

**Schedule of Computations  
Required Under Article X,  
Section 20, of the  
State Constitution (TABOR)**

**February 2012**



---

**OFFICE OF THE  
STATE AUDITOR**

**LEGISLATIVE AUDIT COMMITTEE  
2012 MEMBERS**

*Representative Cindy Acree*  
Chair

*Representative Angela Williams*  
Vice-Chair

*Senator Lucia Guzman*  
*Representative James Kerr*  
*Senator Steve King*

*Representative Joe Miklosi*  
*Senator Scott Renfroe*  
*Senator Lois Tochtrop*

**OFFICE OF THE STATE AUDITOR**

*Dianne E. Ray*  
State Auditor

*Kerri Hunter*  
Deputy State Auditor

*Crystal Dorsey*  
*Jeffrey Kahn*  
Legislative Audit Managers

*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.*



February 16, 2012

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, 2011 dated February 16, 2012, and 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 the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*.

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 Fiscal Year 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 Revenue		\$ 9,424,763,980
(Less): Fiscal Year 2011 TABOR Revenue Limit	\$(8,654,191,995)	
(Less): Fiscal Year 2011 Excess of TABOR Revenue Limit Allowed to Retain and Spend	<u>\$(2,030,664,223)</u>	
Total Fiscal Year 2011 Excess State Revenues Cap		<u>(10,684,856,218)</u>
Fiscal Year 2011 Revenue (Under) Over the Excess State Revenues Cap		<u>\$ (1,260,092,238)</u>



We Set the Standard for Good Government

**This page intentionally left blank.**

---

## TABLE OF CONTENTS

---

	PAGE
<b>TABOR Revenue</b> .....	1
<b>Fiscal Year 2011 TABOR Revenue</b> .....	2
<b>Prior Year Refunds</b> .....	3
<b>Revenue Reductions</b> .....	3
<b>Adjustments to Refunds</b> .....	4
<b>Referendum C</b> .....	5
<b>Revenue Limit</b> .....	6
<b>Sources of TABOR Revenue</b> .....	7
 <b>AUDITOR'S REPORT AND SCHEDULE OF COMPUTATIONS REQUIRED UNDER ARTICLE X, SECTION 20, OF THE STATE CONSTITUTION (TABOR)</b>	
<b>Independent Auditor's Report</b> .....	11
<b>Schedule of Computations Required Under Article X, Section 20 Report</b> .....	13
<b>Notes to the TABOR Schedule of Required Computations</b> .....	14
 <b>AUDITOR'S REPORT AND SCHEDULE OF TABOR REVENUE</b>	
<b>Independent Auditor's Report</b> .....	23
<b>Schedule of TABOR Revenue</b> .....	25
 <b>APPENDICES</b>	
<b>Appendix A - Description of Revenue Categories</b> .....	A-1
<b>Appendix B1 - Description of Refunding Mechanisms</b> .....	B1-1
<b>Appendix B2 - Refunding Mechanism Thresholds</b> .....	B2-1
<b>Appendix C - TABOR History: Fiscal Years 1993 - 2006</b> .....	C-1

**This page intentionally left blank.**

---

# 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 Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*. The audit was conducted in accordance with generally accepted auditing standards. We performed our audit work during the period August 2011 through February 2012.

The purpose and scope of the audit were to:

- Express an opinion on the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* as of June 30, 2011.
- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2011 and 2010.
- Evaluate compliance with regulatory provisions.

We issued an unqualified opinion on the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* and on the *Schedule of TABOR Revenue*. We noted no instances of noncompliance for the fiscal years ended June 30, 2011, and 2010. However, adjustments were received 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.

## Fiscal Year 2011 TABOR Revenue

For Fiscal Year 2011, TABOR revenue was \$9,424,763,980. The Office of the State Controller booked adjustments that increased TABOR revenue by a net amount of \$133,855. These adjustments were posted by the Office of the State Controller subsequent to the issuance of the Fiscal Year 2011 Schedule of TABOR Revenue report, dated September 15, 2011, and are reflected in the \$9,424,763,980. These adjustments were made to correct errors in the revenue categories of Rents and Royalties, General Government Service Fees, and Health Service Fees. These adjustments resulted in an increase in the Fiscal Year 2011 Revenue as reported in the *Schedule of TABOR Revenue* report from \$9,424,630,125 to \$9,424,763,980.

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 Fiscal Year 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		\$ 9,424,763,980
(Less): Fiscal Year 2011 TABOR Revenue Limit	\$(8,654,191,995)	
(Less): Fiscal Year 2011 Excess of TABOR Revenue Limit Allowed to Retain and Spend	<u>\$(2,030,664,223)</u>	
Total Fiscal Year 2011 Excess State Revenues Cap		<u>(10,684,856,218)</u>
Fiscal Year 2011 Revenue (Under) Over the Excess State Revenues Cap		<u>\$ (1,260,092,238)</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.

## 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 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:

<b>Impact of Voter-Approved Revenue Changes on TABOR Revenue</b>		
<b>Constitutional Amendment (Year of Approval)</b>	<b>Decrease in TABOR Revenue</b>	
	<b>Fiscal Year 2011</b>	<b>Fiscal Year 2010</b>
<b>Amendment 23 (2000)</b> 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
Fiduciary income taxes	<u>1,263,000</u>	<u>1,333,000</u>
<b>Total for Amendment 23</b>	<b>\$370,499,000</b>	<b>\$328,953,000</b>
<b>Amendment 14 (1998)</b> Assesses a fee on housed commercial swine feeding operations.	\$269,040	\$274,660
<b>Amendment 20 (2000)</b> Assesses an application fee to obtain a Medical Marijuana identification card.	\$9,684,182	\$4,621,991
<b>Amendment 35 (2004)</b> Assesses a statewide tax on cigarette and tobacco products.	\$145,104,459	\$149,782,824
<b>Amendment 50 (2008)</b> Assesses a tax on extended limited gaming.	\$9,654,448	\$9,915,588
<b>Total Reductions in TABOR Revenue</b>	<b>\$535,211,129</b>	<b>\$493,548,063</b>
<b>Source:</b> 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 adjusted for inflation and the change in population, 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 Excess State Revenues Cap 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

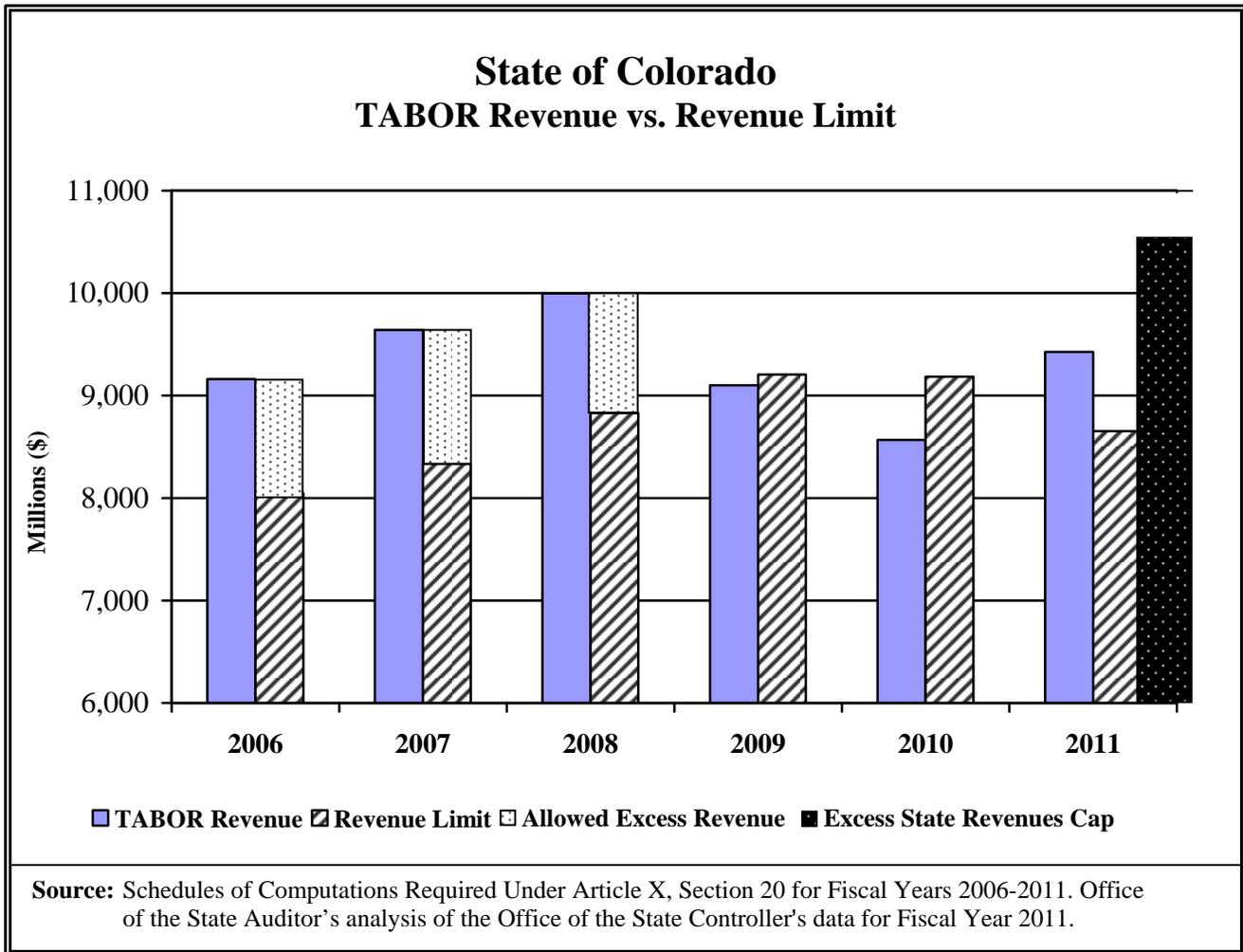
During Fiscal Year 2005, the General Assembly enacted House Bill 05-1194, which was the enabling legislation for Referendum C. In November 2005, Referendum C was approved by a vote of the people and became effective as of July 1, 2005. Referendum C allowed the State to retain and expend all revenue in 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 \$8,654,191,995 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 allowed 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 25 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**

	<b>Fiscal Year 2011</b>	<b>Fiscal Year 2010</b>	<b>2010 to 2011 % Change</b>
<b>GENERAL-FUNDED Revenue</b>			
Individual Income Tax, Net <sup>1</sup>	\$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 <sup>1</sup>	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 <sup>1</sup>	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 <sup>2</sup>	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 <sup>3</sup>	94,577	441,832	-78.6
<b>TOTAL GENERAL-FUNDED REVENUE</b>	<b>\$7,057,681,781</b>	<b>\$6,478,520,180</b>	<b>8.9%</b>

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

<sup>1</sup> Net of Amendment 23 transfers. See table on page 4.

<sup>2</sup> 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.

<sup>3</sup> 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**

	<b>Fiscal Year 2011</b>	<b>Fiscal Year 2010</b>	<b>2010 to 2011 % Change</b>
<b>CASH-FUNDED REVENUE</b>			
Fuel and Transportation Taxes, Net	\$ 558,967,270	\$ 544,539,367	2.6%
Health Service Fees	488,851,526	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	41,399,671	45,431,434	-8.9
General Government Service Fees	38,893,608	40,819,804	-4.7
Miscellaneous Revenue	37,395,480	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	18,610,509	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 <sup>1</sup>	5,461,016	5,175,327	5.5
<b>TOTAL CASH-FUNDED REVENUE EXCLUDING FISCAL YEAR 2010 CHANGES</b>	<b>\$ 2,367,082,199</b>	<b>\$ 2,071,747,819</b>	<b>14.3%</b>
Fort Lewis State College <sup>2</sup>	-	\$17,672,887	N/A
<b>TOTAL CASH-FUNDED REVENUE</b>	<b>\$ 2,367,082,199</b>	<b>\$ 2,089,420,706</b>	<b>13.3%</b>
<b>TOTAL NONEXEMPT REVENUE</b>	<b>\$ 9,424,763,980</b>	<b>\$ 8,567,940,886</b>	<b>10.0%</b>

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

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

<sup>2</sup> Fort Lewis State College qualified for TABOR enterprise status in Fiscal Year 2011.

