Colorado Legislative Staff
New Legislator Orientation Information Paper

Understanding the State Budget: The Big Picture

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Each year, the General Assembly is tasked with balancing constitutional, statutory, and federal requirements with a host of other considerations, such as competing policy priorities, caseload pressures, and the health of the state's economy, in order to create a budget. This document is intended to serve as a primer on Colorado's budget and some of the factors that help shape it.

Contents

This primer begins with a discussion of Colorado's tax burden and how the taxes people and businesses pay in Colorado are distributed among local, state, and federal governments. It then focuses on the sources of revenue that fund the Colorado state budget and constitutional limits on that revenue.

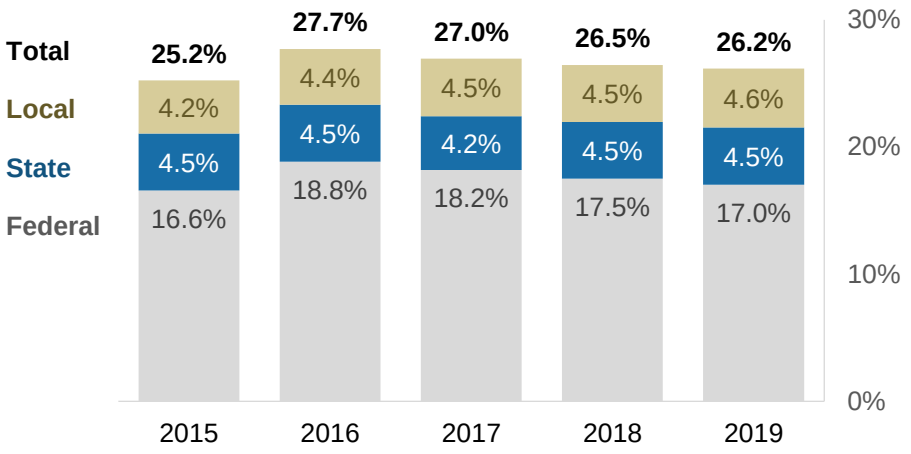
An outline of the process for preparing, reviewing, and approving the state's budget is presented. The state's operating budget for the current fiscal year, FY 2020-21, is then described, including how each of the three primary funding types (General Fund, cash funds, and federal funds) are allocated. The focus is then placed on the General Fund budget and the constitutional, federal, and statutory spending mandates that the General Assembly must balance. This is followed by a discussion of constitutional mandates on various cash funds.

The Colorado Tax Burden and Distribution of Tax Dollars

Over the past five years, the taxes people and businesses have paid in Colorado to the federal, state, and local governments have averaged 26.2 percent of Colorado personal income. Figure 1 provides a five-year history of this statewide 'tax burden.'[1] This tax burden varies slightly each year depending on variations in the growth rates of tax collections and the economy as a whole. Much of the variability in the federal tax burden is due to volatility in corporate income taxes, while variability in the state tax burden is primarily due to volatility in corporate income taxes and individual income taxes on capital gains, entrepreneurial income, and oil and gas royalties.

[1]Taxes include those paid by nonresidents and tourists, whereas income includes that of Colorado residents only.

Figure 1
Statewide Colorado Tax Burden*
Tax Collections as a Percent of Personal Income



Sources: Internal Revenue Service; U.S. Census Bureau; and U.S. Bureau of Economic Analysis. Local tax collections for 2019 are estimates based on average growth in 2017 and 2018.
**Represents the tax burden across all Colorado residents and visitors relative to statewide personal income across Colorado residents.*

On average over the past five years, 66 percent of the taxes paid in Colorado went to the federal government, primarily in the form of income and payroll taxes.[2] The remainder is split between the state (17 percent)[3] and local governments (17 percent)[4], as illustrated in Figure 2.

Figure 2
Distribution of Tax Burden and Major Budget Items by Level of Government
Average Distribution, 2015 through 2019

Sources: White House Office of Management and Budget, Joint Budget Committee Staff, Colorado Department of Local Affairs.

Figure 2 also illustrates how each level of government spends the majority of its tax collections. In 2019, the federal government spent 83 percent of its budget on defense, international affairs, health care, social security, and various human services programs.[5] The state has appropriated 80.8 percent

[2]*Internal Revenue Service. Federal tax collections include individual and corporate income, payroll, estate, gift, and excise taxes.*
[3]*U.S. Census Bureau. State tax collections include individual and corporate income, sales, use, excise, insurance premium, motor fuel, severance, and specific ownership taxes. The U.S. Census Bureau also includes motor vehicle license fees; hunting and fishing license fees; public utility license fees; and business and occupational license fees.*
[4]*U.S. Census Bureau; Department of Local Affairs, Divisions of Local Government and Property Taxation. Local tax collections include property, sales, excise, public utilities taxes, motor vehicle licenses, and other taxes.*
[5]*Office of Management and Budget, historical table 5.1. Available at: http://www.whitehouse.gov/omb/historical-tables/.*

of its total operating budget on health care, preschool through 12th grade education, higher education, prisons, courts, and human services programs for FY 2020-21.[6] The largest budget items for local governments include preschool through 12th grade education, public safety (police, jails, and fire services), streets, waste management, and recreation.

Sources of State Government Revenue

Most revenue to the state comes in the form of state taxes, state fees, and money from the federal government. The state also receives some money from interest earnings, gifts, fines, and penalties. As shown in Figure 3, the state collected a total of $59.1 billion during FY 2019-20.[7] This revenue is categorized into three areas: General Fund revenue, cash funds revenue, and federal funds revenue. Each category is explained below.

General Fund

General purpose revenue is deposited into the General Fund and used for the state programs such as education, health care, human services, corrections, and general government (e.g., the legislature and Governor's office). About 94 percent of General Fund revenue collected in FY 2019-20 was made up of income, sales, and use taxes. The General Fund also receives revenue from excise taxes on cigarettes, tobacco, and liquor; insurance premium taxes; investment income; and a variety of miscellaneous revenue sources, such as fines and penalties. It also includes any revenue the state receives that is not otherwise required to be deposited into a cash fund.

The top bar chart in Figure 4 shows General Fund revenue without adjusting for inflation FY 2000-01. Following the 2000-01 recession and 2007-09 recession, General Fund revenue fell by $1.0 billion in both FY 2001-02 and FY 2008-09, followed by further decreases in the next year. Although the causes and severity of the two recessions differed significantly, both resulted in a similar percentage loss in revenue over a two-year period. Notably, the decrease in FY 2001-02 would have been smaller if not for state and federal tax cuts. The impact of the COVID-19-induced 2020 recession remains yet to be seen. Based on September 2020 forecast estimates, FY 2020-21 revenue is expected to fall $1.5 billion from prior year levels.

The bottom bar chart in Figure 4 shows General Fund revenue adjusted for inflation on a per capita basis. As such, this chart controls for population growth and the purchasing power of the dollar. Per capita inflation-adjusted revenue has fluctuated over the business cycle.

Most revenue initially deposited into the General Fund is subject to the state's constitutional revenue limit under the TABOR Amendment, which is discussed on page 7.

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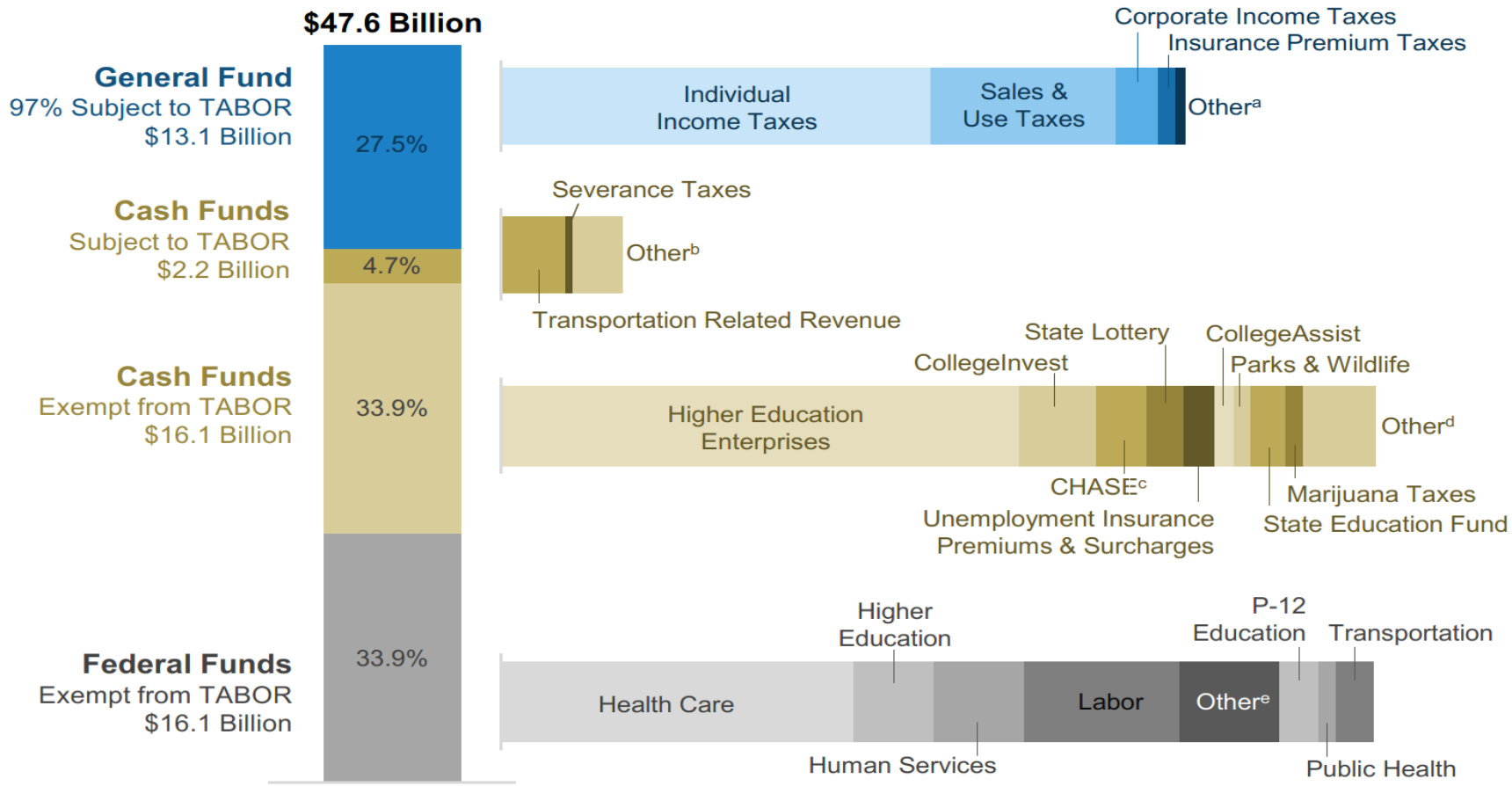
[6] *Joint Budget Committee Staff. Based on General Fund operating appropriations only. Amounts subject to change with 2021 legislation.*

