TREASURER'S OFFICE

Budget Reduction Proposal
November 6, 2009

Cary Kennedy
Treasurer

Refinancing Certificates of Participation

Proposal:

In 2005, the State issued $120 million of Certificates of Participation (COPs) in to build a new State penitentiary (Colorado State Penitentiary II, or CSP II). In 2008, the State closed on another series of $230 million of COPs to fund capital construction projects at twelve different State-supported institutions of higher education. This proposal seeks to refinance the above mentioned COPs to take advantage of lower interest rates, and to allow the State to experience cash flow savings estimated at $22.75 million over two fiscal years, beginning in FY 2009-10.

Summary of Request:

- Tax exempt bonds can be refinanced (or "refunded") to take advantage of market conditions and create savings to the issuer one time in advance of their typical 10 year call date.
- This proposal seeks to take advantage of current historic lows for interest rates, in order to generate cash flow savings for the State. The proposal ensures that the sum of annual payments under the refinanced COPs will not exceed the current sum schedule of payments; however, in order to maximize the advantages of refinancing at the earliest opportunity possible fiscal year(s), some increase to the annual payment amount in the out years (still within statutory constraints) will be required.
- Concentration of savings in the earliest possible fiscal years is mostly accomplished through deferral of principal component of payment. All COPs have semi-annual payment schedules; Higher Education FML projects require payments on May 1 and November 1 (principal payment in November); CSP II payments are made March 1 and September 1 (principal payment in March).
- Due to the timing associated with the above mentioned COP payments, only the COPs specific to CSP II could be refinanced in time to achieve actual principal payment savings in FY 2009-10. General Fund savings in FY 2009-10 for CSP II of $10.0 million would come from de-appropriated Capital Construction Funds (CCF) and Corrections Expansion Reserve Funds (CERF). A transfer equal to $10.0 million is therefore requested - $8,175,782 from the CCF and $1,824,218 from the CERF - to the General Fund. For FY 2010-11, an additional $5.0 million has been reduced from OSPB's General Fund transfer request to the Capital Construction Fund due to refinancing in the November 2, 2009 Capital Construction Request.
- Since SB 08-233 and companion bills and joint resolutions require that the annual payments for the FML COPs come from the Higher Education FML Revenues Fund, and any unused funds must remain in the fund, legislation is needed to transfer the amount saved, equal to $7.0 million in FY 2010-11, from the Revenues Fund to the General Fund. Additional interest savings of $750,000 in FY 2009-10 can also be achieved and will be requested on December 1, 2009.
- For Anschutz medical campus COPs, the Governor's Office of State Planning and Budgeting is still working with the Treasurer's Office to determine what potential savings may exist for this series of COPs. If the State can experience savings from refinancing this series, a future budget action would be submitted.

- Savings from CSP II COPS identified for FY 2010-11 come from a reduced General Fund transfer assumed in the November 2, 2009 FY 2010-11 Capital Construction Request and in future OSPB revenue forecast projections.

	FY 2009-10	FY 2010-11
Higher Education FML Construction Projects	$750,000	$7,000,000
Colorado State Penitentiary II	$10,000,000	$5,000,000
Net Impact to the General Fund	**$10,750,000**	**$12,000,000**

Assumptions and Tables to Show Calculations:

- Figures are based on current market estimates. Although interest rates are at historic lows, estimates are very rate sensitive, and subtle changes to interest rates can have a sizable impact on the savings estimated in this proposal. As final figures will not be available until the COPs are sold, for budgetary purposes this proposal includes capturing a portion of the estimated savings to absorb some possible impacts from changes in interest rates or increased financing charges. Any additional savings from the budgeted amounts would remain in the cash funds under this assumption.
- Refinancing is also subject to a high level of legal, rating agency, and market scrutiny and any developments on those fronts could impact the viability and/or savings amounts identified.
- All the numbers are net of cost of issuance and represent a conservative estimate of savings.
- Below is a sample impact of refinancing COPs related to CSP II and Higher Education FML project payments. While all figures are tentative until new COPs are issued, note that refinancing will be completed to ensure both present value savings and no material change to the sum of annual payments. These assumptions are applied to the November 2, 2009 Capital Construction forecast.

Estimated Savings from CSP II Refinancing by Outside Vendor		
Fiscal Year Ending	**Current Payment Schedule**	**Proposed Payment Schedule**
06/30/2010	$11,085,175	$0
06/30/2011	$13,940,350	$7,749,688
06/30/2012	$13,938,850	$17,619,750
06/30/2013	$13,938,250	$17,618,750
06/30/2014	$13,939,000	$17,619,250
06/30/2015	$13,937,250	$17,619,750
06/30/2016	$13,937,000	$17,618,750
06/30/2017	$13,937,000	$17,619,750
06/30/2018	$13,936,000	$17,616,000
06/30/2019	$13,937,750	$17,621,000
06/30/2020	$13,935,750	$15,697,500
06/30/2021	$13,938,750	$0
Sum of All Years	**$164,401,125**	**$164,400,188**
	Estimated Present Value Savings:	**$807,297**

Estimated Savings from Higher Education FML Refinancing by Outside Vendor		
Fiscal Year Ending	**Current Payment Schedule**	**Proposed Payment Schedule**
6/30/2010	$16,652,725	$15,671,117
6/30/2011	$16,654,550	$8,318,127
6/30/2012	$16,653,475	$8,824,755
6/30/2013	$16,652,575	$19,337,695
6/30/2014	$16,651,075	$19,614,423
6/30/2015	$16,651,181	$19,898,125
6/30/2016	$16,653,613	$20,172,467
6/30/2017	$16,653,663	$19,939,787
6/30/2018	$16,650,163	$20,456,307
6/30/2019	$16,564,725	$17,947,749
6/30/2020	$16,563,450	$17,836,868
6/30/2021	$16,564,656	$17,989,619
6/30/2022	$16,563,125	$18,171,850
6/30/2023	$16,564,438	$16,922,401
6/30/2024	$16,561,888	$17,924,919
6/30/2025	$16,566,025	$17,908,663
6/30/2026	$16,563,000	$17,877,263
6/30/2027	$16,566,250	$17,345,013
6/30/2028	$16,563,300	$3,192,700
Sum of All Years	**$315,513,877**	**$315,349,848**
Estimated Present Value Savings:		**$480,000**

Current Statutory Authority or Needed Statutory Change:

Higher Education FML COPs
The Treasurer may undertake the refunding under the same authority as the original financing (SB 08-233), no statutory change is needed. The Treasurer has taken action to begin the refunding process.

Colorado State Penitentiary II
The executive director of the Department of Corrections may undertake the refunding under the same authority as the original financing (HB03-1256), no statutory change is needed. The Treasurer would be able to manage the refunding for the Department of Corrections.

OFFICE OF THE GOVERNOR

Policy Change Proposal
November 6, 2009

Todd Saliman
Director, OSPB

Proposal to Revise Gaming Funds Distribution in FY 2009-10 and FY 2010-11

Proposal:

With the passage of SB 09-228, current law requires that in a given year when General Fund revenues are not sufficient to support the General Fund appropriation for that fiscal year (as summarized by the Joint Budget Committee's Appropriation Report), revenue collected through limited gaming that would otherwise be transferred to the Colorado Travel and Tourism, New Jobs Incentives, State Council on the Arts, Film Incentives, and the Clean Energy cash funds would instead be transferred to the General Fund. This proposal requests a legislative change for FY 2009-10 and FY 2010-11, to require, regardless of the Joint Budget Committee Appropriation Report, a portion of revenues that would otherwise go to the above mentioned programs to the General Fund. The estimated increase in General Fund revenues for FY 2009-10 and FY 2010-11 is $14.2 million and $21.4 million, respectively.

($ millions)	FY 2009-10			FY 2010-11		
	Current	Proposed	Impact	Current	Proposed	Impact
Travel and Tourism	$15.5	$15.5	$0.0	$15.8	$10.2	($5.6)
New Jobs Incentives	$1.4	$1.4	$0.0	$1.4	$1.6	$0.2
State Council on the Arts	$1.2	$1.2	$0.0	$1.2	$0.8	($0.4)
Film Incentives	$0.5	$0.5	$0.0	$0.5	$0.3	($0.2)
Clean Energy	$14.2	$0.0	($14.2)	$15.4	$0.0	($15.4)
General Fund	$0.0	$14.2	$14.2	$0.0	$21.4	$21.4

Summary of Request:

- For FY 2009-10, limited gaming revenues that would have otherwise been transferred to the Clean Energy Fund (projected to equal $14.2 million) will instead be transferred to the General Fund.
- For FY 2010-11, in addition to directing all limited gaming revenues away from the Clean Energy Fund, any amount over 50.0 percent of limited gaming revenues from FY 2008-09 appropriated levels that would otherwise go to Colorado Travel and Tourism Promotion, New Jobs Incentives, State Council on the Arts, and Film Incentives cash funds would also be directed to the General Fund (projected to equal $21.4 million in total).
- Due to the increase in federal funds to the Governor's Energy Office from the American Recovery and Reinvestment Act, it is anticipated that this diversion of limited gaming dollars from the Clean Energy Fund to the General Fund will not prevent the Governor's Energy Office from continuing its mission to strengthen Colorado's new energy economy.
- The percentage reduction in limited gaming revenues to Colorado Travel and Tourism Promotion, New Jobs Incentives, State Council on the Arts, and Film Incentives cash funds in FY 2010-11 will require these programs to operate on a reduced budget for FY 2011-12. This delayed programmatic impact is due to the timing of limited gaming transfers, which does not occur until the end of the fiscal year in which revenues are received, and are intended for appropriation in the subsequent fiscal year.

Assumptions and Tables to Show Calculations:

- All calculations were based upon the Legislative Council's September 21, 2009 revenue forecast for limited gaming and inflationary changes.

Current Law

Distribution of Limited Gaming Revenues	FY08-09	FY09-10	FY10-11
A. Total Limited Gaming Revenues	**$98.9**	**$110.4**	**$116.9**
Annual Percent Change		11.6%	5.9%
A1. Gaming Revenues Not from Taxes	$4.0	$3.5	$3.5
A2. Gaming Revenues Related to Taxes	$94.9	$106.9	$113.4
B. Base Limited Gaming Revenues (max 3% growth)	**$94.9**	**$97.8**	**$100.7**
Annual Percent Change		3.0%	3.0%
B1. Amount Off the Top for Administration	($13.6)	($11.5)	($11.2)
B2. Additional Revenue not from Taxes (=A1)	$4.0	$3.5	$3.5
B3. Amount for Distribution to Existing Recipients	**$85.3**	**$89.7**	**$93.0**
C. Extended Limited Gaming Revenues (=A-B)	**N/A**	**$12.6**	**$16.2**
Annual Percent Change		N/A	28.2%
C1. Amount Off the Top for Administration		**($1.5)**	**($1.8)**
C2. Amount for Distribution		**$11.2**	**$14.4**
C3. Amount to Existing Recipients		*$0.7*	*$0.9*
C4. Amount to New Recipients		*$10.5*	*$13.5*
D. Total Amount to Existing Recipients (=B3+C3)	**$85.3**	**$90.4**	**$93.9**
Amount to State Historical Society	*$23.9*	*$25.3*	*$26.3*
Amount to Counties	*$10.2*	*$10.8*	*$11.3*
Amount to Cities	*$8.5*	*$9.0*	*$9.4*
Amount to Distribute to Remaining Programs	*$42.6*	*$45.2*	*$46.9*
Amount to Local Government Impact Fund	*$5.5*	*$5.9*	*$6.1*
Colorado Tourism Promotion Fund	*$15.6*	*$15.5*	*$15.8*
New Jobs Incentives Fund	*$1.4*	*$1.4*	*$1.4*
State Council on the Arts Fund	*$1.2*	*$1.2*	*$1.2*
Film Incentives Fund	*$0.2*	*$0.5*	*$0.5*
Colorado Office of Economic Development	*$0.3*	*$0.0*	*$0.0*
Bioscience Discovery Evaluation Fund	*$4.5*	*$5.5*	*$5.5*
Innovative Higher Education Research Fund	*$1.0*	*$1.0*	*$1.0*
Colorado Department of Transportation	*$10.1*	*$0.0*	*$0.0*
Clean Energy Fund	*$0.0*	*$14.2*	*$15.4*
Transfer to the General Fund	*$2.8*	*$0.0*	*$0.0*
E. Total Amount to New Recipients (=C4)	**N/A**	**$10.5**	**$13.5**
Amount to Community Colleges, Mesa State and Adams State (78%)		*$8.2*	*$10.6*
Amount to Counties (12%)		*$1.3*	*$1.6*
Amount to Cities (10%)		*$1.0*	*$1.4*

Proposed Legislation

Distribution of Limited Gaming Revenues	FY08-09	FY09-10	FY10-11
A. Total Limited Gaming Revenues	**$98.9**	**$110.4**	**$116.9**
Annual Percent Change		11.6%	5.9%
A1. Gaming Revenues Not from Taxes	$4.0	$3.5	$3.5
A2. Gaming Revenues Related to Taxes	$94.9	$106.9	$113.4
B. Base Limited Gaming Revenues (max 3% growth)	**$94.9**	**$97.8**	**$100.7**
Annual Percent Change		3.0%	3.0%
B1. Amount Off the Top for Administration	($13.6)	($11.5)	($11.2)
B2. Additional Revenue not from Taxes (=A1)	$4.0	$3.5	$3.5
B3. Amount for Distribution to Existing Recipients	**$85.3**	**$89.7**	**$93.0**
C. Extended Limited Gaming Revenues (=A-B)	**N/A**	**$12.6**	**$16.2**
Annual Percent Change		N/A	28.2%
C1. Amount Off the Top for Administration		**($1.5)**	**($1.8)**
C2. Amount for Distribution		**$11.2**	**$14.4**
C3. Amount to Existing Recipients		*$0.7*	*$0.9*
C4. Amount to New Recipients		*$10.5*	*$13.5*
D. Total Amount to Existing Recipients (=B3+C3)	**$85.3**	**$90.4**	**$93.9**
Amount to State Historical Society	*$23.9*	*$25.3*	*$26.3*
Amount to Counties	*$10.2*	*$10.8*	*$11.3*
Amount to Cities	*$8.5*	*$9.0*	*$9.4*
Amount to Distribute to Remaining Programs	*$42.6*	*$45.2*	*$46.9*
Amount to Local Government Impact Fund	*$5.5*	*$5.9*	*$6.1*
Colorado Tourism Promotion Fund	*$15.6*	*$15.5*	*$10.2*
New Jobs Incentives Fund	*$1.4*	*$1.4*	*$1.6*
State Council on the Arts Fund	*$1.2*	*$1.2*	*$0.8*
Film Incentives Fund	*$0.2*	*$0.5*	*$0.3*
Colorado Office of Economic Development	*$0.3*	*$0.0*	*$0.0*
Bioscience Discovery Evaluation Fund	*$4.5*	*$5.5*	*$5.5*
Innovative Higher Education Research Fund	*$1.0*	*$1.0*	*$1.0*
Colorado Department of Transportation	*$10.1*	*$0.0*	*$0.0*
Clean Energy Fund	*$0.0*	*$0.0*	*$0.0*
Transfer to the General Fund	*$2.8*	*$14.2*	*$21.4*
E. Total Amount to New Recipients (=C4)	**N/A**	**$10.5**	**$13.5**
Amount to Community Colleges, Mesa State and Adams State (78%)		*$8.2*	*$10.6*
Amount to Counties (12%)		*$1.3*	*$1.6*
Amount to Cities (10%)		*$1.0*	*$1.4*

Current Statutory Authority or Needed Statutory Change:

This proposal would require statutory changes to 12-47.1-701 (4) and (5), C.R.S. (2009) to reduce limited gaming transfers for Travel and Tourism, New Jobs Incentives, State Council on the Arts, Film Incentives, cash funds by 50.0 percent at the end of FY 2010-11 only, and fully eliminate the transfers to the Clean Energy fund at the end of both FY 2009-10 and FY 2010-11, and instead transfer said limited gaming revenues to the General Fund.

OFFICE OF THE GOVERNOR

Policy Change Proposal
November 6, 2009

Todd Saliman
Director, OSPB

Proposal to Maintain the Statutory General Fund Reserve Requirement at 2.0 Percent

Proposal:

This legislative proposal would maintain the current statutory two percent General Fund reserve requirement authorized in FY 2009-10 to continue for FY 2010-11, thereby reducing General Fund obligations by $139.3 million in FY 2010-11. Subsequent to FY 2010-11, the statutory reserve would return to the full statutory four percent.

Summary of Request:

- This proposal would result in a General Fund Reserve equal to one-half of the current four percent requirement for FY 2010-11. Repayment of funds utilized below the four percent threshold would occur in FY 2011-12, once the reserve requirement was returned to the full four percent level.
- Similar actions to reduce the General Fund reserve have occurred over the past two decades. The table below outlines the statutory requirements by fiscal year since FY 1989-90. In addition to the noted percentages below, restrictions have been placed on the use of diverted General Fund reserve dollars – in FY 1990-91, the additional revenue was only allowed to be used to alleviate prison overcrowding – whereas other years allowed diverted revenues to be spent for any lawful purpose.

Fiscal Year	Reserve Percent	Fiscal Year	Reserve Percent
FY 1989-90	4.0%	FY 1999-00	4.0%
FY 1990-91	3.0%	FY 2000-01	4.0%
FY 1991-92	3.0%	FY 2001-02	0.0%
FY 1992-93	3.0% less $14 million	FY 2003-04	3.0% less $37 million
FY 1993-94	4.0%	FY 2004-05	4.0%
FY 1994-95	4.0%	FY 2005-06	4.0%
FY 1995-96	4.0%	FY 2006-07	4.0%
FY 1996-97	4.0%	FY 2007-08	4.0%
FY 1997-98	4.0%	FY 2008-09	2.0%
FY 1998-99	4.0%	FY 2009-10	2.0%

Assumptions and Tables to Show Calculations:

- The statutory General Fund reserve is calculated off of the General Fund appropriation subject to the spending limit as defined by 24-75-201.1 (1), C.R.S. (2009). Based on the Governor's November 6 Executive Budget Request, a 50 percent reduction in the reserve percentage equates to $139.3 million.