**This page intentionally left blank.**

# **Financial Information**

**This page intentionally left blank.**



February 16, 2012

## Independent Auditor's Report

Members of the Legislative Audit Committee:

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of the State of Colorado for the year ended June 30, 2011, and have issued our report thereon dated December 16, 2011. We have also audited the accompanying *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*, as of June 30, 2011. This Schedule is the responsibility of the Office of the State Controller. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit of the Schedule 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 Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* 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 audit provides a reasonable basis for our opinion.

Our auditing procedures also included reconciling amounts contained in this Schedule to the State's Comprehensive Annual Financial Report for the year ended June 30, 2011, 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, of the State Constitution (TABOR)* was prepared by the Office of the State Controller 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. 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.



We Set the Standard for Good Government

In our opinion, the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* referred to above 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, 2011, in conformity with accounting principles generally accepted in the United States of America.

The *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*, as of June 30, 2011, includes audit adjustments that increased Fiscal Year 2011 TABOR revenue by \$133,855. The report also includes audit adjustments that decreased the TABOR Revenue Limit by \$187,073. These adjustments came to our attention subsequent to the issuance of the *Schedule of TABOR Revenue* report for the fiscal year ended June 30, 2011, dated September 15, 2011. These adjustments increased TABOR revenue for Fiscal Year 2011 from \$9,424,630,125 to \$9,424,763,980 and decreased the TABOR Revenue Limit from \$8,654,379,068 to \$8,654,191,995.

A handwritten signature in cursive script, appearing to read "D. J. ...".

STATE OF COLORADO  
SCHEDULE OF COMPUTATIONS REQUIRED  
UNDER ARTICLE X, SECTION 20  
AS OF JUNE 30, 2011

	FISCAL YEAR 2009-10	FISCAL YEAR 2010-11
<b>COMPUTATION OF NONEXEMPT REVENUES</b>		
Total State Expenditures	\$ 34,945,123,129	\$ 35,809,181,237
Less Exempt Enterprises Expenses:		
Higher Education Enterprises	5,784,475,973	6,842,932,797
Unemployment Compensation Section	2,499,120,652	2,144,256,726
College Assist	612,814,416	683,147,763
State Lottery	513,310,600	528,143,599
CollegeInvest	563,242,613	442,627,962
Wildlife Division	116,642,218	121,102,821
Correctional Industries	57,876,769	67,286,736
State Nursing Homes	54,277,169	53,387,808
Petroleum Storage Tank Fund	36,865,072	36,797,270
Statewide Bridge Enterprise	421,883	11,228,233
Clean Screen Authority	4,788,116	6,099,590
Brand Board	4,118,563	4,364,826
Statewide Transportation Enterprise	1,726,446	3,793,121
Capitol Parking Authority	831,923	487,594
Subtotal Enterprise Expenses	<u>10,250,512,413</u>	<u>10,945,656,846</u>
Total District Expenditures	<u>24,694,610,716</u>	<u>24,863,524,391</u>
Less Exempt District Revenues:		
Federal Funds	7,040,249,055	6,918,512,698
Interfund Transfers	7,183,304,851	6,885,268,170
Property Sales	53,525,603	102,267,933
Damage Awards	112,402,503	99,395,799
Gifts	49,326,991	68,790,202
Exempt Investment Income	98,260,554	18,942,966
Other Sources and Additions (Note 7)	1,013,449,380	677,647,603
Voter Approved Revenue Changes (Note 8)	505,520,445	761,806,776
Subtotal Exempt District Revenues	<u>16,056,039,382</u>	<u>15,532,632,147</u>
Nonexempt District Expenditures	8,638,571,334	9,330,892,244
District Reserve/Fund Balance Increase (Decrease)	<u>(70,630,448)</u>	<u>93,871,736</u>
Total Nonexempt District Revenues	<u>8,567,940,886</u>	<u>9,424,763,980</u>
<b>COMPUTATION OF DISTRICT FUND BALANCE CHANGES</b>		
Beginning District Fund Balance	\$ 5,847,034,600	\$ 4,822,971,980
Prior Period District Fund Balance Adjustments (Note 11)	(376,468,289)	(3,971,397)
(Qualification)/Disqualification of Enterprises (Note 14)	(576,963,883)	(112,223,573)
District Reserve/Fund Balance Increase (Decrease)	<u>(70,630,448)</u>	<u>93,871,736</u>
Ending District Fund Balance	<u>\$ 4,822,971,980</u>	<u>\$ 4,800,648,746</u>
<b>COMPUTATION OF SPENDING LIMITATIONS</b>		
	<b>FISCAL YEAR SPENDING</b>	<b>EXCESS STATE REVENUES CAP (Note 15)</b>
<b>FY 2009-10 Limit</b>	\$ 8,567,940,886	
Errors in Prior Years (Note 13)	1,184,899	
Other Agency Revenues From Qualification of Enterprises (Note 14)	120,219	
Qualification of Enterprises (Note 14)	<u>(17,672,887)</u>	
<b>FY 2009-10 Adjusted Limit</b>	<u>\$ 8,551,573,118</u>	
Allowable TABOR Growth Rate (Note 12)	1.2%	
<b>FY 2010-11 Unadjusted Limit</b>	8,654,191,995	
<b>FY 2010-11 Adjusted Limit</b>	8,654,191,995	10,684,856,218
Less Fiscal Year 2010-11 Nonexempt District Revenues	<u>(9,424,763,980)</u>	<u>(9,424,763,980)</u>
<b>Amount (Over)Under Adjusted Limit</b>	<u>(770,571,985)</u>	1,260,092,238
Under(Over) Statement of Prior Years' Refunds Carried Forward to Next Refund Year (Note 16)		2,899,667
FY2004-05 Amount in Excess of the Limit - Not Refunded at June 30, 2011 (Note 16)		705,716
FY2010-11 Retention of Revenues in Excess of the Limit (not refundable) CRS 24-77-103.6(1)(b)		770,571,985

## NOTES TO THE TABOR SCHEDULE OF REQUIRED COMPUTATIONS

### **NOTE 1. PURPOSE OF THE SCHEDULE OF REQUIRED COMPUTATIONS**

The purpose of the Schedule of Required Computations is to determine and document compliance with Title 24 Article 77 of the Colorado Revised Statutes, which is the implementing statute for Article X Section 20 of the State Constitution (TABOR). The report is required to include at a minimum State fiscal year spending, reserves, revenues, and debt. The schedule also includes a calculation of the limit on fiscal year spending, a calculation of the excess State revenues cap under Referendum C (See Note 9), and the amount required to be refunded or the amount of excess revenue retained by law, as well as all related adjustments.

