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OFFICE OF THE
STATE AUDITOR

OSA

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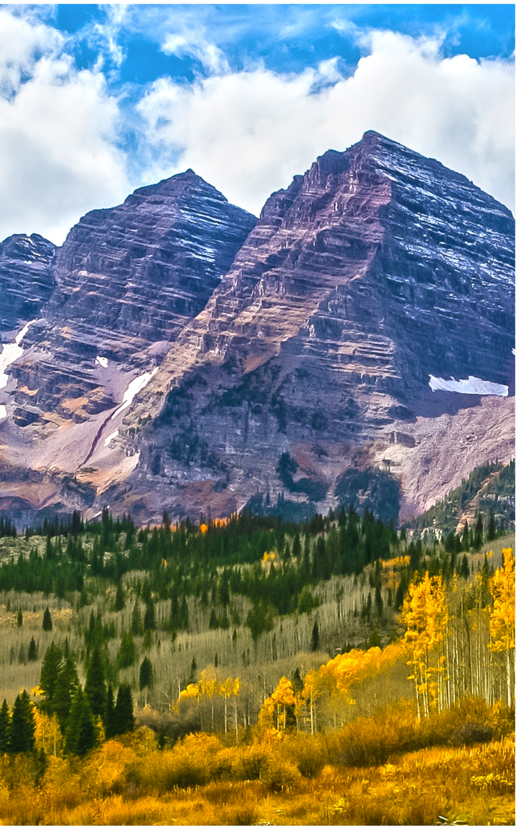
SCHEDULE OF TABOR REVENUE



SEPTEMBER 2015

PERFORMANCE AUDIT

THE MISSION OF THE OFFICE OF THE STATE AUDITOR
IS TO IMPROVE GOVERNMENT
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OFFICE
OF THE STATE AUDITOR

We Set the Standard for Good Government

DIANNE E. RAY, CPA

STATE AUDITOR

September 30, 2015

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the TABOR Financial Report required under Article X, Section 20 of the Colorado Constitution (TABOR) as of June 30, 2015, as certified by the State Controller on September 1, 2015. This audit was 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. The report presents our findings, conclusions, and recommendations, and the responses of the Office of the State Controller.

OFFICE OF THE STATE AUDITOR
1525 SHERMAN STREET
7TH FLOOR
DENVER, 80203
COLORADO

303.869.2800

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REPORT HIGHLIGHTS

SCHEDULE OF TABOR REVENUE

PERFORMANCE AUDIT, SEPTEMBER 2015

OFFICE OF STATE CONTROLLER

CONCERN

We were unable to meet our audit objectives related to the Schedule of TABOR Revenue because of a lack of reliable and valid data.

KEY FACTS AND FINDINGS

- We identified issues affecting the preparation of the TABOR Financial Report and the related certification provided by the Office of the State Controller (OSC).
- The TABOR Financial Report was based on information prior to closing the financial accounting records for Fiscal Year 2015 because the records were not closed within 35 days following the end of the fiscal year as required by state statutes. As a result, we were unable to obtain sufficient, appropriate evidence to conclude on our stated audit objectives by our statutorily required September 15, 2015 audit completion date.
- Following the agency TABOR revenue entry cutoff date of August 4 and through August 28, 2015, approximately 700 transactions totaling $13 million were entered into the State's accounting system increasing TABOR revenue.
- Subsequent to August 28—the date the OSC obtained information for the TABOR Financial Report and certification of TABOR revenue—and through September 15, 2015, approximately 700 additional adjustments totaling $1.8 million were entered into the State's accounting system decreasing TABOR revenue.
- The OSC made adjustments totaling $9.1 million to the Fiscal Year 2014 TABOR spending limit to reflect the impact of a change in budgetary reporting made by the OSC in Fiscal Year 2015. Neither the constitutional provisions of TABOR nor state law address how changes in budgetary reporting methodology should impact prior and current year state fiscal year spending (or spending limits) and presented on the TABOR Financial Report.

KEY RECOMMENDATIONS

The Office of the State Controller Should:

- Close accounting periods in a timely manner and in accordance with state statutes.
- Work with the General Assembly to create a consistent methodology that addresses changes in budgetary reporting that affect TABOR revenue.

The Office agreed with these recommendations.

BACKGROUND

Schedule of TABOR Revenue:

- The Taxpayer's Bill of Rights (TABOR) was added to the Colorado Constitution in the November 1992 general election.
- TABOR limits are increased based on the annual inflation rate plus the percentage change in Colorado's population growth rate.
- The TABOR Financial Report is prepared in accordance with generally accepted accounting principles, except where there is a conflict with the provisions of TABOR law.
- The OSC is required to certify TABOR revenue to the Governor, General Assembly, and the Executive Director of the Department of Revenue no later than September 1, 2015.
- The Office of the State Auditor is required to audit the TABOR Financial Report by September 15, 2015.
- The State implemented a new accounting system, the Colorado Operations Resource Engine (CORE), beginning in Fiscal Year 2015.

