.

(d) IF THE COUNTY DEPARTMENT DETERMINES THAT THE CHILD OR YOUTH MAY BE ELIGIBLE TO RECEIVE FEDERAL SURVIVOR BENEFITS, AND THAT THE COUNTY DEPARTMENT IS THE MOST APPROPRIATE REPRESENTATIVE PAYEE OR FIDUCIARY, THEN THE COUNTY DEPARTMENT SHALL, IN COMPLIANCE WITH ALL APPLICABLE FEDERAL RULES AND REGULATIONS, APPLY FOR THE FEDERAL SURVIVOR BENEFITS ON BEHALF OF THE CHILD OR YOUTH. IF THE COUNTY DEPARTMENT DETERMINES THAT THE CHILD OR YOUTH MAY BE ELIGIBLE FOR FEDERAL SURVIVOR BENEFITS BUT THAT THE COUNTY DEPARTMENT IS NOT THE MOST APPROPRIATE REPRESENTATIVE PAYEE OR FIDUCIARY, THE COUNTY DEPARTMENT SHALL PROVIDE INFORMATION TO THE PROSPECTIVE REPRESENTATIVE PAYEE OR FIDUCIARY THAT THE COUNTY DEPARTMENT HAS IDENTIFIED ABOUT HOW TO APPLY FOR FEDERAL SURVIVOR BENEFITS ON BEHALF OF THE CHILD OR YOUTH AND HOW TO BECOME THE CHILD'S OR YOUTH'S REPRESENTATIVE PAYEE OR FIDUCIARY.

(e) FOLLOWING A DENIAL OF FEDERAL SURVIVOR BENEFITS OR OTHER ADVERSE BENEFIT ELIGIBILITY DETERMINATION, THE COUNTY DEPARTMENT SHALL CONSULT WITH INTERESTED PARTIES AND DETERMINE WHETHER THERE ARE GROUNDS TO APPEAL. IF THERE ARE GROUNDS TO APPEAL, THE

COUNTY DEPARTMENT SHALL APPEAL THE DENIAL OR ADVERSE DETERMINATION.

(f) IF A CHILD OR YOUTH IN NONCERTIFIED KINSHIP CARE MAY BE ELIGIBLE FOR FEDERAL SURVIVOR BENEFITS, THE COUNTY DEPARTMENT SHALL PROVIDE THE NONCERTIFIED KINSHIP CAREGIVER WITH INFORMATION ABOUT HOW TO APPLY FOR FEDERAL SURVIVOR BENEFITS ON BEHALF OF THE CHILD OR YOUTH.

(4) IF THE COUNTY DEPARTMENT BECOMES THE REPRESENTATIVE PAYEE OR FIDUCIARY FOR A CHILD'S OR YOUTH'S FEDERAL SURVIVOR BENEFITS, THE COUNTY DEPARTMENT SHALL ANNUALLY REASSESS, IN CONSULTATION WITH INTERESTED PARTIES, WHETHER A CANDIDATE OTHER THAN THE COUNTY DEPARTMENT WOULD BE A PREFERABLE REPRESENTATIVE PAYEE OR FIDUCIARY.

(5) (a) BEGINNING ON OR BEFORE JULY 1, 2027, IF A COUNTY DEPARTMENT IS THE REPRESENTATIVE PAYEE OR FIDUCIARY FOR A CHILD OR YOUTH, THE COUNTY DEPARTMENT SHALL:

(I) NOT USE ANY FEDERAL SURVIVOR BENEFITS OF A CHILD OR YOUTH TO PAY FOR OR REIMBURSE THE COUNTY DEPARTMENT FOR CARE OR SERVICES FOR THE CHILD OR YOUTH, INCLUDING, BUT NOT LIMITED TO, FOSTER CARE MAINTENANCE EXPENSES AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 675 (4)(A), AND COST OF CARE AS DEFINED IN SECTION 19-1-103.

(II) ESTABLISH AND MAINTAIN, CONSISTENT WITH FEDERAL AND STATE ASSET AND RESOURCE LIMITS, AN ACCOUNT FOR DEPOSIT OF THE FEDERAL SURVIVOR BENEFITS OF A CHILD OR YOUTH. THE ACCOUNT MAY BE AN INDIVIDUAL ACCOUNT OR AN APPROVED COLLECTIVE ACCOUNT, IF THE REPRESENTATIVE PAYEE MAINTAINS A SEPARATE LEDGER AND ACCOUNTING RECORDS FOR EACH CHILD OR YOUTH BENEFICIARY OF AN APPROVED COLLECTIVE ACCOUNT. THE CONTENTS OF THE ACCOUNT, INCLUDING APPLICABLE INTEREST OR EARNINGS, MUST BE SAVED FOR THE INDIVIDUAL CHILD OR YOUTH.

