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

February 2011

OFFICE OF THE STATE AUDITOR

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Office of the State Auditor

Sally Symanski, CPA
State Auditor

February 16, 2011

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, 2010 dated February 16, 2011, and the *Schedule of TABOR Revenue,* as of June 30, 2010 and 2009, dated September 15, 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 the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR).* The final audited numbers are as follows:

Fiscal Year 2010 Revenue	$8,567,940,886
Less: Fiscal Year 2010 TABOR Limit	(9,183,797,371)
Fiscal Year 2010 Revenue Under the Limit	$ (615,856,485)

Sally Symanski

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Authority, Purpose, and Scope

This audit of TABOR revenue 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 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 2010 through February 2011.

The purpose and scope of the audit were to:

- Express an opinion on the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* as of June 30, 2010.

- Express an opinion on the *Schedule of TABOR Revenue* as of June 30, 2010 and 2009.

- Evaluate compliance with regulatory provisions.

We issued an unqualified opinion on the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* and on the *Schedule of TABOR Revenue*, and 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.

Fiscal Year 2010 TABOR Revenue

For Fiscal Year 2010, TABOR revenue was $8,567,940,886. During our testwork there were adjustments that increased TABOR revenue by a net amount of $443,490. These adjustments were posted by the Office of the State Controller subsequent to the issuance of the Fiscal Year 2010 Schedule of TABOR Revenue report, dated September 15, 2010, and are reflected in the $8,567,940,886. These adjustments were made to correct errors in the revenue categories of Local Governments and Authorities, Health Service Fees, General Government Service Fees, and Miscellaneous Revenue. These adjustments resulted in an increase in the Fiscal Year 2010 Revenue as reported in the *Schedule of TABOR Revenue* report from $8,567,497,396 to $8,567,940,886.

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

Fiscal Year 2010 Revenue	$8,567,940,886
Less: Fiscal Year 2010 TABOR Limit	(9,183,797,371)
Fiscal Year 2010 Revenue Under the Limit	$ (615,856,485)

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:

Impact of Voter Approved Revenue Changes on TABOR Revenue

Constitutional Amendment (Year of Approval)	**Decrease in TABOR Revenue**	
	Fiscal Year 2010	**Fiscal Year 2009**
Amendment 23 (2000) Creates the State Education Fund, which receives all state revenue collected from a tax of 1/3 of 1 percent of federal taxable income as follows:		
Individual income taxes	$305,595,000	$311,138,000
Corporate income taxes	22,025,000	27,276,000
Fiduciary income taxes	1,333,000	1,486,000
Total for Amendment 23	$328,953,000	$339,900,000
Amendment 14 (1998) Assesses a fee on housed commercial swine feeding operations.	$274,660	$179,018
Amendment 20 (2000) Assesses an application fee to obtain a Medicinal Marijuana identification card.	$4,621,991	$773,121
Amendment 35 (2004) Assesses a statewide tax on cigarette and tobacco products.	$149,782,824	$157,508,432
Amendment 50 (2008)[1] Assesses a tax on extended limited gaming	$9,915,588	-
Total Reductions in TABOR Revenue	$493,548,063	$498,360,571

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.

[1] The amount of tax assessed for Amendment 50 was not available from the Department of Revenue for the Schedule of TABOR Revenue report dated September 15, 2010.

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.