Current Statutory Authority or Needed Statutory Change:

This proposal would require a statutory change to 24-75-201.1 (1)(d)(III), C.R.S. (2009) to reflect a revision to the current statutory requirement of four percent.

OFFICE OF THE GOVERNOR

Budget Reduction Proposal
November 6, 2009

Todd Saliman
Director, OSPB

Proposal to Temporarily Reduce the Senior Property Tax Exemption Benefit

Proposal:

Colorado seniors or their surviving spouses who have owned their primary residence for at least ten consecutive years are eligible to receive a reduction to the actual value of their property, up to a maximum of $100,000 for property tax purposes. If an individual qualifies, the State pays taxes on the exempted value. This legislative proposal would temporarily suspend any benefit from this exemption for FY 2010-11 and FY 2011-12.

Summary of Request:

- The Senior Property Tax Exemption is available to all seniors who have owned and occupied the property as their primary residence for at least ten consecutive years.
- Per current statute, up to fifty percent of the first two hundred thousand dollars of actual value of a primary residential property can be exempt from taxation for the individual homeowner.
- This legislative proposal would modify the current statute found at 39-3-203 (1), C.R.S. (2009) to eliminate this tax exemption for tax years 2010 and 2011. Similar legislative action was taken for the last recessionary period for tax years 2003, 2004, and 2005, and was recently also suspended in 2009.
- Based on the September 21, 2009 OSPB revenue forecast, the General Fund savings for the State are anticipated to equal $98.3 million and $103.9 million beginning in FY 2010-11.

Assumptions and Tables to Show Calculations:

Fiscal Year		September 21, 2009 OSPB Revenue Forecast	FY 2010-11 and FY 2011-12 Revised State Expenditure	Savings to Executive Budget Request
FY 2002-03	Actual Expenditures	$61,491,764	$61,491,764	$0
FY 2003-04		$0	$0	$0
FY 2004-05		$0	$0	$0
FY 2005-06		$0	$0	$0
FY 2006-07		$74,231,509	$74,231,509	$0
FY 2007-08		$79,828,167	$79,828,167	$0
FY 2008-09		$85,590,550	$85,590,550	$0
FY 2009-10	Projected	$1,109,005	$1,109,005	$0
FY 2010-11		$99,414,435	$1,144,760	$98,269,675
FY 2011-12		$105,119,791	$1,195,679	$103,924,113

Current Statutory Authority or Needed Statutory Change:

This proposal would require a statutory change to 39-3-203 (1), C.R.S. (2009) to reflect that fifty percent of zero dollars may be exempt from taxation for tax years 2010 and 2011.

39-3-203 (1) For the property tax year commencing January 1, 2002, for property tax years commencing on or after January 1, 2006, but before January 1, 2009, and for property tax years commencing on or after January 1, 2010, fifty percent of the first two hundred thousand dollars of actual value of residential real property that as of the assessment date is owner-occupied and is used as the primary residence of the owner-occupier shall be exempt from taxation, and for property tax years commencing on or after January 1, 2003, but before January 1, 2006, and on or after January 1, 2009, but before January 1, 2010, fifty percent of zero dollars of actual value of residential real property that as of the assessment date is owner-occupied and is used as the primary residence of the owner-occupier shall be exempt from taxation if:

OFFICE OF THE GOVERNOR

Policy Change Proposal
November 6, 2009

Todd Saliman
Director, OSPB

Legislative Authority for Cash Funds Transfer

Proposal:
Similar to SB 09-279 passed during the 2009 session, this proposal requests flexibility for transfers of cash funds to balance the budget. Execution of this authority would only be exercised in the event that the June economic and revenue forecast used to balance the budget falls below existing appropriation levels. All funds transferred would occur on June 30; while the transfers must not be represented as loans to the General Fund, it is expected that the Legislature would transfer similar or equivalent amounts from the General Fund to the cash funds as soon as possible in the following fiscal year. This legislative change would be requested for both FY 2009-10 and FY 2010-11.

Summary of Request:
- Similar to 24-75-201.5 (1) (g), C.R.S. (2009), this proposal seeks statutory authority for the Governor to require the State Controller and the State Treasurer to transfer a specified amount of cash funds on the last day of the fiscal year (June 30) for both FY 2009-10 and FY 2010-11.
- This authority would be exercised only if there was sufficient concern that General Fund obligations would exceed available revenues, as based on the most conservative June revenue forecast provided by either Legislative Council or the Governor's Office of State Planning and Budgeting.
- While the transfers intended to balance the FY 2009-10 and FY 2010-11 budgets must not be represented as loans to the General Fund, it is expected that the Legislature would transfer similar or equivalent amounts from the General Fund to the cash funds as soon as possible in the following fiscal year.

Assumptions and Tables to Show Calculations:
- It is not yet known which cash funds can be identified as available sources of revenue for this purpose. Determination of which specific cash funds and how much may be available will depend on fiscal expenditures and revenues into such funds, and therefore must be determined when such legislation is drafted.
- If similar cash funds referenced in section 28 of SB 09-279 were identified, the following cash funds and amounts may be possible options for transfer on June 30, 2010:

Transfer Amounts (in $ millions)	FY 2008-09	FY 2009-10
Employee Support Fund	$25.0	$10.0
Tobacco Litigation Settlement Cash Fund	$84.6	$15.0
Local Government Mineral Impact Fund	$14.2	$30.0
Colorado Water Conservation Board Construction Fund	$60.0	$70.0
Unclaimed Property Trust Fund	$68.3	$40.0
Perpetual Base Account of the Severance Tax Trust Fund	$75.0	$100.0
Operational Account of the Severance Tax Trust Fund	$21.3	$30.0
Local Government Severance Tax Fund	$109.6	$60.0
Total of Identified Funds	**$458.1**	**$355.0**

Current Statutory Authority or Needed Statutory Change:

This proposal would require new legislation, amending existing statute found at 24-75-201.5 (g) (1), C.R.S. (2009) to expand the previously provided authority to include FY 2009-10 and FY 2010-11.

24-75-201.5 (g) (I) For the fiscal year 2008-09 only, if the revenue estimate prepared in accordance with section 24-75-201.3 (2) in June 2009 indicates that general fund expenditures for such fiscal year based on appropriations then in effect will exceed the amount of general fund revenues available for expenditure for such fiscal year, the state treasurer and the controller, upon the written order of the governor, shall transfer to the general fund on June 30, 2009, from any or all of such funds described in subparagraph (II) of this paragraph (g), such amounts as are required to permit prompt disbursement from the general fund of any appropriation made therefrom for any lawful purpose.

OFFICE OF THE GOVERNOR

Policy Change Proposal
November 6, 2009

Todd Saliman
Director, OSPB

Proposal for One-Time Adjustment to Employee and Employer PERA Contributions

Proposal:

This proposal would require all State employees participating in the PERA defined benefit and defined contribution pension plans to contribute an additional 2.5 percent for FY 2010-11. An equal reduction in the State's contribution is also proposed for this year and is estimated to save the State $20.1 million General Fund. Legislation, as well as a budget action to identify actual savings by individual agencies and line items, will be required. An official budget action will be submitted to the Joint Budget Committee by January 4, 2010 to reflect the individual line item impacts within each agency.

Summary of Request:

- Due to the continued fiscal constraints placed on the State's budget, this request seeks to reduce the State's retirement contribution amount to PERA for FY 2010-11 only, in an effort to help balance the FY 2010-11 budget.
- The proposed 2.5 percent reduction to the State contribution would be temporary – *for FY 2010-11 only* – and would be offset by a corresponding increase in the employee PERA contribution. Through the combination of these two adjustments, the funded status for the PERA defined benefit plan will not be adversely affected.
- Unlike furloughs or reductions in pay which reduce the actual compensation to employees, a temporary change to employee and employer PERA contributions does not result in a change to an employee's annual compensation. As a result, an employee's highest average earnings used to calculate his or her pension benefits remains unchanged.
- While the proposed one-time adjustments to PERA contributions does result in a 2.5 percent reduction in take home pay for State employees for FY 2010-11, if a furlough option was utilized to achieve the same $20.1 million in General Fund savings for the State, after similar exemptions of critical personnel as outlined in Executive Order D 015-09, an effective payroll reduction would equate to roughly 3.75 percent for non-exempted employees.

Assumptions and Tables to Show Calculations:

- Estimates below are based on May 2009 payroll and reflect the FY 2009-10 1.82 percent personal services reduction being restored.
- This proposal is anticipated to affect all State employees that participate in either the PERA defined benefit plan or PERA defined contribution plan.
- While most state employees receive a 10.15 percent employer PERA contribution, two groups of State employees receive alternate levels of State participation: State Troopers receive 12.85 percent and judicial staff receives 13.66 percent. Similarly, under current law, State Troopers have a required employee contribution of 10.00 percent, whereas all other State employees contribute 8.00 percent. It is assumed at all employees would receive a net increase of 2.5 percent to the current employee share, despite variances in both employee and employer contribution levels.

- Due to the requirements of State funding as outlined in the American Recovery and Reinvestment Act, any reduction to State spending for wages within institutes of higher education must still be utilized in some other manner within those institutions in order to maintain minimum State support requirements. As such, no savings will be realized for higher education, despite assumed reductions in State contributions for employees participating in PERA pension plans.

	May 2009 General Fund Payroll (Includes State PERA and Medicare Contribution)	Reduced State Contribution to PERA by 2.50%	Revised State General Fund Personal Services Need Due to Changes in PERA Contributions
Personnel and Administration	$2,369,057	($53,070)	$2,315,987
Agriculture	$4,304,950	($96,437)	$4,208,513
Corrections	$355,371,221	($7,960,825)	$347,410,396
Education	$4,578,414	($102,563)	$4,475,851
Governor	$4,484,330	($100,455)	$4,383,875
Public Health and Environment	$7,199,271	($161,274)	$7,037,997
Higher Education	$0	$0	$0
Transportation	$0	$0	$0
Human Services	$162,266,520	($3,635,003)	$158,631,517
Labor and Employment	$0	$0	$0
Local Affairs	$2,605,132	($58,359)	$2,546,773
Military and Veterans Affairs	$2,699,024	($60,462)	$2,638,562
Natural Resources	$21,190,096	($474,689)	$20,715,407
Public Safety	$12,920,108	($288,395)	$12,631,713
Regulatory Agencies	$1,219,328	($27,315)	$1,192,014
Revenue	$31,228,122	($699,555)	$30,528,567
Health Care Policy and Financing - Total	$35,636,591	($798,311)	$34,838,280
Medicaid - Health Care Policy	*$8,497,607*	*($190,359)*	*$8,307,248*
Medicaid - Human Services	*$25,930,450*	*($580,879)*	*$25,349,571*
Medicaid - Public Health	*$1,208,534*	*($27,073)*	*$1,181,461*
Total Executive Branch	**$648,072,164**	**($14,516,712)**	**$633,555,452**
Judicial - Total	$229,212,085	($4,978,110)	$224,233,975
Judicial - Main	*$188,169,139*	*($4,086,724)*	*$184,082,415*
Judicial - Public Defender	*$39,142,556*	*($850,112)*	*$38,292,444*
Judicial - Office of Child's Representative	*$1,900,390*	*($41,273)*	*$1,859,117*
Law	$6,235,015	($139,673)	$6,095,342
Legislature	$20,432,125	($457,709)	$19,974,416
State	$0	$0	$0
Treasury	$0	$0	$0
Total Non-Executive Branch	**$255,879,225**	**($5,575,492)**	**$250,303,734**
Grand Total	**$903,951,390**	**($20,092,204)**	**$883,859,186**

Current Statutory Authority or Needed Statutory Change:

Changes would be required to Table A found in 24-51-401 (1.7) (a), C.R.S. (2009) to effectuate a revision to employee and State contribution levels to PERA. This change would only be effective for FY 2010-11.