SUMMARY

OF AUDIT RESULTS LETTER

Office of the State Auditor

Dianne E. Ray, CPA
State Auditor

September 15, 2015

The Honorable John W. Hickenlooper
Governor
State of Colorado

The Honorable Kent Lambert
Chair
Colorado Joint Budget Committee

The Honorable Tim Neville
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, 2015, as certified by the State Controller on September 1, 2015. Please find attached the letter of certification from the State Controller, the *Preliminary Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2015* [Unaudited]; and the *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year Ended June 30, 2015* [Unaudited] (collectively referred to as the TABOR Financial Report). Our audit was conducted under the authority of 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.

Pursuant to Section 24-77-106.5, C.R.S., for each fiscal year, the State Controller shall prepare the TABOR Financial Report for the purpose of ascertaining the State's compliance with the constitutional provisions of TABOR. Based on the TABOR 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 1 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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Objectives. We followed generally accepted government auditing standards when conducting our audit; however, as described below, we were unable to conclude on the audit objectives due to a lack of reliable and valid data. The objectives of our audit were to determine (1) whether the Office of the State Controller complied with laws, rules, and regulations related to Section 24-77-101 through 107, C.R.S., in preparing the TABOR Financial Report and the certification required by Section 24-77-106.5, C.R.S, and (2) whether the TABOR Financial Report and the certification were accurately prepared in accordance with Section 24-77-101 through 107, C.R.S.

Government Auditing Standards. We are required to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions. We are also required to describe any limitations or uncertainties that arise regarding the reliability or validity of evidence obtained during the audit. As discussed below, we were unable to obtain sufficient, appropriate evidence to conclude on our stated audit objectives. Therefore, we do not provide any conclusions or assurances regarding the State's compliance with State laws, rules, and regulations related to the TABOR Financial Report and the related certification, or the accuracy of each.

Our audit scope was limited due to the TABOR Financial Report being based on information prior to closing the financial accounting records for Fiscal Year 2015. Section 24-30-204(3), C.R.S., requires that the official books of the State be closed no later than 35 days after the end of the June 30 fiscal year, or by August 4. However, as of the date of this letter, the official books of the State remain open for the Fiscal Year Ended June 30, 2015, and the Office of the State Controller has indicated that it does not plan to close the financial accounting records until September 30, 2015. In addition, while the Office of the State Controller requested that the various state agencies certify the accuracy of their Fiscal Year 2015 revenue as of August 4, 2015, state agencies made approximately 1,300 adjustments affecting TABOR revenue during the month of August. The Office of the State Controller based the TABOR Financial Report on information obtained as of August 28, 2015; however, adjustments have continued to be made subsequent to the State Controller's certification on September 1, 2015.

Audit Report. Our full audit report, including our findings and recommendations, will be presented to the Legislative Audit Committee in October 2015.

Sincerely,

Dianne E. Ray, CPA
State Auditor

Enc.

TABOR

CERTIFICATION LETTER

COLORADO
Office of the State Controller
Department of Personnel
& Administration

1525 Sherman St.
Denver, CO 80203

September 1, 2015

The Honorable John W. Hickenlooper
Governor
State of Colorado

The Honorable Bill Cadman
President of the Senate
Colorado General Assembly

The Honorable Dickey Lee Hullinghorst
Speaker of the House
Colorado General Assembly

Barbara Brohl
Executive Director
Colorado Department of Revenue

Dear Ladies and Gentlemen:

Pursuant to CRS 24-77-106.5(1)(b), I hereby certify that for Fiscal Year 2014-15, the unaudited State revenues subject to Article X, Section 20 (TABOR) of the State Constitution as of August 28, 2015 are $12,503,661,636. Revenues are greater than the Excess State Revenues Cap (ESRC) by $149,991,227, and a refund of State revenues is required in Fiscal Year 2015-16 related to Fiscal Year 2014-15 revenues subject to TABOR. In addition the understatement of prior year refunds of $2,899,667 and the residual unrefunded amount from prior years of $705,716 will be added to the Fiscal Year 2015-16 refund for a total refund of $153,596,610. Please see the attached Preliminary Schedule of Computations Required Under Article X, Section 20.

Additionally, the Comparison of Nonexempt TABOR Revenues is attached, comparing general and program nonexempt TABOR revenues for Fiscal Year 2014-15 to Fiscal Year 2013-14. Total revenues not exempt from TABOR were more than the previous fiscal year by 6.9 percent. The $12,503,661,636 nonexempt revenue is adjusted by:

- An increase of $1,092,774 for corrections to the limit based on calculation errors identified by Adams State University related to its disqualification as a TABOR Enterprise in Fiscal Year 2013-14, and,

- A decrease of $9,112,655 related to prior year transfers from TABOR enterprises to the TABOR District. With the implementation of the Colorado Operations Resource Engine (CORE) the comparable expenditures are recorded directly in the TABOR enterprise funds, which is a change in methodology. This adjustment reflects the applicable prior year TABOR revenue in a manner consistent with the current year methodology.

