

STATE OF COLORADO
SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20
AS OF JUNE 30, 2016

	FISCAL YEAR 2014-15	FISCAL YEAR 2015-16
COMPUTATION OF NONEXEMPT REVENUES		
Total State Expenditures	\$ 40,414,297,024	\$ 42,537,731,555
Less Exempt Enterprises Expenses:		
Higher Education Enterprises	8,455,491,475	8,458,394,515
Unemployment Compensation Section	530,129,631	531,606,636
College Assist	631,865,367	613,735,094
State Lottery	540,933,178	597,474,129
CollegelInvest	613,766,152	623,149,830
Parks and Wildlife	220,670,719	229,006,335
Correctional Industries	68,900,760	73,701,031
State Nursing Homes	58,660,713	59,711,521
Petroleum Storage Tank Fund	39,891,367	43,305,095
Statewide Transportation Enterprise	8,232,300	33,580,526
Statewide Bridge Enterprise	15,558,306	16,675,940
Statewide Tolling Enterprise	-	-
Clean Screen Authority	5,868,209	4,347,950
Brand Board	5,434,154	5,079,919
Capitol Parking Authority	721,685	1,091,211
Subtotal Enterprise Expenses	<u>11,196,124,016</u>	<u>11,290,859,732</u>
Total District Expenditures	<u>29,218,173,008</u>	<u>31,246,871,823</u>
Less Exempt District Revenues:		
Interfund Transfers	6,897,422,383	7,287,302,792
Federal Funds	8,294,352,602	9,060,833,952
Other Sources and Additions (Note 7)	567,127,848	626,657,872
Voter Approved Revenue Changes (Note 8)	753,998,671	803,704,749
Property Sales	171,130,690	115,177,508
Gifts	118,754,344	93,632,186
Damage Awards	142,436,624	107,875,638
Exempt Investment Income	35,196,477	75,230,590
Subtotal Exempt District Revenues	<u>16,980,419,639</u>	<u>18,170,415,287</u>
Nonexempt District Expenditures	12,237,753,369	13,076,456,536
District Reserve/Fund Balance Increase (Decrease)	123,278,573	(129,957,622)
Excess TABOR Revenues	169,740,274	(122,090,865)
Total Nonexempt District Revenues	<u>12,530,772,216</u>	<u>12,824,408,049</u>
COMPUTATION OF DISTRICT FUND BALANCE CHANGES		
Beginning District Fund Balance	\$ 6,844,181,851	\$ 6,789,791,186
Prior Period District Fund Balance Adjustments (Note 11)	(347,542,331)	44,247,600
(Qualification)/Disqualification of Enterprises (Note 14)	132,818	92,756,278
District Reserve/Fund Balance Increase (Decrease)	123,278,573	(129,957,622)
Retention of Revenues in Excess of the Limit CRS 24-77-103.6(1)(a)	169,740,274	(122,090,865)
Ending District Fund Balance	<u>\$ 6,789,791,186</u>	<u>\$ 6,674,746,577</u>
FISCAL YEAR 2015-16 COMPUTATION OF SPENDING LIMITATIONS		
	FISCAL YEAR SPENDING	EXCESS STATE REVENUES CAP
FY 2014-15 Limit	\$ 9,976,945,707	\$ 12,361,031,942
Prior Year Errors (Note 13)	(28,646,470)	-
Other Agency Prior Year Revenues from Disqualified Enterprises (Note 14)	(34,470)	(34,470)
Qualification of Enterprises (Note 14)	<u>(16,914,050)</u>	<u>(16,914,050)</u>
FY 2014-15 Adjusted Limit	<u>\$ 9,931,350,717</u>	<u>\$ 12,344,083,422</u>
Allowable TABOR Growth Rate (Note 12)	4.4%	4.4%
FY 2015-16 Unadjusted Limit	\$ 10,368,330,149	\$ 12,887,223,093
Disqualification of Enterprises (Note 14)	59,275,821	59,275,821
FY 2015-16 Adjusted Limit	10,427,605,970	12,946,498,914
Less Fiscal Year 2015-16 Nonexempt District Revenues	<u>(12,824,408,049)</u>	<u>(12,824,408,049)</u>
Amount (Over)Under Adjusted Limit FY2015-16	<u>\$ (2,396,802,079)</u>	<u>\$ 122,090,865</u>
FY2014-15 Remaining Amount in Excess of the Limit to be refunded in FY 2016-17		
		\$ 31,358,300
FY 2015-16 Retention of Revenues in Excess of the Limit (not refundable) C.R.S. 24-77-103.6(1)(b)		
		\$ 2,396,802,079

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 an 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 [including an institution or group of institutions of higher education that has been designated as an enterprise];

(II) any special purpose authority;

(III) 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,
- ◆ Division of Brand Inspection,
- ◆ 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 institutions 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 2015-16.

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 2015-16 totals \$384,732,241. At June 30, 2016, 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 – \$83,000,000.
- ♦ Wildlife Cash Fund – \$34,000,000.
- ♦ Perpetual base account of the Severance Tax Fund – \$33,000,000.
- ♦ Colorado Water Conservation Board Construction Fund – \$33,000,000.
- ♦ Controlled Maintenance Trust Fund – \$68,328,000.
- ♦ Unclaimed Property Tourism Promotion Trust Fund - \$5,000,000.

The 2015 legislative session Long Appropriations Act designated up to \$130,372,000 of State properties as the remainder of the Fiscal Year 2015-16 emergency reserve. The estimate of the needed reserve was based on the December 2015 revenue estimate prepared by Legislative Council. Because revenues subject to the TABOR reserve requirement were less than estimated, the amount designated for the reserve was \$1,967,759 more than required by the State Constitution. There is no process by which the General Assembly can adjust the designated reserve after the end of the legislative session when the total TABOR revenues are finally known. In the event of an emergency that exceeds the financial assets in the reserve, the designated Wildlife Cash Fund capital assets and general capital assets would have to be liquidated to meet the constitutional requirement.

NOTE 6. STATUS OF REFUNDING

When refunds are required they are distributed to individual State taxpayers based on a statutory mechanism as discussed in Note 16. The Department of Revenue makes 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 2014-15 the State had an outstanding TABOR refund liability of \$705,716 related to Fiscal Year 2004-05 nonexempt revenues in excess of the limit. It also had a \$2,899,667 carry forward of prior years' net understatement of refunds. These amounts, combined with that fiscal year's excess revenue of \$169,740,274 were required to be refunded in Fiscal Year 2015-16. The total amount of the refund liability at June 30, 2015 was \$173,345,657.

In the months following June 30, 2015, the State discovered \$13,899,334 of aggregate revenue – mostly federal reimbursements of costs related to wild fire suppression – that had been included in the \$173,345,657 refund liability but which should have been recognized as exempt from TABOR. At June 30, 2016 the prior year refund liability was retroactively reduced by \$13,899,334 (Note 13). During Fiscal Year 2015-16, the State refunded \$128,088,023 back to tax payers. At June 30, 2016, the remaining Fiscal Year 2014-15 refund liability was \$31,358,300.

NOTE 7. OTHER SOURCES AND

ADDITIONS

The \$626.7 million reported in this line item primarily comprises: \$377.2 million of pension and other employee benefit trust fund investment earnings and additions by participants; \$107.5 million of permanent and trust fund additions; \$107.1 million of prior year expense reimbursements and rebates; \$17.6 million of local government expenditures recorded by the State as revenues and expenditures to meet grant matching-funds requirements; \$10.1 million of inter-fund transfers; \$2.1 million of insurance recovery proceeds; and \$5.1 million of other revenue.

