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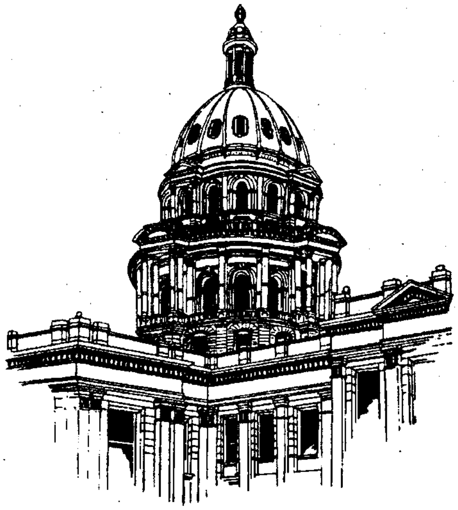
0526 Fiscal Constraints

Colorado Legislative Council

0526 Fiscal Constraints



Interim Committee on

Fiscal Restraints

Report to the

COLORADO

GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 526
December 2003

RECOMMENDATIONS FOR 2004

INTERIM COMMITTEE

ON

FISCAL RESTRAINTS

Report to the
Colorado General Assembly

Research Publication No. 526
December 2003

LEGISLATIVE COUNCIL

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December 2003

To Members of the Sixty-fourth General Assembly:

Submitted herewith is the final report of the Interim Committee on Fiscal Restraints. This committee was created pursuant to House Joint Resolution 03-1060. The purpose of the committee is to consider how the interaction of TABOR, Amendment 23, the Gallagher Amendment, and any other relevant constitutional and statutory provisions impact the state's ability to balance its budget and fund programs and services for the citizens of Colorado.

At its meeting on November 17, 2003, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills herein for consideration in the 2004 session was approved.

Respectfully submitted,

/s/ Senator John Andrews
Chairman

JA/RK/mg

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Members of the Committee

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Executive Summary

Committee Charge

House Joint Resolution 03-1060 established the Interim Committee on Fiscal Restraints to consider how the interaction of the TABOR Amendment, Amendment 23, the Gallagher Amendment, and any other relevant constitutional and statutory provisions impact the state's ability to fund programs and provide services to its citizens. The committee was also to consider how the interaction of the constitutional and statutory provisions impact the state's ability to balance the budget. In addition, the committee was authorized to consider changes that increase budgetary flexibility and improve the state's ability to provide services to its citizens. To assist with its charge, the interim committee was authorized to utilize the Legislative Council Staff study of these constitutional provisions and consult and obtain input and information from appropriate individuals and organizations.

Committee Activities

The committee held six meetings and received testimony on a variety of fiscal policy issues that are related to the interaction of TABOR, Amendment 23, and the Gallagher Amendment. The committee's first two meetings focused on presentations from Legislative Council Staff that reviewed its study of the constitutional provisions. Staff presented the committee with a number of options concerning:

- revenue and spending limits;
- fiscal emergencies;
- property taxes;
- Amendment 23 and state fiscal issues;
- the senior homestead exemption; and
- capital construction funding.

Public presentations on the interaction of TABOR, Amendment 23, and the Gallagher Amendment were also made to the committee. Presenters included state officials, spokespersons from special districts, school districts, counties, municipalities, governmental economic development groups, nonprofit organizations, businesses, and citizen groups, and interested persons. The presentations allowed the public to make recommendations to the committee regarding the impact and interplay of the constitutional provisions. Some recommendations were aimed at improving the state's ability to provide services to its citizens during and after an economic downturn.

One recurring theme from presenters was that if constitutional amendments are proposed, the proposals should be consistent with the general intent of the voters when each amendment was passed. Another recommendation was to bring any proposed constitutional amendments to the voters concurrently, at the same general election. Specific recommendations are enumerated below.

TABOR

- remove or mitigate the "ratchet-down effect" to give the state more budgetary flexibility following an economic downturn;
- tie the revenue limit to a percentage of statewide personal income so that it relates to state economic growth;
- retain the citizens' ability to vote on tax increases;
- repeal the current prohibition on weakening spending limits;
- suspend the revenue limit during recessionary periods; and
- repeal the TABOR emergency reserve requirement.

Amendment 23

- eliminate the mandated increases in spending for K-12 education; and
- suspend or modify the required one-percent-funding requirement during economic downturns or when state revenues are below the TABOR limit.

Gallagher Amendment

- freeze assessment rates and allow local government mill levies to float;
- give the General Assembly the authority to set assessment rates;
- implement an annual reassessment cycle; and
- reduce the assessment rate for the commercial property class to align the rate more closely with the residential assessment rate.

Rainy Day Fund

- utilize a portion of TABOR surplus revenues for a rainy day fund and allow the General Assembly to make additional appropriations into the fund;
- set a cap on a rainy day fund equal to 7 to 15 percent of state spending; and
- place limits on the usage of a rainy day fund.

Arveschoug/Bird

- repeal the 6 percent appropriations limit recognizing that the TABOR limit has become the more binding constraint on state spending.

Committee Recommendations

During the final two meetings, the committee debated eight proposals, of which six were referred to the Legislative Council.

Bill A — TABOR Revenue Limit. Beginning FY 2004-05, this concurrent resolution amends TABOR by:

- excluding higher education tuition from the definition of TABOR revenue; and
- eliminating the future ratchet down of the TABOR limit by requiring the allowable growth rate to be applied to the previous year's limit, regardless of actual revenues collected.

Bill B — Constitutional Convention. At the next general election, this concurrent resolution requests voter approval to hold a constitutional convention to amend Amendment 23, the Gallagher Amendment, the senior homestead exemption, and TABOR. This resolution requires that a two-thirds majority of convention delegates approve any measure before it is submitted to voters.

Bill C — TABOR, A State Rainy Day Fund, and Amendment 23. This concurrent resolution amends the TABOR revenue limit to mitigate the ratchet down of the TABOR limit in the future by:

- counting State Education Fund transfers as TABOR revenue for years that state revenues are below the limit; and
- counting rainy day fund spending as TABOR revenue.

This resolution also eliminates the TABOR requirement that the state maintain an emergency reserve and replaces it with a constitutional rainy day fund that:

- is capped at 10 percent of the TABOR revenue limit plus interest earned on the fund;
- is funded by one-half of the first $200 million of a TABOR surplus (when available) and moneys appropriated by the General Assembly;
- may only be accessed by a two-thirds approval of both houses of the General Assembly when revenue, including amounts required to be deposited into the State Education Fund, is below the allowable TABOR limit; and
- allows a portion of the fund up to 3 percent of state fiscal year spending to be used by the Governor for disaster emergencies with a requirement that such moneys be repaid within two years.

This resolution amends Amendment 23 by suspending the one-percentage-point increase over inflation after any fiscal year that state revenue growth is less than the maximum amount allowed under the TABOR limit. If the suspension is triggered, the period of the required one-percentage-point increase would be extended beyond FY 2010-11 to ensure that the requirement applies to a total of ten state fiscal years.

Bill D — TABOR and Amendment 23. This concurrent resolution amends the TABOR revenue limit to eliminate the ratchet-down effect that has already taken place for the state and for local governments. It also eliminates any future ratchet-down effect from the TABOR limit. This resolution amends TABOR by:

- making the state TABOR revenue limit for FY 2004-05 equal to the revenue limit for FY 2000-01, adjusted for inflation plus the change in population for the 2000 through 2003 calendar years;
- requiring that the allowable TABOR growth rate apply to the prior year's limit, without regard to the actual amount of revenues collected during the prior fiscal year (effective FY 2005-06 for the state government and on or after January 1, 2006 for local districts);
- allowing local districts to impose a mill levy that fluctuates from year to year for up to 5 years if approved by voters to enable the district to collect the same amount of property tax revenue that was collected in the previous calendar year plus inflation and local growth.

This resolution amends Amendment 23 by suspending the one-percentage-point-increase-over-inflation requirement in any fiscal year following General Fund revenue growth that is less than inflation between the two previous calendar years. If the suspension is triggered, the period of the required one-percentage-point increase would be extended beyond FY 2010-11 to ensure that the requirement applies to a total of ten state fiscal years.

Bill E — TABOR, Amendment 23, the Homestead Exemption, and Property Taxes on Business Personal Property. This concurrent resolution increases the TABOR revenue limit by one percentage point for FY 2005-06 and FY 2006-07 to provide money to fund the senior homestead exemption and reduce business personal property taxes.

Beginning in FY 2006-07, if state revenues are below the limit, the amount gained by each of the one-percentage-point increases would be added to the base for determining subsequent annual limits. If the additional money allowed by the one-percentage-point increase is at least 50 percent of the state's cost for the senior homestead exemption, the additional money must first be used to compensate local governments for the cost of the exemption. The second draw on the money is to provide a state credit against business personal property taxes paid to local governments. Any remaining money is refunded to taxpayers.

Amendment 23 is modified by suspending the requirement to increase the statewide base per pupil funding and funding for categorical programs by the inflation rate plus one percentage point in any year following a calendar year in which General Fund revenues do not increase by the TABOR limit. For years that the required increase is suspended, the General Assembly is to set the statewide base per pupil funding and categorical funding at no less than the prior fiscal year's funding.

Bill F — TABOR Revenue Limit and Population Adjustment. This concurrent resolution amends the state and local government TABOR revenue limits to eliminate a portion of the ratchet down that has already taken place and any future ratchet down of the TABOR limit. This resolution amends the limits by:

- requiring the state limit for FY 2004-05 to be calculated based on the limit for FY 2002-03 adjusted for changes in inflation and population for calendar years 2002 and 2003 (makes a similar adjustment for local districts); and
- beginning in FY 2005-06, requiring the allowable TABOR growth rate for state and local governments to be applied to the previous year's limit without regard to actual collections during the prior state fiscal year (effective January 1, 2006 for local governments).

TABOR limits annual growth in most state revenue to inflation plus the annual percentage change in population. During the 1990s, the federal government underestimated Colorado's population, which resulted in the state over-refunding $483 million to taxpayers. The General Assembly adjusted the limit beginning in FY 2001-02 to incorporate the underestimate from the 1990s. This resolution prohibits the state from using this population adjustment to the limit in conjunction with the resolution's re-basing so that the state does not receive a double benefit.

Committee Charge and Responsibilities

The Interim Committee on Fiscal Restraints was created to allow the legislature to evaluate how the interaction of the Gallagher Amendment, TABOR, and Amendment 23 impact the state's ability to fund vital programs and services during an economic downturn. The committee was comprised of the 18 members of the Legislative Council.

As a committee that was charged with studying how Colorado's constitutional and statutory limits affect programs and services on which citizens depend, the committee considered options that were included in the Legislative Council Staff study pursuant to House Joint Resolution 03-1033. Options in the staff study were aimed at increasing the state's flexibility to budget for programs and services when the state experiences a revenue shortfall. In addition to options under House Joint Resolution 03-1033, the committee also considered input from interested groups and citizens. Based upon its findings, the committee was authorized to make recommendations to the Second Regular Session of the Sixty-fourth General Assembly.

Background

The economic downturn that began in March 2001 was the first recession that occurred with three state constitutional limitations impacting spending and revenue in place. During the 2003 legislative session, the General Assembly recognized that the three constitutional limitations, namely the Gallagher Amendment (1982), TABOR (1992), and Amendment 23 (2000), interact in a way that limits the state's ability to maintain the level of services that are provided in good economic times when an economic downturn occurs. Questions also arose as to how the constitutional limitations would affect the state's budget as the economy recovers from a recessionary period.

Legislative response. To deal with the revenue shortfalls that began in FY 2001-02, the General Assembly devoted a significant amount of time to responding to declining state revenues. Beginning with the 2002 session, the General Assembly enacted a number of bills that would take a three-pronged approach to the state's budget difficulties. These bills transferred cash fund moneys to the General Fund, cut state spending, and either increased existing or established new fees. Many bills reduced General Fund expenditures by using new or increased fees to fund specific programs or state services that were previously funded with General Fund moneys.

To balance the budget for FY 2001-02, the General Assembly enacted bills that transferred over $1 billion in cash funds to the General Fund. Between FY 2002-03 and FY 2003-04, bills that were enacted during the 2003 session will result in net General Fund transfers and expenditure reductions of $1.2 billion. In an effort to continue to provide state programs and services, the General Assembly also passed nearly 40 bills that increased fees during the 2003 session. **These bills generated an additional $74 million during this same** time period.

Committee Activities

The Interim Committee on Fiscal Restraints held six meetings during the 2003 interim to evaluate the impact that the state constitution, namely TABOR, Amendment 23, and the Gallagher Amendment, has on the state's budget during an economic downturn. Two of the meetings were dedicated to Legislative Council Staff presentations on its study of the constitutional provisions required by House Joint Resolution 03-1033. The resolution required staff to report its findings to the Interim Committee on Fiscal Restraints and provide the committee with options that increase the state's budgetary flexibility during recessionary periods.

During subsequent meetings, the committee heard recommendations from organizations and individuals on issues similar to those covered in the staff study. The committee heard recommendations from state officials, spokespersons from special districts, school districts, counties, municipalities, governmental economic development groups, nonprofit organizations, businesses, citizen groups, and interested persons.

The committee recommended six concurrent resolutions for introduction during the 2004 legislative session. The resolutions address some of the issues that were covered in the Legislative Council Staff study and public testimony. The concurrent resolutions require a two-thirds vote for passage by each chamber and voter approval before they can be enacted into law.

The following sections summarize the Legislative Council Staff options presented to the committee and the public recommendations that were heard and discussed by the committee. In addition, the summary provides a brief overview of the concurrent resolutions recommended by the committee and explains how they modify either constitutional or statutory provisions. The following sections are organized by issue.

Revenue and Spending Limits

Staff study options. To make the state TABOR limit more responsive to changes in the economy, the staff study options addressed:

- eliminating TABOR's ratchet-down effect as a way to maintain the level of state services that are available during good economic times when a recessionary period occurs;
- modifying TABOR's revenue limit to make it more closely match the growth rate of the economy by tying it to the annual percentage change in personal income; and
- permanently exempting the state's cost for the senior homestead exemption from TABOR revenue, thus freeing up more moneys for other programs or services; and
- exempting unemployment insurance taxes from TABOR revenue to make more General Fund revenue available for spending in years during which the state experiences an economic downturn.

Public recommendations. Many of the organizations and individuals who made presentations to the interim committee discussed TABOR and its revenue and spending limits. Presenters generally acknowledged that it has met its objectives and has restrained the growth of government. However, some believed that TABOR has had negative impacts and unintended consequences. These individuals and organizations advocated making changes to TABOR in order to make it more responsive to economic changes. Suggested modifications to TABOR included:

- mitigating the ratchet-down effect to give the state more flexibility during an economic downturn;
- tying the revenue limit to a percentage of statewide personal income to make the limit less restrictive;
- retaining the citizens' ability to vote on tax increases;
- repealing tax credits used to refund the TABOR surplus;
- repealing the current prohibition on weakening spending limits;
- suspending the revenue limit during recessionary periods; and
- repealing the TABOR emergency reserve requirement.

