
Schedule of TABOR Revenue

September 2011



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STATE AUDITOR**

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The mission of the Office of the State Auditor is to improve the efficiency, effectiveness, and transparency of government for the people of Colorado by providing objective information, quality services, and solution-based recommendations.



September 15, 2011

Members of the Legislative Audit Committee:

This report contains the results of the financial audit of the *Schedule of TABOR Revenue* as of June 30, 2011 and 2010, as certified by the State Controller on September 1, 2011, and revised on September 12, 2011. The audit was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 24-77-106.5, C.R.S., which requires the State Auditor to conduct an audit of TABOR revenue. The audited numbers are as follows:

Under Referendum C, commencing in Fiscal Year 2011, the State is allowed to retain and spend the amount of revenue in excess of the TABOR Revenue Limit and up to the "Excess State Revenues Cap." The Excess State Revenues Cap is defined as the highest total state TABOR revenue earned between Fiscal Years 2006 and 2010, adjusted for inflation and population growth for each subsequent year, the qualification/disqualification of enterprises, and debt service changes. Calculation of the TABOR Revenue Limit continues to apply, but the new Excess State Revenues Cap replaces it as the limit that triggers taxpayer refunds. The audited numbers are as follows:

Fiscal Year 2011 Revenues		\$ 9,424,630,125
(Less): Fiscal Year 2011 TABOR Revenue Limit	\$(8,654,379,068)	
(Less): Fiscal Year 2011 Excess of the TABOR Revenue Limit Allowed to Retain and Spend	<u>\$(2,030,477,150)</u>	
Total Fiscal Year 2011 Excess State Revenues Cap		<u>\$(10,684,856,218)</u>
Fiscal Year 2011 Revenues (Under) Over the Excess State Revenues Cap		<u>\$ (1,260,226,093)</u>

Subsequent to the State Controller's certification of the *Schedule of TABOR Revenue*, adjustments were submitted that affected current and prior year TABOR revenues. One adjustment increased Fiscal Year 2010 TABOR revenue, thereby increasing the Fiscal Year 2011 TABOR Revenue Limit by \$17,563. Additional adjustments increased Fiscal Year 2011 TABOR revenue by a net amount of \$506,536. None of these adjustments are reflected in the TABOR revenue for Fiscal Year 2011 reported in the attached *Schedule of TABOR Revenue* dated September 1, 2011, and revised September 12, 2011, or in this report. These adjustments will be reflected in the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)* report that will be issued after the completion of the State's Comprehensive Annual Financial Report in December 2011.



We Set the Standard for Good Government

TABLE OF CONTENTS

	PAGE
TABOR Revenue	1
Fiscal Year 2011 TABOR Revenue	2
Prior Year Refunds	3
Revenue Reductions	3
Adjustments to Refunds	4
Referendum C	5
Revenue Limit	5
Sources of TABOR Revenue	7
 AUDITOR’S REPORT AND SCHEDULE OF TABOR REVENUE	
Independent Auditor’s Report	11
Schedule of TABOR Revenue	13
 APPENDICES	
Appendix A: Description of Revenue Categories	A-1
Appendix B1: Description of Refunding Mechanisms	B1-1
Appendix B2: Refunding Mechanism Thresholds	B2-1
Appendix C: TABOR History: Fiscal Years 1993 - 2005	C-1

TABOR Revenue

Authority, Purpose, and Scope

This audit was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 24-77-106.5, C.R.S., which requires that the State Auditor conduct an audit of the *Schedule of TABOR Revenue*. The audit was conducted in accordance with generally accepted auditing standards. We performed our audit work during the period August 2011 through September 2011.

The purpose and scope of the audit were to:

- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2011 and 2010.
- Evaluate compliance with regulatory provisions.

We noted no instances of noncompliance for the Fiscal Years Ended June 30, 2011 and 2010; however, we noted an error in the calculation of the TABOR Revenue Limit that required the State Controller to recertify the *Schedule of TABOR Revenue*. The error has been discussed with the Office of the State Controller. In addition, adjustments were received subsequent to certification of the *Schedule of TABOR Revenue* that affected TABOR revenue for both fiscal years.

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 Colorado'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. This report contains only the results of our audit of the *Schedule of TABOR Revenue* certified by the State Controller on September 1, 2011, and recertified on September 12, 2011. The *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)* will be completed after the issuance of the State's audited financial statements, which is scheduled for December 2011.

Fiscal Year 2011 TABOR Revenue

This report contains the results of the financial audit of the *Schedule of TABOR Revenue* as of June 30, 2011 and 2010, as certified by the State Controller on September 1, 2011, and revised on September 12, 2011.

Commencing in Fiscal Year 2011, the State is allowed to retain and spend the amount of revenue in excess of the TABOR Revenue Limit and up to the "Excess State Revenues Cap." The Excess State Revenues Cap is defined as the highest total state TABOR revenue earned between Fiscal Years 2006 and 2010, adjusted for inflation and population growth for each subsequent year, the qualification/disqualification of enterprises, and debt service changes.

Calculation of the TABOR Revenue Limit continues to apply, but the new Excess State Revenues Cap replaces it as the limit that triggers taxpayer refunds. The following audited figures show the TABOR revenue, TABOR Revenue Limit, TABOR Excess State Revenues Cap, and revenue under the Excess State Revenues Cap for Fiscal Year 2011:

Fiscal Year 2011 Revenue		\$ 9,424,630,125
(Less): Fiscal Year 2011 TABOR Revenue Limit	\$(8,654,379,068)	
(Less): Fiscal Year 2011 Excess of the TABOR Revenue Limit Allowed to Retain and Spend	<u>\$(2,030,477,150)</u>	
Total Fiscal Year 2011 Excess State Revenues Cap		<u>(10,684,856,218)</u>
Fiscal Year 2011 Revenues (Under) Over the Excess State Revenues Cap		<u><u>\$ (1,260,226,093)</u></u>

The effect of Referendum C causes Fiscal Year 2011 revenue to be under the Excess State Revenues Cap by approximately \$1.3 billion. Therefore, there is no TABOR refund for Fiscal Year 2011.

Subsequent to the State Controller's certification of the *Schedule of TABOR Revenue*, adjustments were submitted that affected current and prior year TABOR revenue. One adjustment increased Fiscal Year 2010 TABOR revenue, thereby increasing the Fiscal Year 2011 TABOR Revenue Limit by \$17,563. Additional adjustments increased Fiscal Year 2011 TABOR revenue by a net amount of \$506,536. None of these adjustments are reflected in the TABOR revenue for Fiscal Year 2011 reported in the attached *Schedule of TABOR Revenue*.

Prior Year Refunds

With regard to excess revenue, Article X, Section 20(7)(d) of the State 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 TABOR Revenue Limit. Article X, Section 20(1) says, “...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.”

For Fiscal Years 2006, 2007, and 2008, state revenue exceeded the TABOR Revenue Limit in the amounts of \$1.1 billion, \$1.3 billion, and \$1.2 billion, respectively. However, Referendum C, which was passed by the voters in November 2005, allowed the State to retain and expend all revenue in excess of the TABOR Revenue Limit annually for 5 years, beginning in Fiscal Year 2006.

Prior to the passage of Referendum C, the excess revenue was refunded to the taxpayers through a variety of means. Appendices B1 and B2 provide more detail regarding each refunding mechanism.

Revenue Reductions

There were no permanent tax cuts enacted during the 2011 Legislative Session.

In prior years, voters have approved changes that lower revenue subject to TABOR. The table on the following page shows all voter-approved changes, the year of voter approval, and the related decrease in Fiscal Years 2011 and 2010 TABOR revenue:

Impact of Voter-Approved Revenue Changes on TABOR Revenue		
Constitutional Amendment (Year of Approval)	Decrease in TABOR Revenue	
	Fiscal Year 2011	Fiscal Year 2010
Amendment 23 (2000) Creates the State Education Fund, which receives all state revenue collected from a tax of 1/3 of 1 percent of federal taxable income as follows:		
Individual income taxes	\$340,910,000	\$305,595,000
Corporate income taxes	28,326,000	22,025,000
<u>Fiduciary income taxes</u>	<u>1,263,000</u>	<u>1,333,000</u>
Total for Amendment 23	\$370,499,000	\$328,953,000
Amendment 14 (1998) Assesses a fee on housed commercial swine feeding operations.	\$269,040	\$274,660
Amendment 20 (2000) Assesses an application fee to obtain a Medical Marijuana identification card.	\$9,684,182	\$4,621,991
Amendment 35 (2004) Assesses a statewide tax on cigarette and tobacco products.	\$145,104,459	\$149,782,824
Amendment 50 (2008) Assesses a tax on extended limited gaming.	\$9,654,448	\$9,915,588
Total Reductions in TABOR Revenue	\$535,211,129	\$493,548,063
Source: Office of the State Auditor's analysis of the Office of the State Controller's data. Amounts do not include interest or unrealized gains and losses.		

Adjustments to Refunds

Article X, Section 20(7)(a) of the State Constitution requires the TABOR Revenue Limit to be the lesser of the prior fiscal year's actual revenue or the prior fiscal year's TABOR Revenue Limit adjusted for inflation and the change in population.

House Bill 05-1310 requires that in Fiscal Year 2006 and future years, TABOR revenue in excess of the TABOR Revenue Limit be reduced by any amounts overrefunded in the prior year. Any unused amount is to be carried forward and

decrease future refund liabilities until the excess is depleted. During our Fiscal Year 2011 audit, no overrefund was identified in the previous Fiscal Years 2006 through 2010 that would affect the TABOR revenue in excess of the TABOR Revenue Limit for Fiscal Year 2011.

In Fiscal Year 2006, the Office of the State Controller identified and posted prior year adjustments totaling \$2,871,444 that increased the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2008, \$28,223 in adjustments was identified that increased the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2011, there were no adjustments identified that impact prior years' TABOR refund liability. Section 24-77-103.8, C.R.S., states that "any amount of state revenues in excess of the limitation on state fiscal year spending for the 2001-02 fiscal year and for every fiscal year thereafter that voters statewide did not authorize the state to retain and spend and that are required to be refunded pursuant to section 20(7)(d) of article X of the state constitution, but that are not refunded by the state as required...shall be added to and refunded with subsequent fiscal years' state revenues in excess of the limitation on state fiscal year spending that are required to be refunded...." As a result, \$2,899,667 is being carried forward as a liability on the State's financial statements, which will be paid out in the next refund year.

Referendum C

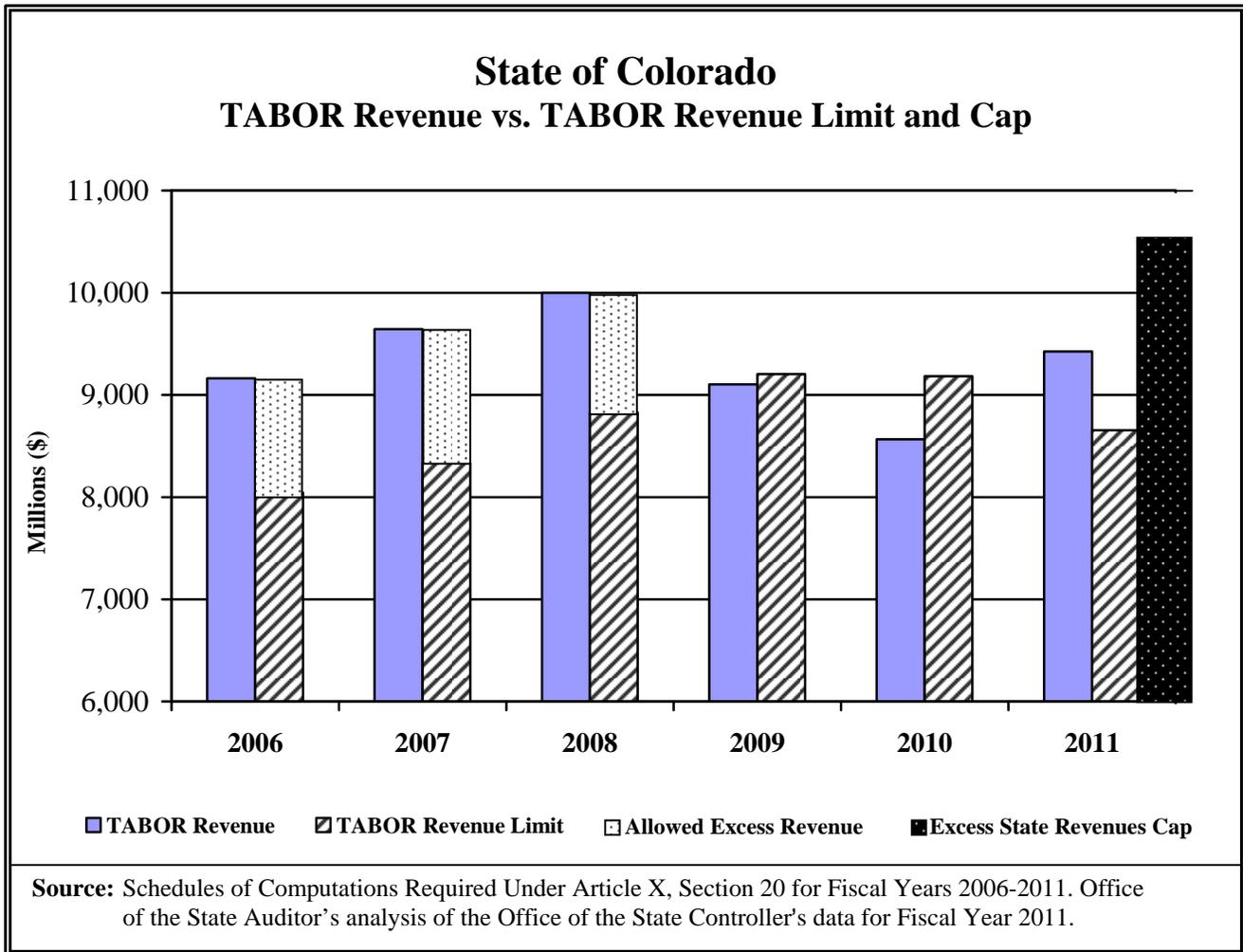
During Fiscal Year 2005, the General Assembly enacted House Bill 05-1194, which was the enabling legislation for Referendum C. In November 2005, Referendum C was approved by a vote of the people and became effective as of July 1, 2005. Referendum C allowed the State to retain and expend all revenue in excess of the TABOR Revenue Limit for each of the five fiscal years commencing with Fiscal Year 2006, and changed the basis on which TABOR refunds are calculated.