(III) PROVIDE AN ANNUAL ACCOUNTING OF THE ACCUMULATION OF THE CHILD'S OR YOUTH'S FEDERAL SURVIVOR BENEFITS TO THE CHILD OR YOUTH AND THE LEGAL REPRESENTATIVE OF THE CHILD OR YOUTH. THE

ANNUAL ACCOUNTING INFORMATION MUST INCLUDE:

(A) THE AMOUNT AND SOURCE OF FEDERAL SURVIVOR BENEFITS COLLECTED BY THE COUNTY DEPARTMENT AND CREDITED TO THE ACCOUNT MAINTAINED ON BEHALF OF THE CHILD OR YOUTH;

(B) THE BALANCE OF THE ACCOUNT MAINTAINED ON BEHALF OF THE CHILD OR YOUTH; AND

(C) INFORMATION REGARDING THE CHILD'S OR YOUTH'S ACCOUNTS AND EARNINGS RELATED TO THOSE ACCOUNTS, IF APPLICABLE, AND ANY ADDITIONAL ASSETS AND RESOURCES, INCLUDING BENEFITS, INSURANCE, CASH ASSETS, TRUST ACCOUNTS, AND EARNINGS, IF THE ASSETS OR RESOURCES ARE CONTROLLED BY THE COUNTY DEPARTMENT.

(b) IF A COUNTY DEPARTMENT IS NOT THE REPRESENTATIVE PAYEE OR FIDUCIARY FOR A CHILD'S OR YOUTH'S FEDERAL SURVIVOR BENEFITS, THE COUNTY DEPARTMENT IS NOT RESPONSIBLE FOR ESTABLISHING OR MAINTAINING AN ACCOUNT FOR DEPOSIT OF THE FEDERAL SURVIVOR BENEFITS OF THE CHILD OR YOUTH OR PROVIDING RELATED ACCOUNTING INFORMATION PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

(c) THIS SECTION DOES NOT PREVENT OR LIMIT A COURT FROM ORDERING OR A COUNTY DEPARTMENT FROM VOLUNTARILY UNDERTAKING THE CONSERVATION OF FEDERAL SURVIVOR BENEFITS FOR A CHILD OR YOUTH OR FROM USING, IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAW, THE FEDERAL SURVIVOR BENEFITS FOR PURPOSES OTHER THAN THE COST OF CARE.

(6) (a) THE COUNTY DEPARTMENT SHALL PROVIDE TIMELY, DEVELOPMENTALLY APPROPRIATE NOTICE TO THE PARTIES, UNLESS PREVENTED BY A COURT ORDER, OF:

(I) SUBMISSION OF AN APPLICATION FOR FEDERAL SURVIVOR BENEFITS ON BEHALF OF A CHILD OR YOUTH;

(II) SUBMISSION OF A REQUEST FOR THE COUNTY DEPARTMENT TO BECOME THE REPRESENTATIVE PAYEE OR FIDUCIARY FOR THE CHILD'S OR YOUTH'S FEDERAL SURVIVOR BENEFITS AND IDENTIFICATION OF THE REPRESENTATIVE PAYEE OR FIDUCIARY ULTIMATELY SELECTED;

(III) RECEIPT BY THE COUNTY DEPARTMENT OF A FEDERAL AGENCY'S DECISION REGARDING FEDERAL SURVIVOR BENEFITS, INCLUDING DENIAL, TERMINATION, OR REDUCTION OF FEDERAL SURVIVOR BENEFITS;

(IV) A DECISION BY THE COUNTY DEPARTMENT ABOUT WHETHER OR NOT TO APPEAL AN ADVERSE DETERMINATION, INCLUDING THE OUTCOME OF ANY APPEAL FILED; AND

(V) THE ESTABLISHMENT OF A SPECIAL ACCOUNT OR TRUST ON BEHALF OF THE CHILD OR YOUTH.

(b) THE NOTICE MUST STATE THAT INTERESTED PARTIES MAY SUBMIT INFORMATION RELEVANT TO THE SELECTION OF A REPRESENTATIVE PAYEE OR FIDUCIARY FOR THE CHILD OR YOUTH, AND THAT AN INDIVIDUAL MAY HAVE THE RIGHT TO CONTEST THE SELECTION OF A REPRESENTATIVE PAYEE OR FIDUCIARY BEFORE THE RELEVANT FEDERAL AGENCY, INCLUDING THE SOCIAL SECURITY ADMINISTRATION OR VETERANS ADMINISTRATION.

(7) ONCE A CHILD WHO IS RECEIVING FEDERAL SURVIVOR BENEFITS LEAVES FOSTER CARE, THE COUNTY DEPARTMENT SHALL RELEASE, PURSUANT TO THE REQUIREMENTS OF THE FUNDING SOURCE, ANY FUNDS THAT HAVE ACCUMULATED IN AN ACCOUNT THAT THE COUNTY DEPARTMENT HAS ESTABLISHED OR MAINTAINS FOR DEPOSIT OF THE FEDERAL SURVIVOR BENEFITS OF THE CHILD OR YOUTH.

