

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 05-0454.01 Ed DeCecco

HOUSE BILL 05-1194

HOUSE SPONSORSHIP

Romanoff,

SENATE SPONSORSHIP

Johnson and Groff, Anderson, Entz, Fitz-Gerald, Gordon, Isgar, Keller, Kester, Tapia, and Taylor

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN ADJUSTMENT TO THE AMOUNT OF STATE REVENUES**
102 **IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING**
103 **IN SECTION 20 (7) OF ARTICLE X OF THE STATE CONSTITUTION**
104 **IN ORDER TO PROVIDE A MORE STABLE MEANS OF FUNDING**
105 **STATE BUDGETARY NEEDS, AND, IN CONNECTION THEREWITH,**
106 **REDUCING THE STATE INCOME TAX RATE FROM FOUR AND**
107 **SIXTY-THREE ONE-HUNDREDTHS PERCENT TO FOUR AND**
108 **ONE-HALF PERCENT, AUTHORIZING THE STATE TO RETAIN AND**
109 **SPEND ALL STATE REVENUES IN EXCESS OF THE**
110 **CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR**
111 **SPENDING, REQUIRING THE EXCESS STATE REVENUES TO BE**
112 **USED TO REDUCE THE COST OF HEALTH INSURANCE FOR**

*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.*

HOUSE
Amended 2nd Reading
March 9, 2005

101 INDIVIDUALS AND SMALL BUSINESSES, TO FUND PUBLIC
102 EDUCATION, AND TO PAY FOR STRATEGIC TRANSPORTATION
103 PROJECTS, AND REQUIRING THAT A QUESTION BE SUBMITTED TO
104 THE VOTERS IN 2015 TO RESTORE THE INCOME TAX RATE TO ITS
105 CURRENT LEVEL AND TO ELIMINATE THE STATE'S AUTHORITY
106 TO RETAIN AND SPEND SUCH EXCESS STATE REVENUES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Refers to the voters of the state a measure that:

Authorizes the state to retain, for the 2004-05 fiscal year and each succeeding fiscal year, all state revenues greater than the limitation on state fiscal year spending but less, as a percentage of the overall state economy, than state fiscal year spending for the 1999-2000 fiscal year.

Reduces the state income tax rate from 4.63% to 4.5% for income tax years that commence on or after January 1, 2006.

Defines terms.

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

2 **SECTION 1.** Article 77 of title 24, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **24-77-103.8. Retention of excess revenues - uses.**

5 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION,
6 FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2005, THE
7 STATE SHALL BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES
8 IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING.

9 (2) (a) THE SECRETARY OF STATE SHALL SUBMIT A BALLOT
10 QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF THE STATE OF
11 COLORADO AT THE STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2015

1 FOR THEIR APPROVAL OR REJECTION. EACH ELECTOR VOTING AT THE
2 NOVEMBER ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER
3 "YES" OR "NO" ON THE PROPOSITION: "SHALL STATE TAXES BE INCREASED
4 BY \$_____ ANNUALLY BY INCREASING THE STATE INCOME TAX FROM 4.5
5 PERCENT TO 4.63 PERCENT AND SHALL THE STATE'S AUTHORITY TO RETAIN
6 AND SPEND ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL
7 LIMITATION ON STATE FISCAL YEAR SPENDING, WHICH WAS PREVIOUSLY
8 APPROVED BY VOTERS IN 2005, BE TERMINATED?

9 (b) IF VOTERS APPROVE THE BALLOT QUESTION SUBMITTED
10 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), FOR EACH FISCAL
11 YEAR COMMENCING ON OR AFTER JULY 1, 2016, THE STATE SHALL NOT BE
12 AUTHORIZED TO RETAIN AND SPEND ANY STATE REVENUES IN EXCESS OF
13 THE LIMITATION ON STATE FISCAL YEAR SPENDING PURSUANT TO
14 SUBSECTION (1) OF THIS SECTION.

15 (c) IF VOTERS REJECT THE BALLOT QUESTION SUBMITTED
16 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), FOR EACH FISCAL
17 YEAR COMMENCING ON OR AFTER JULY 1, 2016, THE STATE SHALL
18 CONTINUE TO BE AUTHORIZED TO RETAIN AND SPEND ALL EXCESS STATE
19 REVENUES PURSUANT TO SUBSECTION (1) OF THIS SECTION.

