NOTES TO THE TABOR REPORT

NOTE 1. 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) except where an irreconcilable difference exists between GAAP, and state statute or the provisions of Section 20, Article X 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 State Controller's Office.

NOTE 2. 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% of annual revenue in grants from all Colorado state and local governments combined."

The General Assembly, for the purpose of implementing TABOR, stated in CRS 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) any special purpose authority.

The General Assembly has designated the State Lottery, the Guaranteed Student Loan Program, the Division of Correctional Industries, the State Fair Authority, Colorado Student Obligation Bond Authority, and the State Nursing Homes as enterprises excluded from the district. It further set up a mechanism in statute by which the governing boards of the institutions of higher education could designate certain auxiliary operations as enterprises, also exempt from TABOR.

Although the General Assembly has designated certain enterprises as exempt from TABOR, they must also meet certain criteria annually. The State Fair Authority did not meet those criteria in the current or previous fiscal year.

NOTE 3. 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 CRS 24-30-202(5.5).

In interrogatories submitted by the General Assembly regarding House Bill 99-1325, the Colorado Supreme Court ruled that Revenue Anticipation Notes (RANS) issued by the Colorado Department of Transportation do not constitute debt of the state as defined in Section 3, Article XI of the constitution. However, the Court ruled that they are a multiple-fiscal year obligation as defined by Section 20, Article X of the constitution, thus, requiring an election before they could be issued. In November 1999 the voters approved the issuance of $1.7 billion of RANS.

NOTE 4. EMERGENCY RESERVES

TABOR requires the reservation, for declared emergencies, of 3 percent or more of the Fiscal Year Spending, excluding debt service payments.

The state has designated $238,456,505 of the fund balance of the Controlled Maintenance Trust Fund as reserved for emergencies for FY 2000-01. That amount satisfies the TABOR 3 percent requirement.

NOTE 5. STATUS OF REFUNDING

At June 30, 2001, the state had accrued or made a refund of $25,497,444 over its liability for the Fiscal Year 1999-00 excess revenues, $46,756,932 over its liability for the Fiscal Year 1998-99 excess revenues, and $6,659,868 over its liability for the Fiscal Year 1997-98 excess revenues. Per statute these over-refundings are treated as sales tax refunds in the year in which the over-refunding occurs.

A class action suit has been brought against the state seeking damages of $2.3 billion - equal to the sales tax refund for Fiscal Years 1996-97 through 1999-00. The suit alleges that the refund program violates interstate commerce, equal protection and privileges, and immunity clauses of the U.S. Constitution. It also alleges that the TABOR amendment, under which the refund was made, violates the equal protection and due process clauses of the Colorado Constitution.

NOTE 6. COLORADO STUDENT OBLIGATION BOND AUTHORITY

The General Assembly in the 2000 Legislative Session changed the status of the Student Obligation Bond Authority (CSOBA) from an authority and made it a division in the Department of Higher Education, subject to the authority of the department's Executive Director. At the same time the legislation also made CSOBA a TABOR exempt enterprise.

NOTE 7. EXEMPT INVESTMENT INCOME

The large increase in exempt investment income of $139.8 million resulted primary from an increase of $168.9 million in unrealized gains on investments, which are exempt from TABOR. There were also increases of $38.2 of exempt interest in the Highway Fund due to large cash balances resulting from the sale of RANS (see Notes 3 and 8), of $17.6 million in all other exempt investment income, and a decrease of $84.9 million in the earnings of the State 457 Deferred Compensation Plan.

NOTE 8. OTHER SOURCES AND ADDITIONS

This line item consists primarily of $539.2 million of revenue anticipation notes, $417.8 million of investment and pension trust fund additions by participants, and $442.9 million of fund additions in the higher education funds.

Fiscal Year 2000-01 is the second year of use of the revenue anticipation notes for highway construction. The higher education fund additions are transfers from other higher education funds to the loan funds, endowment funds, and higher education plant funds, or the recording of fixed assets. They do not represent transactions with entities or individuals outside the District.

Other sources include reversions of accruals of accounts payable of $1.9 million, as well as $29.4 million of reimbursements of prior year expenditures, and $11.5 million in other required governmental accounting entries.

NOTE 9. VOTER APPROVED REVENUE CHANGES

The voters in the 1998 general election approved an initiated law, CRS 25-8-501.1, Regulation of Commercial Hog Facilities, adopting the permit fee. The state collected $246,688 and $225,432 from this revenue in Fiscal Years 2000-01 and 1999-00, respectively.

The voters in the 2000 general election approved a amendment that added Section 17 to Article IX of the state constitution. This amendment created the State Education Fund and shifted the revenues from a tax of one-third of one percent on taxable income of individuals, corporations, estates, and trusts to this fund. It also exempted that revenue from TABOR.

The amendment was effective January 1, 2001 and resulted in $168,810,875 of exempt revenues by June 30, 2001.

NOTE 10. DISTRICT RESERVES

District reserves are the cumulative fund balances of the state, excluding the fund balances of the exempt enterprises and the General Fixed Assets Account Group. The majority of these fund balances are not available for appropriation due to legal and contractual restrictions.

Prior period district fund balance adjustments included a decrease of $15,880,218 resulting from the reduction of Federal accounts receivable that were recorded in error. It also included a reduction of $11,414,676 in the plant funds of the Higher Education Funds related to the capitalizing of plant expenditures funded by the University of Colorado Hospital Authority.

