

CHAPTER 311

TAXATION

HOUSE BILL 99-1311

BY REPRESENTATIVES Spradley, McPherson, Dean, Kester, Larson, Lee, May, McKay, Pfiffner, Spence, Stengel, T. Williams, Witwer, Allen, Bacon, Chavez, Clapp, Clarke, Coleman, Decker, Fairbank, Gagliardi, Gordon, Gotlieb, Grossman, Hoppe, Johnson, Kaufman, King, Mace, Miller, Morrison, Nunez, Paschall, Plant, Ragsdale, Scott, Sinclair, Swenson, Taylor, Tool, Tupa, Veiga, Vigil, Webster, S. Williams, Young, and Zimmerman;
also SENATORS Owen, Andrews, Arnold, Blickensderfer, Chlouber, Congrove, Dennis, Epps, Evans, Feeley, Hernandez, Hillman, Lamborn, Matsunaka, Musgrave, Nichol, Phillips, Powers, Reeves, Tebedo, Teck, and Weddig.

AN ACT

CONCERNING THE REFUNDING OF STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING BY MEANS OF A CREDIT AGAINST STATE TAXES, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 1 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-124. Tax credit against state taxes - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, WHICH WAS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE IN 1992, LIMITS THE ANNUAL GROWTH OF STATE FISCAL YEAR SPENDING;

(b) IT IS ESTIMATED THAT, FOR FISCAL YEARS IN THE FORESEEABLE FUTURE, STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING WILL EXCEED THE LIMITATION ON STATE FISCAL YEAR SPENDING;

(c) THE SOURCES OF STATE REVENUES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING LIMITATIONS INCLUDE A VARIETY OF STATE TAXES SUCH AS SALES AND USE TAXES, INCOME TAXES, AND INSURANCE PREMIUM TAXES;

(d) BY PAYING THESE STATE TAXES, BUSINESSES IN COLORADO HAVE CONTRIBUTED

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

TO STATE EXCESS REVENUES;

(e) WHEN REVENUES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR ANY GIVEN FISCAL YEAR, SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION REQUIRES THAT THE EXCESS REVENUES BE REFUNDED IN THE NEXT FISCAL YEAR UNLESS VOTERS APPROVE A REVENUE CHANGE ALLOWING THE STATE TO KEEP THE REVENUES;

(f) IN ADDITION, SECTION 20 (1) OF ARTICLE X OF THE STATE CONSTITUTION STATES THAT REFUNDS NEED NOT BE PROPORTIONAL WHEN PRIOR PAYMENTS ARE IMPRACTICAL TO IDENTIFY OR RETURN AND AUTHORIZES THE USE OF ANY REASONABLE METHOD FOR REFUNDING EXCESS REVENUES;

(g) IF VOTERS STATEWIDE EITHER DO NOT AUTHORIZE THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS REVENUES FOR THAT FISCAL YEAR OR DO NOT AUTHORIZE THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS REVENUES FOR THAT FISCAL YEAR, THE STATE IS REQUIRED TO REFUND THE REVENUES IN EXCESS OF THE STATE FISCAL YEAR SPENDING LIMITATION FOR THAT FISCAL YEAR THAT VOTERS HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND;

(h) IT IS WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO ENACT LEGISLATION TO IMPLEMENT A MECHANISM TO REFUND A PORTION OF THE STATE EXCESS REVENUES FOR FISCAL YEARS IN WHICH THE STATE FISCAL YEAR SPENDING WILL EXCEED THE LIMITATION ON STATE FISCAL YEAR SPENDING IN COMPLIANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

(i) IT IS A REASONABLE AND NECESSARY EXERCISE OF THE LEGISLATIVE PREROGATIVE TO DETERMINE THAT, DUE TO THE IMPOSSIBILITY OF IDENTIFYING OR RETURNING PRIOR PAYMENTS, IT IS NOT FEASIBLE TO MAKE PROPORTIONAL REFUNDS OF STATE EXCESS REVENUES;

(j) IT IS ALSO A REASONABLE AND NECESSARY EXERCISE OF THE LEGISLATIVE PREROGATIVE TO DETERMINE WHAT CONSTITUTES A REASONABLE METHOD OF REFUNDING STATE EXCESS REVENUES AFTER CONSIDERATION OF THE BEST INFORMATION AVAILABLE AT THE TIME REGARDING THE AMOUNT AND SOURCE OF EXCESS REVENUES TO BE REFUNDED AND THE QUALIFICATIONS FOR AND NUMBER OF ELIGIBLE RECIPIENTS;

(k) USING A FORMULA BASED ON THE AMOUNT OF PERSONAL PROPERTY TAXES PAID BY A BUSINESS ENTITY AS A BASIS FOR CALCULATING THE AMOUNT OF THE REFUND OF STATE EXCESS REVENUES THAT SUCH BUSINESS IS ENTITLED TO UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION IS A CONVENIENT, EXPEDIENT, AND REASONABLE METHOD OF REFUNDING A PORTION OF THE STATE EXCESS REVENUES;

(l) THE PERCENTAGE AND DOLLAR AMOUNTS USED TO CALCULATE THE AMOUNT OF THE REFUND OF STATE EXCESS REVENUES FOR QUALIFIED TAXPAYERS UNDER THIS SECTION MAY BE ADJUSTED BY THE GENERAL ASSEMBLY FOR FUTURE STATE FISCAL YEARS TO ENSURE THAT THE REFUNDS RETURNED TO BUSINESSES IN COLORADO ARE EQUITABLE AND FAIR.

(2) AS USED IN THIS SECTION:

(a) "PERSONAL PROPERTY TAX" MEANS THE AD VALOREM TAXES IMPOSED ON PERSONAL PROPERTY PURSUANT TO SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION BUT DOES NOT INCLUDE ANY GRADUATED ANNUAL SPECIFIC OWNERSHIP TAX IMPOSED PURSUANT TO SECTION 6 OF ARTICLE X OF THE STATE CONSTITUTION.

(b) "QUALIFIED TAXPAYER" MEANS A NATURAL PERSON, A C CORPORATION, AS DEFINED IN SECTION 39-22-103 (2.5), A PARTNERSHIP, AS DEFINED IN SECTION 39-22-103 (5.6), A LIMITED LIABILITY COMPANY THAT IS NOT A C CORPORATION, OR AN S CORPORATION, AS DEFINED IN SECTION 39-22-103 (10.5), THAT:

(I) IS DOMICILED OR DOES BUSINESS IN THIS STATE FOR THE ENTIRE STATE FISCAL YEAR FOR WHICH A CREDIT AGAINST STATE TAXES IS ALLOWED PURSUANT TO THIS SECTION;

(II) OWNS PERSONAL PROPERTY IN THE STATE THAT IS NOT OTHERWISE EXEMPT FROM THE LEVY AND COLLECTION OF PERSONAL PROPERTY TAX; AND

(III) PAID PERSONAL PROPERTY TAX ON SUCH PROPERTY DURING THE STATE FISCAL YEAR FOR WHICH A CREDIT AGAINST STATE TAXES IS ALLOWED PURSUANT TO THIS SECTION.

(3) SUBJECT TO THE PROVISIONS OF SUBSECTION (8) OF THIS SECTION, FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, IF, BASED UPON THE FINANCIAL REPORT PREPARED IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR SAID FISCAL YEAR EXCEEDED THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR SAID FISCAL YEAR AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES FOR THAT STATE FISCAL YEAR OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS REVENUES FOR THAT FISCAL YEAR, THEN THERE SHALL BE ALLOWED TO EACH QUALIFIED TAXPAYER A CREDIT AGAINST STATE TAXES IN AN AMOUNT SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

(4) (a) THE AMOUNT OF THE CREDIT AGAINST STATE TAXES ALLOWED UNDER THIS SECTION FOR EACH QUALIFIED TAXPAYER SHALL BE AN AMOUNT EQUAL TO THE LESSER OF FIVE HUNDRED DOLLARS OR THE AGGREGATE AMOUNT OF PERSONAL PROPERTY TAX PAID BY THE QUALIFIED TAXPAYER TO ALL TAXING JURISDICTIONS IN THE STATE FISCAL YEAR IMMEDIATELY PRECEDING THE STATE FISCAL YEAR IN WHICH THE CREDIT IS CLAIMED.

(b) IN ADDITION TO THE AMOUNT ALLOWED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), EACH QUALIFIED TAXPAYER THAT PAID MORE THAN FIVE HUNDRED DOLLARS IN PERSONAL PROPERTY TAX IN THE STATE FISCAL YEAR IMMEDIATELY PRECEDING THE STATE FISCAL YEAR IN WHICH THE CREDIT IS CLAIMED MAY CLAIM AN ADDITIONAL CREDIT AGAINST STATE TAX IN AN AMOUNT EQUAL TO THIRTEEN AND THIRTY-SEVEN ONE-HUNDREDTHS OF ONE PERCENT OF THE AGGREGATE AMOUNT OF PERSONAL PROPERTY TAX PAID BY THE QUALIFIED TAXPAYER TO ALL TAXING JURISDICTIONS THAT EXCEEDS FIVE HUNDRED DOLLARS IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR.

(5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (5), THE CREDIT AGAINST STATE TAXES ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED TAXPAYER BY TIMELY FILING A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE AND PROOF OF PAYMENT OF AGGREGATE PERSONAL PROPERTY TAXES PAID BY THE QUALIFIED TAXPAYER TO ALL TAXING JURISDICTIONS IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR WITH THE DEPARTMENT OF REVENUE NO LATER THAN JANUARY 31 OF THE STATE FISCAL YEAR IN WHICH A CREDIT AGAINST STATE TAXES IS ALLOWED. IN NO EVENT SHALL THE CREDIT AGAINST STATE TAXES CLAIMED BY A QUALIFIED TAXPAYER IN A GIVEN STATE FISCAL YEAR BE ALLOWED IF SAID FORM AND PROOF OF PAYMENT IS FILED AFTER JANUARY 31 OF THE STATE FISCAL YEAR FOR WHICH A CREDIT AGAINST STATE TAXES IS ALLOWED.