20 (3) THERE IS HEREBY CREATED IN THE GENERAL FUND THE
21 GENERAL FUND EXEMPT ACCOUNT, WHICH SHALL CONSIST OF AN AMOUNT
22 OF MONEYS EQUAL TO THE AMOUNT OF STATE REVENUES IN EXCESS OF THE
23 LIMITATION ON STATE FISCAL YEAR SPENDING THAT THE STATE RETAINS
24 FOR A GIVEN FISCAL YEAR PURSUANT TO THIS SECTION. THE MONEYS IN
25 THE ACCOUNT SHALL BE APPROPRIATED OR TRANSFERRED BY THE GENERAL
26 ASSEMBLY FOR THE FOLLOWING PURPOSES:

27 (a) TO REDUCE THE COST OF HEALTH INSURANCE FOR INDIVIDUALS

1 AND SMALL BUSINESSES;

2 (b) TO FUND PUBLIC EDUCATION BY:

3 (I) MAKING GENERAL FUND APPROPRIATIONS FOR PRESCHOOL
4 THROUGH TWELFTH GRADE EDUCATION AS REQUIRED BY SECTION 17 OF
5 ARTICLE IX OF THE STATE CONSTITUTION;

6 (II) REPLENISHING THE STATE EDUCATION FUND, WHICH MAY ONLY
7 BE USED TO INCREASE PER PUPIL FUNDING AND FOR ACCOUNTABLE
8 EDUCATION REFORM, FOR ACCOUNTABLE PROGRAMS TO MEET STATE
9 ACADEMIC STANDARDS, FOR CLASS SIZE REDUCTION, FOR EXPANDING
10 TECHNOLOGY EDUCATION, FOR IMPROVING STUDENT SAFETY, FOR
11 EXPANDING THE AVAILABILITY OF PRESCHOOL AND KINDERGARTEN
12 PROGRAMS, FOR PERFORMANCE INCENTIVES FOR TEACHERS, FOR
13 ACCOUNTABILITY REPORTING, OR FOR PUBLIC SCHOOL BUILDING CAPITAL
14 CONSTRUCTION; AND

15 (III) APPROPRIATING FUNDS FOR THE COLLEGE OPPORTUNITY FUND
16 PROGRAM, CREATED IN ARTICLE 18 OF TITLE 23, C.R.S., AND FOR STUDENT
17 FINANCIAL ASSISTANCE PURSUANT TO ARTICLE 3.3 OF TITLE 23, C.R.S.;

18 AND
19 (c) TO PAY FOR STRATEGIC TRANSPORTATION PROJECTS INCLUDED
20 IN THE DEPARTMENT OF TRANSPORTATION'S STRATEGIC TRANSPORTATION
21 PROJECT INVESTMENT PROGRAM.

22 (4) THE APPROVAL OF THIS SECTION BY THE REGISTERED ELECTORS
23 OF THE STATE VOTING ON THE ISSUE AT THE NOVEMBER 2005 GENERAL
24 ELECTION CONSTITUTES A VOTER-APPROVED REVENUE CHANGE TO ALLOW
25 THE RETENTION OF STATE REVENUES IN EXCESS OF THE LIMITATION ON
26 STATE FISCAL YEAR SPENDING.

27 (5) (a) FOR EACH FISCAL YEAR THAT THE STATE RETAINS AND

1 SPENDS STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL
2 YEAR SPENDING PURSUANT TO THIS SECTION, THE DIRECTOR OF RESEARCH
3 OF THE LEGISLATIVE COUNCIL SHALL PREPARE A FINANCIAL REPORT THAT
4 INCLUDES THE FOLLOWING INFORMATION:

5 (I) THE AMOUNT OF EXCESS STATE REVENUES THAT THE STATE
6 RETAINED; AND

7 (II) A DESCRIPTION OF HOW THE EXCESS STATE REVENUES WERE
8 EXPENDED.

9 (b) THE REPORT REQUIRED BY THIS SUBSECTION (3) SHALL BE
10 COMPLETED BY NOVEMBER 1 FOLLOWING A FISCAL YEAR THAT THE STATE
11 RETAINS AND SPENDS REVENUES IN EXCESS OF THE LIMITATION ON STATE
12 FISCAL YEAR SPENDING PURSUANT TO THIS SECTION. THE DIRECTOR OF
13 RESEARCH SHALL PUBLISH AND LINK TO THE OFFICIAL COLORADO STATE
14 WEBSITE A COPY OF THE FINANCIAL REPORT.

