Colorado Legislative Staff
New Legislator Orientation Information Paper

Understanding the State Budget: The Big Picture

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Office of Legislative Legal Services
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Contents

Each year, the General Assembly is tasked with balancing constitutional, statutory, and federal requirements with a host of other considerations, such as competing policy priorities, caseload pressures, and the health of the state's economy, in order to create a budget. This document is intended to serve as a primer on Colorado's budget and some of the factors that help shape it.

This primer begins with a discussion of Colorado's tax burden and how the taxes people and businesses pay in Colorado are distributed among local, state, and federal governments. It then focuses on the sources of revenue that fund the Colorado state budget and constitutional limits on that revenue.

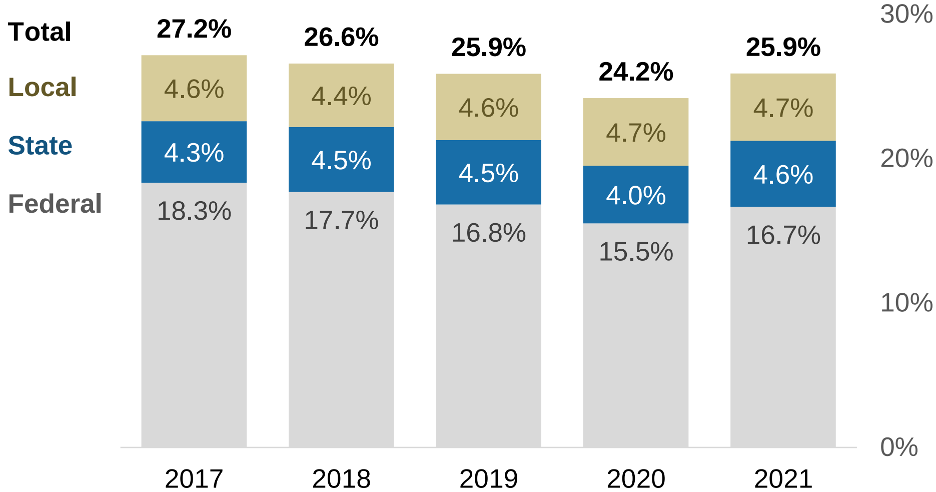
An outline of the process for preparing, reviewing, and approving the state's budget is presented. The state's operating budget for the current fiscal year, FY 2022-23, is then described, including how each of the three primary funding types (General Fund, cash funds, and federal funds) are allocated. The focus is then placed on the General Fund budget and the constitutional, federal, and statutory spending mandates that the General Assembly must balance. This is followed by a discussion of constitutional mandates on various cash funds.

The Colorado Tax Burden and Distribution of Tax Dollars

Over the past five years, the taxes people and businesses have paid in Colorado to the federal, state, and local governments have averaged 25.9 percent of Colorado personal income. Figure 1 provides a five-year history of this statewide 'tax burden.'[1] This tax burden varies slightly each year depending on variations in the growth rates of tax collections and the economy as a whole. Much of the variability in the federal tax burden is due to volatility in corporate income taxes, while variability in the state tax burden is primarily due to volatility in corporate income taxes and individual income taxes on capital gains, entrepreneurial income, and oil and gas royalties.

[1] Taxes include those paid by nonresidents and tourists, whereas income includes that of Colorado residents only.

Figure 1
Statewide Colorado Tax Burden*
Tax Collections as a Percent of Personal Income



Sources: Internal Revenue Service; U.S. Census Bureau; and U.S. Bureau of Economic Analysis. Local tax collections for 2021 are estimates based on average growth between 2017 and 2020.
**Represents the tax burden across all Colorado residents and visitors relative to statewide personal income across Colorado residents.*

On average over the past five years, 65 percent of the taxes paid in Colorado went to the federal government, primarily in the form of income and payroll taxes.[2] The remainder is split between the state (17 percent)[3] and local governments (18 percent)[4], as illustrated in Figure 2.

Figure 2
Distribution of Tax Burden and Major Budget Items by Level of Government
Average Distribution, 2017 through 2021

Sources: White House Office of Management and Budget, Joint Budget Committee Staff, Colorado Department of Local Affairs.

Figure 2 also illustrates how each level of government spends the majority of its tax collections. In 2019, the federal government spent 82 percent of its budget on defense, veterans affairs, health care,

[2] *Internal Revenue Service. Federal tax collections include individual and corporate income, payroll, estate, gift, and excise taxes.*
[3] *U.S. Census Bureau. State tax collections include individual and corporate income, sales, use, excise, insurance premium, motor fuel, severance, and specific ownership taxes. The U.S. Census Bureau also includes motor vehicle license fees; hunting and fishing license fees; public utility license fees; and business and occupational license fees.*
[4] *U.S. Census Bureau; Department of Local Affairs, Divisions of Local Government and Property Taxation. Local tax collections include property, sales, excise, public utilities taxes, and other taxes. . The U.S. Census Bureau also includes motor vehicle license fees.*

social security, and various human services programs.[5] The state has appropriated 80.0 percent of its total operating budget on health care, kindergarten through 12th grade education, higher education, prisons, courts, and human services programs for FY 2022-23.[6] The largest budget items for local governments include preschool through 12th grade education, public safety (police, jails, and fire services), streets, waste management, and recreation.

Sources of State Government Revenue

Most revenue to the state comes in the form of state taxes, state fees, and money from the federal government. The state also receives some money from interest earnings, gifts, fines, and penalties. As shown in Figure 3, the state collected a total of $56.8 billion during FY 2020-21.[7] This revenue is categorized into three areas: General Fund revenue, cash funds revenue, and federal funds revenue. Each category is explained below.

General Fund

General purpose revenue is deposited into the General Fund and used for the state programs such as education, health care, human services, corrections, and general government (e.g., the legislature and Governor's office). About 92 percent of General Fund revenue collected in FY 2020-21 was made up of income, sales, and use taxes. The General Fund also receives revenue from excise taxes on cigarettes, tobacco, liquor, and marijuana; insurance premium taxes; investment income; and a variety of miscellaneous revenue sources, such as fines and penalties. It also includes any revenue the state receives that is not otherwise required to be deposited into a cash fund.

The top bar chart in Figure 4 shows General Fund revenue collections since FY 2000-01, not adjusted for inflation. Following the 2000-01 recession and 2007-09 recession, General Fund revenue fell by $1.0 billion in both FY 2001-02 and FY 2008-09, followed by further decreases in the next year. Although the causes and severity of the two recessions differed significantly, both resulted in a similar percentage loss in revenue over a two-year period. Notably, the decrease in FY 2001-02 would have been smaller if not for state and federal tax cuts. General Fund revenue continued to increase between FY 2018-19 and FY 2020-21, during and following the COVID-19-induced 2020 recession.

The bottom bar chart in Figure 4 shows General Fund revenue adjusted for inflation on a per capita basis. As such, this chart controls for population growth and the purchasing power of the dollar. Per capita inflation-adjusted revenue has fluctuated, generally following the business cycle. The September 2022 Legislative Council Staff forecast expects adjusted revenue to fall in FY 2022-23 and FY 2023-24 as income and sales taxes fail to keep pace with high inflation.

Most revenue initially deposited into the General Fund is subject to the state's constitutional revenue limit under the TABOR Amendment, which is discussed on page 7.

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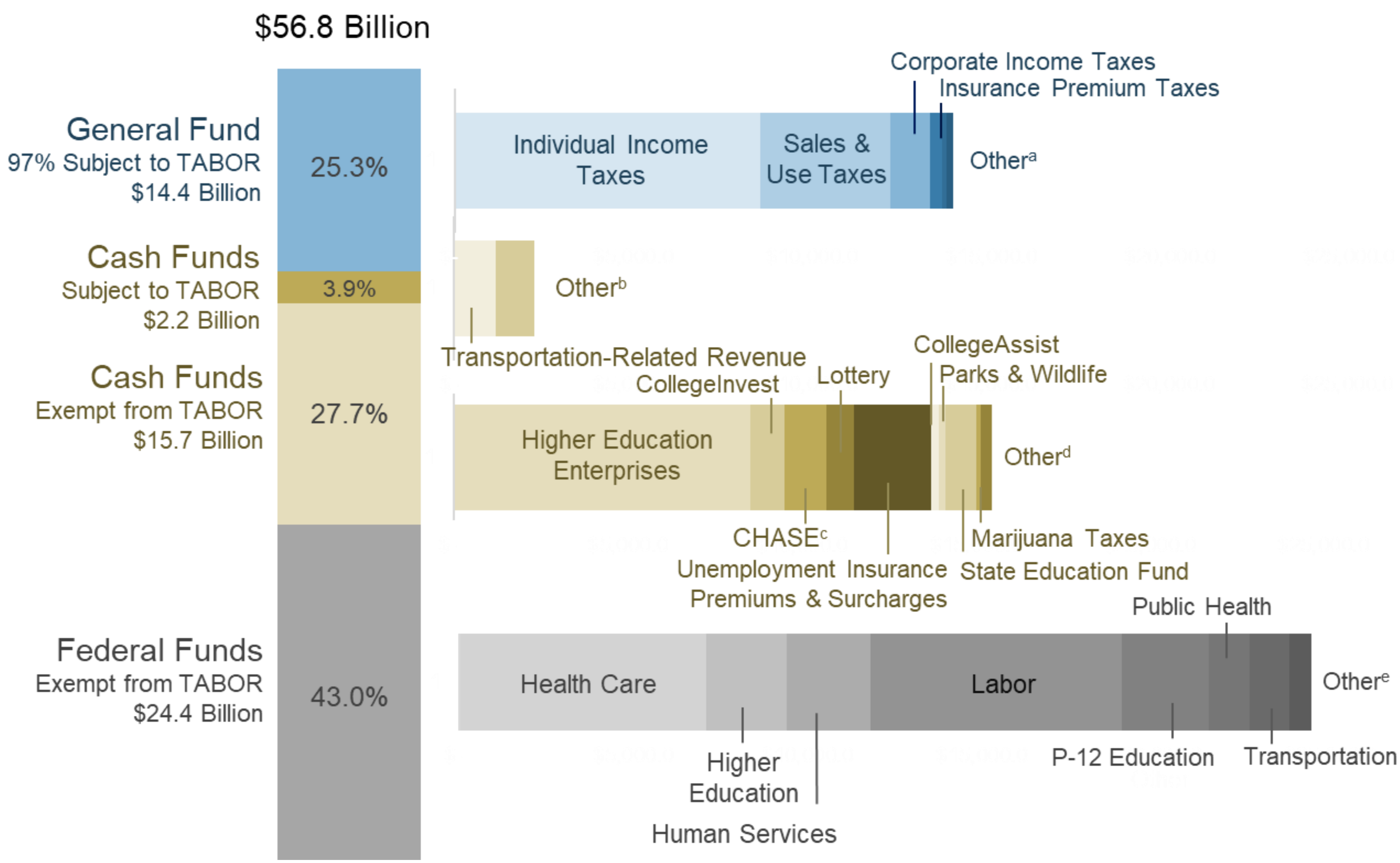
[5] *Office of Management and Budget, historical table 3.1. Available at: http://www.whitehouse.gov/omb/historical-tables/.*
[6] *Joint Budget Committee Staff. Based on General Fund operating appropriations only. Amounts subject to change with 2023 legislation.*
[7] Colorado Office of the State Controller. FY 2020-21 is the most recent year for which audited data are available.

Figure 3
Colorado State Revenue by Source, FY 2020-21



Source: Legislative Council Staff estimates based on data from the Office of the State Controller. Revenue excludes transfers between funds and fund balances carried forward from prior years.

[a] Includes fiduciary income, interest and investment income, court and other fines, business licenses and permits, general government service fees, miscellaneous revenue, and other charges for services.

[b] Includes severance taxes, limited gaming taxes, health service fees, general government service fees, miscellaneous revenue, nonbusiness licenses and permits, employment taxes, certifications and inspections, insurance taxes, higher education auxiliary sales and services, sales of products, educational fees, welfare service fees, other excise taxes, and local government matching funds.

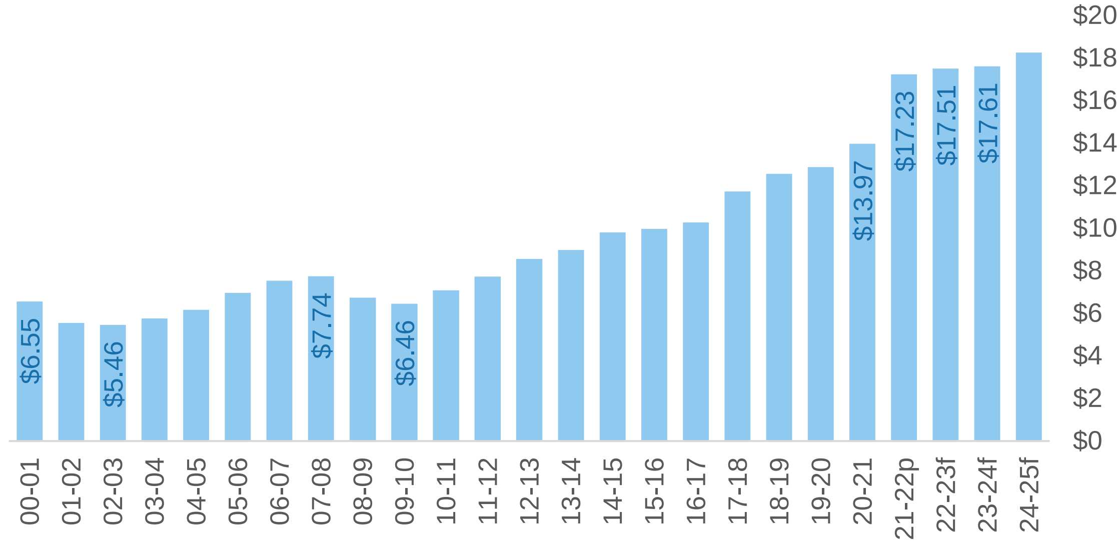
[c] CHASE = Colorado Healthcare Affordability and Sustainability Enterprise.

[d] Includes extended limited gaming taxes, State Fair Authority enterprise, Correctional Industries enterprise, State Nursing Homes enterprise, Prison Canteen, Petroleum Storage Tank, transportation-related enterprises, and the Enterprise Service Fund of the Colorado Historical Society.

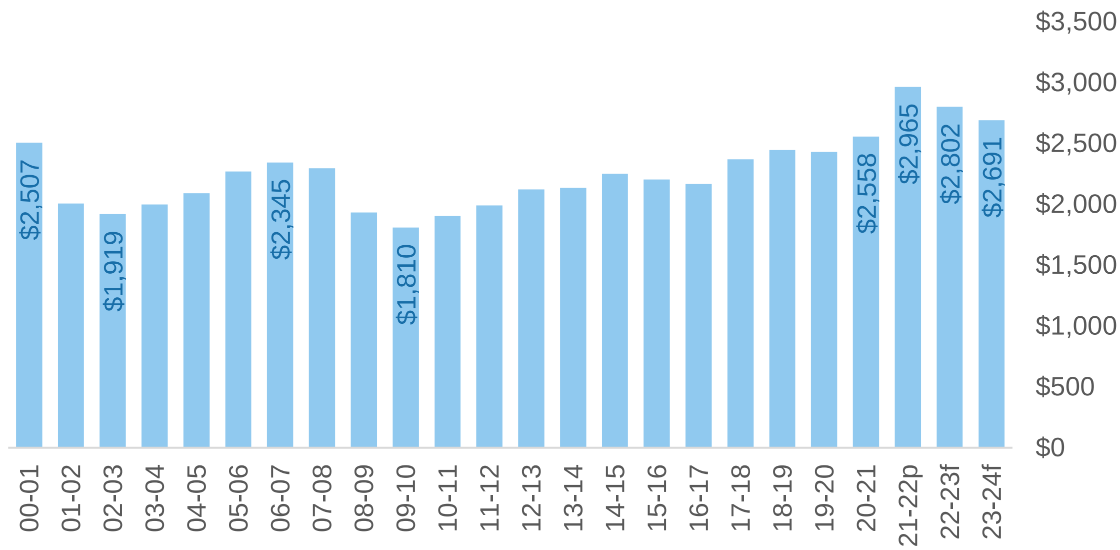
[e] Includes federal funds to the Colorado Department of Public Safety, Department of Law, Department of Treasury, Department of Natural Resources, Department of Agriculture, Department of Corrections, Department of Local Affairs, Department of Revenue, Department of Regulatory Agencies, Department of Personnel and Administration, Judicial Department and the Governor's Office.

Figure 4
General Fund Revenue

Total Revenue
Billions of Dollars, Not Adjusted for Inflation



Per Capita, Inflation-Adjusted Revenue
FY 2021-22 Dollars



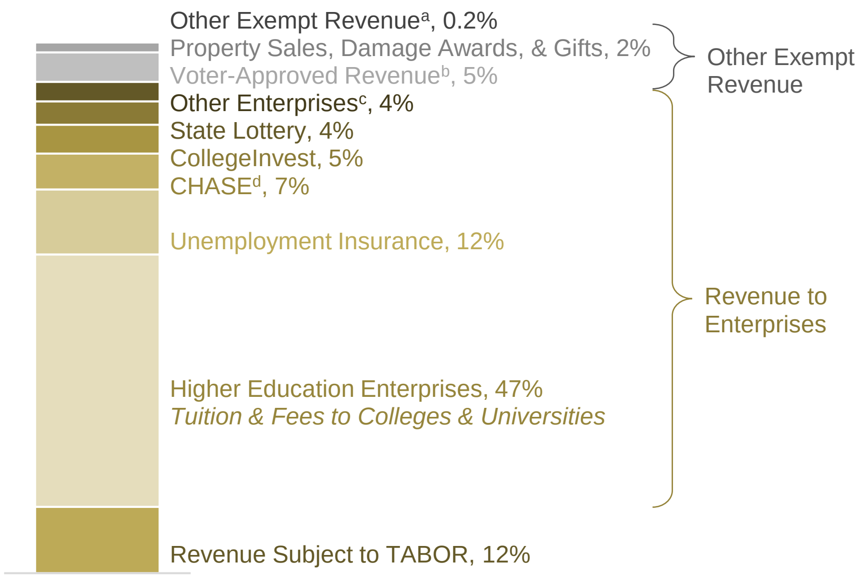
Source: Colorado State Controller's Office, U.S. Bureau of Labor Statistics, and Colorado State Demographer's Office with Legislative Council Staff calculations. Adjusted for inflation using the Denver-Aurora-Lakewood consumer price index.
p = Preliminary. f = September 2022 Legislative Council Staff Forecast.

Cash Funds

Cash funds are special purpose funds that are primarily created to receive revenues collected from specific sources. They are funded with taxes, user fees, and fines earmarked for specific purposes and programs. In FY 2020-21, cash fund revenues totaled $18.0 billion, or 31.6 percent of total state revenue. Of this amount, $15.7 billion is exempt from the TABOR limit. Figure 5 presents the largest categories of cash fund revenue.

Revenue to state colleges and universities, including tuition, fees, federal, and other funding, totaled about $8.5 billion in FY 2020-21, representing nearly half of all cash fund revenue and about 15 percent of total state revenue. Because most higher education governing boards are TABOR enterprises, revenue is exempt from TABOR.

Figure 5
Cash Fund Revenue, FY 2020-21
Total: $18.0 Billion



Source: Legislative Council Staff estimates based on data from the Office of the State Controller. Revenue excludes transfers between funds and fund balances carried forward from prior years. Totals may not sum due to rounding.
[a]Other exempt revenue includes trust fund additions, prior year expense reimbursements, insurance recovery proceeds, local government matching funds, and interest income on TABOR-exempt sources of revenue.
[b]Voter-approved revenue includes diversions of income taxes to the State Education Fund; Amendment 35 tobacco taxes; marijuana taxes; Amendment 50 gaming taxes; and sports betting taxes.
[c]Other enterprises include College Assist, the Health Insurance Affordability Enterprise, parks and wildlife, state nursing homes, correctional industries, transportation enterprises, the electronic recording technology fund, the petroleum storage tank fund, the brand board, the capitol parking authority, the clean screen authority, and the Front Range waste diversion enterprise.
[d]CHASE = Colorado Healthcare Affordability & Sustainability Enterprise.

Other large categories of cash fund revenue include revenue to other TABOR enterprises, transportation-related revenue, most of which is subject to TABOR, employee pension contributions and earnings, severance taxes, voter-approved revenue, gaming taxes, property sales, damage awards, and gifts.

Cash fund reserve limit. State law specifies that if a cash fund collects fee revenue then the cash fund's balance, also known as the uncommitted reserve, may not exceed 16.5 percent of its annual expenditures.[8] If the uncommitted reserve of a cash fund exceeds this percentage in any given fiscal

[8]Section 24-75-402 (3)(c), C.R.S.

year, the state agency is required to reduce fee levels accordingly and spend down the balance. While not all revenue is included when calculating the uncommitted reserve, the reserve limit applies to all of these cash funds (even those not primarily funded by user fees) unless state law provides for an alternate reserve amount or an exemption. This limit does not apply to programs with enterprise status under TABOR.

Federal Funds

Federal funds are received from the federal government to support specific purposes and programs. For some programs, such as Medicaid, state funding is matched with federal funding, and state funding, therefore, helps determine the amount of federal funds received for those programs. Some revenue from the federal government is passed through the state to local governments. For example, the federal government uses the state to distribute money for human service programs, such as Temporary Aid to Needy Families (TANF) and food stamps, to local governments where these programs are primarily administered. Federal funds are exempt from TABOR.

TABOR Limit on State Government Revenue[9]

Approved by voters in 1992, the Taxpayer's Bill of Rights (TABOR) limits annual growth in revenue for state and local governments (referred to as "districts") in the state.[10] Figure 6 shows the state's limit (lines) and revenue subject to the limit (bars) since the adoption of TABOR in 1992. A constitutional formula, shown below, calculates the state's limit by adjusting a base amount for inflation and population growth. The base amount is the lesser of the prior year's revenue or limit. A district may increase taxes or retain revenue in excess of the limit with approval from the district's voters. The constitution adds these changes, or "voter-approved revenue changes," to the limit. Revenue collected in excess of the limit, commonly called the "TABOR surplus," must be refunded to the taxpayers in the following year.

How is the TABOR Limit Calculated?

The lesser of the prior year's revenue or limit × Inflation and population growth

+ Voter-approved revenue changes

Referendum C is a voter-approved revenue change

How is the Referendum C Cap Calculated?

The prior year's cap × Inflation and population growth

Referendum C. Passed by voters in 2005, Referendum C is a permanent voter-approved revenue change.[11] Referendum C created a five-year "timeout period" between FY 2005-06 and FY 2009-10. During this time, the state was allowed to spend or save the full amount of revenue it collected, effectively eliminating the limit. Beginning in FY 2010-11, Referendum C allows the state to keep revenue up to a capped amount known as the Referendum C cap.

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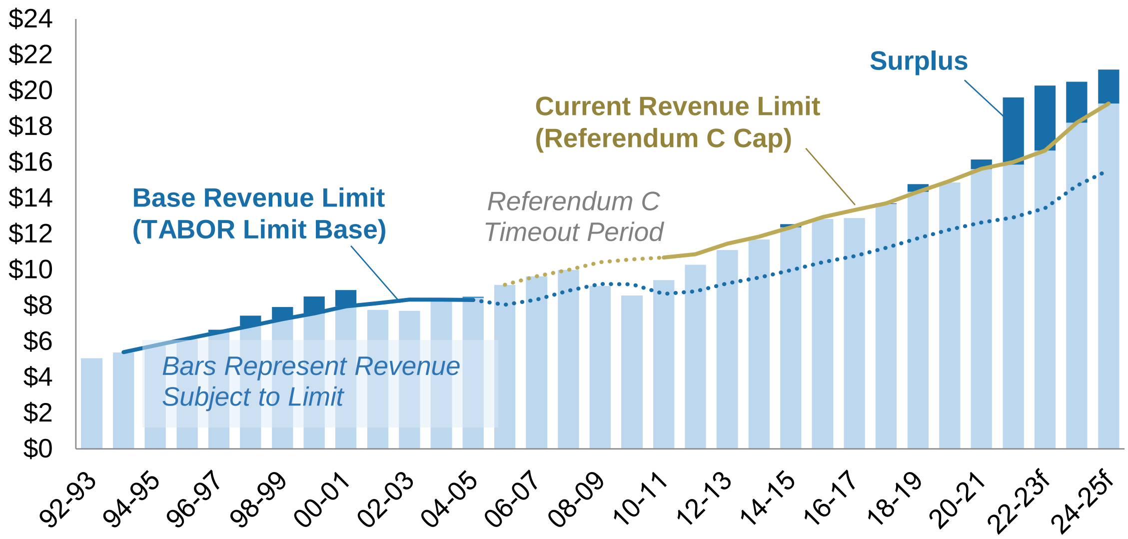
[9]For additional discussion of the TABOR limit, see the Legislative Council Staff memorandum, "The TABOR Revenue Limit," October 2022.
[10]Article X, Section 20 of the Colorado Constitution.
[11]Because of the formulaic nature of this voter-approved revenue change, it is accounted for differently from other voter-approved revenue changes and excluded from voter-approved revenue shown in Figure 5.

The Referendum C cap is equal to the highest amount of revenue collected in a single fiscal year during the timeout period, adjusted by inflation plus population growth each year thereafter. The cap is grown from the prior year's cap irrespective of whether state revenue is above or below the cap. Because revenue was the highest in FY 2007-08, the amount of revenue collected during that fiscal year became the base for computing the cap in subsequent years.

Revenue collected above the original limit but below the Referendum C cap must be spent only on health care, public education, transportation, and local fire and police pensions.[12]

Figure 6
TABOR Limit Base, Referendum C Cap, and Revenue Subject to the Limit
Billions of Dollars



Source: Office of the State Controller. p = Preliminary. f = September 2022 Legislative Council Staff forecast.

Although the constitution refers to the limit as a "spending" limit, it functions as a revenue limit because it defines "spending" as the amount of revenue the state may either spend or save in a given year. Federal funds, voter-approved revenue, property sales, damage awards, gifts, and revenue collected by enterprises are exempt from the TABOR limit under the TABOR Amendment. In FY 2020-21, exempt revenue represented 72 percent of total state revenue.

Fiscal Year Spending

The legal term used by TABOR to denote the amount of revenue TABOR allows the state to keep and either spend or save.

