

**NOTE:** This bill has been prepared for signature by the appropriate legislative officers prior to being submitted to the voters at the November 2005 election.

# An Act

HOUSE BILL 05-1194

BY REPRESENTATIVE(S) Romanoff, Benefield, Borodkin, Boyd, Buescher, Butcher, Carroll M., Carroll T., Cerbo, Coleman, Curry, Frangas, Gallegos, Garcia, Green, Hodge, Jahn, Judd, Larson, Lindstrom, Madden, Marshall, McFadyen, McGihon, Merrifield, Paccione, Plant, Pommer, Ragsdale, Riesberg, Solano, Soper, Todd, Vigil, Weissmann, and Berens; also SENATOR(S) Johnson and Groff, Anderson, Entz, Fitz-Gerald, Gordon, Isgar, Keller, Kester, Tapia, Taylor, Bacon, Grossman, Hanna, Sandoval, Shaffer, Teck, Tochtrop, Tupa, Veiga, Williams, and Windels.

CONCERNING THE RETENTION OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING IN SECTION 20 (7) OF ARTICLE X OF THE STATE CONSTITUTION IN ORDER TO PROVIDE A MORE STABLE MEANS OF FUNDING STATE BUDGETARY NEEDS, AND, IN CONNECTION THEREWITH, AUTHORIZING THE STATE TO RETAIN AND SPEND ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE NEXT FIVE FISCAL YEARS BEGINNING WITH THE 2005-06 FISCAL YEAR, AUTHORIZING THE STATE TO RETAIN AND SPEND AN AMOUNT OF STATE REVENUES IN EXCESS OF SUCH LIMITATION FOR THE 2010-11 FISCAL YEAR AND FOR EACH SUCCEEDING FISCAL YEAR UP TO THE EXCESS STATE REVENUES CAP, AND REQUIRING THE RETAINED EXCESS STATE REVENUES TO BE USED TO PAY FOR EDUCATION; HEALTH CARE; ROADS, BRIDGES, AND OTHER STRATEGIC TRANSPORTATION PROJECTS; AND RETIREMENT PLANS FOR FIREFIGHTERS AND POLICE OFFICERS.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

**24-77-103.6. Retention of excess state revenues - general fund exempt account - required uses - excess state revenues legislative report.**

(1) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2005, BUT BEFORE JULY 1, 2010, THE STATE SHALL BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING.

(b) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2010, THE STATE SHALL BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES THAT ARE IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING, BUT LESS THAN THE EXCESS STATE REVENUES CAP FOR THE GIVEN FISCAL YEAR.

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

(a) TO FUND HEALTH CARE;

(b) TO FUND EDUCATION, INCLUDING ANY CAPITAL CONSTRUCTION PROJECTS RELATED THERETO;

(c) TO FUND RETIREMENT PLANS FOR FIREFIGHTERS AND POLICE OFFICERS, SO LONG AS THE GENERAL ASSEMBLY DETERMINES THAT SUCH FUNDING IS NECESSARY; AND

(d) TO PAY FOR STRATEGIC TRANSPORTATION PROJECTS INCLUDED IN THE DEPARTMENT OF TRANSPORTATION'S STRATEGIC TRANSPORTATION

PROJECT INVESTMENT PROGRAM.

(3) THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS SET FORTH IN SECTION 24-75-201.1 (1) (a) (II), AND THE EXCEPTIONS OR EXCLUSIONS THERETO, SHALL APPLY TO THE MONEYS IN THE GENERAL FUND EXEMPT ACCOUNT.

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

(5) (a) FOR EACH FISCAL YEAR THAT THE STATE RETAINS AND SPENDS STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING PURSUANT TO THIS SECTION, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL PREPARE AN EXCESS STATE REVENUES LEGISLATIVE REPORT THAT INCLUDES THE FOLLOWING INFORMATION:

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

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

(b) THE REPORT REQUIRED BY THIS SUBSECTION (5) SHALL BE COMPLETED BY OCTOBER 15 FOLLOWING A FISCAL YEAR THAT THE STATE RETAINS AND SPENDS REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING PURSUANT TO THIS SECTION AND MAY BE AMENDED THEREAFTER AS NECESSARY. THE DIRECTOR OF RESEARCH SHALL PUBLISH AND LINK TO THE OFFICIAL WEBSITE OF THE GENERAL ASSEMBLY A COPY OF THE REPORT.

(6) AS USED IN THIS SECTION:

(a) "EDUCATION" MEANS:

(I) PUBLIC ELEMENTARY AND HIGH SCHOOL EDUCATION; AND

(II) HIGHER EDUCATION.

