

Schedule of TABOR Revenue

September 2013



**OFFICE OF THE
STATE AUDITOR**

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*The mission of the Office of the State Auditor
is to improve government for the people of Colorado.*



September 16, 2013

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the financial report required under Article X, Section 20 of the Colorado Constitution (TABOR) as of June 30, 2013, as certified by the State Controller on August 30, 2013 and re-certified on September 10, 2013. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. This audit was also conducted pursuant to Section 24-77-106.5, C.R.S., which requires the State Auditor to conduct an audit of the TABOR financial report and certification prepared by the State Controller, and transmit the results to the governor, Joint Budget Committee, Financial Committees of the House of Representatives and the Senate, and the executive director of the Department of Revenue.



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September 16, 2013

The Honorable John W. Hickenlooper
Governor
State of Colorado

The Honorable Pat Steadman
Chair
Colorado Joint Budget Committee

The Honorable Michael Johnston
Chair
Colorado Senate Finance Committee

The Honorable Lois Court
Chair
Colorado House Finance Committee

Barbara Brohl
Executive Director
Colorado Department of Revenue

Dear Sirs and Mesdames:

This letter summarizes the results of our audit of the Taxpayer's Bill of Rights (TABOR) financial report as of June 30, 2013, as certified by the State Controller on August 30, 2013 and revised on September 10, 2013. Please find attached the revised letter of certification from the State Controller, the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]*; and the *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year Ended June 30, 2013*. Our 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 TABOR financial report and certification prepared by the State Controller. Our full report will be presented to the Legislative Audit Committee in October 2013.

Pursuant to Section 24-77-106.5, C.R.S., for each fiscal year, the State Controller shall prepare a financial report for the purpose of ascertaining the State's compliance with the constitutional provisions of TABOR. Based on the financial report, the State Controller is required to certify to the Governor, the General Assembly, and the executive director of the Department of Revenue no later than September 1st subsequent to the end of the previous fiscal year the following:

- Amount of state revenues in excess of the limitation on state fiscal year spending (known as the TABOR Revenue Limit) imposed by Article X, Section 20(7)(a) of the Colorado Constitution.
- Amount of state revenues in excess of such limitation the state is authorized to retain and spend pursuant to voter approval of Section 24-77-103.6 C.R.S. (Referendum C).



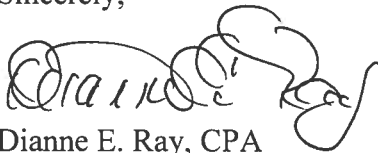
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We conducted a performance audit under generally accepted government auditing standards. The objectives of our audit were to determine (1) whether the Office of the State Controller complied with State Fiscal Policies related to Article X, Section 20 of the Colorado Constitution (TABOR) in preparing the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]*, *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year ended June 30, 2013* (TABOR financial reports), and the certification required by Section 24-77-101 through 107, C.R.S., and (2) whether the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]* and *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year ended June 30, 2013* were prepared in accordance with Section 24-77-106.5 C.R.S., and are accurate.

Based on the results of our audit, we noted no instances of noncompliance with State Fiscal Policies related to Article X, Section 20 of the Colorado Constitution (TABOR), and we determined that the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]*, *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year ended June 30, 2013*, and certification by the State Controller dated September 10, 2013 are accurate.

The *Schedule of Computations Required Under Article X, Section 20 of the Constitution (TABOR)[Final]* as of June 30, 2013, and our opinion thereon will be issued in December 2013 after completion of the audit work on the State of Colorado's *Comprehensive Annual Financial Report* for the year ended June 30, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne E. Ray". The signature is fluid and cursive, with a large loop at the end.

Dianne E. Ray, CPA
Colorado State Auditor

Enc.



Colorado

Department of Personnel
& Administration
Office of the State Controller

John W. Hickenlooper
Governor

Kathy Nesbitt
Executive Director

Robert Jaros
State Controller

September 10, 2013

The Honorable John W. Hickenlooper
Governor
State of Colorado

The Honorable John P. Morse
President of the Senate
Colorado General Assembly

The Honorable Mark Ferrandino
Speaker of the House
Colorado General Assembly

Barbara Brohl
Executive Director
Colorado Department of Revenue

Dear Sirs and Madam:

This letter revises my previous letter dated August 30, 2013; it increases the Excess State Revenues Cap Fiscal Year 2012-13 Adjusted Limit from \$11,458,254,285 to \$11,460,241,749 and increases the amount under this limit from \$348,705,764 to \$350,693,229. Additionally, the Fiscal Year Spending limit changed from \$9,276,369,052 to \$9,247,466,372 to reflect information that became available after the original certification on August 30, 2013. The text from the original letter follows, but has been modified to reflect these changes.

Pursuant to CRS 24-77-106.5(1)(b), I hereby certify that for Fiscal Year 2012-13, the unaudited state revenues subject to Article X, Section 20 (TABOR) of the State Constitution are \$11,109,548,521.

A schedule is attached comparing general and program nonexempt TABOR revenues for Fiscal Year 2012-13 to Fiscal Year 2011-12. Total revenues not exempt from TABOR were more than the previous fiscal year by 8.1 percent. The \$11,109,548,521 nonexempt revenue includes newly qualified revenues recorded by the Department of Public Safety, when it received the State Forest Service wildfire functions from Colorado State University, a TABOR enterprise, in Fiscal Year 2012-13, and excludes newly disqualified revenues recorded by the Department of Natural Resources when the Colorado Geological Survey was transferred to the Colorado School of Mines, a TABOR enterprise, on January 31, 2013.

The Fiscal Year 2012-13 limit was increased by \$1,987,464 of nonexempt revenues recorded by the Department of Public Safety, and the Fiscal Year 2011-12 limit was reduced by \$99,355 of nonexempt revenue recorded by the Department of Natural Resources.

State revenues subject to TABOR for Fiscal Year 2012-13 were over the Fiscal Year Spending limit by \$1,862,082,149 and below the Excess State Revenues Cap by \$350,693,228, after adjustments for qualification and disqualification of enterprises. As of the certification date, no refund of State revenues is required in Fiscal Year 2013-14 related to Fiscal Year 2012-13 revenues subject to TABOR, as shown in the attached Preliminary Schedule of Computations Required Under Article X, Section 20.

The amounts reported in the attached schedules are based on unaudited account balances, and they are therefore subject to change. The State Auditor is required by statute to report on the audit of these amounts by September 15, 2013.

If there are questions concerning the information provided please feel free to contact me.

Sincerely yours,

Robert Jaros, CPA, MBA, JD
Colorado State Controller

cc: Kathy Nesbitt, Personnel & Administration
Henry Sobanet, OSPB

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**STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
COMPARISON OF NONEXEMPT TABOR REVENUES
FOR THE FISCAL YEAR ENDED JUNE 30, 2013
UNAUDITED**

	Fiscal Year 2012-13	Fiscal Year 2011-12	Increase (Decrease)	Percent Change
GENERAL REVENUES				
Individual Income Tax, Net	\$ 5,114,790,948	\$ 4,612,228,145	\$ 502,562,803	10.9%
Sales and Use Tax, Net	2,454,454,528	2,293,837,287	160,617,241	7.0%
Corporate Income Tax, Net	597,441,383	462,085,334	135,356,049	29.3%
Insurance Taxes	210,415,209	197,201,583	13,213,626	6.7%
Tobacco Products Tax, Net	53,851,429	55,530,516	(1,679,087)	-3.0%
Alcoholic Beverages Tax, Net	39,211,611	38,373,406	838,205	2.2%
Fiduciary Income Tax, Net	34,002,352	23,927,608	10,074,744	42.1%
Interest and Investment Income	17,188,344	13,350,699	3,837,645	28.7%
Court and Other Fines	7,566,620	9,419,468	(1,852,848)	-19.7%
Business Licenses and Permits	4,893,664	6,601,915	(1,708,251)	-25.9%
Miscellaneous Revenue	2,665,762	3,292,432	(626,670)	-19.0%
Gaming and Other Taxes	689,627	594,680	94,947	16.0%
General Government Service Fees	550,608	350,623	199,985	57.0%
Other General Revenue	177,546	410,177	(232,631)	-56.7%
TOTAL GENERAL REVENUES	8,537,899,631	7,717,203,873	820,695,758	10.6%
PROGRAM REVENUE				
Health Service Fees	718,788,307	650,338,502	68,449,805	10.5%
Fuel and Transportation Taxes, Net	554,403,825	559,673,030	(5,269,205)	-0.9%
Motor Vehicle Registrations	231,107,330	229,026,208	2,081,122	0.9%
Court and Other Fines	167,178,935	168,027,680	(848,745)	-0.5%
Other Charges For Services	143,658,875	140,318,679	3,340,196	2.4%
Severance Taxes	131,173,685	199,437,187	(68,263,502)	-34.2%
Business Licenses and Permits	129,124,669	128,205,788	918,881	0.7%
Gaming and Other Taxes	94,897,462	93,404,297	1,493,165	1.6%
Interest and Investment Income	45,740,446	54,324,704	(8,584,258)	-15.8%
Rents and Royalties	45,411,040	36,872,877	8,538,163	23.2%
Sales and Use Tax, Net	42,825,789	42,629,206	196,583	0.5%
General Government Service Fees	42,415,050	39,508,777	2,906,273	7.4%
Nonbusiness Licenses and Permits	32,232,217	31,313,531	918,686	2.9%
Driver's Licenses	32,134,527	31,610,993	523,534	1.7%
Local Governments and Authorities	28,166,087	40,046,106	(11,880,019)	-29.7%
Miscellaneous Revenue	27,784,397	25,074,834	2,709,563	10.8%
Employment Taxes	25,723,693	19,307,097	6,416,596	33.2%
Insurance Taxes	22,882,646	18,010,187	4,872,459	27.1%
Certifications and Inspections	20,349,904	20,636,730	(286,826)	-1.4%
Public Safety Service Fees	19,427,273	10,766,770	8,660,503	80.4%
Educational Fees	6,129,967	6,783,915	(653,948)	-9.6%
Higher Education Auxiliary Sales and Services	4,512,599	6,908,220	(2,395,621)	-34.7%
Other Program Revenue	3,592,703	3,654,958	(62,255)	-1.7%
TOTAL PROGRAM REVENUES	2,569,661,426	2,555,880,276	13,781,150	0.5%
Disqualification of TABOR Enterprise: State Forest Service - Wildfire functions	1,987,464	-	1,987,464	N/A
Qualification of TABOR Enterprise: Colorado Geological Survey	-	99,355	(99,355)	N/A
TOTAL NONEXEMPT REVENUE	\$ 11,109,548,521	\$ 10,273,183,504	\$ 836,365,017	8.1%