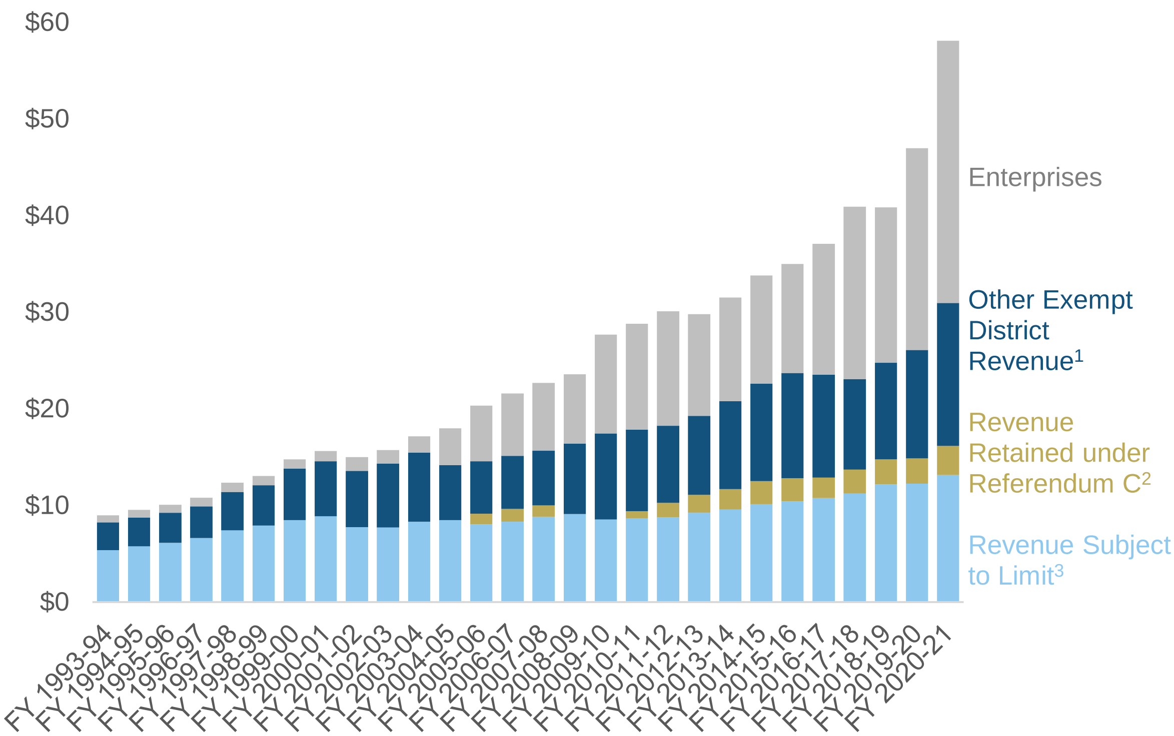
Figure 7 shows total state revenue by TABOR status since TABOR was implemented. In FY 1993-94 revenue subject to TABOR represented 60 percent of total state revenue. In FY 2020-21, that share had fallen to 28 percent. Although some growth in exempt revenue has occurred in federal funds, damage awards, and voter-approved revenue, most of the growth has happened within revenue collected by enterprises. **Enterprises**[13] are defined by TABOR as government-owned businesses that obtain less than 10 percent of their funding from state and local government sources, and have bonding authority.

[12]For more information, see the Legislative Council Staff Report on Referendum C Revenue and Spending.
[13]For more information, see the Legislative Council Staff memorandum, "State Government Enterprises," August 2022.

Because enterprises are user-funded, Figure 7 illustrates a movement toward user-funded programs in state government.

Enterprises collected a total of $27.1 billion in FY 2020-21. This amount includes federal funds paid to enterprises, which would otherwise be exempt from TABOR if the program were not an enterprise. Higher education institutions accounted for $10.8 billion of the state's total enterprise amount. Other enterprises include CollegeInvest, College Assist, the unemployment insurance program, the Colorado Healthcare Affordability and Sustainability Enterprise (CHASE), the Health Insurance Affordability Enterprise, the state lottery, state nursing homes, parks and wildlife, correctional industries, transportation enterprises, the petroleum storage tank fund, the capitol parking authority, the clean screen authority, the brand board, the electronic recording technology fund, and the Front Range Waste Diversion Enterprise.

Figure 7
State Revenue by TABOR Status
Billions of Dollars, Not Adjusted for Inflation



Source: Colorado Office of the State Controller, TABOR Schedule of Computations. FY 2020-21 is the most recent year for which audited data are available. Amounts include certain federal fund transfers to enterprises and may differ slightly from those shown in other figures in this document.
**Includes voter approved revenue increases, which are exempt from TABOR.*

TABOR surplus. The constitution requires that revenue collected above the limit be refunded to taxpayers in the following year. Since TABOR was adopted in 1992, state revenue has exceeded the limit eleven times, triggering refunds in fiscal years 1997-98 through 2001-02, 2005-06, 2015-16, 2018-19, 2019-20, 2021-22, and 2022-23. TABOR surpluses have totaled $8.2 billion to date, with $3.7 billion of that amount collected in FY 2021-22 alone. The Legislative Council Staff and the Governor's Office of State Planning and Budgeting publish quarterly forecasts of state revenue subject to the limit.[14] Based on the most recent September 2022 forecasts, a TABOR surplus is expected every year through at least fiscal year 2024-25.

TABOR refunds. TABOR permits the state to use "any reasonable method" to pay required refunds to taxpayers.[15] The General Assembly has created 23 refund mechanisms since TABOR was enacted, of which 19 are no longer used.[16] Current law contains two permanent mechanisms and two temporary mechanisms to pay TABOR refunds to taxpayers. Figure 8 illustrates how TABOR surplus amounts are refunded via these mechanisms.

Permanent refund mechanisms. The two permanent TABOR refund mechanisms are: 1) the senior homestead and disabled veteran property tax exemptions administered by local governments; and 2) a refund of sales tax revenue using the state income tax form. The first roughly $170 million in TABOR refunds go toward reimbursements to local governments. Unless one of the temporary mechanisms discussed below applies, any remaining amount is refunded under the sales tax refund mechanism.

Until the approval of Proposition 121 at the 2022 General Election, a portion of TABOR refunds had been paid by temporarily reducing the state income tax rate to 4.5 percent. Proposition 121 permanently lowers the state income tax rate to 4.4 percent beginning with the 2022 tax year, and the temporary rate reduction as it currently appears in statute can no longer be used to pay refunds.[17]

Temporary refund mechanisms. Two bills passed during the 2022 legislative session created temporary refund mechanisms that apply for a single fiscal year only. **Senate Bill 22-233** required a portion of the FY 2021-22 TABOR surplus to be refunded as a flat amount of $750 for each single taxpayer, and $1,500 for each pair of taxpayers filing a joint return.[18] If the FY 2022-23 TABOR surplus exceeds the amount needed to fully fund refunds via the homestead exemptions, **Senate Bill 22-238** requires that a portion of the remaining amount, up to $240 million, be refunded via reimbursements to local governments for reduced property tax revenue due to a temporary cut in 2023 property tax assessment rates.[19]

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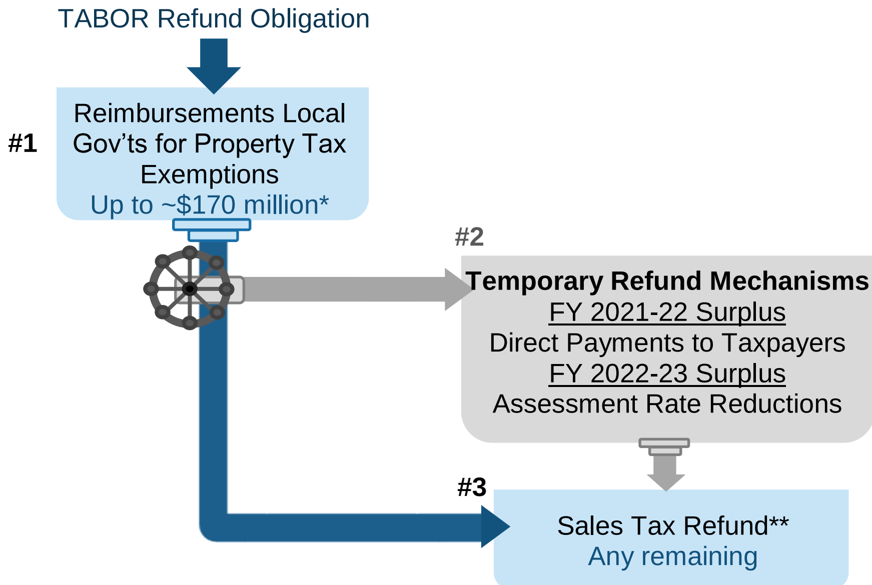
[14]For the LCS forecast, visit: http://leg.colorado.gov/EconomicForecasts
For the OSPB forecast, visit: http://www.colorado.gov/governor/economics
[15]Colo. Const. art. X, Section 20 (1).
[16]For a history of prior refund mechanisms, see the Legislative Council Staff memorandum, "History of TABOR Refund Mechanisms," February 2022.
[17]Section 39-22-627, C.R.S.
[18]Section 39-22-2004, C.R.S.
[19]Section 39-3-210, C.R.S.

Figure 8
TABOR Refund Mechanisms



**Amounts are based on Legislative Council Staff September 2022 estimates for FY 2023-24 through FY 2024-25.*
***If the average sales tax refund among all taxpayers is $15 or less, Section 39-22-2002 (2)(b), C.R.S., requires every taxpayer to receive an identical refund. If the average amount exceeds $15, Section 39-22-2003 (4)(a), C.R.S., requires the sales tax refund to be distributed in six tiers proportionately to the sales tax refund that occurred in tax year 1999.*

State Budget Process

Figure 9 illustrates the state budget process during FY 2022-23, when the state government is working to construct a budget for FY 2023-24. The state budget operates on a fiscal year basis between July 1 and June 30. Colorado's budget is set largely through a general appropriations act (known as the "Long Bill") and its companion supplemental appropriations acts. Formulating the state's annual budget involves state departments, the Judicial Branch, the Office of State Planning and Budgeting (OSPB), and the General Assembly, including its Joint Budget Committee (JBC), JBC Staff, Capital Development Committee (CDC), Joint Technology Committee (JTC), Office of Legislative Legal Services, and Legislative Council Staff (LCS).

