

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REENGROSSED

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

LLS NO. 17-0211.03 Ed DeCecco x4216

HOUSE BILL 17-1187

HOUSE SPONSORSHIP

Thurlow, Landgraf

SENATE SPONSORSHIP

Crowder,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A CHANGE TO THE GROWTH FACTOR IN THE EXCESS**
102 **STATE REVENUES CAP.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

In 2005, voters approved Referendum C, which is a voter-approved revenue change to the TABOR fiscal year spending limit. Under the referendum, the state is permitted to retain and spend all state revenues up to the excess state revenues cap. The excess state revenues cap is adjusted annually for inflation and population changes, among other things.

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
3rd Reading Unamended
March 9, 2017

HOUSE
Amended 2nd Reading
March 7, 2017

The bill modifies the excess state revenues cap by allowing an annual adjustment for an increase based on the average annual change of Colorado personal income over the last 5 years, rather than adjusting for inflation and population. Colorado personal income is the total personal income for Colorado as reported by a federal agency. As the modification may increase the amount that the state retains and spends in a given fiscal year, the bill seeks voter approval for the change, as required by TABOR.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-77-103.6, **amend**
3 (2) introductory portion, (6)(a), and (6)(b)(I); and **add** (6)(a.5) and
4 (6)(b)(I.5) as follows:

5 **24-77-103.6. Retention of excess state revenues - general fund**
6 **exempt account - required uses - excess state revenues legislative**
7 **report - definitions.** (2) There is hereby created in the general fund the
8 general fund exempt account. ~~which shall consist~~ EXCEPT AS SET FORTH
9 IN SECTION 24-77-104.1 (3), THE GENERAL FUND EXEMPT ACCOUNT
10 CONSISTS of an amount of moneys equal to the amount of state revenues
11 in excess of the limitation on state fiscal year spending that the state
12 retains for a given fiscal year pursuant to this section. The moneys in the
13 account shall be appropriated or transferred by the general assembly for
14 the following purposes:

15 (6) As used in this section:

16 (a) "Education" means:

17 ~~(I) Public elementary and high school education; and~~

18 ~~(H) Higher education.~~ "COLORADO PERSONAL INCOME" MEANS
19 THE TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND
20 OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE
21 UNITED STATES DEPARTMENT OF COMMERCE, OR ANY SUCCESSOR INDEX.

22 (a.5) "EDUCATION" MEANS:

1 (I) PUBLIC ELEMENTARY AND HIGH SCHOOL EDUCATION; AND

2 (II) HIGHER EDUCATION.

3 (b) (I) "Excess state revenues cap" for a given fiscal year THAT
4 BEGINS PRIOR TO JULY 1, 2017, means ~~either of the following:~~

5 ~~(A) If the voters of the state approve a ballot issue to authorize the~~
6 ~~state to incur multiple-fiscal year obligations at the November 2005~~
7 ~~statewide election, an amount that is equal to the highest total state~~
8 ~~revenues for a fiscal year from the period of the 2005-06 fiscal year~~
9 ~~through the 2009-10 fiscal year, adjusted each subsequent fiscal year for~~
10 ~~inflation and the percentage change in state population, plus one hundred~~
11 ~~million dollars, and adjusting such sum for the qualification or~~
12 ~~disqualification of enterprises and debt service changes; or~~

13 ~~(B) If the voters of the state do not approve a ballot issue to~~
14 ~~authorize the state to incur multiple-fiscal year obligations at the~~
15 ~~November 2005 statewide election, an amount that is equal to the highest~~
16 ~~total state revenues for a fiscal year from the period of the 2005-06 fiscal~~
17 ~~year through the 2009-10 fiscal year, adjusted each subsequent fiscal year~~
18 ~~for inflation, the percentage change in state population, the qualification~~
19 ~~or disqualification of enterprises, and debt service changes.~~

20 (I.5) "EXCESS STATE REVENUES CAP" FOR A GIVEN FISCAL YEAR
21 THAT BEGINS ON OR AFTER JULY 1, 2017, MEANS THE EXCESS STATE
22 REVENUES CAP FOR THE PRIOR FISCAL YEAR, ADJUSTED BY THE RECENT
23 AVERAGE CHANGE IN COLORADO PERSONAL INCOME, THE QUALIFICATION
24 OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES. THE
25 RECENT AVERAGE CHANGE IN COLORADO PERSONAL INCOME FOR A FISCAL
26 YEAR IS EQUAL TO THE AVERAGE PERCENTAGE CHANGE IN COLORADO
27 PERSONAL INCOME FROM ONE CALENDAR YEAR TO THE NEXT FOR THE SIX

1 PRIOR CALENDAR YEARS, WHICH PERIOD ENDS WITH THE MOST RECENTLY
2 COMPLETED CALENDAR YEAR PRIOR TO THE FISCAL YEAR. FOR THE
3 PURPOSE OF DETERMINING THE AVERAGE RECENT INCREASE IN COLORADO
4 PERSONAL INCOME THAT APPLIES FOR A FISCAL YEAR, THE ESTIMATES OF
5 COLORADO PERSONAL INCOME FOR THE APPLICABLE CALENDAR YEARS
6 ARE THOSE AVAILABLE AS OF THE FIRST DAY OF THE FISCAL YEAR.