The growth rate of the nonexempt TABOR revenues is 6.9% for Fiscal Year 2014-15, which is more than the allowable TABOR growth rate of 4.3% for this fiscal year. As a result, the Amount (Over) Under the Adjusted ESRC limit increased from $160,478,110 under the limit in Fiscal Year 2013-14 to $149,991,227 over the limit in Fiscal Year 2014-15.

The nonexempt TABOR revenues Fiscal Year Spending (FYS) limit, which, prior to Referrendum C, was the trigger used for refunding to the taxpayers, is required to be reported. For Fiscal Year 2014-15, the State revenues subject to TABOR are over the FYS limit by $2,534,077,461.

Finally, because Fiscal Year 2014-15 FYS exceeded the estimate provided to voters in the Proposition AA Blue Book, the excess must be refunded in Fiscal Year 2015-16. The refund amount is limited to the actual amount of Proposition AA marijuana taxes collected. The amount subject refund includes all of the Proposition AA taxes collected totalling $66,096,642. House Bill 15-1367 authorized Proposition BB to obtain voter approval to retain this amount in the November 2015 general election. If the measure fails this amount will be added to the Fiscal Year 2015-16 refund.

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, 2015.

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

Sincerely yours,

Robert Jaros

Robert Jaros, CPA, MBA, JD
Colorado State Controller

cc: June Taylor, Personnel & Administration
Henry Sobanet, OSPB

STATE OF COLORADO
OFFICE OF THE STATE CONTROLLER
COMPARISON OF NONEXEMPT TABOR REVENUES
FOR THE FISCAL YEAR ENDED JUNE 30, 2015
UNAUDITED

	Fiscal Year 2014-15	Fiscal Year 2013-14	Increase (Decrease)	Percent Change
GENERAL REVENUES				
Individual Income Tax, Net	$ 5,829,650,793	$ 5,224,325,302	$ 605,325,491	11.6%
Sales and Use Tax, Net	2,839,332,293	2,657,616,024	181,716,269	6.8%
Corporate Income Tax, Net	635,114,790	665,362,734	(30,247,944)	-4.5%
Insurance Taxes	257,592,420	239,059,118	18,533,302	7.8%
Fiduciary Income Tax, Net	58,384,780	48,323,488	10,061,292	20.8%
Tobacco Products Tax, Net	55,681,549	53,462,368	2,219,181	4.2%
Alcoholic Beverages Tax, Net	41,479,003	40,337,006	1,141,997	2.8%
Severance Tax, Net	16,226,732	-	16,226,732	N/A
Interest and Investment Income	7,770,803	14,925,038	(7,154,235)	-47.9%
Court and Other Fines	6,335,035	8,129,137	(1,794,102)	-22.1%
Business Licenses and Permits	5,198,179	7,036,456	(1,838,277)	-26.1%
Miscellaneous Revenue	1,639,657	2,333,516	(693,859)	-29.7%
Gaming and Other Taxes	669,155	617,384	51,771	8.4%
General Government Service Fees	304,363	493,620	(189,257)	-38.3%
Other General Revenue	60,665	569,714	(509,049)	-89.4%
TOTAL GENERAL REVENUES	9,755,440,217	8,962,590,905	792,849,312	8.8%
PROGRAM REVENUE				
Fuel and Transportation Taxes, Net	601,514,776	575,457,506	26,057,269	4.5%
Health Service Fees	597,944,691	633,638,515	(35,693,824)	-5.6%
Severance Taxes	271,491,579	260,821,948	10,669,631	4.1%
Motor Vehicle Registrations	250,413,569	238,192,200	12,221,369	5.1%
Court and Other Fines	165,821,461	167,329,876	(1,508,415)	-0.9%
Business Licenses and Permits	155,967,640	147,613,626	8,354,014	5.7%
Other Charges For Services	147,975,308	147,522,222	453,086	0.3%
Gaming and Other Taxes	98,862,345	95,824,618	3,037,727	3.2%
General Government Service Fees	54,842,682	50,906,419	3,936,263	7.7%
Sales and Use Tax, Net	50,741,000	48,420,449	2,320,551	4.8%
Interest and Investment Income	48,225,345	45,156,389	3,068,956	6.8%
Rents and Royalties	48,007,515	47,519,807	487,708	1.0%
Nonbusiness Licenses and Permits	34,628,610	33,442,359	1,186,251	3.5%
Driver's Licenses	33,773,790	29,484,105	4,289,685	14.5%
Public Safety Service Fees	33,234,164	33,135,910	98,254	0.3%
Local Governments and Authorities	30,731,578	44,876,434	(14,144,856)	-31.5%
Employment Taxes	29,586,133	28,634,556	951,577	3.3%
Miscellaneous Revenue	23,950,205	21,912,882	2,037,323	9.3%
Educational Fees	21,567,188	20,735,514	831,674	4.0%
Certifications and Inspections	20,051,406	21,190,611	(1,139,205)	-5.4%
Insurance Taxes	18,996,097	17,803,877	1,192,220	6.7%
Higher Education Auxiliary Sales and Services	5,402,622	7,882,546	(2,479,924)	-31.5%
Other Program Revenue	4,491,716	3,791,425	700,291	18.5%
TOTAL PROGRAM REVENUES	2,748,221,419	2,721,293,794	26,927,625	1.0%
Error Related to Prior Year Disqualification Calculation for Adams State University	-	(1,092,774)	1,092,774	N/A
CORE Methodology Adjustment	-	9,112,655	(9,112,655)	N/A
TOTAL NONEXEMPT REVENUE	$ 12,503,661,636	$ 11,691,904,580	$ 811,757,056	6.9%