(8) ON OR BEFORE JANUARY 1, 2027, THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH INTERESTED STAKEHOLDERS, INCLUDING, BUT NOT LIMITED TO, COUNTY DEPARTMENTS, ORGANIZATIONS THAT ADVOCATE ON BEHALF OF YOUTH IN FOSTER CARE, ORGANIZATIONS THAT REPRESENT COURT-APPOINTED SPECIAL ADVOCATES, ORGANIZATIONS THAT ADVOCATE ON BEHALF OF DISABILITY RIGHTS, THE OFFICE OF RESPONDENT PARENTS' COUNSEL, AND THE OFFICE OF THE CHILD'S REPRESENTATIVE, SHALL ADOPT RULES CONSISTENT WITH APPLICABLE STATE AND FEDERAL LAW FOR THE IMPLEMENTATION OF THIS SECTION. THE RULES MUST INCLUDE GUIDANCE TO THE COUNTY DEPARTMENTS ON:

(a) SCREENING PROCESSES FOR IDENTIFYING WHETHER A CHILD OR YOUTH IS ALREADY RECEIVING FEDERAL SURVIVOR BENEFITS OR MAY BE ELIGIBLE TO RECEIVE FEDERAL SURVIVOR BENEFITS AND SCREENING PROCESSES FOR SUBSEQUENT ANNUAL ELIGIBILITY REVIEWS;

(b) BEST PRACTICES FOR CONSULTING WITH THE CHILD OR YOUTH OR OTHER INTERESTED PARTIES WHO MAY HAVE INFORMATION ABOUT THE CHILD'S OR YOUTH'S RECEIPT OF OR ELIGIBILITY FOR FEDERAL SURVIVOR BENEFITS;

(c) THE APPLICATION PROCESS FOR FEDERAL SURVIVOR BENEFITS FOR EACH CHILD OR YOUTH, WHO, PURSUANT TO SCREENING, IS LIKELY TO BE DETERMINED ELIGIBLE FOR FEDERAL SURVIVOR BENEFITS;

(d) THE PROCESS FOR MAKING A DETERMINATION ABOUT WHETHER IT IS APPROPRIATE TO CHALLENGE A BENEFIT DENIAL OR OTHER ADVERSE DETERMINATION;

(e) THE PROCESS FOR PROVIDING INFORMATION TO A NONCERTIFIED KINSHIP CAREGIVER ABOUT APPLYING FOR FEDERAL SURVIVOR BENEFITS ON BEHALF OF A CHILD OR YOUTH;

(f) THE PROCESS FOR IDENTIFYING, PURSUANT TO APPLICABLE FEDERAL GUIDELINES, AN APPROPRIATE REPRESENTATIVE PAYEE OR FIDUCIARY FOR A CHILD OR YOUTH;

(g) THE PROCESS FOR ESTABLISHING AND MAINTAINING AN ACCOUNT FOR DEPOSIT AND ACCUMULATION OF THE FEDERAL SURVIVOR BENEFITS OF A CHILD OR YOUTH WHILE IN THE LEGAL CUSTODY OR UNDER THE LEGAL AUTHORITY OF THE COUNTY DEPARTMENT AND FOR PROVIDING RELATED ACCOUNTING INFORMATION ANNUALLY;

(h) SPECIFICATIONS FOR PROVIDING REQUIRED NOTICES REGARDING FEDERAL SURVIVOR BENEFIT APPLICATIONS, APPLICATIONS FOR A COUNTY DEPARTMENT TO BECOME A REPRESENTATIVE PAYEE OR FIDUCIARY, RECEIPT OF DECISIONS REGARDING FEDERAL SURVIVOR BENEFIT ELIGIBILITY, APPEALS OF DENIALS, AND ESTABLISHMENT OF ACCOUNTS; AND

(i) INFORMING A CHILD OR YOUTH ABOUT RIGHTS AND RESPONSIBILITIES REGARDING THE CONTINUED RECEIPT OF FEDERAL BENEFITS, THE SOURCES OF ASSISTANCE THAT MAY BE AVAILABLE FOR RESOLVING RELATED PROBLEMS, AND THE PROCESS FOR TRANSFERRING ACCUMULATED FEDERAL SURVIVOR BENEFITS.

(9) THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE

TECHNICAL ASSISTANCE AND GUIDANCE TO THE COUNTY DEPARTMENTS ABOUT HOW THE COUNTY DEPARTMENTS SHALL ADDRESS SAVING FEDERAL SURVIVOR BENEFITS IN THE BEST INTERESTS OF A CHILD OR YOUTH.

SECTION 2. In Colorado Revised Statutes, 19-7-305, **amend** (1)(c)(IV) as follows:

19-7-305. Available services and supports. (1) Each county department shall offer, at a minimum, the following services and supports to participating youth in the transition program:

(c) Case management services, including the development of a case plan with a roadmap to success for the participating youth, as well as assistance in the following areas, as appropriate, and with the agreement of the participating youth:

(IV) Obtaining appropriate community resources and public benefits, INCLUDING APPLYING FOR FEDERAL BENEFITS AS DEFINED IN SECTION 19-7-105, CONSERVING OR MANAGING FEDERAL BENEFITS OBTAINED PURSUANT TO SECTION 19-7-105, OR OBTAINING RELATED FINANCIAL LITERACY TRAINING;

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO