

CHAPTER 262

TAXATION

SENATE BILL 97-001

BY SENATORS Powers, Ament, Arnold, Bishop, Blickensderfer, Chlouber, Coffman, Congrove, Lacy, Matsunaka, Mutzebaugh, Norton, Perlmutter, Reeves, Schroeder, Tebedo, Wattenberg, Weddig, and Wham;
also REPRESENTATIVES Tucker, Schwarz, C. Berry, G. Berry, Dean, Epps, Gotlieb, Grossman, Kaufman, Morrison, Paschall, Schauer, Smith, Sullivant, Swenson, Taylor, Udall, and S. Williams.

AN ACT

CONCERNING THE ALLOCATION OF SALES AND USE TAX REVENUES ATTRIBUTABLE TO SALES OR USE TAX OF VEHICLES AND RELATED ITEMS TO THE HIGHWAY USERS TAX FUND, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 39-26-123, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-26-123. Receipts - disposition. (1) Eighty-five percent of all receipts collected under the provisions of this article shall be credited to the old age pension fund. BEFORE JULY 1, 1997, AND FOR THE FISCAL YEAR COMMENCING JULY 1, 2002, AND EACH YEAR THEREAFTER, the remaining fifteen percent shall be credited to the general fund, and the general assembly shall make appropriations therefrom for the expenses of the administration of this article.

(2) (a) (I) (A) EIGHTY-FIVE PERCENT OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE OLD AGE PENSION FUND. FOR THE FISCAL YEAR COMMENCING JULY 1, 1997, AND FOR FOUR SUCCEEDING FISCAL YEARS THEREAFTER, THE REMAINING FIFTEEN PERCENT SHALL BE ALLOCATED BETWEEN AND CREDITED TO THE GENERAL FUND AND THE HIGHWAY USERS TAX FUND, AS A PORTION OF THE SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS, AS FOLLOWS: TEN PERCENT OF NET REVENUE FROM SALES AND USE TAX TO THE HIGHWAY USERS TAX FUND AND FIVE PERCENT THEREOF TO THE GENERAL FUND.

(B) FOR PURPOSES OF THIS SUBPARAGRAPH (I), "NET REVENUE" MEANS THE GROSS

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

AMOUNT OF SALES AND USE TAX RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE, LESS THREE AND ONE-THIRD PERCENT OF SUCH AMOUNT RETAINED BY VENDORS FOR THE COLLECTION AND REMITTANCE OF SUCH TAX PURSUANT TO SECTION 39-26-105 (1) (a).

(II) IN ANY FISCAL YEAR, IF THE REVENUE ESTIMATE PREPARED IN ACCORDANCE WITH SECTION 24-75-201.3 (2), C.R.S., INDICATES THAT, AFTER MAKING REQUIRED EXPENDITURES, MAKING THE ALLOCATION TO THE HIGHWAY USERS TAX FUND IN ACCORDANCE WITH SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), AND MAINTAINING THE STATUTORILY REQUIRED RESERVE, THERE WILL NOT BE SUFFICIENT GENERAL FUND REVENUE TO FUND GENERAL FUND EXPENDITURES UP TO THE STATUTORY APPROPRIATION LIMIT, THE GOVERNOR SHALL DIRECT THE STATE TREASURER TO REDUCE THE AMOUNT OF SALES AND USE TAXES CREDITED TO THE HIGHWAY USERS TAX FUND AS NECESSARY TO PROVIDE THE ADDITIONAL GENERAL FUND REVENUE TO FULLY FUND THE GENERAL FUND EXPENDITURES UP TO THE STATUTORY APPROPRIATION LIMIT.

