

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

February 2013



**OFFICE OF THE
STATE AUDITOR**

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



December 14, 2012

Members of the Legislative Audit Committee:

This report contains the results of the financial audit of the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* as of June 30, 2012, and the *Schedule of TABOR Revenue* as of June 30, 2012. The audit was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 24-77-106.5, C.R.S., which requires the State Auditor to conduct an audit of the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*.

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

Fiscal Year 2012 Revenue		\$ 10,273,183,504
(Less): Fiscal Year 2012 TABOR Revenue Limit	\$(8,799,754,139)	
(Less): Fiscal Year 2012 Excess of TABOR Revenue Limit Allowed to Retain and Spend	<u>\$(2,071,670,882)</u>	
Total Fiscal Year 2012 Excess State Revenues Cap		<u>(10,871,425,021)</u>
Fiscal Year 2011 Revenue (Under) Over the Excess State Revenues Cap		<u>\$ (598,241,517)</u>



We Set the Standard for Good Government

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TABOR Revenue

Authority, Purpose, and Scope

This audit was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 24-77-106.5, C.R.S., which requires that the State Auditor conduct an audit of the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)*. The audit was conducted in accordance with generally accepted auditing standards. We performed our audit work during the period July 2012 through December 2012.

The purpose and scope of the audit were to:

- Express an opinion on the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* as of June 30, 2012.
- 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)*. In addition, we noted no instances of noncompliance for the fiscal year ended June 30, 2012. However, adjustments were recorded that affected TABOR revenue.

Description and Background

The Taxpayer's Bill of Rights (TABOR) was added as Article X, Section 20 of the Colorado Constitution in the November 1992 general election. TABOR limits increases in the State's revenue to the annual inflation rate plus the percentage change in Colorado's population. The State Controller annually prepares a *Schedule of TABOR Revenue* and a *Schedule of Computations Required Under Article X, Section 20 of the State Constitution (TABOR)*. The *Schedule of TABOR Revenue* is audited as a performance audit, and the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution* is audited as part of the annual statewide financial audit.

Fiscal Year 2012 TABOR Revenue

For Fiscal Year 2012, TABOR revenue was \$10,273,183,504. The Office of the State Controller booked adjustments that increased Fiscal Year 2012 TABOR revenue by \$4,080,169, and decreased the TABOR Revenue Limit by \$104,914. These adjustments came to our attention subsequent to the issuance of the Schedule of TABOR Revenue audit for the fiscal year ended June 30, 2012, dated September 17, 2012. These adjustments increased TABOR revenue for Fiscal Year 2012 from \$10,269,103,335 to \$10,273,183,504, and decreased the TABOR Revenue Limit from \$10,871,529,935 to \$10,871,425,021.

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

Calculation of the Fiscal Year Spending Limit continues to apply, but the new Excess State Revenues Cap replaces it as the limit that triggers taxpayer refunds. The following audited figures show the TABOR revenue, TABOR spending limit, TABOR Excess State Revenues Cap, and revenue under the Excess State Revenues Cap for Fiscal Year 2012:

Fiscal Year 2012 Revenue		\$10,273,183,504
(Less): Fiscal Year 2012 TABOR Revenue Limit	\$(8,799,754,139)	
(Less): Fiscal Year 2012 Excess of the TABOR Revenue Limit Allowed to Retain and Spend	\$(2,071,670,882)	
Total Fiscal Year 2012 Excess State Revenues Cap		<u>(10,871,425,021)</u>
Fiscal Year 2012 Revenue (Under) Over Excess State Revenues Cap		<u>\$ (598,241,517)</u>

Fiscal Year 2012 Revenues were under the Excess State Revenues Cap by approximately \$600 million. Therefore, there is no TABOR refund required for Fiscal Year 2012.

Prior Year Refunds

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) also states, "...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."

Prior to the passage of Referendum C (see Referendum C section below), the excess revenue was refunded to the taxpayers through a variety of means. With the enactment of Senate Bill 10-212, only one mechanism for refunding state surplus revenues with a threshold amount remains, the earned income tax credit. If there were any surplus revenues remaining after the temporary income tax rate reduction, additional amounts would be refunded through the earned income tax credit. Appendices B1 and B2 provide more detail regarding refunding mechanisms.

Revenue Reductions

There were no permanent tax cuts enacted during the 2012 Legislative Session.

In prior years, voters have approved changes that lower revenue subject to TABOR. The table on the following page shows all voter-approved changes, the year of voter approval, and the related decrease in Fiscal Years 2012 and 2011 TABOR revenue:

Impact of Voter-Approved Revenue Changes on TABOR Revenue		
Constitutional Amendment (Year of Approval)	Decrease in TABOR Revenue	
	Fiscal Year 2012	Fiscal Year 2011
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	\$378,082,178	\$340,910,000
Corporate income taxes	33,937,797	28,326,000
<u>Fiduciary income taxes</u>	<u>1,466,327</u>	<u>1,263,000</u>
Total for Amendment 23	\$413,486,302	\$370,499,000
Amendment 14 (1998) Assesses a fee on housed commercial swine feeding operations.	\$276,258	\$269,040
Amendment 20 (2000) Assesses an application fee to obtain a Medical Marijuana identification card.	\$6,256,274	\$9,684,182
Amendment 35 (2004) Assesses a statewide tax on cigarette and tobacco products.	\$147,207,790	\$145,104,459
Amendment 50 (2008) Assesses a tax on extended limited gaming.	\$9,401,325	\$9,654,448
Total Reductions in TABOR Revenue	\$576,627,949	\$535,211,129
Source: Office of the State Auditor's analysis of the Office of the State Controller's data. Amounts do not include transfers, 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 prior fiscal year's actual revenue or the prior fiscal year's TABOR spending limit adjusted for inflation and the change in population.

Section 24-77-103.7, C.R.S. 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 over-refunded 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 2012 audit, no over-refund was identified in the previous Fiscal Years 2006 through 2011 that would affect the TABOR revenue in excess of the Excess State Revenues Cap for Fiscal Year 2012.

In Fiscal Year 2006, the Office of the State Controller identified and posted prior year adjustments totaling \$2,871,444 that increased the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2008, \$28,223 in adjustments was identified that increased the Fiscal Year 2005 TABOR refund liability. In Fiscal Year 2012, there were no adjustments identified that impact prior years' TABOR refund liability. Section 24-77-103.8(3), 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

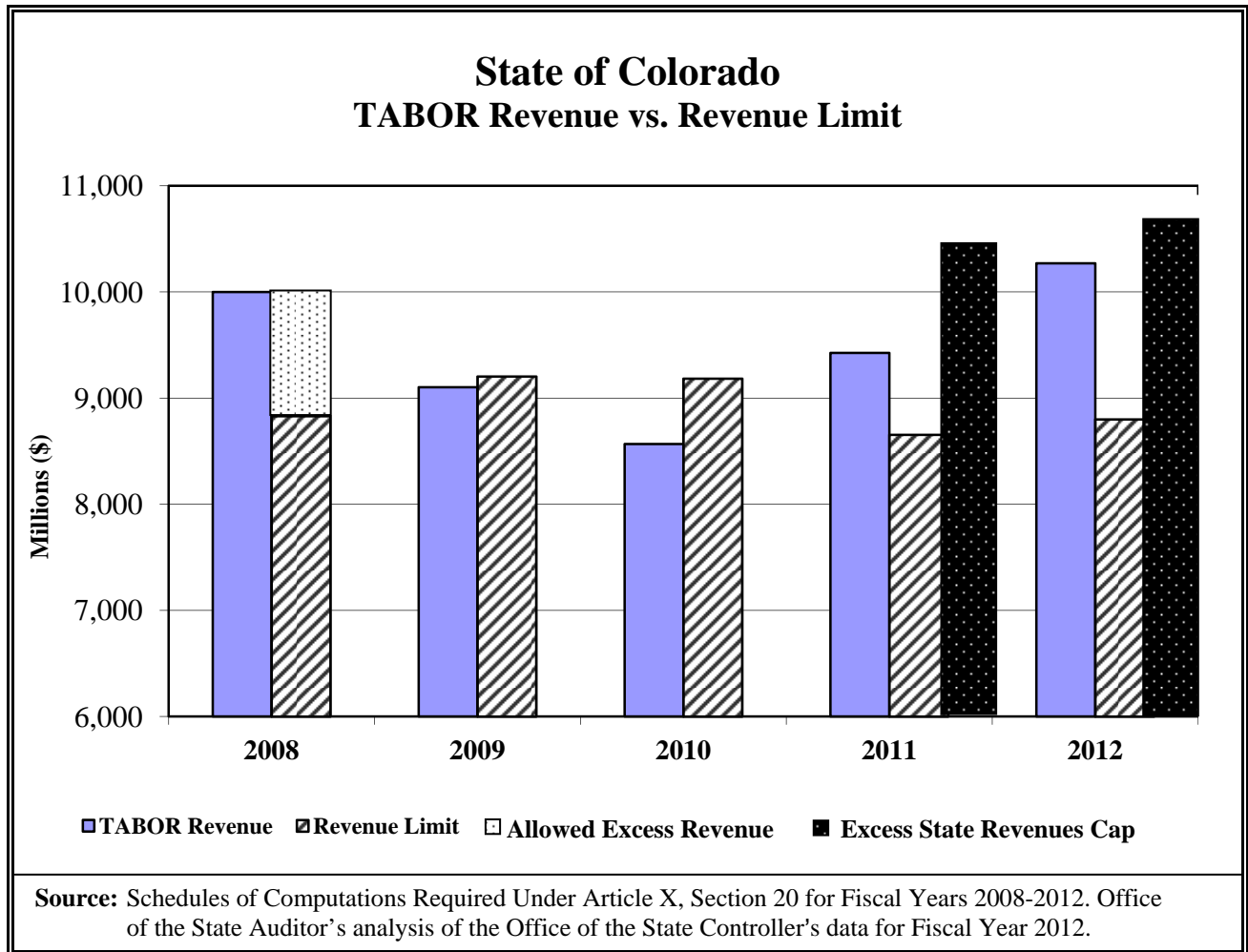
During Fiscal Year 2005, the General Assembly enacted House Bill 05-1194, which was the enabling legislation for Referendum C. In November 2005, Referendum C was approved by a vote of the people and became effective as of December 16, 2005. Referendum C allowed the State to retain and expend all revenue in excess of the constitutional limit on fiscal year spending for each of the five fiscal years commencing with Fiscal Year 2006, and changed the basis on which TABOR refunds are calculated.

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

Revenue Limit

We reviewed the State Controller's computations of the TABOR revenue limit and the Excess State Revenues Cap. For Fiscal Year 2012, the TABOR revenue limit is \$8,799,754,139 and the Excess State Revenues Cap is \$10,871,425,021.

The chart on the following page compares the revenue limit computed each year to the TABOR revenue from Fiscal Year 2008 to Fiscal Year 2012. Both the TABOR revenue limit and the Excess State Revenues Cap are calculated independently beginning in Fiscal Year 2011. However, the State will be allowed to retain and spend the amount of revenue in excess of the spending limit and up to the Excess State Revenues Cap as set forth in Referendum C.



Sources of TABOR Revenue

There are two types of revenue subject to the growth limitations set forth in TABOR—general funds and cash funds. General funds primarily include revenue from the general taxing authority of the State, such as individual and corporate income taxes. Cash funds generally include revenue from fees and other sources that are to be used for specific programs, such as education service fees and fuel/transportation taxes. General funds increased by 9.3 percent in Fiscal Year 2012, while cash funds increased by 8.0 percent in Fiscal Year 2012. Overall, TABOR revenue increased by 9.0 percent in Fiscal Year 2012.