STATE OF COLORADO
PRELIMINARY SCHEDULE OF COMPUTATIONS REQUIRED
UNDER ARTICLE X, SECTION 20 -- UNAUDITED
AS OF JUNE 30, 2015

Certification Date: September 1, 2015

	FISCAL YEAR 2013-14		FISCAL YEAR 2014-15	
COMPUTATION OF NONEXEMPT REVENUES				
Total State Expenditures	$	38,786,499,993	$	39,849,054,550
Less: Exempt Activity		27,769,912,731		27,693,215,176
Nonexempt District Expenditures		11,016,587,262		12,155,839,374
District Reserve/Fund Balance Increase (Decrease)		675,317,318		347,822,262
Total Nonexempt District Revenues	**$**	**11,691,904,580**	**$**	**12,503,661,636**
COMPUTATION OF DISTRICT FUND BALANCE CHANGES				
Beginning District Fund Balance	$	6,122,074,058	$	6,844,181,851
Qualifications, Disqualifications and Other Adjustments		722,107,793		275,608,192
Ending District Fund Balance	**$**	**6,844,181,851**	**$**	**7,119,790,043**

COMPUTATION OF SPENDING LIMITATIONS	FISCAL YEAR SPENDING		EXCESS STATE REVENUES CAP	
Fiscal Year 2013-14 Limit	$	9,566,585,725	$	11,852,382,690
Other Adjustments		(8,019,882)		(8,019,882)
Fiscal Year 2013-14 Adjusted Limit	$	9,558,565,843	$	11,844,362,808
Allowable TABOR Growth Rate		4.3%		4.3%
Fiscal Year 2014-15 Unadjusted Limit	$	9,969,584,175	$	12,353,670,409
Fiscal Year 2014-15 Adjusted Limit	$	9,969,584,175	$	12,353,670,409
Less: Fiscal Year 2014-15 Nonexempt District Revenues		(12,503,661,636)		(12,503,661,636)
Amount (Over)Under Fiscal Year 2014-15 Adjusted Limit	**$**	**(2,534,077,461)**	**$**	**(149,991,227)**

Under(Over) Statement of Prior Years' Refunds to be refunded in FY 2015-16	$	2,899,667
FY2004-05 Amount in Excess of the Limit to be refunded in FY 2015-16	$	705,716
Total FY2015-16 Refund	**$**	**153,596,610**
FY2014-15 Retention of Revenues in Excess of the Limit (not refundable) CRS 24-77-103.6(1)(b)	$	2,384,086,234
TABOR refund contingent upon failure of Proposition BB in the November 2015 general election	$	66,096,642

SCHEDULE
OF TABOR REVENUE 2015

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 the annual growth in state revenues to the sum of the inflation rate and the percentage change in the State's population; this is called the TABOR growth rate. Any money the State raises above that amount must be returned to the taxpayers.

The State Controller annually prepares a Preliminary Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2015 [Unaudited], and the Comparison of Non-Exempt TABOR revenues for the Fiscal Year Ended June 30, 2015 [Unaudited] (collectively referred to as 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 1 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. Referendum C was approved by the voters in November 2005 and established the Excess State Revenues Cap as the new revenue limit.

AUDIT SCOPE AND METHODOLOGY

This performance audit was conducted in order to comply with statutory requirements. 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 2015 through September 2015. We acknowledge the cooperation and assistance provided by the State Controller and staff at the Office of the State Controller (OSC).

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, our objectives were to determine the following:

- Whether the OSC complied with state laws, rules, and regulations related to Section 24-77-101 through 107, C.R.S. in preparing the

TABOR Financial Report and certification required by Section 24-77-106.5, C.R.S.

- Whether the TABOR Financial Report and the certification of excess state revenues were accurately prepared in accordance with Section 24-77-101 through 107, C.R.S.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. To accomplish our audit objectives, we:

- Identified and documented our consideration of changes to statutory, regulatory, and other legal requirements that impact TABOR and are applicable to the audit and the audit objectives.

- Evaluated key calculations used by the OSC in the preparation of its TABOR Financial Report, including TABOR revenues, the anticipated TABOR growth rate, revenues exempt from TABOR requirements, 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, and changes in TABOR enterprise status.