The committee also discussed the Arveschoug-Bird 6 percent appropriations limit. The discussion focused on how the 6 percent limit works with TABOR and whether it should be modified because the TABOR limit has become the more binding constraint on state spending.

Committee response. The committee adopted proposals that amend the Colorado Constitution to mitigate the effects of recent or future recessions on state revenue and spending limitations. Four resolutions (A, C, D, and F) allow the state more budgetary flexibility during economic downturns by:

- eliminating the ratchet-down effect of the TABOR revenue limit that has already taken place; or
- minimizing or eliminating any future TABOR ratchet-down effect.

TABOR Ratchet-Down Effect

When state revenues are less than the allowable TABOR limit, the base (actual revenue) for determining the following year's limit is reduced. Since the new limit is at a lower level than it otherwise would have been, the limit is said to have ratcheted down.

Fiscal Emergencies

Staff study options. To allow the state to respond to a revenue shortfall during an economic downturn or other fiscal emergency, the staff study presented options for creating a rainy day fund. The options included possible funding sources and circumstances under which the money could be spent.

Public recommendations. The committee and presenters discussed whether the state had adequate reserves to cope with revenue shortfalls resulting from an economic downturn. The discussion centered on whether the state needed to establish a rainy day fund and how such a fund would be created.

Many individuals and organizations believed the state did not have sufficient reserves to cope with the economic downturn that began in FY 2001-02 and advocated the need for a rainy day fund to help the state maintain services during future economic downturns. Suggestions for a rainy day fund included:

- utilizing a portion of TABOR surplus revenues for a rainy day fund;
- allowing the General Assembly to make additional appropriations into the fund, including revenues from the securitization of the state's tobacco settlement moneys;
- capping the fund at 7 to 15 percent of state spending; and
- placing limits on the usage of a rainy day fund to ensure that it is only used to offset revenue shortfalls and natural disasters.

Committee response. The committee recommended one concurrent resolution (C) that provides a financial cushion for the state to use for revenue shortfalls or disaster emergencies. The resolution eliminates the TABOR emergency reserve and replaces it with a constitutional rainy day fund.

TABOR Emergency Reserve

TABOR emergency reserves can be used for declared emergencies only and are required to be 3 percent or more of fiscal year spending excluding bonded debt service. Unused reserves apply to the next year's reserve. Reserves cannot be used for revenue shortfalls. In addition to the TABOR emergency reserve, the state maintains a 4 percent statutory reserve, which can be used when the state experiences a revenue shortfall.

Rainy Day Fund

Current law does not provide for a rainy day or budget stabilization fund.

Staff study options. To mitigate the impact of Amendment 23 funding on the state's budget during an economic downturn, the staff study options addressed asking voters to increase revenue, either by increasing taxes or reducing taxpayer refunds, or to reduce the spending requirement under Amendment 23.

Public recommendations. The committee heard presentations regarding the impact of Amendment 23 on the state's budget. Some presenters contended that the mandatory increases in education funding under Amendment 23 were needed to require the state to sufficiently fund K-12 education. Others believed that required funding under Amendment 23 is shifting a disproportionate amount of state revenues from other programs to K-12 education. Suggested modifications to Amendment 23 included:

- eliminating the mandated increases in spending for K-12 education; and
- suspending or modifying the required one-percent funding requirement during economic downturns or when state revenues are below the TABOR limit.

Committee response. The committee recommended three resolutions (C, D, and E) that either suspend all or portions of Amendment 23 funding when the state experiences a revenue shortfall.

Amendment 23

This constitutional provision requires the statewide base per pupil funding in the school finance act and total state funding for categorical programs to increase by at least the inflation rate plus one percentage point from FY 2001-02 through FY 2010-11, and by the inflation rate thereafter.

Property Taxes

Staff study options. In order to make the property tax system more fair and improve the state's flexibility to fund necessary programs and services during an economic downturn, the staff study options addressed:

- restoring the authority of the General Assembly to set property taxes for school finance; and
- restoring a floating mill levy for schools within certain limits.

Public recommendations. The committee heard presentations from members of the business community and other interested persons on the Gallagher Amendment. Since its inception in 1982, presenters held that the Gallagher Amendment has held down property tax increases for homeowners that would have otherwise increased significantly. Presenters discussed how the interaction of TABOR and Gallagher has reduced revenues for local governments and shifted more school funding to the state. Others commented on how, over time, the Gallagher Amendment is placing an unfair tax burden on businesses. Suggested modifications to the Gallagher Amendment and the property tax system included:

- freezing residential assessment rates and allowing local government mill levies to float;
- giving the General Assembly the authority to set assessment rates;
- implementing an annual reassessment cycle; and
- reducing the assessment rate for the commercial property class to align the rate more closely with the residential assessment rate.

Committee response. The committee adopted one concurrent resolution (D) that allows local governments to impose a mill levy that fluctuates from year to year for up to 5 years if approved by voters. This proposal would enable local governments to collect the same amount of property tax revenue that was collected in the previous calendar year plus inflation and local growth.

Other Issues

The committee also discussed the mechanism for amending the constitution, the business personal property tax, and the senior homestead exemption. These three issues are part of two different measures that were recommended by the committee.

Constitutional convention. One concurrent resolution (B) requests voter approval to hold a constitutional convention to revise, alter, or amend the Gallagher Amendment, TABOR, Amendment 23, and the senior homestead exemption.

The committee discussed how the convention could be a method to address the constitutional single-subject requirement when amending TABOR, the Gallagher Amendment, and Amendment 23. Concerns were raised on whether the minority party would have adequate representation and whether the convention could be limited to only amending or revising certain constitutional provisions. The committee also discussed legislation that might establish guidelines for setting up a constitutional convention.

Constitutional Convention

The General Assembly may recommend convening a constitutional convention (Article XIX, Section 1). The first step in the process requires the General Assembly, by a two-thirds vote of each chamber, to place a referendum on whether to hold a constitutional convention on the ballot at the next general election.

Business personal property tax. The interim committee also discussed the business personal property tax as an issue that is indirectly connected to amending the constitutional provisions. Some individuals and organizations commented that the business personal property tax places an unfair burden on Colorado businesses. Some of these presenters advocated the reduction or elimination of the business personal property tax as a way to stimulate business development in Colorado. In contrast, other presenters commented that the reduction or elimination of the business personal property tax would reduce the property tax base for some local governments that are reliant on the tax. The elimination of the tax could also result in a significant cost to the state.

The committee's recommendations address the business personal property tax by increasing the TABOR revenue limit to generate additional money to provide a state tax credit to partially offset this local tax.

History of the Business Personal Property Tax

Colorado's first state laws were enacted in November 1876 and required that all real and personal property not exempted be taxed. Exempted property included: mines and mining claims bearing gold, silver, and other precious metals; ditches, canals, and flumes owned and used by individuals and corporations for irrigating lands; state-, county-, city-, town-, and municipally-owned real and personal property; lots with buildings used for religious, school, or charitable purposes; and cemeteries not used or held for private or corporate profit.

Summary of Recommendations

The Interim Committee on Fiscal Restraints recommended six bills to the Legislative Council. The Legislative Council reviews each interim committee's recommendations and determines whether the bills fall within the committee's charge. The following concurrent resolutions were recommended by the Legislative Council for introduction during the 2004 session.

Bill A — TABOR Revenue Limit.

The concurrent resolution amends TABOR. It adds higher education tuition to the revenue sources that are excluded from the TABOR limit beginning in FY 2004-05. In addition, beginning in FY 2004-05, the concurrent resolution requires that the allowable TABOR growth rate of inflation and population growth be applied to the previous year's limit without regard to the actual amount of revenues collected during the prior state fiscal year. This provision eliminates any future ratchet down of the TABOR limit. In addition, the TABOR limit would not be adjusted for the exclusion of tuition revenue.

Bill B — Constitutional Convention.

The concurrent resolution submits to voters the question of whether to hold a constitutional convention to revise, alter, and amend Amendment 23, the Gallagher Amendment, the senior homestead property tax exemption, and TABOR. Under the concurrent resolution, a two-thirds majority of convention delegates must approve any measure for it to be submitted to voters.

Bill C — TABOR, A State Rainy Day Fund, and Amendment 23.

The concurrent resolution amends Amendment 23 and TABOR. It suspends the one-percentage-point-increase-over-inflation requirement after any fiscal year when state revenue does not increase by the maximum amount permitted under TABOR. If the suspension is triggered, the period of the required one-percentage-point increase would be extended beyond FY 2010-11 to ensure that the requirement applies for a total of ten state fiscal years. In addition, the index used to suspend the requirement to increase the total General Fund appropriation for total program would change from personal income growth to the TABOR growth limit factors. Further, when revenues do not meet the TABOR limit, money deposited into the State Education Fund would count as state fiscal year spending for determining the next fiscal year's TABOR limit.

The concurrent resolution also creates a constitutional State Rainy Day Fund to be capped at 10 percent of the TABOR revenue limit. The State Rainy Day Fund would be funded by one-half of the first $200 million of a TABOR surplus. Additional moneys could also be appropriated into the fund. Any TABOR surplus deposited into the fund would not count as TABOR revenues, but General Fund appropriations to the fund would be subject to the TABOR limit. The fund could only be accessed by a two-thirds approval of both houses of the General Assembly when revenue, including amounts required to be deposited into the State Education Fund, is less than the amount permitted under TABOR. Only one-third of the State Rainy Day Fund could be used in any fiscal year. However, one-half of the fund could be used following a year in which the General Assembly transferred money from the fund.

The concurrent resolution eliminates the TABOR emergency reserve and allows the State Rainy Day Fund to be used by the Governor for disaster emergencies. The amount used for disaster emergencies is not to exceed 3 percent of state fiscal year spending. Any money used for disaster emergencies must be repaid within two years. The concurrent resolution also requires that the state use the accrual method of accounting of TABOR revenues.

Bill D — TABOR and Amendment 23.

The concurrent resolution amends Amendment 23 and TABOR. The concurrent resolution suspends the one-percentage-point-increase-over-inflation requirement for the statewide base per pupil funding and total categorical programs for any fiscal year when General Fund revenues grow by less than inflation between the two previous calendar years. If the suspension is triggered, the period of the required one-percentage-point increase would be extended beyond FY 2010-11 to ensure that the requirement applies for a total of ten state fiscal years.

The concurrent resolution makes the state TABOR revenue limit for FY 2004-05 equal to the revenue limit for FY 2000-01, adjusted for inflation plus the percentage change in state population for the 2000 through 2003 calendar years. This provision would eliminate the ratchet down that has already taken place. The concurrent resolution makes a similar adjustment in the revenue limit for local districts. In addition, the allowable TABOR growth rate would apply to the prior year's limit, without regard to the actual amount of revenues collected during the prior state fiscal year, beginning in FY 2005-06 for the state government, and for fiscal years beginning on or after January 1, 2006, for local districts. This provision would eliminate any future ratchet down.

The concurrent resolution also allows local districts to seek voter approval to impose a fluctuating mill levy for a period of up to five years to allow the district to collect the same amount of property tax revenue that was collected in the previous calendar year, as adjusted for inflation in the prior calendar year plus local growth.

Bill E — TABOR, Amendment 23, the Homestead Exemption, and Property Taxes on Business Personal Property.

The concurrent resolution amends Amendment 23 and TABOR. The concurrent resolution suspends the requirement to increase the statewide base per pupil funding and funding for all categorical programs by the inflation rate plus one percentage point during fiscal years following a calendar year in which General Fund revenues did not increase by the TABOR allowable growth limit. During the fiscal years the increase is suspended, the General Assembly is to set the statewide base per pupil funding and categorical funding at no less than the prior fiscal year's funding. The concurrent resolution allows the General Assembly to set the funding for these programs beginning in FY 2011-12, but prohibits the funding to be less than the funding for the prior fiscal year.

The concurrent resolution increases the state TABOR revenue limits for FY 2005-06 and FY 2006-07 by one percentage point for each fiscal year. Beginning in FY 2006-07, if state revenues do not reach the TABOR limit, the amount gained by each of the one percentage point increases would be added to the base for determining subsequent years' limits. If the additional money allowed by the one percentage point increase is at least 50 percent of the amount of compensation owed to the local governments for revenue losses from the senior property tax exemption, the additional moneys must be expended first to compensate local governments for these losses, then to provide a state credit against business personal property taxes, and lastly for refunds to taxpayers.

Bill F — TABOR Revenue Limit and Population Adjustment.

The concurrent resolution amends TABOR. The concurrent resolution requires the state TABOR limit for FY 2004-05 to be calculated based on the limit for FY 2002-03 adjusted for inflation plus the percentage change in state population for the 2002 and 2003 calendar years. This provision would eliminate a portion of the ratchet down that has already taken place. The concurrent resolution makes a similar adjustment in the TABOR limit for local districts.

The concurrent resolution requires that the allowable TABOR growth rate for state and local governments be applied to the previous year's limit without regard to the actual amount of revenues collected during the prior state fiscal year beginning in FY 2005-06 for the state government, and in fiscal years that commence on or after January 1, 2006, for local districts. This provision eliminates any future ratchet down of the TABOR limit.

State statute contains a population adjustment to help maintain the TABOR base due to an underestimate of population during the 1990s that reduced the amount of revenue that the state was able to spend. This resolution prohibits the state from using the population adjustment in conjunction with the resolution's re-basing so that the state does not receive a double benefit.

Resource Materials

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303)-866-2055. For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www. state.co.us/gov_dir/leg_dir/lcsstaff/2003/03interim.

Meeting Summaries	Topics Discussed
September 24, 2003	Economic and General Fund Revenue Forecast and House Joint Resolution 03-1033 Study.
September 25, 2003	House Joint Resolution 03-1033 Study; RBC Dain Rauscher Study; Bell Policy Center Study; and Independence Institute Study.
October 22, 2003	Presentations by: Colorado State Treasurer; Office of State Planning and Budgeting; Amendment 23 Authors; Colorado Association of School Boards; Colorado Counties Inc.; Colorado Municipal League; Special District Association of Colorado; Gallagher Authors; and TABOR Author.
October 23, 2003	Legislative proposals; Presentations by: Bighorn Center; League of Women Voters of Colorado; Metro Denver Network; National Federation of Independent Business; Centennial Container, Inc.; and Colorado Senior Lobby.
October 30, 2003	Discussion and amending of legislation.
October 31, 2003	Discussion and approval of legislation.

Amendment 1 & Financial Policy: Where do Governments Go from Here?, Rudy Andras, Dain Bosworth, Inc., April 15, 1993.

Amendment 1 & the Gallagher Amendment: Combining to Create "Revenue Have Not" Governments, Rudy Andras, Dain Bosworth, Inc., May 5, 1993.

Budget Facts - True or False?, Nancy McCallin, Office of State Planning and Budgeting presentation to Interim Committee on Fiscal Restraints, October 22, 2003.

Colorado 100, Perspectives converge, will consensus emerge?, Bighorn Center for Public Policy, Club 20, Colorado Forum, Denver Metro Chamber of Commerce, July 30, 2003.

The Colorado 100 Process, Report to the Interim Committee to Study TABOR/Amendment 23/Gallagher, Rutt Bridges, Bighorn Center for Public Policy presentation to Interim Committee on Fiscal Restraints, October 23, 2003.

Colorado Education Association letter to Interim Committee on Fiscal Restraints, October 22, 2003.

Constitutional Conventions, Legislative Council Staff Memorandum, October 14, 2003.

Creating a Budget Stabilization Fund for Colorado, Barry Poulson presentation to Interim Committee on Fiscal Restraints, September 25, 2003.

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Bill A

SENATE SPONSORSHIP

Tupa

HOUSE SPONSORSHIP

None

SENATE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE EXCLUSION OF TUITION PAID TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION FROM THE DEFINITION OF "FISCAL YEAR SPENDING", AND, IN CONNECTION THEREWITH, LIMITING THE EFFECT OF THE EXCLUSION ON STATE FISCAL YEAR SPENDING LIMITS BY REQUIRING SUCH LIMITS TO BE CALCULATED BASED UPON PRIOR STATE FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND POPULATION GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN STATE REVENUES.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. For district fiscal years commencing on or after July 1, 2004, excludes tuition paid to public institutions of higher education from fiscal year spending for purposes of the taxpayer's bill of rights. Requires spending limits for state fiscal years that commence on or after July 1, 2004, to be calculated based upon calculated prior fiscal year spending limits, with adjustments for inflation and population growth, without being subject to reduction due to declines in state revenues.

Be It Resolved by the Senate of the Sixty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 20 (2) (e) and (7) (a) of article X of the constitution of the state of Colorado are amended to read:

Section 20. The Taxpayer's Bill of Rights. (2) Term definitions. Within this section:

(e) (i) FOR DISTRICT FISCAL YEARS THAT COMMENCE BEFORE JULY 1, 2004, "fiscal year spending" means all district expenditures and reserve increases except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, reserve transfers or expenditures, damage awards, or property sales.

(ii) FOR DISTRICT FISCAL YEARS THAT COMMENCE ON OR AFTER JULY 1, 2004, "FISCAL YEAR SPENDING" MEANS ALL DISTRICT EXPENDITURES AND RESERVE INCREASES EXCEPT, AS TO BOTH, THOSE FOR REFUNDS MADE IN THE CURRENT OR NEXT FISCAL YEAR OR THOSE FROM GIFTS, FEDERAL FUNDS, COLLECTIONS FOR ANOTHER GOVERNMENT, PENSION CONTRIBUTIONS BY EMPLOYEES AND PENSION FUND EARNINGS, RESERVE TRANSFERS OR EXPENDITURES, DAMAGE AWARDS, TUITION PAID TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION, OR PROPERTY SALES.

(7) **Spending limits.** (a) (i) FOR STATE FISCAL YEARS THAT COMMENCE BEFORE JULY 1, 2004, the maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991.

(ii) FOR STATE FISCAL YEARS THAT COMMENCE ON OR AFTER JULY 1, 2004, THE STATE FISCAL YEAR SPENDING LIMIT IS THE STATE FISCAL YEAR SPENDING LIMIT FOR THE PRIOR STATE FISCAL YEAR, AS CALCULATED BASED ON THE SPENDING LIMIT FOR THE NEXT PRECEDING STATE FISCAL YEAR WITHOUT REGARD TO THE ACTUAL AMOUNT OF REVENUES COLLECTED DURING THE PRIOR STATE FISCAL YEAR, PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (ii).

(iii) FOR PURPOSES OF THIS PARAGRAPH (a), **population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.**

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE EXCLUSION OF TUITION PAID TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION FROM THE DEFINITION OF "FISCAL YEAR SPENDING", AND, IN CONNECTION THEREWITH, LIMITING THE EFFECT OF THE EXCLUSION ON STATE FISCAL YEAR SPENDING LIMITS BY REQUIRING SUCH LIMITS TO BE CALCULATED BASED UPON PRIOR STATE FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND POPULATION GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN STATE REVENUES."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

DRAFT

Bill A

Colorado Legislative Council Staff

STATE
CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0306	**Date:**	January 9, 2004
Prime Sponsor(s):	Sen. Tupa	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE EXCLUSION OF TUITION PAID TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION FROM THE DEFINITION OF "FISCAL YEAR SPENDING", AND, IN CONNECTION THEREWITH, LIMITING THE EFFECT OF THE EXCLUSION ON STATE FISCAL YEAR SPENDING LIMITS BY REQUIRING SUCH LIMITS TO BE CALCULATED BASED UPON PRIOR STATE FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND POPULATION GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN STATE REVENUES.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund	See State Revenue and Expenditure Section	
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact		
Effective Date: Upon voter approval at the November 2004 General Election.		
Appropriation Summary for FY 2004/2005: None Required		
Local Government Impact: See Local Government Section		

Summary of Legislation

This concurrent resolution submits a constitutional amendment to the voters at the 2004 General Election to amend Section 20 of Article X of the Colorado Constitution. Specifically, this amendment:

- excludes tuition paid to public institutions of higher education from the definition of "fiscal year spending"; and

- limits the effect of the tuition exclusion on fiscal year spending by stipulating that the limit is based upon prior fiscal year spending limits with adjustments for inflation and population growth without being subject to reduction due to declines in state revenues.

State Revenues and Expenditures

This proposed constitutional amendment changes the amount of revenue the state may keep under the TABOR fiscal year spending limits. It does not increase rates for state tax or fine collections. If this amendment is approved by the voters, the amount of revenue that the state can spend will increase.

Excluding the tuition revenues of higher education from the definition of TABOR revenues and eliminating the "ratchet down" will affect the amount of revenue the state is required to refund to taxpayers in the following fiscal year, and in turn, the amount of General Fund monies the state can retain. Current TABOR refund mechanisms are made from the General Fund and not cash funds. Therefore, any change that decreases excess TABOR revenues will increase available General Fund monies. The spending limit is based upon the lower of either the previous year's revenue or limit, plus inflation and population growth. This amendment changes the base from the previous year's **revenue** to the previous year's **limit** *without* adjusting the TABOR limit for the exclusion of tuition. Therefore, this proposal creates a buffer between the TABOR limit and TABOR revenues equal to the amount of tuition minus the TABOR surplus in FY 2004-05.

Impact based upon December 2003 Revenue Forecast. This proposal results in the elimination of the TABOR surplus between FY 2004-05 through FY 2008-09. Consequently, the nearly $1.3 billion that would have been refunded is available for General Fund appropriation. As shown in Table 1, this proposal has the following budget impacts due to the changes in the state fiscal year spending limits:

- General Fund appropriations may increase by $1.3 billion;
- total highway spending increases by $152.5 million with an increase of $131.1 million in the S.B. 97-1 diversion and a $21.4 million decrease in the Highway Users Tax Fund (HUTF) transfer;
- transfers to the Capital Construction Fund (CCF) are increased by $10.7 million; and
- pay backs to cash funds would occur one year earlier at the same amount.

Cash fund pay backs are required by H.B. 02-1391 which transferred cash funds to the General Fund during a budget shortfall and required the repayment when a 4 percent statutory reserve is obtained, the state appropriation limit of 6 percent is reached, and S.B. 97-1 transfers are fully funded. A total of $67.7 million is necessary to pay back the cash funds.

Table 1 - Impact of Tuition Exemption from TABOR and Elimination of "Ratchet Down" (Dollars in Millions)						
Current Law December 2003 Revenue Forecast	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Total
General Fund Appropriations	$ 5,564.4	$ 5,648.3	$ 5,987.4	$ 6,346.4	$ 6,727.2	$ 23,456.5
Payback to Cash Funds	$ 0.0	$ 0.0	$ 0.0	$ 33.6	$ 33.5	$ 67.1
Senate Bill 97-1 Diversion	$ 0.0	$ 0.0	$ 144.0	$ 240.6	$ 253.9	$ 638.5
Transfer to the HUTF	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 10.0	$ 10.0
Total to Highways	$0.0	$ 0.0	$ 144.0	$ 240.6	$ 263.9	$ 648.5
Transfer to the CCF	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 5.0	$ 5.0
Four Percent Reserve	$ 222.6	$ 225.9	$ 239.5	$ 253.9	$ 269.1	NA
TABOR Surplus Liability	**$ 31.0**	**$ 339.0**	**$ 441.9**	**$ 323.5**	**$ 335.8**	**$ 1,471.2**
Change due to Amendment						
General Fund Appropriations	$ 29.8	$ 281.5	$ 298.4	$ 316.3	$ 335.3	$ 1,261.4
Payback to Cash Funds	$ 0.0	$ 0.0	$ 33.6	$ (0.1)	$ (33.5)	$ 0.0
Senate Bill 97-1 Diversion	$ 0.0	$ 47.4	$ 83.7	$ 0.0	$ 0.0	$ 131.1
Transfer to the HUTF	$ 0.0	$ 0.0	$ 0.0	$ 17.0	$ 4.4	$ 21.4
Total to Highways	$ 0.0	$ 47.4	$ 83.7	$ 17.0	$ 4.4	$ 152.5
Transfer to the CCF	$ 0.0	$ 0.0	$ 0.0	$ 8.5	$ 2.2	$ 10.7
Four Percent Reserve	$ 1.2	$ 11.3	$ 11.9	$ 12.6	$ 13.4	NA
TABOR Surplus Liability	**$ (31.0)**	**$ (339.0)**	**$ (441.9)**	**$ (323.5)**	**$ (335.8)**	**$(1,471.2)**

Election Expenditure Impacts (For Informational Purposes Only)

This concurrent resolution contains a question to be referred to voters at the 2004 General Election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill. The estimated 2004 election costs for the Blue Book are outlined in Table 2.

Table 2. Estimated Costs of Producing the 2004 Blue Book and Distributing to all Registered Voter Households	
Printing	$120,000
Postage	$300,000
Translation	$5,000
Newspaper Publication (English & Spanish)	$125,000
Total Expenses (for estimated 2 issues)	**$550,000**
Estimated Expense Per Issue	**$275,000**

Local Government Impact

This proposed constitutional amendment does not impact the fiscal year spending limits for local jurisdictions.

State Appropriations

No new state appropriations are required to implement the resolution.

Departments Contacted

Governor's Office   Higher Education   Law   Revenue   Treasury

Bill B

HOUSE SPONSORSHIP

White

SENATE SPONSORSHIP

None

HOUSE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO THE PROPOSAL FOR THE HOLDING OF A CONSTITUTIONAL CONVENTION TO REVISE, ALTER, AND AMEND SECTION 17 OF ARTICLE IX AND SECTIONS 3, 3.5, AND 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH ANY REFERRED MEASURE FROM THE CONVENTION REQUIRING THE VOTE OF TWO-THIRDS OF THE DELEGATES THERETO.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. Submits, at the next general election, the proposal of holding a convention to amend specified provisions of the state constitution, with any referred measure from the convention requiring the vote of two-thirds of the delegates thereto.

Be It Resolved by the House of Representatives of the Sixty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the proposal of holding a convention to revise, alter, and amend section 17 of article IX and sections 3, 3.5, and 20 of article X of the present constitution of the state of Colorado, with any referred measure from the convention requiring the vote of two-thirds of the delegates thereto.

SECTION 2. The submission of said proposal shall be duly published and certified, and shall be placed on the official ballots at the next general election, in the same manner as amendments to the state constitution.

SECTION 3. Each elector voting at said election and desirous of voting for or against said proposal shall cast a vote as provided by law either "Yes" or "No" on the proposal: "FOR THE HOLDING OF A CONSTITUTIONAL CONVENTION TO REVISE, ALTER, AND AMEND SECTION 17 OF ARTICLE IX AND SECTIONS 3, 3.5, AND 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH ANY REFERRED MEASURE FROM THE CONVENTION REQUIRING THE VOTE OF TWO-THIRDS OF THE DELEGATES THERETO."

SECTION 4. The votes cast for the adoption or rejection of said proposal shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the proposal shall have voted "Yes", the general assembly, at its next session, shall provide for the calling of a constitutional convention, as provided in section 1 of article XIX of the state constitution.

Bill B

Colorado Legislative Council Staff

STATE CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0310	**Date:**	December 26, 2003
Prime Sponsor(s):	Rep. White	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Lon Engelking (303-866-4751)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO THE PROPOSAL FOR THE HOLDING OF A CONSTITUTIONAL CONVENTION TO REVISE, ALTER, AND AMEND SECTION 17 OF ARTICLE IX AND SECTIONS 3, 3.5, AND 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH ANY REFERRED MEASURE FROM THE CONVENTION REQUIRING THE VOTE OF TWO-THIRDS OF THE DELEGATES THERETO.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund		
State Expenditures General Fund	Future Expenditures *	
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Upon approval of the voters at the November, 2004 general election		
Appropriation Summary for FY 2004/2005: None required		
Local Government Impact: None		

* *Future expenditures will be tied to the enabling legislation enacted in the 2005 session calling for the convention and outlining the starting date, delegate pay, and fixing of other necessary expenses*

Summary of Legislation

This concurrent resolution submits a question to the voters at the November, 2004 general election calling for a constitutional convention. The purpose of the convention would be to revise, alter, and amend Article IX Section 17 *(referred to as Amendment 23 - Education Funding)*; and Article X Section 3 *(Gallagher Amendment)*, Section 3.5 *(Senior Homestead Exemption)*, and Section 20 *(TABOR)* of the Colorado Constitution.

The resolution specifies that any referred measure from the convention would require the vote of 2/3 of the delegates of the convention. The general assembly would enact enabling legislation during the 2005 regular session calling for the constitutional convention and fixing its expenses.

Background -- Constitutional Convention

Colorado's constitution was established by a convention of 39 delegates that convened in December, 1875 and concluded approximately three months later. Following approval of the constitution by Colorado voters, President Ulysses S. Grant signed documents making Colorado the thirty-eighth state. The Colorado Constitution includes provisions by which the general assembly may recommend convening a constitutional convention (Article XIX, Section 1). To date, no conventions to amend the constitution have been called, although at least three attempts were made in the early 1900s.

Authority of the General Assembly. The process for calling a state constitutional convention is established in Article XIX, Section 1 of the Colorado Constitution. Authority to call a convention rests with the general assembly, as the constitution does not provide a mechanism for a convention to be called through the initiative process. The first step in the process requires the general assembly, by a two-thirds vote of each chamber, to place a referendum on whether to hold a constitutional convention on the ballot at the next general election.

