

CHAPTER 316

TAXATION

HOUSE BILL 99-1001

BY REPRESENTATIVES McPherson, Alexander, Bacon, Berry, Chavez, Clapp, Clarke, Coleman, Dean, George, Gordon, Gotlieb, Grossman, Hagedorn, Hefley, Hoppe, Lawrence, Mace, May, Miller, Mitchell, Morrison, Plant, Ragsdale, Saliman, Scott, Spence, Spradley, Stengel, Swenson, Tate, Tochtrop, Tool, Tupa, Veiga, Vigil, Webster, S. Williams, T. Williams, Windels, Witwer, Young, and Zimmerman;
also SENATORS Powers, Anderson, Andrews, Arnold, Blickensderfer, Chlouber, Congrove, Epps, Evans, Hernandez, Hillman, Lacy, Linkhart, Musgrave, Owen, Rupert, Tebedo, Teck, Weddig, and Wham.

AN ACT

CONCERNING THE REFUNDING OF ALL STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR ANY GIVEN FISCAL YEAR THAT THE VOTERS STATEWIDE HAVE NOT AUTHORIZED THE STATE TO RETAIN, AND MAKING AN APPROPRIATION THEREFOR.

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

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

**PART 20
REFUND OF REVENUES IN EXCESS OF
STATE FISCAL YEAR SPENDING LIMITATION**

39-22-2001. Legislative declaration - revenues exceeding TABOR limit - sales tax refund. (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 COMMENCING ON OR AFTER JULY 1, 1998, STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING WILL EXCEED THE LIMITATION ON STATE FISCAL YEAR SPENDING;

(c) WHEN REVENUES EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR

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

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;

(d) 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;

(e) IF VOTERS STATEWIDE EITHER DO NOT AUTHORIZE THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS REVENUES FOR THAT FISCAL YEAR OR 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;

(f) IT IS WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO ENACT LEGISLATION TO IMPLEMENT THE REFUND OF STATE EXCESS REVENUES FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, IN COMPLIANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

(g) 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;

(h) 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; THE QUALIFICATIONS FOR AND NUMBER OF ELIGIBLE RECIPIENTS; AND THE RELATED ADMINISTRATIVE EXPENSES;

(i) IT IS THE CONSIDERED JUDGMENT OF THE GENERAL ASSEMBLY THAT:

(I) THE STATE EXCESS REVENUES THAT ARE SUBJECT TO THE STATE FISCAL YEAR SPENDING LIMITATION UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, WILL BE DERIVED FROM A WIDE VARIETY OF STATE TAXES AND STATE FEES RANGING FROM STATE SALES TAX TO SEVERANCE AND TRANSPORTATION TAXES TO HEALTH SERVICE FEES TO COURT FINES TO PERMIT AND LICENSE FEES TO HIGHER EDUCATION FEES AND SHOULD, THEREFORE, BE RETURNED TO AS LARGE A GROUP OF COLORADO RESIDENTS AS IS IDENTIFIABLE AND ECONOMICALLY FEASIBLE;

(II) IT IS NOT FEASIBLE TO MAKE PROPORTIONAL REFUNDS OF STATE EXCESS REVENUES FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, DUE TO THE IMPOSSIBILITY OF IDENTIFYING OR RETURNING PRIOR PAYMENTS;

(III) IT IS REASONABLE AND FAIR TO REFUND STATE EXCESS REVENUES, IF ANY, FOR

FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, TO A LARGE GROUP OF INDIVIDUALS AS A REFUND OF STATE SALES TAX REVENUES SINCE MORE COLORADANS PAY STATE SALES TAX THAN ANY OTHER STATE TAX;

(IV) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I) TO (III) OF THIS PARAGRAPH (i), IT IS REASONABLE AND FAIR TO SIMPLIFY THE PROCESS USED TO REFUND STATE EXCESS REVENUES FOR ANY FISCAL YEAR FOR WHICH THE AMOUNT OF SUCH STATE EXCESS REVENUES FALLS BELOW A CERTAIN THRESHOLD BY ALLOWING AN IDENTICAL REFUND OF STATE SALES TAX REVENUES TO EACH QUALIFIED INDIVIDUAL; AND

(V) REFUNDING STATE EXCESS REVENUES FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 1998, THROUGH THE STATE INCOME TAX SYSTEM IN THE MANNER SET FORTH IN SECTIONS 39-22-2002 AND 39-22-2003 IS A REASONABLE METHOD FOR REFUNDING SUCH EXCESS REVENUES.