[7] Colorado Office of the State Controller. Data are preliminary. FY 2019-20 is the most recent year for which data are available.

Figure 3
Colorado State Revenue by Source, FY 2019-20



Source: Legislative Council Staff estimates based on data from the Office of the State Controller. Revenue excludes transfers between funds and fund balances carried forward from prior years.

[a] Includes fiduciary income, interest and investment income, court and other fines, business licenses and permits, general government service fees, miscellaneous revenue, and other charges for services.

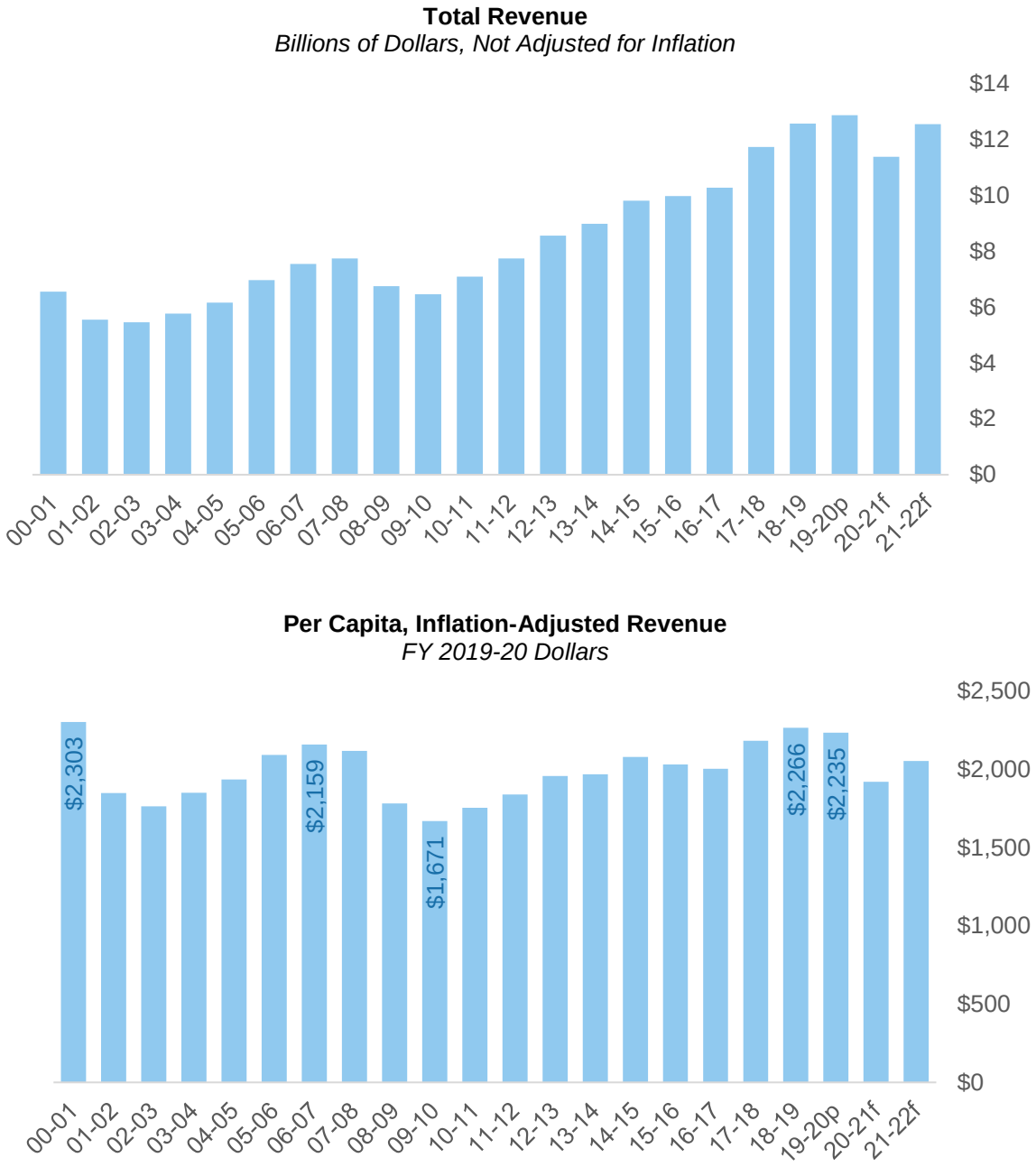
[b] Includes health service fees, general government service fees, miscellaneous revenue, nonbusiness licenses and permits, employment taxes, certifications and inspections, insurance taxes, higher education auxiliary sales and services, sales of products, educational fees, welfare service fees, alcoholic beverages taxes, other excise taxes, estate and inheritance taxes, and local government matching funds.

[c] CHASE = Colorado Healthcare Affordability and Sustainability Enterprise.

[d] Includes limited gaming taxes, State Fair Authority enterprise, Correctional Industries enterprise, State Nursing Homes enterprise, Prison Canteen, Petroleum Storage Tank, Transportation Enterprise, and the Enterprise Service Fund of the Colorado Historical Society.

[e] Includes federal funds to the Colorado Department of Public Safety, Department of Law, Department of Treasury, Department of Natural Resources, Department of Agriculture, Department of Corrections, Department of Local Affairs, Department of Revenue, Department of Regulatory Agencies, Department of Personnel and Administration, Judicial Department and the Governor's Office.

Figure 4
General Fund Revenue



Source: Colorado State Controller's Office, U.S. Bureau of Labor Statistics, and Colorado State Demographer's Office with Legislative Council Staff calculations. Adjusted for inflation using the Denver-Aurora-Lakewood consumer price index.
p = Preliminary. f = Forecast.

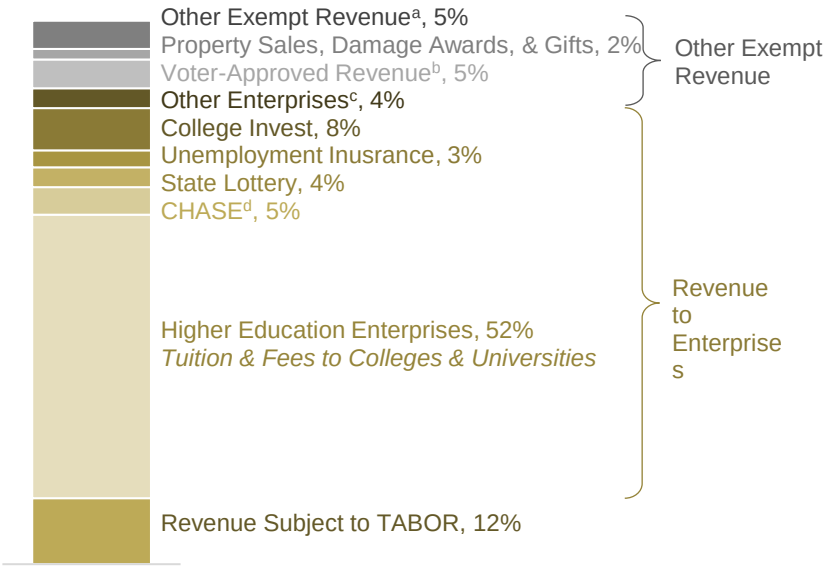
Cash Funds

Cash funds are special purpose funds that are primarily created to receive certain revenues instead of the General Fund. They are funded with taxes, user fees, and fines earmarked for specific purposes and programs. In FY 2019-20, cash fund revenues totaled $18.4 billion, or 38.7 percent of total state

revenue. Of this amount, $16.1 billion is exempt from the TABOR limit. Figure 5 presents the largest categories of cash fund revenue.

