

**Schedule of Computations
Required Under Article X,
Section 20, of the
State Constitution (TABOR)
March 2010**



**OFFICE OF THE
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STATE OF COLORADO

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March 4, 2010

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, 2009, dated March 4, 2010, and the *Schedule of TABOR Revenue*, as of June 30, 2009 and 2008, dated September 30, 2009. The audit was conducted under the authority of 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)*.

A handwritten signature in black ink that reads "Sally Symanski".

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SALLY SYMANSKI, CPA
State Auditor

**SCHEDULE OF COMPUTATIONS
REQUIRED UNDER ARTICLE X, SECTION 20,
OF THE STATE CONSTITUTION (TABOR)
March 2010**

Authority, Purpose, and Scope

The audit of TABOR revenue was conducted under the authority of 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)* and 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 2009 through March 2010.

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)* of June 30, 2009.
- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2009 and 2008.
- Evaluate compliance with applicable state laws, rules, and regulations.

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*, and we noted no instances of noncompliance for the fiscal years ended June 30, 2009 and 2008.

For further information on this report, contact the Office of the State Auditor at 303.869.2800.

TABOR Revenue

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.

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 1997 through 2001, cumulative excess revenue of about \$3.5 billion was refunded to taxpayers. For Fiscal Years 2002 through 2004 state revenue did not exceed the TABOR spending limit, and there were no refunds for these years. For Fiscal Year 2005, excess TABOR revenue of about \$41 million was refunded to taxpayers. For Fiscal Years 2006, 2007, and 2008, state revenue exceeded the TABOR spending 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 limit for all three years.

Prior to the passage of Referendum C, the excess revenue was refunded to the taxpayers through a variety of means. In both 1997 and 1998, the General Assembly decided to distribute the entire excess as a sales tax credit on each full-year resident's individual tax return. In 1999, the excess was refunded through three mechanisms, in 2000 the excess was refunded through nine mechanisms, and in 2001 the excess was refunded through 15 mechanisms. For Fiscal Year 2005, the entire excess was distributed as a sales tax credit on each full-year resident's individual income tax

return. Appendices B1 and B2 provide more detail regarding each refunding mechanism.

Revenue Reductions

Several significant revenue reductions were enacted during the 1999, 2000, and 2001 legislative sessions that lower TABOR revenue for subsequent years. The most significant reduction was in income tax rates for individuals, estates, and trusts. The rate was reduced to 4.75 percent from 5 percent effective January 1, 1999, and was further reduced to 4.63 percent effective January 1, 2000. The sales tax rate was reduced to 2.9 percent from 3 percent effective January 1, 2001. There are a variety of other permanent tax reductions that have been enacted including low-income housing owner credits, redevelopment incentives for contaminated property, bingo equipment exclusions, sales and use tax exemptions for certain agricultural items, unemployment insurance tax credits, and oil and gas severance tax exemptions. In addition, for those years when TABOR revenue exceeds the limit, taxpayers can receive a full or partial refund for a conservation easement instead of being required to carry forward an unused tax credit. Taxpayers can also receive a refund for certain child care costs. There were no permanent tax cuts enacted during the 2009 legislative session.

Further, voters have approved changes that lower revenue subject to TABOR. The table on the following page shows the voter approved changes and the effect on Fiscal Year 2009 and 2008 revenues:

Impact of Voter Approved Revenue Changes on TABOR Revenue		
Constitutional Amendment	Fiscal Year 2009 TABOR Impact	Fiscal Year 2008 TABOR Impact
Amendment 23 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	\$311,138,000	\$371,480,000
Corporate income taxes	27,276,000	34,292,000
Fiduciary income taxes	<u>1,486,000</u>	<u>2,149,000</u>
Total for Amendment 23	\$339,900,000	\$407,921,000
Amendment 14 Assesses a fee on housed commercial swine feeding operations.	\$179,018	\$151,223
Amendment 20 Assesses an application fee to obtain a Medicinal Marijuana identification card.	\$773,121	\$247,868
Amendment 35 Assesses a statewide tax on cigarette and tobacco products.	\$157,508,432	\$162,228,496
Total Reductions in TABOR Revenue	\$498,360,571	\$570,548,587
Source: Office of the State Auditor 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 spending limit to be the lesser of the current fiscal year's actual revenue or the prior fiscal year's TABOR spending limit adjusted for inflation and the change in population. Prior to July 1, 2005, Section 24-77-103.7, C.R.S., provided a mechanism to apply refunds paid in excess of the TABOR refund liability ("overrefunds") for one fiscal year against the following year's TABOR refund liability, if one existed. If a TABOR refund liability did not exist in the following year, the excess refunds decreased the State's revenue in the year the excess refund was paid.

Effective as of Fiscal Year 2005, Section 24-77-103.7, C.R.S., was repealed and reenacted through House Bill 05-1310. This legislation required the State Controller to make two types of adjustments in Fiscal Year 2005 related to overrefunds that were paid during Fiscal Years 2002 through 2004.

First, for Fiscal Year 2005, HB 05-1310 required the State Controller to calculate the limit on state fiscal year spending for Fiscal Years 2002 through 2004 without reducing TABOR revenue for overrefunds paid during these years or carried forward from prior years. As a result, the State Controller made one-time “look back” adjustments of \$92.1 million and \$643,000 to the fiscal year spending limits for Fiscal Years 2003 and 2004, respectively, based on overrefunds paid in those years. The \$92.7 million in adjustments was reflected in the Fiscal Year 2005 revised spending limit.

Second, HB 05-1310 required the State Controller to make a reduction to the Fiscal Year 2005 TABOR revenue in excess of the 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.

HB 05-1310 requires that in Fiscal Year 2006 and future years, TABOR revenue in excess of the limit on fiscal year spending 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. No overrefund was identified that would affect Fiscal Years 2006 through 2008 TABOR revenue in excess of the limit.

In Fiscal Year 2006, the Office of the State Controller identified and posted prior year adjustments totaling \$2,871,444 that impacted the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2008, \$28,223 in adjustments were identified that also impacted the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2009, 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.

Growth Dividend

Article X, Section 20(7)(a) of the State Constitution requires that the change in population growth, in conjunction with inflation, be used to determine the change in fiscal year spending. This section of the Constitution states that "population shall be determined by annual federal census estimates and such number shall be 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. Because of this, the State refunded more money to taxpayers than it would have had the population estimates more accurately reflected population growth in Colorado.

As a result, during the 2002 Session the General Assembly enacted legislation to account for underestimates of population growth in prior years. Section 24-77-103 (2) (b) (II.5), C.R.S., adds a carry-forward mechanism for a census-related adjustment in population growth. The adjustment can be applied to future calculations of the limitation on the State's spending for up to nine years. This carry-forward is referred to as the growth dividend. The growth dividend related to the 2000 census allowed the State to raise the TABOR spending limit and retain excess TABOR revenue in the amount of \$565.3 million. The growth dividend was fully utilized during Fiscal Years 2004 and 2005.

Referendum C

During Fiscal Year 2005, the General Assembly approved 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 allows the State to retain and expend all revenue in excess of the constitutional limit on fiscal year spending for each of the five fiscal years commencing with Fiscal Year 2006.

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 three year total of \$3,593,602,662. The funds retained by the State are to be applied toward education; healthcare; roads, bridges, and other strategic transportation projects; and retirement plans for firefighters and police officers.

Commencing in Fiscal Year 2011, the State is allowed to retain and spend the amount of revenue in excess of the spending limit and up to the "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; the qualification/disqualification of enterprises; and debt service changes.

Revenue Limit

We reviewed the State Controller's computation of the TABOR revenue limit. For Fiscal Year 2009, the TABOR revenue limit is \$9,203,841,339.

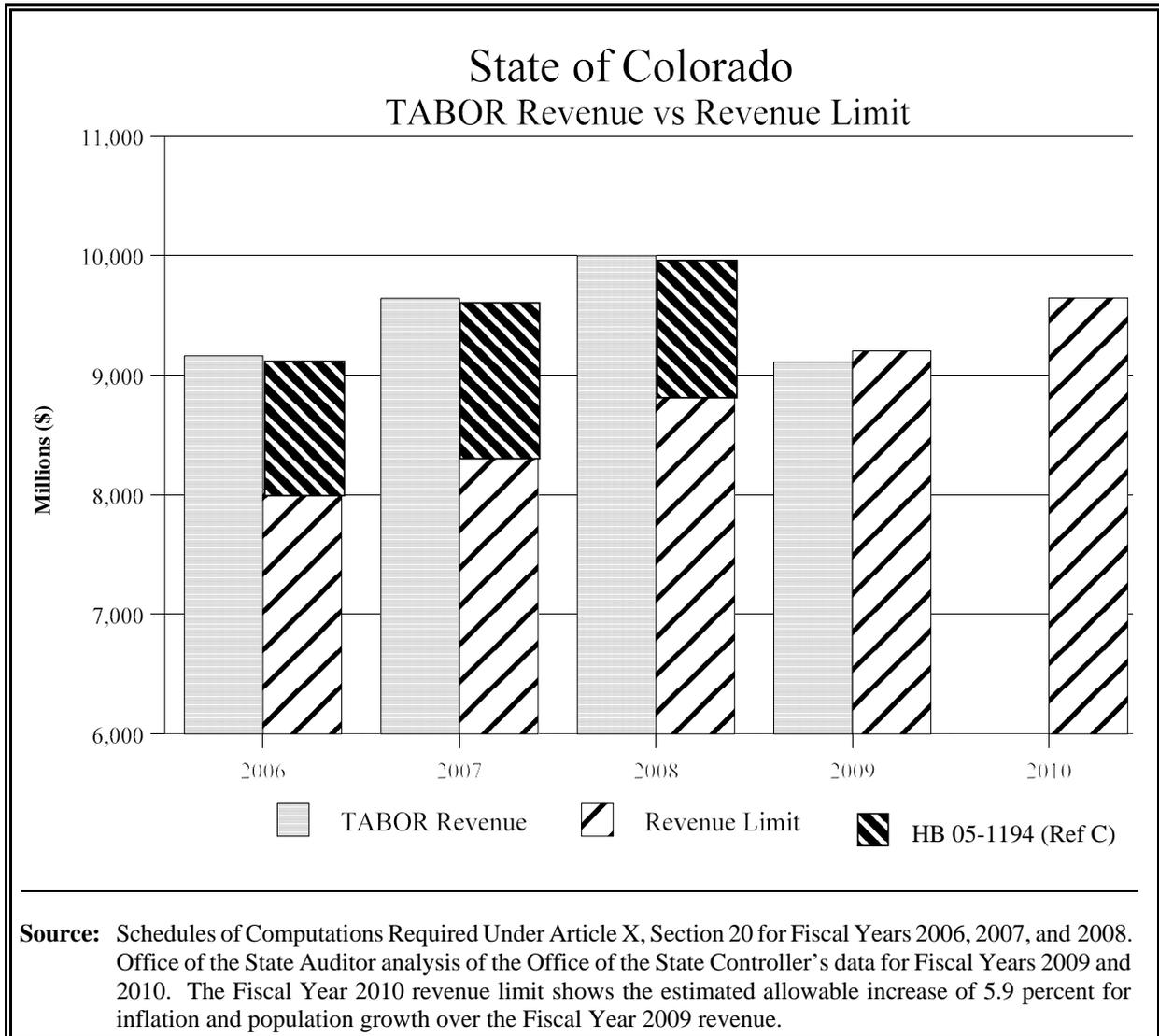
Revenue

For Fiscal Year 2009, TABOR revenue was \$9,102,353,811. During our testwork there were adjustments that decreased TABOR revenue by a net amount of \$7,575,305. These adjustments were posted by the Office of the State Controller subsequent to the issuance of the Fiscal Year 2009 *Schedule of TABOR Revenue* report, dated September 30, 2009, and are reflected in the \$9,102,353,811. These adjustments were made to correct errors in the revenue categories of Local Government and Authorities and Other Cash-Funded Revenue. These adjustments resulted in a decrease in the Fiscal Year 2009 Revenue as reported in the *Schedule of TABOR Revenue* report from \$9,109,929,116 to \$9,102,353,811.

The following shows the TABOR revenue limit, TABOR revenue, and the revenue under the limit for Fiscal Year 2009.

Fiscal Year 2009 Revenue Limit	\$9,203,841,339
Less: Fiscal Year 2009 TABOR Revenue	<u>(9,102,353,811)</u>
Fiscal Year 2009 Revenue Under the Limit	<u>\$ 101,487,528</u>

The graph on the following page compares the revenue limit computed each year to the TABOR revenue from Fiscal Year 2006 to Fiscal Year 2009, with an estimate of the Fiscal Year 2010 limit.



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 decreased by 13.2 percent in Fiscal Year 2009, while cash funds, excluding the impact of TABOR enterprise disqualifications, increased by 3.2 percent in Fiscal Year 2009. Overall, TABOR revenue decreased by 9.0 percent in Fiscal Year 2009.

The following tables show the major sources of revenue in Fiscal Year 2009, with comparative figures for 2008, separated by general-funded and cash-funded revenue. The *Schedule of TABOR Revenue* on page 29 combines the general-funded and cash-funded revenue presented on pages 11 and 12, respectively. The *Schedule of Computations* reflects adjustments made by the Office of the State Controller that came to our attention subsequent to the issuance of the Fiscal Year 2009 *Schedule of TABOR Revenue* as described on page 8 of this report.

State of Colorado
Sources of TABOR Revenue
General-Funded Revenue
June 30, 2009

	Fiscal Year 2009	Fiscal Year 2008	2008 to 2009 % Change
GENERAL-FUNDED Revenue			
Individual Income Tax, Net ¹	\$3,999,088,379	\$4,548,574,979	-12.1%
Sales and Use Tax, Net	1,890,012,984	2,080,031,932	-9.1%
Corporate Income Tax, Net ¹	265,213,739	473,609,845	-44.0%
Insurance Taxes, Net	192,412,740	188,320,199	2.2%
Tobacco Products Tax, Net	56,612,391	57,619,257	-1.7%
Alcoholic Beverages Tax, Net	34,970,318	35,692,288	-2.0%
Court and Other Fines	33,902,092	34,438,259	-1.6%
Fiduciary Income Tax, Net ¹	21,608,476	51,515,790	-58.1%
Interest and Investment Income	9,182,485	17,892,939	-48.7%
Business Licenses and Permits	4,580,438	6,494,871	-29.5%
Gaming and Other Taxes	1,198,260	3,489,932	-65.7%
Miscellaneous Revenue	2,038,194	2,647,945	-23.0%
Estate and Inheritance Taxes	23,707	183,425	-87.1%
Other General Revenue ²	420,750	479,030	-12.2%
TOTAL GENERAL-FUNDED REVENUE	\$6,511,264,953	\$7,500,990,691	-13.2%

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

¹Net of Amendment 23 transfers. See table on page 5.

²Other General Revenue includes General Government Service Fees; Nonbusiness Licenses and Permits; Public Safety Service Fees; Certifications and Inspections; Sales of Products; Child Welfare Service Fees; and Other Charges for Services.

State of Colorado
Sources of TABOR Revenue (continued)
Cash-Funded Revenue
June 30, 2009

	Fiscal Year 2009	Fiscal Year 2008	2008 to 2009 % Change
CASH-FUNDED REVENUE			
Fuel and Transportation Taxes, Net	\$ 541,592,154	\$ 579,416,005	-6.5%
Employment Taxes	379,757,620	416,939,260	-8.9%
Severance Taxes	319,057,785	151,749,595	110.3%
Sales and Use Tax, Net	248,011,161	272,400,055	-9.0%
Motor Vehicle Registrations	191,791,827	194,101,564	-1.2%
Interest and Investment Income	147,036,226	197,934,543	-25.7%
Court and Other Fines	142,603,705	108,052,527	32.0%
Business Licenses and Permits	110,804,334	97,946,513	13.1%
Gaming and Other Taxes	96,168,982	109,296,177	-12.0%
Insurance Taxes	46,273,647	58,215,933	-20.5%
Rents and Royalties	43,000,753	39,644,689	8.5%
Other Charges For Services	42,007,161	25,844,136	62.5%
General Government Service Fees	40,242,931	34,492,861	16.7%
Health Service Fees	39,947,249	20,220,606	97.6%
Nonbusiness Licenses and Permits	38,865,417	38,742,451	0.3%
Local Governments and Authorities	32,757,708 ¹	37,714,619	-13.1%
Educational Fees	32,398,149	30,181,754	7.3%
Driver's Licenses	22,718,687	21,883,814	3.8%
Certifications and Inspections	19,997,417	20,152,743	-0.8%
Miscellaneous Revenue	16,022,739	16,057,966	-0.2%
Public Safety Service Fees	6,182,016	6,381,709	-3.1%
Sales of Products	3,627,667	3,958,193	-8.4%
Other Cash-Funded Revenue ²	6,717,715 ¹	6,025,403	11.5%
TOTAL CASH-FUNDED REVENUE	2,567,538,050	2,487,353,116	3.2%
Western State College ³	-	10,215,486	N/A
Fort Lewis College and Adams State College ⁴	23,505,808	-	N/A
TOTAL CASH-FUNDED REVENUE	2,591,088,858	2,497,568,602	3.7%
TOTAL NONEXEMPT REVENUE⁵	\$ 9,102,353,811	\$ 9,998,559,293	-9.0%

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

¹Revised from *Schedule of TABOR Revenue* as of June 30, 2009, dated September 30, 2009

²Other Cash-Funded Revenue includes Higher Education Auxiliary Sales and Services; Child Welfare Service Fees; Alcoholic Beverage Tax, Net; Other Excise Taxes, Net; and Tobacco Products Tax, Net.

³Western State College did qualify for TABOR enterprise status in Fiscal Year 2009.

⁴Fort Lewis College and Adams State College did not qualify for TABOR enterprise status in Fiscal Year 2009.

⁵Total TABOR Revenue decreased by \$7,575,305 from \$9,109,929,116 to \$9,102,353,811 due to adjustments posted by the Office of the State Controller subsequent to the issuance of the *Schedule of TABOR Revenue* as of June 30, 2009, dated September 30, 2009.

Financial Information



STATE OF COLORADO

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March 4, 2010

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, 2009, and have issued our report thereon dated December 18, 2009. We have also audited the accompanying *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*, as of June 30, 2009. 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 report to the State's Comprehensive Annual Financial Report for the year ended June 30, 2009, 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 (TABOR). Article 77 further requires a financial report to be prepared in conformity with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and TABOR, in which case the provisions of said constitutional provision shall control.

In our opinion, the *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, 2009, 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, 2009, includes audit adjustments that decreased Fiscal Year 2009 TABOR revenue by \$7,575,305. These adjustments came to our attention subsequent to the issuance of the *Schedule of TABOR Revenue* report for the fiscal year ended June 30, 2009, dated September 30, 2009. These adjustments decreased TABOR revenue for Fiscal Year 2009 from \$9,109,929,116 to \$9,102,353,811.

A handwritten signature in black ink, appearing to read "Kelly Symanski". The signature is written in a cursive style with a horizontal line at the end.

STATE OF COLORADO
SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20
AS OF JUNE 30, 2009

	FISCAL YEAR 2007-08	FISCAL YEAR 2008-09
COMPUTATION OF NONEXEMPT REVENUES		
Total State Expenditures	\$ 28,693,238,812	\$ 31,833,279,361
Less Exempt Enterprises Expenses:		
Higher Education Enterprises	5,114,091,726	5,272,380,306
College Assist	661,523,633	671,952,547
State Lottery	516,559,601	501,012,583
CollegeInvest	451,526,418	437,172,975
Wildlife Division	120,887,713	123,811,894
Correctional Industries	64,858,679	63,428,538
State Nursing Homes	51,963,977	54,853,505
Petroleum Storage Tank Fund	38,013,691	32,448,987
Brand Board	4,093,319	4,202,534
Clean Screen Authority	3,553,844	4,828,676
Capitol Parking Authority	820,685	1,027,204
Statewide Tolling Enterprise	4,726,985	763,850
Statewide Transportation Enterprise	-	795,050
Subtotal Enterprise Expenses	<u>7,032,620,271</u>	<u>7,168,678,649</u>
Total District Expenditures	<u>21,660,618,541</u>	<u>24,664,600,712</u>
Less Exempt District Revenues:		
Interfund Transfers	6,461,861,004	7,195,658,676
Federal Funds	4,334,276,309	5,888,160,924
Gifts	33,064,905	63,833,412
Property Sales	57,713,019	62,096,838
Damage Awards	123,974,955	139,512,102
Exempt Investment Income	124,664,417	119,963,848
Other Sources and Additions (Note 7)	397,117,978	386,816,307
Voter Approved Revenue Changes (Note 8)	594,056,418	640,149,867
Subtotal Exempt District Revenues	<u>12,126,729,005</u>	<u>14,496,191,974</u>
Nonexempt District Expenditures	9,533,889,536	10,168,408,738
District Reserve/Fund Balance Increase (Decrease)	(704,758,364)	(1,066,054,927)
Excess TABOR Revenues	<u>1,169,428,121</u>	<u>-</u>
Total Nonexempt District Revenues	<u>9,998,559,293</u>	<u>9,102,353,811</u>
COMPUTATION OF DISTRICT FUND BALANCE CHANGES		
Beginning District Fund Balance	\$ 6,226,796,712	\$ 6,755,271,683
Prior Period District Fund Balance Adjustments (Note 11)	(43,122,541)	53,732,583
(Qualification)/Disqualification of Enterprises (Note 14)	106,927,755	104,085,261
District Reserve/Fund Balance Increase (Decrease)	<u>(704,758,364)</u>	<u>(1,066,054,927)</u>
Ending District Fund Balance	<u>\$ 6,755,271,683</u>	<u>\$ 5,847,034,600</u>
COMPUTATION OF SPENDING LIMITATION		
FY 2007-08 Fiscal Year Spending Limitation	\$ 8,829,131,172	
Other Agency Prior Year Revenues From Disqualified Entrps (Note 13)	(519,557)	
Qualification of Enterprises (Notes 13 and 14)	<u>(9,845,495)</u>	
FY 2007-08 Adjusted Fiscal Year Spending Limitation	<u>\$ 8,818,766,120</u>	
Allowable TABOR Growth Rate (Note 12)		4.1%
FY 2008-09 Unadjusted Fiscal Year Spending Limit		9,180,335,531
Disqualification of Enterprises (Notes 13 and 14)		<u>23,505,808</u>
FY 2008-09 Adjusted Fiscal Year Spending Limit		9,203,841,339
Less Fiscal Year 2008-09 Nonexempt District Revenues		<u>(9,102,353,811)</u>
Amount (Over)Under Adjusted Fiscal Year Spending Limit		101,487,528
Under(Over) Statement of Prior Years' Refunds Carried Forward to Next Refund Year (Note 15)		2,899,667
FY2004-05 Amount in Excess of the Limit - Not Refunded at June 30, 2009 (Note 6)		705,716

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, 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 (See Note 9 below).

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 Tolling Enterprise,
- ◆ Statewide Transportation Enterprise,
- ◆ Statewide Bridge 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 institutions 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 under 10 percent of its revenue in grants from all Colorado state and local governments combined. In Fiscal Year 2008-09 both Fort Lewis College and Adams State College received more than ten percent of their annual revenue in a transfer from the Capital Construction Fund. Thus neither institution qualified as a TABOR exempt enterprise (See Note 14). The State Fair Authority remained disqualified for Fiscal Year 2008-09. Mesa State College was fully designated as an enterprise per previous board action but was disqualified in Fiscal Year 2007-08 and Fiscal Year 2008-09 as it received more than 10 percent 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 2008-09 totals \$273,070,614. At June 30, 2009, the financial net assets of the following funds were applied to the reserve, up to the limits set in the Long Appropriations Act:

- ♦ Major Medical Fund – \$94,000,000.
- ♦ Wildlife Cash Fund – \$100,000,000. The Wildlife Cash Fund’s net assets not invested in capital assets (net of related debt) total \$21,281,688. The remaining \$78,718,312 of the Wildlife portion of the reserve comes from the capital assets recorded in the Wildlife Cash Fund.

The 2008 legislative session Long Appropriations Act, as amended by Senate Bill 09-204, designated up to \$114,500,000 of State properties as the remainder of the Fiscal Year 2008-09 emergency reserve. The estimate of the needed reserve was based on the December 2008 revenue estimate prepared by Legislative Council. Because the revenues subject to the TABOR reserve requirement were significantly lower than estimated, the amount designated for the reserve was \$35,429,386 more 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 to be liquidated to meet the constitutional requirement.

NOTE 6. STATUS OF REFUNDING

When refunds are required they are distributed to individual State taxpayers based on statutory mechanisms as discussed in Note 16. 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 2008-09 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 2008-09, the same \$705,716 of that liability remained

to be refunded. Since Referendum C precludes 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 TABOR and the related implementing statutes.

NOTE 7. OTHER SOURCES AND ADDITIONS

The \$386.8 million reported in this line item primarily comprises: \$272.7 million of pension and other employee benefit trust fund investment earnings and additions by participants; \$95.7 million of accounts payable reversions, reimbursements of prior year expenditures, and other miscellaneous exempt revenues; and \$1.8 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 \$11.5 million of capital lease financing and \$5.1 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 \$179,019 and \$158,846 from this exempt source in Fiscal Years 2008-09 and 2007-08, 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 \$786,390 and \$254,997 including interest and unrealized gains/losses from this revenue source in Fiscal Years 2008-09 and 2007-08, 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 \$479,218,779 and \$428,847,182 of tax revenues, interest, and unrealized gains/losses, being excluded from fiscal year spending in Fiscal Years 2008-09 and 2007-08, respectively.

- ◆ 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 \$159,965,679 and \$164,803,016 of tax revenues, interest, transfers, and

unrealized gains/losses from this exempt source in Fiscal Year 2008-09 and 2007-08, respectively.

- ◆ In the 2005 general election, Colorado voters approved Referendum C – a measure referred to the voters by the Legislature. The referendum allows the State to retain revenues in excess of the TABOR limit for a period of five years, and it states that the excess revenue retained qualifies as a voter approved revenue change. However, in order to determine the amount retained, the Schedule of Required Computations must include 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 below).

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 shall be 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 constitutes 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 qualification and disqualification of enterprises. This provision effectively disables 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 is created within the General Fund to consist of the retained revenues for each fiscal year. 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 shall 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 shall include the amount of revenues that the State is authorized to retain and expend.

The Schedule of Required Computations shows that the State retained and expended \$1,169,428,121 of excess revenues as allowed by Referendum C in Fiscal Year 2007-08. There was no excess revenue in Fiscal Year 2008-09 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 individual funds reported in the CAFR are Special Revenue Funds for which the balances are not intended to be 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, increased the State TABOR district fund balances in total by \$53,732,583 as follows.

The Department of Corrections decreased beginning net assets of the district by \$590,258 when the Department of Corrections recorded an adjustment related to its Pollution Remediation Obligation that existed prior to July 1, 2008. The adjustment was related to implementation of a new Governmental Accounting Standards Board accounting and financial reporting Standard.

The Department of Public Health and Environment decreased beginning net assets of the district by \$129,302 when it restated beginning net assets due to pollution remediation obligation that existed prior to July 1, 2008.

The Division of Information Technology in the Department of Personnel & Administration increased beginning net assets of the district by \$29,863,816 when they transferred assets to the Governor's Office of Information and Technology including the General Government Computer Center, Technology Management Unit, and Digital Trunk Radio assets. The transfer was part of the statewide consolidation of the Information Technology function. This transfer increased the beginning net asset balance of the district because these assets, previously reported only on the Government Wide financial statements and not considered part of the TABOR district, were transferred to an internal service fund included in the district.

The beginning district fund balance on the Fiscal Year 2008-09 TABOR Schedule of Computations was decreased by \$566,925 to remove the effects of a receivable inappropriately recorded in the TABOR district and offset by a payable in a qualified TABOR enterprise by the Auraria Higher Education Institution (AHEC) in Fiscal Year 2007-08. Because the AHEC TABOR district balances and the AHEC TABOR enterprise balances are reported in the same column on the State's financial statements, no adjustment was needed or shown on those statements.

The beginning net assets of the district decreased by \$4,893,152 due to the removal of annuity balances from the State's deferred compensation plan assets reported in the Pension and Benefit Trust Fiduciary Funds on the State's financial statements. The annuities had been purchased by plan members but were not plan assets and should not have been reflected on the plan's financial statements.