39-22-2002. Fiscal years commencing on or after July 1, 1998 - state sales tax refund - authority of executive director. (1) IF, FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 1998, THE AMOUNT OF STATE REVENUES EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS REVENUES FOR THAT FISCAL YEAR OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS REVENUES FOR THAT FISCAL YEAR, THE EXECUTIVE DIRECTOR SHALL, IF THE AMOUNT OF THE IDENTICAL INDIVIDUAL REFUND CALCULATED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION EXCEEDS FIFTEEN DOLLARS, FOR THE TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1 OF THE CALENDAR YEAR IN WHICH THAT FISCAL YEAR ENDED, BUT PRIOR TO JANUARY 1 OF THE SUBSEQUENT CALENDAR YEAR, CALCULATE A TEMPORARY STATE SALES TAX REFUND IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION TO REFUND THE AMOUNT OF EXCESS STATE REVENUES THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW MULTIPLIED BY ONE HUNDRED FIVE PERCENT.

(2) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, AS APPLICABLE, FOR THE TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1 OF THE CALENDAR YEAR IN WHICH THAT FISCAL YEAR ENDED, BUT PRIOR TO JANUARY 1 OF THE SUBSEQUENT CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL DIVIDE THE TOTAL AMOUNT OF EXCESS STATE REVENUES THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW AND IS REQUIRED TO BE REFUNDED BY THE NUMBER OF QUALIFIED INDIVIDUALS EXPECTED TO CLAIM A REFUND IN ORDER TO DETERMINE THE AMOUNT OF THE REFUND THAT EACH SUCH QUALIFIED INDIVIDUAL WOULD RECEIVE IF EACH INDIVIDUAL RECEIVED AN IDENTICAL REFUND.

(b) IF THE AMOUNT OF THE IDENTICAL INDIVIDUAL REFUND CALCULATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IS LESS THAN OR EQUAL TO FIFTEEN DOLLARS, THE EXECUTIVE DIRECTOR SHALL ALLOW EACH QUALIFIED INDIVIDUAL AN IDENTICAL REFUND IN THE MANNER SET FORTH IN SECTION 39-22-2003 (3) (a) AND (3) (b).

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "EXCESS

STATE REVENUES" MEANS THE TOTAL COMBINED AMOUNT OF:

(a) EXCESS REVENUES THAT VOTERS STATEWIDE HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE REQUIRED TO BE REFUNDED PURSUANT TO SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION AND THAT ARE NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW FOR SAID FISCAL YEAR ENDING IN THAT CALENDAR YEAR; AND

(b) EXCESS REVENUES THAT VOTERS STATEWIDE DID NOT AUTHORIZE THE STATE TO RETAIN AND SPEND AND WERE REQUIRED TO BE REFUNDED PURSUANT TO SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION FOR ANY OTHER FISCAL YEAR AND THAT WERE NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW PRIOR TO SAID FISCAL YEAR, BUT THAT WERE NOT REFUNDED BY THE STATE AS REQUIRED.

(4) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 1999, DURING WHICH THE CONTROLLER CERTIFIES, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-77-106.5, C.R.S., THAT STATE REVENUES 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 ENDING IN THAT CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL, IF THE AMOUNT OF THE IDENTICAL INDIVIDUAL REFUND CALCULATED PURSUANT TO SUBSECTION (2) OF THIS SECTION EXCEEDS FIFTEEN DOLLARS, CALCULATE THE INCOME CLASSIFICATIONS AND THE AMOUNT OF THE REFUND ALLOWED FOR EACH INCOME CLASSIFICATION PURSUANT TO SECTION 39-22-2003 (3) FOR THE TAXABLE YEAR COMMENCING DURING SAID FISCAL YEAR THAT WOULD REFUND THE AMOUNT OF EXCESS STATE REVENUES THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW MULTIPLIED BY ONE HUNDRED FIVE PERCENT.