**STATE OF COLORADO
PRELIMINARY SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20 -- UNAUDITED
AS OF JUNE 30, 2013**

Certification Date: September 10, 2013

	FISCAL YEAR 2011-12	FISCAL YEAR 2012-13
COMPUTATION OF NONEXEMPT REVENUES		
Total State Expenditures	\$ 36,656,629,375	\$ 35,867,060,185
Less: Exempt Activity	<u>26,865,012,926</u>	<u>25,585,165,798</u>
Nonexempt District Expenditures	9,791,616,449	10,281,894,387
District Reserve/Fund Balance Increase (Decrease)	481,567,055	827,654,134
Total Nonexempt District Revenues	<u>\$ 10,273,183,504</u>	<u>\$ 11,109,548,521</u>
COMPUTATION OF DISTRICT FUND BALANCE CHANGES		
Beginning District Fund Balance	\$ 4,800,648,746	\$ 5,259,747,850
Qualifications, Disqualifications and Other Adjustments	459,099,104	834,298,451
Ending District Fund Balance	<u>\$ 5,259,747,850</u>	<u>\$ 6,094,046,301</u>

	FISCAL YEAR SPENDING	EXCESS STATE REVENUES CAP
COMPUTATION OF SPENDING LIMITATIONS		
Fiscal Year 2011-12 Limit	\$ 8,799,754,139	\$ 10,871,425,021
Qualification of Enterprises	(99,355)	(99,355)
Other Adjustments	<u>(27,853,164)</u>	<u>(116,667)</u>
Fiscal Year 2011-12 Adjusted Limit	\$ 8,771,801,620	\$ 10,871,208,999
Allowable TABOR Growth Rate	5.4%	5.4%
Fiscal Year 2012-13 Unadjusted Limit	\$ 9,245,478,908	\$ 11,458,254,285
Disqualification of Enterprises	<u>1,987,464</u>	<u>1,987,464</u>
Fiscal Year 2012-13 Adjusted Limit	\$ 9,247,466,372	\$ 11,460,241,749
Less: Fiscal Year 2012-13 Nonexempt District Revenues	(11,109,548,521)	(11,109,548,521)
Amount (Over)Under Adjusted Limit	<u>\$ (1,862,082,148)</u>	<u>\$ 350,693,228</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, 2013		\$ 705,716
FY2012-13 Retention of Revenues in Excess of the Limit (not refundable) CRS 24-77-103.6(1)(b)		\$ 1,862,082,148

Schedule of TABOR Revenue – 2013

Overview

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 state fiscal year spending to the annual inflation rate plus the percentage change in Colorado's population, known as the TABOR growth rate. The State Controller annually prepares a *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]*, and the *Schedule of TABOR Revenue [Comparison of Non-Exempt TABOR Revenues for the Fiscal Year Ended June 30, 2013]* (collectively called the TABOR financial report). Based on the TABOR financial report, the State Controller is required to certify to the Governor, General Assembly, and the Executive Director of the Department of Revenue no later than September 1st following the end of a fiscal year (1) the amount of state revenues in excess of the limitation on state fiscal year spending, and (2) the state revenues in excess of such limitation the state is authorized to retain and spend pursuant to voter approval of Referendum C. The TABOR financial report is audited concurrently with the state's annual financial statement audit.

Audit Scope and Methodology

This performance audit was conducted in response to statutory requirements. Specifically, Section 24-77-106.5, C.R.S., requires that the State Auditor conduct an audit of the TABOR financial report and certification of excess state revenues prepared by the State Controller. We performed our audit work during the period June 2013 through September 2013. We acknowledge the cooperation and assistance provided by the State Controller and staff at the Office of the State Controller.