OFFICE OF STATE PLANNING AND BUDGETING

Tax Exemption Proposal
November 6, 2009

Todd Saliman
Executive Director

Revisions to Colorado Tax Exemptions and Credits

Proposal:
Since the dramatic decline in the global economy, Governor Ritter and the Legislature cut spending and streamlined government to close a fiscal shortfall of over $2.1 billion in FY 2009-10. The choices have been difficult, but the decisions have been thoughtful and deliberate to protect public safety, minimize the impact on education, and build on efforts to revitalize our economy. By making tough choices and through strategic use of American Recovery and Reinvestment Act federal funds, the State balanced the FY 2009-10 budget without changes to tax credits or exemptions. However, in order to balance FY 2010-11, both temporary and permanent adjustments to select tax credits and exemptions are now necessary in order to prevent deeper cuts to K-12 and higher education than have already been proposed.

This plan provides a balanced approach that ensures the protection of Colorado’s economic strategy, yet also maintains the Governor's goal of minimizing the impacts to those living on the economic margins and his continued commitment to education. Currently, Colorado’s 2.90% sales tax rate is one of the lowest in the nation, and based on median income, Colorado’s 4.63% income tax rate is only slightly above the national median rate. Colorado continues to be an attractive place to live and do business, and despite these proposed tax exemption and credit adjustments, which will contribute approximately $131.8 million toward closing the FY 2010-11 budgetary shortfall, this appeal will not change.

Summary of Request:

Direct mail advertising exemption: 39-26-102(15), C.R.S. (2009)
- The estimated annual impact from the current exemption is $1.5 million.
- Direct mail advertisers currently do not have to pay sales or use tax on any materials that are sent out in the mail. Normally, materials used for advertising would attract use tax on those materials by the advertiser that is using them. This exemption applies to unique as well as cooperative direct mail advertisers which advertise for one or more business in the form of discount coupons, advertising leaflets, or other printed materials.
- This proposal would suspend the exemption for direct mail advertising materials, effective July 1, 2010, and would suspend the exemption for three years. The impact would be on establishments engaged in direct mail advertising printing and is assumed to only impact for-profit businesses, as non-profit organizations are exempt from paying sales taxes pursuant to 39-26-718 and 39-26-713(2)(d) C.R.S.
- The most recent data applicable to this exemption for CY 2008 indicates this exemption had an estimated impact of $1.5 million. This estimate is based on the 2002 Economic Census direct mail advertising printing materials reported by establishments engaged in the printing business. The 2002 estimate was adjusted for 2008 using the Bureau of Labor Statistics Producer Price Industry Index for direct mail advertising, printing.

Energy Use in Industrial and Manufacturing Sectors: 39-26-102, C.R.S. (2009)

- The estimated annual impact from the current exemption is $48.0 million.
- Currently, sales and purchases of all energy sources used in industrial or manufacturing services are exempt from taxation. Approximately 35 other states tax energy used in industrial or manufacturing processes. Nearly all of these states have tax rates above Colorado's sales tax rate of 2.9 percent.
- This proposal would suspend the exemption for energy used in manufacturing and industrial uses for two years.
- The estimated $48.0 million impact for the entire exemption is from Calendar Year 2008 and is based on energy usage estimates developed by the U.S. Energy Information Administration (2007 data). This group develops estimates of energy usage by sector by state. The 2008 estimate was developed using the producer price stage of processing index for finished energy goods as a growth factor.

Non-Essential Containers for Food Services: 39-26-707 (1) (c) and (d), C.R.S. (2009)

- The estimated annual impact from the current exemption is $2.1 million.
- Currently, any article sold to or purchased by a retailer or vendor of food, meals or beverages that is passed along to the consumer for use is not taxable. This includes cartons, bags, napkins, condiments, and plasticware at restaurants.
- Effective July 1, 2010, this proposal would eliminate this exemption for most purchases by restaurants except for containers that are essential for food service, such as cups for drinks or bowls for chili or salads. This would be a permanent revision to this exemption.
- The estimated impact is from Calendar Year 2008 and is based on a table of operating expenses in the Census Bureau’s 2007 census report on U.S. Retail, Accommodation, and Food Service Firms. The table reports US food services and drinking places’ purchases of packaging materials and containers. The census data is not specific to Colorado so the amount of sales apportioned to Colorado was based on the federal Bureau of Economic Analysis’s estimate of the share of Colorado Gross Domestic Product (GDP) relative to the nation. The 2008 estimate was developed using the Producer Price Index for commodities for paper, plastic, and foil bags as a growth factor.

Candy and Soft Drinks: 39-26-707 (1) (e), C.R.S. (2009)

- The estimated annual impact from the current exemption is $17.9 million.
- Enacted in 1980, all food sales in Colorado that are intended for home consumption are exempt from sales tax. The only exemptions to this rule pertain to carbonated water, chewing gum, prepared salads, cold sandwiches, deli trays and hot or cold beverages served from vending machines.
- This proposal seeks to redefine the list of exemptions, to remove the exemption on both candy and soft drinks purchased for home consumption, regardless of where the item is purchased, and would become effective July 1, 2010.
- For this proposal, “candy” is defined as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces. This definition will not include cookies or any similar items based on its label or advertising and shall require no refrigeration. Examples of snack foods that are not included in the category of "candy and similar products" and therefore **are not** subject to sales tax are:
  - Breakfast bars, cereal bars, granola bars, and nutritional food bars, whether or not such products are candy-coated or chocolate-coated;
  - Popcorn, potato chips, and pretzels, whether or not such products are candy-coated or chocolate-coated;
  - Glazed or sugar-coated fruit not advertised as candy or confection, (e.g., fruit roll-ups, fruit snacks, and dried fruit);
  - Honey-roasted nuts;

  - Items advertised and sold for use in cooking and baking (e.g., chocolate morsels, candied fruits, marshmallows, and marshmallow bits);
  - Items intended for decorating baked goods;
  - Chocolate-coated or candy-coated cookies, donuts, snack cakes, or similar bakery products.
- For this proposal, "soft drinks" are defined as nonalcoholic beverages that contain natural or artificial sweeteners. The term does not include beverages that contain milk or milk products (including soy, rice, or similar milk products) or greater than 50 percent vegetable or fruit juice by volume. Soft drinks shall also not include any of the following that may be made into a liquid by the purchaser: powdered fruit drinks, powdered tea with flavoring and sweeteners or frozen fruit drink concentrate.
- The estimate of the value of the sales tax exemption is based on 2007 U.S. Consumer Expenditure Survey data. The survey data reports the value of selected purchases on behalf of consumers, nationwide. The amount spent on the foods listed above as a percentage of household income was determined, then applied using American Community Survey data reporting Colorado household income. Out-year estimates were developed using Legislative Council estimates of the growth in personal income.