Revenue to state colleges and universities, including tuition, fees, federal, and other funding, totaled about $10 billion in FY 2019-20, representing more than half of all cash fund revenue and about 20 percent of total state revenue. Because most higher education governing boards are TABOR enterprises, revenue is exempt from TABOR.

Figure 5
Cash Fund Revenue, FY 2019-20
Total: $16.1 Billion



Source: Legislative Council Staff estimates based on data from the Office of the State Controller. Revenue excludes transfers between funds and fund balances carried forward from prior years. Totals may not sum due to rounding.
[a]Other exempt revenue includes trust fund additions, prior year expense reimbursements, insurance recovery proceeds, local government matching funds, and interest income on TABOR exempt sources of revenue.
[b]Voter-approved revenue includes diversions of income taxes to the State Education Fund ($647 million); Amendment 35 tobacco taxes ($133 million); marijuana taxes ($327 million); Amendment 50 gaming taxes ($13 million).
[c]Other enterprises include the state fair, state nursing homes, parks and wildlife, correctional industries, transportation enterprises, the petroleum storage tank fund, the capitol parking authority, and the clean screen authority.
[d]CHASE = Colorado Healthcare Affordability & Sustainability Enterprise

Other large categories of cash fund revenue include revenue to other TABOR enterprises, transportation-related revenue, most of which is subject to TABOR, employee pension contributions and interest income, severance taxes, voter-approved revenue, gaming taxes, property sales, damage awards, and gifts.

Cash fund reserve limit. State law specifies that a cash fund's balance, also known as the uncommitted reserve, may not exceed 16.5 percent of its annual expenditures.[8] If the uncommitted reserve of a cash fund exceeds this percentage in any given fiscal year, the state agency is required to

[8]Section 24-75-402 (3)(c), C.R.S.

reduce fee levels accordingly and spend down the balance. This reserve limit applies to all cash funds (even those not primarily funded by user fees) unless state law provides for an alternate reserve amount or an exemption. This limit does not apply to programs with enterprise status under TABOR.

Federal Funds

Federal funds are received from the federal government to support specific purposes and programs. For some programs, such as Medicaid, state funding is matched with federal funding, and state funding, therefore, helps determine the amount of federal funds received for those programs. Some revenue from the federal government is passed through the state to local governments. For example, the federal government uses the state to distribute money for human service programs, such as Temporary Aid to Needy Families (TANF) and food stamps, to local governments where these programs are primarily administered. Federal funds are exempt from TABOR.

TABOR Limit on State Government Revenue

Approved by voters in 1992, the Taxpayer's Bill of Rights (TABOR) limits annual growth in revenue for state and local governments (referred to as "districts") in the state.[9] Figure 6 shows the state's limit (lines) and revenue subject to the limit (bars) since the adoption of TABOR in 1992. A constitutional formula, shown below, calculates the state's limit by adjusting a base amount for inflation and population growth. The base amount is the lesser of the prior year's revenue or limit. A district may increase taxes or retain revenue in excess of the limit with approval from the district's voters. The constitution adds these changes, or "voter-approved revenue changes," to the limit. Revenue collected in excess of the limit, commonly called the "TABOR surplus," must be refunded to the taxpayers in the following year.

How is the TABOR Limit Calculated?

The lesser of the prior year's revenue or limit × Inflation and population growth

+ Voter-approved revenue changes — Referendum C is a voter-approved revenue change

How is the Referendum C Cap Calculated?

The prior year's cap × Inflation and population growth

Referendum C. Passed by voters in 2005, Referendum C is a permanent voter-approved revenue change.[10] Referendum C created a five-year "timeout period" between FY 2005-06 and FY 2009-10. During this time, the state was allowed to spend or save the full amount of revenue it collected, effectively eliminating the limit. Beginning in FY 2010-11, Referendum C allows the state to keep revenue up to a capped amount known as the Referendum C cap.

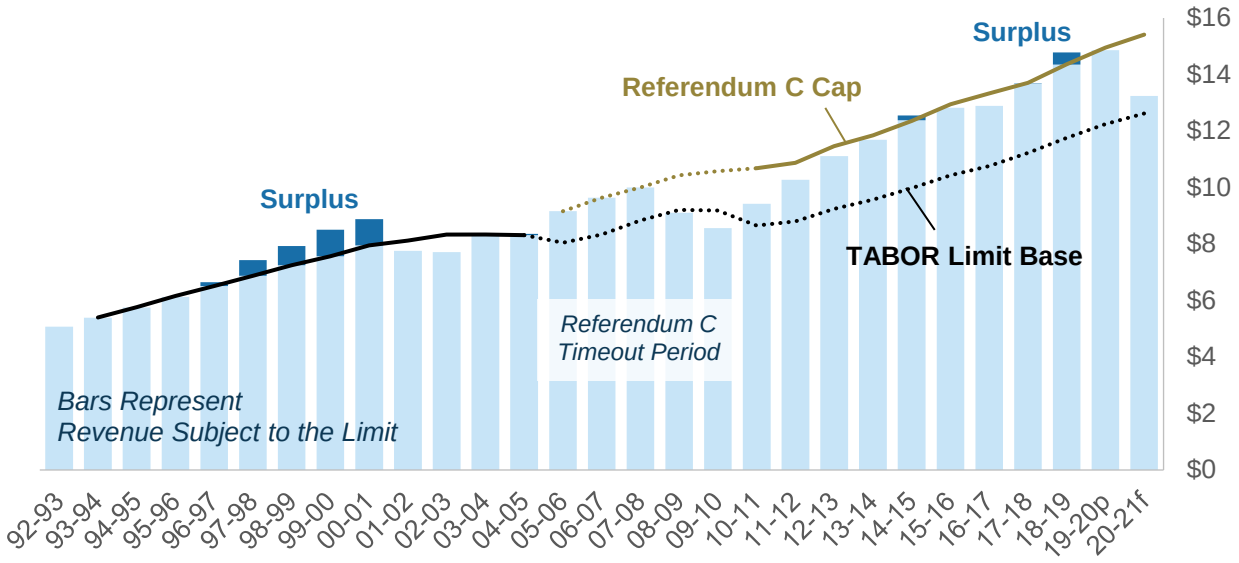
The Referendum C cap is equal to the highest amount of revenue collected in a single fiscal year during the timeout period, adjusted by inflation plus population growth each year thereafter. The cap is

[9] Article X, section 20 of the Colorado Constitution.
[10] Because of the formulaic nature of this voter-approved revenue change, it is accounted for differently from other voter-approved revenue changes and excluded from voter-approved revenue shown in Figure 5.

grown from the prior year's cap irrespective of whether state revenue is above or below the cap. Because revenue was the highest in FY 2007-08, the amount of revenue collected during that fiscal year became the base for computing the cap in subsequent years.

Revenue collected above the original limit but below the Referendum C cap must be spent only on health care, public education, transportation, and local fire and police pensions.[11]

Figure 6
TABOR Limit Base, Referendum C Cap, and Revenue Subject to the Limit
Billions of Dollars



Source: Office of the State Controller. p = Preliminary. f = September 2020 forecast.

Although the constitution refers to the limit as a "spending" limit, it functions as a revenue limit because it defines "spending" as the amount of revenue the state may either spend or save in a given year. Federal funds, voter-approved revenue, property sales, damage awards, gifts, and revenue collected by enterprises are exempt from the TABOR limit under the TABOR Amendment. In FY 2019-20, exempt revenue represented 70.2 percent of total state revenue.

Fiscal Year Spending

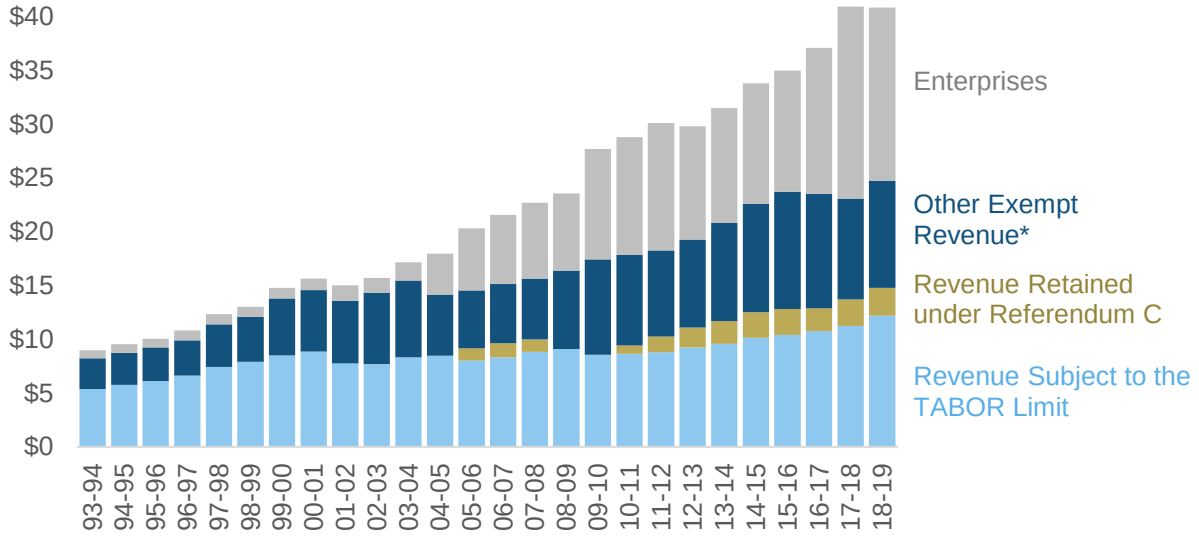
The legal term used by TABOR to denote the amount of revenue TABOR allows the state to keep and either spend or save.