The overall objective of our audit was to evaluate the TABOR financial report and certification of excess state revenues issued by the State Controller pursuant to Section 24-77-101 through 107, C.R.S. Specifically, we determined:

- Whether the Office of the State Controller complied with State Fiscal Policies related to Article X, Section 20 of the State Constitution (TABOR) in preparing the TABOR financial report and certification of excess state revenues.

- Whether schedules contained in the TABOR financial report and certification of excess state revenues prepared in accordance with Section 24-77-106.5, C.R.S. are accurately stated.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives, and did not note any deficiencies in the effectiveness of internal controls significant to our audit objectives.

To accomplish our audit objectives, we:

- Researched applicable state laws and regulations.
- Determined the accuracy of key calculations in the Office of the State Controller's certification of excess state revenues, including TABOR revenues, the anticipated TABOR growth rate, exempted revenues and enterprises, the TABOR Adjusted Spending Limit, and the Excess State Revenue Cap (ESRC).
- Reviewed reports submitted by state agencies detailing changes in TABOR revenue for prior years, base fiscal year spending, changes in TABOR enterprise status, and proposed financial statement post-closing entries. We verified the changes were appropriate and accurately reflected in the TABOR financial report.
- Reviewed the logic and accuracy of computations used by the Office of the State Controller to prepare the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]*, and the *Schedule of TABOR Revenue [Comparison of Non-Exempt TABOR Revenues for the Fiscal Year Ended June 30, 2013]*.

We conducted this performance audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Based on the results of our audit, we noted no instances of noncompliance with State Fiscal Policies related to Article X, Section 20 of the Colorado Constitution (TABOR), and we determined the *Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2013 [Preliminary]* and the *Schedule of TABOR Revenue [Comparison of Non-Exempt TABOR*

Revenues for the Fiscal Year Ended June 30, 2013] and certification of excess state revenues by the State Controller dated September 10, 2013 were accurate.

The *Schedule of Computations Required Under Article X, Section 20 of the Constitution (TABOR)[Final] as of June 30, 2013*, and our opinion thereon will be issued after the audit of the State of Colorado's *Comprehensive Annual Financial Report* for the year ended June 30, 2013, has been completed in December 2013.

Fiscal Year 2013 TABOR Revenue

Fiscal Year 2013 TABOR revenue was \$11,109,548,521, as certified by the State Controller on August 30, 2013 and revised on September 10, 2013.

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

Calculation of the Fiscal Year TABOR Revenue Limit continues to apply, but the new Excess State Revenues Cap replaces it as the limit that triggers taxpayer refunds. The following figures show the TABOR revenue, TABOR Revenue Limit, TABOR Excess State Revenues Cap, and revenue under the Excess State Revenues Cap for Fiscal Year 2013:

Fiscal Year 2013 TABOR Revenue		\$11,109,548,521
(Less): Fiscal Year 2013 TABOR Revenue Limit	\$ (9,247,466,372)	
(Less): Fiscal Year 2013 Excess of TABOR Revenue Limit Allowed to Retain and Spend	<u>\$ (2,212,775,377)</u>	
Total Fiscal Year 2013 Excess State Revenues Cap		<u>(11,460,241,749)</u>
Fiscal Year 2013 Revenue (Under) Over the Excess State Revenues Cap		<u>\$ (350,693,228)</u>

The effect of Referendum C (see Referendum C section below) causes Fiscal Year 2013 revenue to be under the Excess State Revenues Cap by approximately \$351 million. Therefore, there is no TABOR refund for Fiscal Year 2013.

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 enactment of Senate Bill 10-212, excess revenue was refunded to the taxpayers through a variety of means. With the enactment of Senate Bill 10-212, three mechanisms for refunding state surplus revenues, including one with a threshold amount – the Earned Income Tax Credit – remain. The other two refunding mechanisms in place are the Temporary State Income Tax Rate Reduction and the State Sales Tax Refund. Based on current law, the mechanism used to refund surplus revenues will depend on the amount of the revenues to be refunded. Appendices B1 and B2 provide more detail regarding refunding mechanisms.

