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MEMORANDUM G¹

TO: Statutory Revision Committee

FROM: Debbie Haskins, Office of Legislative Legal Services

DATE: October 5, 2016

SUBJECT: Modernization of the language used to transfer state agencies and functions in the "Administrative Organization Act of 1968" and in the Colorado Revised Statutes

Summary

For many years, staff at the Office of Legislative Legal Services (OLLS) has been aware of verbose and inconsistent language used in the Colorado Revised Statutes (C.R.S.) to implement the "Administrative Organization Act of 1968" ("Administrative Organization Act"). The terminology used to transfer the functions of one agency to another is archaic, obsolete, and difficult for the agencies and the public to understand. Furthermore, at least 47 different variations of the transfer language currently appear in the C.R.S.

The opportunity to simplify and standardize this transfer language presents a needed reform that may benefit the agencies whose powers and duties are governed by it, as well as Coloradans who look to the statutes to understand how these agencies function.

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

Analysis

1. Background on the "Administrative Organization Act" and analysis of drafting practices based on the Act.

In 1966, Colorado voters approved a constitutional amendment calling for the reorganization of the state government's executive branch into not more than 20 principal departments.²

In 1967, an interim committee analyzed every unit of state government, consolidated them into 17 principal departments,³ and decided whether the agency should be a **type 1** or a **type 2** entity or whether it should be abolished through a **type 3** transfer.⁴ Based on that analysis, the General Assembly enacted Senate Bill 68-001, creating the "Administrative Organization Act of 1968",⁵ in article 1 of title 24, C.R.S., which laid out the structure of the principal departments, assigned every division and board to a principal department, and specified its type.

The reorganization was based on a transfer concept set out in § 24-1-105, C.R.S., which defines the three types of transfers that determine the relationship between an agency and the principal department.⁶ The designation of an agency as a **type 1** or **type 2** agency, and the transfer of the agency's powers, duties, and functions to another agency by a **type 1** or **type 2** transfer, affects the authority of the agency, and the type defines the relationship between the agency and the principal department to which the agency is assigned. Any mention of the status type in the C.R.S. appears in **bold**.

² Amendment 1 (titled "An Amendment to Article IV of the Constitution of the State of Colorado, by the addition of a new section 22, providing that executive and administrative offices, agencies, and instrumentalities of the executive department of the state government shall be allocated to not to exceed twenty departments, with certain exceptions."), which was submitted to the electorate by the General Assembly, created Colorado constitution, art. IV, § 22.

³ Currently, there are 19 principal departments.

⁴ Report to the Colorado General Assembly, "Reorganizing the Executive Branch of Colorado's State Government," Colorado Legislative Council, Research Publication No. 131, December 1967, www.law.du.edu, digital collection of the Colorado Legislative Council.

⁵ 1968 Colo. Sess. Laws, ch. 53.

⁶ See **Addendum A**.

According to the *Colorado Legislative Drafting Manual*, there is a significant difference between the powers of a **type 1**⁷ agency and a **type 2**⁸ agency:

A **type 1** transfer denotes a relationship in which the subordinate division, board, or other agency exercises its powers, duties, and functions independently of the executive director of the department within which the agency is placed. The most important powers retained by a **type 1** agency – powers which may be exercised in whatever way the agency determines, even without the approval of the executive director – are the promulgation of rules and the rendering of administrative findings, orders, and adjudications.⁹

In a **type 2** transfer, all powers, duties, and functions of the division, board, or other agency belong to the executive director of the department.¹⁰

A **type 3** transfer involves the transfer of *all* functions of an agency to another agency and the abolition of the old agency; it is rarely used.¹¹

In Senate Bill 68-001, each agency and its powers, duties, and functions were transferred to a principal department using the simple phrase "are transferred". For example:

24-1-117. Department of revenue - creation. (2) The department of revenue and the office of director of revenue, created by article 35 of this title, and their powers, duties, and functions **are transferred by a type 2 transfer to the department of revenue.**

(3) The powers, duties, and functions of the secretary of state with respect to fermented malt beverages and malt, vinous, and spirituous liquors under the provisions of articles 46 to 48 of title 12, C.R.S., **are transferred by a type 2 transfer to the department of revenue.**

The 1967 interim committee recommended and intended¹² that any new agencies created after the reorganization would be created using a transfer approach via the three statutorily defined types of transfers.

⁷ Examples of **type 1** agencies are the state board of education, the state board of health, and the public utilities commission.

⁸ Examples of **type 2** agencies are the office of the state registrar, the Colorado commission on aging, and the division of youth corrections.

⁹ *Colorado Legislative Drafting Manual*, the Office of Legislative Legal Services, p. 6-1 (2016).

¹⁰ *Id.*

¹¹ *Id.*

In 1969, the year following the reorganization, the simple phrase "are transferred" was again used when transferring or creating new departments; however, in 1970 and years thereafter, variations arose, including:

- "are hereby transferred"; and
- "as if the same were transferred to the department by a **type 1** transfer as such transfer is defined in the Administrative 'Organization Act of 1968'".

Ten years after the reorganization, the 1977 *Legislative Drafting Manual* explained to drafters that when drafting bills creating a new agency or transferring an agency to another agency, the drafter needed to do two things: 1) amend the applicable section in the "Administrative Organization Act" *and* the organic statute governing the agency to specify the transfer and type of the agency; and 2) use the phrase "as if it were transferred" when making such a transfer.

According to the 1977 *Legislative Drafting Manual*:

In order to keep article 1 up to date and to clearly define the status of newly created agencies within the context of executive reorganization, any bill creating a new executive agency with substantive powers (i.e., an agency other than a strictly advisory board or committee), or transferring any such agency from one department to another, or abolishing such an agency, **MUST** include an appropriate amendment to title 24, article 1.

...

In the case of a new agency, the text should refer to the type of transfer with the notation that the agency shall exercise its powers, etc., as if it were transferred by a type 1 or type 2 transfer, since a new agency is not actually being transferred.

...

As a matter of custom, similar language defining the type of transfer is included in the substantive law governing the agency created or transferred.¹³

Nothing in article 1 of title 24, C.R.S., nor in the interim committee report, explains that a subsequent *transfer* of an entity should be accomplished using the phrase "as if it were transferred". This language appears to be the result of the way *some, but not all*, bills were drafted after the 1968 reorganization.

¹² "Reorganizing the Executive Branch of Colorado's State Government", p. xx.

¹³ *Legislative Drafting Manual*, Legislative Drafting Office, pp. 70-71 (1977).

In hindsight, the language "as if it were transferred by a **type 1** or **type 2** transfer" is an awkward and unclear phrase. This language essentially ties the creation of a new board's powers back to a reorganization that occurred in 1968 — in essence the translation is that "new board X exercises its powers as a **type 1** board as if it were being transferred by a **type 1** transfer back in 1968". This approach creates a fictional reality and is not the most clear and direct way to express what is actually intended.

2. The transfer language used in the C.R.S. is overly complicated and difficult for the state agencies and the public to understand. The Statutory Revision Committee could introduce legislation to modernize and simplify the language while preserving the existing type of the agencies.

In the C.R.S., there are at least 298 references to **type 1**, **type 2**, or **type 3** transfers. What is astonishing is that *there are at least 47 different ways the transfers are described*, sometimes within the same subsection.

The following table illustrates some of the variety of ways agency transfers are worded in statute:

"as if the same were transferred to the department by a type 2 transfer"
"as if the same were transferred by a type 2 transfer"
"as if the same were transferred by a type 1 transfer to the department"
"as if the same were transferred thereto by a type 1 transfer"
"as if transferred thereto by a type 2 transfer"
"as if it were transferred to said department by a type 1 transfer"
"as transferred to the department by a type 2 transfer, as such transfer is defined in the 'Administrative Organization Act of 1968', article 1 of this title"
"as if the agency or officer were transferred to the department by a type 2 transfer, as defined in section 24-1-105"

As is demonstrated in **Addendum B**, there are multiple variations of expressing the transfer concept, which adds to the confusion. Instead, the designation of the status of an agency's powers as either a **type 1** or **type 2** entity could be stated very simply in plain English:

Board X is transferred from department A to department B by a **type 2** transfer and operates as a **type 2** board/entity.

Agency X is a **type 1** [or **type 2**] board/entity.

Agency X is created in department B as a **type 1** [or **type 2**] board/entity.

Agency X exercises its powers, duties, and functions as a **type 1** [or **type 2**] board.

Agency X operates as a **type 1** [or **type 2**] board/entity.