(b) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL IN JUNE, 1999, INDICATES THAT THE AMOUNT OF STATE REVENUES WILL EXCEED THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE FISCAL YEAR COMMENCING ON JULY 1, 1998, THEN THE CREDIT AGAINST STATE TAXES THAT MAY BE ALLOWED IN THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1999, SHALL BE CLAIMED BY A QUALIFIED TAXPAYER BY TIMELY FILING A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE AND PROOF OF PAYMENT OF AGGREGATE PERSONAL PROPERTY TAXES PAID BY THE QUALIFIED TAXPAYER TO ALL TAXING JURISDICTIONS IN THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1998, WITH THE DEPARTMENT OF REVENUE NO LATER THAN AUGUST 31, 1999. IF THE CREDIT AGAINST STATE TAXES IS ALLOWED IN THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1999, IN ACCORDANCE WITH SUBSECTION (8) OF THIS SECTION, IN NO EVENT SHALL THE CREDIT AGAINST STATE TAXES CLAIMED BY A QUALIFIED TAXPAYER BE ALLOWED IF SAID FORM AND PROOF OF PAYMENT IS FILED AFTER AUGUST 31, 1999.

(6) THE DEPARTMENT OF REVENUE SHALL REFUND THE CREDIT AGAINST STATE TAX ALLOWED UNDER THIS SECTION TO EACH QUALIFIED TAXPAYER USING MONEYS IN THE RESERVE ESTABLISHED PURSUANT TO SECTION 39-22-622.

(7) IN ADDITION TO ANY OTHER PENALTIES ALLOWED BY LAW, ANY PERSON WHO CLAIMS BUT IS NOT ELIGIBLE TO CLAIM THE CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE CRIMINAL PENALTIES IMPOSED PURSUANT TO SECTION 39-21-118, AS APPLICABLE.

(8) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1998, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN ONE HUNDRED SEVENTY MILLION DOLLARS, THEN THE CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION SHALL NOT BE ALLOWED IN THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1999.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 1999, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT

FISCAL YEAR BY LESS THAN ONE HUNDRED SEVENTY MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (8), THEN THE CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION SHALL NOT BE ALLOWED IN THE IMMEDIATELY FOLLOWING STATE FISCAL YEAR.

(c) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (8) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS SUBPARAGRAPH (I), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(II) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(III) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(IV) (A) IF THE EXECUTIVE COMMITTEE DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH (c), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH (c).

(B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION IS TO BE ALLOWED IN ANY GIVEN STATE FISCAL YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) OR OTHERWISE SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV).

(V) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 1999, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(9) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., MAY PROMULGATE RULES NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 2. 24-77-106.5, Colorado Revised Statutes, is amended to read:

24-77-106.5. Annual financial report - certification of state excess 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, 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.

(2) ANY FINANCIAL REPORT PREPARED AND CERTIFICATION OF STATE EXCESS REVENUES MADE PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE AUDITED BY THE STATE AUDITOR. NO LATER THAN SEPTEMBER 15 FOLLOWING THE CERTIFICATION MADE BY THE STATE CONTROLLER FOR ANY GIVEN FISCAL YEAR, THE STATE AUDITOR SHALL REPORT AND TRANSMIT TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE THE RESULTS OF ANY AUDIT CONDUCTED IN ACCORDANCE WITH THIS SUBSECTION (2).

~~(3)~~ (3) Notwithstanding any generally accepted accounting principles to the contrary, financial reports prepared pursuant to subsection (1) of this section shall not include any unrealized gains or losses on investments held by the state.

SECTION 3. Article 77 of title 24, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

24-77-103.7. Refunds of excess state revenues. IF, THROUGH ONE OR MORE MECHANISMS UTILIZED PURSUANT TO LAW TO REFUND STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR ANY GIVEN FISCAL YEAR, THE AMOUNT OF STATE REVENUES ACTUALLY REFUNDED DURING ANY GIVEN FISCAL YEAR EXCEEDS THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE IMMEDIATELY PRECEDING FISCAL YEAR REQUIRED TO BE REFUNDED, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF STATE REVENUES ACTUALLY REFUNDED AND THE AMOUNT OF STATE REVENUES FROM THE IMMEDIATELY PRECEDING FISCAL YEAR REQUIRED TO BE REFUNDED SHALL BE A REFUND OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE FISCAL YEAR IN WHICH SAID STATE REVENUES WERE REFUNDED.

SECTION 4. Appropriation - adjustment in 1999 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1999, the sum of two hundred four thousand six hundred forty-eight dollars (\$204,648) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 1999, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by two hundred four thousand six hundred forty-eight dollars (\$204,648).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by two hundred four thousand six hundred forty-eight dollars (\$204,648).

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 3, 1999