15 (6) AS USED IN THIS SECTION, "STATE REVENUES"
16 MEANS STATE REVENUES NOT EXCLUDED FROM STATE FISCAL YEAR
17 SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

18 **SECTION 2.** 24-77-106.5 (1), Colorado Revised Statutes, is
19 amended to read:

20 **24-77-106.5. Annual financial report - certification of excess**
21 **state revenues.** (1) (a) For each fiscal year, the controller shall prepare
22 a financial report for the state for purposes of ascertaining compliance
23 with the provisions of this article. Any financial report prepared pursuant
24 to this section shall include, but shall not be limited to, state fiscal year
25 spending, reserves, revenues, REVENUES THAT THE STATE IS AUTHORIZED
26 TO RETAIN AND SPEND PURSUANT TO VOTER APPROVAL OF SECTION
27 24-77-103.8, and debt. Such financial report shall be audited by the state

1 auditor.

2 (b) Based upon the financial report prepared in accordance with
3 paragraph (a) of this subsection (1) for any given fiscal year, the
4 controller shall certify to the governor, the general assembly, and the
5 executive director of the department of revenue no later than September
6 1 following the end of a fiscal year the amount of state revenues in excess
7 of the limitation on state fiscal year spending imposed by section 20 (7)
8 (a) of article X of the state constitution, if any, for such fiscal year AND
9 THE STATE REVENUES IN EXCESS OF SUCH LIMITATION THAT THE STATE IS
10 AUTHORIZED TO RETAIN AND SPEND PURSUANT TO VOTER APPROVAL OF
11 SECTION 24-77-103.8.

12 **SECTION 3.** 39-22-104 (1.7) and (2), Colorado Revised Statutes,
13 are amended, and the said 39-22-104 is further amended BY THE
14 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

15 **39-22-104. Income tax imposed on individuals, estates, and**
16 **trusts - single rate - definitions.** (1.7) Subject to subsection (2) of this
17 section, with respect to taxable years commencing on or after January 1,
18 2000, BUT BEFORE JANUARY 1, 2006, a tax of four and sixty-three
19 one-hundredths percent is imposed on the federal taxable income, as
20 determined pursuant to section 63 of the internal revenue code, of every
21 individual, estate, and trust.

22 (1.8) SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT
23 TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2006, BUT
24 BEFORE JANUARY 1, 2016, A TAX OF FOUR AND ONE-HALF PERCENT IS
25 IMPOSED ON THE FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT
26 TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL,
27 ESTATE, AND TRUST.

1 (1.9) (a) IF VOTERS APPROVE THE BALLOT QUESTION SUBMITTED
2 PURSUANT TO SECTION 24-77-103.8 (2) (a), C.R.S., AT THE STATEWIDE
3 ELECTION TO BE HELD IN NOVEMBER 2015, FOR ALL TAXABLE YEARS
4 COMMENCING ON OR AFTER JANUARY 1, 2016, SUBJECT TO SUBSECTION (2)
5 OF THIS SECTION, A TAX OF FOUR AND SIXTY-THREE ONE-HUNDREDTHS
6 PERCENT IS IMPOSED ON THE FEDERAL TAXABLE INCOME, AS DETERMINED
7 PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY
8 INDIVIDUAL, ESTATE, AND TRUST.

9 (b) IF VOTERS REJECT THE BALLOT QUESTION SUBMITTED
10 PURSUANT TO SECTION 24-77-103.8 (2) (a), C.R.S., AT THE STATEWIDE
11 ELECTION TO BE HELD IN NOVEMBER 2015, FOR ALL TAXABLE YEARS
12 COMMENCING ON OR AFTER JANUARY 1, 2016, SUBJECT TO SUBSECTION (2)
13 OF THIS SECTION, A TAX OF FOUR AND ONE-HALF PERCENT IS IMPOSED ON
14 THE FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION
15 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND
16 TRUST.

17 (2) Prior to the application of the rate of tax prescribed in
18 subsection (1), (1.5), or (1.7), (1.8), or (1.9) of this section, the federal
19 taxable income shall be modified as provided in subsections (3) and (4)
20 of this section.