Election provisions. Voters would elect convention members by Senate district. Because the constitution requires that the convention take place "within three months of such election," a referendum on a convention could also include candidates for convention membership. Within the parameters set forth in Article XIX, Section 1, specific provisions for the election of convention members could be determined by the general assembly as it considered a referendum on a convention. If a referendum were approved and members elected at a November election, a convention could convene by February. If convention members were not elected at the same time that a referendum was passed, authority and provisions for calling a special election would be considered by the general assembly.

Convention membership. The constitution specifies that the number of members elected to the convention would be twice the number of Senate members. Seventy convention members — two from each Senate district — would be elected "in the same manner, at the same places, and in the same [Senate] districts," and would have to meet qualifications identical to those of Senate members: at least 25 years of age, a United States citizen, and a resident of the district for at least the prior year. The constitution provides that any vacancies in convention membership would be filled in the same manner as vacancies in the general assembly.

State Expenditures

Any future expenditures of a constitutional convention would be tied to the enabling legislation that would be enacted during the 2005 legislative session calling for the convening date of the convention, election of delegates, compensation of delegates, and other necessary expenses.

Election Expenditure Impacts (For Informational Purposes Only)

The bill contains a question to be referred to voters at the 2004 general election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill.

The estimated 2004 general election costs for the Blue Book are outlined in Table 1.

Table 1. Estimated Costs of Producing the 2004 Blue Book and Distributing to all Registered Voter Households	
Printing	$275,000
Postage	$275,000
Translation	$12,000
Newspaper Publication (English & Spanish)	$1,600,000
Total Expenses (for estimated 12 issues)	**$2,162,000**
Estimated Expense Per Issue	**$188,167**

Local Government Impact

There would be no direct fiscal impact to local government as a result of this concurrent resolution. However, any resulting changes to the constitution could have future impact.

State Appropriations

No appropriations would be required for FY 2003/04 to place this resolution on the 2004 general election ballot. Future appropriations will be tied to enabling legislation enacted during the 2005 legislative session.

Departments Contacted

Office of Legislative Legal Services Legislative Council

Bill C

SENATE SPONSORSHIP

Hillman

HOUSE SPONSORSHIP

None

SENATE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE HARMONIZATION OF THE REQUIREMENTS OF SECTION 20 OF ARTICLE X (TABOR) AND SECTION 17 OF ARTICLE IX (AMENDMENT 23), AND, IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT SPENDING INCREASE IN CERTAIN STATE EDUCATION FUNDING IN YEARS WHEN THE TABOR REVENUE LIMIT IS NOT MET, CREATING THE STATE RAINY DAY FUND CONSISTING OF A PORTION OF EXCESS TABOR REVENUES AND OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, AUTHORIZING THE GENERAL ASSEMBLY TO TRANSFER A LIMITED AMOUNT OF MONEYS FROM THE RAINY DAY FUND TO THE GENERAL FUND BY A TWO-THIRDS VOTE, AUTHORIZING THE GOVERNOR TO SPEND A LIMITED AMOUNT OF MONEYS IN THE RAINY DAY FUND IN A DISASTER EMERGENCY, AND REDUCING THE "RATCHET" EFFECT OF TABOR BY THE AMOUNT DEPOSITED IN THE STATE EDUCATION FUND AND ANY AMOUNT TRANSFERRED FROM THE RAINY DAY FUND.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. Amends certain provisions of the state constitution:

Section 17 of article IX (Amendment 23):

- Suspends the requirements to increase statewide base per pupil funding for public education and total state funding for categorical programs by an additional one percentage point above inflation for 10 consecutive fiscal years for any fiscal year in which state fiscal year spending does not increase by the maximum amount permitted by the taxpayer's bill of rights (TABOR).
- If the suspension is triggered, extends the required one percentage point increase by an additional year to ensure that the requirement applies for a total of 10 fiscal years.
- Changes the criterion for suspending the requirement to increase the total general fund appropriation for total program under the school finance act (maintenance of effort) from personal income growth to the TABOR limit.

Section 20 of article X (TABOR):

- Creates the state rainy day fund. Eliminates the requirement that the state maintain an emergency reserve.
- Allocates to the state rainy day fund a specified portion of excess state TABOR revenues. States that the amount of excess state TABOR revenues deposited in the fund does not count as state fiscal year spending. Authorizes the general assembly to appropriate additional moneys to the fund within the TABOR limit. Sets a maximum balance for the fund.
- Authorizes the general assembly, by a vote of 2/3 of both houses, to transfer a limited amount of moneys from the state rainy day fund to the general fund in any fiscal year in which the amount of state fiscal year spending plus the amount deposited in the state education fund is less than the TABOR limit.

- Authorizes the governor to expend a limited amount of moneys from the state rainy day fund in a declared disaster emergency. Requires moneys expended by the governor to be repaid to the fund within 2 years.
- In any fiscal year in which state fiscal year spending is less than the TABOR limit, adds the amount deposited in the state education fund to state fiscal year spending for purposes of calculating the maximum increase in state fiscal year spending for the next fiscal year.
- Requires accrual accounting of TABOR revenues.

Be It Resolved by the Senate of the Sixty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 17 (1) and (5) of article IX of the constitution of the state of Colorado are amended to read:

Section 17. Education - Funding. (1) **Purpose.** (a) (I) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), STARTING in state fiscal year 2001-2002 ~~through state fiscal year 2010-2011~~ FOR A PERIOD OF TEN CONSECUTIVE STATE FISCAL YEARS, the statewide base per pupil funding, as defined by the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes on the effective date of this section, for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at least by the rate of inflation plus an additional one percentage point.

(II) ~~In state fiscal year 2011-2012, and each fiscal year thereafter~~ UPON COMPLETION OF THE TEN-YEAR PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR AS EXTENDED BY PARAGRAPH (b) OF THIS SUBSECTION (1), FOR EACH STATE FISCAL YEAR THEREAFTER, the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at a rate set by the general assembly that is at least equal to the rate of inflation.

(b) IN ANY FISCAL YEAR IN WHICH STATE FISCAL YEAR SPENDING DOES NOT INCREASE BY THE MAXIMUM AMOUNT PERMITTED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (a) OF THE COLORADO CONSTITUTION, THE REQUIREMENT THAT THE STATEWIDE BASE PER PUPIL FUNDING FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS GROW BY AN ADDITIONAL ONE PERCENTAGE POINT SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE SUSPENDED FOR THE SUBSEQUENT STATE FISCAL YEAR. FOR EACH STATE FISCAL YEAR IN WHICH THE ONE PERCENTAGE POINT INCREASE REQUIREMENT IS SUSPENDED, THE TEN-YEAR PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE EXTENDED BY ONE YEAR TO ENSURE THAT THE ONE PERCENTAGE POINT INCREASE REQUIREMENT APPLIES TO AN AGGREGATE RATHER THAN A CONSECUTIVE TOTAL OF TEN STATE FISCAL YEARS.

(5) **Maintenance of Effort.** Monies appropriated from the state education fund shall not be used to supplant the level of general fund appropriations existing on the effective date of this section for total program education funding under the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes, and for categorical programs as defined in subsection (2) of this section. In state fiscal year 2001-2002 through state fiscal year 2010-2011, the general assembly shall, at a minimum, annually increase

the general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act, by an amount not below five percent of the prior year general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act. This general fund growth requirement shall not apply in any fiscal year in which ~~Colorado personal income grows less than four and one half percent between the two previous calendar years~~ STATE FISCAL YEAR SPENDING DOES NOT INCREASE BY THE MAXIMUM AMOUNT PERMITTED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (a) OF THE COLORADO CONSTITUTION.

Section 20 (2) (e), (5), (7) (a), and (7) (d) of article X of the constitution of the state of Colorado are amended to read:

Section 20. The Taxpayer's Bill of Rights. (2) Term definitions. Within this section:

(e) "Fiscal year spending" means all district expenditures and reserve increases except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, reserve transfers or expenditures, damage awards, or property sales. FOR PURPOSES OF THIS PARAGRAPH (e), "RESERVE INCREASES" SHALL NOT INCLUDE EXCESS FISCAL YEAR SPENDING DEPOSITED IN THE STATE RAINY DAY FUND PURSUANT TO SECTION 21 OF THIS ARTICLE BUT SHALL INCLUDE ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. "RESERVE TRANSFERS OR EXPENDITURES" SHALL NOT INCLUDE MONEYS TRANSFERRED FROM THE FUND BY THE GENERAL ASSEMBLY PURSUANT TO SECTION 21 OF THIS ARTICLE.

(5) **Emergency reserves.** To use for declared emergencies only, each district OTHER THAN THE STATE shall reserve for 1993 1% or more, for 1994 2% or more, and for all later years 3% or more of its fiscal year spending excluding bonded debt service. Unused reserves apply to the next year's reserve.

(7) **Spending limits.** (a) (i) The maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991. Population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.

(ii) IN ANY FISCAL YEAR IN WHICH THE AMOUNT OF STATE FISCAL YEAR SPENDING IS LESS THAN THE LIMIT SET BY THIS PARAGRAPH (a), THE AMOUNT DEPOSITED IN THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) (a) OF ARTICLE IX OF THIS CONSTITUTION SHALL BE ADDED TO THE AMOUNT OF STATE FISCAL YEAR SPENDING FOR PURPOSES OF CALCULATING THE MAXIMUM CHANGE IN STATE FISCAL YEAR SPENDING FOR THE FOLLOWING FISCAL YEAR.

(d) EXCEPT AS PROVIDED BY SECTION 21 OF THIS ARTICLE, if revenue from sources not excluded from fiscal year spending exceeds these limits in dollars for that fiscal year, the excess shall be refunded in the next fiscal year unless voters approve a revenue change as an offset. Initial district bases are current fiscal year spending and 1991 property tax collected in 1992. Qualification or disqualification as an enterprise shall change district bases and future year limits. Future creation of district bonded debt shall increase, and retiring or refinancing district bonded debt shall lower, fiscal year spending and property tax revenue by the annual debt service so funded. Debt service changes, reductions, (1) and (3) (c) refunds, and voter-approved revenue changes are dollar amounts that are exceptions to, and not part of, any district base. Voter-approved revenue changes do not require a tax rate change. FOR PURPOSES OF THIS PARAGRAPH (d), THE AMOUNT OF REVENUE FROM SOURCES NOT EXCLUDED FROM FISCAL YEAR SPENDING SHALL BE DETERMINED USING THE ACCRUAL METHOD OF ACCOUNTING.

Article X of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 21. State rainy day fund. (1) THE STATE RAINY DAY FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL CONTAIN MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY AND MONEYS DEPOSITED IN THE FUND PURSUANT TO THIS SECTION, SUBJECT TO A MAXIMUM BALANCE OF THE FUND OF TEN PERCENT OF THE MAXIMUM AMOUNT OF STATE FISCAL YEAR SPENDING PERMITTED BY SECTION 20 (7) (a) OF THIS ARTICLE FOR THE MOST RECENT FISCAL YEAR. IN ANY FISCAL YEAR IN WHICH STATE REVENUE FROM SOURCES NOT EXCLUDED FROM FISCAL YEAR SPENDING EXCEEDS THE LIMITS SET BY SECTION 20 (7) (a) OF THIS ARTICLE, ONE-HALF OF THE FIRST TWO HUNDRED MILLION DOLLARS OF THE EXCESS SHALL BE DEPOSITED IN THE FUND.

(2) INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE STATE RAINY DAY FUND SHALL BE CREDITED TO THE FUND, NOTWITHSTANDING THE MAXIMUM BALANCE OF THE FUND INDICATED IN SUBSECTION (1) OF THIS SECTION, AND SHALL REMAIN IN THE FUND UNLESS TRANSFERRED OR EXPENDED FROM THE FUND IN ACCORDANCE WITH SUBSECTION (3) OR (4) OF THIS SECTION.

(3) IN ANY FISCAL YEAR IN WHICH THE AMOUNT OF STATE FISCAL YEAR SPENDING PLUS THE AMOUNT OF REVENUES DEPOSITED IN THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) (a) OF ARTICLE IX OF THIS CONSTITUTION IS LESS THAN THE LIMITS SET BY SECTION 20 (7) (a) OF THIS ARTICLE, THE GENERAL ASSEMBLY MAY, BY A VOTE OF TWO-THIRDS OF THE MEMBERS OF BOTH HOUSES, TRANSFER MONEYS FROM THE STATE RAINY DAY FUND TO THE GENERAL FUND. THE GENERAL ASSEMBLY MAY TRANSFER NO MORE THAN ONE-THIRD OF THE BALANCE OF THE FUND IN ANY FISCAL YEAR; EXCEPT THAT, IF THE GENERAL ASSEMBLY TRANSFERRED MONEYS FROM THE FUND IN THE PREVIOUS FISCAL YEAR, IT MAY TRANSFER NO MORE THAN ONE-HALF OF THE BALANCE OF THE FUND IN THE CURRENT FISCAL YEAR. IN NO EVENT SHALL THE TRANSFER OF MONEYS FROM THE FUND CAUSE STATE FISCAL YEAR SPENDING TO EXCEED THE LIMITS SET BY SECTION 20 (7) (a) OF THIS ARTICLE.