(5) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY GIVEN 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 FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, NO LATER THAN OCTOBER 1 OF SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL, IN ADDITION TO THE CALCULATIONS REQUIRED BY SUBSECTION (4) OF THIS SECTION:

(a) (I) CALCULATE THE AMOUNT OF THE STATE SALES TAX REFUND THAT EACH QUALIFIED INDIVIDUAL WOULD RECEIVE IF EACH INDIVIDUAL RECEIVED AN IDENTICAL REFUND BY DIVIDING THE TOTAL AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IF ONE OR MORE OF SUCH BALLOT QUESTIONS ARE APPROVED BY VOTERS STATEWIDE AND THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW BY THE NUMBER OF QUALIFIED INDIVIDUALS EXPECTED TO CLAIM A REFUND;

(II) CALCULATE THE AMOUNT OF THE STATE SALES TAX REFUND THAT EACH QUALIFIED INDIVIDUAL WOULD RECEIVE IF EACH INDIVIDUAL RECEIVED AN IDENTICAL REFUND BY DIVIDING THE TOTAL AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IF ALL OF SUCH BALLOT QUESTIONS ARE NOT APPROVED BY VOTERS STATEWIDE AND THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW BY THE NUMBER OF QUALIFIED INDIVIDUALS EXPECTED TO CLAIM A REFUND;

(b) IF THE AMOUNT OF ANY IDENTICAL REFUND CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (5) EXCEEDS FIFTEEN DOLLARS, CALCULATE INCOME CLASSIFICATIONS AND THE AMOUNT OF THE REFUND TO BE ALLOWED FOR EACH INCOME CLASSIFICATION PURSUANT TO SECTION 39-22-2003 (3) FOR THE TAXABLE YEAR COMMENCING DURING SAID FISCAL YEAR THAT WOULD REFUND THE AMOUNT OF EXCESS STATE REVENUES, IF ANY, REQUIRED TO BE REFUNDED IF ONE OR MORE OF SUCH BALLOT QUESTIONS ARE APPROVED BY VOTERS STATEWIDE AND THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW MULTIPLIED BY ONE HUNDRED FIVE PERCENT;

(c) IF THE AMOUNT OF THE IDENTICAL REFUND CALCULATED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5) EXCEEDS FIFTEEN DOLLARS, CALCULATE INCOME CLASSIFICATIONS AND THE AMOUNT OF THE REFUND TO BE ALLOWED FOR EACH INCOME CLASSIFICATION PURSUANT TO SECTION 39-22-2003 (3) FOR THE TAXABLE YEAR COMMENCING DURING SAID FISCAL YEAR THAT WOULD REFUND THE AMOUNT OF EXCESS STATE REVENUES, IF ANY, REQUIRED TO BE REFUNDED IF ALL OF SUCH BALLOT QUESTIONS ARE NOT APPROVED BY VOTERS STATEWIDE AND THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW MULTIPLIED BY ONE HUNDRED FIVE PERCENT.

(6)(a) UPON CALCULATING THE AMOUNT OF ANY IDENTICAL INDIVIDUAL SALES TAX REFUND AND, IF NECESSARY, INCOME CLASSIFICATIONS AND THE AMOUNT OF THE REFUND FOR EACH INCOME CLASSIFICATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, 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 ANY SUCH CALCULATIONS AND THE BASIS FOR SUCH CALCULATIONS. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATIONS ARE COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(b) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE TO REVIEW AND APPROVE OR DISAPPROVE SUCH CALCULATED IDENTICAL INDIVIDUAL SALES TAX REFUND OR SUCH CALCULATED INCOME CLASSIFICATIONS AND REFUND AMOUNT FOR EACH INCOME CLASSIFICATION WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY SUCH INCOME CLASSIFICATION OR REFUND AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF THIS SECTION 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 INCOME CLASSIFICATION OR REFUND AMOUNT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH INCOME CLASSIFICATION OR REFUND AMOUNT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (b) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(c) (I) IF THE EXECUTIVE COMMITTEE DISAPPROVES ANY INCOME CLASSIFICATION OR REFUND AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS SECTION, THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH INCOME CLASSIFICATION

OR REFUND AMOUNT TO BE IMPLEMENTED BY THE EXECUTIVE DIRECTOR. ANY INCOME CLASSIFICATION OR REFUND AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE CALCULATED OR ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(II) THE EXECUTIVE DIRECTOR SHALL NOT ADJUST ANY INCOME CLASSIFICATION OR REFUND AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (6) OR OTHERWISE SPECIFIED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

(7) (a) THE AMOUNT OF ANY SALES TAX REFUND CALCULATED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE PUBLISHED IN RULES PROMULGATED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE INCLUDED IN INCOME TAX FORMS FOR THAT TAXABLE YEAR.