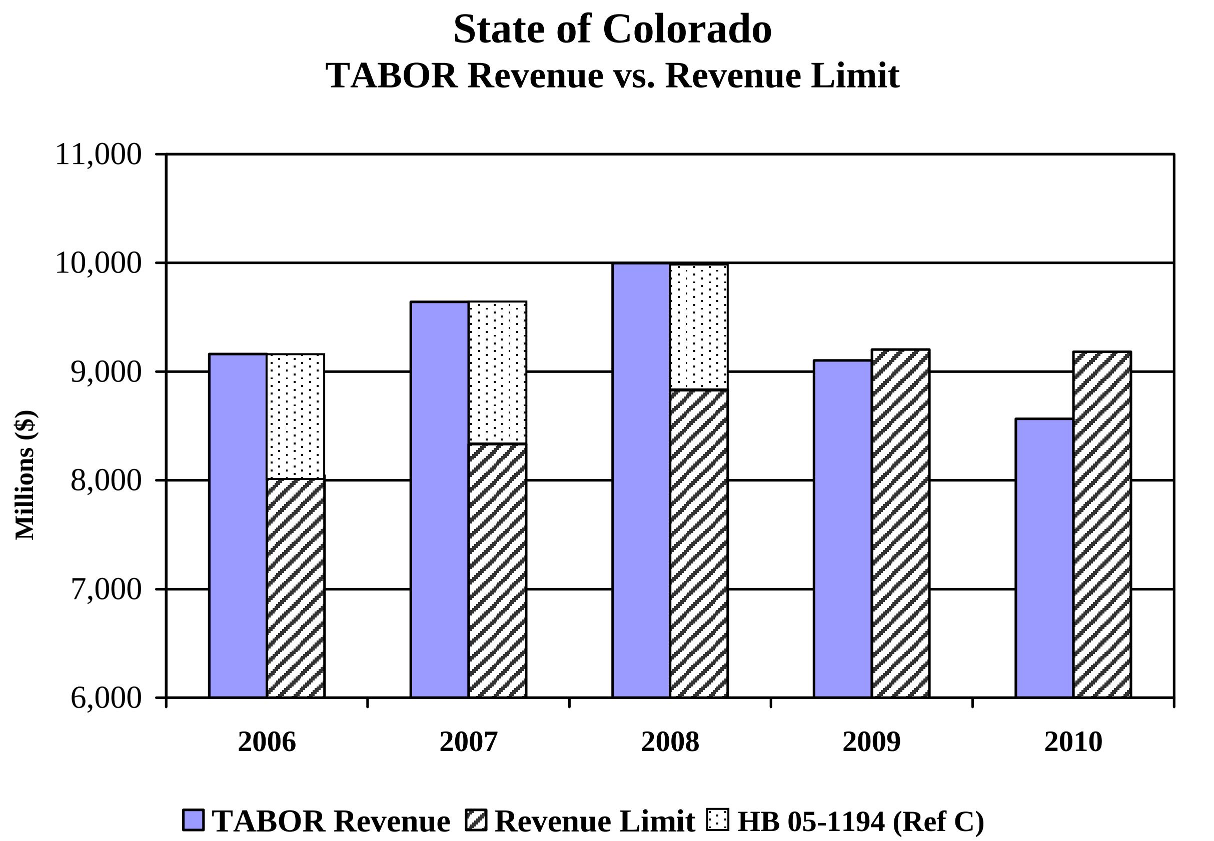
For Fiscal Years 2006, 2007, and 2008, the amounts of excess revenue that the State was allowed to retain and spend were $1,116,134,410, $1,308,040,131, and $1,169,428,121, respectively, for a three-year total of $3,593,602,662. The funds retained by the State are to be applied toward education; healthcare; 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 $9,183,797,371. During our testwork there were prior year adjustments that increased Fiscal Year 2009 TABOR revenue by a net amount of $372,458. The adjustments were posted by the Office of the State Controller subsequent to the issuance of the Fiscal Year 2010 *Schedule of TABOR Revenue* report, dated September 15, 2010, and are reflected in the $9,183,797,371. The adjustments resulted in an increase in the Fiscal Year 2010 TABOR revenue limit as reported in the *Schedule of TABOR Revenue* report from $9,183,424,913 to $9,183,797,371.

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 Revenues Cap as set forth in Referendum C.



Source: Schedules of Computations Required Under Article X, Section 20 for Fiscal Years 2006, 2007, 2008, and 2009. Office of the State Auditor analysis of the Office of the State Controller's data for Fiscal Year 2010.

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 23 combines the general-funded and cash-funded revenue presented on pages 8 and 9, 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 2010 *Schedule of TABOR Revenue* as described on page 2 of this report.

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

	Fiscal Year 2010	Fiscal Year 2009	2009 to 2010 % Change
GENERAL-FUNDED Revenue			
Individual Income Tax, Net[2]	$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[2]	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[3]	47,271,502[1]	2,038,194	2219.3%
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[2]	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[4]	441,832	182,515	142.4%
TOTAL GENERAL-FUNDED REVENUE	$6,478,520,180	$6,511,264,953	-0.5%

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

[1] Revised from Schedule of TABOR Revenue as of June 30, 2010, dated September 15, 2010

[2] Net of Amendment 23 transfers. See table on page 4.

[3] 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.