- Reviewed the classification of accounts and transactions, including voter-approved amendments that are exempt from the TABOR district, and determined whether TABOR enterprises met the statutory requirement to be classified as exempt enterprises.

- Evaluated and, where appropriate, tested internal controls around the preparation of the TABOR Financial Report by the State Controller, and reviewed the Fiscal Year 2015 TABOR Financial Report.

We conducted this performance audit in accordance with generally accepted government auditing standards; however, we were unable to conclude on our audit objectives due to a lack of reliable and valid data. Government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions. Government auditing standards also require us to report any limitations or uncertainties that arise regarding the reliability or validity of evidence obtained during our audit. However, as described in this report, we were unable to obtain sufficient, appropriate evidence to conclude on our stated audit objectives. Our audit scope was limited due to several factors that are described in the findings and recommendations section of this report. Therefore, as noted in our letter dated September 15, 2015, we did not provide any conclusions or assurances regarding the State's compliance with state laws, rules, and regulations related to the TABOR Financial Report and the related certification, or the accuracy of each.

The Office of the State Controller received and commented on a draft copy of this report, and we have incorporated the Office of the State Controller's comments into the final report where applicable and appropriate.

PREPARATION OF THE FISCAL YEAR 2015 TABOR FINANCIAL REPORT

As required by statute [Section 24-77-106.5, C.R.S.], the OSC annually prepares a TABOR Financial Report and letter of certification that outline State revenues subject to Article X, Section 20 (TABOR) of the State Constitution. The TABOR Financial Report for Fiscal Year 2015, which consists of the *Preliminary Schedule of Computations Required Under Article X, Section 20 of the State Constitution as of June 30, 2015* [Unaudited] and the *Comparison of Non-Exempt TABOR Revenues for the Fiscal Year Ended June 30,* *2015* [Unaudited], contains several elements required by statute, including state fiscal year spending, total revenues, reserves (fund balance), revenues the State is allowed to retain and spend pursuant to Referendum C, and debt.

The OSC utilizes information contained in the State's financial accounting system to prepare the TABOR Report. At the beginning of Fiscal Year 2015, the State converted its 22-year-old financial reporting system (COFRS), to an Enterprise Resource Planning (ERP) system called Colorado Operations Resource Engine (CORE).

All state revenue is counted as TABOR revenue, also referred to as TABOR "nonexempt revenue," unless explicitly exempted by the Constitution or statutes. Exempt revenue includes federal funds; transfers within the district; damage awards; gifts; property sales; certain interest income; voter-approved revenue changes; and TABOR enterprise revenue. Article X, Section 20(2)(d), defines a TABOR 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." Revenue earned by a TABOR enterprise is exempt from TABOR limitations. In Article X, Section 20(2)(b), "District" is defined as the State or any local government, excluding enterprises.

As discussed previously, TABOR limits the annual growth in state revenues or spending to the sum of the inflation rate and the percentage change in the state's population. Any money the State earns above that amount must be returned to the taxpayers. 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. For both fiscal years, the General Assembly distributed the entire excess from general funds as a sales tax credit on each full-year resident's individual tax return.

Commencing in Fiscal Year 2011, the State is allowed to retain and spend the amount of revenue in excess of the TABOR Revenue Limit and up to the "Excess State Revenues Cap." The "Excess State

Revenues Cap" is defined as the highest total state TABOR revenue earned between Fiscal Years 2006 and 2010, adjusted for inflation and population growth for each subsequent year, the qualification and disqualification of enterprises, and debt service changes.

Calculation of the Fiscal Year TABOR Revenue Limit continues to apply subsequent to Fiscal Year 2010, but the new Excess State Revenues Cap replaces it as the limit that triggers taxpayer 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."

WHAT WAS THE PURPOSE OF THE AUDIT WORK?

The purpose of our audit work was to determine whether the State Controller complied with state laws, rules, and regulations related to Section 24-77-101 through 107, C.R.S., in preparing the TABOR Report and the related certification required by Section 24-77-106.5, C.R.S., and whether the TABOR Financial Report and the certification were accurately prepared in accordance with Section 24-77-101 through 107 C.R.S.

WHAT AUDIT WORK WAS PERFORMED AND HOW WERE RESULTS MEASURED?

We performed testing of a sample of transactions within significant revenue accounts for Fiscal Year 2015 recorded in the State's accounting system, the Colorado Operations Resource Engine, or CORE; reviewed OSC's policies and procedures regarding preparation of the TABOR Financial Reports; obtained the schedules and performed testing of the schedules which included recalculating fiscal year spending limits, and the allowable TABOR growth rate; and obtained copies and reviewed state department-prepared revenue certifications.