(b) 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 AMOUNTS OF EXCESS STATE REVENUES FOR THE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT PUBLISH RULES OR INCOME TAX FORMS CONTAINING ANY SALES TAX REFUND CALCULATED PURSUANT TO THIS SECTION UNTIL SUCH RULES AND FORMS MAY BE PUBLISHED TO REFLECT THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE REFUND TO BE ALLOWED PURSUANT TO SECTION 39-22-2003 AND THAT IS NOT REFUNDED BY ANOTHER METHOD ESTABLISHED BY LAW.

39-22-2003. State sales tax refund - offset against state income tax - qualified individuals. (1) (a) FOR PURPOSES OF THIS SECTION, "QUALIFIED INDIVIDUAL" MEANS:

(I) A NATURAL PERSON WHO IS DOMICILED IN THIS STATE FOR THE ENTIRE TAXABLE YEAR COMMENCING JANUARY 1 AND ENDING DECEMBER 31 OF SUCH TAXABLE YEAR AND WHO IS REQUIRED TO FILE A COLORADO INDIVIDUAL INCOME TAX RETURN FOR THAT TAX YEAR PURSUANT TO SECTION 39-22-601 (1) (a) OR WHO FILES A COLORADO INDIVIDUAL INCOME TAX RETURN TO CLAIM A REFUND OF COLORADO INCOME TAX WITHHELD FROM WAGES FOR THAT TAX YEAR;

(II) A NATURAL PERSON WHO IS DOMICILED IN THIS STATE FOR THE ENTIRE TAXABLE YEAR COMMENCING JANUARY 1 AND ENDING DECEMBER 31 OF SUCH TAXABLE YEAR AND WHO IS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31 OF THE TAXABLE YEAR PRECEDING SUCH TAXABLE YEAR;

(III) A NATURAL PERSON WHO DIED DURING THE TAXABLE YEAR COMMENCING JANUARY 1 AND ENDING DECEMBER 31, WHO WAS DOMICILED IN THIS STATE FROM JANUARY 1 OF THE TAXABLE YEAR UNTIL THE DATE OF DEATH, AND WHOSE ESTATE OR SPOUSE IS REQUIRED TO FILE A COLORADO INDIVIDUAL INCOME TAX RETURN FOR THAT TAX YEAR PURSUANT TO SECTION 39-22-601 (1) (a) OR WHOSE ESTATE OR SPOUSE FILES A COLORADO INCOME TAX RETURN TO CLAIM A REFUND OF COLORADO INCOME TAX WITHHELD FROM WAGES FOR THAT TAX YEAR; OR

(IV) A NATURAL PERSON WHO DIED DURING THE TAXABLE YEAR COMMENCING ON JANUARY 1 AND ENDING DECEMBER 31, WHO WAS DOMICILED IN THIS STATE FROM JANUARY 1 OF THE TAXABLE YEAR UNTIL THE DATE OF DEATH, AND WHO WAS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31 IMMEDIATELY PRIOR TO THAT TAXABLE YEAR.

(b) "QUALIFIED INDIVIDUAL" DOES NOT INCLUDE:

(I) ANY NATURAL PERSON WHO WAS CONVICTED OF A FELONY AND WHO SERVED A SENTENCE OF INCARCERATION IN A CORRECTIONAL FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS OR IN A COUNTY OR MUNICIPAL JAIL AWAITING TRANSFER TO THE DEPARTMENT OF CORRECTIONS PURSUANT TO SECTION 16-11-308, C.R.S., OR IN BOTH SUCH FACILITY AND JAIL FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE FISCAL YEAR ENDING DURING THE TAXABLE YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1);

(II) ANY NATURAL PERSON WHO IS CONVICTED OF A MISDEMEANOR OR IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT AND WHO IS INCARCERATED IN A COUNTY OR MUNICIPAL JAIL FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE FISCAL YEAR ENDING DURING THE TAXABLE YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1);