Modernizing and simplifying these statements would result in statutes that are expressed in the present time and in the present tense while preserving the entity's status and powers as designated by type in the "Administrative Organization Act". This approach would standardize and streamline the transfer language in the "Administrative Organization Act" and in the C.R.S.

3. While the status of an agency is expressed in article 1 of title 24, C.R.S., many times the type 1 or type 2 status of the agency is not contained in the organic statutes.

For some reason, which the OLLS staff has not been able to ascertain, the 1968 legislation that reorganized all state agencies did not include corresponding amendments in the "organic" statutes that actually create the particular departments, divisions, or boards.

This inconsistency resulted in an anomaly in which numerous boards' and agencies' statuses, with regard to their powers, duties, and functions, can only be found in article 1 of title 24, C.R.S., and not in their organic statutes, where a reader would typically look for this information.

Because the "Administrative Organization Act" requires an agency to exercise its powers consistent with the level of authority allocated to it by the General Assembly, it would be helpful to the departments and to the public to provide ready access to that information in the relevant statutes that establish the agency.

In addition, when comparing the "Administrative Organization Act" and the organic statutes, the staff has identified some discrepancies in the names of entities and references to units of government that no longer exist. Legislation sponsored by the Statutory Revision Committee could correct these errors and discrepancies.

4. There are numerous instances of outdated "boilerplate" language remaining in the C.R.S. relating to type 3 transfers.

When a **type 3** transfer is made, the original agency is abolished and its functions and powers are transferred to another principal department. Often as part of that transfer,

the original legislation included "boilerplate" language that transferred the employees, records, and property of the original agency to its successor agency. Over time, this language has become outdated. The Statutory Revision Committee could sponsor legislation to repeal the obsolete language. When the C.R.S. is published, the OLLS staff could include an editor's note explaining where to find the original transfer language. To prevent similar "boilerplate" language from lingering in the statutes, new **type 3** transfers could include a provision to automatically repeal this language in the future.

Statutory Charge¹⁴

The issues presented fit within the Statutory Revision Committee's charge because they would eliminate defects in the law, bring the law into harmony with modern conditions, align and harmonize the status and powers assigned to particular units of state agencies in the "Administrative Organization Act", and repeal outdated language.

Proposed Bill

If the Statutory Revision Committee requests a bill draft concerning this issue, OLLS has determined that the "Administrative Organization Act" and the overall C.R.S., in applicable places, could be modernized and simplified by:

1. Modernizing the existing statutes and drafting conventions to state the designation of the status of an agency's powers, duties, and functions as either a **type 1** or **type 2** entity in plain English whenever an agency is transferred from one department to another or is newly created.¹⁵
2. Amending the applicable organic statutes to specify and align the **type 1** or **type 2** status of the boards, commissions, divisions, and agencies with the designation of the **type 1** or **type 2** status that is assigned in the

¹⁴ The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions". Section 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." Section 2-3-902 (3), C.R.S.

¹⁵ See **Addendum C**.

"Administrative Organization Act"¹⁶ and correcting errors in the names of entities and references to units of government that no longer exist.

3. Repealing outdated historical "boilerplate" provisions relating to the transfer of functions to another department in a **type 3** transfer that abolished the original agency.¹⁷

¹⁶ See **Addendum D**.

¹⁷ See **Addendum E**.

ADDENDUM A

COLORADO REVISED STATUTES

24-1-105. Types of transfers. (1) Under this article, a **type 1** transfer means the transferring intact of an existing department, institution, or other agency, or part thereof, to a principal department established by this article. When any department, institution, or other agency, or part thereof, is transferred to a principal department under a **type 1** transfer, that department, institution, or other agency, or part thereof, shall be administered under the direction and supervision of that principal department, but it shall exercise its prescribed statutory powers, duties, and functions, including rule-making, regulation, licensing, and registration, the promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications, independently of the head of the principal department. Under a **type 1** transfer, any powers, duties, and functions not specifically vested by statute in the agency being transferred, including, but not limited to, all budgeting, purchasing, planning, and related management functions of any transferred department, institution, or other agency, or part thereof, shall be performed under the direction and supervision of the head of the principal department.

(2) Under this article, a **type 2** transfer means the transferring of all or part of an existing department, institution, or other agency to a principal department established by this article. When all or part of any department, institution, or other agency is transferred to a principal department under a **type 2** transfer, its statutory authority, powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting, purchasing, and planning, are transferred to the principal department.

