

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0211.03 Ed DeCecco x4216

HOUSE BILL 17-1187

HOUSE SPONSORSHIP

Thurlow, Covarrubias, Landgraf

SENATE SPONSORSHIP

Crowder,

House Committees

Finance

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.

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 (6)(a) and (6)(b)(I); and **add** (6)(a.5) and (6)(b)(I.5) as follows:

4 **24-77-103.6. Retention of excess state revenues - general fund**
5 **exempt account - required uses - excess state revenues legislative**
6 **report - definitions.** (6) As used in this section:

7 (a) ~~"Education" means:~~

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

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

13 (a.5) "EDUCATION" MEANS:

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

15 (II) HIGHER EDUCATION.

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

18 ~~(A) If the voters of the state approve a ballot issue to authorize the~~
19 ~~state to incur multiple-fiscal year obligations at the November 2005~~
20 ~~statewide election, an amount that is equal to the highest total state~~
21 ~~revenues for a fiscal year from the period of the 2005-06 fiscal year~~
22 ~~through the 2009-10 fiscal year, adjusted each subsequent fiscal year for~~

1 ~~inflation and the percentage change in state population, plus one hundred~~
2 ~~million dollars, and adjusting such sum for the qualification or~~
3 ~~disqualification of enterprises and debt service changes; or~~

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

11 (I.5) "EXCESS STATE REVENUES CAP" FOR A GIVEN FISCAL YEAR
12 THAT BEGINS ON OR AFTER JULY 1, 2017, MEANS THE EXCESS STATE
13 REVENUES CAP FOR THE PRIOR FISCAL YEAR, ADJUSTED BY THE RECENT
14 AVERAGE CHANGE IN COLORADO PERSONAL INCOME, THE QUALIFICATION
15 OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES. THE
16 RECENT AVERAGE CHANGE IN COLORADO PERSONAL INCOME FOR A FISCAL
17 YEAR IS EQUAL TO THE AVERAGE PERCENTAGE CHANGE IN COLORADO
18 PERSONAL INCOME FROM ONE CALENDAR YEAR TO THE NEXT FOR THE SIX
19 PRIOR CALENDAR YEARS, WHICH PERIOD ENDS WITH THE MOST RECENTLY
20 COMPLETED CALENDAR YEAR PRIOR TO THE FISCAL YEAR. FOR THE
21 PURPOSE OF DETERMINING THE AVERAGE RECENT INCREASE IN COLORADO
22 PERSONAL INCOME THAT APPLIES FOR A FISCAL YEAR, THE ESTIMATES OF
23 COLORADO PERSONAL INCOME FOR THE APPLICABLE CALENDAR YEARS
24 ARE THOSE AVAILABLE AS OF THE FIRST DAY OF THE FISCAL YEAR.

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

27 **24-77-104.1. Referendum C - election - increase amount to be**

1 **retained - definition - repeal.** (1) AT THE ELECTION HELD ON NOVEMBER
2 7, 2017, THE SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED
3 ELECTORS OF THE STATE FOR THEIR APPROVAL OR REJECTION THE
4 FOLLOWING BALLOT ISSUE: "WITHOUT RAISING TAXES, MAY THE STATE
5 INCREASE THE AMOUNT OF MONEY THAT IT ANNUALLY RETAINS AND
6 SPENDS UNDER THE VOTER-APPROVED REVENUE CHANGE FROM 2005 BY
7 ALLOWING AN ANNUAL ADJUSTMENT TO THE AMOUNT BASED ON THE
8 RECENT AVERAGE CHANGE IN COLORADO PERSONAL INCOME INSTEAD OF
9 AN ADJUSTMENT FOR THE POPULATION CHANGE AND INFLATION?"

10 (2) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
11 VOTE "YES/FOR", THEN FOR ALL FISCAL YEARS BEGINNING ON OR AFTER
12 JULY 1, 2017, THE STATE MAY RETAIN AND USE ALL OF THE STATE
13 REVENUES DESCRIBED IN THE BALLOT ISSUE THAT THE STATE OTHERWISE
14 WOULD HAVE BEEN REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF
15 ARTICLE X OF THE STATE CONSTITUTION, AND THESE STATE REVENUES ARE
16 A VOTER-APPROVED REVENUE CHANGE TO THE LIMITATION ON STATE
17 FISCAL YEAR SPENDING.

18 (3) FOR PURPOSES OF SECTION 1-5-407, THE BALLOT ISSUE IS A
19 PROPOSITION. SECTION 1-40-106 (3)(d) DOES NOT APPLY TO THE BALLOT
20 ISSUE.

21 (4) AS USED IN THIS SECTION, "BALLOT ISSUE" MEANS THE
22 QUESTION REFERRED TO VOTERS IN SUBSECTION (1) OF THIS SECTION.

23 (5) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
24 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
25 JULY 1, 2018.

26 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
27 VOTE "YES/FOR", THEN THIS SUBSECTION (5) IS REPEALED, EFFECTIVE

1 JULY 1, 2018.

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

4 **24-77-104.5. General fund exempt account - appropriations to**
5 **critical needs fund - specification of uses for health care and**
6 **education - definitions.** (3) (b) As used in ~~section 24-77-103.6 (6)(a)(F)~~
7 SECTION 24-77-103.6 (6), "public elementary and high school education"
8 means preschool through twelfth grade public education. Accordingly, all
9 of the uses set forth in ~~paragraph (a) of this subsection (3)~~ SUBSECTION
10 (3)(a) OF THIS SECTION are permitted under section 24-77-103.6 (2)(b).
11 The general assembly shall not be required to appropriate or transfer
12 moneys from the account for all of the programs and services set forth in
13 ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION.

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

16 (2) Section 1 of this act amending section 24-77-103.6, Colorado
17 Revised Statutes, takes effect only if, at the November 2017 statewide
18 election, a majority of voters approve the ballot issue referred in
19 accordance with section 24-77-104.1, Colorado Revised Statutes, created
20 in section 2 of this act. If the voters approve the ballot issue, then section
21 1 of this act amending section 24-77-103.6, Colorado Revised Statutes,
22 takes effect on January 1, 2018.

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