[4] 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

	Fiscal Year 2010	Fiscal Year 2009	2009 to 2010 % Change
CASH-FUNDED REVENUE			
Fuel and Transportation Taxes, Net	$ 544,539,367	$ 541,592,154	0.5%
Health Service Fees	342,478,302[1]	39,947,249	757.3%
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	40,819,804[1]	40,242,931	1.4%
Insurance Taxes	39,320,536	46,273,647	-15.0%
Severance Taxes	36,081,312	319,057,785	-88.7%
Local Governments and Authorities	28,213,098[1]	32,837,510	-14.1%
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[2]	5,175,327	5,154,822	0.4%
Higher Education Auxiliary Sales and Services	5,049,204	6,566,342	-23.1%
TOTAL CASH-FUNDED REVENUE EXCLUDING FISCAL YEAR 2010 CHANGES	2,089,420,706	2,164,871,757	-3.5%
Mesa State College and Adams State College[3]	-	35,296,939	N/A
Unemployment Insurance Trust Fund[4]	-	390,920,162	N/A
TOTAL CASH-FUNDED REVENUE	2,089,420,706	2,591,088,858	-19.4%
TOTAL NONEXEMPT REVENUE[5]	$ 8,567,940,886	$9,102,353,811	-5.9%

Source: Office of the State Auditor analysis of the Office of the State Controller's data.
[1] Revised from Schedule of TABOR Revenue as of June 30, 2010, dated September 15, 2010.
[2] Includes Sales of Products, Child Welfare Service Fees, Alcoholic Beverage Tax, Net, Other Excise Taxes, Net, Disproportionate Share Providers, and Tobacco Products Tax, Net.
[3] Mesa State College and Adams State College qualified for TABOR enterprise status in Fiscal Year 2010.
[4] Under HB 09-1363 the Unemployment Insurance Trust Fund qualified for TABOR enterprise status in Fiscal Year 2010.
[5] Total TABOR revenue increased by $443,490 from $8,567,497,396 to $8,567,940,886 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, 2010, dated September 15, 2010.

Financial Information

Office of the State Auditor

Sally Symanski, CPA
State Auditor

February 16, 2011

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, 2010, and have issued our report thereon dated December 17, 2010. We have also audited the accompanying *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR),* as of June 30, 2010. This Schedule is the responsibility of the Office of the State Controller. Our responsibility is to express an opinion on this schedule based on our audit.

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

Our auditing procedures also included reconciling amounts contained in this Schedule to the State's Comprehensive Annual Financial Report for the year ended June 30, 2010, and testing for irreconcilable conflicts between the State's financial statements and the provisions of TABOR. Additional procedures consisted of evaluating the State of Colorado's compliance with constitutional and statutory provisions of TABOR. Our audit does not provide a legal determination of the State's compliance with specified requirements.

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

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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, 2010, 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, 2010, includes audit adjustments that increased Fiscal Year 2010 TABOR revenue by $443,490. The report also includes audit adjustments that increased the TABOR revenue limit by $372,458. These adjustments came to our attention subsequent to the issuance of the *Schedule of TABOR Revenue* report for the fiscal year ended June 30, 2010, dated September 15, 2010. These adjustments increased TABOR revenue for Fiscal Year 2010 from $8,567,497,396 to $8,567,940,886 and increased the TABOR revenue limit from $9,183,424,913 to $9,183,797,371.

Sally Symanski

STATE OF COLORADO
SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20
AS OF JUNE 30, 2010

	FISCAL YEAR 2008-09		FISCAL YEAR 2009-10
COMPUTATION OF NONEXEMPT REVENUES			
Total State Expenditures	$ 31,833,279,361		$ 34,945,123,129
Less Exempt Enterprises Expenses:			
Higher Education Enterprises	5,272,380,306		5,784,475,973
College Assist	671,952,547		612,814,416
State Lottery	501,012,583		513,310,600
CollegeInvest	437,172,975		563,242,613
Wildlife Division	123,811,894		116,642,218
Correctional Industries	63,428,538		57,876,769
State Nursing Homes	54,853,505		54,277,169
Petroleum Storage Tank Fund	32,448,987		36,865,072
Brand Board	4,202,534		4,118,563
Clean Screen Authority	4,828,676		4,788,116
Capitol Parking Authority	1,027,204		831,923
Statewide Tolling Enterprise	763,850		-
Statewide Transport Enterprise	795,050		1,726,446
Statewide Bridge Enterprise	-		421,883
Unemployment Compensation and Service Enterprise	-		2,499,120,652
Subtotal Enterprise Expenses	7,168,678,649		10,250,512,413
Total District Expenditures	24,664,600,712		24,694,610,716
Less Exempt District Revenues:			
Interfund Transfers	7,195,658,676		7,183,304,851
Federal Funds	5,888,160,924		7,040,249,055
Gifts	63,833,412		49,326,991
Property Sales	62,096,838		53,525,603
Damage Awards	139,512,102		112,402,503
Exempt Investment Income	119,963,848		98,260,554
Other Sources and Additions (Note 7)	386,816,307		1,013,449,380
Voter Approved Revenue Changes (Note 8)	640,149,867		505,520,445
Subtotal Exempt District Revenues	14,496,191,974		16,056,039,382
Nonexempt District Expenditures	10,168,408,738		8,638,571,334
District Reserve/Fund Balance Increase (Decrease)	(1,066,054,927)		(70,630,448)
Total Nonexempt District Revenues	9,102,353,811		**8,567,940,886**
COMPUTATION OF DISTRICT FUND BALANCE CHANGES			
Beginning District Fund Balance	$ 6,755,271,683		$ 5,847,034,600
Prior Period District Fund Balance Adjustments (Note 11)	53,732,583		(376,468,289)
(Qualification)/Disqualification of Enterprises (Note 14)	104,085,261		(576,963,883)
District Reserve/Fund Balance Increase (Decrease)	(1,066,054,927)		(70,630,448)
Ending District Fund Balance	$ 5,847,034,600		$ 4,822,971,980
COMPUTATION OF SPENDING LIMITATION			
FY 2008-09 Fiscal Year Spending Limitation	$ 9,102,353,811		
Errors in Prior Years (Note 13)	2,324,469		
Qualification of Enterprises (Notes 13 and 14)	(424,340,500)		
FY 2008-09 Adjusted Fiscal Year Spending Limitation	$ 8,680,337,780		
Allowable TABOR Growth Rate (Note 12)		5.8%	
FY 2009-10 Unadjusted Fiscal Year Spending Limit			9,183,797,371
FY 2009-10 Adjusted Fiscal Year Spending Limit			9,183,797,371
Less Fiscal Year 2009-10 Nonexempt District Revenues			(8,567,940,886)
Amount (Over)Under Adjusted Fiscal Year Spending Limit			615,856,485
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, 2010			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,
- Unemployment Insurance Enterprise.

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

Although the General Assembly and governing boards have designated certain enterprises as exempt from TABOR, those enterprises must continue to meet the criteria of a government-owned business authorized to issue its own revenue bonds and annually receiving less than 10 percent of its revenue in grants from all Colorado state and local governments combined. The State Fair Authority remained disqualified for Fiscal Year 2009-10. Fort Lewis College was fully designated as an enterprise per previous board action but was disqualified in Fiscal Year 2008-09 and Fiscal Year 2009-10 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 2009-10 totals $257,038,227. At June 30, 2010, the net assets of the following funds were designated as the reserve, up to the limits set in the Long Appropriations Act:

- Major Medical Fund – $94,000,000.
- Wildlife Cash Fund – $100,000,000. The Wildlife Cash Fund's net assets not invested in capital assets (net of related debt) total $16,282,458. The remaining $83,717,542 of the Wildlife portion of the reserve comes from the capital assets recorded in the Wildlife Cash Fund.

The 2009 legislative session Long Appropriations Act designated up to $81,100,000 of State properties as the remainder of the Fiscal Year 2009-10 emergency reserve. The estimate of the needed reserve was based on the December 2009 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 $18,061,773 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 2009-10 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 2009-10, the same $705,716 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 $1,013.4 million reported in this line item primarily comprises: $284.3 million of pension and other employee benefit trust fund investment earnings and additions by participants; $719.6 million of Certificate of Participation (COPs) proceeds, reversions, reimbursements of prior year expenditures, and other miscellaneous exempt revenues; and $1.7 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 $7.8 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 $274,660 and $179,019 from this exempt source in Fiscal Years 2009-10 and 2008-09, 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 $4,779,272 and $786,390 including interest and unrealized gains/losses from this revenue source in Fiscal Years 2009-10 and 2008-09, 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 $338,519,008 and $479,218,779 of tax revenues, interest, and unrealized gains/losses, being excluded from fiscal year spending in Fiscal Years 2009-10 and 2008-09, 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 $152,031,917 and $159,965,679 of tax revenues, interest, transfers, and unrealized gains/losses from this exempt source in Fiscal Year 2009-10 and 2008-09, 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. When it occurs, the retained amount is not reported in this note as a voter approved revenue change (See Note 9 below).
- In the 2008 general elections, voters approved an amendment required to implement locally approved changes to the parameters for Limited Gaming under section 9 (7) of Article XVIII of the Colorado Constitution. This amendment allowed the residents of Central City, Black Hawk, and Cripple Creek to vote to extend casino hours, approve additional games and

increase the maximum single bet limit. It required distribution of most of the gaming tax revenue that resulted from the new gaming limits to Colorado community colleges and to gaming cities and counties, and it exempted the new revenue from state and local revenue and spending limits. The State collected $9,915,588 of extended limited gaming revenue in Fiscal Year 2009-10.

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 is 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 is required to report the amount of revenues retained with a description of how the retained revenues were expended.
- The State Controller's annual report demonstrating compliance with the statutes implementing TABOR is required to include the amount of revenues that the State is authorized to retain and expend.

During the Referendum C period the Schedule of Required Computations has shown the amount of excess revenues retained and expended as allowed by Referendum C. Due to the economic recession, there was no excess revenue in Fiscal Year 2008-09 or Fiscal Year 2009-10 to retain or spend.

NOTE 10. DISTRICT RESERVES

District reserves are the cumulative fund balances of the State reported in the State's Comprehensive Annual Financial Report at the fund level rather than the government-wide level. District reserves therefore exclude capital assets, liabilities that are not recorded in governmental funds at the fund level (primarily long-term liabilities), and net assets of the TABOR enterprises. The majority of these funds include balances not available for general appropriation due to legal and contractual restrictions.

NOTE 11. PRIOR-PERIOD DISTRICT FUND BALANCE ADJUSTMENTS

The prior period adjustments of fund balance reported in the State's Comprehensive Annual Financial Report, decreased the TABOR District fund balances in total by $376,468,289 as follows.

The Department of Health Care Policy and Financing decreased beginning net assets of the District by $4,014,613 when it reduced federal medicaid receivables that were accrued in Fiscal Year 2008-09 at an incorrect federal reimbursement rate.

The Department of Health Care Policy and Financing's Medicaid Nursing Facilities Cash Fund increased beginning net assets of the District by $778,085 when it restated beginning net assets due to its failure to record certain Fiscal Year 2008-09 revenue in that period.

Fort Lewis College decreased beginning net assets of the District by $50,870 when it corrected an overstatement of District fund balance that occurred when the College was disqualified as a TABOR enterprise for Fiscal Year 2008-09.

The beginning net assets of the District decreased by $32,392,120 when Digital Trunk Radio assets in the Governor's Office of Information and Technology were removed from the Telecommunications Fund. These assets were originally purchased by governmental funds and should only be reported on the Government Wide Financial statements, which is not part of the TABOR District fund balance. In Fiscal Year 2008-09, the assets were inappropriately reported in the Telecommunications Fund as part of the statewide consolidation of the Information Technology function. A similar error also decreased beginning net assets of the District by $65,039 for other assets reported by the Office of Information Technology.

The beginning District fund balance decreased by $352,804,500 when the General Assembly transferred the State's Deferred Compensation Plan to the Public Employees' Retirement Association (PERA), effective July 1, 2009.

The beginning net assets of the District decreased $18,649,365 when General Assembly transferred the State's Defined Contribution Plan to the Public Employees' Retirement Association (PERA) effective July 1, 2009.

The beginning net assets of the District increased $99,963 when legislation moved the Health Care Provider Loan Repayment Fund, which was previously reported as part of the CollegeInvest Enterprise Fund (not part of the District fund balance), to the Department of Public Health and Environment as part of the Environment and Health Protection Fund.

The beginning net assets of the District decreased $30,632,123 when the current liability of the Treasurer's Unclaimed Property Fund (a Special Revenue Fund) was removed from the financial statements because the related activity is presented in Fiscal Year 2009-10 as a Private Purpose Trust Fund. Because the previous liability is now part of a fiduciary fund it is reported as net assets held in trust for claimants rather than as a liability. The beginning balance restatement was done because prior to Fiscal Year 2009-10 the State did not have a system for determining the portion of net assets that would ultimately be available to the government. In Fiscal Year 2009-10, the State developed a system to estimate the Unclaimed Property amount expected to be paid to the claimants (reported in a Private Purpose Trust Fund) and thereby the amount available to the government (reported in a Special Revenue Fund).

NOTE 12. SOURCES OF TABOR GROWTH LIMIT

The allowable percentage increase in State fiscal year spending equals the sum of inflation and the percentage change in State population in the calendar year ending six months prior to the start of the fiscal year. Inflation is defined in C.R.S. 24-77-102(8) as "the percentage change in the consumer price index for the Denver-Boulder Consolidated Metropolitan Statistical Area For All Urban Consumers, All Goods, as published by the U.S. Department of Labor."

The Office of State Planning and Budgeting provided the 5.8 percent allowable growth rate, which comprises a 1.90 percent increase for population growth (calendar year 2008) and a 3.90 percent increase for inflation.

NOTE 13. SPENDING LIMIT ADJUSTMENTS

In Fiscal Year 2009-10, the State adjusted the spending limit base before applying the 5.8 percent allowable growth rate as follows:

The Fiscal Year 2008-09 Spending Limit was increased by $2,324,469 to correct for the following prior years errors:

- The Department of Health Care Policy and Financing overstated Fiscal Year 2008-09 nonexempt revenue by $811,685 when it recorded recoveries of prior year expenditures as nonexempt TABOR revenue. The department understated Fiscal Year 2008-09 nonexempt revenue by $778,085 when it failed to record Nursing Home Provider fee revenue in that year. The error was corrected on the State's financial statements by recording a prior period adjustment.
- The Department of Public Safety understated nonexempt TABOR revenue by $2,358,070 in Fiscal Year 2008-09 when it recorded insurance carrier fees as private donations.

In addition the following errors were identified in Fiscal Year 2009-10 that did not affect the Fiscal Year 2009-10 spending limit because the errors occurred in fiscal years when the nonexempt revenues exceeded the spending limit by a large amount. The errors included:

- The Department of Health Care Policy and Financing overstated TABOR nonexempt revenue by $1,274,399, $1,271,311, and $1,083,494 in Fiscal Years 2005-06, 2006-07, and 2007-08, respectively, when it recorded recoveries of prior year expenditures as nonexempt TABOR revenue.
- The Department of Personnel & Administration understated TABOR nonexempt revenue by $48,477, and $74,624 in Fiscal Years 2006-07, and 2007-08 when it recorded purchasing agreement rebates received from outside the District as exempt revenue.
- The Fiscal Year 2008-09 Fiscal Year Spending Limit was decreased by $424,340,500 in order to make the requalification of the Adams State College, Mesa State College and the newly created Unemployment Insurance TABOR enterprise neutral in regard to measuring fiscal year spending in Fiscal Year 2009-10. Adams State College and Mesa State College were disqualified as TABOR enterprises and were in the District in Fiscal Year 2008-09. The Unemployment Insurance Enterprise Fund was designated as a TABOR enterprise by statute for Fiscal Year 2009-10; its Fiscal Year 2008-09 nonexempt revenues were counted in that year and were reflected in the spending limit base prior to this adjustment. In order for the two years to be comparable, Adams State College, Mesa State College and the Unemployment Insurance's Fiscal Year 2008-09 nonexempt revenues have been subtracted from the prior fiscal year spending limit before application of the allowable growth percentages.

NOTE 14. ENTERPRISE QUALIFICATION AND DISQUALIFICATION

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

The qualification and newly created TABOR enterprise affects the Computation of the District Spending Limitation shows a net decrease of fund balance of $424,340,500. The entire amount of the net decrease is related to the requalification of Adams State College (decrease $6,010,695) and Mesa Sate College (decrease $27,409,643) as TABOR enterprises and Unemployment Insurance, the new created TABOR enterprise (decrease $390,920,162).

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 2009-10, 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 Fiscal Year 2010-11 or the first following fiscal year in which the State is required to distribute a TABOR refund.

NOTE 16. FUTURE REFUNDS

In the 2010 legislative session, Senate Bill 212 removed all the mechanisms for refunding TABOR revenues in excess of the fiscal year spending limit except for the earned income tax credit refund mechanism, effective July 1, 2010. The Department of Revenue reports that after the adjustment for personal income the earned income tax credit mechanism will be applied when the refund exceeds $83.0 million.

After application of the earned income tax credit mechanism, any remaining amount is distributed to all full-year Colorado residents 18 years and older as a refund of sales taxes. When the refund is estimated to be under $15 for each qualified taxpayer, an identical amount is refunded to each qualified taxpayer. When the sales tax refund is estimated to be over $15 for each qualified taxpayer, a fixed amount is set for each of six tiers of federal adjusted gross income. The Department of Revenue calculates the amount of the individual refund for each tier as a statutory percentage of the total sales tax refund divided by the number of anticipated taxpayers in each tier.

Due to the passage of Referendum C, and declining revenue there was no refund in Fiscal Year 2009-10, and therefore, neither of the refund mechanisms discussed above were active in Fiscal Year 2009-10.

Schedule of TABOR Revenue

(Dated September 15, 2010)

Office of the State Auditor

Sally Symanski, CPA
State Auditor

September 15, 2010, and
February 16, 2011, 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, 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.

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Subsequent to the issuance of the Fiscal Year 2010 Schedule of TABOR Revenue report, dated September 15, 2010, 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, 2010 between October 2010 and February 16, 2011.

In our opinion, the accompanying *Schedule of TABOR Revenue* referred to above presents fairly, in all material respects, the revenue as determined under Article X, Section 20, of the State Constitution for the years ended June 30, 2010 and 2009, in conformity with accounting principles generally accepted in the United States of America.

Sally Symanski

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%
TOTAL INCOME TAX	4,126,915,994	4,285,910,594	(158,994,600)	-3.7%
Sales Tax, Net	1,848,214,477	1,961,303,729	(113,089,252)	-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%
TOTAL EXCISE TAX	2,097,199,894	2,230,402,432	(133,202,538)	-6.0%
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%
TOTAL OTHER TAXES	926,648,361	1,216,096,420	(289,448,059)	-23.8%
Health Service Fees	342,478,302 [1]	39,947,249	302,531,053	757.3%
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	41,482,301 [1]	40,504,873	977,428	2.4%
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%
TOTAL LICENSES, PERMITS, AND FEES	974,339,871	537,051,619	437,288,252	81.4%
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	65,174,670 [1]	18,050,599	47,124,071	261.1%
Rents and Royalties	45,421,767	43,070,060	2,351,707	5.5%
Local Governments and Authorities	28,213,098 [1]	32,837,510	(4,624,412)	-14.1%
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%
TOTAL OTHER REVENUE	442,836,766	406,675,645	36,161,121	8.9%
TOTAL TABOR REVENUE EXCLUDING FISCAL YEAR 2010 CHANGES	8,567,940,886	8,676,136,710	(108,195,824)	-1.2%
Mesa State College and Adams State College [2]	-	35,296,939	(35,296,939)	N/A
Unemployment Insurance Trust Fund[3]	-	390,920,162	(390,920,162)	N/A
TOTAL TABOR REVENUE	$ 8,567,940,886	$ 9,102,353,811	$ (534,412,925)	-5.9%

[1] Revised from *Schedule of TABOR Revenue* as of June 30, 2010, dated September 15, 2010.

[2] Mesa State College and Adams State College qualified for TABOR enterprise status in Fiscal Year 2010.

[3] Under HB 09-1363 the Unemployment Insurance Trust Fund qualified for TABOR enterprise status in Fiscal Year 2010.

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.
Other Excise Taxes, Net	Tax for occupational license renewals and certain penalties net of refunds.

Category	Description
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.
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.
LICENSES, PERMITS AND FEES	
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.

Category	Description
Business Licenses and Permits	Licenses and permits for special functions of a business (e.g., alcoholic beverage licenses, tobacco products licenses, business registrations, health licenses, child care licenses, and waste management permits).
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, motorcycle operator safety training, waste tire recycling, etc.
General Government Service Fees	Service charges by various agencies to the public (e.g., filing fees charged by the Department of State, charges by the Motor Vehicle Division for driving record inquiries, and certain fees charged by the Department of Agriculture and Department of Natural Resources).
Driver's Licenses	Fees for driver's licenses and ID cards.
Certifications and Inspections	Emission inspection stickers, emission registration, emission inspection station licenses, and other fees.
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.
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.
Miscellaneous Revenue	Revenue not included in another category.

Category	Description
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.
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.
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.

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.
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.

Mechanism (Effective Date)	Description
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.

Mechanism (Effective Date)	Description
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)

Refunding Mechanism	Original Threshold	Fiscal Year 2010 Threshold*
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.

Appendix C

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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