Revenue Reductions

There were no permanent tax cuts enacted during the 2013 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 2013 and 2012 TABOR revenue:

Impact of Voter-Approved Revenue Changes on TABOR Revenue		
Constitutional Amendment (Year of Approval)	Decrease in TABOR Revenue	
	Fiscal Year 2013	Fiscal Year 2012
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	\$445,704,000	\$378,082,178
Corporate income taxes	38,852,000	33,937,797
Fiduciary income taxes	<u>1,782,000</u>	<u>1,466,327</u>
Total for Amendment 23	\$486,338,000	\$413,486,302
Amendment 14 (1998) Assesses a fee on housed commercial swine feeding operations.	\$273,073	\$276,257
Amendment 20 (2000) Assesses an application fee to obtain a Medical Marijuana identification card.	\$3,776,829	\$6,256,274
Amendment 35 (2004) Assesses a statewide tax on cigarette and tobacco products.	\$143,422,695	\$147,207,790
Amendment 50 (2008) Assesses a tax on extended limited gaming.	\$9,591,704	\$9,401,325
Total Reductions in TABOR Revenue	\$643,402,301	\$576,627,948
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 Revenue Limit to be the lesser of the prior fiscal year's actual revenue adjusted for inflation and the change in population, or the prior fiscal year's TABOR Revenue Limit adjusted for inflation and the change in population.

House Bill 05-1310 requires that in Fiscal Year 2006 and future years, TABOR revenue in excess of the TABOR Revenue Limit be reduced by any amounts

overrefunded in the prior year. Any unused amount is to be carried forward and decrease future refund liabilities until the excess is depleted. During our Fiscal Year 2013 audit, no overrefund was identified in the previous Fiscal Years 2006 through 2012 that would affect the TABOR revenue in excess of the Excess State Revenues Cap for Fiscal Year 2013.

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 2013, 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 to the next refund year and will be paid out at that time.

Referendum C

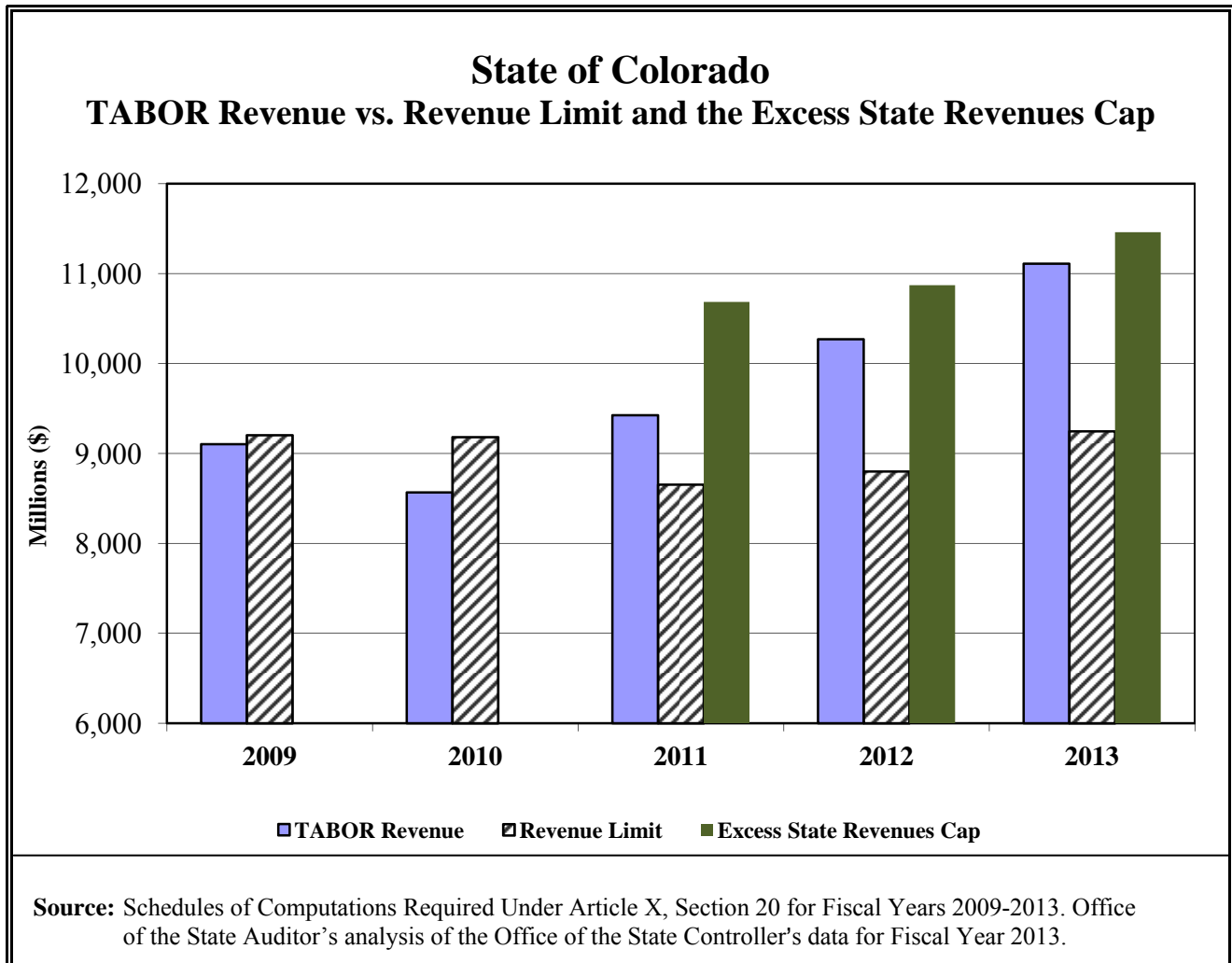
During Fiscal Year 2005, the General Assembly enacted House Bill 05-1194, which was the enabling legislation for Referendum C. In November 2005, Referendum C was approved by a vote of the people and became effective as of July 1, 2005. Referendum C allowed the State to retain and expend all revenue in excess of the TABOR Revenue Limit for each of the five fiscal years commencing with Fiscal Year 2006, and changed the basis on which TABOR refunds are calculated.