(III) ANY NATURAL PERSON UNDER EIGHTEEN YEARS OF AGE WHO IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT AND WHO WAS COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES FOR A TOTAL OF ONE HUNDRED EIGHTY DAYS OR MORE DURING THE FISCAL YEAR ENDING DURING THE TAXABLE YEAR, REGARDLESS OF WHETHER SUCH PERSON MEETS THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) WITH RESPECT TO THE TAXABLE YEAR COMMENCING ON JANUARY 1, 1999, AND ENDING DECEMBER 31, 1999, AND FOR EACH SUBSEQUENT TAXABLE YEAR, THERE SHALL BE ALLOWED TO EACH QUALIFIED INDIVIDUAL A STATE SALES TAX REFUND IN AN AMOUNT SPECIFIED IN SUBSECTION (3) OF THIS SECTION TO BE CLAIMED IN THE MANNER SPECIFIED IN SUBSECTION (4) OF THIS SECTION IF THERE WERE EXCESS STATE REVENUES FOR THE FISCAL YEAR ENDING IN THAT TAX YEAR THAT VOTERS STATEWIDE HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE REQUIRED TO BE REFUNDED PURSUANT TO SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

(3) THE AMOUNT OF THE REFUND ALLOWED UNDER THIS SECTION SHALL BE AS FOLLOWS:

(a) FOR A QUALIFIED INDIVIDUAL FILING A SINGLE RETURN, THE AMOUNT OF THE IDENTICAL INDIVIDUAL SALES TAX REFUND CALCULATED PURSUANT TO SECTION 39-22-2002 (2) OR (5) (a) IF THE AMOUNT OF SUCH IDENTICAL INDIVIDUAL REFUND IS LESS THAN OR EQUAL TO FIFTEEN DOLLARS;

(b) FOR ANY TWO QUALIFIED INDIVIDUALS FILING A JOINT RETURN, DOUBLE THE

AMOUNT OF THE IDENTICAL INDIVIDUAL SALES TAX REFUND CALCULATED PURSUANT TO SECTION 39-22-2002 (2) OR (5) (a) IF THE AMOUNT OF SUCH IDENTICAL INDIVIDUAL REFUND IS LESS THAN OR EQUAL TO FIFTEEN DOLLARS;

(c) FOR A QUALIFIED INDIVIDUAL FILING A SINGLE RETURN, IF THE AMOUNT OF THE IDENTICAL INDIVIDUAL SALES TAX REFUND CALCULATED PURSUANT TO SECTION 39-22-2002 (2) OR (5) (a) EXCEEDS FIFTEEN DOLLARS:

(I) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS LESS THAN OR EQUAL TO TWENTY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MULTIPLIED BY TWENTY-FIVE PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(II) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS GREATER THAN TWENTY-FIVE THOUSAND DOLLARS BUT NOT MORE THAN FIFTY THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MULTIPLIED BY TWENTY-THREE PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(III) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS GREATER THAN FIFTY THOUSAND DOLLARS BUT NOT MORE THAN SEVENTY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MULTIPLIED BY NINETEEN PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(IV) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MULTIPLIED BY TWELVE PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(V) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION,

MULTIPLIED BY SIX PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(VI) IF THE QUALIFIED INDIVIDUAL'S COMBINED TOTAL OF FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR IS GREATER THAN ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS, THE REFUND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS STATE REVENUES REQUIRED TO BE REFUNDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, MULTIPLIED BY FIFTEEN PERCENT, DIVIDED BY THE ESTIMATED NUMBER OF SAID QUALIFIED INDIVIDUALS EXPECTED TO CLAIM THE CREDIT FOR THAT TAXABLE YEAR;

(d) FOR TWO QUALIFIED INDIVIDUALS FILING A JOINT RETURN, IF THE AMOUNT OF THE IDENTICAL INDIVIDUAL SALES TAX REFUND CALCULATED PURSUANT TO SECTION 39-22-2002 (2) OR (5) (a) EXCEEDS FIFTEEN DOLLARS, THE AMOUNT OF THE REFUND SHALL BE BASED UPON THE AGGREGATE FEDERAL ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME OF THE QUALIFIED INDIVIDUALS AND SHALL BE AN AMOUNT EQUAL TO DOUBLE THE AMOUNT OF THE REFUND ALLOWED UNDER PARAGRAPH (c) OF THIS SUBSECTION (3) FOR SUCH AGGREGATE INCOME AMOUNT.