For Fiscal Years 2006, 2007, and 2008, the amounts of excess revenue that the State was allowed to retain and spend were \$1,116,134,410, \$1,308,040,131, and \$1,169,428,121, respectively, for a 3-year total of \$3,593,602,662. The funds retained by the State were to be applied toward education; healthcare; roads, bridges, and other strategic transportation projects; and retirement plans for firefighters and police officers.

Revenue Limit

We reviewed the State Controller's computations of the TABOR Revenue Limit and the Excess State Revenues Cap. For Fiscal Year 2011, the TABOR Revenue Limit is \$8,654,379,068 and the Excess State Revenues Cap is \$10,684,856,218.

The chart on the following page compares the TABOR Revenue Limit computed each year to the TABOR revenue from Fiscal Year 2006 to Fiscal Year 2011. As of Fiscal Year 2011, both the TABOR Revenue Limit and the Excess State Revenues Cap will be calculated independently. However, the State will be able to retain and spend the amount of revenue in excess of the TABOR Revenue Limit and up to the Excess State Revenues Cap as set forth in Referendum C.



Sources of TABOR Revenue

There are two types of revenue 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. General funds increased by 8.9 percent in Fiscal Year 2011, while cash funds increased by 13.3 percent in Fiscal Year 2011. Overall, TABOR revenue increased by 10.0 percent in Fiscal Year 2011.

The following tables show the major sources of revenue in Fiscal Year 2011, with comparative figures for Fiscal Year 2010, separated by general-funded and cash-funded revenue. The *Schedule of TABOR Revenue* on page 12 combines the general-funded and cash-funded revenue presented on pages 8 and 9, respectively.

State of Colorado
Sources of TABOR Revenue
General-Funded Revenue
June 30, 2011

	Fiscal Year 2011	Fiscal Year 2010	2010 to 2011 % Change
GENERAL-FUNDED Revenue			
Individual Income Tax, Net ¹	\$4,133,408,992	\$3,768,442,515	9.7%
Sales and Use Tax, Net	2,233,520,637	1,979,100,583	12.9
Corporate Income Tax, Net ¹	365,558,281	350,067,551	4.4
Insurance Taxes, Net	189,648,267	186,921,799	1.5
Tobacco Products Tax, Net	53,106,933	56,933,028	-6.7
Alcoholic Beverages Tax, Net	36,437,527	35,438,490	2.8
Fiduciary Income Tax, Net ¹	20,501,197	8,405,928	143.9
Court and Other Fines	10,104,911	27,622,410	-63.4
Interest and Investment Income	7,334,213	9,970,623	-26.4
Business Licenses and Permits	4,490,095	6,681,761	-32.8
Miscellaneous Revenue ²	2,714,892	47,271,502	-94.3
Gaming and Other Taxes	491,455	559,661	-12.2
General Government Service Fees	269,804	662,497	-59.3
Other General Revenue ³	94,577	441,832	-78.6
TOTAL GENERAL-FUNDED REVENUE	\$7,057,681,781	\$6,478,520,180	8.9%

Source: Office of the State Auditor's analysis of the Office of the State Controller's data.

¹ Net of Amendment 23 transfers. See table on page 4.

² Miscellaneous Revenue for Fiscal Year 2010 includes a one-time transfer under Senate Bill 09-279 from the Colorado CollegeInvest Scholarship Trust Fund of \$15 million for the Achievement Scholarship Trust Fund, and a one-time transfer under House Bill 10-1383 of \$29.8 million from CollegeInvest for need-based financial aid. Both transfers are from TABOR-exempt enterprise funds.

³ Includes Nonbusiness Licenses and Permits, Estate and Inheritance Taxes, Certifications and Inspections, Sales of Product, Child Welfare Service Fees, and Other Charges for Services.

State of Colorado
Sources of TABOR Revenue (continued)
Cash-Funded Revenue
June 30, 2011