Budget planning. The state budget process begins in May when Executive Branch departments begin preparing a budget request for review and approval by OSPB. State departments also submit any capital construction, property acquisition and controlled maintenance requests to OSPB each September. OSPB then prepares a consolidated request from the Governor, an overview of which is presented to the JBC in early November. Judicial Branch agencies and those Executive Branch departments that are headed by an elected official (Law, State, and Treasury) submit their budget requests directly to the JBC.

Budget briefings. Between November and January, the JBC holds a "briefing" meeting and a "hearing" meeting for every Executive and Judicial department. During the initial meeting, JBC Staff brief JBC members on the department's budget request for the next fiscal year and discuss other relevant operational and policy issues. The second meeting allows department staff to discuss their budget request and other priorities for the upcoming legislative session, and to respond to questions and topics of interest identified by JBC members and other legislators during the JBC Staff briefing. During this period and into February, the CDC and the JTC hold hearings on capital construction and technology project requests prioritized by the Governor before submitting their respective recommendations to the JBC in January and February.

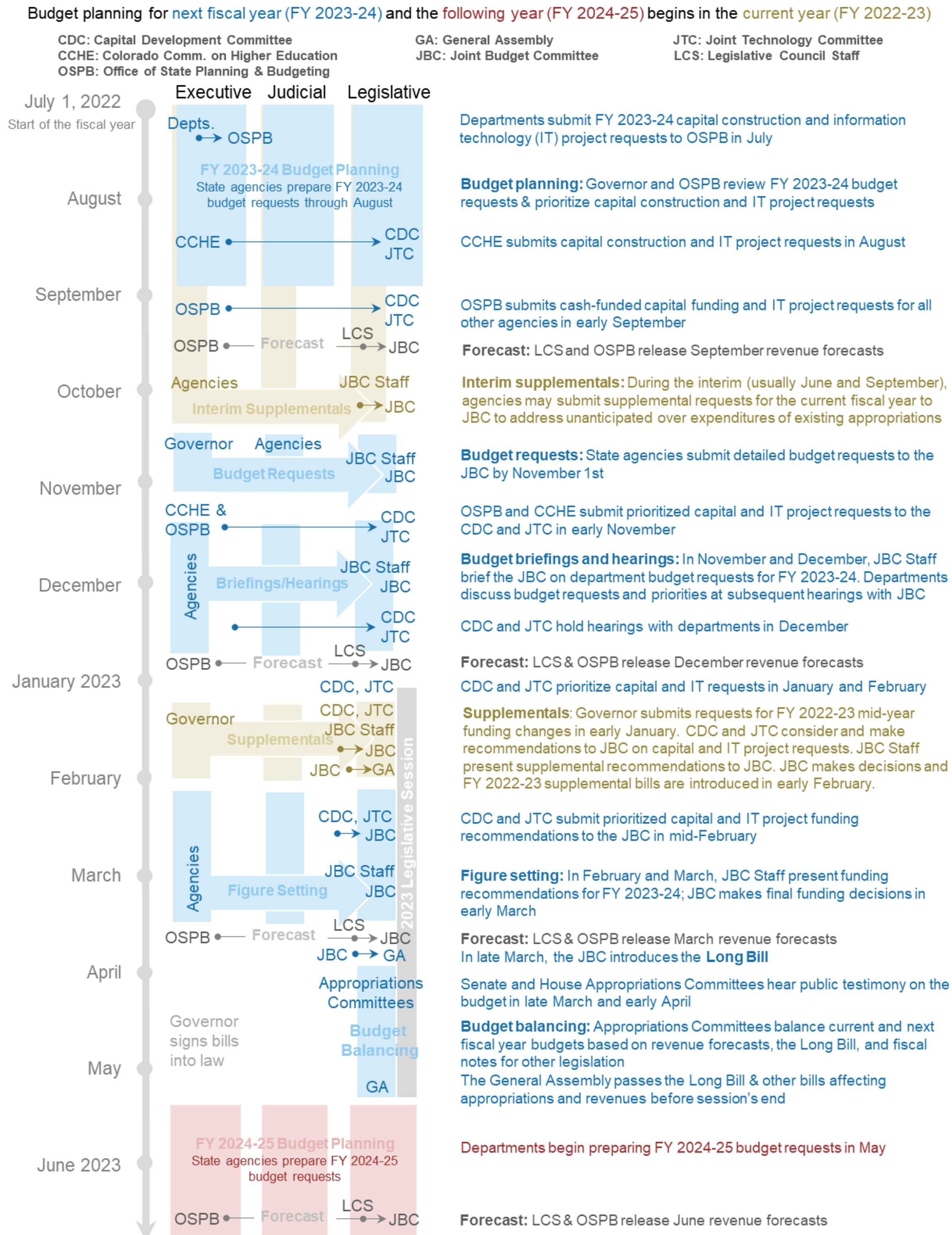
Supplementals. LCS and OSPB each prepare quarterly economic forecasts that project the amount of General Fund and cash fund money that will be available for appropriation during the next fiscal year. Forecasts released in December are used by the JBC the following January to prepare "supplemental appropriation" bills, which make mid-year adjustments to the budget for the current fiscal year.

Figure setting and comebacks. Between February and March, JBC Staff makes recommendations on each department's request for the coming budget year to the JBC in a process that is referred to as "figure setting." During this process, the JBC votes on appropriations to be included in the Long Bill for each department. The process includes an opportunity for departments to request that the JBC reconsider certain decisions, which is referred to as a "comeback." Simultaneous to this, agencies of the General Assembly submit a budget request, which is enacted in a separate bill, to the Executive Committee for review.

The Long Bill. In mid-March, LCS and OSPB update their respective revenue forecasts. After reviewing these, the JBC prepares and introduces the Long Bill for consideration by the entire General Assembly. Appropriations in the Long Bill must be based on current state law. The JBC generally introduces "companion" bills with the Long Bill to modify certain parts of state law. For instance, the Long Bill could contain funding to expand an existing program based on current law, and a companion bill might modify the program to allow for the appropriation in the Long Bill to be reduced through an appropriation clause included in that bill. The Long Bill and its companion bills are collectively referred to as the "budget package" and are summarized in the "budget narrative" published by the JBC Staff.

Budget balancing. Members of the General Assembly review the budget package and propose amendments. In each chamber, each caucus meets to review the budget and discuss potential amendments in advance of hearing the bills in committee. The appropriations committee in each chamber is usually the committee of reference for the budget, and public testimony is offered before each bill is acted upon. If needed, the JBC typically serves as a conference committee on the budget package following its passage by both chambers. These bills are then signed into law in order to take effect on July 1, the first day of the next fiscal year.

Figure 9
Colorado State Budget Process



State Operating Budget

Balanced budget and debt requirements. The Colorado Constitution requires a balanced budget, where the state may spend only what it has available from new revenue or revenue saved in a reserve from the prior year.[20] The state constitution also prohibits general obligation debt, and requires voters to approve other forms of debt.

The budget big picture. Figure 10 shows total state appropriations by department and funding source in FY 2022-23. When the General Assembly makes an appropriation, it is granting a state agency the authority to spend money. In other instances, the state agency may spend money without an appropriation. After appropriations enacted during the 2022 legislative session, state agencies are authorized to spend a total of $39.3 billion in FY 2022-23, of which $36.8 billion represented unique dollars.

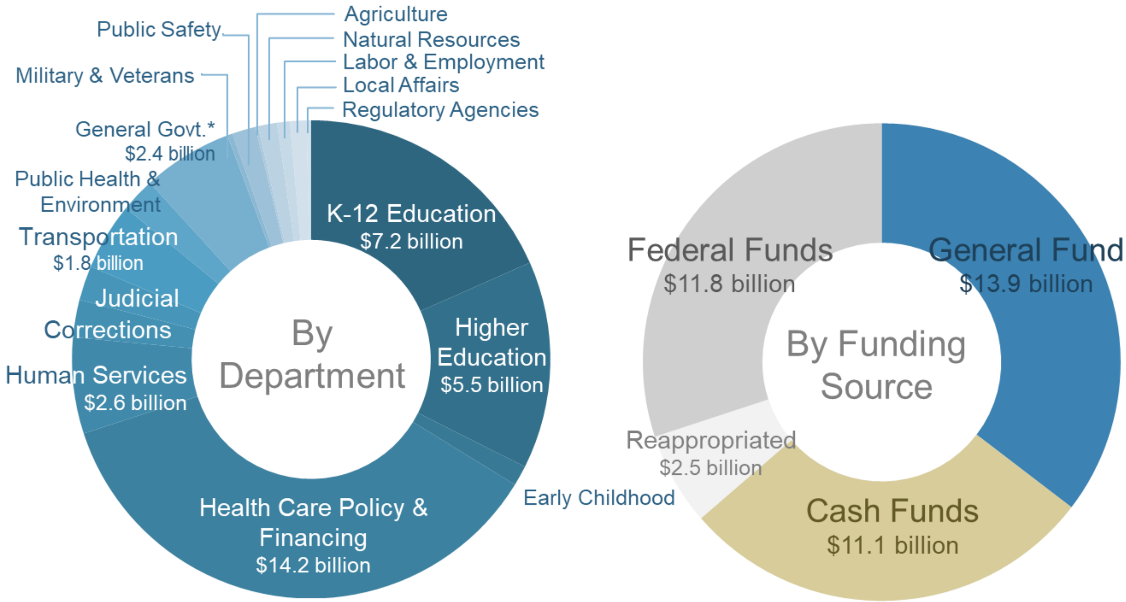
Reappropriated funds, or appropriations of dollars that have already been appropriated at least once before, total $2.5 billion in FY 2022-23. The General Assembly appropriates some dollars more than once in order to maintain control over the life of the dollar as it moves between agencies within the state. For example, the Governor's Office of Information Technology (OIT) provides information technology services to the entire Executive Branch. To finance these services, money that has already been appropriated to each department is then appropriated a second time (reappropriated) to OIT.