(4) (a) THE AMOUNT OF THE REFUND ALLOWED UNDER SUBSECTION (2) OF THIS SECTION FOR THE TAXABLE YEAR COMMENCING JANUARY 1, 2000, AND ENDING DECEMBER 31, 2000, AND FOR EACH SUBSEQUENT TAXABLE YEAR, SHALL BE THE SAME AS PROVIDED IN SUBSECTION (3) OF THIS SECTION; EXCEPT THAT, FOR EACH SUCH TAXABLE YEAR, THE EXECUTIVE DIRECTOR SHALL ADJUST:

(I) THE TOTAL AMOUNT OF ADJUSTED GROSS INCOME AND SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME, TO THE NEAREST THOUSAND DOLLARS, FOR EACH INCOME CLASSIFICATION SUCH THAT THE PERCENTAGE OF ALL QUALIFIED INDIVIDUALS WHO ARE EXPECTED TO CLAIM A REFUND UNDER EACH INCOME CLASSIFICATION FOR SUCH TAXABLE YEAR REMAINS THE SAME AS THE PERCENTAGE OF ALL QUALIFIED INDIVIDUALS WHO CLAIMED A REFUND UNDER SUCH INCOME CLASSIFICATION FOR THE 1999 TAX YEAR; AND

(II) THE AMOUNT OF THE REFUND ALLOWED FOR EACH INCOME CLASSIFICATION SUCH THAT THE PERCENTAGE OF EXCESS STATE REVENUES TO BE REFUNDED TO ALL QUALIFIED INDIVIDUALS FOR SUCH INCOME CLASSIFICATION FOR SUCH TAXABLE YEAR REMAINS THE SAME AS THE PERCENTAGE OF EXCESS STATE REVENUES REFUNDED TO ALL QUALIFIED INDIVIDUALS FOR SUCH INCOME CLASSIFICATION FOR THE 1999 TAX YEAR.

(b) IN CALCULATING INCOME CLASSIFICATIONS OR THE AMOUNT OF REFUND ALLOWED FOR A GIVEN INCOME CLASSIFICATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL USE THE MOST RECENT ESTIMATE OF GENERAL FUND REVENUES FOR THE APPLICABLE TAXABLE YEAR PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION 24-75-201.3, C.R.S.

(5) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS

PARAGRAPH (a), ANY REFUND ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (I) OR (III) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION BY TIMELY FILING AN INCOME TAX RETURN WITH THE DEPARTMENT OF REVENUE FOR A TAXABLE YEAR FOR WHICH THE REFUND IS ALLOWED IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE.

(II) ANY REFUND ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (I) OR (III) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION WHO IS GRANTED AN EXTENSION OF TIME TO FILE AN INCOME TAX RETURN BY FILING AN INCOME TAX RETURN WITH THE DEPARTMENT OF REVENUE NO LATER THAN OCTOBER 15 OF THE CALENDAR YEAR FOLLOWING THE TAXABLE YEAR FOR WHICH THE REFUND IS BEING CLAIMED. SUCH QUALIFIED INDIVIDUAL SHALL NOT BE REQUIRED TO PAY ALL OR ANY PORTION OF THE QUALIFIED INDIVIDUAL'S NET TAX LIABILITY DUE PRIOR TO OCTOBER 15 OF SAID CALENDAR YEAR IN ORDER TO BE GRANTED AN EXTENSION OF TIME TO FILE SAID TAX RETURN; EXCEPT THAT, PURSUANT TO SECTION 39-22-621, SUCH QUALIFIED INDIVIDUAL MAY BE SUBJECT TO A LATE PAYMENT PENALTY AND INTEREST ON ANY NET INCOME TAX LIABILITY NOT PAID BY APRIL 15 OF SAID CALENDAR YEAR.

(III) THE DEPARTMENT OF REVENUE SHALL NOT ALLOW SAID REFUND CLAIMED ON ANY INCOME TAX RETURN NOT FILED IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. IN NO EVENT SHALL THE REFUND CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (I) OR (III) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION ON ANY INCOME TAX RETURN BE:

(A) DISALLOWED IF SAID RETURN IS FILED ON OR BEFORE OCTOBER 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED; AND

(B) ALLOWED IF SAID RETURN IS FILED AFTER OCTOBER 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED.