(3) Under this article, a **type 3** transfer means the abolishing of an existing department, institution, or other agency and the transferring of all or part of its powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds to a principal department as specified under this article.

(4) When any department, institution, or other agency, or part thereof, is transferred by a **type 2** or **type 3** transfer to a principal department under the provisions of this article, its prescribed powers, duties, and functions, including rule-making, regulation, licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the department, institution, or other agency, or part thereof, has been transferred.

ADDENDUM B

as if transferred thereto by a type 2 transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if the same were transferred to the department by a type 1 transfer, as such transfer is defined in section 24-1-105, C.R.S.
are transferred from (blank) to (blank) by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
are transferred, (effective date), by a type 1 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to(blank) and allocated to (blank)
as if the powers, duties, and functions were transferred to the division by a type 1 transfer, as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if it were transferred to the department by a type 1 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if they were transferred to the department by a type 2 transfer
as if transferred to the division by a type 1 transfer, as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if transferred thereto by a type 2 transfer, as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if the same were transferred to the department by a type 2 transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if the same were transferred to the department by a type 2 transfer
as if the same were transferred by a type 2 transfer
as if the same were transferred by a type 1 transfer to the department
as if the same were transferred thereto by a type 1 transfer
as if the same were transferred to said department by a type 2 transfer
as if the same were transferred by a type 1 transfer, as defined in section 24-1-105, to the department of transportation
as if the same were transferred to the department by a type 1 transfer, as defined in section 24-1-105, C.R.S.
as if the same were transferred to such department by this article under a type 2 transfer, unless otherwise specified by such law

are hereby transferred by a type 3 transfer to the department
There is hereby created by a type 1 transfer in the department ...
are transferred by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the department
are transferred by a type 2 transfer to the department of state, subject to
as if transferred to the department by a type 1 transfer
as if the division were transferred by a type 2 transfer to the department of education.
as if it were transferred by a type 2 transfer to the department of public health and environment
as if transferred by a type 2 transfer
as if transferred thereto by a type 2 transfer
as if (the board) were transferred to the division by a type 1 transfer
are transferred as if by a type 1 transfer
as if the same were transferred to the department of natural resources and allocated to the division of reclamation, mining, and safety as a section thereof by a type 2 transfer.
as if it were transferred to said department by a type 1 transfer
as if transferred by a type 2 transfer to the department
are transferred by a type 3 transfer, as defined in section 24-1-105
as transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title
are hereby transferred by a type 2 transfer from the department to
to meet the requirements of the commission concerning any matters within the authority of an agency transferred by a type 1 transfer, as defined in section 24-1-105, C.R.S.,
as if transferred to the department by a type 1 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
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.
as if it were transferred by a type 2 transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.
as if the (board) were transferred by a type 2 transfer, as a division thereof
as if transferred by a type 2 transfer, as such transfer is defined by the "Administrative Organization Act of 1968", article 1 of this title, to the department
as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", being article 1 of this title

as if it were transferred to the department by a **type 1** transfer as such transfer is defined in the "Administrative Organization Act of 1968", being article 1 of this title

as if it were transferred to the department by a type 1 transfer under the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

as if the agency or officer were transferred to the department by a **type 2** transfer, as defined in section 24-1-105, until the general assembly shall otherwise designate

There is hereby created within the department, as a type 2 entity, the ...

ADDENDUM C

To modernize and simplify the language in organic statutes, a section of a bill could read:

SECTION __. In Colorado Revised Statutes, 25-9-104, **amend** (8) as follows:

25-9-104. Duties of board - rules. (8) The board ~~may exercise~~ EXERCISES its powers, and ~~perform its duties and functions as if it were transferred to the department by a type 1 transfer under the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.~~ duties, and functions as a **type 1** board.

SECTION __. In Colorado Revised Statutes, **amend** 26-1-302, (1) as follows:

26-1-302. Colorado traumatic brain injury trust fund board - creation - powers and duties. (1) There is hereby created the Colorado traumatic brain injury trust fund board within the state department of human services. The board ~~shall exercise~~ EXERCISES its powers and duties as ~~if transferred by a type 2 transfer~~ **BOARD**.