Section 24-77-106.5, C.R.S. requires that, for each fiscal year, the State Controller prepare a financial report for the purposes of ascertaining compliance with TABOR provisions, “Based upon the financial report prepared…for any given fiscal year, the controller shall certify to the Governor, the General Assembly, and the Executive Director of the Department of Revenue no later than September 1 following the end of a fiscal year the amount of state revenues in excess of the limitation on state fiscal year spending…if any, for such fiscal year and the state revenues in excess of such limitation that the state is authorized to retain and spend…”

Section 24-30-204(3) C.R.S. states, “The official books of the state shall be closed no later than 35 days after the end of the fiscal year. As of this date, all adjusted revenue, expenditures, and expense accounts shall be closed into the state accounting system in order to divide the financial details of the state into comparable periods.” Because the State’s fiscal year ends on June 30, the official books were required by this statute to be closed by August 4, 2015.

Auditing standards (Section AU-C 330-33) issued by the American Institute of Certified Public Accountants, or AICPA, require auditors to obtain documentation demonstrating that the financial statements agree or reconcile with the underlying accounting records. Auditing standards (Section AU-C 329 and AU-C 520) also define analytical procedures as procedures that include the consideration of comparisons of the entity's financial information with comparable information for prior periods. These procedures assist in forming an overall conclusion about whether financial information is consistent and reasonable.

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

We were unable to determine if the TABOR Financial Report for Fiscal Year 2015 was accurate due to the following factors:

FISCAL YEAR 2015 ACCOUNTING RECORDS WERE NOT YET CLOSED. As of both August 4, 2015—the statutorily-required date that the books should be closed and the OSC deadline for departments to certify the accuracy of their Fiscal Year 2015 revenue—and September 1, 2015 —the date upon which the OSC certified the accuracy of the TABOR Revenue Report—the official accounting records of the State remained open and transactions affecting TABOR revenue continued to be entered into CORE. The OSC based the TABOR report and certification on information obtained as of August 28, 2015. Subsequent to the August 4, 2015 revenue entry deadline and through August 28, state department staff entered into CORE approximately 700 transactions that resulted in a net increase to recorded TABOR revenue of approximately $13 million. Departments continued to make adjustments subsequent to that date. Specifically, departments entered approximately 700 additional transactions in CORE resulting in a net decrease of $1.8 million to recorded TABOR revenue between August 29 and September 15. At the end of our audit, the Fiscal Year 2015 accounting records remained open and the OSC was not scheduled to close the financial accounting records to department-entered transactions until October 9, 2015.

ACCOUNTING DATA NOT COMPARABLE. The OSC annually compares current fiscal year TABOR revenue to prior fiscal year TABOR revenue as a method to identify and investigate reasons for variances and to assist in validating the accuracy of the TABOR Financial Report. In prior years, the OSC completed the revenue comparison using revenue data gathered as of the end of the fiscal year after the financial accounting records had been closed. For Fiscal Year 2015, the OSC compared Fiscal Year 2015 TABOR revenue that had been recorded for part of the fiscal year through August 4, prior to the accounting records being closed, to the final Fiscal Year 2014 revenue. While, through that analysis, the OSC was able to identify variances that required follow-up, their comparison did not include the effect of the approximately 700 TABOR revenue adjustments made by state departments between August 4 and August 28. As a result, the variance analysis was not fully effective for validating the accuracy of the TABOR Financial Report.

WHY DID THE PROBLEM OCCUR?

At the beginning of Fiscal Year 2015, as noted above, the State replaced its 22-year-old financial reporting system (COFRS) with CORE. The State faced many difficulties with CORE implementation that resulted in significant delays related to data entry, reporting, and the closing of financial accounting records. For example, the process to create CORE reports during system implementation was not effective and led to the generation of inaccurate reports at the CORE "go-live" date of July 7, 2014.

In addition, the entering and processing of transactions in CORE presented numerous challenges to state agencies in the first few months after the implementation of CORE. Due to problems resulting from the implementation of CORE, agencies were not able to record their transactions in a timely manner. This led to the need for a significant number of accounting adjustments to correct reporting errors and a delay in the closing of accounting periods. Specifically, the OSC delayed the closing of the accounting records for every month of Fiscal Year 2015 from the historical closing dates. For example, two months' closings were delayed by almost four months from historical timeframes.

WHY DO THESE PROBLEMS MATTER?

Because we were unable to determine the accuracy of the TABOR Financial Report for Fiscal Year 2015, there is no assurance that TABOR revenue reported and certified by the State Controller on September 1, 2015, is accurate. This is especially important because the State exceeded allowable spending limits under the constitutional provisions of TABOR for Fiscal Year 2015, and therefore is required to either refund the excess TABOR revenue back to taxpayers, or request voter approval to retain and spend the excess revenue. The executive director of the Department of Revenue relies on the TABOR Financial Report to determine the amount to be refunded. Because the figures presented in the TABOR Financial Report may not be reliable or accurate, the State risks refunding the incorrect amount of excess TABOR revenue.

RECOMMENDATION 1

The Office of the State Controller should ensure that it complies with State law related to the preparation of the annual TABOR Financial Report. This should include closing financial accounting periods in a timely manner and in accordance with State statutes to ensure that accurate revenue information is available to prepare the annual TABOR Financial Report.