Appropriations are categorized based on funding source. Money may not be spent out of the General Fund or a cash fund without a specific annual appropriation from the General Assembly, unless otherwise authorized by law. **Continuous appropriations** are one type of exception to annual appropriations. A continuous appropriation is a statutory or constitutional provision that allows a government entity to spend money available in a specified fund without receiving an annual appropriation. State law specifies the purposes for which a continuous appropriation may be spent. Examples include the expenditure of revenue collected by many enterprises under TABOR; distributions of Conservation Trust Fund money to local governments; and expenditures from the State Highway Fund by the Department of Transportation.

Because **cash fund revenue** is designated for specific purposes, the expenditure of cash fund revenue is less flexible than **General Fund revenue**. Fees may be set at a specific amount in statute or the General Assembly may authorize a state agency to set the fee amount. Like cash funds, **federal funds** are usually restricted for a specified purpose and are therefore custodial.[21] **Custodial funds** are under the control of the Governor (or in some instances the Attorney General) and may not be appropriated by the General Assembly,[22] although some are shown in the Long Bill for informational purposes only. Federal law and court decisions require some federal funds to be appropriated, including the Social Services Block Grant, the Maternal and Child Health Block Grant, Temporary Assistance for Needy Families (TANF), and Child Care Development Funds.

[20] Colorado's constitution specifies that total appropriations by the General Assembly may not exceed the total revenue collected each fiscal year, thus prohibiting deficit spending. See Colo. Const. art. X, Section 16.
[21] Custodial funds include any cash or federal funds restricted for specific programs and purposes by the donor.
[22] Interrogatories submitted by General Assembly on House Bill 04-1098, 88 P.3d 1196, 1200 (Colo. 2004).

Figure 10
FY 2022-23 State Spending Authority, by Department and Funding Source
Total: $39.3 Billion



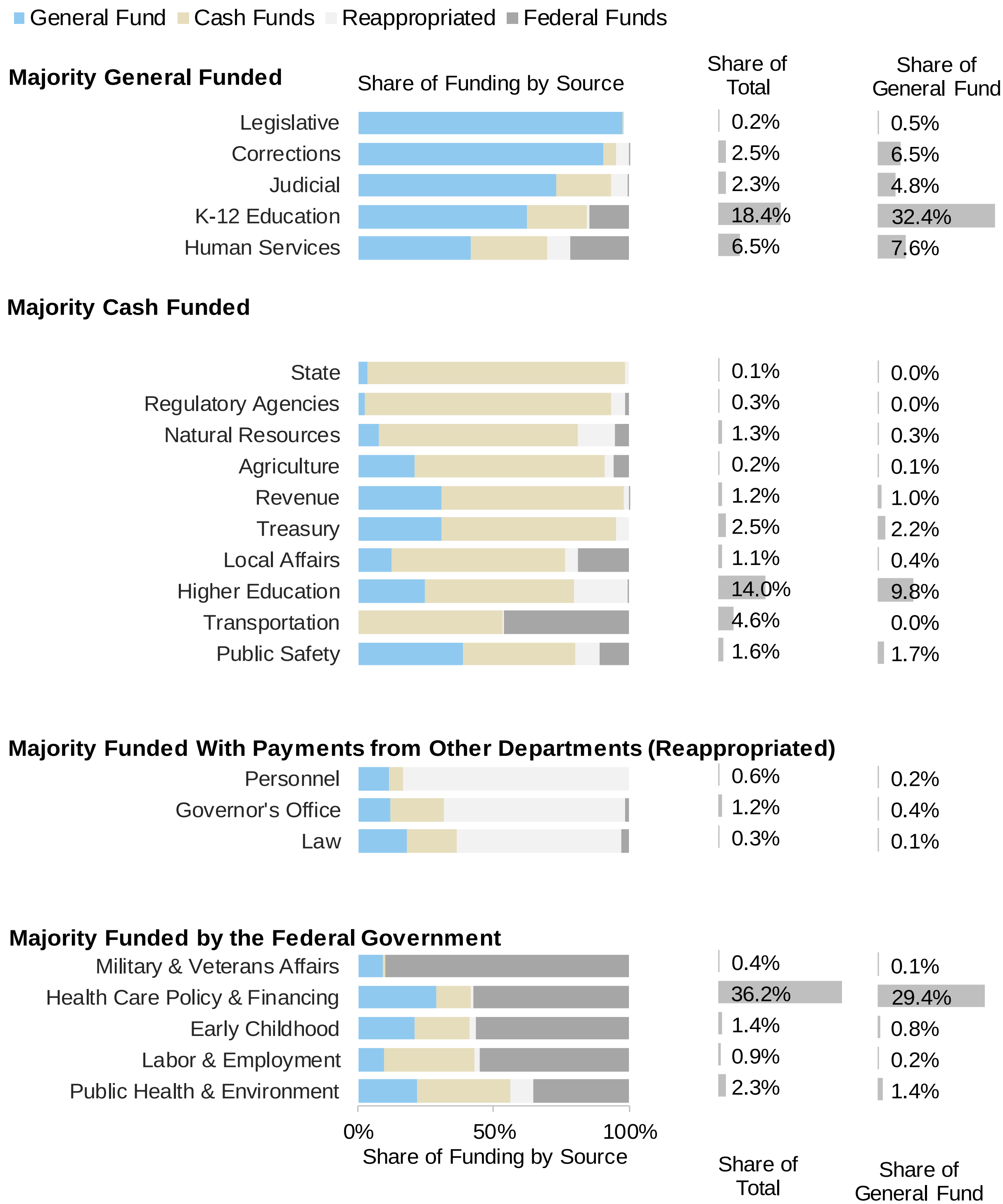
Source: Joint Budget Committee Staff. Amounts subject to change with 2023 legislation.
**General government includes the Governor's Office, Legislative Branch, and Treasurer's Office; and the Departments of Law, Personnel, Revenue, and State.*

Budget by department. Figure 11 identifies the share of funding from each source for each department's operating budget. The figure also puts each department's budget in context with the full budget by providing each department's share of total and General Fund appropriations.

Five departments receive a majority of their funding from the General Fund: the Legislative Branch, Corrections, Judicial, Education, and Human Services. Ten departments receive the majority of their funding from earmarked taxes and fees deposited into cash funds. The Department of State is almost entirely "cash-funded." The Department of Transportation gets almost equal appropriations from cash funds and the federal government.

Five departments receive the majority of their funding from the federal government, including the Department of Health Care Policy and Financing, where the Medicaid program is housed. Three departments receive most of their funding from reappropriated funds, or for providing services to other departments. They are the Governor's Office and the Departments of Personnel and Law.

Figure 11
State Operating Budget by Department and Fund Source, FY 2022-23
Total: $39.3 Billion
Total Less Reappropriated Funds: $36.8 Billion



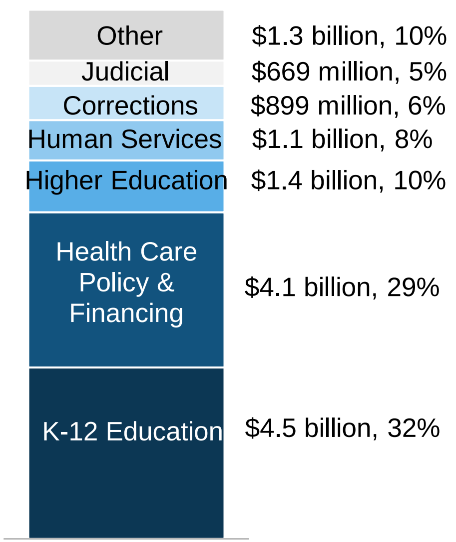
Source: Joint Budget Committee Staff. Amounts subject to change with 2023 legislation.

General Fund Budget and Spending Mandates

As shown in Figure 12, the majority of money in the General Fund is currently appropriated to fund the operating expenses of the state's core programs, which include education, health care, human services, prisons, and the court system. In some years, General Fund revenue has also been used to fund transportation. Further, General Fund revenue is the only major state revenue source available to fund capital construction projects.[23]

The General Fund is often the focus of attention because it is the most flexible in terms of making funding decisions. The availability of General Fund money for appropriations is affected by several key factors: meeting statutory reserve requirements; caseload increases resulting from changes in economic conditions, population growth, and eligibility criteria; making statutorily required transfers to other funds; and accounting for maintenance of effort and other spending requirements for programs in accordance with the state constitution and federal requirements. In addition, state law limits total General Fund operating appropriations. Each of these key factors is explained in greater detail below.