Figure 7 shows total state revenue by TABOR status since TABOR was implemented. In FY 1993-94 revenue subject to TABOR represented 60 percent of total state revenue. In FY 2018-19, that share had fallen to 30 percent. Although some growth in exempt revenue has occurred in federal funds, damage awards, and voter-approved revenue, most of the growth has happened within revenue collected by enterprises. **Enterprises**[12] are defined by TABOR as government-owned businesses that obtain less than 10 percent of their funding from state and local government sources, and have bonding authority. Because enterpries are user-funded, Figure 7 illustrates a movement toward user-funded programs in state government.

[11]For more information, see the Legislative Council Staff Report on Referendum C Revenue and Spending.
[12]For more information, see the Legislative Council Staff memorandum, "State Government Enterprises," May 2019.

Enterprises collected a total of $16.1 billion in FY 2018-19, of which $9.8 billion was collected by higher education governing boards. Other enterprises include CollegeInvest, CollegeAssist, the unemployment insurance program, the Colorado Healthcare Affordability and Sustainability Enterprise (CHASE), state lottery, state nursing homes, parks and wildlife, correctional industries, transportation enterprises, the petroleum storage tank fund, the capitol parking authority, and the clean screen authority.

Figure 7
State Revenue by TABOR Status
Billions of Dollars, Not Adjusted for Inflation



Source: Colorado Office of the State Controller, TABOR Schedule of Computations. FY 2017-19 is the most recent year for which audited data are available. Amounts include certain federal fund transfers to enterprises and may differ slightly from those shown in other figures in this document.
**Includes voter approved revenue increases, which are exempt from TABOR.*

TABOR surplus. The constitution requires that revenue collected above the limit be refunded to taxpayers in the following year. Since TABOR was adopted in 1992, state revenue has exceeded the limit nine times, triggering refunds in fiscal years 1997-98 through 2001-02, 2005-06, and 2015-16, 2018-19, and 2019-20. The Legislative Council Staff and the Governor's Office of State Planning and Budgeting publish quarterly forecasts of state revenue subject to the limit.[13] Based on the most recent September 2020 forecast, a TABOR surplus is not expected through at least fiscal year 2022-23.

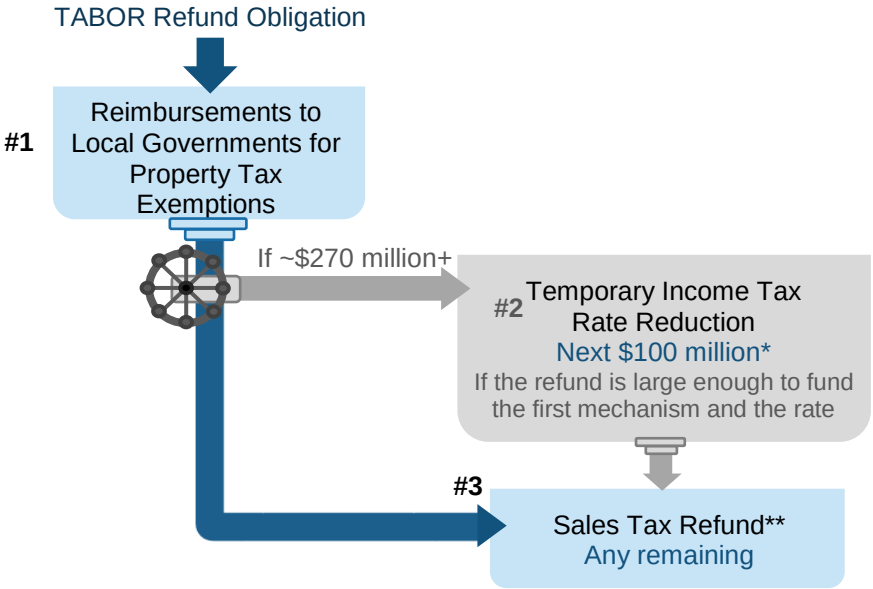
TABOR refunds. Prior to the voters' approval of Proposition 116 in 2020, the law contained three refund mechanisms: 1) senior homestead and disabled veteran property tax exemptions administered by local governments; 2) a temporary cut in the income tax rate from 4.63 percent to 4.50 percent; and 3) a sales tax refund.[14] Proposition 116 reduced the state income tax rate from 4.63 percent to 4.55 percent. Because Proposition 116 does not make conforming amendments to the temporary income tax rate reduction, it is unclear how the temporary income tax rate reduction will be implemented in the absence of clarifying legislation. For purposes of this memorandum only, it is

[13]For the LCS forecast, visit: http://leg.colorado.gov/agencies/legislative-council-staff/forecasts-calendar-year
For the OSPB forecast, visit: http://www.colorado.gov/governor/economics
[14]For a history of prior refund mechanisms, see the Legislative Council Staff Interested Persons Memorandum, "History of TABOR Refund Mechanisms", dated March 25, 2019.

assumed that the refund mechanism will reduce the income tax rate from 4.55 percent to 4.50 percent. Figure 8 illustrates how TABOR surplus amounts would be refunded based on current law with this assumption.

The size of the TABOR refund determines which refund mechanisms are available each year. Based on estimates for the current and next two years, up to the first roughly $170 million in TABOR refunds go toward reimbursements to local governments. If a TABOR refund were in excess of about $270 million, the first $170 million would go toward reimbursements to local governments, the next $100 million would trigger the temporary income tax rate reduction, and any remaining amounts are refunded under the sales tax refund mechanism. If a refund were between about $170 million and $270 million, the first $170 million would go toward reimbursements to local governments, with any remaining refunded under the sales tax refund mechanism.

Figure 8
TABOR Refund Mechanisms



**Amounts are based on Legislative Council Staff September 2020 estimates for FY 2021-22 through FY 2022-23.*
***If the average sales tax refund among all taxpayers is $15 or less, Section 39-22-2002 (2)(b), C.R.S., requires every taxpayer to receive an identical refund. If the average amount exceeds $15, Section 39-22-2003 (4)(a), C.R.S., requires the sales tax refund to be distributed proportionately to the sales tax refund that occurred in tax year 1999.*

State Budget Process

Figure 9 illustrates the state budget process for FY 2020-21. The state budget operates on a fiscal year basis between July 1 and June 30. Colorado's budget is set largely through a general appropriations act (known as the "Long Bill") and its companion supplemental appropriations acts. Formulating the state's annual budget involves state departments, the Judicial Branch, the Office of State Planning and Budgeting (OSPB), and the General Assembly, including its Joint Budget Committee (JBC), JBC Staff, Capital Development Committee (CDC), the Joint Technology Committee (JTC), the Office of Legislative Legal Services, and Legislative Council Staff (LCS).

Budget planning. The state budget process begins in May when Executive Branch departments begin preparing a budget request for review and approval by OSPB. State departments also submit any capital construction, property acquisition and controlled maintenance requests to OSPB each September. OSPB then prepares a consolidated request from the Governor, an overview of which is presented to the JBC in early November.

Budget briefings. Between November and January, the JBC holds a "briefing" meeting and a "hearing" meeting for every Executive and Judicial department. During the initial meeting, JBC Staff brief JBC members on the department's budget request for the next fiscal year and discuss other relevant operational and policy issues. The second meeting allows Department staff to discuss their budget request and other priorities for the upcoming legislative session, and to respond to questions and topics of interest identified by JBC members and other legislators during the JBC Staff briefing. During this period and into February, the CDC and the JTC hold hearings on capital construction and technology project requests prioritized by the Governor before submitting their respective recommendations to the JBC in January and February.