(4) UPON DECLARING A DISASTER EMERGENCY IN THE MANNER PROVIDED BY LAW, THE GOVERNOR MAY EXPEND MONEYS IN THE STATE RAINY DAY FUND IN AN AMOUNT NOT TO EXCEED THREE PERCENT OF STATE FISCAL YEAR SPENDING FOR THE CURRENT FISCAL YEAR. ANY MONEYS EXPENDED PURSUANT TO THIS SUBSECTION (4) IN ANY FISCAL YEAR SHALL BE REPAID TO THE FUND WITHIN TWO FISCAL YEARS.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE HARMONIZATION OF THE REQUIREMENTS OF SECTION 20 OF ARTICLE X (TABOR) AND SECTION 17 OF ARTICLE IX (AMENDMENT 23), AND,

IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT SPENDING INCREASE IN CERTAIN STATE EDUCATION FUNDING IN YEARS WHEN THE TABOR REVENUE LIMIT IS NOT MET, CREATING THE STATE RAINY DAY FUND CONSISTING OF A PORTION OF EXCESS TABOR REVENUES AND OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, AUTHORIZING THE GENERAL ASSEMBLY TO TRANSFER A LIMITED AMOUNT OF MONEYS FROM THE RAINY DAY FUND TO THE GENERAL FUND BY A TWO-THIRDS VOTE, AUTHORIZING THE GOVERNOR TO SPEND A LIMITED AMOUNT OF MONEYS IN THE RAINY DAY FUND IN A DISASTER EMERGENCY, AND REDUCING THE "RATCHET" EFFECT OF TABOR BY THE AMOUNT DEPOSITED IN THE STATE EDUCATION FUND AND ANY AMOUNT TRANSFERRED FROM THE RAINY DAY FUND."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

Bill C

Colorado Legislative Council Staff

STATE CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0312	**Date:**	January 10, 2004
Prime Sponsor(s):	Sen. Hillman	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Lon Engelking (303-866-4751)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE HARMONIZATION OF THE REQUIREMENTS OF SECTION 20 OF ARTICLE X (TABOR) AND SECTION 17 OF ARTICLE IX (AMENDMENT 23), AND, IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT SPENDING INCREASE IN CERTAIN STATE EDUCATION FUNDING IN YEARS WHEN THE TABOR REVENUE LIMIT IS ~~NOT MET,~~ CREATING THE ~~STATE RAINY~~ DAY FUND CONSISTING OF A PORTION OF EXCESS TABOR REVENUES AND OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, AUTHORIZING THE GENERAL ASSEMBLY TO TRANSFER A LIMITED AMOUNT OF MONEYS FROM THE RAINY DAY FUND TO THE GENERAL FUND BY A TWO-THIRDS VOTE, AUTHORIZING THE GOVERNOR TO SPEND A LIMITED AMOUNT OF MONEYS IN THE RAINY DAY FUND IN A DISASTER EMERGENCY, AND REDUCING THE "RATCHET" EFFECT OF TABOR BY THE AMOUNT DEPOSITED IN THE STATE EDUCATION FUND AND ANY AMOUNT TRANSFERRED FROM THE RAINY DAY FUND

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues		
General Fund		
Rainy Day Fund	$19,600,000	$100,000,000
State Expenditures		
General Fund	Funds Diverted to Rainy Day Fund Decreasing Refunds to Taxpayers	
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact:		
Impact to existing TABOR refund mechanisms	($19,600,000)	($100,000,000)

Effective Date: Upon approval of the voters after the 2004 general election.

Appropriation Summary for FY 2004/2005: None

Local Government Impact: None

Summary of Legislation

This senate concurrent resolution, adopted by the Interim Committee on Fiscal Restraints, submits several proposed amendments to the State Constitution at the 2004 general election as follows:

Section 17 of Article IX (Amendment 23).

- Suspends the requirement for an additional 1 percent increase of base per pupil funding for statewide categorical public education programs in any year that revenues fall below the maximum amount permitted under the Taxpayer's Bill of Rights (TABOR);
- If the suspension is triggered, extends the requirement for an additional 1 percent by a year so that the additional 1 percent applies for 10 years; and
- The index used to suspend the requirement to increase the total General Fund appropriation for total program would change from personal income growth to the TABOR growth limit factor.

Section 20 of Article X (TABOR).

- Creates a state Rainy Day Fund capped at 10 percent of the TABOR revenue limit;
- Eliminates the emergency reserve;
- Credits the Rainy Day Fund by 1/2 of the first $200 million of TABOR surplus in each fiscal year;
- Additional appropriations to the fund would be counted under the TABOR limitation;
- Funds may be accessed by a 2/3 vote of the members of both houses of the General Assembly when revenue, including amounts required to be deposited into the State Education Fund, is less than the amount permitted under TABOR;
- Allows the fund to be used by the Governor for disaster emergencies not to exceed 3 percent of state fiscal year spending - to be repaid within 2 years;
- In years when revenue is below the maximum TABOR limitation, amounts deposited in the State Education Fund are added to TABOR spending for the calculation for the next fiscal year; and
- Requires accrual accounting of TABOR revenues.

State Revenues

The concurrent resolution suspends the requirement for an additional 1 percent increase of base per pupil funding for statewide categorical public education programs in any year that revenues fall below the maximum amount permitted under the Taxpayer's Bill of Rights (TABOR). The Legislative Council Staff's *December 2003 Forecast* estimates that revenue for the next 5 fiscal years, beginning with FY 2004-05, will be above the TABOR limitation. Therefore, these provisions would not have a fiscal impact during the forecast period.

However, there would be a fiscal impact of the resolution as a result of amendments to the TABOR section. The creation of the Rainy Day Fund and the use of excess revenues above the TABOR limitation has several implications. One-half of the first $200 million of excess revenues would be used to fund the Rainy Day Fund, thereby decreasing the amount of refunds to taxpayers. Table 1 shows the yearly transfer of moneys to the Rainy Day Fund and the resulting decrease of TABOR refunds.

Table 1. Transfer of Excess Revenues to Rainy Day Fund
(Dollars in millions)

FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
$19.6	$100.0	$100.0	$100.0	$100.0

Table 2 shows the projected impact to the various refund mechanism currently in place. *It should be noted that most of the mechanisms under current law are not forecasted to be triggered and used to refund revenue during the next 5 fiscal years. It should also be noted that revenue is refunded in the year following the year in which it is collected.*

Table 2. Impact on Current Refund Mechanisms
(Dollars in millions)

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-2010
HB 01-1313 Foster Care Issues				($0.2)	($0.2)
HB 99-1311 Business Personal Property				($140.0)	($145.0)
HB 99-1237 Capital Gains			($51.2)		
HB 00-1063 Rural Health Providers (ends after FY 2007)			($0.4)		
HB 00-1351 Child Care Credit			($28.3)		
HB 01-1081 Research and Development			($15.2)		
HB 00-1227 Lower Motor Vehicle Fees			($41.1)		
Sales Tax Refund	($19.6)	($100.0)	$36.2	$40.2	$45.2
Total	**($19.6)**	**($100.0)**	**($100.0)**	**($100.0)**	**($100.0)**

State Expenditures

The resolution does not directly impact state expenditures. Rather, it allows the state to divert moneys to the Rainy Day Fund that would otherwise have been refunded to taxpayers. The state would be allowed to expend these funds during disaster emergencies.

Election Expenditure Impacts (For Informational Purposes Only)

The bill contains a question to be referred to voters at the 2004 general election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill.

The estimated 2004 general election costs for the Blue Book are outlined in Table 3.

Table 3. Estimated Costs of Producing the 2004 Blue Book and Distributing to all Registered Voter Households

Printing	**$275,000**
Postage	**$275,000**
Translation	**$12,000**
Newspaper Publication (English & Spanish)	**$1,600,000**
Total Expenses (for estimated 12 issues)	**$2,162,000**
Estimated Expense Per Issue	**$188,167**

Local Government Impact

There would be no impact to local governments during the current forecast period.

State Appropriations

No appropriations would be necessary to implement the resolution

Departments Contacted

Legislative Council Staff

Bill D

HOUSE SPONSORSHIP

Romanoff

SENATE SPONSORSHIP

None

HOUSE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 (1) OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE STABILIZATION OF GOVERNMENT REVENUES, AND, IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT INCREASE IN CERTAIN STATE EDUCATION FUNDING DURING AN ECONOMIC DOWNTURN, REQUIRING FISCAL YEAR SPENDING LIMITS FOR STATE AND LOCAL DISTRICTS TO BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES, AND ALLOWING LOCAL DISTRICTS TO SEEK VOTER APPROVAL TO IMPOSE A FLUCTUATING MILL LEVY FOR A SPECIFIED PERIOD IN ORDER TO ALLOW THE LOCAL DISTRICT TO COLLECT PROPERTY TAX REVENUES NOT TO EXCEED THE AMOUNT OF SUCH REVENUES COLLECTED IN THE PRIOR YEAR, AS ADJUSTED FOR INFLATION AND LOCAL GROWTH.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. Amends certain provisions of the state constitution as follows:

Section 17 (1) of Article IX (Amendment 23):

- Suspends the requirement that the statewide base per pupil funding level and the total state funding for categorical programs increase by an additional one percentage point for 10 consecutive state fiscal years if, based on a comparative summary prepared by the state controller in January of each year, general fund revenues grew by less than inflation between the 2 previous calendar years.
- If the suspension is triggered, extends the period of the required one percentage point increase in order to ensure that the one percentage point increase requirement applies for a total of 10 state fiscal years.

Section 20 of Article X (TABOR):

- Requires spending limits for state and local district fiscal years that commence on or after July 1, 2004, to be calculated based upon prior fiscal year spending limits, with adjustments for inflation and growth, without being subject to reduction due to declines in revenues.
- Allows local districts to seek voter approval to impose a fluctuating mill levy for a specified period in order to allow the local district to collect an amount of property tax revenue in a calendar year not to exceed the amount of property tax revenue collected in the prior calendar year, as adjusted for inflation in the prior calendar year plus local growth.

Be It Resolved by the House of Representatives of the Sixty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendments to the constitution of the state of Colorado, to wit:

Section 17 (1) of article IX of the constitution of the state of Colorado is amended to read:

Section 17. Education - Funding. (1) **Purpose.** (a) (I) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), STARTING in state fiscal year 2001-2002 ~~through state fiscal year 2010-2011~~ FOR A PERIOD OF TEN CONSECUTIVE STATE FISCAL YEARS, the statewide base per pupil funding, as defined by the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes on the effective date of this section, for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at least by the rate of inflation plus an additional one percentage point.

(II) ~~In state fiscal year 2011-2012, and each fiscal year thereafter~~ UPON COMPLETION OF THE TEN-YEAR PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR AS EXTENDED BY SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), FOR EACH STATE FISCAL YEAR THEREAFTER, the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at a rate set by the general assembly that is at least equal to the rate of inflation.

(b) (I) BY JANUARY 20, 2005, AND BY JANUARY 20 OF EACH YEAR THEREAFTER UNTIL THE TEN-YEAR PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) OR AS EXTENDED BY SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) EXPIRES, THE STATE CONTROLLER SHALL PREPARE A COMPARATIVE SUMMARY OF GENERAL FUND REVENUES COLLECTED ON A CASH BASIS BY THE STATE IN EACH OF THE PRIOR TWO CALENDAR YEARS.

(II) IF THE COMPARATIVE SUMMARY PREPARED BY THE STATE CONTROLLER SHOWS THAT THE PERCENTAGE CHANGE IN GENERAL FUND REVENUES COLLECTED BY THE STATE IN THE PRIOR CALENDAR YEAR AS COMPARED TO GENERAL FUND REVENUES COLLECTED BY THE STATE IN THE NEXT PRECEDING CALENDAR YEAR WAS LESS THAN INFLATION FOR THE PRIOR CALENDAR YEAR, THE REQUIREMENT THAT THE STATEWIDE BASE PER PUPIL FUNDING, AS DEFINED BY THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, COLORADO REVISED STATUTES, ON DECEMBER 28, 2000, FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS GROW BY AN ADDITIONAL ONE PERCENTAGE POINT SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE SUSPENDED FOR THE STATE FISCAL YEAR THAT COMMENCES IN THE CALENDAR YEAR IN WHICH THE COMPARISON SUMMARY WAS PREPARED. FOR EACH STATE FISCAL YEAR IN WHICH THE ONE PERCENTAGE POINT INCREASE REQUIREMENT IS SUSPENDED, THE TEN-YEAR PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE EXTENDED BY ONE YEAR TO ENSURE THAT THE ONE PERCENTAGE POINT INCREASE REQUIREMENT APPLIES FOR AN AGGREGATE RATHER THAN A CONSECUTIVE TOTAL OF TEN STATE FISCAL YEARS.

Section 20 (7) (a) and (7) (b) of article X of the constitution of the state of Colorado are amended, and the said section 20 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

Section 20. The Taxpayer's Bill of Rights. (7) Spending limits. (a) (i) FOR ANY STATE FISCAL YEAR THE BEGINS PRIOR TO JULY 1, 2004, the maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991.

(ii) FOR THE 2004-05 STATE FISCAL YEAR, THE STATE FISCAL YEAR SPENDING LIMIT IS THE STATE FISCAL YEAR SPENDING LIMIT FOR THE 2000-01 STATE FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF THE

AGGREGATE AMOUNT OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE 2000, 2001, 2002, AND 2003 CALENDAR YEARS, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER 2000.

(iii) FOR THE 2005-06 STATE FISCAL YEAR AND FOR EACH SUCCEEDING STATE FISCAL YEAR, THE STATE FISCAL YEAR SPENDING LIMIT IS THE STATE FISCAL YEAR SPENDING LIMIT FOR THE PRIOR STATE FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER 2004.

(iv) FOR PURPOSES OF THIS PARAGRAPH (a), population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.

(b) (i) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT BEGINS PRIOR TO JANUARY 1, 2005, the maximum annual percentage change in each local district's fiscal year spending equals inflation in the prior calendar year plus annual local growth, adjusted for revenue changes approved by voters after 1991 and (8) (b) and (9) reductions.

(ii) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2005, BUT PRIOR TO JANUARY 1, 2006, THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT IS THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR THE LOCAL DISTRICT'S FISCAL YEAR THAT BEGAN ON OR AFTER JANUARY 1, 2001, BUT PRIOR TO JANUARY 1, 2002, PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF THE AGGREGATE AMOUNT OF INFLATION PLUS ANNUAL LOCAL GROWTH FOR THE 2001, 2002, 2003, AND 2004 CALENDAR YEARS, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER JANUARY 1, 2001, AND (8) (b) AND (9) REDUCTIONS.

(iii) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT COMMENCES ON OR AFTER JANUARY 1, 2006, AND FOR EACH SUCCEEDING LOCAL DISTRICT FISCAL YEAR, THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT IS THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR THE PRIOR LOCAL DISTRICT'S FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF INFLATION PLUS LOCAL GROWTH IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER JANUARY 1, 2005, AND (8) (b) AND (9) REDUCTIONS.