(b) ANY REFUND ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION BY FILING AN INCOME TAX RETURN FOR THE TAXABLE YEAR FOR WHICH THE REFUND IS ALLOWED WITH THE DEPARTMENT OF REVENUE NO LATER THAN APRIL 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED. THE DEPARTMENT OF REVENUE SHALL NOT ALLOW SAID REFUND CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION ON ANY INCOME TAX RETURN FILED WITH THE DEPARTMENT OF REVENUE AFTER APRIL 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED.

(c) (I) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (b) OF THIS SUBSECTION (5) TO THE CONTRARY, A QUALIFIED INDIVIDUAL AS DEFINED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION WHO CLAIMS A PROPERTY TAX ASSISTANCE GRANT PURSUANT TO SECTION 39-31-101 OR A HEAT OR FUEL EXPENSES ASSISTANCE GRANT PURSUANT TO SECTION 39-31-104 MAY CLAIM A REFUND AUTHORIZED BY THIS SECTION ON THE ASSISTANCE GRANT APPLICATION FORM

DESCRIBED IN SECTION 39-31-102 (2). CLAIMING A REFUND ON SUCH ASSISTANCE GRANT APPLICATION FORM SHALL BE IN LIEU OF CLAIMING THE REFUND ON AN INCOME TAX RETURN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (5). ANY REFUND CLAIMED PURSUANT TO THIS PARAGRAPH (c) SHALL BE CLAIMED ON OR BEFORE APRIL 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED.

(II) THE DEPARTMENT OF REVENUE SHALL NOT ALLOW A REFUND AUTHORIZED BY THIS SECTION THAT IS CLAIMED ON AN ASSISTANCE GRANT APPLICATION FORM IF:

(A) THE ASSISTANCE GRANT APPLICATION FORM IS FILED AFTER APRIL 15 OF THE CALENDAR YEAR FOLLOWING THE TAX YEAR FOR WHICH THE REFUND IS BEING CLAIMED; OR

(B) THE QUALIFIED INDIVIDUAL HAS CLAIMED THE REFUND AUTHORIZED BY THIS SECTION ON AN INCOME TAX FORM FILED IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (5) FOR THE TAX YEAR FOR WHICH THE REFUND IS ALLOWED.

(6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (6), IF THE REFUND ALLOWED UNDER THIS SECTION EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE REFUND SHALL BE REFUNDED TO THE CLAIMANT. THE CLAIMANT MAY ELECT TO CARRY FORWARD THE AMOUNT OF THE REFUND NOT USED AS AN OFFSET AGAINST INCOME TAXES OR AS AN OFFSET AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

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

(8) THE STATE SALES TAX REFUND ALLOWED TO ANY QUALIFIED INDIVIDUAL UNDER THIS SECTION SHALL NOT BE REPORTED BY THE DEPARTMENT OF REVENUE AS A PAYMENT OF A REFUND, CREDIT, OR OFFSET OF STATE INCOME TAXES TO SUCH QUALIFIED INDIVIDUAL IN ANY INFORMATION RETURN REQUIRED TO BE FILED PURSUANT TO FEDERAL LAW.

(9) THE DEPARTMENT OF REVENUE SHALL IDENTIFY ANY QUALIFIED INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY AND WHO, AT THE TIME OF FILING FOR A REFUND PURSUANT TO THIS SECTION, IS INCARCERATED IN A CORRECTIONAL FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS OR IN A COUNTY OR MUNICIPAL JAIL AWAITING TRANSFER TO A CORRECTIONAL FACILITY PURSUANT TO SECTION 16-11-308, C.R.S. THE DEPARTMENT OF REVENUE SHALL TRANSFER THE AMOUNT OF ANY REFUND OWED TO SAID QUALIFIED INDIVIDUAL TO THE DEPARTMENT OF CORRECTIONS. THE DEPARTMENT OF CORRECTIONS SHALL TRANSMIT THE AMOUNT OF SAID REFUND TO THE CLERK OF THE DISTRICT COURT THAT ISSUED AN ORDER FOR PAYMENT OF RESTITUTION ENTERED PURSUANT TO SECTION 16-11-101.5, C.R.S., OR AN ORDER FOR COSTS PURSUANT TO SECTION 16-11-501, C.R.S. SUCH REFUND SHALL BE CREDITED IN THE PRIORITY SPECIFIED IN SECTION 16-11-101.6 (1), C.R.S.

