A BILL FOR AN ACT

CONCERNING AN ADJUSTMENT TO THE AMOUNT 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,
REducing THE STATE INCOME TAX RATE FROM FOUR AND
SIXTY-THREE ONE-HUNDREDTHS PERCENT TO FOUR AND
ONE-HALF PERCENT, AUTHORIZING THE STATE TO RETAIN AND
SPEND ALL STATE REVENUES IN EXCESS OF THE
CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR
SPENDING, REQUIRING THE EXCESS STATE REVENUES TO BE
USED TO REDUCE THE COST OF HEALTH INSURANCE FOR
INDIVIDUALS AND SMALL BUSINESSES, TO FUND PUBLIC EDUCATION, AND TO PAY FOR STRATEGIC TRANSPORTATION PROJECTS, AND REQUIRING THAT A QUESTION BE SUBMITTED TO THE VOTERS IN 2015 TO RESTORE THE INCOME TAX RATE TO ITS CURRENT LEVEL AND TO ELIMINATE THE STATE'S AUTHORITY 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.

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**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:

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

(1) Except as otherwise provided in subsection (2) of this section, for each fiscal year commencing on or after July 1, 2005, the state shall be authorized to retain and spend all state revenues in excess of the limitation on state fiscal year spending.

(2) (a) The secretary of state shall submit a ballot question to a vote of the registered electors of the state of Colorado at the statewide election to be held in November 2015.
FOR THEIR APPROVAL OR REJECTION. EACH ELECTOR VOTING AT THE
NOVEMBER ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER
"YES" OR "NO" ON THE PROPOSITION: "SHALL STATE TAXES BE INCREASED
BY $________ ANNUALLY BY INCREASING THE STATE INCOME TAX FROM 4.5
PERCENT TO 4.63 PERCENT AND SHALL THE STATE'S AUTHORITY TO RETAIN
AND SPEND ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL
LIMITATION ON STATE FISCAL YEAR SPENDING, WHICH WAS PREVIOUSLY
APPROVED BY VOTERS IN 2005, BE TERMINATED?

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

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

(3) 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 REDUCE THE COST OF HEALTH INSURANCE FOR INDIVIDUALS
AND SMALL BUSINESSES;

(b) TO FUND PUBLIC EDUCATION BY:

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

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

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

(c) TO PAY FOR STRATEGIC TRANSPORTATION PROJECTS INCLUDED IN THE DEPARTMENT OF TRANSPORTATION’S STRATEGIC TRANSPORTATION PROJECT INVESTMENT PROGRAM.

(4) THE APPROVAL OF THIS SECTION BY THE REGISTERED ELECTORS OF THE STATE VOTING ON THE ISSUE AT THE NOVEMBER 2005 GENERAL ELECTION CONSTITUTES A VOTER-APPROVED REVENUE CHANGE TO ALLOW THE RETENTION 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 A FINANCIAL 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 (3) shall be completed by November 1 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. The director of research shall publish and link to the official Colorado state website a copy of the financial report.

(6) As used in this section, "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 24-77-103.8, 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 24-77-103.8.

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

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

(1.8) SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2006, BUT BEFORE JANUARY 1, 2016, A TAX OF FOUR AND ONE-HALF PERCENT IS IMPOSED ON THE FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST.
(1.9) (a) If voters approve the ballot question submitted pursuant to section 24-77-103.8 (2) (a), C.R.S., at the statewide election to be held in November 2015, for all taxable years commencing on or after January 1, 2016, subject to subsection (2) of this section, a tax of four and sixty-three one-hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

(b) If voters reject the ballot question submitted pursuant to section 24-77-103.8 (2) (a), C.R.S., at the statewide election to be held in November 2015, for all taxable years commencing on or after January 1, 2016, subject to subsection (2) of this section, a tax of four and one-half percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

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

SECTION 4. 39-22-301 (1) (d) (I) (I), Colorado Revised Statutes, is amended, and the said 39-22-301 (1) (d) (I) is further amended by the addition of the following new sub-subparagraphs, to read:

39-22-301. Corporate tax imposed. (1) (d) (I) A tax is imposed upon each domestic C corporation and foreign C corporation doing business in Colorado annually in an amount of the net income of such C
corporation during the year derived from sources within Colorado as set forth in the following schedule of rates:

(I) For income tax years commencing on or after January 1, 2000, but before January 1, 2006, four and sixty-three one-hundredths percent of the Colorado net income;

(J) For income tax years commencing on or after January 1, 2006, but before January 1, 2016, four and one-half percent of the Colorado net income.

(K) For income tax years commencing on or after January 1, 2016, if voters approve the ballot question submitted pursuant to Section 24-77-103.8 (2) (a), C.R.S., at the statewide election to be held in November 2015, four and sixty-three one-hundredths percent of the Colorado net income; and

(L) For income tax years commencing on or after January 1, 2016, if voters reject the ballot question submitted pursuant to Section 24-77-103.8 (2) (a), C.R.S., at the statewide election to be held in November 2015, four and one-half percent of the Colorado net income.

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

39-22-601. Returns. (10) For income tax years commencing on or after January 1, 1999, the executive director shall include on every income tax return form a statement explaining that prior to January 1, 1999, the income tax rate for an individual, estate, and trust was five percent of federal taxable income and the income tax rate for corporations was five percent of net income. The statement shall also explain that the income tax rate was reduced for income tax years commencing on or after
January 1, 1999, but prior to January 1, 2000, to four and three-quarters percent, and that the income tax rate was reduced for income tax years commencing on or after January 1, 2000, but before January 1, 2005, to four and sixty-three one-hundredths percent, and that the income tax rate was reduced for income tax years commencing on or after January 1, 2006, but before January 1, 2016, four and one-half percent. The statement shall also explain that the income tax rate will either be four and one-half percent or four and sixty-three one-hundredths percent for income tax years commencing on or after January 1, 2016, depending on the results of the statewide election to be held in November 2015 submitted pursuant to section 24-77-103.8 (2) (a), C.R.S.

SECTION 6. 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: "SHALL THE STATE INCOME TAX RATE BE REDUCED FROM 4.63 PERCENT TO 4.5 PERCENT AND THE STATE BE AUTHORIZED TO RETAIN AND SPEND ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE SPENDING IN ORDER TO REDUCE THE COST OF HEALTH INSURANCE FOR INDIVIDUALS AND SMALL BUSINESSES, TO FUND PUBLIC EDUCATION, AND TO PAY FOR STRATEGIC TRANSPORTATION PROJECTS, PROVIDED THAT A QUESTION IS SUBMITTED TO THE VOTERS IN 2015 TO REPEAL THIS MEASURE IN ITS
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.