To modernize the language in the "Administrative Organization Act", a section of a bill could read:

SECTION _. In Colorado Revised Statutes, 24-1-122, **amend** (2)(a.5) and (2)(b)(II) as follows:

24-1-122. Department of regulatory agencies - creation. (2) The department of regulatory agencies shall consist of the following divisions:

(a.5) The office of consumer counsel and the utility consumers' board, created by article 6.5 of title 40, C.R.S. The office of consumer counsel and its powers, duties, and functions are transferred by a **type 1** transfer to the department of regulatory agencies as a division thereof. The utility consumers' board shall exercise its powers and perform its duties and functions under the department as ~~if the same were transferred to the department by a type 1 transfer~~ **BOARD** and is allocated to the office of consumer counsel.

(b) (II) The workers' compensation classification appeals board, created by section 8-55-101 (1), C.R.S., ~~shall exercise its powers and perform duties and functions under~~ IS TRANSFERRED BY A **TYPE 1** TRANSFER TO the division of insurance as ~~if such workers' compensation classification appeals board were transferred to~~ AND EXERCISES ITS POWERS AND PERFORMS DUTIES AND FUNCTIONS UNDER the division of insurance ~~by~~ AS a **type 1 transfer** **BOARD**.

In these examples, 49 words in total are removed from the C.R.S., and yet the language in the statute is much clearer and the meaning is preserved.

ADDENDUM D

The following is included as an example of a section of a bill that would ensure that a board, commission, or agency's **type 1** or **type 2** status is reflected in both the "Administrative Organization Act" and the organic statute.

In section 24-1-119 (6)(a), C.R.S., of the "Administrative Organization Act", the office of the state chemist is transferred to the department of public health and environment by a **type 2** transfer and allocated to the division of administration:

24-1-119. Department of public health and environment - creation.

(6) The division of administration shall include the following:

(a) The office of state chemist, created by part 4 of article 1 of title 25, C.R.S. Said office and its powers, duties, and **functions are transferred by a type 2 transfer to the department of public health and environment and allocated to the division of administration as a section thereof.**

But when you examine the organic statute creating the office of the state chemist, nothing indicates that the office has **type 2** powers:

25-1-401. Office of state chemist created. The professor of food and drug chemistry in the department of chemistry at the university of Colorado shall be the state chemist of Colorado. The office and laboratory of the state chemist shall be in the department of chemistry at the university of Colorado. The office of state chemist shall be a section of the division of administration of the department of public health and environment.

To remedy this inconsistency, a section of a bill could read:

SECTION __. In Colorado Revised Statutes, 26-1-302, **amend** (1) as follows:

25-1-401. Office of state chemist created. The professor of food and drug chemistry in the department of chemistry at the university of Colorado shall be the state chemist of Colorado. The office and laboratory of the state chemist shall be in the department of chemistry at the university of Colorado. The office of state chemist ~~shall be~~ OPERATES AS A **TYPE 2** OFFICE AND IS a section of the division of administration of the department of public health and environment.

ADDENDUM E

To remove statutory language that is outdated, proposed legislation could repeal language relating to a **type 3** transfer that refers to the transfer of employees, records, and property from the department of administration, which was abolished in 1995.

Here is the language that transferred and then abolished the department:

24-1-128. Department of personnel - creation. (6) The powers, duties, and functions of the department of administration are transferred by a **type 3** transfer to the department of personnel, and the department of administration is hereby abolished.

The following section of the statutes details how, in 1995, the transfer of the department of administration to the department of personnel occurred. It could all be repealed, with an editor's note directing readers where this historical information could be found.

24-50.3-105. Transfer of functions - employees - property - records. (1) On and after July 1, 1995, the department of personnel shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to July 1, 1995, in the department of administration.

(2) (a) On and after July 1, 1995, all positions of employment in the department of administration concerning the duties and functions transferred to the department of personnel pursuant to section 24-1-128, this article, and article 30 of this title and determined to be necessary to carry out the purposes of these articles by the executive director shall be transferred to the department of personnel and shall become employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the department and the office of the executive director. Any appointment of employees and any creation or elimination of positions of employment necessary to carry out the purposes of these articles shall be consistent with the plan for reorganizing state support services as set forth in part 2 of this article and shall be implemented after the plan or relevant portion of the plan has been presented to the state support services reorganization committee pursuant to section 24-50.3-202. Appointing authority may be delegated by the executive director as appropriate.