(10) **Local government mill levies.** NOTWITHSTANDING THE PROVISIONS OF (3) (c) AND (4) (a), A LOCAL DISTRICT MAY SEEK VOTER APPROVAL TO IMPOSE A MILL LEVY THAT FLUCTUATES FROM YEAR TO YEAR, FOR A PERIOD NOT TO EXCEED FIVE CALENDAR YEARS, IN ORDER TO ALLOW THE LOCAL DISTRICT TO COLLECT AN AMOUNT OF PROPERTY TAX REVENUE EACH YEAR NOT TO EXCEED THE AMOUNT OF PROPERTY TAX REVENUE THAT THE LOCAL DISTRICT COLLECTED IN THE PRIOR CALENDAR YEAR, AS ADJUSTED FOR INFLATION IN THE PRIOR CALENDAR YEAR PLUS LOCAL GROWTH.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AMENDMENTS TO SECTION 17 (1) OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE STABILIZATION OF GOVERNMENT REVENUES, AND, IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT INCREASE IN CERTAIN STATE EDUCATION FUNDING DURING AN ECONOMIC DOWNTURN, REQUIRING FISCAL YEAR SPENDING LIMITS FOR STATE AND LOCAL DISTRICTS TO BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING

SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES, AND ALLOWING LOCAL DISTRICTS TO SEEK VOTER APPROVAL TO IMPOSE A FLUCTUATING MILL LEVY FOR A SPECIFIED PERIOD IN ORDER TO ALLOW THE LOCAL DISTRICT TO COLLECT PROPERTY TAX REVENUES NOT TO EXCEED THE AMOUNT OF SUCH REVENUES COLLECTED IN THE PRIOR YEAR, AS ADJUSTED FOR INFLATION AND LOCAL GROWTH."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

DRAFT

Colorado Legislative Council Staff

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0308	**Date:**	January 11, 2004
Prime Sponsor(s):	Rep. Romanoff	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Lon Engelking (303-866-4751)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 (1) OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE STABILIZATION OF GOVERNMENT REVENUES, AND, IN CONNECTION THEREWITH, SUSPENDING THE REQUIRED ONE PERCENT INCREASE IN CERTAIN STATE EDUCATION FUNDING DURING AN ECONOMIC DOWNTURN, REQUIRING FISCAL YEAR SPENDING LIMITS FOR STATE AND LOCAL DISTRICTS TO BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES, AND ALLOWING LOCAL DISTRICTS TO SEEK VOTER APPROVAL TO IMPOSE A FLUCTUATING MILL LEVY FOR A SPECIFIED PERIOD IN ORDER TO ALLOW THE LOCAL DISTRICT TO COLLECT PROPERTY TAX REVENUES NOT TO EXCEED THE AMOUNT OF SUCH REVENUES COLLECTED IN THE PRIOR YEAR, AS ADJUSTED FOR INFLATION AND LOCAL GROWTH.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund		
State Expenditures General Fund	Changes the allowable revenue that can be kept and therefore expended for any purpose	
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: Increased TABOR limit *(available for appropriations)* Impact to existing TABOR refund mechanisms	 $39,100,000 (39,100,000)	 $347,400,000 (347,400,000)
Effective Date: Upon approval of the voters after 2004 general election		

Appropriation Summary for FY 2004/2005: None required

Local Government Impact: Local governments would be allowed to keep and expend additional revenue as a result of a change in their revenue limitation calculation. Local governments would also be allowed to seek voter approval for a fluctuating mill levy.

Summary of Legislation

This House concurrent resolution, adopted by the Interim Committee on Fiscal Restraints, submits proposed amendments to Section 17 (1) Article IX (Amendment 23), and Section 20 (7) of Article X (TABOR) of the Colorado Constitution at the 2004 general election.

Section 17 of Article IX (Amendment 23)

- Suspends the requirement that the statewide base per pupil funding level and the total state funding for categorical programs increase by an additional 1 percent for 10 consecutive fiscal years if, based on a comparative summary prepared by the State Controller in January of each year, General Fund revenues grew by less than inflation between the 2 previous calendar years; and
- If the suspension is triggered, extends the requirement by one year so that the total increases applies for 10 years.

Section 20 (7) of Article X (TABOR)

Proposed State Spending Limitation

- ***FYs prior to July 1, 2004*** -- No change from existing TABOR limitation;
- ***FY 2004-05*** -- the limit is based on the FY 2000-01 limit plus inflation plus population change for the 2000, 2001, 2002, and 2003 calendar years plus voter approved revenue changes after 2000; and
- ***FY 2005-06 and later years*** -- the limit is based on the prior year's limit plus inflation plus the population change from the prior year plus voter approved revenue changes after 2004.

Proposed Local District Spending Limitation

- ***FYs beginning prior to January 1, 2005*** -- No change from existing TABOR limitation;
- ***FY beginning after January 1, 2005, but prior to January 1, 2006*** -- the limit is based on the fiscal year that began after January 1, 2001, but before January 1, 2002 limit plus inflation plus the local growth change for the 2001, 2002, 2003, and 2004 calendar years plus voter approved revenue changes after January 1, 2001; and
- ***FYs beginning after January 1, 2006*** -- the limit is based on the prior year's limit plus inflation plus the local growth change from the prior year plus voter approved revenue changes after January 1, 2005.

Local Government Mill Levies

The resolution further specifies that a local district may seek voter approval to impose a fluctuating mill levy for a period of up to five years to allow the district to collect the same amount of property tax revenue that was collected in the previous calendar year, as adjusted for inflation in the prior calendar year plus local growth.

State Revenues

Current law under TABOR, limits the aggregate annual increase in most state revenue to inflation plus the annual percentage change in state population. The limit is applied to either the prior year's limit or to actual TABOR revenue collected in the prior year, whichever is less. This last provision of TABOR (tying the limit to revenue collected) is commonly referred to as the "rachet-down" effect. If revenue is less than the allowable TABOR limit, the base for determining the following year's limit is reduced. Since the new limit is at a lower level than it otherwise would have been, the limit is said to have ratcheted down.

This resolution eliminates the rachet effect of current law because the allowable limit is never based on the revenue collected from the prior year, but instead, it is always based on the prior year's limit plus inflation and growth. Thus, the proposal will allow the state to keep more revenue beginning in FY 2004-05 and return less to the taxpayers than otherwise would be allowed under current law. Table 1 shows the forecasted revenues above the TABOR limit both under current law and the resolution's proposed amendment to TABOR.

Table 1. Impact of HCR 04-1001 on Allowable TABOR Revenue Spending (Dollars in millions)

State Fiscal Year	Current Law Revenue Above Limit	Proposed Resolution Revenue Above Limit	Fiscal Impact of Change
FY 2004-05	$39.1	$0	$39.1
FY 2005-06	$347.4	$0	$347.4
FY 2006-07	$450.6	$0	$450.6
FY 2007-08	$332.6	$0	$332.6
FY 2008-09	$345.4	$0	$345.4
Total	**$1,515.1**	**$0**	**$1,515.1**

Therefore, the proposal is estimated to increase the amount of state revenue retained under the limit by $1,515.1 million over the forecasted 5 fiscal years. These revenues would otherwise be returned to taxpayers based on the current-law refund mechanisms.

Table 2 shows the projected impact to the various refund mechanism currently in place. *It should be noted that most of the mechanisms under current law are not forecasted to be triggered* *and used to refund revenue during the next 5 fiscal years. It should also be noted that revenue is refunded in the year following the year in which it is collected.*

Table 2. Impact on Current Refund Mechanisms (Dollars in millions)					
	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-2010
HB 99-1383 & HB 00-1049 Earned Income Credit		($35.5)	($36.2)	($36.9)	($37.7)
HB 01-1313 Foster Care Issues		($0.2)	($0.2)	($0.2)	($0.2)
HB 99-1311 Business Personal Property		($126.8)	($134.4)	($140.0)	($145.0)
HB 99-1237 Capital Gains			($51.2)		
HB 00-1063 Rural Health Providers (ends after FY 2007)			($0.4)		
HB 00-1351 Child Care Credit			($28.3)		
HB 01-1081 Research and Development			($15.2)		
HB 00-1227 Lower Motor Vehicle Fees			($41.1)		
HB 00-1355 High Technology Scholarship Program			($2.5)		
Sales Tax Refund	($39.1)	($184.9)	($141.1)	($155.5)	($162.5)
Total	**($39.1)**	**($347.4)**	**($450.6)**	**($332.6)**	**($345.4)**

Table 2 shows the dollar impact to taxpayers who would have received a higher refund from these mechanisms without this proposal. For example, the total impact to taxpayers who would have qualified to receive a refund under the Earned Income Credit during FY 2006-07 is a decrease of $35.5 million.

State Expenditures

The resolution does not directly impact state expenditures. Rather, it allows the state to keep more of the revenue that it collects before it reaches the TABOR spending (revenue) limitation which triggers refunds under the mechanisms in place under current law. The state would then be allowed to spend or appropriate more funds under separate legislation.

The concurrent resolution suspends the 1 percent requirement for the statewide base per pupil funding and total categorical programs for any fiscal year when General Fund revenues grow by less than inflation between the two previous calendar years. Since the Legislative Council's December 2003 Forecast indicates that revenue will exceed the limitations as proposed in the resolution, no expenditure impact is anticipated for this provision during the forecast period of 5 years.

Local Government Impact

Local governments, referred to as Local Districts under TABOR, would be allowed to keep and spend additional revenue similar to the state because of the change in the allowable revenue or spending limitation as discussed above. No estimate is made at this time due to the many types of local governments, all with individual limitations and future revenue forecasts.

In addition, a local district may seek voter approval to impose a fluctuating mill levy for a period of up to five years to allow the district to collect the same amount of property tax revenue that was collected in the previous calendar year, as adjusted for inflation in the prior calendar year plus local growth. No estimate is made at this time for this provision.

Election Expenditure Impacts (For Informational Purposes Only)

The bill contains a question to be referred to voters at the 2004 general election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill.

The estimated 2004 general election costs for the Blue Book are outlined in Table 3.

Table 3. Estimated Costs of Producing the 2004 Blue Book and Distributing to all Registered Voter Households	
Printing	$275,000
Postage	$275,000
Translation	$12,000
Newspaper Publication (English & Spanish)	$1,600,000
Total Expenses (for estimated 12 issues)	$2,162,000
Estimated Expense Per Issue	$188,167

State Appropriations

No appropriation would be required to implement the resolution. The resolution will allow for additional funds to be appropriated under other legislation.

Departments Contacted

Legislative Council Staff

Bill E

HOUSE SPONSORSHIP

King

SENATE SPONSORSHIP

None

HOUSE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING STATE SPENDING, AND, IN CONNECTION THEREWITH, REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR EACH OF THE TEN STATE FISCAL YEARS STARTING WITH THE 2001-02 STATE FISCAL YEAR INCREASE BY AT LEAST THE RATE OF INFLATION PLUS ONE PERCENTAGE POINT WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR STATE FISCAL YEAR IN ANY STATE FISCAL YEAR THAT FOLLOWS A CALENDAR YEAR IN WHICH STATE GENERAL FUND REVENUES DID NOT INCREASE BY AT LEAST THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE PRIOR CALENDAR YEAR; REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR STATE FISCAL YEARS STARTING WITH THE 2011-12 STATE FISCAL YEAR INCREASE BY THE RATE OF INFLATION WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR FISCAL YEAR; INCREASING THE STATE FISCAL YEAR SPENDING LIMITS FOR THE 2005-06 AND 2006-07 STATE FISCAL YEARS BY ONE PERCENTAGE POINT EACH; INCLUDING EACH ONE PERCENTAGE POINT INCREASE IN THE STATE FISCAL YEAR SPENDING BASE FOR THE PURPOSE OF CALCULATING SUBSEQUENT YEARS' STATE FISCAL YEAR SPENDING LIMITS EVEN IF STATE REVENUES DECLINE; AND REQUIRING SOME OF THE ADDITIONAL MONEYS UNDER THE INCREASED STATE FISCAL YEAR SPENDING LIMITS TO BE EXPENDED FIRST TO COMPENSATE LOCAL GOVERNMENTS FOR REVENUE LOSSES FROM THE SENIOR PROPERTY TAX EXEMPTION, NEXT TO PROVIDE A STATE CREDIT AGAINST BUSINESS PERSONAL PROPERTY TAXES, AND LASTLY FOR REFUNDS TO TAXPAYERS.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. Amends section 17 of article IX of the Colorado constitution (Amendment 23) as follows:

- Replaces the requirement that statewide base per pupil funding for preschool, primary, and secondary education for each of the 10 state fiscal years starting with the 2001-02 state fiscal year increase by at least the rate of inflation plus one percentage point with a requirement that the general assembly set the statewide base per pupil funding and total state funding for all categorical programs at no less than the levels of the statewide base per pupil funding and total state funding for all categorical programs for the prior state fiscal year in any state fiscal year that follows a calendar year in which state general fund revenues did not increase by at least the sum of inflation plus the percentage change in state population for the prior calendar year.
- Replaces the requirement that statewide base per pupil funding for preschool, primary, and secondary education for state fiscal years starting with the 2011-12 state fiscal year increase by the rate of inflation with a requirement that the general assembly set the statewide base per pupil funding and total state funding for all categorical programs at no less than the levels of the statewide base per pupil funding for preschool, primary, and secondary education and total state funding for all categorical programs for the prior fiscal year.

Amends section 20 of article X of the Colorado constitution (TABOR) as follows:

- Increases the state fiscal year spending limits for the 2005-06 and 2006-07 state fiscal years by one percentage point each.
- Includes each one percentage point increase in the state fiscal year spending base for the purpose of calculating subsequent years' state fiscal year spending limits even if state revenues decline.
- Requires additional moneys under the increased state fiscal year spending limits to be expended first to compensate local governments for revenue losses from the senior property tax exemption, next to provide a state credit against business personal property taxes, and lastly for refunds to taxpayers if the amount of the additional moneys is at least 50% of the amount of compensation owed to the local governments.

Be It Resolved by the House of Representatives of the Sixty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 17 (1) of article IX of the constitution of the state of Colorado is amended to read:

Section 17. Education - Funding. (1) **Purpose.** (a) (I) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), STARTING in state fiscal year 2001-2002 ~~through state fiscal year 2010-2011~~ FOR A PERIOD OF TEN CONSECUTIVE STATE FISCAL YEARS, the statewide base per pupil funding, as defined by the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes on the effective date of this section, for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at least by the rate of inflation plus an additional one percentage point.

(II) In state fiscal year 2011-2012, and each fiscal year thereafter, THE GENERAL ASSEMBLY SHALL SET the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs ~~shall grow annually at a rate set by the general assembly that is at least equal to the rate of inflation~~ AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR FISCAL YEAR.

(b) (I) NO LATER THAN JANUARY 20, 2005, AND NO LATER THAN EACH SUCCEEDING JANUARY 20 THROUGH JANUARY 20, 2010, THE STATE CONTROLLER SHALL PREPARE A COMPARATIVE SUMMARY OF GENERAL FUND REVENUES COLLECTED BY THE STATE IN EACH OF THE PRIOR TWO CALENDAR YEARS.

(II) (A) IF THE COMPARATIVE SUMMARY PREPARED BY THE STATE CONTROLLER SHOWS THAT THE PERCENTAGE CHANGE IN GENERAL FUND REVENUES COLLECTED BY THE STATE IN THE PRIOR CALENDAR YEAR AS COMPARED TO GENERAL FUND REVENUES COLLECTED BY THE STATE IN THE NEXT PRECEDING CALENDAR YEAR WAS LESS THAN THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE PRIOR CALENDAR YEAR, THE REQUIREMENT THAT THE STATEWIDE BASE PER PUPIL FUNDING, AS DEFINED BY THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, COLORADO REVISED STATUTES, ON DECEMBER 28, 2000, FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS GROW BY AT LEAST THE RATE OF INFLATION PLUS ONE PERCENTAGE POINT SHALL BE SUSPENDED FOR THE STATE FISCAL YEAR THAT COMMENCES IN THE CALENDAR YEAR IN WHICH THE COMPARISON SUMMARY WAS PREPARED. FOR THAT STATE FISCAL YEAR, THE GENERAL ASSEMBLY SHALL SET THE STATEWIDE BASE PER PUPIL FUNDING FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR STATE FISCAL YEAR.