District reserves/fund balance may also be adjusted for the qualification or disqualification of enterprises. No qualifications or disqualifications occurred in Fiscal Year 2000-01.

NOTE 11. SOURCES OF TABOR GROWTH LIMITS

The allowable increases in state fiscal year spending equal the sum of inflation and the percentage change in state population in the prior calendar year, adjusted for voter approved revenue changes. Inflation is defined in CRS 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 percentage change for calendar year 1999 used in this report was provided by the Office of State Planning and Budgeting.

NOTE 12. ENTERPRISE QUALIFICATION /DISQUALIFICATION

TABOR specifies that qualification and disqualification of enterprises shall change the district bases. No qualifications or disqualifications occurred in Fiscal Year 2000-01.

NOTE 13. OTHER ADJUSTMENTS

Errors in previous years affect the spending limit if the error dates back to a year in which the state did not have excess TABOR revenues. In Fiscal Year 1998-99 an error for the Department of Human Services that dated back to Fiscal Year 1995-96 adjusted the Fiscal Year Spending Limit. That same adjustment was submitted by the Department in Fiscal Year 1999-00 and inadvertently used to adjust the spending limit by $909,070 a second time. This year's adjustment reverses the duplicate entry made in the previous year.

NOTE 14. CORRECTIONS TO PRIOR YEARS' REFUNDS

Errors in prior years' refunds are corrected in the year in which the error is discovered. From Fiscal Year 1996-97 the Judicial Department had recorded money received from the Victim's Assistance Board of $2,533,046 as TABOR non-exempt revenue. This money was actually a transfer within the district and should have been recorded as exempt.

In Fiscal Year 1999-00 Metropolitan State College began assessing a fee to students taking classes over the Internet. The college failed to record the fee amount of $301,231 as revenue and has since corrected the oversight.

During Fiscal Years 1998-99 and 1999-00 the treasurer had recorded revenues earned through securities lending in the amount of $81,953 as TABOR non-exempt revenue when it should have been exempt. In addition the, correction of the double entry for Human Services detailed in Note 13 resulted in a further reduction of the refund.

NOTE 15. FUTURE REFUNDS

In the 1999 regular session, the General Assembly enacted mechanisms to refund Fiscal Year 1998-99 and subsequent years' excess revenue. In succeeding sessions the General Assembly has enacted additional mechanisms to refund the excess revenue. The laws enacted to refund the current TABOR liability are:

1. An earned income tax credit of 10 percent, which is expected to refund $34.1 million.
2. An income tax credit for foster parents, which is expected to refund $2.0 million.
3. A business personal property tax credit, which is expected to refund $94.5 million.
4. An income tax credit for qualified individuals who save for post-secondary education, purchase a first home, or start a business. This credit is expected to refund $5.0 million.
5. An interest, dividend, and capital gains exclusion up to $1,200 for individuals and $2,400 for couples that is expected to refund $38.4 million.
6. An income deduction for capital gains taken on assets purchased prior to May 9, 1994 and held for at least five years that is expected to refund $38.4 million.
7. An income tax credit to health and dental care providers who practice in certain rural areas. This credit is expected to refund $0.4 million.
8. An income tax credit that is a percentage of the federal child care credit, which is expected to refund $22.1 million.
9. A reduction in the annual registration fees for motor vehicles, which is expected to refund $33.7 million.
10. An income tax credit for contributions to high technology scholarships that is expected to refund $0.4 million.
11. An additional income tax deduction of another $300 ($600 for a couple) for interest, dividend, and capital gains over that listed above. This additional deduction is expected to refund $7.8 million.
12. A sales tax refund when that tax is above a rate of 0.01 percent and is imposed on new or used commercial trucks or other vehicles that are used in interstate commerce and have a gross weight of more than 26,000 pounds. This mechanism is expected to refund $6.3 million.
13. An income tax deduction for charitable contributions in excess of $500 made by individuals who claim the standard deduction. This mechanism is expected to refund $5.1 million.
14. A sales tax exemption for certain pollution control devices, which is expected to refund $4.0 million.
15. An income tax credit for contributions to the Colorado Institute for Telecommunications Education. This mechanism is expected to refund $0.3 million.
16. An income tax credit for the cost of health benefit plans not paid by the employer or deducted from the individual's federal adjusted gross income. This credit is expected to refund $22.5 million.
17. An income tax credit for eligible agricultural value-added cooperatives that is expected to refund $4.0 million.
18. An expansion of the capital gains modification to include capital gains realized in tax years beginning on or after January 1, 1999, as well as a reduction of the holding period from five years to one year. This mechanism is expected to refund $28.0 million.
19. The remaining $580.2 million to all full-year Colorado residents 18 years and older as a refund of sales taxes.

The sales tax refund is a fixed amount for each of six tiers of federal adjusted gross income. The Department of Revenue calculates the amount of the individual refund for each tier as a statutory percentage of the total sales tax refund divided by the number of anticipated taxpayers in each tier.

The refund for individual taxpayers is (the amounts are doubled for married taxpayers):

Federal Adjusted Income	Refund
\$ 0 - \$ 27,000	\$144
\$ 27,001 - \$ 56,000	187
\$ 56,001 - \$ 83,000	220
\$ 83,001 - \$110,000	252
\$110,001 - \$135,000	283
\$135,000+	451