For Fiscal Years 2006, 2007, and 2008, the amounts of excess revenue that the State was allowed to retain and spend were \$1,116,134,410, \$1,308,040,131, and \$1,169,428,121, respectively, for a 3-year total of \$3,593,602,662. The funds retained by the State were to be applied toward education; healthcare; roads, bridges, and other strategic transportation projects; and retirement plans for firefighters and police officers. TABOR Revenue did not exceed the TABOR Revenue Limit in Fiscal Years 2009 and 2010.

Revenue Limit

We reviewed the State Controller's computations of the TABOR Revenue Limit and the Excess State Revenues Cap. For Fiscal Year 2013, the TABOR Revenue Limit is \$9,247,466,372 and the Excess State Revenues Cap is \$11,460,241,749.

The chart on the following page compares the TABOR Revenue Limit computed each year to the TABOR revenue from Fiscal Year 2009 to Fiscal Year 2013. As of Fiscal Year 2011, both the TABOR Revenue Limit and the Excess State Revenues Cap will be calculated independently. However, the State will be allowed to retain and spend the amount of revenue in excess of the TABOR Revenue Limit and up to the Excess State Revenues Cap as set forth in Referendum C.



Sources of TABOR Revenue

There are two types of revenue subject to the growth limitations set forth in TABOR—general funds and cash funds. General funds primarily include revenue from the general taxing authority of the State, such as individual and corporate income taxes. Cash funds generally include revenue from fees and other sources that are to be used for specific programs, such as education service fees and fuel/transportation taxes. General funds increased by 10.6 percent in Fiscal Year 2013, while cash funds increased by 0.6 percent in Fiscal Year 2013. Overall, TABOR revenue increased by 8.1 percent in Fiscal Year 2013.

The following tables show the major sources of revenue in Fiscal Year 2013, with comparative figures for Fiscal Year 2012, separated by general-funded and cash-funded revenue. The *Schedule of TABOR Revenue* on page 19 combines the general fund and cash fund revenue presented on pages 16 and 17, respectively.

State of Colorado
Sources of TABOR Revenue
General Fund Revenue
For the Fiscal Year Ended June 30, 2013

GENERAL FUND REVENUE	Fiscal Year 2013	Fiscal Year 2012	2012 to 2013 % Change
Individual Income Tax, Net ¹	\$5,114,790,948	\$4,612,228,145	10.9%
Sales and Use Tax, Net	2,454,454,528	2,293,837,287	7.0%
Corporate Income Tax, Net ¹	597,441,383	462,085,334	29.3%
Insurance Taxes	210,415,209	197,201,583	6.7%
Tobacco Products Tax, Net	53,851,429	55,530,516	-3.0%
Alcoholic Beverages Tax, Net	39,211,611	38,373,406	2.2%
Fiduciary Income Tax, Net ¹	34,002,352	23,927,608	42.1%
Interest and Investment Income	17,188,344	13,350,699	28.7%
Court and Other Fines	7,566,620	9,419,468	-19.7%
Business Licenses and Permits	4,893,664	6,601,915	-25.9%
Miscellaneous Revenue	2,665,762	3,292,432	-19.0%
Gaming and Other Taxes	689,627	594,680	16.0%
General Government Service Fees	550,608	350,623	57.0%
Other General Revenue ²	177,546	410,177	59.4%
TOTAL GENERAL FUND REVENUE	\$8,537,899,631	\$7,717,203,873	10.6%

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

¹ Net of Amendment 23 transfers, interest, gains and losses, and other financial sources.