(b) On and after July 1, 1995, all employees of the department of administration whose duties and functions concerned the powers, duties, and functions transferred to the department of personnel pursuant to section 24-1-128, this article, and article 30 of this title, regardless of whether the position of employment in which the employee served was transferred, shall be considered

employees of the department of personnel for purposes of section 24-50-124. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(3) On July 1, 1995, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the department of administration pertaining to the duties and functions transferred to the department of personnel are transferred to the department of personnel and shall become the property thereof.

(4) On and after July 1, 1995, whenever the department of administration is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department of personnel, such reference or designation shall be deemed to apply to the department of personnel. All contracts entered into by the said departments prior to July 1, 1995, in connection with the duties and functions transferred to the department of personnel are hereby validated, with the department of personnel succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department of personnel for the payment of such obligations.

(5) On and after July 1, 1995, unless otherwise specified, whenever any provision of law refers to the department of administration, said law shall be construed as referring to the department of personnel.

(6) All rules, regulations, and orders of the department of administration adopted prior to July 1, 1995, in connection with the powers, duties, and functions transferred to the department of personnel shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. On and after July 1, 1995, the executive director shall adopt rules necessary for the administration of the department and the administration of the administrative support services transferred to the department pursuant to section 24-1-128, this article, and article 30 of this title. Any rules proposed by the executive director on and after July 1, 1995, necessary to carry out the purposes of these articles shall be consistent with the plan for reorganizing state support services as set forth in part 2 of this article and shall be adopted after the plan or relevant portion of the plan has been presented to the state support services reorganization committee pursuant to section 24-50.3-202.

(7) No suit, action, or other judicial or administrative proceeding lawfully commenced prior to July 1, 1995, or that could have been commenced prior to such date, by or against the department of administration or any officer thereof in such officer's official capacity or in relation to the discharge of the officer's duties, shall abate by reason of the transfer of duties and functions from said department to the department of personnel.

(8) (a) The executive director, or a designee of the executive director, may accept and expend, on behalf of and in the name of the state, gifts, donations, and grants for any purpose connected with the work and programs of the department. Any property so given shall be held by the state treasurer, but the executive director, or the designee therefor, shall have the power to direct the disposition of any property so given for any purpose consistent with the terms and conditions under which such gift was created.

(b) Pursuant to paragraph (a) of this subsection (8), the executive director, or a designee of the executive director, may expend gifts, donations, and grants that are custodial funds without further appropriation by the general assembly. Any gifts, donations, and grants accepted by the executive director, or the designee thereof, pursuant to paragraph (a) of this subsection (8) that are not custodial funds are subject to annual appropriation by the general assembly.

Finally, there are a few, 21-years-out-of-date, references to the department of administration sprinkled throughout the C.R.S. that the Statutory Revision Committee could update in legislation as well. For example:

SECTION __. In Colorado Revised Statutes, 17-24-106.6, **amend** (4) and (5) as follows:

17-24-106.6. Surplus state property. (4) Any moneys used to cover the administrative costs of the transfer of responsibilities with respect to surplus state property from the ~~department of administration~~ DEPARTMENT OF PERSONNEL to the department of corrections shall be transmitted to the state treasurer, who shall credit the same to the surplus property fund, which fund is hereby created, and such fund shall be subject to appropriation by the general assembly for the purposes of this section.

(5) Any moneys in any accounts or funds administered by the ~~department of administration~~ DEPARTMENT OF PERSONNEL that are derived from the administration of part 4 of article 82 of title 24, C.R.S., shall be transferred to the surplus property fund.

SECTION __. In Colorado Revised Statutes, 24-82-108, **amend** (3)(d) as follows:

24-82-108. State capitol building advisory committee - creation - repeal. (3) The advisory committee shall have the following duties:

(d) The advisory committee shall identify all furniture original to the state capitol building and create an inventory of such furniture. Any costs associated with identifying and inventorying furniture original to the state capitol building shall be paid with moneys raised through private sources and shall not be paid from the general fund. The department of personnel is hereby granted the authority to collect and use such moneys raised by private sources for the purpose of identifying and inventorying all furniture original to the state capitol building. The possession of all furniture original to the state capitol building shall be retained by the ~~department of administration~~ DEPARTMENT OF PERSONNEL and shall be made available for use in the state capitol building. The furniture original to the state capitol building shall remain in the state capitol building at all times.