

CHAPTER 33

GOVERNMENT - STATE

HOUSE BILL 05-1310

BY REPRESENTATIVE(S) Hall, Plant, and Buescher;
also SENATOR(S) Tapia, Keller, Owen, and Gordon.

AN ACT

CONCERNING THE REFUND OF STATE REVENUES IN EXCESS OF THE AMOUNT OF STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

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

SECTION 1. 24-77-103.7, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-77-103.7. Over-refunds of state revenues - definitions. (1) FOR PURPOSES OF THIS SECTION, "OVER-REFUND" MEANS A REFUND OF STATE REVENUES THAT OCCURS WHEN, 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 WITHOUT MAKING ANY CALCULATIONS OR REDUCTIONS AS OTHERWISE PROVIDED IN THIS SECTION.

(2) THE AMOUNT OF ANY OVER-REFUNDS ACTUALLY MADE IN A FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, THAT HAVE NOT BEEN USED TO REDUCE THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR SAID FISCAL YEAR IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL BE CARRIED FORWARD AS A REDUCTION OF SUBSEQUENT FISCAL YEARS' STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING AND SHALL BE APPLIED FIRST TO THE EARLIEST FISCAL YEARS POSSIBLE.

(3) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2004, THE CONTROLLER SHALL:

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

(a) CALCULATE STATE FISCAL YEAR SPENDING FOR THE FISCAL YEAR IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-77-103 WITHOUT MAKING ANY REDUCTION IN STATE FISCAL YEAR SPENDING FOR THE AMOUNT OF OVER-REFUNDS ACTUALLY MADE IN SAID FISCAL YEAR OR FOR THE AMOUNT OF ANY OVER-REFUNDS MADE IN THE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2001, BUT PRIOR TO JULY 1, 2004, THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION; AND

(b) REDUCE THE SUM OF THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR SAID FISCAL YEAR AND THE AMOUNT OF ANY UNREFUNDED STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2001, BUT PRIOR TO JULY 1, 2004, THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SECTION 24-77-103.8 (3) BY AN AMOUNT EQUAL TO THE SUM OF THE AMOUNT OF OVER-REFUNDS ACTUALLY MADE IN SAID FISCAL YEAR AND THE AMOUNT OF ANY OVER-REFUNDS MADE IN THE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2001, BUT PRIOR TO JULY 1, 2004, THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION; HOWEVER, THE AMOUNT OF SAID REDUCTION SHALL NOT EXCEED THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR SAID FISCAL YEAR.

(4) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2005, THE CONTROLLER SHALL:

(a) CALCULATE STATE FISCAL YEAR SPENDING FOR THE FISCAL YEAR IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-77-103 WITHOUT MAKING ANY REDUCTION IN STATE FISCAL YEAR SPENDING FOR THE AMOUNT OF OVER-REFUNDS ACTUALLY MADE IN SAID FISCAL YEAR OR FOR THE AMOUNT OF ANY OVER-REFUNDS MADE IN PREVIOUS FISCAL YEARS THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION; AND

(b) REDUCE THE SUM OF THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE FISCAL YEAR AND THE AMOUNT OF ANY UNREFUNDED STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR PREVIOUS FISCAL YEARS THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SECTION 24-77-103.8 (3) BY AN AMOUNT EQUAL TO THE SUM OF THE AMOUNT OF OVER-REFUNDS ACTUALLY MADE IN SAID FISCAL YEAR AND THE AMOUNT OF ANY OVER-REFUNDS MADE IN PREVIOUS FISCAL YEARS THAT HAVE BEEN CARRIED FORWARD TO SAID FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION; HOWEVER, THE AMOUNT OF SAID REDUCTION SHALL NOT EXCEED THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR SAID FISCAL YEAR.

(5) ALL CALCULATIONS AND REDUCTIONS MADE BY THE CONTROLLER PURSUANT TO THIS SECTION SHALL BE SUBJECT TO REVIEW BY THE STATE AUDITOR.

SECTION 2. Article 77 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

24-77-103.8. [Formerly 39-22-120.5] Unrefunded state revenues. (1) Any amount of state ~~excess~~ revenues IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING for the 1996-97 fiscal year that voters statewide did not authorize 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, but that are not refunded by the state as required, shall be added to and refunded with any state ~~excess~~ revenues IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING for the 1998-99 fiscal year required to be refunded.

(2) Any amount of state ~~excess~~ revenues IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING for the 1997-98 fiscal year and every fiscal year thereafter THROUGH THE 2000-01 FISCAL YEAR that voters statewide did not authorize 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, but that are not refunded by the state as required, shall be added to and refunded with any state ~~excess~~ revenues IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING for the fiscal year following the fiscal year for which state ~~excess~~ revenues IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING were required to be refunded.

(3) ANY AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE 2001-02 FISCAL YEAR AND FOR EVERY FISCAL YEAR THEREAFTER THAT VOTERS STATEWIDE DID NOT AUTHORIZE 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, BUT THAT ARE NOT REFUNDED BY THE STATE AS REQUIRED, SHALL BE CARRIED FORWARD AND ADDED TO THE AMOUNT OF ANY UNREFUNDED STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR PREVIOUS FISCAL YEARS THAT HAS BEEN CARRIED FORWARD. SAID AGGREGATE AMOUNT OF UNREFUNDED STATE REVENUES SHALL BE ADDED TO AND REFUNDED WITH SUBSEQUENT FISCAL YEARS' STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING THAT ARE REQUIRED TO BE REFUNDED; HOWEVER, THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING THAT WAS REQUIRED TO BE REFUNDED BUT WAS NOT REFUNDED DURING THE MOST RECENTLY COMPLETED FISCAL YEAR SHALL BE APPLIED FIRST TO THE FISCAL YEAR IMMEDIATELY FOLLOWING THE MOST RECENTLY COMPLETED FISCAL YEAR.

SECTION 3. Article 77 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-77-103.9. Over-refunds of and unrefunded state revenues - records and disclosure. (1) THE DEPARTMENT OF REVENUE SHALL MAINTAIN A RECORD OF:

(a) ANY AMOUNT OF OVER-REFUND, AS DEFINED IN SECTION 24-77-103.7(1), MADE IN EACH FISCAL YEAR COMMENCING ON AND AFTER JULY 1, 2004; AND

(b) ANY AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2004, THAT VOTERS STATEWIDE DID NOT AUTHORIZE 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, BUT THAT ARE NOT REFUNDED BY THE STATE AS REQUIRED BY THE END OF THE NEXT FISCAL YEAR.

(2) THE AMOUNT OF ANY OVER-REFUNDS OR UNREFUNDED EXCESS STATE REVENUES, AS DETERMINED BY THE RECORDS MAINTAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION, FOR ANY FISCAL YEAR COMMENCING ON AND AFTER JULY 1, 2004, SHALL BE DISCLOSED IN THE STATE FINANCIAL REPORT REQUIRED TO BE PREPARED BY THE CONTROLLER PURSUANT TO SECTION 24-77-106.5 FOR SUCH FISCAL YEAR.

SECTION 4. Repeal of provisions being relocated in this act. 39-22-120.5, Colorado Revised Statutes, is repealed.

SECTION 5. 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: April 5, 2005