The beginning net assets of the district increased by \$30,048,404 as a result of the reclassification of unclaimed property assets and liabilities from several Private Purpose Trust funds to new Special Revenue Funds. The change was mandated by Generally Accepted Accounting Principles (GAAP) due to use of the trust fund resources to address revenue shortfalls in the General Fund. It resulted in a district net asset increase because related liabilities are reported in Private Purpose Trust funds but not in Special Revenue Funds. The change increased the fund balance of the Governmental Funds by \$214,204,563 and decreased the net assets of the Fiduciary funds by \$184,156,159 on the State's financial statements.

NOTE 12. SOURCES OF TABOR GROWTH LIMIT

After adjustment for voter approved revenue changes, 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 Office of State Planning and Budgeting provided the 4.1 percent allowable growth rate, which comprises a 1.9 percent increase for population growth (calendar year 2007) and a 2.2 percent increase for inflation.

NOTE 13. SPENDING LIMIT ADJUSTMENTS

In Fiscal Year 2008-09, the State adjusted the spending limit base before applying the 4.1 percent allowable growth rate as follows:

- ♦ The Fiscal Year 2007-08 Fiscal Year Spending Limit was decreased by \$519,557 to remove Fiscal Year 2007-08 nonexempt revenue recorded by State agencies that received payments from Fort Lewis College and Adams State College, which were disqualified as TABOR enterprises in Fiscal Year 2008-09. This adjustment is necessary so that the revenue counted in the Fiscal Year 2007-08 Fiscal Year Spending Limit is comparable to the Fiscal Year 2008-09 Nonexempt District Revenues. Because Fort Lewis College and Adams State College are not qualified TABOR enterprises in Fiscal Year 2008-09, payments received by State agencies from Fort Lewis College and Adams

State College are internal to the State's TABOR district, and therefore, are not counted against the Fiscal Year 2008-09 Fiscal Year Spending Limit. This adjustment removes from the base the comparable revenues received by State agencies in Fiscal Year 2007-08 and counted as TABOR nonexempt revenue during that fiscal year.

- ♦ The Fiscal Year 2007-08 Fiscal Year Spending Limit was decreased by \$9,845,495 in order to make the requalification of the Western State College as a TABOR enterprise neutral in regard to measuring excess fiscal year spending in Fiscal Year 2008-09. Western State College was a disqualified TABOR enterprise in Fiscal Year 2007-08, and therefore, its revenues were counted in that year and were reflected in the base prior to this adjustment. In order for the two years to be comparable, Western State College's Fiscal Year 2007-08 nonexempt revenues have been subtracted from the fiscal year spending limit.

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).

As discussed in Note 13 above, Fort Lewis College and Adams State College disqualified as TABOR enterprises in Fiscal Year 2008-09. The dollar amounts of the base adjustments related to these changes to the State's TABOR district are listed in Note 13.

The qualification and disqualification of TABOR enterprises affects the Computation of District Fund Balance Changes, which shows a net increase in fund balance of \$104,085,261. The entire amount of the net increase is related to the disqualification of Fort Lewis College (increase \$91,405,748) and Adams State College (increase \$49,436,003) as TABOR enterprises and the requalification of Western State College (decrease \$36,756,490) as a TABOR enterprise. Mesa State College was disqualified as a TABOR enterprise in Fiscal Year 2007-08 and remained disqualified in Fiscal Year 2008-09 as it received more than 10 percent in State support.

NOTE 15. TREATMENT OF ERROR CORRECTIONS UNDER REFERENDUM C

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 2008-09, 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.

NOTE 16. FUTURE REFUNDS

In the 1999 regular session, the General Assembly enacted mechanisms to refund Fiscal Year 1998-99 and subsequent years' excess revenue. In succeeding sessions the General Assembly enacted additional mechanisms to refund the excess revenue. The mechanisms become active at different thresholds depending on the total amount of required TABOR refund. The thresholds are indexed to reflect the growth in Colorado personal income and are calculated by the Department of Revenue. The growth in personal income for the relevant years (2007 to 2008) was 4.93 percent. The mechanisms are as follows:

1. An earned income tax credit of 10 percent of the federal tax credit. This is available when the TABOR refund is \$84.8 million or more.
2. An income tax deduction for charitable contributions in excess of \$500 made by individuals who claim the standard deduction. The TABOR threshold is \$119.0 million.
3. An income tax credit of the lesser of \$500 or 100 percent of non-reimbursed foster care expenses for foster parents. This is available if the TABOR refund is \$285.4 million or more.
4. A business personal property tax credit, which is available when the TABOR refund is \$287.9 million or more.
5. An income tax credit that is a percentage of the federal childcare credit. The TABOR threshold is \$455.2 million.
6. A 50 percent sales tax credit for the sale, purchase, storage, use, or consumption of tangible personal property used directly and predominantly for research and development in Colorado. The TABOR threshold is \$511.7 million.

7. A reduction in the annual registration fees for motor vehicles and a 25 percent reduction in the fees for trucks, truck tractors, and other vehicles. The TABOR threshold is \$518.0 million.
8. An income tax credit for contributions to high technology scholarships. The TABOR threshold is \$518.0 million.
9. Interest, dividend, and capital gains exclusion up to \$1,500 for individuals and \$3,000 for couples in interest, dividends, and capital gains excludable from State income taxes beginning January 1, 2001. The TABOR threshold is \$549.1 million.
10. A sales tax exemption for certain pollution control devices. The TABOR threshold is \$549.1 million.
11. A sales tax refund when the sales tax rate exceeds 0.01 percent and is imposed on new or used commercial trucks or other vehicles that are used in interstate commerce and have a gross weight of more than 26,000 pounds. The TABOR threshold is \$549.1 million.
12. An income tax credit for eligible agricultural value-added cooperatives. The TABOR threshold is \$570.9 million.
13. An income tax credit for the cost of health benefit plans not paid by the employer or deducted from the individual's federal adjusted gross income. The TABOR threshold is \$627.6 million.
14. 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 the passage of Referendum C, there is no refund in Fiscal Year 2008-09, and therefore, none of the refund mechanisms discussed above are active.