	Fiscal Year 2011	Fiscal Year 2010	2010 to 2011 % Change
CASH-FUNDED REVENUE			
Fuel and Transportation Taxes, Net	\$ 558,967,270	\$ 544,539,367	2.6%
Health Service Fees	488,803,338	342,478,302	42.7
Motor Vehicle Registrations	218,157,499	211,202,590	3.3
Court and Other Fines	181,235,606	173,894,041	4.2
Severance Taxes	140,046,677	36,081,312	288.1
Other Charges For Services	138,276,367	134,786,643	2.6
Business Licenses and Permits	133,376,253	116,562,088	14.4
Gaming and Other Taxes	96,150,672	99,712,771	-3.6
Interest and Investment Income	71,221,680	83,088,168	-14.3
Nonbusiness Licenses and Permits	48,370,207	45,356,585	6.6
Rents and Royalties	40,941,323	45,431,434	-9.9
General Government Service Fees	39,266,289	40,819,804	-3.8
Miscellaneous Revenue	37,395,469	16,550,931	125.9
Sales and Use Tax, Net	34,236,624	24,844,470	37.8
Driver's Licenses	31,194,068	25,304,628	23.3
Insurance Taxes	22,480,508	39,320,536	-42.8
Certifications and Inspections	21,767,546	19,636,038	10.9
Local Governments and Authorities	20,382,728	28,072,969	-27.4
Employment Taxes	18,610,520	19,329,109	-3.7
Public Safety Service Fees	11,943,862	11,691,373	2.2
Educational Fees	4,872,921	4,264,568	14.3
Higher Education Auxiliary Sales and Services	3,789,901	3,604,765	5.1
Other Cash-Funded Revenue ¹	5,461,016	5,175,327	5.5
TOTAL CASH-FUNDED REVENUE EXCLUDING FISCAL YEAR 2010 CHANGES	\$ 2,366,948,344	\$ 2,071,747,819	14.2%
Fort Lewis State College ²	-	\$17,672,887	N/A
TOTAL CASH-FUNDED REVENUE	\$ 2,366,948,344	\$ 2,089,420,706	13.3%
TOTAL NONEXEMPT REVENUE	\$ 9,424,630,125	\$ 8,567,940,886	10.0%

Source: Office of the State Auditor's analysis of the Office of the State Controller's data.

¹ Includes Sales of Products; Child Welfare Service Fees; Alcoholic Beverage Tax, Net; Other Excise Taxes, Net; Disproportionate Share Providers; and Tobacco Products Tax, Net.

² Fort Lewis State College qualified for TABOR enterprise status in Fiscal Year 2011.

Financial Information



September 15, 2011

Independent Auditor's Report

Members of the Legislative Audit Committee:

We are in the process of auditing, in accordance with generally accepted auditing standards, the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)* as of June 30, 2011, and have not yet issued our report. As part of that audit, we have audited the *Schedule of TABOR Revenue* of the State of Colorado for the years ended June 30, 2011 and 2010. The *Schedule of TABOR Revenue* is the responsibility of the Office of the State Controller. Our responsibility is to express an opinion on this schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the *Schedule of TABOR Revenue* is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures 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 audits provide a reasonable basis for our opinion.

The accompanying *Schedule of TABOR Revenue* was prepared for the purpose of demonstrating compliance with state fiscal policies relating to Article X, Section 20 of the State Constitution (TABOR) with regard to TABOR revenue. The schedule has been 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. This schedule is not intended to be a complete presentation of the State's revenue.

During our audit testwork, two departments submitted adjustments that affected current and prior year TABOR revenue. One adjustment increased Fiscal Year 2010 TABOR revenue, increasing the Fiscal Year 2011 TABOR Revenue Limit by \$17,563. Additional adjustments increased Fiscal Year 2011 TABOR revenue by a net amount of \$506,536. As of the date of this report, none of these adjustments are reflected in the TABOR revenue for Fiscal Year 2011 reported in the attached schedule dated September 12, 2011.

In our opinion, the accompanying *Schedule of TABOR Revenue* referred to above presents fairly, in all material respects, the revenue as determined under Article X, Section 20 of the State Constitution for the years ended June 30, 2011 and 2010, in conformity with accounting principles generally accepted in the United States of America.



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**STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
SCHEDULE OF TABOR REVENUE
FOR THE FISCAL YEAR ENDED JUNE 30, 2011**