Figure 12
FY 2022-23 General Fund Operating Appropriations
Total: $13.9 billion



Source: Joint Budget Committee Staff. Totals may not sum due to rounding.

General Fund reserve. Colorado is statutorily required to maintain a General Fund reserve equal to a specified percent of General Fund operating appropriations in a given fiscal year.[24] Currently, the reserve requirement is set at 15.0 percent for FY 2022-23 and subsequent years. The reserve is intended to provide additional money to meet unanticipated, one-time state obligations and for emergencies. The General Assembly often acts to adjust this percentage in law, and has reduced it to as low as zero percent during periods of fiscal crisis.

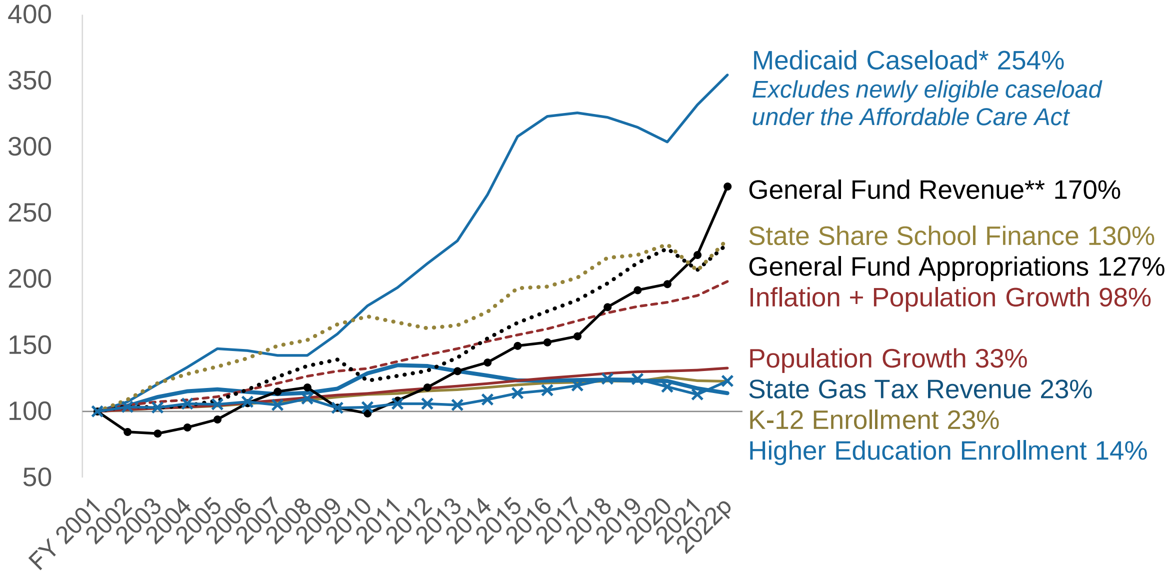
Caseload increases. As shown in Figure 13, demands for state services and benefits have increased substantially in recent years as a result of a growing and aging population, program eligibility expansions, and cyclical changes in the economy. Colorado's state-funded Medicaid caseload, which excludes those eligible under the Affordable Care Act, more than tripled from 275,399 people in FY 2000-01 to 976,158 people in FY 2021-22. Medicaid is a federal/state program with strict rules regarding participation and eligibility codified in state and federal statute. When the economy weakens and the incomes of individuals and families fall, more people become eligible for the program and, barring allowable changes to state law, the state is federally obligated to finance part of the cost. While most of this cost is borne by the General Fund, some is paid for with Health Care Affordability and Sustainability Fee and Amendment 35 tobacco tax revenue.

[23]For information about the budget process for capital construction, see the Legislative Council Staff memorandum "Oversight and Review of Capital Projects", November 2016. General Fund transfers to transportation and capital construction exist under current law but are excluded from Figure 12 because they are not appropriations.
[24]Section 24-75-201.1 (1)(d), C.R.S.

Medicaid caseloads in Figure 13 exclude those eligible under the federal Affordable Care Act, which were initially funded entirely by the federal government. In FY 2014-15, the first year it was fully implemented, this caseload added 313,381 people. The caseload was 580,502 people in FY 2021-22, with Colorado's total Medicaid caseload at 1.6 million people. The newly eligible caseload was financed entirely with federal funds through the end of 2016. The 100 percent federal match then decreased incrementally beginning in 2017, eventually reaching 90 percent for 2020 and later years.

Simple **population growth and inflation** also create caseload pressure. As Colorado's overall population has grown, the state's K-12 public school enrollment has also naturally increased, as has the state's share of school finance costs. Since FY 2000-01, the state's population has increased 33 percent, which helps to explain the 23 percent increase in enrollment in K-12 public schools over the same period. Meanwhile, the state's share of school finance costs increased by 130 percent; while the sum of enrollment growth and inflation increased 88 percent.

Figure 13
Cumulative Caseload and General Fund Growth Over the Business Cycle
Index FY 2000-01 = 100



Sources: U.S. Bureau of Economic Analysis, U.S. Bureau of Labor Statistics, State Demographer's Office, Joint Budget Committee Staff, Department of Health Care Policy and Financing, Department of Higher Education, and Department of Education.
**State-funded caseload only; while most funding is General Fund, some funding comes from the Healthcare Affordability and Sustainability Fee and Amendment 35 tobacco tax revenue.*
***All General Fund revenue, including the portion obligated to be refunded to taxpayers under TABOR.*
p = Preliminary.

Constitutionally required expenditures are prioritized over other expenditures. The Colorado Constitution includes the following requirements:

- **Public school funding.** Approved by voters in 2000, Amendment 23 requires increases in funding for public elementary and secondary education. The amendment required an annual increase in base per-pupil funding under the School Finance Act and the total state funding for categorical programs[25] of at least the inflation rate plus one percentage point from FY 2001-02 through FY 2010-11. Beginning in FY 2011-12, this increase is required to be at least the rate of inflation. In response to budgetary pressures following the Great Recession, the General Assembly enacted the budget stabilization factor, which was first applied in FY 2010-11. The factor reduces total program funding proportionately for most districts by reducing the amount of state aid that each district receives. [26]

- **TABOR refunds.** Money must be set aside to refund revenue in excess of the TABOR limit. Refunds are paid from General Fund revenue in the fiscal year after a TABOR surplus is collected.

- **Old Age Pension (OAP).** The OAP was established in the constitution by voters in 1936 and amended in 1956.[27] The fund was established to provide minimum assistance for needy Colorado residents 60 years of age or older. The program is funded with continuously appropriated revenue from the state sales tax (General Fund revenue), and is expected to require $70.0 million to fulfill its obligations in FY 2022-23.[28]

- **Homestead exemptions for seniors, veterans, and gold star spouses**.[29] Voters approved adding the senior homestead exemption and disabled veterans property tax exemptions to the state constitution in 2000 and 2006, respectively.[30] The senior homestead property tax exemption is available to taxpayers in Colorado over the age of 65 who have owned and lived in their current residence for ten years immediately preceding the tax year in which a claim is made. Veterans must be rated permanently disabled by the U.S. Department of Veterans Affairs or qualify for a permanent 100 percent military medical retirement and must have owned and occupied the property as their primary residence on January 1st of the year in which they are applying for the exemption. At the 2022 General Election, voters expanded the exemption to surviving spouses of United States armed forces service members who died in the line of duty or whose death resulted from a service-related injury or disease.

  The state reimburses local governments for the amount of the benefit granted to the homeowner with General Fund money. In FY 2021-22, reimbursements totaled $162.1 million, of which $156.5 million was for the senior homestead exemption. The constitution authorizes the General Assembly to adjust the $200,000 threshold for the market value of a home eligible for the exemption. To address budget shortfalls, the General Assembly reduced the benefit of the senior exemption to zero in tax years 2003, 2004, 2005, 2009, 2010, and 2011, rendering them unavailable.

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[25] In Colorado, school districts may receive state funding to pay for specific "categorical" programs designed to serve particular groups of students or particular student needs.
[26] For more information, see the discussion beginning on page 20 of the Legislative Council Staff *School Finance in Colorado* handbook, 2022.
[27] Colo. Const. art. XXIV, § 2.
[28] September 2022 Legislative Council Staff forecast.
[29] For more information, see the Legislative Council Staff memorandum, "History of the Senior and Disabled Veteran Property Tax Exemptions," August 2022.
[30] Colo. Const. art. X, § 3.5 and Section 39-3-201, C.R.S.

The disabled veteran exemption has not been reduced since its establishment in tax year 2007. Beginning in FY 2017-18, reimbursements to local governments for these exemptions became TABOR refund mechanisms, as discussed in greater detail on page 10.

Maintenance of effort requirements for federal programs. The following federal public health and human services programs have maintenance of effort (MOE) spending requirements:

- the federal Supplemental Security Income (SSI) program;
- the federal Temporary Assistance to Needy Families (TANF) program;
- services for people with developmental disabilities, Part C, Early Intervention and Case Management Program;
- the Substance Abuse Prevention and Treatment Block Grant Program; and
- the Mental Health Block Grant Program.

While most of the programs are not required to be operated, a significant portion of each program's cost is paid by the federal government if MOE requirements are met. In some cases, the MOE requirement must be met in another program area in order to receive federal funds. For example, there is no federal requirement to operate the state's Medicaid program, but the federal government pays approximately 50 percent of its cost as long as the state meets its MOE requirements for the federal SSI program.

The state may request an MOE waiver for "extraordinary economic conditions," defined as a financial crisis in which the total tax revenues declined at least 1.5 percent, and either the unemployment rate increases by at least 1 percentage point, or employment declines by at least 1.5 percent.

In addition, there are two principal human services-related programs required by the federal government for which some state contribution is also required. These include the Child Support Program (for which 66 percent is paid with federal funds and the rest is comprised of state funds) and the Older American Act programs.

General Fund infrastructure transfers and lease payments. Historically, revenue from the General Fund had been transferred for spending on transportation and capital construction projects. The amounts and mechanisms for these transfers have varied over time.[31] Senate Bill 21-260 made substantial changes to state transportation funding, including the creation of one-time and ongoing General Fund transfers. The bill transferred $170 million to the State Highway Fund (SHF) and $112.5 million to the Multimodal Transportation and Mitigation Options Fund (MMOF) in FY 2021-22, and scheduled ongoing transfers to the SHF ($107 million) and the MMOF ($10.5 million) beginning in FY 2024-25. The General Assembly has also enacted legislation to schedule one-time transfers of General Fund revenue to transportation and capital construction funds. In FY 2021-22, these transfers totaled $202 million for transportation funds and $334 million for capital funds.[32]

State law also obligates General Fund revenue for lease payments for lease-purchase agreements that were executed between FY 2018-19 and FY 2021-22 under Senate Bill 17-267.[33] These lease-purchase

[31] For more information, see page 26 of the Legislative Council Staff Handbook, titled "Colorado's Transportation System".
[32] For transportation funds, includes SB 21-265, HB 22-1411, SB 22-176, and SB 22-180; for capital funds, includes SB 21-064, SB 21-224, and HB 22-1195.
[33] Section 24-82-1303 (2)(d), C.R.S.

agreements generated $2.23 billion in one-time revenue for state transportation projects and $169 million in one-time revenue for capital construction. Once all agreements are executed, annual General Fund lease payments are expected to be $100 million annually for 20 years.

Limit on General Fund operating appropriations. State law limits total General Fund operating appropriations to an amount equal to 5 percent of Colorado personal income plus appropriations for property tax reappraisals.[34] In FY 2022-23, that amount is equal to $18.5 billion, $4.8 billion above actual General Fund operating appropriations.

Constitutional Cash Fund Spending Mandates

The Colorado Constitution mandates how marijuana, tobacco, gaming, lottery, and transportation revenue may be spent. Each mandate is discussed more fully below.

Marijuana revenue. When voters approved retail marijuana legalization with Amendment 64 in 2012, they dedicated the first $40 million in excise tax revenue from retail marijuana to school construction. To facilitate this constitutional requirement, the General Assembly referred Proposition AA to the voters in 2013, asking voters to approve a 10 percent special sales tax, which could be increased up to 15 percent, and a 15 percent excise tax on retail marijuana. Revenue collected from the special sales and excise taxes is exempt from TABOR as a voter-approved revenue change.

Consistent with the constitutional requirements of Amendment 64, the first $40 million collected each year from the excise tax on retail marijuana supports public school capital construction, primarily through the Building Excellent Schools Today (BEST) program. The BEST program provides state assistance to school districts to repair or replace deteriorating public school facilities. The General Assembly has more flexibility with any revenues collected in excess of $40 million each year, and has adjusted the allocation of those revenues. For example, for FY 2020-21 only, the General Assembly directed all revenues above $40 million to the State Public School Fund to support other P-12 programs. For FY 2019-20, and for FY 2021-22 and later years, all excise tax revenues are allocated to support the BEST program.

Retail (non-medical) marijuana is exempt from the 2.9 percent state sales tax and is subject only to the special sales tax, which is now equal to 15 percent. Special sales tax revenue is allocated in shares of 90 percent to the state government and 10 percent to local governments where retail marijuana sales occur.[35] Medical marijuana remains subject to the 2.9 percent sales tax.

Tobacco revenue. Approved by voters in 2004, Amendment 35 increased the tax collected on cigarette and tobacco products to fund an expansion of health care services and tobacco education and cessation programs.[36] The tax revenue collected under Amendment 35 is excluded from TABOR the definition of "fiscal year spending." In FY 2021-22, the state collected $110 million in Amendment 35 taxes. The constitution requires this revenue, along with $11 million allocated from additional tobacco taxes allocated from the additional taxes imposed in Proposition EE, to be allocated as follows:

[34]Section 24-75-201.1 (1)(a)(II.5), C.R.S.
[35]For more information, see the Legislative Council Staff memorandum "Marijuana Revenue in the State Budget," December 2019.
[36]For more information, see the Legislative Council Staff memorandum "Use of State Tobacco Revenue," April 2022.

- 46 percent to increase enrollment of children, pregnant women, and parents in the Children's Basic Health Plan (CHP+) and Medicaid;
- 19 percent to fund comprehensive primary care through community health centers or providers serving uninsured and indigent populations;
- 16 percent to fund school and community-based tobacco education programs;
- 16 percent for the prevention, early detection, and treatment of cancer and cardiovascular and pulmonary diseases; and
- 3 percent for health-related purposes funded from the General Fund, the Old Age Pension Fund, or local governments.

The state also collects a statutory tax on cigarette and tobacco products, the revenue from which is subject to the TABOR limit and is deposited into the General Fund. In addition, voters approved Proposition EE in 2020, which increased the statutory tax on cigarette and tobacco products and created a tax on nicotine products, beginning January 1, 2021. The revenue from Proposition EE is exempt from TABOR as a voter-approved revenue change. Through FY 2022-23, most Proposition EE revenue is used for K-12 education; beginning in FY 2023-24, most Proposition EE revenue will be spent for preschool programs. Proposition EE tax payments totaled $208 million in FY 2021-22, the first full year for which taxes were in effect.

Gaming revenue. In 1990, Colorado voters approved a constitutional amendment authorizing limited casino gaming in Central City, Black Hawk, and Cripple Creek.[37] In 2008 and 2020, respectively, voters approved Amendment 50 and Amendment 77, both of which expanded casino gaming by increasing betting limits, expanding casino operating hours, and adding new games. The Limited Gaming Control Commission is a five-member regulatory body appointed by the Governor to promulgate rules and regulations governing gaming in Colorado. The commission is also required to establish gaming tax rates and adjust tax rates on an annual basis. However, Amendment 50 requires statewide voter approval for any increases in gaming tax rates above July 1, 2008, levels.

Colorado's gaming tax generated $162 million in FY 2021-22, of which $48 million is statutorily attributable to extended limited gaming authorized in Amendments 50 and 77. Gaming tax revenue is held in the Limited Gaming Fund and, after administrative expenses, is distributed through constitutional and statutory formulas. Distributions are divided between what are referred to as "pre-Amendment 50" and "extended gaming" distributions. Half of pre-Amendment 50 money is required under the constitution to be distributed to the State Historical Fund (28 percent) and gaming cities (10 percent) and counties (12 percent).[38] The other half of Pre-Amendment 50 money is allocated according to a statutory formula to the General Fund and various economic development programs.[39] After administrative expenses, extended gaming tax revenue is required by the constitution to be allocated to community colleges (78 percent) and gaming cities and counties (22 percent).[40]

Lottery revenue. In 1980, Colorado voters amended the constitution to allow the General Assembly to create a state-supervised lottery, which was implemented in 1983. Since its inception, the lottery has expanded to include electronic lottery games and multi-state games such as Powerball. Prior to 1992, when Colorado voters approved a constitutional amendment creating Great Outdoors Colorado

[37]Colo. Const. art. XVIII, Section 9.
[38]Colo. Const. art. XVIII, Section 9 (5)(b)(II).
[39]Section 44-30-701 (2), C.R.S.
[40]Colo. Const. art. XVIII, Section 9 (7)(c).

(GOCO), proceeds were primarily allocated to capital construction.[41] The constitution requires that all net proceeds from lottery games in Colorado be distributed as follows:

- 10 percent to the Colorado Division of Parks and Wildlife;
- 40 percent to the Conservation Trust Fund; and
- 50 percent to the Great Outdoors Colorado (GOCO) Trust Fund.

The constitution limits the amount of annual revenue to the GOCO fund at $35 million in 1992 dollars, adjusted for inflation. The limit for FY 2020-21 was $71.7 million. Any amount above this limit (known as the "GOCO spillover") is distributed to the BEST program. This spillover was $7.6 million for FY 2020-21.[42]

Transportation revenue. Colorado's constitution requires that transportation-related revenues be spent on transportation-related purposes. Specifically, motor vehicle license and registration fees and fuel excise tax revenue must be spent on the construction, maintenance, and supervision of public highways.[43] These revenues are allocated to the Highway Users Tax Fund (HUTF), from which statutory distributions are made to the State Highway Fund and local governments. A total of $1.08 billion was collected in the HUTF during FY 2021-22.[44]

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[41]Colo. Const. art. XXVII, Section 3.
[42]This provision was added by voters through Referendum E in November 2000.
[43]Colo. Const. art. X, § 18.
[44]For more information, see page 26 of the Legislative Council Staff Handbook, titled "Colorado's Transportation System."