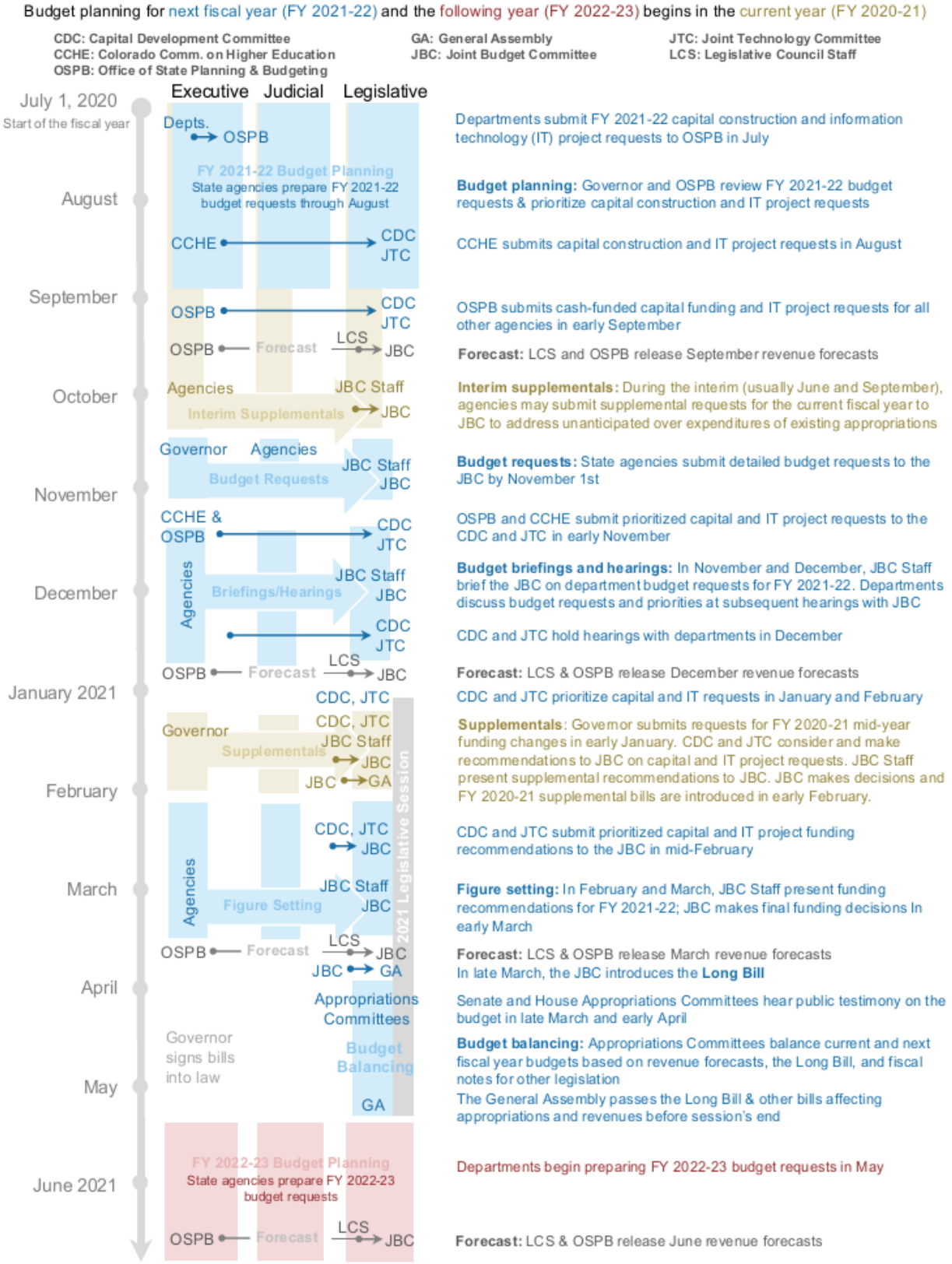
Supplementals. LCS and OSPB each prepare quarterly economic forecasts that project the amount of General Fund and cash fund money that will be available for appropriation during the next fiscal year. Forecasts released in December are used by the JBC the following January to prepare "supplemental appropriation" bills, which make mid-year adjustments to the budget for the current fiscal year.

Figure setting and comebacks. Between February and March, JBC Staff makes recommendations on each department's request for the coming budget year to the JBC in a process that is referred to as "figure setting." During this process, the JBC votes on appropriations to be included in the Long Bill for each department. The process includes an opportunity for departments to request that the JBC reconsider certain decisions, which is referred to as a "comeback." Simultaneous to this, agencies of the General Assembly submit a budget request, which is enacted in a separate bill, to the Executive Committee for review.

The Long Bill. In mid-March, LCS and OSPB update their respective revenue forecasts. After reviewing these, the JBC prepares and introduces the Long Bill for consideration by the entire General Assembly. Appropriations in the Long Bill must be based on current state law. The JBC generally introduces "companion" bills with the Long Bill to modify certain parts of state law. For instance, the Long Bill could contain funding to expand an existing program based on current law, and a companion bill might modify the program to allow for the appropriation in the Long Bill to be reduced through an appropriation clause included in that bill. The Long Bill and its companion bills are collectively referred to as the "budget package" and are summarized in the "budget narrative" published by the JBC Staff.

Budget balancing. Members of the General Assembly review the budget package and propose amendments. In each chamber, each caucus meets to review the budget and potential amendments in advance of hearing the bills in committee. The appropriations committee in each chamber is usually the committee of reference for the budget, and public testimony is offered before each bill is acted upon. If needed, the JBC typically serves as a conference committee on the budget package following its passage by both chambers. These bills are then signed into law in order to take effect on July 1, the first day of the next fiscal year.

Figure 9
Colorado State Budget Process



State Operating Budget

Balanced budget and debt requirements. The Colorado Constitution requires a balanced budget, where the state may spend only what it has available from new revenue or revenue saved in a reserve from the prior year.[15] The state constitution also prohibits general obligation debt, and requires voters to approve other forms of debt.

The budget big picture. Figure 10 shows total state appropriations by department and funding source in FY 2020-21. When the General Assembly makes an appropriation, it is granting a state agency the authority to spend money. In other instances, the state agency may spend money without an appropriation. After the 2020 legislative session, state agencies will be authorized to spend a total of $32.0 billion, of which $30.5 billion represented unique dollars.

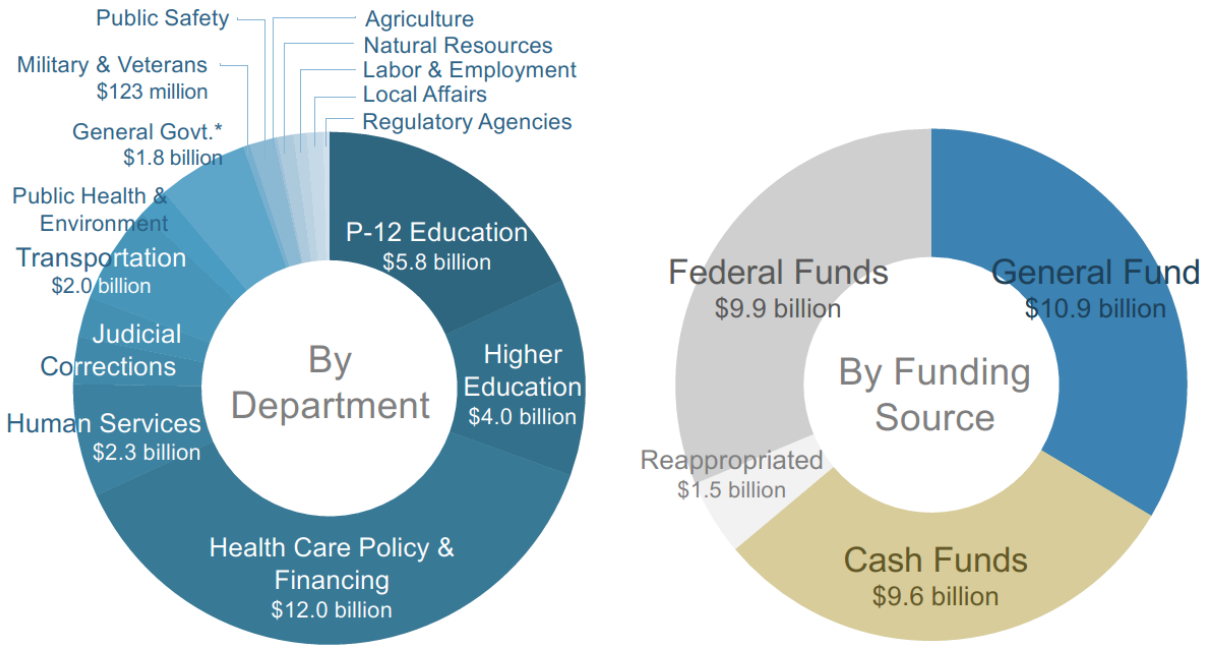
Reappropriated funds, or appropriations of dollars that have already been appropriated at least once before, totaled $1.5 billion in FY 2020-21. The General Assembly appropriates some dollars more than once in order to maintain control over the life of the dollar as it moves between agencies within the state. For example, the Governor's Office of Information Technology (OIT) provides information technology services to the entire Executive Branch. To finance these services, money that has already been appropriated to each department is then appropriated a second time (reappropriated) to OIT.

Appropriations are categorized based on funding source. Money may not be spent out of the General Fund or a cash fund without a specific annual appropriation from the General Assembly. **Continuous appropriations** are the exception. A continuous appropriation is a statutory or constitutional provision that allows a government entity to spend whatever money is available in a specified fund without receiving an annual appropriation. State law specifies the purposes for which a continuous appropriation may be spent. Examples include the expenditure of revenue collected by many enterprises under TABOR; distributions of Conservation Trust Fund money to local governments; and expenditures from the State Highway Fund by the Department of Transportation.