² 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
Cash Fund Revenue
June 30, 2013

CASH FUND REVENUE	Fiscal Year 2013	Fiscal Year 2012	2012 to 2013 % Change
Health Service Fees	\$ 718,788,307	\$ 650,338,502	10.5%
Fuel and Transportation Taxes, Net	554,403,825	559,673,030	-0.9%
Motor Vehicle Registrations	231,107,330	229,026,208	0.9%
Severance Taxes	131,173,685	199,437,187	-34.2%
Court and Other Fines	167,178,935	168,027,680	-0.5%
Other Charges For Services	143,658,875	140,318,679	2.4%
Business Licenses and Permits	129,124,669	128,205,788	0.7%
Gaming and Other Taxes	94,897,462	93,404,297	1.6%
Interest and Investment Income	45,740,446	54,324,704	-15.8%
Rents and Royalties	45,411,040	36,872,877	23.2%
Local Governments and Authorities	28,166,087	40,046,106	-29.7%
General Government Service Fees	42,415,050	39,508,777	7.4%
Sales and Use Tax, Net	42,825,789	42,629,206	0.5%
Driver's Licenses	32,134,527	31,610,993	1.7%
Nonbusiness Licenses and Permits	32,232,217	31,313,531	2.9%
Miscellaneous Revenue	27,784,397	25,074,834	10.8%
Certifications and Inspections	20,349,904	20,636,730	-1.4%
Employment Taxes	25,723,693	19,307,097	33.2%
Insurance Taxes	22,882,646	18,010,187	27.1%
Public Safety Service Fees	19,427,273	10,766,770	80.4%
Higher Education Auxiliary Sales and Services	4,512,599	6,908,220	-34.7%
Educational Fees	6,129,967	6,783,915	-9.6%
Other Program Revenue ¹	3,592,703	3,654,958	-1.7%
TOTAL CASH FUND REVENUE	2,569,661,426	2,555,880,276	0.5%
QUALIFICATION OF ENTERPRISES			
State Forest Service - Wildfire functions ²	1,987,464	-	N/A
Colorado Geological Survey ³	-	99,355	N/A
TOTAL NONEXEMPT CASH FUND REVENUE	2,571,648,890	2,555,979,631	0.6%
TOTAL NONEXEMPT REVENUE	\$11,109,548,521	\$10,273,183,504	8.1%

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.

² In Fiscal Year 2013, the Department of Public Safety received the State Forest Service Wildfire Functions from the Colorado State University System. State Forest Service Wildfire revenues are no longer exempt from the provisions of TABOR. As a result, TABOR revenues increased by \$1,987,464.

³The Colorado Geological Survey was transferred from the Department of Natural Resources to the Colorado School of Mines on January 31, 2013, and partial year revenues are reflected in the qualification amount. Colorado Geological Survey revenues are exempt from the provisions of TABOR.

**STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
SCHEDULE OF TABOR REVENUE
FOR THE FISCAL YEAR ENDED JUNE 30, 2013
UNAUDITED**

	Fiscal Year 2012-13	Fiscal Year 2011-12	Increase (Decrease)	2012 to 2013 % Change
Individual Income Taxes, Net	\$ 5,114,790,948	\$ 4,612,228,145	\$ 502,562,803	10.9%
Corporate Income Taxes, Net	597,441,383	462,085,334	135,356,049	29.3%
Fiduciary Income Taxes, Net	34,002,352	23,927,609	10,074,743	42.1%
TOTAL INCOME TAX	5,746,234,683	5,098,241,088	647,993,595	12.7%
Sales Tax, Net	2,254,552,532	2,133,007,925	121,544,607	5.7%
Use Tax, Net	242,727,785	203,458,568	39,269,217	19.3%
Tobacco Products Tax, Net	53,851,890	55,530,989	(1,679,099)	-3.0%
Alcoholic Beverages Tax, Net	39,903,741	39,039,088	864,653	2.2%
Other Excise Taxes, Net	204,064	304,595	(100,531)	-33.0%
TOTAL EXCISE TAX	2,591,240,012	2,431,341,165	159,898,847	6.6%
Fuel and Transportation Taxes, Net	554,403,825	559,673,030	(5,269,205)	-0.9%
Insurance Taxes	233,297,855	215,211,770	18,086,085	8.4%
Severance Taxes	131,173,685	199,437,187	(68,263,502)	-34.2%
Gaming and Other Taxes	95,587,089	93,998,977	1,588,112	1.7%
Employment Taxes	25,723,693	19,307,097	6,416,596	33.2%
Estate and Inheritance Taxes	13,596	289,719	(276,123)	-95.3%
TOTAL OTHER TAXES	1,040,199,743	1,087,917,780	(47,718,037)	-4.4%
Health Service Fees	718,788,307	650,338,502	68,449,805	10.5%
Motor Vehicle Registrations	231,107,330	229,026,208	2,081,122	0.9%
Other Charges for Services	143,675,204	140,317,626	3,357,578	2.4%
Business Licenses and Permits	134,018,333	134,807,703	(789,370)	-0.6%
General Government Service Fees	42,965,658	39,859,400	3,106,258	7.8%
Driver's Licenses	32,134,527	31,610,993	523,534	1.7%
Nonbusiness Licenses and Permits	32,346,417	31,412,223	934,194	3.0%
Certifications and Inspections	20,370,696	20,658,555	(287,859)	-1.4%
Public Safety Service Fees	19,427,273	10,766,770	8,660,503	80.4%
Educational Fees	6,129,967	6,783,915	(653,948)	-9.6%
Welfare Service Fees	893,211	882,879	10,332	1.2%
TOTAL LICENSES, PERMITS, AND FEES	1,381,856,923	1,296,464,774	85,392,149	6.6%
Court and Other Fines	174,745,555	177,447,148	(2,701,593)	-1.5%
Interest and Investment Income	62,928,790	67,675,403	(4,746,613)	-7.0%
Rents and Royalties	45,411,040	36,872,877	8,538,163	23.2%
Local Governments and Authorities	28,166,087	40,046,106	(11,880,019)	-29.7%
Miscellaneous Revenue	30,450,159	28,369,765	2,080,394	7.3%
Higher Education Auxiliary Sales and Services	4,512,599	6,908,220	(2,395,621)	-34.7%
Sales of Products	1,815,466	1,799,823	15,643	0.9%
TOTAL OTHER REVENUE	348,029,696	359,119,342	(11,089,646)	-3.1%
SUBTOTAL TABOR REVENUE BEFORE DISQUALIFICATION/QUALIFICATION OF TABOR ENT	11,107,561,057	10,273,084,149	834,476,908	8.1%
State Forest Service Wildfire Functions (Disqualification)	1,987,464		1,987,464	N/A
Colorado Geological Survey (Qualification)		99,355	(99,355)	N/A
TOTAL QUAL/DISQUAL OF TABOR ENTERPRISES	1,987,464	99,355	1,888,109	N/A
TOTAL TABOR REVENUE	\$ 11,109,548,521	\$ 10,273,183,504	\$ 836,365,017	8.1%