(B) FOR PURPOSES OF THIS SUBPARAGRAPH (II), THE PERCENTAGE CHANGE IN STATE POPULATION SHALL BE CALCULATED IN ACCORDANCE WITH ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (a) OF THE COLORADO CONSTITUTION.

Section 20 (7) (a) of article X of the constitution of the state of Colorado is amended, and the said section 20 (7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

Section 20. The Taxpayer's Bill of Rights. (7) Spending limits. (a) EXCEPT AS OTHERWISE PROVIDED IN (7) (a.5), the maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991. Population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.

(a.5) (i) AS USED IN THIS PARAGRAPH (a.5), UNLESS THE CONTEXT OTHERWISE REQUIRES, "DIFFERENCE" MEANS THE DIFFERENCE BETWEEN THE STATE FISCAL YEAR SPENDING LIMIT FOR ANY STATE FISCAL YEAR CALCULATED PURSUANT TO (a) OR (a.5) (ii) AND THE STATE FISCAL YEAR SPENDING LIMIT THAT WOULD HAVE APPLIED FOR THE STATE FISCAL YEAR BUT FOR THE ADDITION OF ONE PERCENTAGE POINT TO THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN STATE FISCAL YEAR SPENDING FOR THE 2005-06 AND 2006-07 STATE FISCAL YEARS.

(ii) FOR THE 2005-06 AND 2006-07 STATE FISCAL YEARS, THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN STATE FISCAL YEAR SPENDING EQUALS INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR

CALENDAR YEAR PLUS ONE PERCENTAGE POINT, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER 1991.

(iii) FOR THE 2005-06 STATE FISCAL YEAR AND FOR ANY SUBSEQUENT STATE FISCAL YEAR, IF THE DIFFERENCE EQUALS OR EXCEEDS FIFTY PERCENT OF THE TOTAL AMOUNT OF STATE COMPENSATION TO LOCAL GOVERNMENTS REQUIRED BY SECTION 3.5 (3) OF THIS ARTICLE FOR THE PROPERTY TAX YEAR THAT COMMENCES DURING THE STATE FISCAL YEAR, THE STATE SHALL EXPEND THE DIFFERENCE AS FOLLOWS:

(A) THE STATE SHALL FIRST PAY THE COMPENSATION OWED TO LOCAL GOVERNMENTS PURSUANT TO SECTION 3.5 (3) OF THIS ARTICLE.

(B) THE STATE SHALL NEXT PAY TO EACH TAXPAYER WHO PAYS AD VALOREM TAXES IMPOSED ON PERSONAL PROPERTY PURSUANT TO SECTION 3 OF THIS ARTICLE A CREDIT AGAINST THOSE TAXES. THE AMOUNT OF THE CREDIT SHALL BE A PERCENTAGE OF THE TAXPAYER'S TAX LIABILITY EQUAL TO THE LESSER OF THE PERCENTAGE THAT WILL EXHAUST THE REMAINING DIFFERENCE OR TEN PERCENT OF EACH TAXPAYER'S TAX LIABILITY.

(C) THE STATE SHALL REFUND ANY AMOUNT OF THE DIFFERENCE THAT REMAINS AFTER THE STATE MAKES THE PAYMENTS REQUIRED BY SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (iii) AS IF THAT AMOUNT CONSTITUTED REVENUES IN EXCESS OF THE STATE FISCAL YEAR SPENDING LIMIT.

(iv) FOR THE 2006-07 STATE FISCAL YEAR AND FOR ANY SUBSEQUENT STATE FISCAL YEAR, IF THE STATE FISCAL YEAR SPENDING LIMIT CALCULATED PURSUANT TO (a) OR (a.5) (ii) FOR THE PRIOR STATE FISCAL YEAR EXCEEDS THE ACTUAL AMOUNT OF STATE FISCAL YEAR SPENDING FOR THE PRIOR STATE FISCAL YEAR, THE STATE FISCAL YEAR SPENDING LIMIT SHALL BE AN AMOUNT EQUAL TO THE SUM OF:

(A) THE STATE FISCAL YEAR SPENDING LIMIT FOR THE STATE FISCAL YEAR CALCULATED PURSUANT TO (a) OR (a.5) (ii); AND

(B) THE DIFFERENCE.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING STATE SPENDING, AND, IN CONNECTION THEREWITH, REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR EACH OF THE TEN STATE FISCAL YEARS STARTING WITH THE 2001-02 STATE FISCAL YEAR INCREASE BY AT LEAST THE RATE OF INFLATION PLUS ONE PERCENTAGE POINT WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR STATE FISCAL YEAR IN ANY STATE FISCAL YEAR THAT FOLLOWS A CALENDAR YEAR IN WHICH STATE GENERAL FUND REVENUES DID NOT INCREASE BY AT LEAST THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE PRIOR CALENDAR YEAR; REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR STATE FISCAL YEARS STARTING WITH THE 2011-12 STATE FISCAL YEAR INCREASE BY

THE RATE OF INFLATION WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR FISCAL YEAR; INCREASING THE STATE FISCAL YEAR SPENDING LIMITS FOR THE 2005-06 AND 2006-07 STATE FISCAL YEARS BY ONE PERCENTAGE POINT EACH; INCLUDING EACH ONE PERCENTAGE POINT INCREASE IN THE STATE FISCAL YEAR SPENDING BASE FOR THE PURPOSE OF CALCULATING SUBSEQUENT YEARS' STATE FISCAL YEAR SPENDING LIMITS EVEN IF STATE REVENUES DECLINE; AND REQUIRING SOME OF THE ADDITIONAL MONEYS UNDER THE INCREASED STATE FISCAL YEAR SPENDING LIMITS TO BE EXPENDED FIRST TO COMPENSATE LOCAL GOVERNMENTS FOR REVENUE LOSSES FROM THE SENIOR PROPERTY TAX EXEMPTION, NEXT TO PROVIDE A STATE CREDIT AGAINST BUSINESS PERSONAL PROPERTY TAXES, AND LASTLY FOR REFUNDS TO TAXPAYERS."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

Bill E

Colorado Legislative Council Staff

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0311	**Date:**	January 15, 2004
Prime Sponsor(s):	Rep. King	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Lon Engelking (303-866-4751)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AMENDMENTS TO SECTION 17 OF ARTICLE IX AND SECTION 20 OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING STATE SPENDING, AND, IN CONNECTION THEREWITH, REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR EACH OF THE TEN STATE FISCAL YEARS STARTING WITH THE 2001-02 STATE FISCAL YEAR INCREASE BY AT LEAST THE RATE OF INFLATION PLUS ONE PERCENTAGE POINT WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR STATE FISCAL YEAR IN ANY STATE FISCAL YEAR THAT FOLLOWS A CALENDAR YEAR IN WHICH STATE GENERAL FUND REVENUES DID NOT INCREASE BY AT LEAST THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE PRIOR CALENDAR YEAR; REPLACING THE REQUIREMENT THAT STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR STATE FISCAL YEARS STARTING WITH THE 2011-12 STATE FISCAL YEAR INCREASE BY THE RATE OF INFLATION WITH A REQUIREMENT THAT THE GENERAL ASSEMBLY SET THE STATEWIDE BASE PER PUPIL FUNDING AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS AT NO LESS THAN THE LEVELS OF THE STATEWIDE BASE PER PUPIL FUNDING FOR PRESCHOOL, PRIMARY, AND SECONDARY EDUCATION AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS FOR THE PRIOR FISCAL YEAR; INCREASING THE STATE FISCAL YEAR SPENDING LIMITS FOR THE 2005-06 AND 2006-07 STATE FISCAL YEARS BY ONE PERCENTAGE POINT EACH; INCLUDING EACH ONE PERCENTAGE POINT INCREASE IN THE STATE FISCAL YEAR SPENDING BASE FOR THE PURPOSE OF CALCULATING SUBSEQUENT YEARS' STATE FISCAL YEAR SPENDING LIMITS EVEN IF STATE REVENUES DECLINE; AND REQUIRING SOME OF THE ADDITIONAL MONEYS UNDER THE INCREASED STATE FISCAL YEAR SPENDING LIMITS TO BE EXPENDED FIRST TO COMPENSATE LOCAL GOVERNMENTS FOR REVENUE LOSSES FROM THE SENIOR PROPERTY TAX EXEMPTION, NEXT TO PROVIDE A STATE CREDIT AGAINST BUSINESS PERSONAL PROPERTY TAXES, AND LASTLY FOR REFUNDS TO TAXPAYERS.

Fiscal Impact Summary	FY 2004/05	FY 2005/06	FY 2006/07
State Revenues			
General Fund (Income Tax): *			
Senior Property Tax Exemption		$500,000	$500,000
Business Personal Property Tax Credit		309,500	909,500
State Expenditures			
General Fund:			
Senior Property Tax Exemption			($55,100,000)
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact:			
TABOR Surplus:			
Senior Property Tax Exemption		$54,100,000	$55,100,000
Business Personal Property Tax Credit		32,600,000	65,100,000
Other Refund Mechanisms		(86,700,000)	(120,200,000)
Effective Date: Upon approval of the voters after 2004 general election			
Appropriation Summary for FY 2004/05: None Required			
Local Government Impact: Local governments would receive payment for the Senior Property Tax Exemption in FY 2005-06, one year earlier than under current law.			

* *Note: This increased revenue would increase the TABOR refund.*

Summary of Legislation

This House concurrent resolution, adopted by the Interim Committee on Fiscal Restraints, submits proposed amendments to Section 17 Article IX (Amendment 23), and Section 20 (7) of Article X (TABOR) of the Colorado Constitution at the 2004 general election.

Section 17 of Article IX (Amendment 23). The concurrent resolution suspends the requirement to increase the statewide base per pupil funding and funding for all categorical programs by the inflation rate plus 1 percentage point during fiscal years following a calendar year in which General Fund revenues did not increase by the TABOR allowable growth limit.

During the fiscal years the increase is suspended, the General Assembly is to set the statewide base per pupil funding and categorical funding at no less than the prior fiscal year's funding. The concurrent resolution allows the General Assembly to set the funding for these programs beginning in FY 2011-12, but prohibits the funding to be less than the funding for the prior fiscal year.

Section 20 (7) of Article X (TABOR). The concurrent resolution increases the state TABOR revenue limits for FY 2005-06 and FY 2006-07 by 1 percentage point for each fiscal year. Beginning in FY 2006-07, if state revenues do not reach the TABOR limit, the amount gained by each of the 1 percentage point increases would be added to the base for determining subsequent year's limits.

If the additional money allowed by the 1 percentage point increase is at least 50 percent of the amount of compensation owed to the local governments for revenue losses from the senior property tax exemption, the additional moneys must be expended first to compensate local governments for these losses, then to provide a state credit against business personal property taxes, and lastly for refunds to taxpayers.

State Revenues

The concurrent resolution increases the state TABOR revenue limits for FY 2005-06 and FY 2006-07 by 1 percentage point for each fiscal year. The intent of this increase to the revenue limit is to fund the Senior Property Tax Exemption program and a Business Personal Property Tax Credit. Table 1 shows the forecasted revenues above the TABOR limit both under current law and the resolution's proposed amendment to TABOR.

Table 1. Impact of HCR04-1003 on Allowable TABOR Revenue Spending (Dollars in millions)

State Fiscal Year	Current Law Revenue Above Limit	Proposed Law Revenue Above Limit	Fiscal Impact of Change
FY 2004-05	$39.1	$39.1	$0.0
FY 2005-06	$347.4	$260.7	$86.7
FY 2006-07	$450.6	$269.5	$181.1
FY 2007-08	$332.6	$143.0	$189.6
FY 2008-09	$345.4	$146.8	$198.6
Total	**$1,515.1**	**$859.1**	**$656.0**

Therefore, the proposal is estimated to increase the amount of the state revenue limit by $656.0 million over the forecasted 5 fiscal years. These revenues would otherwise be returned to taxpayers based on the current-law refund mechanisms. Because the concurrent resolution specifies that payments will first be made to local governments for the Senior Property Tax Exemption and then to allow for a Business Personal Property Tax Credit, an adjustment occurs to the current TABOR refund mechanisms. Table 2. shows the overall fiscal impact to these mechanisms.

Table 2. Fiscal Impact on Existing TABOR Refund Mechanisms (Dollars in millions)

State Fiscal Year	Adjusted Fiscal Impact
FY 2004-05	$0.0
FY 2005-06	$86.7
FY 2006-07	$120.2
FY 2007-08	$121.3
FY 2008-09	$122.2

Table 3. shows the projected impact to the various refund mechanism currently in place. *It should be noted that most of the mechanisms under current law are not forecasted to be triggered and used to refund revenue during the next 5 fiscal years. It should also be noted that revenue is refunded in the year following the year in which it is collected.*

Table 3. Impact on Current TABOR Refund Mechanisms (Dollars in millions)					
	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-2010
HB 01-1313 Foster Care Issues				($0.2)	($0.2)
HB 99-1311 Business Personal Property				($140.0)	($145.0)
HB 99-1237 Capital Gains			($51.2)		
HB 00-1063 Rural Health Providers (ends after FY 2007)			($0.4)		
HB 00-1351 Child Care Credit			($28.3)		
HB 01-1081 Research and Development			($15.2)		
HB 00-1227 Lower Motor Vehicle Fees			($41.1)		
HB 00-1355 High Technology Scholarship Program			($2.5)		
Sales Tax Refund		($86.7)	$18.5	$18.9	$23.0
Total	**$0.0**	**($86.7)**	**($120.2)**	**($121.3)**	**($122.2)**

Table 3 shows the dollar impact to taxpayers under this proposal who would otherwise have received a higher refund from these mechanisms. For example, the total impact to taxpayers who would have qualified to receive a refund under the Capital Gains mechanism during FY 2007-08 is a decrease of $51.2 million. Conversely, taxpayers will receive an additional sales tax refund in the amount of $18.5 million in FY 2007-08.

Because the concurrent resolution effectively allows for the Senior Property Tax Exemption beginning in FY 2005-06, one year earlier than current law, there will be an increase in General Fund income tax revenue due to taxpayers not claiming the same amount of itemized deductions on their income tax return. It is estimated that this amount will total approximately $1 million. One-half of this amount would accrue to FY 2005-06 and one-half to FY 2006-07.

A similar revenue increase will occur due to the Business Personal Property Tax Credit. Since the credit is new, the revenue increase will occur in FY 2005-06 and beyond. The amount of the revenue increase is projected to be $619,000 in FY 2005-06 and $1.2 million in FY 2006-07. Because of the accrual shifts, the impact will be $309,500 in FY 2005-06, and $909,500 in FY 2006-07.