Because **cash fund revenue** is designated for specific purposes, the expenditure of cash fund revenue is less flexible than **General Fund revenue**. Fees may be set at a specific amount in statute or the General Assembly may authorize a state agency to set the fee amount. Like cash funds, **federal funds** are usually restricted for a specified purpose and are therefore custodial.[16] **Custodial funds** are under the control of the Governor (or in some instances the Attorney General) and may not be appropriated by the General Assembly,[17] although some are shown in the Long Bill for informational purposes only. Federal law and court decisions require some federal funds to be appropriated, including the Social Services Block Grant, the Maternal and Child Health Block Grant, Temporary Assistance for Needy Families (TANF), and Child Care Development Funds.

[15]Colorado's constitution specifies that total appropriations by the General Assembly may not exceed the total revenue collected each fiscal year, thus prohibiting deficit spending. Article X, Section 16, Colorado Constitution.
[16]Custodial funds include any cash or federal funds restricted for specific programs and purposes by the donor.
[17]Interrogatories submitted by General Assembly on House Bill 04-1098, 88 P.3d 1196, 1200 (Colo. 2004).

Figure 10
FY 2020-21 State Spending Authority, By Department and Funding Source
Total: $32.0 Billion



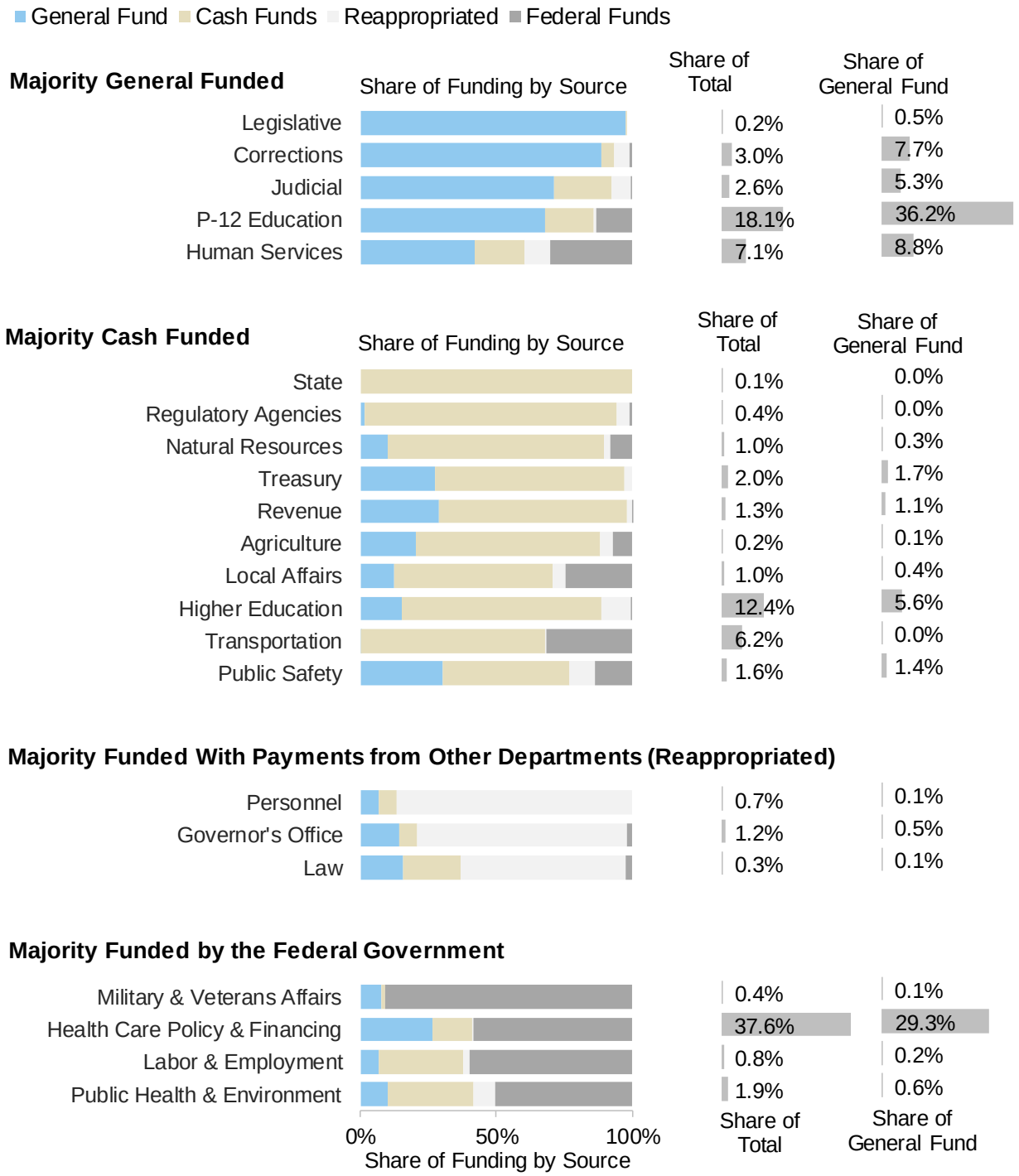
Source: Joint Budget Committee Staff. Amounts subject to change with 2021 legislation.
**General government includes the Governor's Office, Legislative Branch, and Treasurer's Office; and the Departments of Law, Personnel, Revenue, and State.*

Budget by department. Figure 11 identifies the share of funding from each source for each department's operating budget. The figure also puts each department's budget in context with the full budget by providing each department's share of total and General Fund appropriations.

Five departments receive a majority of their funding from the General Fund: the Legislative Branch, Corrections, Judicial, Education, and Human Services. Ten departments receive the majority of their funding from earmarked taxes and fees deposited into cash funds. The Department of State is almost entirely "cash-funded." The Department of Transportation gets almost equal appropriations from cash funds and the federal government.

Four departments receive the majority of their funding from the federal government, including the Department of Health Care Policy and Financing, where the Medicaid program is housed, and the Department of Military and Veterans Affairs. Three departments receive most of their funding from reappropriated funds, or for providing services to other departments. They are the Governor's Office and the Departments of Law and Personnel.

Figure 11
State Department Spending Authority, FY 2020-21
Total: $32.0 Billion
Total Less Reappropriated Funds: $30.5 Billion



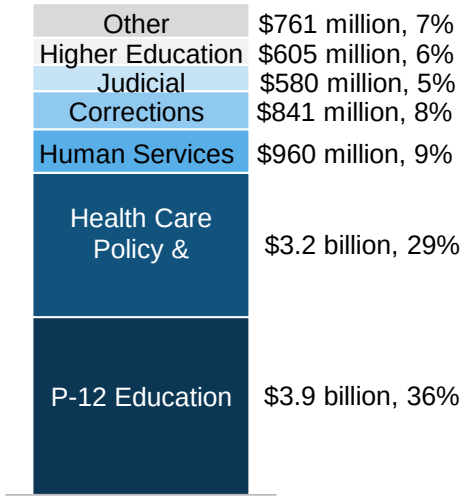
Source: Joint Budget Committee Staff. Amounts subject to change with 2021 legislation.

General Fund Budget and Spending Mandates

As shown in Figure 12, the majority of money in the General Fund is currently appropriated to fund the operating expenses of the state's core programs, which include education, health care, human services, prisons, and the court system. In some years, General Fund revenue has also been used to fund transportation. Further, General Fund revenue is the only major state revenue source available to fund capital construction projects.[18]

The General Fund is often the focus of attention because it is the most flexible in terms of making funding decisions. The availability of General Fund money for appropriations is affected by several key factors: meeting statutory reserve requirements; caseload increases resulting from changes in economic conditions, population growth, and eligibility criteria; making statutorily required transfers to other funds; and accounting for maintenance of effort and other spending requirements for programs in accordance with the state constitution and federal requirements. In addition, state law limits total General Fund operating appropriations. Each of these key factors are explained in greater detail below.

Figure 12
FY 2020-21 General Fund Operating Appropriations
Total: $10.9 billion



Source: Joint Budget Committee Staff. Totals may not sum due to rounding.

General Fund reserve. Colorado is statutorily required to maintain a General Fund reserve equal to a specified percent of General Fund operating appropriations in a given fiscal year.[19] Currently, the reserve requirement is set at 2.86 percent for FY 2020-21 and FY 2021-22 and 7.25 percent in subsequent years. The reserve is intended to provide additional money to meet unanticipated, one-time state obligations and for emergencies. The reserve requirement has varied over time and has been reduced to as low as 0 percent during periods of fiscal crisis.