(III) IN ANY FISCAL YEAR, IF THE REVENUE ESTIMATE PREPARED IN ACCORDANCE WITH SECTION 24-75-201.3 (2), C.R.S., INDICATES THAT, AFTER MAKING REQUIRED EXPENDITURES, MAKING THE ALLOCATION TO THE HIGHWAY USERS TAX FUND IN ACCORDANCE WITH SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), AND MAINTAINING SUFFICIENT GENERAL FUND REVENUES TO FUND GENERAL FUND EXPENDITURES UP TO THE STATUTORY APPROPRIATION LIMIT AND THE STATUTORILY REQUIRED RESERVE, THERE WILL NOT BE EXCESS REVENUES, INCLUDING THE TOTAL OF ALL REVENUES REQUIRED TO BE TRANSFERRED TO THE CAPITAL CONSTRUCTION FUND, AVAILABLE FOR APPROPRIATION DURING THE NEXT FISCAL YEAR FOR CAPITAL CONSTRUCTION PROJECTS, INCLUDING CORRECTIONAL FACILITIES, IN AN AMOUNT EQUAL TO ONE HUNDRED FORTY MILLION DOLLARS, THE GOVERNOR SHALL DIRECT THE STATE TREASURER TO REDUCE THE AMOUNT OF SALES AND USE TAXES CREDITED TO THE HIGHWAY USERS TAX FUND BY AN AMOUNT EQUAL TO ONE-HALF OF THE DIFFERENCE BETWEEN ONE HUNDRED FORTY MILLION DOLLARS AND THE AMOUNT OF EXCESS REVENUES AVAILABLE FOR APPROPRIATION DURING THE NEXT FISCAL YEAR FOR CAPITAL CONSTRUCTION PROJECTS AFTER MAKING REQUIRED EXPENDITURES AND MAINTAINING SUFFICIENT GENERAL FUND REVENUES TO FUND GENERAL FUND EXPENDITURES UP TO THE STATUTORY APPROPRIATION LIMIT AND THE STATUTORILY REQUIRED RESERVE.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (2):

(I) "REQUIRED EXPENDITURES" MEANS THE TOTAL OF ALL MONEYS CONTINUOUSLY APPROPRIATED BY A PERMANENT STATUTE OR CONSTITUTIONAL PROVISION.

(II) (A) "SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS" MEANS THE REVENUE RAISED FROM THE STATE SALES AND USE TAXES IMPOSED PURSUANT TO THIS ARTICLE ON THE SALES OR USE OF NEW OR USED MOTOR VEHICLES, INCLUDING MOTOR HOMES, MOTOR VEHICLE BATTERIES, TIRES, PARTS, OR ACCESSORIES, UTILITY TRAILERS, CAMPER COACHES, OR CAMPER TRAILERS.

(B) WITH RESPECT TO SALES TAX, "RELATED ITEMS" INCLUDES ONLY ITEMS SOLD BY PERSONS WHOSE PRIMARY BUSINESS ACTIVITY IS THE SALE OR SERVICE OF MOTOR VEHICLES OR RELATED ITEMS.

(c) IF THE GENERAL ASSEMBLY IMPLEMENTS A TAX POLICY CHANGE RESULTING IN A SIGNIFICANT REDUCTION OF GENERAL FUND REVENUES, THE GENERAL ASSEMBLY SHALL:

(I) EXAMINE THE CONDITIONS IMPOSED ON THE REVENUES CREDITED TO THE HIGHWAY USERS TAX FUND IN SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2) AND SHALL DETERMINE WHETHER SUCH CONDITIONS SHOULD BE MODIFIED IN LIGHT OF ANY SUCH CHANGE; AND

(II) EXAMINE THE AMOUNT OF SALES AND USE TAXES CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) AND SHALL DETERMINE WHETHER SUCH AMOUNT SHOULD BE MODIFIED IN LIGHT OF ANY SUCH CHANGE.

(d) FOR THE FISCAL YEAR COMMENCING JULY 1, 1997, AND FOR FOUR SUCCEEDING FISCAL YEARS THEREAFTER, THE STATE TREASURER SHALL CREDIT AN AMOUNT OF SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS TO THE HIGHWAY USERS TAX FUND AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(e) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 2. 43-4-205, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-4-205. Allocation of fund. (6.5) (a) THE REVENUES CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 39-26-123 (2), C.R.S., SHALL BE PAID TO THE STATE HIGHWAY FUND FOR ALLOCATION TO THE DEPARTMENT OF TRANSPORTATION AND SHALL BE EXPENDED AS PROVIDED IN SECTION 43-4-206 (2).

