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FORMAL	)	
OPINION	)	
	)	No. 99-1
of	)	
	)	January 7, 1999
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This Opinion is written in response to a request from the Director of the Lottery Division, Department of Revenue for an interpretation of § 33-60-104(1)(c), C.R.S. (1998).

**QUESTION PRESENTED AND CONCLUSION**

Whether the term “preceding calendar year” used in § 33-60-104(1)(c), C.R.S. (1998), means a year which runs from January 1 through December 31, inclusive.

Yes. The term “preceding calendar year” means the first year prior to the present year that runs from January 1 through December 31 inclusive.

**ANALYSIS**

In 1992, voters of the State adopted Colo. Const. art. XXVII, the Great Outdoors Colorado Program (hereinafter “Program”). The Program guarantees that net proceeds from State-supervised lottery games are dedicated to the preservation and enhancement of the State’s wildlife, park, river trail and open-space heritage, and specifies their distribution. Colo. Const. art. XXVII, § 1. For each quarter commencing July 1, 1998, forty percent of the net Lottery proceeds is allocated to the Conservation Trust Fund,<sup>1</sup> and ten percent is allocated to the Division of Parks and Outdoor Recreation of the Department of Natural Resources. The remaining funds go to the Great Outdoors Colorado Trust Fund (hereinafter “Trust Fund”), “provided, however, that in any state fiscal year in which the portion of the net proceeds which would otherwise be given in trust to the State Board of the Trust Fund

<sup>1</sup> The Conservation Trust Fund is money which is disbursed by the Department of Local Affairs to local governments to be used for the acquisition of new conservation sites. Section 29-21-101, C.R.S. (1998).

exceeds the amount of \$35 million, to be adjusted each year for changes from the 1992 Consumer Price Index-Denver, the net proceeds in excess of such amount or adjusted amount shall be allocated to the General Fund of the State of Colorado.” Colo. Const. art. XXVII, § 3(b)(III) (emphasis added).

The General Assembly passed article 60 of title 33 to implement article XXVII. Section 33-60-101, C.R.S. (1998). Commencing the first quarter of fiscal year 1998-99, forty percent of the net lottery proceeds is allocated to the Conservation Trust Fund and ten percent of the proceeds is allocated to the Division of Outdoor Parks and Recreation. Section 33-60-104(1)(a) and (b), C.R.S. (1998). The remaining fifty percent is allocated to the Trust Board of Great Outdoors Colorado, “except that, in any state fiscal year in which the portion of net lottery proceeds which would otherwise be given in trust to the trust fund board exceeds the adjusted amount of thirty-five million dollars as determined by the state treasurer in accordance with subsection (2) of this section, the net lottery proceeds in excess of such adjusted amount shall be allocated to the general fund.” Section 33-60-104(1)(c), C.R.S. (1998). Beginning with the first quarter of fiscal year 1998-99,

the base amount of thirty-five million dollars shall be adjusted annually based on the decrease or increase, if any, in the consumer price index for the Denver metropolitan area, for the preceding calendar year reported by the United States bureau of labor statistics, or its successor index. Such adjustment shall reflect changes, if any, in such index from the actual consumer price index for the Denver metropolitan area, for the calendar year 1992.

Section 33-60-104(2), C.R.S. (1998) (emphasis added).

The Board of Great Outdoors Colorado interprets the phrase “preceding calendar year” to mean the twelve months immediately preceding the month in which the adjustment occurs. The Office of Legislative Council has interpreted the phrase to mean the first year preceding the fiscal year which contains twelve months, January 1 through December 31. Thus, if the interpretation of the Board of Great Outdoors Colorado is correct, then for fiscal year 1999-2000 the applicable Consumer Price Index (CPI) figures for 1999 are used. If Legislative Council’s interpretation is used, then the figures for 1998 must be used. For the reasons stated herein, I conclude the preceding year which contains a full twelve months, January 1 through December 31, must be used.

In interpreting a statute, the objective is to give full effect to the legislature’s intent. To that end, words in a statute must be given their commonly accepted and generally understood meaning. People v. Shinault, 940 P.2d 380, 382 (Colo. 1997). The term “calendar year” generally includes the “period from January 1 to December 31, inclusive,” Black’s Law Dictionary p. 205 (6th ed. 1990), and Colorado courts have adopted this general

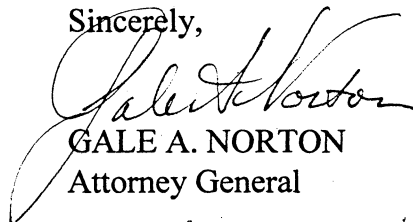
definition. People ex rel. Shaklee v. Milan, 89 Colo. 556, 565, 5 P.2d 249, 253 (1931). If the General Assembly had intended to use a year which included months other than January 1 through December 31, it would not have used the phrase "calendar year." Cf. Sherman v. J.S. Brown Mercantile Co., 78 Colo. 335, 337, 241 P. 724, 725 (1925) ("The words 'year next preceding' . . . does not mean the calendar year beginning January 1st and ending December 31st").

This interpretation is consistent with the use of the word "calendar year" in the last sentence of § 33-60-104(2) and is consistent with the reference to the "1992" Consumer Price Index referenced in the Colorado Constitution. The term "calendar year" refers to the entire year 1992. It is a commonly accepted tenet of statutory construction that similar language in a statute should be interpreted in the same manner, unless the context requires a different interpretation. Stoorman v. Greenwood Trust Co., 908 P.2d 133, 135 (Colo. 1995). In the context of this statute, it is reasonable to assume that the General Assembly intended to employ comparable periods of time. It is important to underscore that the goal of the law is to reflect accurately changes in the CPI from all of 1992 and succeeding years. The most accurate means by which the change can be measured is the use of a corresponding calendar year which runs from January 1 through December 31.<sup>2</sup>

#### SUMMARY

The term preceding calendar year in § 33-60-104(1)(c), C.R.S. (1998), means the most recent year containing the months January 1 through December 31, inclusive, for which CPI figures are available.

Sincerely,

  
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MAURICÉ G. KNAIZER  
Deputy Attorney General

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<sup>2</sup> The CPI is issued monthly and annually. By providing that adjustments must reflect changes from the 1992 Denver CPI, the General Assembly intended to use the CPI issued for the calendar year 1992 and for each subsequent calendar year.

LOTTERY  
MUNICIPAL GOVERNMENT  
FINANCE

Section 33-60-104(1)(c), C.R.S. (1998)

REVENUE LOTTERY DEPT. OF  
Lottery Div.

The term "preceding calendar year" means the first year prior to the present year that runs from January 1 through December 31 inclusive.