TABOR has many provisions including a requirement for a vote of the people for new taxes or tax rate increases and a limit on the amount of fiscal year spending. Fiscal year spending is defined as District expenditures and reserve increases except those expended from exempt sources, such as, gifts, federal funds, damage awards, property sales, reserves, and other items. This definition, while focused on spending is essentially a limitation on revenue retention because reserve increases are unspent revenues. Therefore, the terms fiscal year spending and nonexempt revenue are used interchangeably throughout these notes.

The limit on revenue retention is based on an allowable growth percentage (See Note 12) applied to the lesser of the prior year's revenues or the prior year's limit. Revenues in excess of the limit are required to be refunded to taxpayers unless voters approve retention of the excess. In the 2005 general election, voters approved Referendum C, which allowed the State to retain revenues in excess of the limit for a five-year period. Beginning in Fiscal

Year 2010-11, under Referendum C provisions, revenues are refunded only when they exceed the excess State revenues cap (See Note 9).

### **NOTE 2. 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) for governmental entities except where an irreconcilable difference exists between GAAP, and State statute or the provisions of Article X Section 20 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 Office of the State Controller.

### **NOTE 3. 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 percent of annual revenue in grants from all Colorado state and local governments combined."

The General Assembly, for the purpose of implementing TABOR, stated in C.R.S. 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) an institution or group of institutions of higher education that has been designated as an enterprise;

(III) any special purpose authority;

(IV) any organization declared to be a joint governmental entity.

The General Assembly has designated the following as enterprises excluded from the District:

- ◆ State Lottery,
- ◆ College Assist,
- ◆ CollegeInvest,
- ◆ Division of Wildlife,
- ◆ State Nursing Homes,
- ◆ Division of Correctional Industries,
- ◆ Petroleum Storage Tank Fund,
- ◆ State Fair Authority,
- ◆ Brand Board,
- ◆ Clean Screen Authority,
- ◆ Capitol Parking Authority,
- ◆ Statewide Transportation Enterprise,
- ◆ Statewide Bridge Enterprise,
- ◆ Unemployment Insurance Enterprise.

It further established a statutory mechanism that allows governing boards of the institutions of higher education to designate certain auxiliary operations as enterprises, which are also exempt from TABOR. Senate Bill 189 enacted in the 2004 legislative session expanded the authority for each governing board of the State institutions of higher education to designate the entire institution as a TABOR exempt enterprise. The Board of Regents of the University of Colorado designated the entire University of Colorado as an enterprise during Fiscal Year 2004-05, and the remaining boards designated their institution as enterprises in Fiscal Year 2005-06. The Auraria Higher Education Center Board of Directors did not designate all of its activities as

a TABOR enterprise, but it continues to have selected activities designated as a TABOR enterprise.

Although the General Assembly and governing boards have designated certain enterprises as exempt from TABOR, those enterprises must continue to meet the criteria of a government-owned business authorized to issue its own revenue bonds and annually receiving less than 10 percent of its revenue in grants from all Colorado state and local governments combined. The State Fair Authority remained disqualified for Fiscal Year 2010-11. Fort Lewis College was disqualified as an enterprise in Fiscal Year 2009-10, but requalified in Fiscal Year 2010-11 as it received no more than 10 percent of its revenue in State support.

#### **NOTE 4. 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 C.R.S. 24-30-202(5.5).

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

#### **NOTE 5. EMERGENCY RESERVES**

TABOR requires the reservation, for declared emergencies, of 3 percent or more of fiscal year spending, excluding bonded debt service payments. This requirement for FY 2010-11 totals \$282,742,919. At June 30, 2011, the net assets of the following funds were designated

as the reserve, up to the limits set in the Long Appropriations Act:

- ♦ Major Medical Fund – \$94,000,000. The \$94,000,000 designation by the Legislature has been reduced by \$8,600,000 because that amount was transferred out of the TABOR emergency reserve to the Disaster Emergency Fund per Governor’s Executive Orders to pay the cost of fighting wildfires in the State.
- ♦ Wildlife Cash Fund – \$100,000,000. The Wildlife Cash Fund’s net assets not invested in capital assets (net of related debt) total \$12,368,456. The remaining \$87,631,544 of the Wildlife portion of the reserve comes from the capital assets recorded in the Wildlife Cash Fund.

The 2010 legislative session Long Appropriations Act designated up to \$70,700,000 of State properties as the remainder of the Fiscal Year 2010-11 emergency reserve. The estimate of the needed reserve was based on the December 2010 revenue estimate prepared by Legislative Council. Because the revenues subject to the TABOR reserve requirement were more than estimated, the amount designated for the reserve was \$18,042,919 less than required by the State Constitution. There is no process by which the General Assembly can adjust the designated reserve after the end of the legislative session when the total TABOR revenues are finally known. In the event of an emergency that exceeded the financial assets in the reserve, the designated Wildlife Cash Fund capital assets and general capital assets would have had to been liquidated to meet the constitutional requirement.

#### **NOTE 6. STATUS OF REFUNDING**

When refunds are required they are distributed to individual State taxpayers based on a statutory mechanism as discussed in Note 17. The Department of Revenue makes the distributions of the TABOR refund through the income tax refund process using estimates of the

number of taxpayers expected to qualify for the TABOR refund. Because the exact number of qualifying taxpayers cannot be known in advance, the estimates may result in over or under distribution of the required refund throughout the four-year period allowed for amended tax returns.

As required by statute, under distributions of refunds are carried forward to subsequent years and added to the required refund. Over distributions of refunds are also carried forward to subsequent years and are used to offset any future refund liability. The statute requires the over/under refund carry forward to be applied in the year following the year in which the refund is required to be made, which results in a two year lag between the recording of the excess revenue and the adjustment for over or under refunds of those excess revenues.

At the beginning of Fiscal Year 2010-11 the State had an outstanding TABOR refund liability of \$705,716 related to Fiscal Year 2004-05 nonexempt revenues in excess of the limit. Because of late filed and amended tax returns, the State may continue to refund the outstanding unrefunded balance for up to four years after the excess revenues are recorded. At the end of Fiscal Year 2010-11, the same \$705,716 liability remained to be refunded. Since Referendum C precluded refunds until at least Fiscal Year 2010-11, the unrefunded balance is being carried forward on the Schedule of Required Computations and will be added to the next refund that is required by Referendum C, TABOR, and the related implementing statutes.

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

The \$677.6 million reported in this line item primarily comprises: \$295.6 million of pension and other employee benefit trust fund investment earnings and additions by participants; \$217.6 million of Certificate of Participation (COPs) proceeds, \$148.4 million of permanent and trust fund additions, reimbursements of prior year expenditures,

reversions, and other miscellaneous exempt revenues; and \$4.8 million of local government expenditures recorded by the State as revenues and expenditures to meet grant matching-funds requirements.

Other Sources and Additions also includes \$11.3 million from the Great Outdoors Colorado Trust Fund (GOCO) paid to the Department of Natural Resources and exempted by the GOCO Enabling Act.

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

When State voters approve a revenue change, the resulting revenues are exempt from the TABOR limit on fiscal year spending. The following revenue changes were approved by voters:

- ♦ In the 1998 general election, voters approved a citizen-initiated law, C.R.S. 25-8-501.1 – Regulation of Commercial Hog Facilities, which instituted a permit fee. The State collected \$269,040 and \$274,660 from this exempt source in Fiscal Years 2010-11 and 2009-10, respectively.
- ♦ In the 2000 general election, voters approved a citizen-initiated amendment that added Section 14 to Article XVIII of the State Constitution. This amendment allowed the use of marijuana for medical purposes and authorized the Department of Public Health and Environment to charge a fee for the issuance of a permit for such purpose. The State recorded \$9,860,873 and \$4,779,272 including interest and unrealized gains/losses from this revenue source in Fiscal Years 2010-11 and 2009-10, respectively.
- ♦ In the 2000 general election, voters approved a citizen-initiated amendment that added Section 17 to Article IX of the State Constitution. This amendment created the State Education Fund and diverted the revenues from a tax of one-third of one percent on taxable income of individuals, corporations, estates, and trusts from the General Fund to the State Education Fund. It also exempted the revenue from TABOR. The amendment was effective January 1, 2001, and resulted in \$373,333,017 and \$338,519,008 of tax revenues, interest, and unrealized gains/losses, being excluded from fiscal year spending in Fiscal Years 2010-11 and 2009-10, respectively. Additionally in Fiscal Year 2010-11, pursuant to Senate Bill 11-230, \$221,372,000 was transferred into the State Education Fund from the General Purpose Revenue Fund. The transfer was included as district revenue in the General Purpose Revenue Fund, and was not included as district revenue in the State Education Fund because it was already counted in the General Purpose Revenue Fund. With the transfer, TABOR exempt revenue in the State Education Fund totaled \$594,705,017 for Fiscal Year 2010-11.
- ♦ In the 2004 general election, voters approved a citizen-initiated amendment that added Section 21 to Article X of the State Constitution. The amendment authorized additional cigarette and tobacco taxes (3.2 cents per cigarette and 20 percent of manufacturer's list price for other tobacco products) effective January 1, 2005. The amendment specified the use of the tax revenue generated for specific health related programs, and it exempted the revenue from the TABOR limitations. The State recorded \$147,317,398 and \$152,031,917 of tax revenues, interest, transfers, and unrealized gains/losses from this exempt source in Fiscal Year 2010-11 and 2009-10, respectively.
- ♦ In the 2005 general election, Colorado voters approved Referendum C – a measure referred to the voters by the Legislature. The referendum allowed the State to retain revenues in excess of the TABOR limit for a period of five years, and it stated that the excess revenue retained qualified as a voter approved revenue change. However, in

order to determine the amount retained, the Schedule of Required Computations includes the retained amount as nonexempt revenue. Therefore, the retained amount is not reported in this note as a voter approved revenue change (See Note 9).

- ♦ In the 2008 general elections, voters approved an amendment required to implement locally approved changes to the parameters for Limited Gaming under Section 9(7) of Article XVIII of the Colorado Constitution. This amendment allowed the residents of Central City, Black Hawk, and Cripple Creek to vote to extend casino hours, approve additional games and increase the maximum single bet limit. It required distribution of most of the gaming tax revenue that resulted from the new gaming limits to Colorado community colleges and to gaming cities and counties, and it exempted the new revenue from state and local revenue and spending limits. The State collected \$9,654,448 and \$9,915,588 of extended limited gaming revenue in Fiscal Year 2010-11 and 2009-10, respectively.

#### **NOTE 9. REFERENDUM C**

Referendum C was placed on the ballot by the General Assembly and was approved by the voters in the November 2005 election. It contained the following provisions:

- ♦ The State was authorized to retain and spend all revenues in excess of the limit on fiscal year spending after July 1, 2005, and before July 1, 2010 (five fiscal years). The authorization constituted a voter approved revenue change.
- ♦ After July 1, 2010, the State is allowed to retain revenues in excess of the limit on fiscal year spending up to a newly defined excess State revenues cap. The excess State revenues cap is the highest population and inflation-adjusted nonexempt revenue amount in the period from July 1, 2005, to June 30, 2010, also adjusted for qualifi-

cation and disqualification of enterprises. This provision effectively disabled the ratchet down provision of TABOR during the five-year period. (The ratchet down is a term used to describe the TABOR provision that requires each year's base for calculating the limit to be the lesser of the prior year's revenues or the prior year's limit.)

- ♦ A General Fund Exempt Account was created within the General Fund to consist of the retained revenues for each fiscal year of the retention period. The Legislature shall appropriate the moneys in the account for health care, education (including related capital projects), firefighter and police pension funding (for local governments), and strategic transportation projects.
- ♦ The Director of Research of the Legislative Council is required to report the amount of revenues retained with a description of how the retained revenues were expended.
- ♦ The State Controller's annual report demonstrating compliance with the statutes implementing TABOR is required to include the amount of revenues that the State is authorized to retain and expend.

During the Referendum C period the Schedule of Required Computations has shown the amount of excess revenues retained and expended as allowed by Referendum C, the five-year excess totaled \$3,593,602,662. This was attributable to Fiscal Years 2005-06, 2006-07, and 2007-08. Due to the economic recession, there was no excess revenue in Fiscal Years 2008-09 or 2009-10 to retain or spend.

#### **NOTE 10. DISTRICT RESERVES**

District reserves are the cumulative fund balances of the State reported in the State's Comprehensive Annual Financial Report at the fund level rather than the government-wide level. District reserves therefore exclude capital assets, liabilities that are not recorded in governmental funds at the fund level (primarily

long-term liabilities), and net assets of the TABOR enterprises. The majority of these funds include balances not available for general appropriation due to legal and contractual restrictions.

**NOTE 11. PRIOR-PERIOD DISTRICT  
FUND BALANCE  
ADJUSTMENTS**

The prior period adjustments of fund balance reported in the State's Comprehensive Annual Financial Report, decreased the TABOR District fund balances in total by \$3,971,397 as follows.

- ♦ The Department of Health Care Policy and Financing decreased beginning net assets of the District by \$3,555,667 for the correction of an error in calculating the federal share of amounts recovered to be returned to the federal government since Fiscal Year 2008-09.
- ♦ The Department of Health Care Policy and Financing's Medicaid Nursing Facilities Cash Fund decreased beginning net assets of the District by \$196,174 when it determined that nursing home provider fee revenue had been previously overstated.
- ♦ The Department of Personnel and Administration decreased the district's beginning net assets by \$282,037 and \$146,798 when it paid Colorado Mesa University and Fort Lewis College, respectively, to assume responsibility for claims that would have otherwise been current liabilities of the fund in Fiscal Year 2010-11.
- ♦ The Department of Public Health and Environment increased the District's beginning net assets by \$210,000 to correct an error in a pollution remediation obligation recorded in a prior year.
- ♦ The Department of Personnel and Administration reduced beginning net assets by \$721 to clear the residual fund balance from the transfer of the State's

Deferred Compensation Plan to the Public Employees' Retirement Association (PERA), effective July 1, 2009.

**NOTE 12. SOURCES OF TABOR  
GROWTH LIMIT**

The allowable percentage increase in State fiscal year spending equals the sum of inflation and the percentage change in State population in the calendar year ending six months prior to the start of the fiscal year. Inflation is defined in C.R.S. 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 1.2 percent allowable growth rate comprises a 1.8 percent increase for population growth (calendar year 2009 compared to calendar year 2008) and a 0.6 percent decrease for negative inflation.

**NOTE 13. SPENDING LIMIT  
ADJUSTMENTS**

In Fiscal Year 2010-11, the State increased the spending limit base by \$1,184,899 before applying the 1.2 percent allowable growth rate as follows:

Fiscal Year 2008-09 nonexempt revenues were overstated by a net amount of \$58,597 as a result of the two following errors:

- ♦ The Department of Health Care Policy and Financing overstated Fiscal Year 2008-09 nonexempt revenue by \$107,639 when it erroneously collected and recorded payments of a nursing facility provider fee from certain providers. The error was discovered and fee collections corrected in Fiscal Year 2010-11.
- ♦ In Fiscal Year 2008-09, the Department of Health Care Policy and Financing understated nonexempt revenue when it incorrectly recorded \$49,042 of interest revenue earned from nonexempt sources, as exempt interest.

These two errors were adjusted by the Fiscal Year 2009-10 TABOR allowable growth rate of 5.8 percent, resulting in a net reduction of \$61,996 to the Fiscal Year 2009-10 Fiscal Year Spending Limit.

In addition, the following errors which occurred in Fiscal Year 2009-10 increased the fiscal year spending limit by \$1,246,895. The errors were:

- ♦ The Department of Health Care Policy and Financing overstated Fiscal Year 2009-10 nonexempt revenue by \$88,535 when it erroneously collected and recorded payments of a nursing facility provider fee from certain providers. The error was discovered and fee collections corrected in Fiscal Year 2010-11.
- ♦ In Fiscal Year 2009-10, the Department of Health Care Policy and Financing understated nonexempt revenue when it incorrectly recorded \$1,335,430 of interest revenue earned from nonexempt sources, as exempt interest.

The Fiscal Year 2010-11 allowable growth of 1.2 percent was applied to the Fiscal Year 2009-10 errors and the \$61,996 of adjusted Fiscal Year 2008-09 errors on the face of the Schedule of Computations.

These errors represent a net increase in nonexempt revenue in prior years, but did not result in TABOR refunds because total nonexempt revenue in the years the errors occurred was significantly below the Fiscal Year Spending Limit.

The errors that occurred in Fiscal Years 2009-10 and 2010-11 did not require a prior period adjustment in the State's financial statements as the errors did not impact net assets as of June 30, 2011.

#### **NOTE 14. ENTERPRISE QUALIFICATION AND DISQUALIFICATION**

The TABOR amendment to the State Constitution specifies that qualification and disqualification of enterprises shall change the District base. In order to ensure comparability between the base and current year nonexempt revenue, when an activity qualifies as an enterprise the base is reduced by the activity's prior year nonexempt revenue offset by revenue that would have been counted as nonexempt due to the activity's interaction with other State agencies. When a TABOR enterprise becomes disqualified, its current year nonexempt revenue is added to the base after application of the population and inflation growth adjustment and its prior year payments to other State agencies are removed from the base (before application of the allowable growth rate).

The Qualification of Enterprises line, and the Other Agency Revenues From Qualification of Enterprises line in the Computation of Spending Limitations section of the report show (\$17,672,887) and \$120,219 respectively, which are both related to the requalification of Fort Lewis College as a TABOR enterprise.

The Qualification/Disqualification of Enterprises line on the Schedule of Required Computations shows a net decrease in fund balance of \$112,223,573. The entire amount of the net decrease is related to the requalification of Fort Lewis College.