State Expenditures

Amendment 23. The concurrent resolution suspends the 1 percent requirement for the statewide base per pupil funding and total categorical programs for any fiscal year when General Fund revenues grow by less than the allowable TABOR limit. Since the Legislative Council's December 2003 Forecast indicates that revenue will exceed the TABOR limit beginning in FY 2004-05 and each of the next 5 fiscal years, no expenditure impact is anticipated for this provision during the forecasted period through FY 2008-09.

TABOR. The concurrent resolution specifies that if the additional money allowed by the 1 percentage point increase is at least 50 percent of the amount of compensation owed to the local governments for revenue losses from the senior property tax exemption, the additional moneys must be expended first to compensate local governments for these losses, then to provide a state credit against business personal property taxes, and lastly for refunds to taxpayers.

Senior Property Tax Exemption. As Table 1 above shows, the impact in FY 2005-06 is projected to be $86.7 million, and the impact for FY 2006-07 is projected to be $181.1 million. Since the projected amount in FY 2005-06 is more than 50 percent of the senior property tax exemption, the full amount of $54.1 million would be paid to local governments in this year. Current law allows for the senior property tax exemption to begin in FY 2006-07. Therefore, it would begin one year earlier under this proposal.

Business Personal Property Tax Credit. The balance of the increase after paying the senior property tax exemption would then be available in FY 2005-06 to pay for the business personal property tax credit. This balance amounts to $32.6 million ($86.7 minus $54.1). Legislative Council Staff estimates that currently, businesses will pay approximately $632.3 million in FY 2005-06 and $651.2 million in FY 2006-07 in personal property tax. Since this resolution allows up to 10 percent of total business personal property tax paid as a credit, only 5.1 percent rather than the 10 percent credit would be allowed in FY 2005-06, because the balance is insufficient for a full credit of $63.2 million (10% of $632.3 million). Also, no additional amount would be allocated to be refunded to taxpayers.

In FY 2006-07, the full 10 percent credit in the amount of $65.1 million would be available. After paying for the Senior Property Tax Exemption ($55.1 million), and the Business Personal Property Tax Credit ($65.1 million), an amount of $60.9 million would be the excess TABOR revenues available for refund under the current mechanisms.

Impact on Current Expenditures. Since the concurrent resolution provides for a funding source for the Senior Property Tax Exemption, from an increased TABOR base, the state General Fund expenditure for FY 2006-07 and beyond will be eliminated, thereby allowing these funds to be used for other purposes. The expenditure savings in FY 2006-07 is projected to be $55.1 million.

Local Government Impact

The concurrent resolution states that if the additional money allowed by the 1 percentage point increase to TABOR (at the state level) is at least 50 percent of the amount of compensation owed to the local governments for revenue losses from the senior property tax exemption, the additional moneys must be expended first to compensate local governments for these losses. Local governments would receive payment for the Senior Property Tax Exemption in FY 2005-06, one year earlier than under current law. The amount of the exemption is $54.1 million in FY 2005-06, $55.1 million in FY 2006-07, and $53.6 million in FY 2007-08.

Election Expenditure Impacts (For Informational Purposes Only)

The bill contains a question to be referred to voters at the 2004 general election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill.

The estimated 2004 general election costs for the Blue Book are outlined in Table 4.

Table 4. Estimated Costs of Producing the 2004 Blue Book and Distributing to all Registered Voter Households	
Printing	$275,000
Postage	$275,000
Translation	$12,000
Newspaper Publication (English & Spanish)	$1,600,000
Total Expenses (for estimated 12 issues)	**$2,162,000**
Estimated Expense Per Issue	$188,167

State Appropriations

No appropriation would be required to implement the resolution. The resolution will allow for future additional funds to be appropriated under other legislation.

Departments Contacted

Legislative Council Staff

Bill F

SENATE SPONSORSHIP

Anderson

HOUSE SPONSORSHIP

None

SENATE CONCURRENT RESOLUTION

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 20 (7) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING A REQUIREMENT THAT THE FISCAL YEAR SPENDING LIMITS BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Fiscal Restraints. Contingent upon the approval of the voters of the state at the 2004 general election:

- Requires the state fiscal year spending limit for the 2004-05 state fiscal year to be calculated based on the state fiscal year spending limit for the 2002-03 state fiscal year with adjustments for inflation plus the percentage change in state population for the 2002 and 2003 calendar years.
- Requires spending limits for state fiscal years that commence on or after July 1, 2005, to be calculated based on prior fiscal year spending limits, with adjustments for inflation and growth, without being subject to reduction due to declines in revenues.
- Prohibits the state from making any population adjustments based on the 2000 decennial census in any state fiscal year that commences on or after July 1, 2004.
- Requires a local district's fiscal year spending limit for any fiscal year commencing on or after January 1, 2005, but prior to January 1, 2006, to be calculated based on the local district's fiscal year spending limit for the fiscal year that began on or after January 1, 2003, but prior to January 1, 2004, with adjustments for inflation plus local growth for the 2003 and 2004 calendar years.
- Requires spending limits for local district fiscal years that commence on or after January 1, 2006, to be calculated based on prior fiscal year spending limits, with adjustments for inflation and local growth, without being subject to reduction due to declines in revenues.

Be It Resolved by the Senate of the Sixty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 20 (7) (a) and (7) (b) of article X of the constitution of the state of Colorado are amended to read:

Section 20. The Taxpayer's Bill of Rights. (7) Spending limits. (a) (i) FOR ANY STATE FISCAL YEAR THAT BEGINS PRIOR TO JULY 1, 2004, the maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991.

(ii) FOR THE 2004-05 STATE FISCAL YEAR, THE STATE FISCAL YEAR SPENDING LIMIT IS THE STATE FISCAL YEAR SPENDING LIMIT FOR THE 2002-03 STATE FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF THE

AGGREGATE AMOUNT OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION FOR THE 2002 AND 2003 CALENDAR YEARS, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER 2002.

(iii) FOR THE 2005-06 STATE FISCAL YEAR AND FOR EACH SUCCEEDING STATE FISCAL YEAR, THE STATE FISCAL YEAR SPENDING LIMIT IS THE STATE FISCAL YEAR SPENDING LIMIT FOR THE PRIOR STATE FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER 2004.

(iv) FOR PURPOSES OF THIS PARAGRAPH (a), population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census. THE STATE SHALL NOT MAKE ANY POPULATION ADJUSTMENT BASED ON THE 2000 DECENNIAL FEDERAL CENSUS IN ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2004.

(b) (i) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT BEGINS PRIOR TO JANUARY 1, 2005, the maximum annual percentage change in each local district's fiscal year spending equals inflation in the prior calendar year plus annual local growth, adjusted for revenue changes approved by voters after 1991 and (8) (b) and (9) reductions.

(ii) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2005, BUT PRIOR TO JANUARY 1, 2006, THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT IS THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR THE LOCAL DISTRICT'S FISCAL YEAR THAT BEGAN ON OR AFTER JANUARY 1, 2003, BUT PRIOR TO JANUARY 1, 2004, PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF THE AGGREGATE AMOUNT OF INFLATION PLUS ANNUAL LOCAL GROWTH FOR THE 2003 AND 2004 CALENDAR YEARS, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER JANUARY 1, 2003, AND (8) (b) AND (9) REDUCTIONS.

(iii) FOR ANY LOCAL DISTRICT'S FISCAL YEAR THAT COMMENCES ON OR AFTER JANUARY 1, 2006, AND FOR EACH SUCCEEDING LOCAL DISTRICT FISCAL YEAR, THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT IS THE LOCAL DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR THE PRIOR LOCAL DISTRICT'S FISCAL YEAR PLUS THE PRODUCT OF THAT LIMIT AND THE SUM OF INFLATION PLUS LOCAL GROWTH IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE CHANGES APPROVED BY VOTERS AFTER JANUARY 1, 2005, AND (8) (b) AND (9) REDUCTIONS.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO SECTION 20 (7) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING A REQUIREMENT THAT THE FISCAL YEAR SPENDING LIMITS BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

Colorado Legislative Council Staff

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 04-0349	**Date:**	January 10, 2004
Prime Sponsor(s):	Sen. Anderson	**Bill Status:**	Interim Committee on Fiscal Restraints
		Fiscal Analyst:	Lon Engelking (303-866-4751)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 20 (7) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING A REQUIREMENT THAT THE FISCAL YEAR SPENDING LIMITS BE CALCULATED BASED UPON PRIOR FISCAL YEAR SPENDING LIMITS, WITH ADJUSTMENTS FOR INFLATION AND GROWTH, WITHOUT BEING SUBJECT TO REDUCTION DUE TO DECLINES IN REVENUES.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund		
State Expenditures General Fund	Changes the allowable revenue that can be kept and therefore expended for any purpose	
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: Increased TABOR limit *(available for appropriations)* Impact to existing TABOR refund mechanisms	 $39,100,000 (39,100,000)	 $278,900,000 (278,900,000)
Effective Date: Upon approval of the voters after 2004 general election		
Appropriation Summary for FY 2004/2005: None required		
Local Government Impact: Local governments would be allowed to keep and expend additional revenue as a result of a change in their revenue limitation calculation.		

Summary of Legislation

This senate concurrent resolution, adopted by the Interim Committee on Fiscal Restraints, submits a proposed amendment to Section 20 (7) of Article X of the Colorado Constitution at the 2004 general election. The proposed amendment to The Taxpayer's Bill of Rights commonly referred to as TABOR, makes adjustments to the state and local district's spending limitation as calculated under TABOR.

For purposes of explanation in this fiscal analysis, spending limitation means the revenue the state or local districts are allowed to keep or spend under formula specified in TABOR. Revenue exceeding this limit will be returned to taxpayers via the mechanisms chosen outside of this proposal.

Proposed State Spending Limitation

FYs prior to FY 2004-05 -- No change from existing TABOR limitation.

FY 2004-05 -- the limit is based on the FY 2002-03 limit plus inflation plus population change from 2002 to 2003 plus voter approved revenue changes after 2002.

FY 2005-06 and later years -- the limit is based on the prior year limit plus inflation plus the population change from the prior year plus voter approved revenue changes after 2004.

The resolution further specifies that the state shall not make any population adjustment based on the 2000 decennial federal census in any state fiscal year commencing on or after July 1, 2004.

Proposed Local District Spending Limitation

FYs beginning prior to January 1, 2005 -- No change from existing TABOR limitation.

FY beginning after January 1, 2005, but prior to January 1, 2006 -- the limit is based on the fiscal year that began after January 1, 2003, but before January 1, 2004 limit plus inflation plus the local growth change from 2002 to 2003 plus voter approved revenue changes after January 1, 2003.

FY beginning after January 1, 2006, and later years -- the limit is based on the prior year limit plus inflation plus the local growth change from the prior year plus voter approved revenue changes after January 1, 2005.

State Revenues

Current law under TABOR, limits the aggregate annual increase in most state revenue to inflation plus the annual percentage change in state population. The limit is applied to either the prior year's limit or to actual TABOR revenue collected in the prior year, whichever is less. This last provision of TABOR (tying the limit to revenue collected) is commonly referred to as the "rachet-down" effect. If revenue is less than the allowable TABOR limit, the base for determining the following year's limit is reduced. Since the new limit is at a lower level than it otherwise would have been, the limit is said to have ratcheted down.

This resolution eliminates the rachet effect of current law because the allowable limit is not based on the revenue collected from the prior year, but instead it is based on the prior year's limit plus inflation and population. Thus, the proposal will allow the state to keep more revenue beginning in FY 2004-05 and return less to the taxpayers than otherwise would be allowed under current law. Table 1 shows the forecasted revenues above the TABOR limit both under current law and the resolution's proposed amendment to TABOR.

Table 1. Impact of SCR 04-003 on Allowable TABOR Revenue Spending (Dollars in millions)

State Fiscal Year	Current Law Revenue Above Limit	Proposed Law Revenue Above Limit	Fiscal Impact of Change
FY 2004-05	$39.1	$0	$39.1
FY 2005-06	$347.4	$68.5	$278.9
FY 2006-07	$450.6	$159.7	$290.9
FY 2007-08	$332.6	$28.0	$304.6
FY 2008-09	$345.4	$26.2	$319.2
Total	**$1,515.1**	**$282.4**	**$1,232.7**

Therefore, the proposal is estimated to increase the amount of the state revenue limit by $1,232.7 million over the forecasted 5 fiscal years. These revenues would otherwise be returned to taxpayers based on the current-law refund mechanisms. Table 2 shows the projected impact to the various refund mechanism currently in place. *It should be noted that most of the mechanisms under current law are not forecasted to be triggered and used to refund revenue during the next 5 fiscal years. It should also be noted that revenue is refunded in the year following the year in which it is collected.*

Table 2. Impact on Current Refund Mechanisms (Dollars in millions)					
	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-2010
HB 99-1383 & HB 00-1049 Earned Income Credit		($35.5)		($36.9)	($37.7)
HB 01-1313 Foster Care Issues		($0.2)	($0.2)	($0.2)	($0.2)
HB 99-1311 Business Personal Property		($126.8)	($134.4)	($140.0)	($145.0)
HB 99-1237 Capital Gains			($51.2)		
HB 00-1063 Rural Health Providers (ends after TY 2007)			($0.4)		
HB 00-1351 Child Care Credit			($28.3)		
HB 01-1081 Research and Development			($15.2)		
HB 00-1227 Lower Motor Vehicle Fees			($41.1)		
HB 00-1355 High Technology Scholarship Program			($02.5)		
Sales Tax Refund	($39.1)	($116.4)	($17.6)	($127.5)	($136.3)
Total	**($39.1)**	**($278.9)**	**($290.9)**	**($304.6)**	**($319.2)**

Table 2 shows the dollar impact to taxpayers who would have received a higher refund from these mechanisms without this proposal. For example, the total impact to taxpayers who would have qualified to receive a refund under the Earned Income Credit during FY 2006-07 is a decrease of $35.5 million.

State Expenditures

The resolution does not directly impact state expenditures. Rather, it allows the state to keep more of the revenue that it collects before it reaches the TABOR spending (revenue) limitation which triggers refunds under the mechanisms in place under current law. The state would then be allowed to spend or appropriate more funds under separate legislation.

Election Expenditure Impacts (For Informational Purposes Only)

The bill contains a question to be referred to voters at the 2004 general election. This question will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill.

The estimated 2004 general election costs for the Blue Book are outlined in Table 3.

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Total Expenses (for estimated 12 issues)	**$2,162,000**
Estimated Expense Per Issue	**$188,167**

Local Government Impact

Local governments, referred to as Local Districts under TABOR, would be allowed to keep and spend additional revenue similar to the state because of the change in the allowable revenue or spending limitation as discussed above. No estimate is made at this time due to the many types of local governments, all with individual limitations and future revenue forecasts.

State Appropriations

No appropriation would be required to implement the resolution. The resolution will allow for additional funds to be appropriated under other legislation.

Departments Contacted

Legislative Council Staff