Schedule of TABOR Revenue
(Dated September 30, 2009)



STATE OF COLORADO

Sally Symanski, CPA
State Auditor

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Legislative Services Building
200 East 14th Avenue
Denver, Colorado 80203-2211

September 30, 2009, and
March 4, 2010, see explanatory paragraph

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 Constitution (TABOR)*, as of June 30, 2009, 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, 2009 and 2008. 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 2009 *Schedule of TABOR Revenue* report, dated September 30, 2009, 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, 2009 between October 2009 and March 4, 2010.

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, 2009 and 2008, in conformity with accounting principles generally accepted in the United States of America.

**STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
SCHEDULE OF TABOR REVENUE**

	Fiscal Year 2009	Fiscal Year 2008	Increase (Decrease)	2008 to 2009 % Change
Individual Income Tax, Net	\$ 3,999,088,379	\$ 4,548,574,979	\$ (549,486,600)	-12.1%
Corporate Income Tax, Net	265,213,739	473,609,845	(208,396,106)	-44.0%
Fiduciary Income Tax, Net	21,608,476	51,515,790	(29,907,314)	-58.1%
TOTAL INCOME TAX	4,285,910,594	5,073,700,614	(787,790,020)	-15.5%
Sales Tax, Net	1,961,303,729	2,161,157,642	(199,853,913)	-9.2%
Use Tax, Net	176,720,416	191,274,345	(14,553,929)	-7.6%
Tobacco Products Tax, Net	56,612,886	57,619,675	(1,006,789)	-1.7%
Alcoholic Beverages Tax, Net	35,563,088	36,274,631	(711,543)	-2.0%
Other Excise Taxes, Net	202,313	224,732	(22,419)	-10.0%
TOTAL EXCISE TAX	2,230,402,432	2,446,551,025	(216,148,593)	-8.8%
Fuel and Transportation Taxes, Net	541,592,154	579,416,005	(37,823,851)	-6.5%
Employment Taxes, Net	379,757,620	416,939,260	(37,181,640)	-8.9%
Severance Taxes, Net	319,057,785	151,749,595	167,308,190	110.3%
Insurance Taxes, Net	238,686,387	246,536,132	(7,849,745)	-3.2%
Gaming and Other Taxes, Net	97,367,242	112,786,109	(15,418,867)	-13.7%
Estate and Inheritance Taxes, Net	23,707	183,425	(159,718)	-87.1%
TOTAL OTHER TAXES	1,576,484,895	1,507,610,526	68,874,369	4.6%
Motor Vehicle Registrations	191,791,827	194,101,564	(2,309,737)	-1.2%
Business Licenses and Permits	115,384,772	104,441,384	10,943,388	10.5%
Other Charges for Services	42,006,946	25,843,162	16,163,784	62.5%
General Government Service Fees	40,504,873	34,743,147	5,761,726	16.6%
Health Service Fees	39,947,249	20,220,606	19,726,643	97.6%
Nonbusiness Licenses and Permits	38,995,737	38,895,101	100,636	0.3%
Educational Fees	32,398,149	30,181,754	2,216,395	7.3%
Driver's Licenses	22,718,687	21,883,814	834,873	3.8%
Certifications and Inspections	20,018,840	20,181,203	(162,363)	-0.8%
Public Safety Service Fees	6,182,016	6,425,187	(243,171)	-3.8%
Child Welfare Service Fees	732,090	285,085	447,005	156.8%
TOTAL LICENSES, PERMITS, AND FEES	550,681,186	497,202,007	53,479,179	10.8%
Court and Other Fines	176,505,797	142,490,786	34,015,011	23.9%
Interest and Investment Income	156,218,711	215,827,482	(59,608,771)	-27.6%
Rents and Royalties	43,000,753	39,644,689	3,356,064	8.5%
Local Governments and Authorities	32,757,708	37,714,619	(4,956,911)	-13.1%
Miscellaneous Revenue	18,060,911	18,705,908	(644,997)	-3.4%
Higher Education Auxiliary Sales and Services	5,190,562	4,932,828	257,734	5.2%
Sales of Products	3,634,454	3,963,323	(328,869)	-8.3%
TOTAL OTHER REVENUE	435,368,896	463,279,635	(27,910,739)	-6.0%
TOTAL TABOR REVENUE EXCLUDING FISCAL YEAR 2009 CHANGES	9,078,848,003	9,988,343,807	(909,495,804)	-9.1%
Western State College*	-	10,215,486	(10,215,486)	N/A
Fort Lewis College and Adams State College**	23,505,808	-	23,505,808	N/A
TOTAL TABOR REVENUE	\$ 9,102,353,811	\$ 9,998,559,293	\$ (896,205,482)	-9.0%

*Western State College qualified for TABOR enterprise status in Fiscal Year 2009.

**Fort Lewis College and Adams State College did not qualify for TABOR enterprise status in Fiscal Year 2009.

Appendices

Appendix A

Description of Revenue Categories

Category	Description
INCOME TAX	
Individual Income Tax, Net	Tax paid on wages, unearned income, and other income of individuals, net of refunds on property tax credits, income tax intercepts (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	Tax 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	Tax 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
Severance Taxes, Net	Mineral extraction taxes, net of refunds on coal, oil and gas, molybdenum, and metallic minerals net of refunds
Insurance Taxes, Net	Taxes on insurance premiums collected by insurance companies 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)
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

Category	Description
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)
Health Service Fees	Fees collected for health services, including laboratory test fees, genetic testing, vital records fees, and children's health plan premiums
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, motorcycle operator safety training, waste tire recycling, etc.
Educational Fees	Conference fees and teacher certification fees collected primarily by the Department of Education
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
Child Welfare Service Fees	Child abuse registry fees
OTHER REVENUE	
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 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
Higher Education Auxiliary Sales and Services	Revenue from library fees, internal service center fees, athletic camp fees
Sales of Products	Sales of publications, maps, materials, and supplies

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.
Income Tax Deduction for Charity (January 1, 2001 amended July 1, 2005)	When the excess TABOR revenue exceeds \$100 million annually adjusted by personal income growth rate for Colorado, an income tax credit for charitable contributions in excess of \$500 for individuals who claim the basic standard deduction on their federal return is allowed. In prior years, this limit was \$350 million.
Business Personal Property Tax Credit (July 1, 1999)	When the excess TABOR revenue exceeds \$170 million annually adjusted by personal income growth rate for Colorado, a personal property tax credit is allowed for 16 percent of the aggregate amount of personal property tax paid, plus the lesser of 84 percent of the amount paid or \$588.
Income Tax Credit for Foster Parents (January 1, 2001)	When the excess TABOR revenue exceeds \$200 million annually adjusted by personal income growth rate for Colorado, an income tax credit for providing foster care to children under 18 years of age is allowed. The credit is equal to the lesser of 100 percent of the nonreimbursed expenses of providing foster care to children or \$500.

Mechanism (Effective Date)	Description
Child Care Credits (January 1, 2000)	When the excess TABOR revenue exceeds \$290 million annually adjusted by personal income growth rate for Colorado, a credit of 20 or 70 percent of an individual's federal child care credits and a child tax credit of \$300 for each qualifying child may be claimed. In-home child care providers may claim credits for their own children that qualify. The credit allowed depends on the taxpayer's income level, with a maximum allowable income of \$64,000.
Motor Vehicle Registration Fees (July 1, 2001)	When the excess TABOR revenue exceeds \$330 million annually adjusted by personal income growth rate for Colorado, there is a reduction in the annual registration fees for passenger vehicles, trucks, truck tractors, and certain trailers. Revenue lost to the Highway Users Tax Fund is replaced by General Fund revenue.
High Technology Scholarships (January 1, 2001)	When the excess TABOR revenue exceeds \$330 million annually adjusted by personal income growth rate for Colorado, an income tax credit for 25 percent of the contributions made to the Colorado high technology scholarship program is allowed. The income tax credit may not exceed 15 percent of income taxes due.
Income Tax Modification for Interest, Dividends, and Capital Gains (January 1, 2000)	When the excess TABOR revenue exceeds \$350 million annually adjusted by personal income growth rate for Colorado, taxpayers may deduct the lesser of \$1,500 or their total amount of interest, dividend, and capital gains income on their state income tax return. Married taxpayers will be allowed to deduct up to \$3,000 of such income.

Mechanism (Effective Date)	Description
Pollution Control Providers (July 1, 1999)	When the excess TABOR revenue exceeds \$350 million annually adjusted by personal income growth rate for Colorado, certain pollution control equipment is exempt from state sales and use tax, including solid waste, noise pollution, wind power, solar and thermal generation equipment.
Interstate Commerce Sales and Use Tax Exemption (January 1, 2001)	When the excess TABOR revenue exceeds \$350 million annually adjusted by personal income growth rate for Colorado, a refund for sales taxes paid above a rate of 0.01 percent that are imposed on new or used commercial trucks, truck tractors, tractors, semi trailers, or vehicles used in interstate commerce with a gross vehicle weight in excess of 26,000 pounds is allowed.
Tangible Personal Property used for Research and Development (July 1, 2002)	When the excess TABOR revenue exceeds \$358.4 million annually adjusted by personal income growth rate for Colorado, a 50 percent sales tax credit for the sale, purchase, storage, use, or consumption of tangible personal property used in Colorado directly for research and development is allowed.
Agriculture Value-Added Development (January 1, 2001)	When the excess TABOR revenue exceeds \$400 million annually adjusted by personal income growth rate for Colorado, an income tax credit to eligible agricultural value-added cooperatives for new or ongoing rural agricultural business projects is allowed. The credit is equal to the lesser of 50 percent of the member's investment or \$15,000, up to an aggregate amount of \$1.5 million per project and \$4 million per year.

Mechanism (Effective Date)	Description
Income Tax Credit for Cost of Health Benefits (January 1, 2000)	When the excess TABOR revenue exceeds \$400 million annually adjusted by personal income growth rate for Colorado, an income tax credit for health benefit plans not paid for by an employer or deducted from federal adjusted gross income is allowed. The credit is capped at \$500, with qualifying income capped at \$25,000 for individuals without dependents, \$30,000 for joint filers without dependents, and \$35,000 for individual or joint filers with dependents. The credit is only available to the extent of the individual's tax liability.
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 2009)

Refunding Mechanism	Original Threshold	Fiscal Year 2009 Threshold*
Sales Tax Refund	\$ 0	\$ 0
Earned Income Credit	\$ 50,000,00	\$ 84,800,000
Income Tax Deduction for Charity	\$ 100,000,000	\$ 119,000,000
Business Personal Property Tax Credit	\$ 170,000,000	\$ 287,900,000
Income Tax Credit for Foster Parents	\$ 200,000,000	\$ 285,400,000
Child Care Credits	\$ 290,000,000	\$ 455,200,000
Motor Vehicle Registration Fees	\$ 330,000,000	\$ 518,000,000
High Technology Scholarships	\$ 330,000,000	\$ 518,000,000
Interest, Dividends, and Capital Gains	\$ 350,000,000	\$ 549,100,000
Pollution Control Provisions	\$ 350,000,000	\$ 549,100,000
Interstate Commerce Sales and Use Tax Exemption	\$ 350,000,000	\$ 549,100,000
Tangible Personal Property Used for R & D	\$ 358,400,000	\$ 511,700,000
Agriculture Value-Added Development	\$ 400,000,000	\$ 570,900,000
Income Tax Credit for Cost of Health Benefits	\$ 400,000,000	\$ 627,600,000
* Thresholds are adjusted annually by the personal income growth rate for Colorado.		
Source: Office of the State Auditor analysis of the Department of Revenue data.		

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