(b) (I) "EXCESS STATE REVENUES CAP" FOR A GIVEN FISCAL YEAR MEANS EITHER OF THE FOLLOWING:

(A) IF THE VOTERS OF THE STATE APPROVE A BALLOT ISSUE TO AUTHORIZE THE STATE TO INCUR MULTIPLE-FISCAL YEAR OBLIGATIONS AT THE NOVEMBER 2005 STATEWIDE ELECTION, AN AMOUNT THAT IS EQUAL TO THE HIGHEST TOTAL STATE REVENUES FOR A FISCAL YEAR FROM THE PERIOD OF THE 2005-06 FISCAL YEAR THROUGH THE 2009-10 FISCAL YEAR, ADJUSTED EACH SUBSEQUENT FISCAL YEAR FOR INFLATION AND THE PERCENTAGE CHANGE IN STATE POPULATION, PLUS ONE HUNDRED MILLION DOLLARS, AND ADJUSTING SUCH SUM FOR THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES AND DEBT SERVICE CHANGES; OR

(B) IF THE VOTERS OF THE STATE DO NOT APPROVE A BALLOT ISSUE TO AUTHORIZE THE STATE TO INCUR MULTIPLE-FISCAL YEAR OBLIGATIONS AT THE NOVEMBER 2005 STATEWIDE ELECTION, AN AMOUNT THAT IS EQUAL TO THE HIGHEST TOTAL STATE REVENUES FOR A FISCAL YEAR FROM THE PERIOD OF THE 2005-06 FISCAL YEAR THROUGH THE 2009-10 FISCAL YEAR, ADJUSTED EACH SUBSEQUENT FISCAL YEAR FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES.

(II) AS USED IN THIS PARAGRAPH (b), INFLATION AND THE PERCENTAGE CHANGE IN STATE POPULATION SHALL BE THE SAME RATES THAT ARE USED IN CALCULATING THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN STATE FISCAL YEAR SPENDING PURSUANT TO SECTION 24-77-103, AND THE QUALIFICATION OR DISQUALIFICATION OF AN ENTERPRISE OR DEBT SERVICE CHANGES SHALL CHANGE THE EXCESS STATE REVENUES CAP IN THE SAME MANNER AS SUCH CHANGE AFFECTS THE LIMITATION ON STATE FISCAL YEAR SPENDING.

(c) "STATE REVENUES" MEANS STATE REVENUES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

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

**24-77-106.5. Annual financial report - certification of excess state revenues.** (1) (a) For each fiscal year, the controller shall prepare a financial report for the state for purposes of ascertaining compliance with the provisions of this article. Any financial report prepared pursuant to this

section shall include, but shall not be limited to, state fiscal year spending, reserves, revenues, REVENUES THAT THE STATE IS AUTHORIZED TO RETAIN AND SPEND PURSUANT TO VOTER APPROVAL OF SECTION 24-77-103.6, and debt. Such financial report shall be audited by the state auditor.

(b) Based upon the financial report prepared in accordance with paragraph (a) of this subsection (1) for any given fiscal year, the controller shall certify to the governor, the general assembly, and the executive director of the department of revenue no later than September 1 following the end of a fiscal year the amount of state revenues in excess of the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution, if any, for such fiscal year AND THE STATE REVENUES IN EXCESS OF SUCH LIMITATION THAT THE STATE IS AUTHORIZED TO RETAIN AND SPEND PURSUANT TO VOTER APPROVAL OF SECTION 24-77-103.6.

**SECTION 3. Refer to people under referendum.** This act shall be submitted to a vote of the registered electors of the state of Colorado at the November 2005 election, for their approval or rejection, under the provisions of the referendum as provided for in section 1 of article V and section 20 of article X of the state constitution, and in article 40 of title 1, Colorado Revised Statutes. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "WITHOUT RAISING TAXES AND IN ORDER TO PAY FOR EDUCATION; HEALTH CARE; ROADS, BRIDGES, AND OTHER STRATEGIC TRANSPORTATION PROJECTS; AND RETIREMENT PLANS FOR FIREFIGHTERS AND POLICE OFFICERS, SHALL THE STATE BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE NEXT FIVE FISCAL YEARS BEGINNING WITH THE 2005-06 FISCAL YEAR, AND TO RETAIN AND SPEND AN AMOUNT OF STATE REVENUES IN EXCESS OF SUCH LIMITATION FOR THE 2010-11 FISCAL YEAR AND FOR EACH SUCCEEDING FISCAL YEAR UP TO THE EXCESS STATE REVENUES CAP, AS DEFINED BY THIS MEASURE?" The votes cast for the adoption or rejection of said act shall be canvassed and

the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE