



**REPORT OF  
THE  
STATE AUDITOR**

**SCHEDULE OF COMPUTATIONS REQUIRED  
UNDER ARTICLE X, SECTION 20 OF THE  
STATE CONSTITUTION (TABOR)**

**NOVEMBER 2000**

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## STATE OF COLORADO

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November 8, 2000

Members of the Legislative Audit Committee:

This report contains the results of the financial audit of the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* as of June 30, 2000, dated November 8, 2000, and the *Schedule of TABOR Revenue* as of June 30, 2000 and 1999, dated September 13, 2000. This audit was conducted pursuant to Section 24-77-106.5, C.R.S., which requires the State Auditor to examine the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*.

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J. DAVID BARBA, CPA  
State Auditor

**SCHEDULE OF COMPUTATIONS  
REQUIRED UNDER ARTICLE X, SECTION 20  
OF THE STATE CONSTITUTION (TABOR)**

**Authority, Purpose, and Scope**

The audit of TABOR revenue was conducted under the authority of Section 24-77-106.5, C.R.S., which authorizes the Office of the State Auditor to examine the *Schedule of Computations Required Under Article X, Section 20* of the State Constitution (TABOR) and the *Schedule of TABOR Revenue*. We conducted this audit in accordance with generally accepted auditing standards. We performed our audit work during the period August 2000 through November 2000.

The purpose and scope of this audit was to:

- Express an opinion on the *Schedule of Computations Required Under Article X, Section 20* of the State Constitution (TABOR) as of June 30, 2000.
- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2000 and 1999.
- Evaluate compliance with applicable state laws, rules, and regulations.

We noted no instances of noncompliance for the fiscal years ended June 30, 2000 and 1999.

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# TABOR Revenue

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## Description and Background

The Taxpayer's Bill of Rights (TABOR) was added as Article X, Section 20, of the Colorado Constitution in the November 1992 general election. TABOR limits increases in the State's revenue to the annual inflation rate plus the percentage change in the State's population. The State Controller annually prepares a *Schedule of TABOR Revenue* and a *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)*. These reports are audited as part of the annual financial audit.

## Revenue Limit

The TABOR revenue limit was exceeded for the first time during the fiscal year ended June 30, 1997. The revenue limit has also been exceeded in each year since then, for cumulative excess revenue of about \$2.3 billion. According to estimates by both the Colorado Legislative Council and the Office of State Planning and Budget, the State will continue to exceed the revenue limit for at least the next five years.

With regard to excess revenue, Article X, Section 20 (7) (d) of the State's Constitution states that "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." The State is not limited to refunding solely from general funds or ratably from those revenue sources in excess of the limit. Article X, Section 20 (1) says that "...districts may use any reasonable method for refunds under this section, including temporary tax credits or rate reductions. Refunds need not be proportional when prior payments are impractical to identify or return."

The excess revenue has been refunded in a variety of ways since the revenue surpluses first began in 1997. In both 1997 and 1998 the Legislature decided to distribute the entire excess as a sales tax credit on each full-year resident's individual income tax return. In 1999 the excess of \$679.6 million was refunded through three mechanisms. A total of \$25.3 million was refunded as earned income credits, \$79.6

million was refunded through personal property tax credits, and \$589.1 million was refunded as a sales tax credit on each full-year resident's individual income tax return. The total amount refunded was \$694 million. This exceeded the liability by \$14.4 million, including the satisfaction of the 1997 remaining liability of \$2.3 million. The refunds exceeding the liability will lower the revenue by the same amount in the subsequent year.

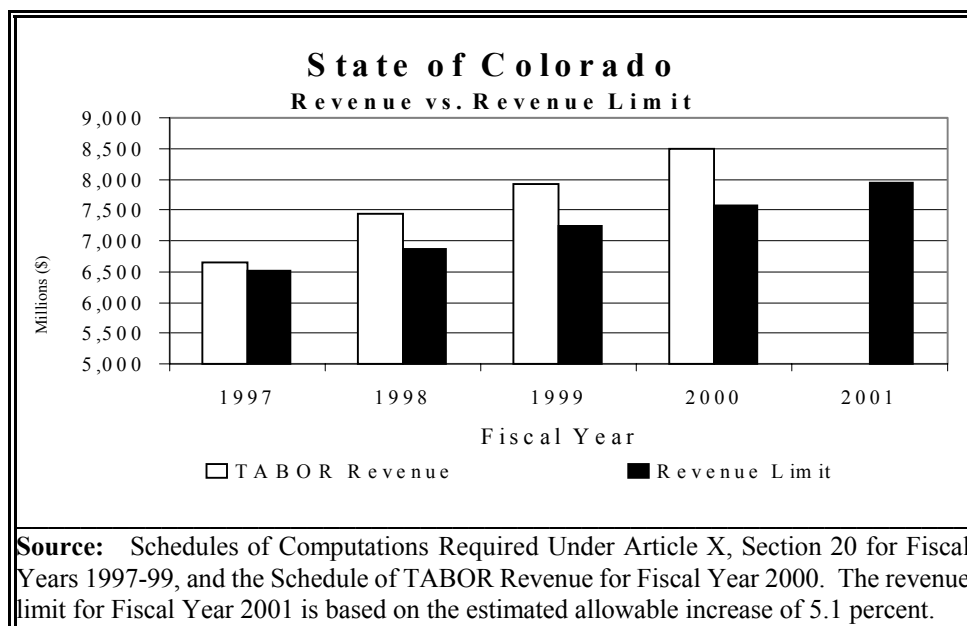
During the 1999 and 2000 legislative sessions several refunding mechanism bills were passed to distribute the Fiscal Year 2000 excess revenue. The amount of the excess revenue will determine what combination of the refunding methods are applicable. The excess revenue must exceed a specific threshold as established by statute for each refunding mechanism, before the mechanism is effective for any particular year. The table that follows provides a summary of the legislation and Appendix B provides a more detailed description of each refunding mechanism.

<b>Fiscal Year 2000 Refund Distribution Per Statute</b>			
<b>Description</b>	<b>Statute Citation</b>	<b>Fiscal Year 2000 Threshold (Millions)</b>	<b>Estimated Fiscal Year 2000 Refunds (Millions)</b>
Sales Tax Refund	Section 39-22-2003, C.R.S.	Remainder**	\$643.0
Other Credits:			
Business Personal Property Tax Credit*	Section 39-22-124, C.R.S.	\$184.3	\$103.5
Colorado Capital Gains Modification*	Section 39-22-518, C.R.S.	281.8	43.4
Interest, Dividend, and Capital Gains to \$1,200/\$2,400*	Section 39-22-104, C.R.S.	238.5	39.3
Earned Income Credit*	Section 39-22-122, C.R.S.	54.2	36.6
Expanded Capital Gains	Section 39-22-518, C.R.S.	430.0	28.0
Child Care Credits	Section 39-22-119, C.R.S.	290.0	22.1
Health Care Plans	Section 39-22-125, C.R.S.	400.0	22.1
Pollution Control Provisions	Section 39-26-501, C.R.S.	350.0	2.8
Rural Health Care Providers	Section 39-22-126, C.R.S.	285.0	0.3
Subtotal Other Credits			<b>\$298.1</b>
<b>TOTAL</b>			<b>\$941.1</b>
<b>Source:</b> Office of State Planning and Budgeting information.			
* Adjusted for personal income growth.			
** Amount remaining after other credits refunded.			

Several permanent tax cuts were enacted during the 1999 and 2000 legislative sessions that will also lower future TABOR revenue. The Office of State Planning and Budgeting estimates about a \$279 million revenue reduction in Fiscal Year 2001, which is the first full year that many of the tax reductions have been in effect. The most significant reduction is in the income tax rate. The rate was reduced to 4.75 percent from 5 percent effective January 1, 1999. The rate was further reduced effective January 1, 2000, to 4.63 percent. The sales tax rate will be 2.9 percent effective January 1, 2001, down from the current 3 percent. There are a variety of other permanent tax reductions that include low-income housing owner credits, redevelopment incentives for contaminated property, prepaid tuition tax exclusions, sales and use tax exemptions for certain agricultural items, unemployment insurance tax credits, and oil and gas severance tax exemptions.

We reviewed the State Controller’s computation of the TABOR revenue limit. For Fiscal Year 2000, the audited TABOR limit was \$7,562,845,059, the revenue was \$8,500,751,904, resulting in current excess revenue of \$937,906,845. Prior year adjustments increased the refund by \$1,679,718 for a total excess TABOR revenue of \$939,586,563. This is a reduction in the refund reported by the State Controller’s Office of \$1,542,415.

The graph that follows compares the revenue limit computed each year to the TABOR revenue from Fiscal Year 1997 to Fiscal Year 2000. In Fiscal Year 2000 the allowable growth was 4.4 percent. The preliminary Fiscal Year 2001 revenue limit is included to highlight the fact that current year revenue exceeds next year’s limit.





## Sources of TABOR Revenue Growth

There are two types of revenues subject to the growth limitations set forth in TABOR—general funds and cash funds. General funds primarily include revenue from the general taxing authority of the State, such as individual and corporate income taxes. Cash funds generally include revenue from fees and other sources that are to be used for specific programs, such as education service fees and fuel/transportation taxes. In general, cash funds increases come from two sources—either a change in the rate charged or an increase in the usage of services.

General funds grew at a rate of about 9 percent in Fiscal Year 2000 as compared to about 8 percent in Fiscal Year 1999, while cash funds grew at a rate of nearly 3 and one-half percent in Fiscal Year 2000 as compared to 4 percent for Fiscal Year 1999. Those categories that increased by more than the allowable 4.4 percent limitation for 2000 were made up of about 93 percent general funded and 7 percent cash funded sources. This compares with about 83 percent general funded and 17 percent cash funded sources for 1999.

The chart on the following page shows the major sources of revenue where growth exceeded the 4.4 percent TABOR limitation in Fiscal Year 2000, with comparative figures for 1999 and 1998. Those sources not exceeding the 4.4 percent limit are included in this chart as “Other Revenue” and are detailed in Appendix C. The chart and Appendix C are further organized by general funded and cash funded revenue. For those revenue sources used for both general and cash funded purposes, addition of amounts in the chart below and/or Appendix C is required to arrive at the totals of the individual revenue categories shown in the *Schedule of TABOR Revenue* on page 19.

## State of Colorado Sources of TABOR Revenue Growth

	Fiscal Year 2000	Fiscal Year 1999	1999 to 2000 % Change	Fiscal Year 1998	1998 to 1999 % Change
<b>GENERAL FUNDED</b>					
<b>REVENUE:</b>					
Individual Income Tax, Net	\$3,687,314,615	\$3,298,698,366	11.8%	\$3,025,546,645	9.0%
Sales and Use Tax, Net	1,868,457,444	1,703,878,495	9.7%	1,546,286,146	10.2%
Corporate Income Tax, Net	289,228,619	276,092,038	4.8%	263,108,747	4.9%
Insurance Taxes	128,542,486	117,867,039	9.1%	113,817,344	3.6%
Fiduciary Tax	30,892,303	28,006,395	10.3%	26,076,479	7.4%
Alcoholic Beverages Tax	27,978,957	25,788,839	8.5%	25,121,518	2.7%
Gaming and Other Taxes	7,609,556	6,682,223	13.9%	7,601,801	-12.1%
Business Licenses and Permits	6,031,263	4,289,352	40.6%	6,307,032	-32.0%
Miscellaneous Revenue	5,628,238	3,465,036	62.4%	3,274,294	5.8%
Total Other General Funded Revenue *	205,723,481	284,802,682	-27.8%	330,889,176	-13.9%
<b>TOTAL GENERAL FUNDED REVENUE</b>	<b>6,257,406,962</b>	<b>5,749,570,465</b>	<b>8.8%</b>	<b>5,348,029,182</b>	<b>7.5%</b>
<b>CASH FUNDED REVENUE:</b>					
Fuel and Transportation Taxes, Net	522,598,118	497,573,948	5.0%	472,322,271	5.3%
Motor Vehicle and Driver's Licenses	170,730,859	158,240,651	7.9%	151,012,636	4.8%
Court and Other Fines	49,521,474	45,581,729	8.6%	46,675,095	-2.3%
Nonbusiness Licenses and Permits	44,509,685	41,907,874	6.2%	44,103,253	-5.0%
Other Charges for Services	40,004,792	32,536,694	23.0%	29,492,930	10.3%
Severance Tax	36,238,953	32,752,467	10.6%	30,038,338	9.0%
Rents	21,585,226	19,274,849	12.0%	15,354,283	25.5%
Local Governments and Authorities	20,660,355	17,026,394	21.3%	22,356,057	-23.8%
Sales of Products	16,421,539	15,461,179	6.2%	13,964,971	10.7%
Certifications and Inspections	15,407,198	14,577,276	5.7%	14,160,853	2.9%
Sales and Use Tax, Net	8,710,720	5,279,258	65.0%	8,719,565	-39.5%
Total Other Cash Funded Revenue *	1,301,043,113	1,293,235,799	0.6%	1,238,972,490	4.4%
<b>TOTAL CASH FUNDED REVENUE</b>	<b>2,247,432,032</b>	<b>2,173,448,118</b>	<b>3.4%</b>	<b>2,087,172,742</b>	<b>4.1%</b>
<b>TOTAL TABOR REVENUE</b>	<b>\$8,504,838,994</b>	<b>\$7,923,018,583</b>	<b>7.3%</b>	<b>\$7,435,201,924</b>	<b>6.6%</b>

**Source:** Office of the State Auditor analysis of State Controller's Office data and does not include the adjustments noted in the Independent Auditor's Report.

\* See Appendix C for detail included in "Total Other General Funded Revenue" and "Total Other Cash Funded Revenue".

# **Financial Information**

November 8, 2000

## Independent Auditor's Report

Members of the Legislative Audit Committee:

We have audited, in accordance with generally accepted auditing standards, the financial statements for the State of Colorado for the year ended June 30, 2000, and issued our report thereon dated October 17, 2000. We have also audited the *Schedule of Computations Required Under Article X, Section 20*, as of June 30, 2000. This schedule is the responsibility of the State Controller's Office. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit of the schedule in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the *Schedule of Computations Required Under Article X, Section 20* is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

Our auditing procedures also included reconciling amounts contained in this report to the State's Comprehensive Annual Financial Report for the year ended June 30, 2000, and testing for irreconcilable conflicts between the State's financial statements and the provisions of TABOR. Additional procedures consisted of evaluating the State of Colorado's compliance with constitutional and statutory provisions of TABOR. Our audit does not provide a legal determination of the State's compliance with specified requirements.

The accompanying *Schedule of Computations Required Under Article X, Section 20* was prepared by the State Controller's Office pursuant to Section 24-77-106.5, C.R.S., which requires a financial report ascertaining compliance with state fiscal policies relating to Article X, Section 20 of the State Constitution (TABOR). Article 77 further requires a financial report to be prepared in conformity with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and TABOR, in which case the provisions of said constitutional provision shall control.

In our opinion, the accompanying *Schedule of Computations Required Under Article X, Section 20* presents fairly, in all material respects, the revenue, expenditures, changes in reserves, and spending limitation as determined under Article X, Section 20 of the State Constitution for the year ended June 30, 2000, in conformity with generally accepted accounting principles.

The *Schedule of Computations Required Under Article X, Section 20*, as of June 30, 2000, does not include an audit adjustment to the base of \$864,957, and adjustments to TABOR Revenue of \$2,407,372. If these adjustments had been included, the base would have been reduced to \$7,562,845,059 from \$7,563,710,016, and TABOR Revenue have been reduced to \$8,502,431,622 from \$8,504,838,994. If the adjustments had been included, the refund would have been reduced by \$1,542,415.

STATE OF COLORADO  
SCHEDULE OF COMPUTATIONS REQUIRED  
UNDER ARTICLE X, SECTION 20  
AS OF JUNE 30, 2000

	FISCAL YEAR 1998-99	FISCAL YEAR 1999-00
<b>COMPUTATION OF NON-EXEMPT REVENUES</b>		
Total State Expenditures	\$ 14,474,215,574	\$ 14,876,744,284
Less Exempt Enterprises Expenses:		
Higher Education Enterprises	462,721,118	487,505,254
State Lottery	370,622,470	372,898,766
Student Loan Program	68,834,835	52,376,791
Correctional Industries	29,568,209	31,858,590
State Nursing Homes	18,721,800	19,631,019
Subtotal Enterprise Expenses	<u>950,468,432</u>	<u>964,270,420</u>
Total District Expenditures	<u>13,523,747,142</u>	<u>13,912,473,864</u>
Less Exempt District Revenues:		
Transfers	2,229,632,006	2,125,694,858
Federal Funds	3,186,745,216	3,420,323,052
Gifts	205,134,589	254,662,037
Property Sales	18,072,461	19,841,802
Damage Awards (Note 6)	10,753,269	119,890,540
Exempt Investment Income	59,941,118	81,963,087
Other Sources and Additions (Note 7)	687,718,654	1,415,032,828
Voter Approved Revenue Changes (Note 8)	14,093	225,432
Subtotal Exempt District Revenues	<u>6,398,011,406</u>	<u>7,437,633,636</u>
Non-Exempt District Expenditures	7,125,735,736	6,474,840,228
District Reserve/Fund Balance Increase (Note 9)	117,648,541	1,086,983,207
Excess TABOR Revenues	679,634,306	941,128,978
Total Non-Exempt District Revenues	<u>\$ 7,923,018,583</u>	<u>\$ 8,502,952,413</u>
<b>COMPUTATION OF FUND BALANCE CHANGES</b>		
Beginning District Fund Balance	\$ 6,876,183,959	\$ 7,287,197,761
Prior Period District Fund Balance Adjustments (Note 9)	288,098,369	33,155,636
(Qualification)/Disqualification of Enterprises (Note 9)	5,266,892	(41,915)
District Reserve/Fund Balance Increase (Note 9)	117,648,541	1,086,983,207
Ending District Fund Balance	<u>\$ 7,287,197,761</u>	<u>\$ 8,407,294,689</u>
<b>COMPUTATION OF SPENDING LIMITATION</b>		
FY 1998-99 Adjusted Fiscal Year Spending Limitation	\$ 7,243,384,277	
Allowable TABOR Growth Rate (Note 10)		4.4%
<b>FY 1999-00 Unadjusted Fiscal Year Spending Limit</b>		7,562,093,185
(Qualification)/Disqualification of Enterprises (Note 11)		(229,104)
Non-exempt revenues of Northwestern Junior College (Note 9)		2,401,637
Fiscal Years 1995-96 to 1999-00 Adjustments (Note 12)		<u>(555,702)</u>
<b>FY 1999-00 Adjusted Fiscal Year Spending Limit</b>		<u>7,563,710,016</u>
Less Fiscal Year 1998-99 Non-Exempt District Revenues		(8,502,952,413)
Less Prior Year's Errors Resulting In Additional Refund (Note 12)		(1,886,581)
<b>Total Amount To Be Refunded</b>		<u><b>\$ (941,128,978)</b></u>

## NOTES TO THE TABOR REPORT

### NOTE 1. BASIS OF ACCOUNTING

Pursuant to Article 77 of Title 24, Colorado Revised Statutes, this report is prepared in accordance with generally accepted accounting principles (GAAP) except where an irreconcilable difference exists between GAAP, and state statute or the provisions of Section 20, Article X of the state constitution (TABOR).

The accounting principles used by the state are more fully described in the state's Comprehensive Annual Financial Report available from the State Controller's Office.

### NOTE 2. DEFINITION OF THE DISTRICT

TABOR defines the district as "the state or any local government, excluding enterprises." It further defines enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined."

The General Assembly, for the purpose of implementing TABOR, stated in CRS 24-77-102(16)(a) that "state" means the central civil government of the State of Colorado, which consists of the following:

- (I) the legislative, executive, and judicial branches of government established by Article III of the state constitution;
- (II) all organs of the branches of government specified in subparagraph (I) of paragraph (a) of this subsection (16), including the departments of the executive branch; the legislative houses and agencies; and the appellate and trial courts and court personnel; and
- (III) state institutions of higher education.

(b) "state" does not include:

- (I) any enterprise;
- (II) any special purpose authority.

The General Assembly has designated the State Lottery, the Guaranteed Student Loan Program, the Division of Correctional Industries, the State Fair Authority, and the State Nursing Homes as enterprises excluded from the district. It further set up a mechanism in statute by which the governing boards of the institutions of higher education could designate certain auxiliary operations as enterprises, also exempt from TABOR. Although the General Assembly has designated certain enterprises as exempt from TABOR, they must also meet certain criteria annually.

### NOTE 3. DEBT

Certificates of Participation, which are used by the State for long-term lease purchases, are not considered debt of the State for purposes of this report as provided by CRS 24-30-202(5.5).

In interrogatories submitted by the General Assembly regarding House Bill 99-1325, the Colorado Supreme Court ruled that Revenue Anticipation Notes (RANS) issued by the Colorado Department of Transportation do not constitute debt of the state as defined in Section 3, Article XI of the constitution. However, the Court ruled that they are a multiple-fiscal year obligation as defined by Section 20, Article X of the constitution, thus, requiring an election before they could be issued. In November 1999 the voters approved the issuance of \$1.7 billion of RANS.

#### **NOTE 4. EMERGENCY RESERVES**

TABOR requires the reservation, for declared emergencies, of 3 percent or more of the Fiscal Year Spending, excluding debt service payments.

The state has designated \$226,911,300 of the fund balance of the Controlled Maintenance Trust Fund as reserved for emergencies for FY 1999-00. That amount satisfies the TABOR 3 percent requirement.

#### **NOTE 5. STATUS OF REFUNDING**

At June 30, 2000, the state had accrued or made a refund of \$13,002,810 over its liability for the Fiscal Year 1998-99 excess revenues, and \$6,647,678 over its liability for the Fiscal Year 1997-98 excess revenues. Per statute these over-refundings are treated as sales tax refunds in the year in which the over-refunding occurs.

A class action suit has been brought against the state seeking damages of \$703 million – equal to the sales tax refund for Fiscal Years 1996-97 and 1997-98. The suit alleges that the refund program violates interstate commerce, equal protection and privileges, and immunity clauses of the U.S. Constitution. It also alleges that the TABOR amendment, under which the refund was made, violates the equal protection and due process clauses of the Colorado Constitution.

#### **NOTE 6. DAMAGE AWARDS**

The large change in the amount of damage awards received between the current and prior year was the result of receipt of \$115.3 million of the Tobacco Litigation Settlement. It is expected that the state will receive payments each year from the settlement agreement.

#### **NOTE 7. OTHER SOURCES AND ADDITIONS**

This line item consists primarily of \$535.8 million of revenue anticipation notes,

\$448.3 million (\$335.1 million in Fiscal Year 1998-99) of investment and pension trust fund additions by participants, and \$386.9 million (\$316.8 million in Fiscal Year 1998-99) of fund additions in the higher education funds.

Fiscal Year 1999-00 is the first year of use of the revenue anticipation notes for highway construction. The higher education fund additions are transfers from other higher education funds to the loan funds, endowment funds, and higher education plant funds, or the recording of fixed assets. They do not represent transactions with entities or individuals outside the District.

Other sources include reversions of accruals of accounts payable of \$4.6 million, as well as \$29.0 million of reimbursements of prior year expenditures, and \$10.4 million in other required governmental accounting entries.

#### **NOTE 8. VOTER APPROVED REVENUE CHANGES**

The voters in the 1998 general election approved an initiated law, CRS 25-8-501.1, Regulation of Commercial Hog Facilities, adopting the permit fee. The state collected \$225,432 and \$14,093 from this revenue in Fiscal Years 1999-00 and 1998-99, respectively.

#### **NOTE 9. DISTRICT RESERVES**

District reserves are the cumulative fund balances of the state, excluding the fund balances of the exempt enterprises and the General Fixed Assets Account Group. The majority of these fund balances are not available for appropriation due to legal and contractual restrictions.

Prior period district fund balance adjustments consist of \$24.6 million for the addition of Northwestern Community College District to the state's community college system. In addition, an \$8.0 million increase was made to the district fund balance for a loan disbursement by the Department of Natural Resources that



was recorded as an expenditure in a prior year instead of a loan receivable. Also, \$552,131 of fixed assets transferred from the Fixed Asset Account Group (which is not in the district) to the Division of Telecommunications was added to the district fund balance.

District reserves/fund balance is also adjusted for the qualification or disqualification of enterprises. During Fiscal Year 1999-00, the University of Colorado moved assets from the district to a qualified enterprise.

The increase in District Reserve/Fund Balance of \$1,087.0 million resulted partly from an increase of \$619.1 million in earnings of the Special Revenue Fund in Fiscal Year 1999-00 over Fiscal Year 1998-99. This increase in the Special Revenue Fund was primarily due to the receipt of \$535.8 million in revenue anticipation notes, and \$66.4 million of the Tobacco Litigation Settlement funds. Also, increases over the prior year in the higher education funds were \$118.5 million, the General Fund was \$280.8 million, and all other remaining funds were \$68.6 million (including another \$48.8 million of the Tobacco Litigation Settlement).

#### **NOTE 10. SOURCES OF TABOR GROWTH LIMITS**

The allowable increases in state fiscal year spending equal the sum of inflation and the percentage change in state population in the prior calendar year, adjusted for voter approved revenue changes. Inflation is defined in CRS 24-77-102(8) as "the percentage change in the consumer price index for the Denver-Boulder Consolidated Metropolitan Statistical Area For All Urban Consumers, All Goods, as published by the U.S. Department of Labor."

The percentage change for calendar year 1998 used in this report was provided by the Office of State Planning and Budgeting.

#### **NOTE 11. ENTERPRISE QUALIFICATION /DISQUALIFICATION**

TABOR specifies that qualification and disqualification of enterprises shall change the district bases. The non-exempt revenues of \$229,104 for Fiscal Year 1999-00 of the qualified enterprise at Colorado State University decreases the Fiscal Year Spending Limit by an equal amount so that the disqualification has no impact upon the current year refund.

#### **NOTE 12. OTHER ADJUSTMENTS**

Errors in previous years affect the spending limit if the error dates back to a year in which the state did not have excess TABOR revenues. Two such errors were recognized, one for the Department of Treasury and another for the Department of Human Services. These errors decreased the base in Fiscal Year 1995-96 by \$449,473, the last year the state was not over the limit. That decrease, when multiplied by the allowable growth limits of the intervening years, results in the current decrease of \$555,702 in the Fiscal Year 1999-00 limit.

#### **NOTE 13. FUTURE REFUNDS**

In the 1999 regular session, the General Assembly enacted mechanisms to refund Fiscal Year 1998-99 and subsequent years' excess revenue. In the 2000 regular session the General Assembly enacted additional mechanisms to refund the Fiscal Year 1999-00 and subsequent years' excess revenue. The laws enacted to refund the current TABOR liability are:

- Expanding the earned income tax credit to 10 percent which is expected to refund \$36.6 million
- The personal property tax credit is expected to refund \$103.5 million.
- Dividend, interest, and capital gains exemption is expected to refund \$39.3 million.
- Capital gains modification was expanded to refund \$71.4 million.

- A tax credit for operating in a health care shortage area is expected to refund \$0.3 million.
- Increased child care credits is expected to refund \$22.1 million.
- Provisions for pollution control is expected to refund \$2.8 million.
- Income tax credits for the cost of health benefits to refund \$22.1 million.
- A sales tax refund is expected to distribute the remaining \$643.0 million of excess TABOR revenues.

The sales tax refund is a fixed amount for each of six tiers of federal adjusted gross income. The Department of Revenue calculates the amount of the individual refund for each tier as a statutory percentage of the total sales tax refund divided by the number of anticipated taxpayers in each tier. The refund for individual taxpayers is (the amounts are doubled for married taxpayers):

<u>Federal Adjusted Income</u>	<u>Refund</u>
\$ 0 - \$ 26,000	\$182
\$ 26,001 - \$ 53,000	245
\$ 53,001 - \$ 78,000	288
\$ 78,001 - \$103,000	325
\$103,001 - \$126,000	363
\$126,000+	574

The General Assembly also enacted additional refund mechanisms for Fiscal Year 2001-02 and subsequent years.

**Schedule of TABOR Revenue**  
**(Dated September 13, 2000)**

**State of Colorado  
State Controller's Office  
Schedule of TABOR Revenue**

	Fiscal Year 2000	Fiscal Year 1999	Increase (Decrease)	Percent Change
Individual Income Tax, Net	\$ 3,687,314,615	\$ 3,298,698,366	\$ 388,616,249	11.8%
Corporate Income Tax, Net	289,228,619	276,092,038	13,136,581	4.8%
Fiduciary Income Tax, Net	30,892,303	28,006,395	2,885,908	10.3%
<b>TOTAL INCOME TAX</b>	<b>4,007,435,537</b>	<b>3,602,796,799</b>	<b>404,638,738</b>	<b>11.2%</b>
Sales Tax, Net	1,734,663,523	1,568,965,796	165,697,727	10.6%
Use Tax, Net	142,504,641	140,191,958	2,312,683	1.6%
Tobacco Products Tax	67,236,497	68,578,532	(1,342,035)	-2.0%
Alcoholic Beverages Tax	28,199,190	26,157,293	2,041,897	7.8%
Other Excise Taxes, Net	209,760	174,755	35,005	20.0%
<b>TOTAL EXCISE TAX</b>	<b>1,972,813,611</b>	<b>1,804,068,334</b>	<b>168,745,277</b>	<b>9.4%</b>
Fuel and Transportation Taxes, Net	522,598,118	497,573,948	25,024,170	5.0%
Employment Taxes	199,137,514	191,148,992	7,988,522	4.2%
Insurance Taxes	171,187,111	160,918,545	10,268,566	6.4%
Estate and Inheritance Taxes	59,731,067	67,140,458	(7,409,391)	-11.0%
Gaming and Other Taxes	85,237,781	82,049,864	3,187,917	3.9%
Severance Taxes	36,238,953	32,752,467	3,486,486	10.6%
<b>TOTAL OTHER TAXES</b>	<b>1,074,130,544</b>	<b>1,031,584,274</b>	<b>42,546,270</b>	<b>4.1%</b>
Education Tuition and Fees	550,871,201	530,975,270	19,895,931	3.7%
Motor Vehicle Registrations	148,986,616	140,340,101	8,646,515	6.2%
Business Licenses and Permits	70,063,649	70,385,286	(321,637)	-0.5%
Hunting and Fishing Licenses	53,358,093	60,326,967	(6,968,874)	-11.6%
Nonbusiness Licenses and Permits	45,108,258	42,478,398	2,629,860	6.2%
Health Service Fees	30,886,020	34,786,852	(3,900,832)	-11.2%
Other Charges for Services	40,004,792	32,536,694	7,468,098	23.0%
General Government Service Fees	19,626,925	22,437,483	(2,810,558)	-12.5%
Driver's Licenses	21,744,243	17,900,550	3,843,693	21.5%
Certifications and Inspections	16,420,460	15,713,970	706,490	4.5%
Public Safety Service Fees	2,832,419	3,908,013	(1,075,594)	-27.5%
Employee Benefit Fees	1,573,994	2,156,955	(582,961)	-27.0%
Welfare Service Fees	257,871	226,813	31,058	13.7%
<b>TOTAL LICENSES, PERMITS AND FEES</b>	<b>1,001,734,541</b>	<b>974,173,352</b>	<b>27,561,189</b>	<b>2.8%</b>
Interest and Investment Income	231,186,904	232,333,098	(1,146,194)	-0.5%
Court and Other Fines	79,158,164	74,159,318	4,998,846	6.7%
Disproportionate Share Providers	7,131,370	73,005,074	(65,873,704)	-90.2%
Higher Education Auxiliary				
Sales and Services	30,822,246	30,446,509	375,737	1.2%
Miscellaneous Revenue	27,815,790	28,617,070	(801,280)	-2.8%
Rents	21,585,226	19,274,849	2,310,377	12.0%
Local Governments and Authorities	20,660,355	17,026,394	3,633,961	21.3%
Sales of Products	16,449,088	15,494,298	954,790	6.2%
Unclaimed Money	12,029,037	12,045,242	(16,205)	-0.1%
Lottery Transfer to Capital Construction	-	10,985,539	(10,985,539)	-100.0%
Prior Year Adjustments	1,886,581	(2,991,567)	4,878,148	-163.1%
<b>OTHER REVENUE</b>	<b>448,724,761</b>	<b>510,395,824</b>	<b>(61,671,063)</b>	<b>-12.1%</b>
<b>TOTAL TABOR REVENUE AND PRIOR YEAR ADJUSTMENTS</b>	<b>\$ 8,504,838,994</b>	<b>\$ 7,923,018,583</b>	<b>\$ 581,820,411</b>	<b>7.3%</b>

# **Appendices**

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# Appendix A

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## Description of Revenue Categories

<u>Category</u>	<u>Description</u>
<b>INCOME TAX</b>	
Individual Income Tax, Net	Tax paid on wages, unearned income, and other income of individuals, net of refunds on property tax credits, income tax intercepts (IRS, child support, etc.), and tax checkoffs
Corporate Income Tax, Net	Taxes based on the net profits of corporations
Fiduciary Income Tax, Net	Taxes on trust and estate income
<b>EXCISE TAX</b>	
Sales Tax, Net	Taxes collected by retailers on consumer purchases of tangible personal property
Use Tax, Net	Taxes remitted by the end consumer of tangible personal property purchased at retail prices
Tobacco Products Tax, Net	Tax on the sale, use, consumption, handling, or distribution of tobacco products
Alcoholic Beverages, Net	Taxes collected from retailers who sell alcohol products
Other Excise Taxes, Net	Tax for occupational license renewals, tourism and promotion, and certain penalties

<b><u>Category</u></b>	<b><u>Description</u></b>
<b>OTHER TAXES</b>	
Fuel and Transportation Taxes	Gross ton mileage tax on motor carriers and taxes on diesel, gasoline, gasohol, etc.
Employment Taxes	Employment insurance paid by employers for funding unemployment benefits
Insurance Taxes	Taxes on insurance premiums collected by insurance companies
Estate and Inheritance Tax	Taxes collected on the assets of estates
Gaming and Other Taxes	Taxes on gaming facilities based on percentages of income
Severance Tax	Mineral extraction taxes, net of refunds on coal, oil and gas, molybdenum, and metallic minerals
<b>LICENSES, PERMITS AND FEES</b>	
Education Tuition and Fees	Tuition and other education-related fees collected by state colleges and universities from students
Motor Vehicle Licenses	Collection of fees for license plates and tags
Business Licenses and Permits	Licenses and permits for special functions of a business; e.g., child care licenses, alcoholic beverage licenses, and waste management
Hunting and Fishing Licenses	Licenses issued to individuals for hunting and fishing
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, distributive data processing fees, motorcycle operator safety training, waste tire recycling, etc.

<b><u>Category</u></b>	<b><u>Description</u></b>
Health Service Fees	Fees collected for health services, including laboratory test fees and animal diagnostic lab fees
Other Charges for Services	Various fees, the majority of which are collected by the Public Utilities Commission, the Division of Banking, Universities, and the Oil and Gas Conservation Fund, which are used to ensure compliance with applicable regulations
General Government Service Fees	Service charges by various agencies to the public; e.g., fees charged by the Central Indexing System Board, filing fees with the Department of State, charges by the Motor Vehicle Division for driving record inquiries, and certain fees charged by the Department of Agriculture
Driver's Licenses	Fees for driver's licenses
Certifications and Inspections	Emission inspection stickers, emission registration, emission inspection station license, and other fees
Public Safety Service Fees	Fees for firefighter response, food protection programs, and background investigations
Employee Benefit Fees	Fees primarily collected for premiums paid under COBRA
Welfare Service Fees	Child abuse registry fees
<b>OTHER REVENUE</b>	
Interest and Investment Income	Interest income, finance charges, and gains/losses on investments
Court and Other Fines	Fines and forfeits levied by the courts
Disproportionate Share Providers	Medicaid disproportionate share from University Hospital and Denver General Hospital, and donations from private and public sources



<b><u>Category</u></b>	<b><u>Description</u></b>
Higher Education Auxiliary Sales and Services	Revenue from operations such as bookstores, cafeterias, student unions, etc.
Miscellaneous Revenue	Revenue not included in another category, e.g., charges by colleges and universities for services to outside entities and operating transfers from TABOR exempt enterprises and auxiliaries to other non-exempt state agencies
Rents	Income from the lease of state land to private parties
Local Governments and Authorities	Funds from counties, cities, special districts, etc. primarily in the form of grants
Sales of Products	Sales of publications, maps, materials, and supplies
Unclaimed Money, Net	Abandoned property, unclaimed insurance proceeds, and unclaimed interests in business associations; net of claims paid and allowance for future claims payments
Lottery Transfer to Capital Construction	Transfer from the Lottery Fund for payment of certificates of participation on correctional facilities
Prior Year Audit Adjustments	Effect of errors in classifications of TABOR revenue in prior years

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# Appendix B

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## Description of Refunding Mechanisms

### Mechanism

### (Effective Date)

### Description

Earned Income Credit  
(January 1, 1999)

When the excess revenue exceeds \$50 million annually adjusted for inflation, an earned income credit of 10 percent of the taxpayer's federal earned income tax credit may be claimed. This is an increase from the 8.5 percent allowed in Fiscal Year 1999.

Business Personal  
Property Tax Credit  
(July 1, 1999)

When the excess revenue exceeds \$170 million annually adjusted for inflation, a personal property tax credit is allowed for the lesser of \$500 plus 13.37 percent of the amount exceeding \$500 or actual taxes paid.

Interest, Dividends, and  
Capital Gains to  
\$1,200/\$2,400  
(January 1, 2000)

When the excess revenue exceeds \$220 million annually adjusted for inflation, taxpayers may deduct the lesser of \$1,200 or their total amount of interest, dividend, and capital gains income on their state income tax return. Married taxpayers will be allowed to deduct up to \$2,400 of such income.

Colorado Capital Gains  
Modification  
(January 1, 2000)

When the excess revenue exceeds \$260 million annually adjusted for inflation, a deduction is provided for capital gains taken on Colorado assets purchased prior to May 9, 1994 that were held for at least five years prior to a gain on the disposition. Both individuals and corporations are eligible for the deduction.

Rural Health Care Providers  
(January 1, 2000)

When the excess revenue exceeds \$285 million annually adjusted for inflation, a temporary income tax credit will be provided for health care professionals who reside and practice in areas of Colorado that are understaffed. This credit is effective from January 1, 2001 to January 1, 2005.

**Mechanism****(Effective Date)****Description**

Child Care Credits  
(January 1, 2000)

When the excess revenue exceeds \$290 million annually adjusted for inflation, a credit of 20 or 70 percent of an individual's federal child care credits may be claimed. The credit allowed depends on the taxpayer's income level with a maximum allowable income of \$64,000. In addition, the credit increased from \$200 per child to \$300 per child. The bill also allows in-home child care providers to claim credits for their own children.

Pollution Control Provisions  
(July 1, 1999)

When the excess revenue exceeds \$350 million annually adjusted for inflation, certain pollution control equipment is exempt from state sales and use tax, including solid waste, noise pollution, wind power, solar, and thermal generation equipment.

Health Benefits Plan  
(January 1, 2000)

When the excess revenue exceeds \$400 million annually adjusted for inflation, an income tax credit for health benefit plans not paid for by an employer or deducted from federal adjusted gross income is allowed. The credit is capped at \$500, with qualifying income capped at \$25,000 for individuals without dependents, \$30,000 for joint filers without dependents, and \$35,000 for individual or joint filers with dependents. The credit is only available to the extent of the individual's tax liability.

Expanded Capital Gains  
(January 1, 1999)

When the excess revenue exceeds \$430 million annually adjusted for inflation, the exemption allowed in the Colorado Capital Gains Modification bill is expanded to include Colorado capital gains made for any tax year beginning on or after January 1, 1999. It reduces the holding period of the asset for such capital gains exclusions from five years to one year for Colorado assets. The credit is equal to the amount of income attributable to qualifying Colorado gains receiving capital treatment and included in federal taxable income.

Sales Tax Refund  
(January 1, 1999)

When there is an excess after the above mechanisms have been applied, a tiered income bracket system will be used to distribute the excess sales tax as a credit to be taken on individual income tax returns.

# Appendix C

## State of Colorado Other TABOR Revenue For the Fiscal Years Ended June 30, 2000, 1999, and 1998

	Fiscal Year 2000	Fiscal Year 1999	1999 to 2000 % Change	Fiscal Year 1998	1998 to 1999 % Change
<b>OTHER GENERAL FUNDED REVENUE:</b>					
Tobacco Products Taxes	\$67,236,497	\$68,578,532	-2.0%	\$67,942,094	0.9%
Estate and Inheritance Taxes	59,731,067	67,140,458	-11.0%	109,563,256	-38.7%
Interest and Investment Income	41,987,857	47,501,029	-11.6%	52,180,496	-9.0%
Court and Other Fines	29,636,690	28,577,589	3.7%	28,588,457	0.0%
Disproportionate Share Providers	7,131,370	73,005,074	-90.2%	72,614,873	0.5%
<b>TOTAL GENERAL FUNDED REVENUE</b>	<b>\$205,723,481</b>	<b>\$284,802,682</b>	<b>-27.8%</b>	<b>\$330,889,176</b>	<b>-13.9%</b>
<b>OTHER CASH FUNDED REVENUE:</b>					
Education Service Fees	\$550,871,201	\$530,975,270	3.7%	\$511,126,751	3.9%
Employment Taxes	199,137,514	191,148,992	4.2%	192,824,965	-0.9%
Interest and Investment Income	189,199,047	184,832,069	2.4%	164,591,204	12.3%
Gaming and Other Taxes	77,628,225	75,367,640	3.0%	62,917,270	19.8%
Business Licenses and Permits	64,032,386	66,095,935	-3.1%	59,325,701	11.4%
Hunting and Fishing Licenses	53,358,093	60,326,967	-11.6%	57,616,238	4.7%
Insurance Taxes	42,644,625	43,051,506	-0.9%	39,728,699	8.4%
Health Service Fees	30,886,020	34,786,852	-11.2%	32,326,192	7.6%
Higher Education Auxiliary					
Sales and Services	30,822,246	30,446,509	1.2%	25,874,664	17.7%
General Government Service Fees	19,225,864	22,089,204	-13.0%	25,394,587	-13.0%
Miscellaneous Revenues	18,218,603	19,537,059	-6.7%	20,576,274	-5.1%
Unclaimed Money	12,029,037	12,045,242	-0.1%	9,867,482	22.1%
Other Program Revenue	12,990,252	22,532,554	-42.3%	36,802,463	-38.8%
<b>TOTAL OTHER CASH FUNDED REVENUE</b>	<b>\$1,301,043,113</b>	<b>\$1,293,235,799</b>	<b>0.6%</b>	<b>\$1,238,972,490</b>	<b>4.4%</b>

**Source:** Office of the State Auditor analysis of State Controller's Office data and does not include the adjustments as noted in the Independent Auditor's Report.

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