

# **Schedule of TABOR Revenue**

**September 2010**



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STATE AUDITOR**

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## STATE OF COLORADO

Sally Symanski, CPA  
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Denver, Colorado 80203-2211

September 15, 2010

Members of the Legislative Audit Committee:

This report contains the results of the financial audit of the *Schedule of TABOR Revenue* as of June 30, 2010 and 2009, as certified by the State Controller on September 1, 2010. 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 pursuant to Section 24-77-106.5, C.R.S., which requires the State Auditor to conduct an audit of TABOR revenue. The audited numbers are as follows:

Fiscal Year 2010 Revenue	\$8,567,497,396
Less: Fiscal Year 2010 TABOR Limit	<u>(9,183,424,913)</u>
Fiscal Year 2010 Revenue Under the Limit	<u>\$ (615,927,517)</u>

Subsequent to the State Controller's certification of the *Schedule of TABOR Revenue*, one department submitted adjustments that affected current and prior year TABOR revenues. One adjustment increased Fiscal Year 2009 TABOR revenue, therefore increasing the Fiscal Year 2010 TABOR limit by \$359,039. Additional adjustments decreased Fiscal Year 2010 TABOR revenue by a net amount of \$31,544. None of these adjustments are reflected in the TABOR revenue for Fiscal Year 2010 reported in the attached *Schedule of TABOR Revenue* dated September 1, 2010, or in this report. These adjustments will be reflected in the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* report that will be issued after the completion of the State's Comprehensive Annual Financial Report in December 2010.

*Sally Symanski*

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# TABOR Revenue

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## 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 pursuant to Section 24-77-106.5, C.R.S., which requires that the State Auditor conduct an audit of the *Schedule of TABOR Revenue*. The audit was conducted in accordance with generally accepted auditing standards. We performed our audit work during the period August 2010 through September 2010.

The purpose and scope of the audit were to:

- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2010 and 2009.
- Evaluate compliance with regulatory provisions.

We noted no instances of noncompliance for the fiscal years ended June 30, 2010 and 2009; however adjustments were received affecting TABOR revenue for both fiscal years.

## Description and Background

The Taxpayer's Bill of Rights (TABOR) was added as Article X, Section 20, of the Colorado Constitution in the November 1992 general election. TABOR limits increases in the State's revenue to the annual inflation rate plus the percentage change in Colorado's population. The State Controller annually prepares a *Schedule of TABOR Revenue* and a *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)*. These reports are audited as part of the annual financial audit. This report contains only the results of our audit of the *Schedule of TABOR Revenue* certified by the State Controller on September 1, 2010. The *Schedule of Computations* will be completed after the issuance of the State's audited financial statements, which is scheduled for December 2010.

## Fiscal Year 2010 TABOR Revenue

For Fiscal Year 2010, TABOR revenue was \$8,567,497,396, which was less than the TABOR limit of \$9,183,424,913. Therefore, there is no TABOR refund for Fiscal Year 2010.

Prior to the Office of the State Controller’s certification on September 1, there were adjustments that decreased TABOR revenue by a net amount of \$385,532. These adjustments were posted by the Office of the State Controller and are reflected in the \$8,567,497,396 TABOR revenues certified on September 1, 2010.

The following shows the TABOR revenue, TABOR revenue limit, and the revenue under the limit for Fiscal Year 2010.

Fiscal Year 2010 Revenue	\$8,567,497,396
Less: Fiscal Year 2010 TABOR Limit	<u>(9,183,424,913)</u>
Fiscal Year 2010 Revenue Under the Limit	<u>\$ (615,927,517)</u>

## 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 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 annually for five 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 2010 legislative session.

In prior years, voters have approved changes that lower revenue subject to TABOR. The table below shows all voter approved changes, the year of voter approval, and the related decrease in Fiscal Year 2010 and 2009 TABOR revenues:

<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 2010</b>	<b>Fiscal Year 2009</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 Corporate income taxes <u>Fiduciary income taxes</u> Total for Amendment 23	     \$305,595,000 22,025,000 <u>1,333,000</u> \$328,953,000	     \$311,138,000 27,276,000 <u>1,486,000</u> \$339,900,000
<b>Amendment 14 (1998)</b> Assesses a fee on housed commercial swine feeding operations.	\$274,660	\$179,018
<b>Amendment 20 (2000)</b> Assesses an application fee to obtain a Medicinal Marijuana identification card.	\$4,621,991	\$773,121
<b>Amendment 35 (2004)</b> Assesses a statewide tax on cigarette and tobacco products.	\$149,782,824	\$157,508,432
<b>Total Reductions in TABOR Revenue</b>	<b>\$483,632,475</b>	<b>\$498,360,571</b>
<b>Source:</b> 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. House Bill 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. During our Fiscal Year 2010 audit no overrefund was identified in the previous Fiscal Years 2006 through 2009 that would affect the TABOR revenue in excess of the limit for Fiscal Year 2010.

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 were identified that increased the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2010, 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 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 and changes 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 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.

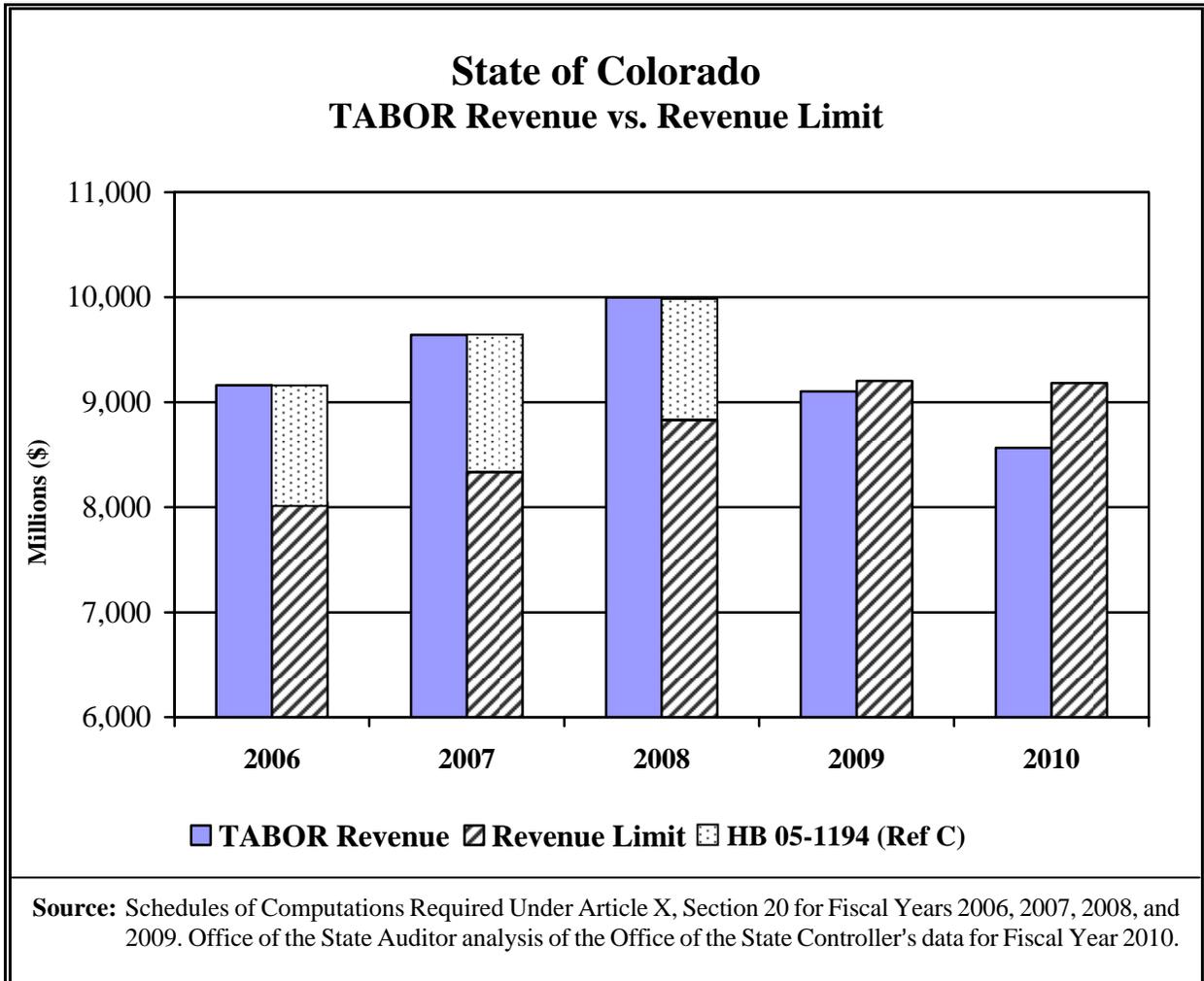
Commencing in Fiscal Year 2011, the State is allowed to retain and spend the amount of revenue in excess of the spending limit and up to the “Excess State Revenues Cap.”

The “Excess State Revenues Cap” is defined as the highest total state 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.

## **Revenue Limit**

We reviewed the State Controller's computation of the TABOR revenue limit. For Fiscal Year 2010, the TABOR revenue limit is \$9,183,424,913.

The chart on the following page compares the revenue limit computed each year to the TABOR revenue from Fiscal Year 2006 to Fiscal Year 2010. As of Fiscal Year 2011 the TABOR limit will be calculated on the basis of the Excess State Revenue 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 decreased by 0.5 percent in Fiscal Year 2010, while cash funds, excluding the impact of TABOR enterprise disqualifications, decreased by 3.5 percent in Fiscal Year 2010. Overall, TABOR revenue decreased by 5.9 percent in Fiscal Year 2010.

The following tables show the major sources of revenue in Fiscal Year 2010, with comparative figures for 2009, separated by general-funded and cash-funded revenue. The *Schedule of TABOR Revenue* on page 12 combines the general-funded and cash-funded revenue presented on pages 8 and 9, respectively.

**State of Colorado**  
**Sources of TABOR Revenue**  
**General-Funded Revenue**  
**June 30, 2010**

	<b>Fiscal Year 2010</b>	<b>Fiscal Year 2009</b>	<b>2009 to 2010 % Change</b>
<b>GENERAL-FUNDED Revenue</b>			
Individual Income Tax, Net <sup>1</sup>	\$3,768,442,515	\$3,999,088,379	-5.8%
Sales and Use Tax, Net	1,979,100,583	1,890,012,984	4.7%
Corporate Income Tax, Net <sup>1</sup>	350,067,551	265,213,739	32.0%
Insurance Taxes, Net	186,921,799	192,412,740	-2.9%
Tobacco Products Tax, Net	56,933,028	56,612,391	0.6%
Miscellaneous Revenue <sup>2</sup>	47,269,102	2,038,194	2219.2%
Alcoholic Beverages Tax, Net	35,438,490	34,970,318	1.3%
Court and Other Fines	27,622,410	33,902,092	-18.5%
Interest and Investment Income	9,970,623	9,182,485	8.6%
Fiduciary Income Tax, Net <sup>1</sup>	8,405,928	21,608,476	-61.1%
Business Licenses and Permits	6,681,761	4,580,438	45.9%
General Government Service Fees	662,497	261,942	152.9%
Gaming and Other Taxes	559,661	1,198,260	-53.3%
Other General Revenue <sup>3</sup>	441,832	182,515	142.4%
<b>TOTAL GENERAL-FUNDED REVENUE</b>	<b>\$6,478,517,780</b>	<b>\$6,511,264,953</b>	<b>-0.5%</b>

**Source:** Office of the State Auditor 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 SB 09-279 from the Colorado Collegeinvest Scholarship Trust Fund of \$15 million for the Achievement Scholarship Trust Fund, and a one-time transfer under HB 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 Products, Child Welfare Service Fees, and Other Charges for Services.

**State of Colorado**  
**Sources of TABOR Revenue (continued)**  
**Cash-Funded Revenue**  
**June 30, 2010**

	<b>Fiscal Year 2010</b>	<b>Fiscal Year 2009</b>	<b>2009 to 2010 % Change</b>
<b>CASH-FUNDED REVENUE</b>			
Fuel and Transportation Taxes, Net	\$ 544,539,367	\$ 541,592,154	0.5%
Health Service Fees	342,512,247	39,947,249	757.4%
Motor Vehicle Registrations	211,202,590	191,791,827	10.1%
Court and Other Fines	173,894,041	141,048,987	23.3%
Other Charges For Services	134,800,948	41,735,775	223.0%
Business Licenses and Permits	116,562,088	110,742,334	5.3%
Gaming and Other Taxes	99,712,771	96,168,982	3.7%
Interest and Investment Income	83,962,778	118,383,115	-29.1%
Rents and Royalties	45,421,767	43,070,060	5.5%
Nonbusiness Licenses and Permits	45,356,585	38,865,417	16.7%
General Government Service Fees	40,434,272	40,242,931	0.5%
Insurance Taxes	39,320,536	46,273,647	-15.0%
Severance Taxes	36,081,312	319,057,785	-88.7%
Local Governments and Authorities	28,123,594	32,837,510	-14.4%
Driver's Licenses	25,304,628	22,718,687	11.4%
Sales and Use Tax, Net	24,844,470	248,011,161	-90.0%
Certifications and Inspections	19,636,038	19,997,417	-1.8%
Employment Taxes	19,329,109	19,369,145	-0.2%
Educational Fees	18,144,849	19,101,968	-5.0%
Miscellaneous Revenue	17,879,721	16,012,426	11.7%
Public Safety Service Fees	11,691,373	6,182,016	89.1%
Other Cash-Funded Revenue <sup>1</sup>	5,175,328	5,154,822	0.4%
Higher Education Auxiliary Sales and Services	5,049,204	6,566,342	-23.1%
<b>TOTAL CASH-FUNDED REVENUE</b>	<b>2,088,979,616</b>	<b>2,164,871,757</b>	<b>-3.5%</b>
<b>EXCLUDING FISCAL YEAR 2010 CHANGES</b>			
Mesa State College and Adams State College <sup>2</sup>	-	35,296,939	N/A
Unemployment Insurance Trust Fund <sup>3</sup>	-	390,920,162	N/A
<b>TOTAL CASH-FUNDED REVENUE</b>	<b>2,088,979,616</b>	<b>2,591,088,858</b>	<b>-19.4%</b>
<b>TOTAL NONEXEMPT REVENUE</b>	<b>\$ 8,567,497,396</b>	<b>\$ 9,102,353,811</b>	<b>-5.9%</b>

**Source:** Office of the State Auditor 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> Mesa State College and Adams State College qualified for TABOR enterprise status in Fiscal Year 2010.

<sup>3</sup> Under HB 09-1363 the Unemployment Insurance Trust Fund qualified for TABOR enterprise status in Fiscal Year 2010.

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# **Financial Information**

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## STATE OF COLORADO

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September 15, 2010

### 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, 2010, 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, 2010 and 2009. The *Schedule of TABOR Revenue* is the responsibility of the Office of the State Controller. Our responsibility is to express an opinion on this schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the *Schedule of TABOR Revenue* is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audits provide a reasonable basis for our opinion.

The accompanying *Schedule of TABOR Revenue* was prepared for the purpose of demonstrating compliance with state fiscal policies relating to Article X, Section 20 of the State Constitution (TABOR) with regard to TABOR revenue. The schedule has been prepared in conformity with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and TABOR, in which case the provisions of said constitutional provision shall control. This schedule is not intended to be a complete presentation of the State's revenue.

During our audit testwork one department submitted adjustments that affected current and prior year TABOR revenues. One adjustment increased Fiscal Year 2009 TABOR revenue, increasing the Fiscal Year 2010 TABOR limit by \$359,039. Additional adjustments decreased Fiscal Year 2010 TABOR revenue by a net amount of \$31,544. As of the date of this report none of these adjustments are reflected in the TABOR revenue for Fiscal Year 2010 reported in the attached schedule dated September 1, 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, 2010 and 2009, in conformity with accounting principles generally accepted in the United States of America.

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

	Fiscal Year 2010	Fiscal Year 2009	Increase (Decrease)	2009 to 2010 % Change
Individual Income Tax, Net	\$ 3,768,442,515	\$ 3,999,088,379	\$ (230,645,864)	-5.8%
Corporate Income Tax, Net	350,067,551	265,213,739	84,853,812	32.0%
Fiduciary Income Tax, Net	8,405,928	21,608,476	(13,202,548)	-61.1%
<b>TOTAL INCOME TAX</b>	<b>4,126,915,994</b>	<b>4,285,910,594</b>	<b>(158,994,600)</b>	<b>-3.7%</b>
Sales Tax, Net	1,848,214,478	1,961,303,729	(113,089,251)	-5.8%
Use Tax, Net	155,730,576	176,720,416	(20,989,840)	-11.9%
Tobacco Products Tax, Net	56,933,426	56,612,886	320,540	0.6%
Alcoholic Beverages Tax, Net	36,048,242	35,563,088	485,154	1.4%
Other Excise Taxes, Net	273,173	202,313	70,860	35.0%
<b>TOTAL EXCISE TAX</b>	<b>2,097,199,895</b>	<b>2,230,402,432</b>	<b>(133,202,537)</b>	<b>-6.0%</b>
Fuel and Transportation Taxes, Net	544,539,367	541,592,154	2,947,213	0.5%
Insurance Taxes, Net	226,242,335	238,686,387	(12,444,052)	-5.2%
Gaming and Other Taxes, Net	100,272,432	97,367,242	2,905,190	3.0%
Severance Taxes, Net	36,081,312	319,057,785	(282,976,473)	-88.7%
Employment Taxes, Net	19,329,109	19,369,145	(40,036)	-0.2%
Estate and Inheritance Taxes, Net	183,806	23,707	160,099	675.3%
<b>TOTAL OTHER TAXES</b>	<b>926,648,361</b>	<b>1,216,096,420</b>	<b>(289,448,059)</b>	<b>-23.8%</b>
Health Service Fees	342,512,247	39,947,249	302,564,998	757.4%
Motor Vehicle Registrations	211,202,590	191,791,827	19,410,763	10.1%
Other Charges for Services	134,800,119	41,735,560	93,064,559	223.0%
Business Licenses and Permits	123,243,849	115,322,772	7,921,077	6.9%
Nonbusiness Licenses and Permits	45,567,600	38,995,737	6,571,863	16.9%
General Government Service Fees	41,096,769	40,504,873	591,896	1.5%
Driver's Licenses	25,304,628	22,718,687	2,585,941	11.4%
Certifications and Inspections	19,655,424	20,018,840	(363,416)	-1.8%
Educational Fees	18,144,849	19,101,968	(957,119)	-5.0%
Public Safety Service Fees	11,691,373	6,182,016	5,509,357	89.1%
Child Welfare Service Fees	768,836	732,090	36,746	5.0%
<b>TOTAL LICENSES, PERMITS, AND FEES</b>	<b>973,988,284</b>	<b>537,051,619</b>	<b>436,936,665</b>	<b>81.4%</b>
Court and Other Fines	201,516,451	174,951,079	26,565,372	15.2%
Interest and Investment Income	93,933,401	127,565,601	(33,632,200)	-26.4%
Miscellaneous Revenue	65,172,270	18,050,599	47,121,671	261.1%
Rents and Royalties	45,421,767	43,070,060	2,351,707	5.5%
Local Governments and Authorities	28,123,594	32,837,510	(4,713,916)	-14.4%
Higher Education Auxiliary Sales and Services	5,049,204	6,566,342	(1,517,138)	-23.1%
Sales of Products	3,528,175	3,634,454	(106,279)	-2.9%
<b>TOTAL OTHER REVENUE</b>	<b>442,744,862</b>	<b>406,675,645</b>	<b>36,069,217</b>	<b>8.9%</b>
<b>TOTAL TABOR REVENUE EXCLUDING FISCAL YEAR 2009 CHANGES</b>	<b>8,567,497,396</b>	<b>8,676,136,710</b>	<b>(108,639,314)</b>	<b>-1.3%</b>
Mesa State College and Adams State College <sup>1</sup>	-	35,296,939	(35,296,939)	N/A
Unemployment Insurance Trust Fund <sup>2</sup>	-	390,920,162	(390,920,162)	N/A
<b>TOTAL TABOR REVENUE</b>	<b>\$ 8,567,497,396</b>	<b>\$ 9,102,353,811</b>	<b>\$ (534,856,415)</b>	<b>-5.9%</b>

<sup>1</sup> Mesa State College and Adams State College qualified for TABOR enterprise status in Fiscal Year 2010.

<sup>2</sup> Under HB 09-1363 the Unemployment Insurance Trust Fund qualified for TABOR enterprise status in Fiscal Year 2010.

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# **Appendices**

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# Appendix A

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## Description of Revenue Categories

<b>Category</b>	<b>Description</b>
<b>INCOME TAX</b>	
Individual Income Tax, Net	Tax paid on wages, unearned income, and other income of individuals, net of refunds on property tax credits, income tax intercepts (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	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.
Other Excise Taxes, Net	Tax for occupational license renewals and certain penalties net of refunds.

<b>Category</b>	<b>Description</b>
<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.
Gaming and Other Taxes, Net	Taxes on gaming facilities based on percentages of income net of refunds.
Severance Taxes, Net	Mineral extraction taxes, net of refunds on coal, oil and gas, molybdenum, and metallic minerals 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.
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).

<b>Category</b>	<b>Description</b>
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.
Educational Fees	Conference fees and teacher certification fees collected primarily by the Department of Education.
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.
<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.
Miscellaneous Revenue	Revenue not included in another category
Rents and Royalties	Income from the lease of state land to private parties.
Local Governments and Authorities	Funds from counties, cities, special districts, etc., primarily in the form of grants.

**Category****Description**

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.

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# Appendix B1

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## 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.
Charitable Contribution Deduction (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 deduction 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 threshold was \$350 million.
Foster Parents Credit (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.
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.

<b>Mechanism (Effective Date)</b>	<b>Description</b>
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.
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.
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 Scholarship Program Credit (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.

<b>Mechanism (Effective Date)</b>	<b>Description</b>
Interest, Dividends, and Capital Gains Deduction (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.
Pollution Control Provisions (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 Refund (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.
Agriculture Value-Added Development Credit (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.

<b>Mechanism (Effective Date)</b>	<b>Description</b>
Cost of Health Benefits Credit (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 2010)

<b>Refunding Mechanism</b>	<b>Original Threshold</b>	<b>Fiscal Year 2010 Threshold*</b>
Earned Income Credit	\$ 50,000,000	\$ 84,800,000
Charitable Contributions Deduction	\$ 100,000,000	\$ 119,000,000
Foster Parents Credit	\$ 200,000,000	\$ 285,400,000
Business Personal Property Tax Credit	\$ 170,000,000	\$ 287,900,000
Child Care Credits	\$ 290,000,000	\$ 455,200,000
Tangible Personal Property used for Research and Development	\$ 358,400,000	\$ 511,700,000
Motor Vehicle Registration Fees	\$ 330,000,000	\$ 518,000,000
High Technology Scholarship Program Credit	\$ 330,000,000	\$ 518,000,000
Interest, Dividends, and Capital Gains Deduction	\$ 350,000,000	\$ 549,100,000
Pollution Control Provisions	\$ 350,000,000	\$ 549,100,000
Interstate Commerce Sales and Use Tax Refund	\$ 350,000,000	\$ 549,100,000
Agriculture Value-Added Development Credit	\$ 400,000,000	\$ 570,900,000
Cost of Health Benefits Credit	\$ 400,000,000	\$ 627,600,000
Sales Tax Refund	Remaining Excess	Remaining Excess
* 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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# Appendix C

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## TABOR History: Fiscal Years 1993 - 2005

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 spending 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 spending 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 which 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 spending limit will be the lesser of the current fiscal year's revenue or the prior fiscal year's TABOR spending 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 spending limitation for up to nine 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 spending 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, ten 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

**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 limit annually for five fiscal years starting with Fiscal Year 2006. 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 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 which assesses a statewide TABOR-exempt tax of 64 cents per pack of cigarettes and 20 percent on tobacco products. The Amendment requires that the revenues 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 one 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 limit on state fiscal year spending for 2002 through 2004 by applying the overrefunds after the spending limit is set. This resulted in an increase of \$92.7 million to the Fiscal Year 2005 spending limit.

In addition, the State Controller was required to reduce the Fiscal Year 2005 TABOR revenue in excess of the spending 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.

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