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 \$56,305 and \$295,109 from this exempt source in Fiscal Years 2015-16 and 2014-15, 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 \$1,641,029 and \$1,755,780 including interest and unrealized gains/losses from this revenue source in Fiscal Years 2015-16 and 2014-15, 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 \$528,630,773 and \$527,913,909 of tax revenues, interest, and unrealized gains/losses, being excluded from fiscal year spending in Fiscal Years 2015-16 and 2014-15, 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 \$148,097,981 and \$145,902,309 of tax revenues, interest, transfers, and unrealized gains/losses from this exempt source in Fiscal Year 2015-16 and 2014-15, 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 election, 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 \$15,275,218 and \$12,034,922 of extended limited gaming revenue in Fiscal Year 2015-16 and 2014-15, respectively.
- ♦ In the 2013 general election, Colorado voters approved Proposition AA, a measure referred to the voters by the Legislature. The proposition authorized a 15 percent state excise tax on the average wholesale price of retail marijuana, and, in addition to the existing 2.9 percent state sales tax, an additional 10 percent state sales tax on retail marijuana and retail marijuana products, effective January 1, 2014. The amendment specified the use of the excise tax revenue generated for public school construction (for the first \$40.0 million collected) with any additional excise revenue generated to be used for marijuana regulation.

For the additional state sales tax, 15 percent of the revenues generated are allocated to the cities and counties that allow retail marijuana sales to consumers. The measure was silent as to the use of the revenue by cities and counties. In addition, the remaining amount of sales tax revenue

generated is to be used for health, public safety, and education costs, in addition to funding the regulatory structure. The excise tax and additional sales tax revenue are exempted from the TABOR limitations.

The State recorded \$42,667,419 in state excise tax and \$67,336,023 of additional state sales tax revenues from these exempt sources in Fiscal Year 2015-16. In the prior fiscal year, the State recorded \$24,034,273 and \$42,062,370, respectively, from these two sources.

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 appropriates money 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 ESRC 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 \$14,773,425,976 -- \$3,593,602,662 during the initial five-year revenue retention period, and an additional \$11,179,823,314 due to the ESRC exceeding the Fiscal Year Spending limit in Fiscal Years 2010-11 through 2015-16.

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

Total prior period District fund balance adjustments increased the TABOR District fund balances in total by \$44,247,600.

A. PRIOR PERIOD ADJUSTMENTS

Prior period adjustments of fund balances reported in the State’s Comprehensive Annual Financial Report increased the TABOR District fund balance by \$44,247,600 as follows:

The Department of Health Care Policy and Financing decreased the district’s beginning net assets by \$5,991,979 due to a negotiated settlement between the Department and Denver Health and Hospital Authority (Denver Health). The Department had paid Denver Health in previous fiscal years, under Medicaid federal financial participation, for certain activities which were subsequently disallowed by the federal government.

The Department of Public Safety increased District fund balance by \$50,239,579 in an adjustment for over-accrued operating expenses in its Division of Homeland Security & Emergency Management.

B. ACCOUNTING CHANGES

In Fiscal Year 2015-16, there were no accounting changes affecting prior period TABOR District fund balances.

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 4.4 percent allowable growth rate comprises a 1.6 percent increase for population growth (census date population for 2014 compared to census date population for 2013) and a 2.8 percent increase for inflation.

NOTE 13. SPENDING LIMIT ADJUSTMENTS

With the addition of the Excess State Revenue Cap, spending limit adjustments only impact the calculation of the Fiscal Year Spending Limit.

The Fiscal Year 2015-16 spending limit was adjusted downward by \$28,646,470 net, before application of the 4.4% allowable growth rate, due to the correction of prior year revenue as detailed below.

Between Fiscal Years 2011-12 and 2014-15, \$12,778,609 of transfers from the Department of Revenue to the Department of Public Safety, for law enforcement of gaming activities, were incorrectly recorded as nonexempt TABOR revenue. As a result, the Fiscal Year Spending Limit was adjusted downward by \$14,090,344 before application of the current year allowable growth rate of 4.4% as follows:

- ♦ \$3,523,536 for Fiscal Year 2011-12 after application of allowable growth rates to incorrectly recorded transfers of \$3,041,958 that year. Allowable growth rates between Fiscal Years 2011-12 through 2014-15 were 2.0%, 5.4%, 3.3% and 4.3% respectively.
- ♦ \$3,592,919 for Fiscal Year 2012-13 after application of allowable growth rates to incorrectly recorded transfers of \$3,163,896 that year. Allowable growth rates between Fiscal Years 2012-13 through 2014-15 were 5.4%, 3.3% and 4.3% respectively.