(b) THIS SUBSECTION (6.5) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 3. The introductory portions to 43-4-206 (1) and (1) (b), Colorado Revised Statutes, 1993 Repl. Vol., are amended, and the said 43-4-206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-4-206. State allocation. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, after the payments to the highway crossing protection fund required by law have been made and after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, sixty-five percent of the balance of the highway users tax fund shall be paid to the state highway fund and shall be expended for the following purposes:

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, all moneys in the state highway fund not required for the creation, maintenance, and application of such highway anticipation or sinking fund and all moneys in the state highway supplementary fund shall be available to pay for:

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE REVENUES CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION

39-26-123 (2), C.R.S., AND CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 43-4-205 (6.5) SHALL BE EXPENDED BY THE DEPARTMENT OF TRANSPORTATION FOR THE IMPLEMENTATION OF THE STRATEGIC TRANSPORTATION PROJECT INVESTMENT PROGRAM IN THE FOLLOWING MANNER:

(I) AT LEAST EIGHTY PERCENT OF SUCH REVENUES SHALL BE EXPENDED ON BASE CORRIDORS; AND

(II) NOT MORE THAN TWENTY PERCENT OF SUCH REVENUES SHALL BE EXPENDED ON MAJOR INVESTMENT STUDY CORRIDORS; EXCEPT THAT AT LEAST FIFTY PERCENT OF THE REVENUES EXPENDED PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE USED FOR HIGHWAY PURPOSES OR HIGHWAY-RELATED CAPITAL IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, HIGH OCCUPANCY VEHICLE LANES, PARK-AND-RIDE FACILITIES, AND TRANSPORTATION MANAGEMENT SYSTEMS.

(b) BEGINNING IN 1998, THE DEPARTMENT OF TRANSPORTATION SHALL REPORT ANNUALLY TO THE TRANSPORTATION COMMITTEE OF THE SENATE AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES CONCERNING THE REVENUES EXPENDED BY THE DEPARTMENT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2). THE REPORT SHALL BE PRESENTED AT THE JOINT MEETING REQUIRED UNDER SECTION 43-1-113 (9) (a) AND SHALL DESCRIBE FOR EACH FISCAL YEAR, IF APPLICABLE:

(I) THE PROJECTS ON WHICH THE REVENUES CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) ARE TO BE EXPENDED, INCLUDING THE ESTIMATED COST OF EACH PROJECT, THE AGGREGATE AMOUNT OF REVENUE ACTUALLY SPENT ON EACH PROJECT, AND THE AMOUNT OF REVENUE ALLOCATED FOR EACH PROJECT IN SUCH FISCAL YEAR. THE DEPARTMENT OF TRANSPORTATION SHALL SUBMIT A PRIORITIZED LIST OF SUCH PROJECTS AS PART OF THE REPORT.

(II) THE STATUS OF SUCH PROJECTS THAT THE DEPARTMENT HAS UNDERTAKEN IN ANY PREVIOUS FISCAL YEAR;

(III) THE PROJECTED AMOUNT OF REVENUE THAT THE DEPARTMENT EXPECTS TO RECEIVE UNDER THIS SUBSECTION (2) DURING SUCH FISCAL YEAR;

(IV) THE AMOUNT OF REVENUE THAT THE DEPARTMENT HAS ALREADY RECEIVED UNDER THIS SUBSECTION (2) DURING SUCH FISCAL YEAR; AND

(V) HOW THE REVENUES EXPENDED UNDER THIS SUBSECTION (2) DURING SUCH FISCAL YEAR RELATE TO THE TOTAL FUNDING OF THE STRATEGIC TRANSPORTATION PROJECT INVESTMENT PROGRAM.

(c) BEGINNING WITH THE 1997-98 FISCAL YEAR, THE DEPARTMENT OF TRANSPORTATION SHALL REPORT ANNUALLY TO THE JOINT BUDGET COMMITTEE AT THE DEPARTMENT'S HEARING TO REVIEW THE DEPARTMENT'S BUDGET REQUEST. THE REPORT SHALL CONTAIN FOR EACH FISCAL YEAR, IF APPLICABLE, THE REPORTING REQUIREMENTS SPECIFIED IN SUBPARAGRAPHS (I) TO (V) OF PARAGRAPH (b) OF THIS SUBSECTION (2).

(d) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the highway users tax fund not otherwise appropriated, to the department of transportation, for construction, maintenance, and operations, for the fiscal year beginning July 1, 1997, the sum of one hundred forty-eight million, three hundred thousand dollars (\$148,300,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 5. Effective date. This act shall take effect July 1, 1997.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1997