21 **SECTION 4.** 39-22-301 (1) (d) (I) (I), Colorado Revised Statutes,
22 is amended, and the said 39-22-301 (1) (d) (I) is further amended BY
23 THE ADDITION OF THE FOLLOWING NEW
24 SUB-SUBPARAGRAPHS, to read:

25 **39-22-301. Corporate tax imposed.** (1) (d) (I) A tax is imposed
26 upon each domestic C corporation and foreign C corporation doing
27 business in Colorado annually in an amount of the net income of such C

1 corporation during the year derived from sources within Colorado as set
2 forth in the following schedule of rates:

3 (I) For income tax years commencing on or after January 1, 2000,
4 BUT BEFORE JANUARY 1, 2006, four and sixty-three one-hundredths
5 percent of the Colorado net income; ■

6 (J) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
7 1, 2006, BUT BEFORE JANUARY 1, 2016, FOUR AND ONE-HALF PERCENT OF
8 THE COLORADO NET INCOME.

9 (K) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
10 1, 2016, IF VOTERS APPROVE THE BALLOT QUESTION SUBMITTED PURSUANT
11 TO SECTION 24-77-103.8 (2) (a), C.R.S., AT THE STATEWIDE ELECTION TO
12 BE HELD IN NOVEMBER 2015, FOUR AND SIXTY-THREE ONE-HUNDREDTHS
13 PERCENT OF THE COLORADO NET INCOME; AND

14 (L) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
15 1, 2016, IF VOTERS REJECT THE BALLOT QUESTION SUBMITTED PURSUANT
16 TO SECTION 24-77-103.8 (2) (a), C.R.S., AT THE STATEWIDE ELECTION TO
17 BE HELD IN NOVEMBER 2015, FOUR AND ONE-HALF PERCENT OF THE
18 COLORADO NET INCOME.

19 **SECTION 5.** 39-22-601 (10), Colorado Revised Statutes, is
20 amended to read:

21 **39-22-601. Returns.** (10) For income tax years commencing on
22 or after January 1, 1999, the executive director shall include on every
23 income tax return form a statement explaining that prior to January 1,
24 1999, the income tax rate for an individual, estate, and trust was five
25 percent of federal taxable income and the income tax rate for corporations
26 was five percent of net income. The statement shall also explain that the
27 income tax rate was reduced for income tax years commencing on or after

1 January 1, 1999, but prior to January 1, 2000, to four and three-quarters
2 percent, and that the income tax rate was reduced for income tax years
3 commencing on or after January 1, 2000, BUT BEFORE JANUARY 1, 2005,
4 to four and sixty-three one-hundredths percent, AND THAT THE INCOME
5 TAX RATE WAS REDUCED FOR INCOME TAX YEARS COMMENCING ON OR
6 AFTER JANUARY 1, 2006, BUT BEFORE JANUARY 1, 2016, FOUR AND
7 ONE-HALF PERCENT. THE STATEMENT SHALL ALSO EXPLAIN THAT THE
8 INCOME TAX RATE WILL EITHER BE FOUR AND ONE-HALF PERCENT OR FOUR
9 AND SIXTY-THREE ONE-HUNDREDTHS PERCENT FOR INCOME TAX YEARS
10 COMMENCING ON OR AFTER JANUARY 1, 2016, DEPENDING ON THE RESULTS
11 OF THE STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2015 SUBMITTED
12 PURSUANT TO SECTION 24-77-103.8 (2) (a), C.R.S.

13 **SECTION 6. Refer to people under referendum.** This act shall
14 be submitted to a vote of the registered electors of the state of Colorado
15 at the November 2005 election, for their approval or rejection, under the
16 provisions of the referendum as provided for in section 1 of article V and
17 section 20 of article X of the state constitution, and in article 40 of title
18 1, Colorado Revised Statutes. Each elector voting at said election and
19 desirous of voting for or against said act shall cast a vote as provided by
20 law either "Yes" or "No" on the proposition: "SHALL THE STATE INCOME
21 TAX RATE BE REDUCED FROM 4.63 PERCENT TO 4.5 PERCENT AND THE
22 STATE BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES IN
23 EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE SPENDING IN
24 ORDER TO REDUCE THE COST OF HEALTH INSURANCE FOR INDIVIDUALS AND
25 SMALL BUSINESSES, TO FUND PUBLIC EDUCATION, AND TO PAY FOR
26 STRATEGIC TRANSPORTATION PROJECTS, PROVIDED THAT A QUESTION IS
27 SUBMITTED TO THE VOTERS IN 2015 TO REPEAL THIS MEASURE IN ITS

- 1 ENTIRETY? The votes cast for the adoption or rejection of said act shall
- 2 be canvassed and the result determined in the manner provided by law for
- 3 the canvassing of votes for representatives in Congress.