- ♦ \$3,709,582 for Fiscal Year 2013-14 after application of allowable growth rates to incorrectly recorded transfers of \$3,443,026 that year. Allowable growth rates between Fiscal Years 2013-14 through 2014-15 were 3.3% and 4.3% respectively.
- ♦ \$3,264,307 for Fiscal Year 2014-15 after application of an allowable growth rate to incorrectly recorded transfers of \$3,129,729 that year. The allowable growth rate for Fiscal Year 2014-15 was 4.3%.

Between Fiscal Years 2012-13 and 2014-15, \$28,173,787 of reimbursements from various federal agencies for costs related to fire suppression were incorrectly recorded as nonexempt TABOR revenue. The Fiscal Year Spending Limit was adjusted downward by \$29,946,243 before application of the current year allowable growth rate of 4.4% as follows:

- ♦ \$1,940,625 for Fiscal Year 2012-13 after application of allowable growth rates to incorrectly recorded federal reimbursements of \$1,708,899 that year. Allowable growth rates between Fiscal Years 2012-13 through 2014-15 were 5.4%, 3.3% and 4.3% respectively.
- ♦ \$12,606,978 for Fiscal Year 2013-14 after application of allowable growth rates to incorrectly recorded federal reimbursements of \$11,701,091 that year. Allowable growth rates between Fiscal Years 2013-14 through 2014-15 were 3.3% and 4.3% respectively.
- ♦ \$15,398,640 for Fiscal Year 2014-15 after application of an allowable growth rate to incorrectly recorded federal reimbursements of \$14,763,797 that year. The allowable growth rate for Fiscal Year 2014-15 was 4.3%.

The Fiscal Year Spending Limit was adjusted downward by \$1,183,228 due to reclassification of equipment maintenance reimbursements of \$1,091,129 in the Wildfire Preparedness fund Between Fiscal Years 2012-

13 and 2014-15. Allowable growth rates between Fiscal Years 2012-13 through 2014-15 were 5.4%, 3.3% and 4.3% respectively.

The Fiscal Year Spending Limit was adjusted downward by \$436,960 due to reclassification of \$395,735 in revenue between Fiscal Years 2011-12 and 2014-15, from nonexempt to exempt, in relation to the offset of booking GTRAN (tax and revenue anticipation notes) expenditures. Allowable growth rates between Fiscal Years 2011-12 through 2014-15 were 2.0%, 5.4%, 3.3% and 4.3% respectively.

The Fiscal Year Spending Limit was adjusted upward by \$361,106 due to an error in recording nonexempt revenue of \$346,219 in the Colorado Water Conservation Board Construction fund in Fiscal Year 2014-15. The allowable spending growth rate that year was 4.3%.

Between Fiscal Years 2011-12 and 2014-15, \$15,126,820 of transfers from the Unclaimed Property Tourism Promotion Trust Fund to the State Fair Authority and Agriculture Management Funds per CRS 38-13-116.7 were incorrectly recorded as exempt TABOR revenue. As a result, the Fiscal Year Spending Limit was adjusted upward by \$16,649,201 before application of the current year allowable growth rate of 4.4% as follows:

- ♦ \$3,966,320 for Fiscal Year 2011-12 after application of allowable growth rates to incorrectly recorded transfers of \$3,424,225 that year. Allowable growth rates between Fiscal Years 2011-12 through 2014-15 were 2.0%, 5.4%, 3.3% and 4.3% respectively.
- ♦ \$4,218,696 for Fiscal Year 2012-13 after application of allowable growth rates to incorrectly recorded transfers of \$3,714,950 that year. Allowable growth rates between Fiscal Years 2012-13 through 2014-15 were 5.4%, 3.3% and 4.3% respectively.
- ♦ \$4,165,479 for Fiscal Year 2013-14 after application of allowable growth rates to incorrectly recorded transfers of \$3,866,164

that year. Allowable growth rates between Fiscal Years 2013-14 through 2014-15 were 3.3% and 4.3% respectively.

