Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

DRAFT

LLS NO. R04-0311.01 Jason Gelender

HOUSE SPONSORSHIP

King,

SENATE SPONSORSHIP

(None),

House Committees **Senate Committees**

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.