Agricultural Compounds: 39-26-716 (2) (d), C.R.S. (2009)

- The estimated annual impact from the current exemption is $1.5 million.
- Enacted in 1999, agricultural compounds such as insecticides, fungicides, vaccines, hormones, animal drugs, and similar compounds administered to, or otherwise used in caring for livestock are exempt from taxation. The sales and purchases of bull semen for agricultural or ranching purposes have also been exempt.
- This proposal seeks to temporarily suspend the exemption of these agricultural compounds and bull semen for the period of three years, effective July 1, 2010.
- An estimated annual impact of $1.5 million is based on data obtained from the Animal Health Institute publication on animal health product sales in 2007, the American Veterinary Medical Association publication on the percentage of health products sales by type of animals, and the 2007 Agricultural Census data on farmers' all other production expenses. These amounts were adjusted forward using the Bureau of Labor Statistics Producer Price Commodities Index for preparations, veterinary.

Pesticides: 39-26-716 (2) (e), C.R.S. (2009)

- The estimated annual impact from the current exemption is $2.9 million.
- Enacted in 1999, all sales and purchases of pesticides that are registered by the Commissioner of Agriculture for use in the production of agricultural and livestock products pursuant to the Pesticide Act under Article 9 of Title 35 are exempt from taxation.
- This proposal seeks to temporarily suspend the exemption of these pesticides for the period of three years, effective July 1, 2010.
- It is estimated that the suspension of this exemption will result in a fiscal impact of $2.9 million. This estimate is based on the 2007 Agricultural Census data for farmers' chemicals purchased. The CY 2007 estimate was adjusted for the Bureau of Labor Statistics Producer Price Commodities Index for agricultural and commercial insecticides and chemicals.

Enterprise Zone Investment Tax Credit: 39-30-104 C.R.S. (2009)

- The estimated annual impact from the current credit is $21.3 million.
- Currently, any depreciable equipment purchased and used within an enterprise zone is eligible for a three percent tax credit, without regard to whether the buyer paid sales tax on it. The credit may be used up to $5,000 of the taxpayer's tax liability plus fifty percent of the taxpayer's liability above $5,000.

- In other states, rules vary widely. About half of states have no investment tax credit (ITC). Some states have enterprise zone credits similar to Colorado's while others have credits that are restricted to certain industries. Other states have the credit only for specifically approved projects. Rates vary from 1.0 to 10.0 percent.
- This proposal would temporarily cap the ITC at $250,000 per taxpayer group per year, effective January 1, 2011 for three years. The number of corporations expected to be affected is expected to be less than 50.
- The revenue impact of capping the enterprise zone investment tax credit (ITC) is indeterminate. Of the sample data of corporate returns processed in fiscal years 2006 and 2007 examined, the number of ITC claimed in these samples were 77.2 and 92.8 percent, respectively, relative to the total amount of ITC claimed in those fiscal years. Imposing a $250,000 cap would have affected 7 corporations in the 2006 sample and 14 corporations in the 2007 sample. Adjusted for sample size, the $250,000 cap would have effectively limited the credit at approximately $9.4 million in both years, but would have resulted in a decrease of tax credits of $4.5 million in 2006 and $13.3 million in 2007.
- Given the potential decrease in the amount of corporate liability and capital spent on investment in future years, the decrease in the amount of credits claimed as a result of the caps is indeterminate. It is difficult to say with only two years of data, but the data seem to indicate that the caps more reliably limit the amount awarded rather than produce a reliable amount of increased revenues. For budgeting purposes, the Office of State Planning and Budgeting averaged the impact in 2006 and 2007 to develop an estimated impact for 2011 of $8.9 million.

<u>Alternative fuel vehicles: 39-22-516, C.R.S. (2009)</u>

- The estimated annual impact from the current credit is $2.5 million.
- Currently, buyers of alternative fuel vehicles are eligible for a tax credit upon the purchase of certain vehicles. This credit was added in 1992, substantially amended in 1999, and substantially re-amended in 2009. Among many changes in 2009, the last category of vehicles left eligible for a tax credit was alternative fuel vehicles getting between 30 and 40 mpg ("category 7" vehicles). This category of vehicles includes a number of luxury type vehicles that are very expensive and generate large credits.
- Under this proposal, vehicles getting between 30 and 40 mpg would not be eligible for the credit or rebate. Today, this credit is intended to incentivize vehicles that reduce petroleum use and are low-emitting in both airborne pollutants and greenhouse gases. These category 7 vehicles, while low emitting in airborne particles, are neither fuel efficient nor low carbon emitting. This proposal will become effective on January 1, 2011.

<u>Gross Conservation Easement Credit: 39-22-522, C.R.S. (2009)</u>

- The estimated annual impact from the current credit is $52.0 million.
- Donors of conservation easements are allowed a credit against income tax for fifty percent of the value of the conservation easement, up to a maximum of $375,000. The credit may be transferred to others who may use it to offset their tax. During calendar year 2008, the average credit equated to $265,000.
- This proposal would reduce the overall amount impact from conservation easement credits by half, effective January 1, 2011. Though the specifics of how to structure the program to achieve these savings are still being discussed with stakeholders, eventual revisions to the program will be effective for three years.
- Recently, the legislature implemented policies that appear to have reduced the total claims for the credit from over $100 million per year to approximately $52.0 million for 2008.
- The estimated savings for this proposal is $26 million annually.