Caseload increases. As shown in Figure 13, demands for state services and benefits have increased substantially in recent years as a result of a growing and aging population, program eligibility expansions, and cyclical changes in the economy. Colorado's state-funded Medicaid caseload, which excludes those eligible under the Affordable Care Act, more than tripled from 275,399 people in FY 2000-01 to 836,795 people in FY 2017-18.[20] Medicaid is a federal/state program with strict rules regarding participation and eligibility codified in state and federal statute. When the economy weakens and the incomes of individuals and families fall, more people become eligible for the program and, barring allowable changes to state law, the state is federally obligated to finance part of

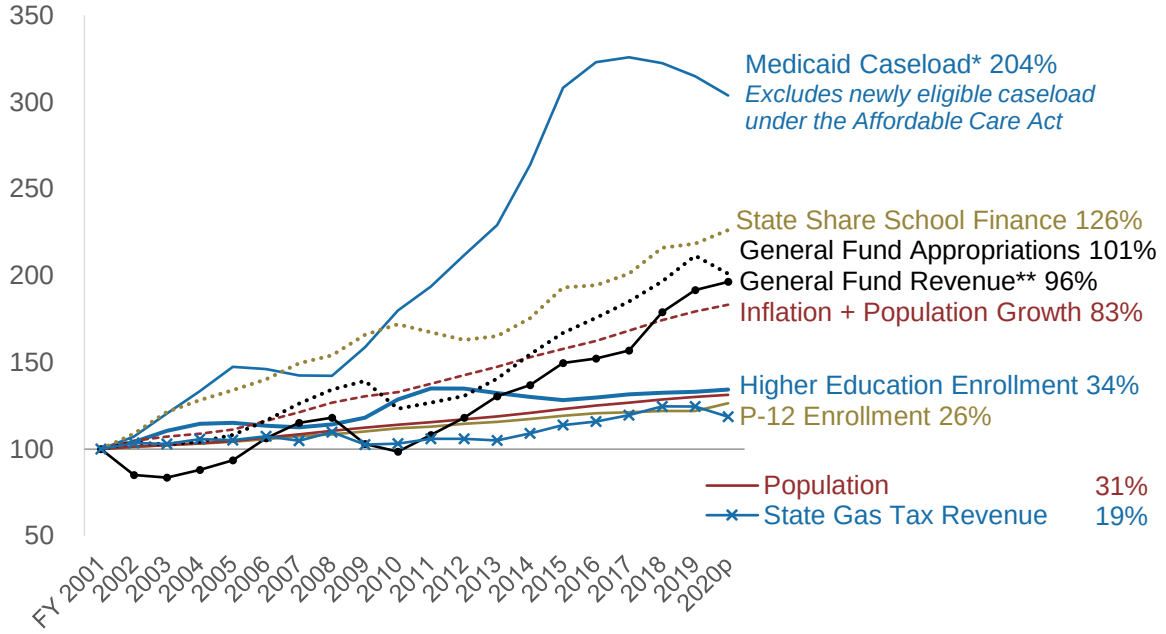
[18]For information about the budget process for capital construction, see the Legislative Council Staff memorandum "Oversight and Review of Capital Projects", November 2016; and the Legislative Council Staff Issue Brief Number 18-16 "Capital Construction and the Role of the Capital Development Committee", October 2018. General Fund transfers to transportation and capital construction exist under current law but are excluded from Figure 12 because they are not appropriations.
[19]Section 24-75-201.1 (1) (d), C.R.S.
[20]For more information, see the Legislative Council Staff Memorandum "Medicaid Trends and Cost Drivers", November 2016.

the cost. While most of this cost is borne by the General Fund, some is paid for with Health Care Affordability and Sustainability Fee and Amendment 35 tobacco tax revenue.

Medicaid caseloads in Figure 13 exclude those eligible under the federal Affordable Care Act, which are currently funded entirely by the federal government. In FY 2014-15, the first year it was fully implemented, this caseload added 313,381 people. The caseload was 382,450 people in FY 2019-20, with Colorado's total Medicaid caseload at 1.2 million people. The newly eligible caseload was financed entirely with federal funds through the end of 2016. The 100 percent federal match then decreased to 95 percent on January 1, 2017, to 94 percent on January 1, 2018, and is scheduled to decrease to 93 percent on January 1, 2019, and 90 percent on January 1, 2020 and thereafter.

Simple **population growth and inflation** also create caseload pressure. As Colorado's overall population has grown, the state's K-12 public school enrollment has also naturally increased, as has the state's share of school finance costs. Since FY 2000-01, the state's population has increased 31 percent, which helps to explain the 26 percent increase in enrollment in K-12 public schools over the same period. Meanwhile, the state's share of school finance costs increased by 126 percent; while the sum of enrollment growth and inflation increased 78 percent.

Figure 13
Cumulative Caseload and General Fund Growth
Over the Business Cycle
Index FY 2000-01 = 100



Sources: U.S. Bureau of Economic Analysis, U.S. Bureau of Labor Statistics, State Demographer's Office, Joint Budget Committee Staff, Department of Health Care Policy and Financing, Department of Higher Education, and Department of Education.
**State-funded caseload only; while most funding is General Fund, some funding comes from the Hospital Provider Fee, CHASE fee, and Amendment 35 tobacco tax revenue.*
***If indexed to most other years, revenue growth would outpace appropriations growth because General Fund revenue exceeds General Fund appropriations in most years.*
p = Preliminary.

Constitutionally required expenditures are prioritized over other expenditures. The Colorado Constitution includes the following requirements:

- **Public school funding.** Approved by voters in 2000, Amendment 23 requires increases in funding for public elementary and secondary education. The amendment required an annual increase in base per-pupil funding under the School Finance Act and the total state funding for categorical programs[21] of at least the inflation rate plus one percentage point from FY 2001-02 through FY 2010-11. Beginning in FY 2011-12, this increase is required to be at least the rate of inflation. In response to budgetary pressures following the Great Recession, the General Assembly enacted the budget stabilization factor, which was first applied in FY 2010-11. The factor reduces total program funding proportionately for most districts by reducing the amount of state aid that each district receives. [22]

- **TABOR refunds.** Money must be set aside to refund revenue in excess of the TABOR limit.

- **Old Age Pension (OAP).** The OAP was established in the constitution by voters in 1936 and amended in 1956.[23] The fund was established to provide minimum assistance for needy Colorado residents 60 years of age or older. The program is funded with continuously appropriated revenue from the state sales tax (General Fund revenue), and is expected to require $80.8 million to fulfill its obligations in FY 2020-21.[24]

- **Senior homestead and veteran property tax exemptions**.[25] Voters approved adding the senior homestead exemption and disabled veterans property tax exemptions to the state constitution in 2000 and 2006, respectively.[26] The senior homestead property tax exemption is available to taxpayers in Colorado over the age of 65 who have owned and lived in their current residence for ten years immediately preceding the tax year in which a claim is made. Veterans must be rated permanently disabled by the U.S. Department of Veterans Affairs or qualify for a permanent 100 percent military medical retirement and must have owned and occupied the property as their primary residence on January 1st of the year in which they are applying for the exemption.

  The state reimburses local governments for the amount of the benefit granted to the homeowner with General Fund money. In FY 2019-20, reimbursements totaled $151.2 million, of which $147.1 million was for the senior homestead exemption. The constitution authorizes the General Assembly to adjust the $200,000 threshold for the market value of a home eligible for the exemption. To address budget shortfalls, the General Assembly reduced the benefit of the senior exemption to zero in tax years 2003, 2004, 2005, 2009, 2010, and 2011, rendering them unavailable. The disabled veteran exemption has not been reduced since its establishment in tax year 2007. Beginning in FY 2017-18, reimbursements to local governments for these exemptions became TABOR refund mechanisms, as discussed in greater detail on page 10.

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[21]In Colorado, school districts may receive state funding to pay for specific "categorical" programs designed to serve particular groups of students or particular student needs.
[22]For more information, see the Legislative Council Staff memorandum "School Finance and the State Constitution," October 2018.
[23]Colo. Const. art. XXIV, § 2.
[24]September 2020 Legislative Council Staff forecast.
[25]For more information, see the Legislative Council Staff memorandum "History of the Senior Property Tax Exemption", November 2016.
[26]Colo. Const. art. X, § 3.5 and Section 39-3-201, C.R.S.

Maintenance of effort requirements for federal programs. The following federal public health and human services programs have maintenance of effort (MOE) spending requirements:

- the federal Supplemental Security Income (SSI) program;
- the federal Temporary Assistance to Needy Families (TANF) program;
- services for people with developmental disabilities, Part C, Early Intervention and Case Management Program;
- the Substance Abuse Prevention and Treatment Block Grant Program; and
- the Mental Health Block Grant Program.

While most of the programs are not required to be operated, a significant portion of each program's cost is paid by the federal government if MOE requirements are met. In some cases, the MOE requirement must be met in another program area in order to receive federal funds. For example, there is no federal requirement to operate the state's Medicaid program, but the federal government pays approximately 50 percent of its cost as long as the state meets its MOE requirements for the federal SSI program.

The state may request an MOE waiver for "extraordinary economic conditions," defined as a financial crisis in which the total tax revenues declined at least 1.5 percent, and either the unemployment rate increases by at least 1 percentage point, or employment declines by at least 1.5 percent.

In addition, there are two principal human services-related programs required by the federal government for which some state contribution is also required. These include the Child Support Program (for which 66 percent is paid with federal funds and the rest is comprised of state funds) and the Older American Act programs.