RESPONSE

OFFICE OF THE STATE CONTROLLER

A AGREE. IMPLEMENTATION DATE: AUGUST 2016.

In this first year in CORE, accounting periods have been on a delayed closing schedule primarily due to building and implementing labor allocation. In CORE, as well as in other modern ERP systems, labor allocation is handled in the payroll module, a function that the State's legacy payroll system is not capable of performing. To meet the deadline of TABOR reporting with accounting records not yet closed, the Office of the State Controller (OSC) took additional steps to mitigate the associated risks including a requirement that departments certify TABOR revenues and explain material variances from the prior year. While there were a large number of adjustments, the variance analysis was effective in evaluating the accuracy of the data. As a result, in our judgment, the certification is valid and reliable. The $1.8 million in adjustments that occurred between the certification date and the audit report date is similar in amount to prior years. Ultimately, timeliness lies in resolution of labor allocation and reengineering payroll processes that will occur with the implementation of the new Human Resources Information System (HRIS) in Fiscal Year 2018. In the interim, the OSC is working diligently with its vendors and the departments to achieve stability until the new HRIS is implemented. With successful stabilization, the OSC anticipates closing Fiscal Year 2016 in a timely manner.

CHANGE IN BUDGETARY REPORTING

The State's budget for the operations of State government is set through passed legislation, or the "Long Bill," each year. The Long Bill outlines five major categories of funding including General, General Exempt, Cash, Reappropriated, and Federal funds. Operations can be funded through one or more of the categories. The current structure of the Long Bill has been in place since Fiscal Year 2009.

In the prior accounting system, COFRS, when multiple sources of cash funds were to be used for a payment, the cash funds were often transferred to the General Fund where a single payment was made. For example, if three specific cash-funded programs were identified as incurring information technology expenses, each of the three funds would record a transfer to the General Fund and the General Fund would record transfers from the cash funds, accounted as TABOR non-exempt revenue if coming from funds that are TABOR enterprises, and pay the full expenditure for the information technology costs. In addition, in COFRS, expenses were not recorded in a manner that identified the category of funding, such as general or cash funds, associated with a payment. According to the OSC, the administration of the budget in this manner was a function of the difficulties in COFRS in allocating costs and attributing funding sources directly to those costs.

According to the OSC, with the implementation of CORE, the system's ability to clearly tie costs and funding sources together was a primary business process reengineering effort for the State. In CORE, costs are recorded by category of funding. Specifically, it is identifiable from a payment whether it was funded from, for example, general or cash funds. In addition to the category of funding, costs are recorded as specific expenditures in the appropriate cash funds, without requiring a transfer to the general fund, thus eliminating the transfers recorded as TABOR non-exempt revenue. The OSC reports that the revised treatment driven by CORE implementation provides decision makers with more timely, accurate, and transparent information about the funding sources related to the State's expenses. The State Controller implemented this CORE budgetary reporting change in Fiscal Year 2015. As part of this implementation, the OSC instructed State departments to change their accounting entries at the beginning of Fiscal Year 2015 in CORE to align with the reporting change.

ADJUSTMENTS TO REPORTED TABOR REVENUE

State laws related to changes in reported TABOR revenue are prescriptive in how certain changes are to be handled. For example, statutes[Section 24-77-103.5(2) C.R.S] provides that prior year state fiscal year spending may be adjusted by the State Controller to account for errors identified in the current year. Adjustments for any errors are to be made in the fiscal year in which the errors are discovered. The State Controller may correct an identified error by increasing or decreasing, as appropriate, the state fiscal year spending for the fiscal year in which the error was identified. Statutes specifically indicate that any adjustments made as a result of identified errors are subject to review by the State Auditor.

In addition to errors, statutes [Section 24-77-103.5(2) C.R.S.] also specify that the state fiscal year may be adjusted for the qualification and disqualification of TABOR enterprises. TABOR enterprises are government owned businesses that are exempt from TABOR. Examples of TABOR-exempt enterprises created under legislation include the Colorado Parks and Wildlife, the Colorado Bridge Enterprise, the Colorado High Performance Transportation Enterprise, the Colorado State Veterans Living Centers, and the Colorado Lottery. Each of these agencies earn less than 10% of their annual revenue from state support and local grants, and have the authority to issue revenue bonds.

The OSC typically summarizes adjustments to state fiscal year spending for errors, qualification/disqualification of TABOR enterprises, and other items in its annual TABOR certification letter. These adjustments are also presented on the *Preliminary Schedule of Computations Required Under Article X, Section 20 of the State Constitution* – [Unaudited].

WHAT WAS THE PURPOSE OF THE AUDIT WORK?

The purpose of our audit work was to determine whether the State Controller complied with state statutes related to TABOR in preparing the TABOR Financial Report for Fiscal Year 2015.