The following tables show the major sources of revenue in Fiscal Year 2012, with comparative figures for Fiscal Year 2011, separated by general-funded and cash-funded revenue. The *Schedule of TABOR Revenue* on page 25 combines the general-funded and cash-funded revenue presented on pages 8 and 9, respectively.

State of Colorado
Sources of TABOR Revenue
General-Funded Revenue
June 30, 2012

GENERAL-FUNDED Revenue	Fiscal Year 2012	Fiscal Year 2011	2011 to 2012 % Change
Individual Income Tax, Net ¹	\$4,612,228,145	\$4,133,408,992	11.6%
Sales and Use Tax, Net	2,293,837,287	2,233,520,637	2.7
Corporate Income Tax, Net ¹	462,085,334	365,558,281	26.4
Insurance Taxes, Net	197,201,583	189,648,267	4.0
Tobacco Products Tax, Net	55,530,516	53,106,933	4.6
Alcoholic Beverages Tax, Net	38,373,406	36,437,527	5.3
Fiduciary Income Tax, Net ¹	23,927,608	20,501,197	16.7
Interest and Investment Income	13,350,699	7,334,213	82.0
Court and Other Fines	9,419,468	10,102,461	-6.8
Business Licenses and Permits	6,601,915	4,490,095	47.0
Miscellaneous Revenue	3,292,432	2,714,892	21.3
Gaming and Other Taxes	594,680	491,455	21.0
Other General Revenue ²	410,177	94,577	333.7
General Government Service Fees	350,623	269,804	30.0
TOTAL GENERAL-FUNDED REVENUE	\$7,717,203,873	\$7,057,679,331	9.3%

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

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

² Includes Nonbusiness Licenses and Permits, Estate and Inheritance Taxes, Certifications and Inspections, Sales of Product, and Other Charges for Services.

State of Colorado
Sources of TABOR Revenue (continued)
Cash-Funded Revenue
June 30, 2012

	Fiscal Year 2012	Fiscal Year 2011	2011 to 2012 % Change
CASH-FUNDED REVENUE			
Health Service Fees	650,338,502	488,851,526	33.0 %
Fuel and Transportation Taxes, Net	559,673,030	558,967,270	0.1
Motor Vehicle Registrations	229,026,208	218,157,499	5.0
Severance Taxes	199,437,187	140,046,677	42.4
Court and Other Fines	168,027,680	181,058,567	-7.2
Other Charges For Services	140,363,044	138,273,131	1.5
Business Licenses and Permits	128,205,788	133,376,253	-3.9
Gaming and Other Taxes	93,404,297	96,150,672	-2.9
Interest and Investment Income	54,324,704	70,925,656	-23.4
Sales and Use Tax, Net	42,629,206	34,236,624	24.5
Local Governments and Authorities	40,046,106	20,233,887	97.9
General Government Service Fees	39,508,777	38,893,608	1.6
Rents and Royalties	36,872,877	33,265,112	10.8
Driver's Licenses	31,610,993	31,194,068	1.3
Nonbusiness Licenses and Permits	31,313,531	28,268,654	10.8
Miscellaneous Revenue	25,074,834	37,339,023	-32.8
Certifications and Inspections	20,636,730	21,767,546	-5.2
Employment Taxes	19,307,097	18,610,509	3.7
Insurance Taxes	18,010,187	22,480,508	-19.9
Public Safety Service Fees	10,766,770	11,943,862	-9.9
Higher Education Auxiliary Sales and Services	6,908,220	3,789,901	82.3
Educational Fees	6,783,915	4,869,796	39.3
Other Program Revenue ¹	3,709,948	3,547,878	4.6
TOTAL CASH-FUNDED REVENUE	\$ 2,555,979,631	\$ 2,336,248,227	9.4%
EXCLUDING FISCAL YEAR 2011 CHANGES			
Division of Parks and Wildlife ²	-	\$30,836,422	-100%
TOTAL CASH-FUNDED REVENUE	\$2,555,979,631	\$ 2,367,084,649	8.0%
TOTAL NONEXEMPT REVENUE	\$ 10,273,183,504	\$ 9,424,763,980	9.0%

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

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

²Division of Parks and Wildlife qualified for TABOR enterprise status in Fiscal Year 2012.

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



December 14, 2012

Independent Auditor's Report

Members of the Legislative Audit Committee:

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of the State of Colorado for the year ended June 30, 2012, and have issued our report thereon dated December 14, 2012. We have also audited the accompanying *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* (Schedule), as of June 30, 2012. 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 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, 2012, 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 was prepared by the Office of the State Controller pursuant to Section 24-77-106.5, C.R.S., which requires a financial report ascertaining compliance with state fiscal policies relating to Article X, Section 20, of the State Constitution. Article 77 further requires a financial report to be prepared in conformity with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and TABOR, in which case the provisions of said constitutional provision shall control.



We Set the Standard for Good Government

In our opinion, the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR)* referred to above presents fairly, in all material respects, the revenues, expenditures, changes in reserves, and spending limitation as determined under Article X, Section 20, of the State Constitution for the year ended June 30, 2012, in conformity with accounting principles generally accepted in the United States of America.

A handwritten signature in black ink, appearing to read "D. J. ...". The signature is cursive and somewhat stylized, with a large initial letter.

STATE OF COLORADO
SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20
AS OF JUNE 30, 2012

	FISCAL YEAR 2010-11 (Restated)	FISCAL YEAR 2011-12
COMPUTATION OF NONEXEMPT REVENUES		
Total State Expenditures	\$ 35,809,181,237	\$ 36,656,629,375
Less Exempt Enterprises Expenses:		
Higher Education Enterprises	6,842,932,797	8,232,937,607
Unemployment Compensation Section	2,144,256,726	1,573,750,650
College Assist	683,147,763	678,220,426
State Lottery	528,143,599	562,320,216
CollegelInvest	442,627,962	426,491,128
Parks and Wildlife	121,102,821	188,318,749
Correctional Industries	67,286,736	66,856,139
State Nursing Homes	53,387,808	48,509,487
Petroleum Storage Tank Fund	36,797,270	38,575,667
Statewide Bridge Enterprise	11,228,233	15,956,339
Clean Screen Authority	6,099,590	6,295,887
Brand Board	4,364,826	4,811,020
Statewide Transportation Enterprise	3,793,121	3,226,733
Capitol Parking Authority	487,594	970,847
Subtotal Enterprise Expenses	<u>10,945,656,846</u>	<u>11,847,240,894</u>
Total District Expenditures	<u>24,863,524,391</u>	<u>24,809,388,481</u>
Less Exempt District Revenues:		
Interfund Transfers	7,106,949,059	7,033,186,311
Federal Funds	6,918,512,698	6,223,366,765
Other Sources and Additions (Note 7)	677,647,603	804,672,922
Voter Approved Revenue Changes (Note 8)	540,125,887	577,324,632
Property Sales	102,267,933	143,730,973
Damage Awards	99,395,799	106,727,778
Gifts	68,790,202	78,800,893
Exempt Investment Income	18,942,966	49,961,758
Subtotal Exempt District Revenues	<u>15,532,632,147</u>	<u>15,017,772,032</u>
Nonexempt District Expenditures	9,330,892,244	9,791,616,449
District Reserve/Fund Balance Increase (Decrease)	93,871,736	481,567,055
Total Nonexempt District Revenues	<u>9,424,763,980</u>	<u>10,273,183,504</u>
COMPUTATION OF DISTRICT FUND BALANCE CHANGES		
Beginning District Fund Balance	\$ 4,822,971,980	\$ 4,800,648,746
Prior Period District Fund Balance Adjustments (Note 11)	(3,971,397)	25,256,356
(Qualification)/Disqualification of Enterprises (Note 14)	(112,223,573)	(47,724,307)
District Reserve/Fund Balance Increase (Decrease)	93,871,736	481,567,055
Ending District Fund Balance	<u>\$ 4,800,648,746</u>	<u>\$ 5,259,747,850</u>
FISCAL YEAR 2011-12 COMPUTATION OF SPENDING LIMITATIONS		
	FISCAL YEAR SPENDING	EXCESS STATE REVENUES CAP
FY 2010-11 Limit	\$ 8,654,191,995	\$ 10,684,856,218
Errors in Prior Years (Note 13)	(488,519)	(102,857)
Other Agency Revenues From Qualification of Enterprises (Note 14)	4,342,886	4,342,886
Qualification of Enterprises (Note 14)	(30,836,422)	(30,836,422)
FY 2010-11 Adjusted Limit	<u>\$ 8,627,209,940</u>	<u>\$ 10,658,259,825</u>
Allowable TABOR Growth Rate (Note 12)	2.0%	2.0%
FY 2011-12 Unadjusted Limit	\$ 8,799,754,139	\$ 10,871,425,021
FY 2011-12 Adjustments	-	-
FY 2011-12 Adjusted Limit	8,799,754,139	10,871,425,021
Less Fiscal Year 2011-12 Nonexempt District Revenues	(10,273,183,504)	(10,273,183,504)
Amount (Over)Under Adjusted Limit	<u>\$ (1,473,429,365)</u>	<u>\$ 598,241,517</u>
Under(Over) Statement of Prior Years' Refunds Carried Forward to Next Refund Year		\$ 2,899,667
FY2004-05 Amount in Excess of the Limit - Not Refunded at June 30, 2012		\$ 705,716
FY2011-12 Retention of Revenues in Excess of the Limit (not refundable) CRS 24-77-103.6(1)(b)		\$ 1,473,429,365

The accompanying notes are an integral part of the Schedule

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NOTES TO THE TABOR SCHEDULE OF REQUIRED COMPUTATIONS

NOTE 1. PURPOSE OF THE SCHEDULE OF REQUIRED COMPUTATIONS

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

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

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

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

NOTE 2. BASIS OF ACCOUNTING

Pursuant to Article 77 of Title 24, Colorado Revised Statutes, this report is prepared in accordance with generally accepted accounting principles (GAAP) for governmental entities except where an irreconcilable difference exists between GAAP, and State statute or the provisions of Article X Section 20 of the State Constitution (TABOR).

The accounting principles used by the State are more fully described in the State's Comprehensive Annual Financial Report available from the Office of the State Controller.

NOTE 3. DEFINITION OF THE DISTRICT

TABOR defines the District as "the State or any local government, excluding enterprises." It further defines enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under 10 percent of annual revenue in grants from all Colorado state and local governments combined."

The General Assembly, for the purpose of implementing TABOR, stated in C.R.S. 24-77-102(16) (a) that "State" means the central civil government of the State of Colorado, which consists of the following:

- (I) the legislative, executive, and judicial branches of government established by Article III of the State Constitution;
- (II) all organs of the branches of government specified in subparagraph (I) of paragraph (a) of this subsection (16), including the departments of the executive branch; the legislative houses

and agencies; and the appellate and trial courts and court personnel; and

(III) State institutions of higher education.

(b) "State" does not include:

(I) any enterprise;

(II) an institution or group of institutions of higher education that has been designated as an enterprise;

(III) any special purpose authority;

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

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

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

It further established a statutory mechanism that allows governing boards of the institutions of higher education to designate certain auxiliary operations as enterprises, which are also exempt from TABOR. Senate Bill 189 enacted in the 2004 legislative session expanded the authority for each governing board of the State institutions of higher education to designate the entire institution as a TABOR exempt enterprise. The Board of Regents of the University of Colorado designated the entire University of Colorado as an enterprise during Fiscal Year 2004-05, and the remaining boards designated their institution as enterprises in Fiscal Year 2005-06. The

Auraria Higher Education Center Board of Directors did not designate all of its activities as a TABOR enterprise, but it continues to have selected activities designated as a TABOR enterprise.

Although the General Assembly and governing boards have designated certain enterprises as exempt from TABOR, those enterprises must continue to meet the criteria of a government-owned business authorized to issue its own revenue bonds and annually receiving less than 10 percent of its revenue in grants from all Colorado state and local governments combined. The State Fair Authority remained disqualified for Fiscal Year 2011-12.

The General Assembly passed legislation which consolidated the Division of Parks and Outdoor Recreation with the Division of Wildlife in the Department of Natural Resources beginning in Fiscal Year 2011-12. Per the legislation, the new Division has been designated as an enterprise, and it is subject to receiving less than 10 percent of total revenues from state and local governments.

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 2011-12 totals \$308,195,505. At June 30, 2012, 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 – \$92,500,000. The \$92,500,000 designation by the Legislature has been reduced by \$19,650,000 because that amount was transferred out of the TABOR emergency reserve to the Disaster Emergency Fund per Governor’s Executive Orders to pay the cost of fighting wildfires in the State.
- ♦ Wildlife Cash Fund – \$100,000,000. The Wildlife Cash Fund’s net assets not invested in capital assets (net of related debt) total \$10,004,375. The remaining \$89,995,625 of the Wildlife portion of the reserve comes from the capital assets recorded in the Wildlife Cash Fund.
- ♦ Unclaimed Property Tourism Promotion Trust Fund - \$1,500,000.

The 2011 legislative session Long Appropriations Act designated up to \$100,000,000 of State properties as the remainder of the Fiscal Year 2011-12 emergency reserve. The estimate of the needed reserve was based on the December 2011 revenue estimate prepared by Legislative Council. Because the revenues subject to the TABOR reserve requirement were more than estimated, the amount designated for the reserve was \$14,195,505 less than required by the State Constitution. There is no process by which the General Assembly can adjust the designated reserve after the end of the legislative session when the total TABOR revenues are finally known. In the event of an emergency that exceeded the financial assets in the reserve, the designated Wildlife Cash Fund capital assets and general

capital assets would have had to been liquidated to meet the constitutional requirement.

NOTE 6. STATUS OF REFUNDING

When refunds are required they are distributed to individual State taxpayers based on a statutory mechanism as discussed in Note 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 2011-12 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 adjust the outstanding unrefunded balance for up to four years after the excess revenues are recorded. At the end of Fiscal Year 2011-12, the same \$705,716 liability remained to be refunded. Since Referendum C precluded refunds through Fiscal Year 2009-10, and the State has not exceeded the excess State revenues cap in Fiscal Years 2010-11 or 2011-12, the unrefunded balance is being carried forward on the Schedule of Required

Computations and will be added to the next refund that is required by Referendum C, TABOR, and the related implementing statutes.

NOTE 7. OTHER SOURCES AND ADDITIONS

The \$804.7 million reported in this line item primarily comprises: \$311.7 million of pension and other employee benefit trust fund investment earnings and additions by participants; \$313.1 million of Certificate of Participation (COPs) proceeds, \$171.9 million of permanent and trust fund additions, reimbursements of prior year expenditures, reversions, and other miscellaneous exempt revenues; and \$8.0 million of local government expenditures recorded by the State as revenues and expenditures to meet grant matching-funds requirements.

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 \$276,258 and \$269,040 from this exempt source in Fiscal Years 2011-12 and 2010-11, 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 \$6,453,341 and \$9,860,873 including interest and

unrealized gains/losses from this revenue source in Fiscal Years 2011-12 and 2010-11, 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 \$411,729,626 and \$373,024,128 (restated) of tax revenues, interest, and unrealized gains/losses, being excluded from fiscal year spending in Fiscal Years 2011-12 and 2010-11, 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 \$149,464,082 and \$147,317,398 of tax revenues, interest, transfers, and unrealized gains/losses from this exempt source in Fiscal Year 2011-12 and 2010-11, respectively.
- ♦ In the 2005 general election, Colorado voters approved Referendum C – a measure referred to the voters by the Legislature. The referendum allowed the State to retain revenues in excess of the TABOR limit for a period of five years, and it stated that the excess revenue retained qualified as a voter approved revenue change. However, in

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

- ♦ In the 2008 general elections, voters approved an amendment required to implement locally approved changes to the parameters for Limited Gaming under Section 9(7) of Article XVIII of the Colorado Constitution. This amendment allowed the residents of Central City, Black Hawk, and Cripple Creek to vote to extend casino hours, approve additional games and increase the maximum single bet limit. It required distribution of most of the gaming tax revenue that resulted from the new gaming limits to Colorado community colleges and to gaming cities and counties, and it exempted the new revenue from state and local revenue and spending limits. The State collected \$9,401,325 and \$9,654,448 of extended limited gaming revenue in Fiscal Year 2011-12 and 2010-11, respectively.

NOTE 9. REFERENDUM C

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

- ♦ The State was authorized to retain and spend all revenues in excess of the limit on fiscal year spending after July 1, 2005, and before July 1, 2010 (five fiscal years). The authorization constituted a voter approved revenue change.
- ♦ After July 1, 2010, the State is allowed to retain revenues in excess of the limit on fiscal year spending up to a newly defined excess State revenues cap (ESRC). 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 disabled the ratchet down provision of TABOR during the five-year period. (The ratchet down is a term used to describe the TABOR provision that requires each year's base for calculating the limit to be the lesser of the prior year's revenues or the prior year's limit.)

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

With the end of the Referendum C five-year excess revenue retention period, the State was subject to an excess State revenue cap starting in Fiscal Year 2010-11. Calculation of the original TABOR limit continues to apply, but the ESRC replaces the previous TABOR limit for triggering taxpayer refunds.

Since the inception of Referendum C in Fiscal Year 2005-06 the State has retained \$5,837,604,012; \$3,593,602,662 during the initial five-year revenue retention period, and an additional \$2,244,001,350 as a result of the ESRC limit exceeding the Fiscal Year Spending Limit in Fiscal Years 2010-11 and 2011-12.

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), as well as 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, increased the TABOR District fund balances in total by \$25,256,356 as follows.

- ♦ The Department of Personnel and Administration decreased the district's beginning net assets by \$343,014 when it paid Western State College \$184,565 and Adams State College \$158,449 to assume responsibility for claims and liabilities in the Worker's Compensation Fund that would otherwise have been current liabilities of the fund in Fiscal Year 2011-12.
- ♦ The Department of Personnel and Administration decreased the district's beginning net assets by \$362,397 when it paid Fort Lewis College \$306,572, Adams State College \$34,678, and Colorado Mesa University \$21,147 to assume responsibility for claims and liabilities in the General Liability Fund that would have otherwise been current liabilities of the fund in Fiscal Year 2011-12.
- ♦ The Department of Education increased the district's beginning net assets by \$485,055

when receiving a transfer in the current year that was not recorded in Fiscal Year 2010-11 from CollegeInvest. If the transfer had been made, in the prior year, it would have increased the amount of General Fund Surplus that was statutorily transferred to the State Education Fund at the end of that year.

- ♦ The Department of Health Care Policy and Financing reduced beginning net assets of the district by \$2,837,860 when it paid an amount related to an error that was discovered during a federal audit. The Office of the Inspector General (OIG) determined that the State overdrew federal funds for administrative costs from Federal Fiscal Year 1998 through Federal Fiscal Year 2006.
- ♦ The Department of Health Care Policy and Financing decreased the beginning net assets of the district by \$110,624 when it determined that federal revenues related to nursing home provider fees had been previously overstated. The State's Comprehensive Annual Financial Report shows a prior period adjustment of \$201,430 which includes \$90,806 that was included as a reduction in revenue in the Fiscal Year 2010-11 TABOR reports.
- ♦ The State Land Board, within the Department of Natural Resources, increased the district's beginning net assets by \$29,570,789. The Land Board failed to recognize previously deferred gains in prior years associated with non-simultaneous exchanges on assets held in trust. The Department recorded the deferred gains as an increase to beginning fund balance in Fiscal Year 2011-12.
- ♦ The Department of Personnel and Administration decreased the district's beginning net assets by \$309,491 when the department corrected the duplicated recording in prior years of capitalized interest related to performance contracts as building assets.

- ♦ The Department of Labor and Employment decreased the district's beginning net assets by \$836,101 when the department restated receivable balances that had been compromised on release in prior years, but not removed from the accounting records.

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 2.0 percent allowable growth rate comprises a 1.9 percent increase for population growth (census date population for 2010 compared to calendar year estimated population for 2009) and a 0.1 percent increase for inflation.

NOTE 13. SPENDING LIMIT ADJUSTMENTS

With the addition of the excess State revenues cap calculation, adjustments may impact Fiscal Year Spending, the ESRC, or both.

A. ADJUSTMENTS RELATED TO FISCAL YEAR SPENDING

In Fiscal Year 2011-12, the State decreased the spending limit base by \$488,519 before applying the 2.0 percent allowable growth rate as follows:

Fiscal Year 2008-09 nonexempt revenues were overstated by a net amount of \$235,368 as a result of the two following errors:

- ♦ The Department of Health Care Policy and Financing overstated Fiscal Year 2008-09

nonexempt revenue by \$126,281 when it erroneously collected and recorded payments of a nursing facility provider fee from certain providers. The revenue was correctly recorded in Fiscal Year 2011-12. The error did not require a prior period adjustment in Fiscal Year 2011-12, as it did not impact net assets as of June 30, 2012.

- ♦ In Fiscal Year 2008-09, the Department of Treasury overstated nonexempt interest income that should have been recorded as partially exempt and partially nonexempt transaction fees by a net of \$109,087. The revenue was correctly recorded in Fiscal Year 2011-12. This error did not require a prior period adjustment in Fiscal Year 2011-12, as it did not impact net assets as of June 30, 2012.

These two errors were adjusted by the Fiscal Year 2009-10 TABOR allowable growth rate of 5.8 percent, resulting in a net reduction of \$249,019 to the Fiscal Year 2009-10 Fiscal Year Spending Limit.

In addition, the following errors which occurred in Fiscal Year 2009-10 decreased the fiscal year spending limit by \$233,707. The errors were:

- ♦ The Department of Health Care Policy and Financing overstated Fiscal Year 2009-10 nonexempt revenue by \$112,289 when it erroneously collected and recorded payments of a nursing facility provider fee from certain providers. The revenue was correctly recorded in Fiscal Year 2011-12. This error did not require a prior period adjustment in Fiscal Year 2011-12, as it did not impact net assets as of June 30, 2012.
- ♦ In Fiscal Year 2009-10, the Department of Treasury overstated nonexempt interest income that should have been recorded as partially exempt and partially nonexempt transaction fees by a net of \$121,418. The revenue was correctly recorded in Fiscal Year 2011-12. This error did not require a

prior period adjustment in Fiscal Year 2011-12, as it did not impact net assets as of June 30, 2012.

The Fiscal Year 2010-11 allowable growth of 1.2 percent was applied to the Fiscal Year 2009-10 errors and the \$249,019 of adjusted Fiscal Year 2008-09 errors resulting in a reduction of \$488,519. The Fiscal Year 2011-12 growth rate of 2.0 percent is applied on the face of the Schedule of Computations.

B. ADJUSTMENTS RELATED TO EXCESS STATE REVENUES CAP

In Fiscal Year 2011-12, the State decreased the excess State revenues cap (ESRC) by \$102,857 before applying the 2.0 percent allowable growth rate as follows:

Fiscal Year 2007-08 nonexempt revenues were overstated by a net amount of \$92,282 as a result of the following error:

In Fiscal Year 2007-08, the Department of Treasury overstated nonexempt interest income that should have been recorded as partially exempt and partially nonexempt transaction fees by a net of \$92,282. The revenue was correctly recorded in Fiscal Year 2011-12. This error did not require a prior period adjustment in Fiscal Year 2011-12, as it did not impact net assets as of June 30, 2012.

This error was adjusted by the Fiscal Year 2008-09 allowable growth rate of 4.1 percent, the 2009-10 TABOR allowable growth rate of 5.8 percent, and the 2010-11 TABOR allowable growth rate of 1.2 percent, resulting in a cumulative decrease in the ESRC of \$102,857. The Fiscal Year 2011-12 growth rate of 2.0 percent is applied on the face of the schedule.

NOTE 14. ENTERPRISE QUALIFICATION AND DISQUALIFICATION

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

The Qualification of Enterprises line, and the Other Agency Revenues From Qualification of Enterprises line in the Fiscal Year 2011-12 Computation of Spending Limitations section of the report show (\$30,836,422) and \$4,342,886 respectively, which are both related to the consolidation of the Division of Parks and Outdoor Recreation with the Division of Wildlife in the Department of Natural Resources as a TABOR enterprise to form a new Division of Parks and Wildlife.

The Qualification/Disqualification of Enterprises line in the Computation of District Fund Balance Changes section on the Schedule of Required Computations shows a net decrease in fund balance of \$47,724,307. The entire amount of the net decrease is related to the consolidation of the Division of Parks and Wildlife.

**NOTE 15. TREATMENT OF AMOUNTS
HELD FOR FUTURE REFUND**

CRS 24-77-103.5 requires that errors in the amount to be refunded be corrected in the year that they are discovered. In Fiscal Year 2011-12, no errors were identified that affected the prior year TABOR refunds that are being carried forward under Referendum C. The \$2,899,667 of net understatement of prior year refunds will be refunded in the first fiscal year in which the State is required to distribute a TABOR refund. The unrefunded amount of \$705,716 from Fiscal Year 2004-05 will also be refunded at that time.

NOTE 16. FUTURE REFUNDS

In the 2010 legislative session, Senate Bill 212 removed all alternative mechanisms for refunding TABOR revenues in excess of the fiscal year spending limit except for the earned income tax credit refund mechanism.

Also in the 2010 session, House Bill 10-1002 created a temporary income tax rate reduction from 4.63 percent to 4.50 percent applicable beginning in Fiscal Year 2010-11, as an additional refunding mechanism. The Department of Revenue reported that after the adjustment for personal income, the earned income tax credit mechanism will be applied when the refund exceeds \$91.0 million.

Due to total nonexempt district revenues falling below the newly implemented excess State revenues cap, there was no refund required for Fiscal Year 2011-12, and therefore, neither of the refund mechanisms discussed above were active in Fiscal Year 2011-12.

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Schedule of TABOR Revenue

**STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
SCHEDULE OF TABOR REVENUE
FOR THE FISCAL YEAR ENDED JUNE 30, 2012**

	Fiscal Year 2011-12	Fiscal Year 2010-11	Increase (Decrease)	2011 to 2012 % Change
Individual Income Taxes, Net	\$ 4,612,228,145	\$ 4,133,408,992	\$ 478,819,153	11.6%
Corporate Income Taxes, Net	462,085,334	365,558,281	96,527,053	26.4%
Fiduciary Income Taxes, Net	23,927,609	20,501,197	3,426,412	16.7%
TOTAL INCOME TAX	5,098,241,088	4,519,468,470	578,772,618	12.8%
Sales Tax, Net	2,133,007,925	2,077,563,157	55,444,768	2.7%
Use Tax, Net	203,458,568	190,194,104	13,264,464	7.0%
Tobacco Products Tax, Net	55,530,989	53,107,339	2,423,650	4.6%
Alcoholic Beverages Tax, Net	39,039,088	37,063,013	1,976,075	5.3%
Other Excise Taxes, Net	304,595	201,511	103,084	51.2%
TOTAL EXCISE TAX	2,431,341,165	2,358,129,124	73,212,041	3.1%
Fuel and Transportation Taxes, Net	559,673,030	558,967,270	705,760	0.1%
Insurance Taxes	215,211,770	212,128,775	3,082,995	1.5%
Severance Taxes	199,437,187	140,046,677	59,390,510	42.4%
Gaming and Other Taxes	93,998,977	96,642,127	(2,643,150)	-2.7%
Employment Taxes	19,307,097	18,610,520	696,577	3.7%
Estate and Inheritance Taxes	289,719	(49,659)	339,378	-683.4%
TOTAL OTHER TAXES	1,087,917,780	1,026,345,710	61,572,070	6.0%
Health Service Fees	650,338,502	488,851,526	161,486,976	33.0%
Motor Vehicle Registrations	229,026,208	218,157,499	10,868,709	5.0%
Other Charges for Services	140,361,991	138,272,422	2,089,569	1.5%
Business Licenses and Permits	134,807,703	137,866,348	(3,058,645)	-2.2%
General Government Service Fees	39,859,400	39,163,412	695,988	1.8%
Driver's Licenses	31,610,993	31,194,068	416,925	1.3%
Nonbusiness Licenses and Permits	31,412,223	28,372,725	3,039,498	10.7%
Certifications and Inspections	20,658,555	21,788,906	(1,130,351)	-5.2%
Public Safety Service Fees	10,766,770	11,943,862	(1,177,092)	-9.9%
Educational Fees	6,783,915	4,869,796	1,914,119	39.3%
Welfare Service Fees	882,879	806,490	76,389	9.5%
TOTAL LICENSES, PERMITS, AND FEES	1,296,509,139	1,121,287,054	175,222,085	15.6%
Court and Other Fines	177,447,148	191,161,028	(13,713,880)	-7.2%
Interest and Investment Income	67,675,403	78,259,869	(10,584,466)	-13.5%
Rents and Royalties	36,872,877	33,265,112	3,607,765	10.8%
Local Governments and Authorities	40,046,106	20,233,887	19,812,219	97.9%
Miscellaneous Revenue	28,369,765	40,059,321	(11,689,556)	-29.2%
Higher Education Auxiliary Sales and Services	6,908,220	3,789,901	3,118,319	82.3%
Sales of Products	1,854,813	1,928,082	(73,269)	-3.8%
TOTAL OTHER REVENUE	359,174,332	368,697,200	(9,522,868)	-2.6%
SUBTOTAL TABOR REVENUE BEFORE QUALIFICATION OF TABOR ENTERPRISES	10,273,183,504	9,393,927,558	879,255,946	9.4%
Division of Parks and Wildlife	-	30,836,422	(30,836,422)	-100.0%
TOTAL QUALIFICATION OF TABOR ENTERPRISES	-	30,836,422	(30,836,422)	-100.0%
TOTAL TABOR REVENUE	\$ 10,273,183,504	\$ 9,424,763,980	\$ 848,419,524	9.0%

Appendices

Appendix A

Description of Revenue Categories

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

Category	Description
Other Excise Taxes, Net	Taxes for occupational license renewals and certain penalties net of refunds.
OTHER TAXES	
Fuel and Transportation Taxes, Net	Gross ton mileage tax on motor carriers and taxes on diesel, gasoline, aviation jet fuel, aviation gasoline, and other fuels net of refunds.
Insurance Taxes, Net	Taxes on insurance premiums collected by insurance companies net of refunds.
Severance Taxes, Net	Mineral extraction taxes, net of refunds on coal, oil and gas, molybdenum, and metallic minerals net of refunds.
Gaming and Other Taxes, Net	Taxes on gaming facilities based on percentages of income net of refunds.
Employment Taxes, Net	Employment insurance paid by employers for funding unemployment benefits net of refunds.
Estate and Inheritance Taxes, Net	Taxes collected on the assets of estates net of refunds.
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).
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.
Nonbusiness Licenses and Permits	Environmental response surcharges, park passes, motorcycle operator safety training, waste tire recycling, etc.
Certifications and Inspections	Emission inspection stickers, emission registration, emission inspection station licenses, and other fees.
Public Safety Service Fees	Fees for firefighter response, fire service education and training, search and rescue fund fees.
Educational Fees	Conference fees and teacher certification fees collected primarily by the Department of Education.
Child Welfare Service Fees	Child abuse registry fees.
OTHER REVENUE	
Court and Other Fines	Fines and forfeits levied by the courts.
Interest and Investment Income	Interest income, finance charges, and gains/losses on investments.
Rents and Royalties	Income from the lease of state land to private

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

Appendix B1

Description of Refunding Mechanisms

Mechanism

Description

Temporary Income Tax Rate Reduction

Starting with income tax year 2011, the state income tax rate will be temporarily reduced from the rate of 4.63 percent to 4.50 percent when the state experiences a revenue surplus large enough to support the rate reduction.

Earned Income Credit

When 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.

Appendix B2

Refunding Mechanism Thresholds

(As applicable to Fiscal Year 2012)

Refunding Mechanism	Original Threshold	Fiscal Year 2012 Threshold¹
Earned Income Credit	\$ 50,000,000	\$91,000,000

Source: Office of the State Auditor's analysis of Department of Revenue data.
¹Thresholds are adjusted annually by the personal income growth rate for Colorado. With the enactment of Senate Bill 10-212, the earned income tax credit became the only mechanism with a threshold for refunding state surplus revenues.

Appendix C

TABOR History: Fiscal Years 1993 - 2006

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

1993

Voter Approval. The Taxpayer's Bill of Rights (TABOR) was added as Article X, Section 20 of the Colorado Constitution in the November 1992 general election. TABOR limits increases in the State's revenue to the annual inflation rate plus the percentage change in Colorado's population unless voters approve a revenue change.

1997 and 1998

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

1999—2001

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

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

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

2001

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

2002

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

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

2004

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

2005 and 2006

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

allowed to retain revenues in excess of the TABOR Revenue Limit up to a newly defined “Excess State Revenues Cap.” The Excess State Revenues Cap is defined as the highest total state revenue earned between Fiscal Years 2006 and 2010, adjusted for inflation and population growth for each subsequent year.

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

Overrefunds. Prior to July 1, 2005, state statutes provided a mechanism to apply refunds paid in excess of the TABOR refund liability (“overrefunds”) for 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 TABOR Revenue Limit for Fiscal Years 2002 through 2004 by applying the overrefunds after the TABOR Revenue Limit was set. This resulted in an increase of \$92.7 million to the Fiscal Year 2005 TABOR Revenue Limit.

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

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

2011

Refund Mechanisms. The General Assembly enacted Senate Bill 10-212, which repealed certain TABOR surplus refund mechanisms effective July 1, 2010. For any year in which a refund of TABOR surplus revenue is required, the remaining refund mechanism in statute is the earned income tax credit. In addition, House Bill 05-1317 created a TABOR refund mechanism that, starting with income tax year 2011, reduces the state income tax rate from the rate of 4.63 percent to 4.50 percent when the state experiences a revenue surplus large enough to support the rate reduction. The temporary income tax rate reduction precedes the earned income tax credit refund mechanism. See Appendices B1 and B2.

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