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

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Appendices

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Appendix A

Description of Revenue Categories

The revenue categories described in Appendix A correspond to the categories presented on the Schedule of TABOR Revenue – page 19.

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.

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.
Miscellaneous Revenue	Revenue not included in another category.
Higher Education Auxiliary Sales and Services	Revenue from library fees, internal service center fees, athletic camp fees.
Sales of Products	Sales of publications, maps, materials, and supplies.

Appendix B1

Description of Refunding Mechanisms

Mechanism (Effective Date)	Description
Earned Income Tax Credit (January 1, 1999)	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.
State Sales Tax Reduction (January 1, 1999)	Depending on the amount of excess revenues to be refunded, a tiered income bracket system will be used to distribute the surplus as a sales tax credit to be taken on individual income tax returns.
Temporary Income Tax Rate Reduction (January 1, 2010)	Starting with income tax year 2010, 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.

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Appendix B2

Refunding Mechanism Thresholds

(As applicable to Fiscal Year 2013)

Refunding Mechanism	Original Threshold	Fiscal Year 2013 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.

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Appendix C

TABOR History: Fiscal Years 1993 - 2013

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 the following TABOR surplus refund mechanisms except for the Earned Income Tax Credit and the Sales Tax Refund, effective July 1, 2010:

Refunding Mechanism	Original Threshold²
Earned Income Credit ¹	\$ 50,000,000
Charitable Contributions Deduction	\$ 100,000,000
Foster Parents Credit	\$ 200,000,000
Business Personal Property Tax Credit	\$ 170,000,000
Child Care Credits	\$ 290,000,000
Tangible Personal Property Used for Research and Development	\$ 358,400,000
Motor Vehicle Registration Fees	\$ 330,000,000
High Technology Scholarship Program Credit	\$ 330,000,000
Interest, Dividends, and Capital Gains Deduction	\$ 350,000,000
Pollution Control Provisions	\$ 350,000,000
Interstate Commerce Sales and Use Tax Refund	\$ 350,000,000
Agriculture Value-Added Development Credit	\$ 400,000,000
Cost of Health Benefits Credit	\$ 400,000,000
Sales Tax Refund ¹	Remaining Excess
¹ Still in effect under current law. ² Thresholds were adjusted annually by the personal income growth rate for Colorado.	

For any year in which a refund of TABOR surplus revenue is required, the remaining refund mechanism with a threshold 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 2010 – 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 follows the Earned Income Tax Credit refund mechanism. See Appendices B1 and B2.

2013

Earned Income Tax Credit. The General Assembly enacted Senate Bill 13-001 concerning income tax credits to support working families. A permanent and refundable state earned income tax credit was established for all income tax years regardless if there is a refund of excess state revenues required by the taxpayer's bill of rights (TABOR) through the Earned Income Tax Credit (EITC) refund mechanism. The credit is equal to 10% of a resident individual's federal earned income tax credit. When a refund of revenue surplus is required, the Earned Income Tax Credit is considered to count toward the EITC TABOR refund mechanism threshold.

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