(10) THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, AND EACH COUNTY OF THE STATE, TO THE EXTENT EACH SUCH COUNTY HAS THE CAPABILITY WITHIN EXISTING RESOURCES, SHALL PROVIDE IN A TIMELY MANNER THE INFORMATION REQUESTED BY THE DEPARTMENT OF REVENUE NECESSARY TO IDENTIFY THE PERSONS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND IN SUBSECTION (9) OF THIS SECTION. THE INFORMATION SHALL BE PROVIDED IN THE FORM REQUESTED BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL MAINTAIN THE CONFIDENTIALITY OF ANY SOCIAL SECURITY NUMBER RECEIVED PURSUANT TO THIS SUBSECTION (10).

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).

~~(2)~~ (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. 39-31-102 (2), Colorado Revised Statutes, is amended to read:

39-31-102. Procedures to obtain grant. (2) A grant authorized by section 39-31-101 or 39-31-104 shall be claimed on such forms as prescribed by the executive director. If a sales tax refund is allowed for any given income tax year in accordance with section 39-22-120 OR 39-22-2002, such forms shall include provisions allowing qualified individuals to apply for the refund pursuant to section 39-22-120 (5) (c) OR 39-22-2003 (5) (c).

SECTION 4. 19-1-305 (1) (g), Colorado Revised Statutes, is amended to read:

19-1-305. Operation of juvenile facilities. (1) Except as otherwise authorized by section 19-1-303, all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2 of this title shall be confidential and privileged. Said records may be disclosed only:

(g) To the department of revenue pursuant to section 39-22-120 AND 39-22-2003, C.R.S.

SECTION 5. 39-21-108 (3) (a) (I), Colorado Revised Statutes, is amended to read:

39-21-108. Refunds. (3) (a) (I) Whenever it is established that any taxpayer has, for any period open under the statutes, overpaid a tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34, C.R.S., and article 3 of title 42, C.R.S., and that there is an unpaid balance of tax and interest accrued, according to the records of the executive director, owing by such taxpayer for any other period or that there is an amount required to be repaid to the unemployment compensation fund pursuant to section 8-81-101 (4), C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment by the division of employment and training in the department of labor and employment, or that there is any unpaid child support debt as set forth in section 14-14-104, C.R.S., or child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., as certified by the department of human services, or that there are any unpaid obligations owing to the state as set forth in section 26-2-133, C.R.S., for overpayment of public assistance or medical assistance benefits, the amount of which has been determined to be owing as a result of final agency determination or judicial decision or which has been reduced to judgment, as certified by the department of human services, or that there is any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, C.R.S., the amount of which has been reduced to judgment, owing to such institution by such taxpayer, as certified by the appropriate institution, or that there is any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1) (p), C.R.S., the amount of which has been reduced to judgment, owing to such division by such taxpayer, as certified by the division, or that there is any unpaid debt owing to the state or any agency thereof by such taxpayer, and which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the controller, or that the taxpayer is a qualified individual identified pursuant to section 39-22-120 (10) OR 39-22-2003 (9), so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded. If the taxpayer elects to designate his OR HER refund as a credit against a subsequent year's tax liability, the amount allowed to be so credited shall be reduced first by the unpaid balance of tax and interest accrued and then by the unpaid debt. If the taxpayer filed a joint return, the executive director shall notify the taxpayer's spouse that the portion of the overpayment which is generated by the spouse's income shall be refunded upon receipt of a request detailing said amount.

SECTION 6. 39-21-113 (11), Colorado Revised Statutes, is amended to read:

39-21-113. Reports and returns. (11) Notwithstanding the provisions of this section, the executive director of the department of revenue shall supply the department of corrections with any information obtained pursuant to this section which is necessary to implement the procedure to offset state sales tax refunds against restitution and costs pursuant to section 39-22-120 (10) OR 39-22-2003 (9).

SECTION 7. Appropriation - adjustment in 1999 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of 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 forty thousand eight hundred eighty-eight dollars (\$240,888) and 2.2 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 forty thousand eight hundred eighty-eight dollars (\$240,888).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by two hundred forty thousand eight hundred eighty-eight dollars (\$240,888).

SECTION 8. 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