General Fund infrastructure transfers and lease payments. Historically, revenue from the General Fund has been transferred for spending on transportation and capital construction projects. The amounts and mechanisms for these transfers has varied over time.[27] More recently, Senate Bill 18-001 created one-time General Fund transfers for transportation of $495 million in FY 2018-19 and $200 million in FY 2019-20. These amounts are apportioned to the State Highway Fund, a new Multimodal Transportation Options Fund, and county and municipal governments. Senate Bill 19-262 transferred an additional $100 million to the State Highway Fund in FY 2019-20 only, and no transfers of General Fund revenue for transportation are scheduled for FY 2020-21 or FY 2021-22. Beginning in FY 2022-23, Senate Bill 18-001 authorizes additional transfers to the State Highway Fund equal to $50 million per year. Bills passed during prior legislative sessions also require transfers for capital construction, totaling $233.3 million and $23 million for FY 2019-20 and FY 2020-21, respectively.

State law also obligates General Fund revenue for lease payments for lease-purchase agreements that are scheduled to be executed between FY 2018-19 and FY 2021-22.[28] These lease-purchase agreements are expected to generate $1.88 billion in one-time revenue for state transportation projects and $120 million in one-time revenue for capital construction. Once all agreements are executed, annual General Fund lease payments are expected to be $100 million annually for 20 years.

[27]For more information, see page 23 of the Legislative Council Staff Handbook, titled "Colorado's Transportation System".
[28]Section 24-82-1303 (2)(d), C.R.S.

Limit on General Fund operating appropriations. State law limits total General Fund operating appropriations to an amount equal to 5 percent of Colorado personal income plus appropriations for property tax reappraisals.[29] In FY 2020-21, that amount is equal to $16.6 billion, $6 billion above actual General Fund operating appropriations.

Constitutional Cash Fund Spending Mandates

The Colorado Constitution mandates how marijuana, tobacco, gaming, lottery, and transportation revenue may be spent. Each mandate is discussed more fully below.

Marijuana revenue. When voters approved retail marijuana legalization with Amendment 64 in 2012, they dedicated the first $40 million in excise tax revenue from retail marijuana to school construction. To facilitate this constitutional requirement, the General Assembly referred Proposition AA to the voters in 2013, asking voters to approve a 10 percent special sales tax and a 15 percent excise tax on retail marijuana. Revenue collected from the special sales and excise taxes is exempt from TABOR as a voter-approved revenue change.

Under Proposition AA and consistent with the constitutional requirements of Amendment 64, the first $40 million collected each year from the excise tax on retail marijuana supports public school capital construction, primarily through the Building Excellent Schools Today (BEST)program. The BEST program provides state assistance to school districts to repair or replace deteriorating public school facilities. This assistance is provided through grants and lease-purchase agreements. Awards are prioritized by a separate board based on criteria specified in state law. While the state constitution requires the first $40.0 million in excise taxes to support school capital construction, the General Assembly has more flexibility with any revenues collected in excess of $40.0 million and has adjusted the allocation of those revenues several times in recent years. For example, in FY 2019-20, all excise tax revenues were allocated to support both the BEST program and a formulaic distribution to charter schools. For FY 2020-21 only, the General Assembly directed all revenues above $40.0 million to the State Public School Fund to support other P12 programs and services to assist with budget balancing.

Retail (non-medical) marijuana is exempt from the 2.9 percent state sales tax and is subject only to the special sales tax, which is equal to 15 percent. Special sales tax revenue is allocated in shares of 90 percent to the state government and 10 percent to local governments where retail marijuana sales occur.[30] Medical marijuana remains subject to the 2.9 percent sales tax.

Tobacco revenue. Approved by voters in 2004, Amendment 35 increased the tax collected on cigarette and tobacco products to fund an expansion of health care services and tobacco education and cessation programs.[31] The tax revenue collected under Amendment 35 is exempt from the constitutional revenue limit. In FY 2019-20, the state collected $132.7 million in Amendment 35 taxes. The constitution requires this revenue to be allocated as follows:

- 46 percent to increase enrollment of children, pregnant women, and parents in the Children's Basic Health Plan (CHP+) and Medicaid;

[29]Section 24-75-201.1 (1)(a)(II.5), C.R.S.
[30]For more information, see the Legislative Council Staff Memorandum "Marijuana Revenue in the State Budget," December 2019.
[31]For more information, see the Legislative Council Staff Issue Brief Number 16-03, "Use of State Tobacco Revenue," April 2016.

- 19 percent to fund comprehensive primary care through community health centers or providers serving uninsured and indigent populations;
- 16 percent to fund school and community-based tobacco education programs;
- 16 percent for the prevention, early detection, and treatment of cancer and cardiovascular and pulmonary diseases; and
- 3 percent for health-related purposes funded from the General Fund, the Old Age Pension Fund, or local governments.

However, if the General Assembly declares a state fiscal emergency, tobacco tax money collected under Amendment 35 may be used *for any health-related purpose* for up to one fiscal year. Following the Great Recession, between FY 2009-10 and FY 2011-12 additional money was transferred from the Department of Public Health and Environment to the Department of Health Care Policy and Financing (HCPF) to provide funding for Medicaid in the context of General Fund shortfalls. As a result, HCPF's share of Amendment 35 money increased from approximately 67 percent in FY 2009-10 to 84 percent in FY 2010-11 and 89 percent in FY 2011-12. Funding ratios have since been restored to prior levels.

The state also collects a statutory tax on cigarette and tobacco products, the revenue from which is subject to the TABOR limit and is deposited into the General Fund. In addition, voters approved Proposition EE in 2020, which increases the statutory tax on cigarette and tobacco products and creates a tax on nicotine products, beginning January 1, 2021. The revenue from Prop EE is a voter-approved revenue change and it will be used for a variety of purposes.

Gaming revenue. In 1990, Colorado voters approved a constitutional amendment authorizing limited casino gaming in Central City, Black Hawk, and Cripple Creek.[32] In 2008, voters approved Amendment 50, which expanded casino gaming by increasing betting limits, expanding casino operating hours, and adding new games. The Limited Gaming Control Commission is a five-member regulatory body appointed by the Governor to promulgate rules and regulations governing gaming in Colorado. The commission is also required to establish gaming tax rates and adjust tax rates on an annual basis. However, Amendment 50 requires statewide voter approval for any increases in gaming tax rates above July 1, 2008, levels.

Colorado's gaming tax generated $80.3 million in FY 2019-20, of which $13.0 million is statutorily attributable to Amendment 50. Gaming tax revenue is held in the Limited Gaming Fund and, after administrative expenses, is distributed through a constitutional and statutory formula. Distributions are divided between what are referred to as "Pre-Amendment 50" and "Amendment 50" distributions. Half of Pre-Amendment 50 money is required under the constitution to be distributed to the State Historical Fund (28 percent) and gaming cities (10 percent) and counties (12 percent). The other half of Pre-Amendment 50 money is allocated according to a statutory formula to the General Fund and various economic development programs, although these transfers have been temporarily modified for FY 2019-20 and FY 2020-21 pursuant to House Bill 20-1399. After administrative expenses, Amendment 50 money is required by the constitution to be allocated to community colleges (78 percent) and gaming cities and counties (22 percent).

Lottery revenue. In 1980, Colorado voters amended the constitution to allow the General Assembly to create a state-supervised lottery, which was implemented in 1983. Since its inception, the lottery

[32]Colo. Const. art. XVIII, § 9.

has expanded to include electronic lottery games and multi-state games such as Powerball. Prior to 1992, when Colorado voters approved a constitutional amendment creating Great Outdoors Colorado (GOCO), proceeds were primarily allocated to capital construction.[33] The constitution requires that all net proceeds from lottery games in Colorado be distributed as follows:

- 10 percent to the Colorado Division of Parks and Wildlife;
- 40 percent to the Conservation Trust Fund; and
- 50 percent to the Great Outdoors Colorado (GOCO) Trust Fund.

The constitution limits the amount of annual revenue to the GOCO fund at $35 million in 1992 dollars, adjusted for inflation. The limit for FY 2018-19 was $68.5 million. Any amount above this limit (known as the "GOCO spillover") is distributed to the BEST program. This spillover was $14.7 million for FY 2018-19.[34,35]

Transportation revenue. Colorado's constitution requires that transportation-related revenues be spent on transportation-related purposes. Specifically, motor vehicle license and registration fees and excise (fuel) tax revenue must be spent on the construction, maintenance, and supervision of public highways.[36] These revenues are allocated to the Highway Users Tax Fund (HUTF), from which statutory distributions are made to the State Highway Fund and local governments. A total of $1.2 billion was collected in the HUTF during FY 2019-20.[37]

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[33]Colo. Const. art. XXVII, § 3.
[34]This provision was added by voters through Referendum E in November 2000.
[35]For more information, see the Office of Legislative Legal Services Law Summary "Distribution of Colorado Lottery Proceeds."
[36]Colo. Const. art. X, § 18.
[37]For more information, see page 23 of the Legislative Council Staff Handbook, titled "Colorado's Transportation System".