**NOTE 15. EXCESS STATE REVENUES  
CAP**

Fiscal Year 2010-11 is the first year nonexempt district revenues are subject to the excess State revenues cap (ESRC) created by Referendum C. The ESRC base is the highest nonexempt TABOR revenue earned during the retention period; that occurred in Fiscal Year 2007-08 and totaled \$9,998,559,293. Pursuant to C.R.S. 24-

77-103.6, this amount is adjusted each subsequent year for inflation and population, the qualification or disqualification of enterprises, and debt service changes. Similar to the fiscal year spending limit, adjustments to the ESRC are also made for error corrections. The resulting ESRC limit of \$10,684,856,218 is calculated as follows:

	Fiscal Year 2008-09	Fiscal Year 2009-10	Fiscal Year 2010-11
<b>Beginning Limit</b>	\$ 9,998,559,293	\$ 10,420,286,612	\$ 10,575,710,987
Errors in Prior Years	(892,796)		
Qualification of Enterprises	(9,845,495) <sup>1</sup>	(424,340,500) <sup>1</sup>	(17,672,887)
Other Agency Revenues From Qualified/Disqualified Enterprises	(519,557)		120,219
<b>Adjusted Prior Year Limit</b>	<u>\$ 9,987,301,445</u>	<u>\$ 9,995,946,112</u>	<u>\$ 10,558,158,319</u>
Allowable TABOR Growth Rate	4.1%	5.8%	1.2%
<b>Current Year Unadjusted Limit</b>	10,396,780,804	10,575,710,987	10,684,856,218
Disqualification of Enterprises	23,505,808		
<b>Current Year Adjusted Limit</b>	<u>\$ 10,420,286,612</u>	<u>\$ 10,575,710,987</u>	<u>\$ 10,684,856,218</u>

<sup>1</sup> Other Agency Revenues From Qualified Enterprises was included as a component of the Qualification of Enterprises and displayed as such in the applicable Schedules of Computations prior to Fiscal Year 2010-11.

Detail regarding the qualification of enterprises, the disqualification of enterprises, and other agency revenue from disqualified enterprises is reported in Notes 13 and 14 of the related fiscal year schedules. Errors of \$892,796 decreasing Fiscal Year 2007-08 nonexempt revenue were disclosed in Note 13 of the related year's TABOR report and comprise the following:

- ♦ In Fiscal Year 2010-11, the Department of Health Care Policy and Financing determined that it understated Fiscal Year 2007-08 nonexempt revenue when it incorrectly recorded \$116,074 of interest revenue earned from nonexempt sources, as exempt interest.
- ♦ In Fiscal Year 2009-10, the Department of Health Care Policy determined that it overstated Fiscal Year 2007-08 nonexempt revenue by \$1,083,494 when it recorded recoveries of prior year expenditures as nonexempt TABOR revenue.
- ♦ In Fiscal Year 2009-10, the Department of Personnel & Administration determined that it understated Fiscal Year 2007-08 TABOR nonexempt revenue by \$74,624 when it recorded purchasing agreement rebates received from outside the District as exempt revenue.

These errors were adjusted by the Fiscal Year 2008-09 allowable growth rate of 4.1 percent, the 2009-10 TABOR allowable growth rate of 5.8 percent, and the 2010-11 TABOR allowable growth rate of 1.2 percent, resulting in a cumulative decrease in the ESRC of \$995,106. Because the ESRC is based only on Fiscal Year 2007-08 nonexempt revenues, errors in nonexempt revenue in later years will not affect the ESRC.

**NOTE 16. TREATMENT OF AMOUNTS HELD FOR FUTURE REFUND**

CRS 24-77-103.5 requires that errors in the amount to be refunded be corrected in the year that they are discovered. In Fiscal Year 2010-11,

no errors were identified that affected the prior year TABOR refunds that are being carried forward under Referendum C. The \$2,899,667 of net understatement of prior year refunds will be refunded in the first fiscal year in which the State is required to distribute a TABOR refund. The unrefunded amount of \$705,716 from Fiscal Year 2004-05 will also be refunded at that time.

**NOTE 17. FUTURE REFUNDS**

In the 2010 legislative session, Senate Bill 212 removed all the mechanisms for refunding TABOR revenues in excess of the fiscal year spending limit except for the earned income tax credit refund mechanism. The Department of Revenue reported that after the adjustment for personal income the earned income tax credit mechanism will be applied when the refund exceeds \$86.1 million.

After application of the earned income tax credit mechanism, any remaining amount is distributed to all full-year Colorado residents 18 years and older as a refund of sales taxes. When the refund is estimated to be under \$15 for each qualified taxpayer, an identical amount is refunded to each qualified taxpayer. When the sales tax refund is estimated to be over \$15 for each qualified taxpayer, a fixed amount is set 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.

Due to total nonexempt district revenues falling below the newly implemented excess State revenues cap, effective with the end of the Referendum C time out period, there was no refund in Fiscal Year 2010-11, and therefore, neither of the refund mechanisms discussed above were active in Fiscal Year 2010-11.

**Schedule of TABOR Revenue**  
**(Dated September 15, 2011)**

**This page intentionally left blank.**



September 15, 2011 and  
February 16, 2012, see explanatory paragraph

### Independent Auditor's Report

Members of the Legislative Audit Committee:

We have audited, in accordance with auditing standards generally accepted in the United States of America the *Schedule of Computations Required Under Article X, Section 20 of the Constitution (TABOR)*, as of June 30, 2011, and have issued our report thereon dated February 16, 2012. 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.

Subsequent to the issuance of the Fiscal Year 2011 *Schedule of TABOR Revenue* report, dated September 15, 2011, the State Controller posted adjustments that affected TABOR revenue. As a result, we performed additional testing of the *Schedule of TABOR Revenue* report for the fiscal year ended June 30, 2011 between September 15, 2011, and February 16, 2012.

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.



We Set the Standard for Good Government

**This page intentionally left blank.**

**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%
<b>TOTAL INCOME TAX</b>	<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%
<b>TOTAL EXCISE TAX</b>	<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%
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%
Employment Taxes	18,610,520	19,329,109	(718,589)	-3.7%
Estate and Inheritance Taxes	(49,659)	183,806	(233,465)	-127.0%
<b>TOTAL OTHER TAXES</b>	<u>1,026,345,710</u>	<u>926,648,361</u>	<u>99,697,349</u>	<u>10.8%</u>
Health Service Fees	488,851,526	342,478,302	146,373,224	42.7%
Motor Vehicle Registrations	218,157,499	211,202,590	6,954,909	3.3%
Other Charges for Services	138,275,658	134,785,814	3,489,844	2.6%
Business Licenses and Permits	137,866,348	123,243,849	14,622,499	11.9%
Nonbusiness Licenses and Permits	48,474,278	45,567,600	2,906,678	6.4%
General Government Service Fees	39,163,412	41,482,301	(2,318,889)	-5.6%
Driver's Licenses	31,194,068	25,304,628	5,889,440	23.3%
Certifications and Inspections	21,788,906	19,655,424	2,133,482	10.9%
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%
<b>TOTAL LICENSES, PERMITS, AND FEES</b>	<u>1,141,394,968</u>	<u>960,445,285</u>	<u>181,274,176</u>	<u>18.8%</u>
Court and Other Fines	191,340,517	201,516,451	(10,175,934)	-5.0%
Interest and Investment Income	78,555,893	93,058,791	(14,502,898)	-15.6%
Rents and Royalties	41,399,671	45,431,434	(4,031,763)	-8.9%
Miscellaneous Revenue	40,115,778	63,845,880	(23,730,102)	-37.2%
Local Governments and Authorities	20,382,728	28,072,969	(7,690,241)	-27.4%
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%
<b>TOTAL OTHER REVENUE</b>	<u>379,425,708</u>	<u>439,058,465</u>	<u>(60,091,105)</u>	<u>-13.6%</u>
<b>SUBTOTAL TABOR REVENUE BEFORE QUALIFICATION OF TABOR ENTERPRISES</b>	<u>9,424,763,980</u>	<u>8,550,267,999</u>	<u>874,495,981</u>	<u>10.2%</u>
Fort Lewis College		17,672,887	(17,672,887)	-100.0%
<b>TOTAL QUALIFICATION OF TABOR ENTERPRISES</b>		<u>17,672,887</u>	<u>(17,672,887)</u>	<u>-100.0%</u>
<b>TOTAL TABOR REVENUE</b>	<u>\$ 9,424,763,980</u>	<u>\$ 8,567,940,886</u>	<u>\$ 856,823,094</u>	<u>10.0%</u>

**This page intentionally left blank.**

# **Appendices**

**This page intentionally left blank.**

---

# Appendix A

---

## Description of Revenue Categories

<b>Category</b>	<b>Description</b>
<b>INCOME TAX</b>	
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.
<b>EXCISE TAX</b>	
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.

<b>Category</b>	<b>Description</b>
Other Excise Taxes, Net	Taxes for occupational license renewals and certain penalties net of refunds.
<b>OTHER TAXES</b>	
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.
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.
Employment Taxes, Net	Employment insurance paid by employers for funding unemployment benefits net of refunds.
Estate and Inheritance Taxes, Net	Taxes collected on the assets of estates net of refunds.
<b>LICENSES, PERMITS, AND FEES</b>	
Health Service Fees	Fees collected for health services, including laboratory test fees, genetic testing, vital records fees, and children's health plan premiums.
Motor Vehicle Registrations	Collection of fees for license plates, tags, and registrations.
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.

<b>Category</b>	<b>Description</b>
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).
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, motorcycle operator safety training, waste tire recycling, etc.
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).
Driver's Licenses	Fees for driver's licenses and ID cards.
Certifications and Inspections	Emission inspection stickers, emission registration, emission inspection station licenses, and other fees.
Public Safety Service Fees	Fees for firefighter response, fire service education and training, 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.
<b>OTHER REVENUE</b>	
Court and Other Fines	Fines and forfeits levied by the courts.
Interest and Investment Income	Interest income, finance charges, and gains/losses on investments.
Rents and Royalties	Income from the lease of state land to private

<b>Category</b>	<b>Description</b>
	parties.
Miscellaneous Revenue	Revenue not included in another category.
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.
Higher Education Auxiliary Sales and Services	Revenue from library fees, internal service center fees, athletic camp fees.

---

# Appendix B1

---

## Description of Refunding Mechanisms

<b>Mechanism (Effective Date)</b>	<b>Description</b>
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.

**This page intentionally left blank.**

# Appendix B2

## Refunding Mechanism Thresholds

(As applicable to Fiscal Year 2011)

Refunding Mechanism	Original Threshold	Fiscal Year 2011 Threshold <sup>1</sup>
Earned Income Credit	\$ 50,000,000	\$86,100,000
Charitable Contributions Deduction	\$ 100,000,000	N/A
Foster Parents Credit	\$ 200,000,000	N/A
Business Personal Property Tax Credit	\$ 170,000,000	N/A
Child Care Credits	\$ 290,000,000	N/A
Tangible Personal Property Used for Research and Development	\$ 358,400,000	N/A
Motor Vehicle Registration Fees	\$ 330,000,000	N/A
High Technology Scholarship Program Credit	\$ 330,000,000	N/A
Interest, Dividends, and Capital Gains Deduction	\$ 350,000,000	N/A
Pollution Control Provisions	\$ 350,000,000	N/A
Interstate Commerce Sales and Use Tax Refund	\$ 350,000,000	N/A
Agriculture Value-Added Development Credit	\$ 400,000,000	N/A
Cost of Health Benefits Credit	\$ 400,000,000	N/A
Sales Tax Refund	Remaining Excess	Remaining Excess

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

<sup>1</sup>Thresholds 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.

**This page intentionally left blank.**

---

# 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 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.

**This page intentionally left blank.**

The electronic version of this report is available on the website of the  
Office of the State Auditor  
**[www.state.co.us/auditor](http://www.state.co.us/auditor)**

A bound report may be obtained by calling the  
Office of the State Auditor  
**303.869.2800**

Please refer to the Report Control Number below when requesting this report.

**Report Control Number 2076-11**

**Report Control Number 2076-11**