	Fiscal Year 2010-11	Fiscal Year 2009-10	Increase (Decrease)	2010 to 2011 % Change
Individual Income Taxes, Net	\$ 4,133,408,992	\$ 3,768,442,515	\$ 364,966,477	9.7%
Corporate Income Taxes, Net	365,558,281	350,067,551	15,490,730	4.4%
Fiduciary Income Taxes, Net	20,501,197	8,405,928	12,095,269	143.9%
TOTAL INCOME TAX	<u>4,519,468,470</u>	<u>4,126,915,994</u>	<u>392,552,476</u>	<u>9.5%</u>
Sales Tax, Net	2,077,563,157	1,848,214,477	229,348,680	12.4%
Use Tax, Net	190,194,104	155,730,576	34,463,528	22.1%
Tobacco Products Tax, Net	53,107,339	56,933,426	(3,826,087)	-6.7%
Alcoholic Beverages Tax, Net	37,063,013	36,048,242	1,014,771	2.8%
Other Excise Taxes, Net	201,511	273,173	(71,662)	-26.2%
TOTAL EXCISE TAX	<u>2,358,129,124</u>	<u>2,097,199,894</u>	<u>260,929,230</u>	<u>12.4%</u>
Fuel and Transportation Taxes, Net	558,967,270	544,539,367	14,427,903	2.6%
Employment Taxes	18,610,520	19,329,109	(718,589)	-3.7%
Insurance Taxes	212,128,775	226,242,335	(14,113,560)	-6.2%
Severance Taxes	140,046,677	36,081,312	103,965,365	288.1%
Gaming and Other Taxes	96,642,127	100,272,432	(3,630,305)	-3.6%
Estate and Inheritance Taxes	(49,659)	183,806	(233,465)	-127.0%
TOTAL OTHER TAXES	<u>1,026,345,710</u>	<u>926,648,361</u>	<u>99,697,349</u>	<u>10.8%</u>
Motor Vehicle Registrations	218,157,499	211,202,590	6,954,909	3.3%
Business Licenses and Permits	137,866,348	123,243,849	14,622,499	11.9%
General Government Service Fees	39,536,093	41,482,301	(1,946,208)	-4.7%
Nonbusiness Licenses and Permits	48,474,278	45,567,600	2,906,678	6.4%
Certifications and Inspections	21,788,906	19,655,424	2,133,482	10.9%
Driver's Licenses	31,194,068	25,304,628	5,889,440	23.3%
Health Service Fees	488,803,338	342,478,302	146,325,036	42.7%
Other Charges for Services	138,275,658	134,785,814	3,489,844	2.6%
Public Safety Service Fees	11,943,862	11,691,373	252,489	2.2%
Educational Fees	4,872,921	4,264,568	608,353	14.3%
Welfare Service Fees	806,490	768,836	37,654	4.9%
TOTAL LICENSES, PERMITS, AND FEES	<u>1,141,719,461</u>	<u>960,445,285</u>	<u>181,274,176</u>	<u>18.9%</u>
Interest and Investment Income	78,555,893	93,058,791	(14,502,898)	-15.6%
Court and Other Fines	191,340,517	201,516,451	(10,175,934)	-5.0%
Rents and Royalties	40,941,323	45,431,434	(4,490,111)	-9.9%
Local Governments and Authorities	20,382,728	28,072,969	(7,690,241)	-27.4%
Miscellaneous Revenue	40,115,778	63,845,880	(23,730,102)	-37.2%
Sales of Products	3,841,220	3,528,175	313,045	8.9%
Higher Education Auxiliary Sales and Services	3,789,901	3,604,765	185,136	5.1%
TOTAL OTHER REVENUE	<u>378,967,360</u>	<u>439,058,465</u>	<u>(60,091,105)</u>	<u>-13.7%</u>
SUBTOTAL TABOR REVENUE BEFORE QUALIFICATION OF TABOR ENTERPRISES	<u>9,424,630,125</u>	<u>8,550,267,999</u>	<u>874,362,126</u>	<u>10.2%</u>
Fort Lewis College		17,672,887	(17,672,887)	-100.0%
TOTAL QUALIFICATION OF TABOR ENTERPRISES		<u>17,672,887</u>	<u>(17,672,887)</u>	<u>-100.0%</u>
TOTAL TABOR REVENUE	<u>\$ 9,424,630,125</u>	<u>\$ 8,567,940,886</u>	<u>\$ 856,689,239</u>	<u>10.0%</u>

Appendices

Appendix A

Description of Revenue Categories

Category	Description
INCOME TAX	
Individual Income Tax, Net	Taxes paid on wages, unearned income, and other income of individuals, net of refunds on property tax credits, income tax intercepts (e.g., IRS and child support), tax checkoffs, and Amendment 23 transfers to the State Education Fund.
Corporate Income Tax, Net	Taxes based on the net profits of corporations net of Amendment 23 transfers to the State Education Fund.
Fiduciary Income Tax, Net	Taxes on trust and estate income net of Amendment 23 transfers to the State Education Fund.
EXCISE TAX	
Sales Tax, Net	Taxes collected by retailers on consumer purchases of tangible personal property net of refunds.
Use Tax, Net	Taxes remitted by the end consumer of tangible personal property purchased at retail prices net of refunds.
Tobacco Products Tax, Net	Taxes on the sale, use, consumption, handling, or distribution of tobacco products net of refunds.
Alcoholic Beverages Tax, Net	Taxes collected from retailers who sell alcohol products net of refunds.

Category	Description
Other Excise Taxes, Net	Taxes for occupational license renewals and certain penalties net of refunds.
OTHER TAXES	
Fuel and Transportation Taxes, Net	Gross ton mileage tax on motor carriers and taxes on diesel, gasoline, aviation jet fuel, aviation gasoline, and other fuels net of refunds.
Employment Taxes, Net	Employment insurance paid by employers for funding unemployment benefits net of refunds.
Insurance Taxes, Net	Taxes on insurance premiums collected by insurance companies net of refunds.
Severance Taxes, Net	Mineral extraction taxes, net of refunds on coal, oil and gas, molybdenum, and metallic minerals net of refunds.
Gaming and Other Taxes, Net	Taxes on gaming facilities based on percentages of income net of refunds.
Estate and Inheritance Taxes, Net	Taxes collected on the assets of estates net of refunds.
LICENSES, PERMITS, AND FEES	
Motor Vehicle Registrations	Collection of fees for license plates, tags, and registrations.
Business Licenses and Permits	Licenses and permits for special functions of a business (e.g., alcoholic beverage licenses, tobacco products licenses, business registrations, health licenses, child care licenses, and waste management permits).
General Government Service Fees	Service charges by various agencies to the public (e.g., filing fees charged by the Department of State, charges by the Motor Vehicle Division for driving record inquiries, and certain fees charged by the Department of Agriculture and Department of Natural Resources).

Category	Description
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, motorcycle operator safety training, waste tire recycling, etc.
Certifications and Inspections	Emission inspection stickers, emission registration, emission inspection station licenses, and other fees.
Driver's Licenses	Fees for driver's licenses and identification cards.
Health Service Fees	Fees collected for health services, including laboratory test fees, genetic testing, vital records fees, and children's health plan premiums.
Other Charges for Services	Various fees, the majority of which are collected by Public Utilities Commission, the Division of Banking, and the Oil and Gas Conservation Fund, which are used to ensure compliance with applicable regulations.
Public Safety Service Fees	Fees for firefighter response, fire service education and training, and search and rescue fund fees.
Educational Fees	Conference fees and teacher certification fees collected primarily by the Department of Education.
Child Welfare Service Fees	Child abuse registry fees.
OTHER REVENUE	
Interest and Investment Income	Interest income, finance charges, and gains/losses on investments.
Court and Other Fines	Fines and forfeits levied by the courts.
Rents and Royalties	Income from the lease of state land to private parties.

Category	Description
Local Governments and Authorities	Funds from counties, cities, special districts, etc., primarily in the form of grants.
Miscellaneous Revenue	Revenue not included in another category.
Sales of Products	Sales of publications, maps, materials, and supplies.
Higher Education Auxiliary Sales and Services	Revenue from library fees, internal service center fees, athletic camp fees.

Appendix B1

Description of Refunding Mechanisms

Mechanism (Effective Date)	Description
Earned Income Credit (January 1, 1999)	When the excess TABOR revenue exceeds \$50 million annually adjusted by personal income growth rate for Colorado, an earned income credit of 10 percent of the taxpayer's federal earned income tax credit may be claimed.
Sales Tax Refund (January 1, 1999)	When there is excess TABOR revenue 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 B2

Refunding Mechanism Thresholds

(As applicable to Fiscal Year 2011)

Refunding Mechanism	Original Threshold	Fiscal Year 2011 Threshold ¹
Earned Income Credit	\$ 50,000,000	\$83,000,000
Charitable Contributions Deduction	\$ 100,000,000	\$0
Foster Parents Credit	\$ 200,000,000	\$0
Business Personal Property Tax Credit	\$ 170,000,000	\$0
Child Care Credits	\$ 290,000,000	\$0
Tangible Personal Property Used for Research and Development	\$ 358,400,000	\$0
Motor Vehicle Registration Fees	\$ 330,000,000	\$0
High Technology Scholarship Program Credit	\$ 330,000,000	\$0
Interest, Dividends, and Capital Gains Deduction	\$ 350,000,000	\$0
Pollution Control Provisions	\$ 350,000,000	\$0
Interstate Commerce Sales and Use Tax Refund	\$ 350,000,000	\$0
Agriculture Value-Added Development Credit	\$ 400,000,000	\$0
Cost of Health Benefits Credit	\$ 400,000,000	\$0
Sales Tax Refund	Remaining Excess	Remaining Excess

Source: Office of the State Auditor's analysis of Department of Revenue data.

¹Thresholds are adjusted annually by the personal income growth rate for Colorado. With the enactment of Senate Bill 10-212, the earned income tax credit became the only mechanism with a threshold for refunding state surplus revenues. Any remaining surplus revenues after the earned income tax credit threshold would be refunded through a tiered sales tax refund.

Appendix C

TABOR History: Fiscal Years 1993 - 2006

The following provides highlights of certain legislation or voter-approved changes affecting the Office of the State Controller's *Schedule of TABOR Revenue* contained in this report. The fiscal year in which the change was effective and a brief summary of the legislation or voter-approved change is provided below.

1993

Voter Approval. 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 Colorado's population unless voters approve a revenue change.

1997 and 1998

Refunds. The TABOR Revenue Limit was exceeded for the first time during the Fiscal Year Ended June 30, 1997, and again for Fiscal Year Ended June 30, 1998. The General Assembly decided to distribute the entire excess from general funds as a sales tax credit on each full-year resident's individual tax return.

1999—2001

Refunds. TABOR revenue exceeded the TABOR Revenue Limit for each of these years, resulting in refunds. In 1999, the excess was refunded through three mechanisms; in 2000, nine mechanisms were used; and in 2001, the excess was refunded through 15 mechanisms. (See Appendices B1 and B2.)