WHAT AUDIT WORK WAS PERFORMED AND HOW WERE RESULTS MEASURED?

We examined adjustments made by the State Controller on its Fiscal Year 2015 TABOR Revenue Schedule, including those to adjust prior year state fiscal year spending resulting from errors discovered, and from changes in the qualification or disqualification of TABOR-exempt enterprises. We also met with the State Controller's Office, the Office of Legislative Legal Services and the Office of State Planning and Budgeting for guidance on the purpose of these adjustments.

Section 24-77-103.5(2) C.R.S. prescribes that, if the State Controller discovers an error from a prior fiscal year that affects the calculation of state fiscal year spending, the State Controller can correct it by adjusting the amount for the year the error occurred, subject to review by the State Auditor.

Article X, Section 20(2)(d) defines an enterprise as a government owned business authorized to issue its own revenue bonds that receives less than 10% of its annual revenue in grants from all Colorado state and local governments combined.

Section 24-77-101(2)(f) states that the TABOR revenue reports should be prepared according to generally accepted accounting principles unless there is a conflict between generally accepted accounting principles and the provisions of Section 20, Article X of the State Constitution. If there is a conflict, the provision of Section 20 of Article X shall prevail.

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

We were unable to determine if decreases made by the OSC to the Fiscal Year 2015 TABOR spending limit and prior-year TABOR revenues as reported on its Fiscal Year 2015 TABOR Report were appropriate and in accordance with the intent of Article X, Section 20 of the State Constitution.

Specifically, the OSC made adjustments totaling $9.1 million to Fiscal Year 2014 miscellaneous program revenue on its *Preliminary Schedule of Computations Required Under Article X, Section 20 As of June 30, 2015* [Unaudited] for a purpose other than those specified in the Constitution and statutes. The adjustments were made to reflect the impact of the change in budgetary reporting in CORE made by the OSC in Fiscal Year 2015; the OSC calculated the adjustment by compiling revenues transferred to the General Fund from TABOR exempt enterprises during Fiscal Year 2014 that were recorded as TABOR non-exempt revenue for Fiscal Year 2014 under the previous reporting methodology. The OSC also made a related $9.1 million adjustment to its calculation of the Fiscal Year 2014 TABOR spending limit to reflect the resulting decrease in Fiscal Year 2014 TABOR revenue and make the 2014 revenue comparable to 2015.

We further determined that the OSC did not perform an analysis of Fiscal Year 2015 TABOR revenue recorded in CORE to determine if departments recorded revenue for the year using the revised reporting policy, as instructed. As a result, the OSC was unaware if similar adjustments related to the CORE budgetary reporting change were needed for Fiscal Year 2015 revenue contained on the Report.

WHY DID THE PROBLEM OCCUR?

The TABOR Financial Report is required to be prepared in accordance with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and TABOR, in which case the constitutional provisions of TABOR shall prevail. However, neither the constitutional provisions of TABOR nor state law address how changes in budgetary reporting should impact prior and current year state fiscal year spending (or spending limits), and be presented on the TABOR financial report.

WHY DO THESE PROBLEMS MATTER?

Inconsistent treatment of transfers for TABOR purposes affect the comparability of the periods presented, as well as the reliability and accuracy of TABOR revenue and state fiscal year spending limits contained in the TABOR Financial Report. In addition, a lack of legislation to address changes in budgetary reporting policy affecting TABOR revenue increases the risk of noncompliance with the constitutional provisions as well as state laws, rules, and regulations related to TABOR. Finally, incorrect treatment of transfers related to TABOR could create further inaccuracies in the amount of TABOR revenue to be refunded, and could cause the State to refund the incorrect amount of TABOR revenue in any given fiscal year.

RECOMMENDATION 2

The Office of the State Controller should work with the General Assembly to create a consistent methodology surrounding changes in budgetary reporting that affect TABOR revenue.

RESPONSE

OFFICE OF THE STATE CONTROLLER

AGREE. IMPLEMENTATION DATE: MAY 2016.

The Office of the State Controller (OSC) has a responsibility to report in a consistent and transparent manner. With CORE, the restructuring of budget policies was one of the significant business process reengineering efforts to facilitate decision making and improve transparency. In the legacy system, when there were many funding sources, departments often transferred moneys to the general fund from which it made a single payment. In CORE, these transfers have been eliminated and expenses split and posted directly to the source funds. The new policy utilizes CORE functionality, but had the unintended consequence of changing TABOR revenue patterns when there was no substantive change in activity. Because neither the constitution nor state law addressed this situation, the OSC followed the principles of consistency and transparency and made an adjustment to render the policy change TABOR neutral, similar to a qualification of a TABOR enterprise. A policy change of this nature has not occurred in the past and is not expected to occur in the future, but is a one-time product of modernizing practices. The OSC is aware of situations of noncompliance with the Budget Policy, but it does not impact comparability for purposes of the TABOR revenue certification. The OSC believes consistency is critical and will work with the General Assembly to address concerns with the adjustment.