7 **SECTION 2.** In Colorado Revised Statutes, **add** 24-77-104.1 as
8 follows:

9 **24-77-104.1. Referendum C - election - increase amount to be**
10 **retained - definition - repeal.** (1) AT THE ELECTION HELD ON NOVEMBER
11 7, 2017, THE SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED
12 ELECTORS OF THE STATE FOR THEIR APPROVAL OR REJECTION THE
13 FOLLOWING BALLOT ISSUE: "WITHOUT RAISING TAXES AND TO FUND
14 HEALTH CARE; EDUCATION, INCLUDING ANY CAPITAL CONSTRUCTION
15 PROJECTS RELATED THERETO; AND TO PAY FOR STRATEGIC
16 TRANSPORTATION PROJECTS INCLUDED IN THE DEPARTMENT OF
17 TRANSPORTATION'S STRATEGIC TRANSPORTATION PROJECT INVESTMENT
18 PROGRAM, MAY THE STATE INCREASE THE AMOUNT OF MONEY THAT IT
19 ANNUALLY RETAINS AND SPENDS UNDER THE VOTER-APPROVED REVENUE
20 CHANGE FROM 2005 BY ALLOWING AN ANNUAL ADJUSTMENT TO THE
21 AMOUNT BASED ON THE RECENT AVERAGE CHANGE IN COLORADO
22 PERSONAL INCOME INSTEAD OF AN ADJUSTMENT FOR THE POPULATION
23 CHANGE AND INFLATION?"

24 (2) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
25 VOTE "YES/FOR", THEN FOR ALL FISCAL YEARS BEGINNING ON OR AFTER
26 JULY 1, 2017, THE STATE MAY RETAIN AND USE ALL OF THE STATE
27 REVENUES DESCRIBED IN THE BALLOT ISSUE THAT THE STATE OTHERWISE

1 WOULD HAVE BEEN REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF
2 ARTICLE X OF THE STATE CONSTITUTION, AND THESE STATE REVENUES ARE
3 A VOTER-APPROVED REVENUE CHANGE TO THE LIMITATION ON STATE
4 FISCAL YEAR SPENDING.

5 (3) THE SUPPLEMENTAL GENERAL FUND EXEMPT ACCOUNT IS
6 CREATED IN THE GENERAL FUND. THE ACCOUNT CONSISTS OF AN AMOUNT
7 OF MONEY EQUAL TO THE TOTAL AMOUNT OF STATE REVENUES THAT THE
8 STATE RETAINS FOR A FISCAL YEAR AS A RESULT OF THE VOTERS'
9 APPROVAL OF THE BALLOT ISSUE. THE GENERAL ASSEMBLY SHALL
10 APPROPRIATE OR TRANSFER THE MONEY IN THE ACCOUNT FOR THE
11 PURPOSES IDENTIFIED IN THE BALLOT ISSUE.

12 (4) FOR PURPOSES OF SECTION 1-5-407, THE BALLOT ISSUE IS A
13 PROPOSITION. SECTION 1-40-106 (3)(d) DOES NOT APPLY TO THE BALLOT
14 ISSUE.

15 (5) AS USED IN THIS SECTION, "BALLOT ISSUE" MEANS THE
16 QUESTION REFERRED TO VOTERS IN SUBSECTION (1) OF THIS SECTION.

17 (6) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
18 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
19 JULY 1, 2018.

20 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
21 VOTE "YES/FOR", THEN THIS SUBSECTION (6) IS REPEALED, EFFECTIVE
22 JULY 1, 2018.

23 **SECTION 3.** In Colorado Revised Statutes, 24-77-104.5, **amend**
24 (3)(b) as follows:

25 **24-77-104.5. General fund exempt account - appropriations to**
26 **critical needs fund - specification of uses for health care and**
27 **education - definitions.** (3) (b) As used in section ~~24-77-103.6~~ (6)(a)(f)

1 SECTION 24-77-103.6 (6), "public elementary and high school education"
2 means preschool through twelfth grade public education. Accordingly, all
3 of the uses set forth in ~~paragraph (a) of this subsection (3)~~ SUBSECTION
4 (3)(a) OF THIS SECTION are permitted under section 24-77-103.6 (2)(b).
5 The general assembly shall not be required to appropriate or transfer
6 moneys from the account for all of the programs and services set forth in
7 ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION.

8 **SECTION 4. Effective date.** (1) Except as otherwise provided
9 in subsection (2) of this section, this act takes effect upon passage.

10 (2) Section 1 of this act amending section 24-77-103.6, Colorado
11 Revised Statutes, takes effect only if, at the November 2017 statewide
12 election, a majority of voters approve the ballot issue referred in
13 accordance with section 24-77-104.1, Colorado Revised Statutes, created
14 in section 2 of this act. If the voters approve the ballot issue, then section
15 1 of this act amending section 24-77-103.6, Colorado Revised Statutes,
16 takes effect on January 1, 2018.

17 **SECTION 5. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.