- ♦ \$4,298,706 for Fiscal Year 2014-15 after application of an allowable growth rate to incorrectly recorded transfers of \$4,121,481 that year. The allowable growth rate for Fiscal Year 2014-15 was 4.3%.

TABOR District fund balances were not affected by any of these spending limit adjustments, as none of the revenue adjustments or the originally recorded amounts crossed the TABOR District boundary.

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).

In Fiscal Year 2015-16, Fort Lewis College and Western State Colorado University disqualified as TABOR enterprises upon receiving more than ten percent of their revenues directly from the State and local governments. (See Note 3.) In the prior fiscal year, both entities had been exempt from TABOR spending limits.

To neutralize the effect of the change in enterprise status in computing both the Fiscal

Year 2015-16 spending limit and the Excess State Revenues Cap, \$34,470 in combined prior-year expenditures from these two entities to TABOR enterprises in Fiscal Year 2014-15 were deducted before application of the current 4.4% allowable growth rate. Also in order to neutralize the effect of the status change, \$59,275,821 of combined nonexempt revenues for both entities, from the current year, were added back to the Fiscal Year Spending Limit and Excess State Revenues Cap after application of the 4.4% allowable growth rate.

In Fiscal Year 2015-16 Adams State University requalified as a TABOR enterprise. In order to neutralize the effect of its status change in calculating the Fiscal Year 2015-16 spending limit and the Excess State Revenues Cap, \$16,914,050 was deducted from both calculations before application of the 4.4% allowable growth rate.

The Qualification/Disqualification of Enterprises line in the Computation of District Fund Balance Changes section shows a net increase in fund balance of \$92,756,278 – an adjustment to the prior year District fund balance for the disqualification of Fort Lewis College and Western State Colorado University as TABOR enterprises, and the requalification of Adams State University as a TABOR enterprise. These adjustments are necessary because the funds of TABOR enterprises are not included in the TABOR District, while the funds of non-enterprises are included in the District. (See Note 3.)

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 they are discovered. In Fiscal Year 2015-16, \$13,899,334 was deducted from the Fiscal Year 2014-15 TABOR refund liability for the reasons explained in Note 13.

Fiscal Year 2014-15 excess revenue refundable to taxpayers was calculated to be \$173,345,657.

After \$128,088,023 of this amount was returned to taxpayers in the current fiscal year, and the reduction of \$13,899,334 for prior year errors, the remaining amount of excess revenue refundable to taxpayers at June 30, 2016 is \$31,358,300. (See Note 6.)

NOTE 16. FUTURE REFUNDS

In the 2010 legislative session, Senate Bill 212 removed all prior alternative mechanisms for refunding TABOR revenues in excess of the fiscal year spending limit except for the earned income tax credit refund mechanism. Also passed in the 2010 session, House Bill 1002 created a temporary income tax rate reduction, applicable beginning in Fiscal Year 2010-11, as an additional refunding mechanism.

On October 1, 2015, the Department of Revenue reported that after 2015 tax year, the Earned Income Tax Credit would become permanent and would no longer be a TABOR refund mechanism.

After application of a temporary income tax rate reduction from 4.63 percent to 4.50 percent and the earned income tax credit mechanism, any remaining amount is distributed to all full-year Colorado residents 18 years and older as a refund of sales taxes. When the refund is estimated to be under \$15 for each qualified taxpayer, an identical amount is refunded to each qualified taxpayer. When the sales tax refund is estimated to be over \$15 for each qualified taxpayer, a fixed amount is set for each of six tiers of federal adjusted gross income. The Department of Revenue calculates the amount of the individual refund for each tier as a statutory percentage of the total sales tax refund divided by the number of anticipated taxpayers in each tier.