Revenue Reductions. During the period, there were several revenue reductions enacted that lowered the amount of TABOR revenue to be received in subsequent years. The most significant reduction was the lowering of income tax rates effective January 1, 1999, for individuals, estates, and trusts from 5 percent to 4.75 percent, and a further reduction effective January 1, 2000, of the rate to 4.63 percent. Effective January 1, 2001, the sales tax rate was reduced from 3 percent to 2.9 percent. Other permanent tax reductions include the establishment of low-income housing owner credits, redevelopment incentives for contaminated property, sales and use tax exemptions for certain agricultural items, unemployment insurance tax credits, and oil and gas severance tax exemptions.

Constitutional Amendment. Amendment 14 was approved by the voters in November 1998 and authorized a permit fee that is exempt from TABOR for the regulation of commercial hog facilities.

2001

Constitutional Amendments. Voters approved changes that lowered revenue subject to TABOR requirements through some constitutional amendments. The amendment having the largest impact on decreasing revenue subject to TABOR was Amendment 23, passed in November 2000. The amendment created the State Education Fund, funded through a transfer of an amount equivalent to a tax of 1/3 of 1 percent of federal taxable income. This essentially reduces the State's TABOR revenue by the amount of the transfer. At this same time, voters also approved Amendment 20 that authorized a fee for patients receiving an identification card for the medical use of marijuana. The resulting revenues are TABOR exempt.

2002

Growth Dividend. TABOR states that the TABOR Revenue Limit will be the lesser of the current fiscal year's revenue or the prior fiscal year's TABOR Revenue Limit adjusted by the population growth and the inflation factor. The population growth is adjusted every decade to match the federal census. Based on the 2000 census, it was determined that the federal government underestimated Colorado's population during the 1990s, resulting in greater TABOR refunds than required.

In 2002, the General Assembly enacted Senate Bill 02-179 to account for underestimates of population growth in prior years, adding a carry-forward mechanism for a census-related adjustment in population growth. This can be applied to future calculations of the TABOR Revenue Limit for up to 9 years. This carry-forward is referred to as the growth dividend. The growth dividend determined from the 2000 census allowed the State to raise the TABOR Revenue Limit by \$565.3 million. This amount was fully utilized during Fiscal Years 2004 and 2005.

2004

Qualified Enterprises. The TABOR amendment allows qualified enterprises to be exempt from TABOR requirements. Over the years, the General Assembly has enacted statutes to designate certain state entities as TABOR-exempt enterprises. One of the most significant of these bills was Senate Bill 04-189, which enabled higher education governing boards to designate a qualified institution or group of institutions to be exempt from TABOR requirements. In 2004, the University of Colorado was approved as a TABOR-exempt enterprise. In 2005, 10 additional higher education institutions were approved as TABOR-exempt enterprises. Once designated as a TABOR-exempt enterprise, the institution will retain the designation as long as it continues to meet the requirements for an enterprise.

2005 and 2006

Referendum C. Referendum C was approved by the voters in the November 2005 election. Referendum C allows the State to retain and spend all revenue in excess of the TABOR Revenue Limit annually for 5 fiscal years starting with Fiscal Year 2006. After July 1, 2010, the State is allowed to retain revenues in excess of the TABOR Revenue Limit up to a newly defined

“Excess State Revenues Cap.” The Excess State Revenues Cap is defined as the highest total state revenue earned between Fiscal Years 2006 and 2010, adjusted for inflation and population growth for each subsequent year.

Constitutional Amendment. Amendment 35 passed in November 2004 and assesses a statewide TABOR-exempt tax of 64 cents per pack of cigarettes and 20 percent on tobacco products. The amendment requires that the revenue be used for health care services and tobacco education and cessation programs.

Overrefunds. Prior to July 1, 2005, state statutes provided a mechanism to apply refunds paid in excess of the TABOR refund liability (“overrefunds”) for 1 fiscal year against the following year’s TABOR refund liability, if one exists. Effective in Fiscal Year 2005 under House Bill 05-1310, the State Controller was required to change the methodology for calculating the TABOR Revenue Limit for Fiscal Years 2002 through 2004 by applying the overrefunds after the TABOR Revenue Limit was set. This resulted in an increase of \$92.7 million to the Fiscal Year 2005 TABOR Revenue Limit.

In addition, the State Controller was required to reduce the Fiscal Year 2005 TABOR revenue in excess of the TABOR Revenue Limit for the total amount of overrefunds paid during Fiscal Years 2002 through 2004. This resulted in a \$127.8 million reduction to the TABOR refund liability for Fiscal Year 2005.

House Bill 05-1310 requires that, in Fiscal Year 2006 and future years, TABOR revenue in excess of the TABOR Revenue Limit be reduced by any amounts overrefunded in the prior year. Any unused amount is to be carried forward and decrease future refund liabilities until the excess is depleted.

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