Alternative minimum tax and alternative minimum tax credit: 39-22-105, C.R.S. (2009)

- The estimated annual impact from the current credit is $9.0 million.
- The alternative minimum tax (AMT) for individuals was put in place before the income tax reform of 1987. It is intended to capture additional tax from high income individuals who have taken advantage of certain tax breaks. Because of the State's choice to link to federal taxable income in its calculation of regular tax, the State also links to the federal alternative minimum tax system.
- In addition to the alternative minimum tax, there is an alternative minimum tax credit that is allowed to certain taxpayers who paid alternative minimum tax in prior years but do not pay the tax in the current year. The State also links to the federal calculation of this credit.
- This proposal would repeal the AMT, including the AMT credit, effective January 1, 2010. This repeal will result in approximately $5.0 million in annual savings because the AMT credit has consistently exceeded the AMT over the last few years.
- The AMT should be repealed independent of the savings. The AMT has increasingly hit middle income taxpayers, as well as hitting family members of deceased parents when these family members are living on the proceeds of life insurance. The general consensus at the federal level is that the AMT no longer achieves the public policy goals that were originally contemplated. In addition, the complexity of the tax undermines its public policy goals. At the State level, although the calculation of the tax is simple (a simple percentage of the federal amounts), the State cannot control the specific application of the tax. In addition, the problems seen at the federal level (no longer serving appropriate public policy goals) also apply at the State level since Colorado links to the federal policy.
- Because statute allows the AMT credit if the taxpayer receives the federal AMT credit, without regard to whether the taxpayer ever paid Colorado AMT previously, there is a disconnect between the amount of tax generated and the amount of credit allowed.
- The numbers used to calculate the fiscal impact of this change are actual amounts claimed on the returns of individuals over the last several years. Although the amount of tax collected was in the $4-$5 million range in the early 2000s (rising as high as $7.8 million in 2001), it has not exceeded $3 million since 2003, hitting a high of $3.03 million in 2007. The amount of credit has remained close to $9 million. For budgeting purposes, the Governor's Office of State Planning and Budgeting has assumed that the net impact of this proposal to equal $5.0 million.

***Software sales tax exemption: 39-26-102 (15), C.R.S. (2009)* – Definition of tangible personal property**

- The estimated annual impact from the current exemption is $15.0 million.
- The Department of Revenue has promulgated a series of regulations concerning software. The most recent regulation, promulgated in 2006 under the prior administration, substantially narrows what is considered taxable software. The 2006 regulation defines software as taxable only if: 1) it is packaged for repeated sale, 2) it is subject to a non-negotiable, tear open license agreement, and 3) it is delivered on a tangible medium (thus excluding any software sold over the Internet or by "load and leave").
- This proposal to reestablish a more specific definition on tax exemptions for software purchases results in over $15 million in additional sales tax collection per year.
- The department believes that the current regulation bears no appropriate relationship to whether software is tangible personal property, and therefore subject to tax. As a result of the adoption of the new regulations in 2006, the Department has issued over $60 million in refunds on this issue alone.
- Although the Department could modify the regulation of its own accord, given the relatively frequent changes that have occurred to the regulation, the Department believes it is prudent to ask the legislature to disapprove of the current regulation prior to the department issuing a new regulation.
- The Department does not believe that the current regulation is a correct interpretation of the law.

- The Department believes that its estimate of $15.0 million per year is a minimum and that the actual increase in revenue will be greater. This is because the estimate is based on refunds issued since the regulation came into force and does not account for vendors that stopped collecting tax at the point of sale.

Sales Taxes for Online Purchases ("New York Nexus Statute"): No specific statute – sales tax nexus requirement contained in 39-26-102(3), C.R.S. (2009) – definition of "Doing business in this state"

- The estimated annual impact from the current exemption is $5.0 million.
- The state of New York recently enacted a statute to specify that any vendor that is making sales into the state and is also utilizing affiliates in the state to advertise or otherwise solicit business for the vendor must collect the state's sales tax.
- This approach to sales tax nexus could also be taken by Colorado. Although no specific provision allows or prohibits this approach, Colorado has not asserted affiliate nexus of this type in the past. The Department of Revenue will adopt a new regulation to implement this change which will become effective July 1, 2010.
- It is estimated that this change would raise approximately $5.0 million in new sales tax collections. Though this will equate to new revenue to the State, this is not a change in tax policy; but rather, is an enforcement of existing law. This amount is based on New York's experience after reductions to account for population differences.

Net operating loss limitation: 39-22-504, C.R.S. (2009)

- The estimated annual impact from the current credit is between $22 million and $45 million.
- Corporations that incur a loss in a given tax year may carry that loss (the "net operating loss" or "NOL") forward to offset income in a future year in the same manner and for the same number of years as is allowed for federal net operating losses. This policy allows a corporation to "get back to zero" net income over time before they begin having to pay income tax.
- This proposal would cap the amount of NOL carry forward that could be utilized to offset income during the next three years at $250,000. Corporations that have more NOL carry forward than this amount could not use it to offset income in the current years and would be required to pay tax on the remaining income. The NOL carry forward would then be extended by an additional year for each year that a corporation is limited by this rule. This proposal would be implemented for three tax years beginning on or after January 1, 2010.
- The proposal shifts income tax that a corporation would have to pay in a future year into the current year.
- Some states, notably California, have suspended or limited the operation of this offset to income during the state's particular budget crisis.
- The Department estimates that this change would have a fiscal impact of $22 million to $45 million per year, based on sample corporate income tax data from 2005 to 2007. This sizable range is due to the variability in corporate income, and therefore corporate income tax receipts. For budget purposes, the Governor's Office of State Planning and Budgeting assumed the midpoint of the range, at $33.5 million.

Revisions to Colorado Tax Exemptions and Credits
Attachment A

	Exemption / Credit Considered	Summary of Current Law and Proposal	FY 2010-11 Fiscal Impact	FY 2011-12 Fiscal Impact	Statutory Citation	Implementation Date	Duration of Proposal
1	Suspend Exemption for Direct Mail Advertising	Current law allows for sales and use tax exemptions for all materials used by cooperative direct mail advertisers generating discount coupons, advertising leaflets, preprinted newspaper supplements, or other printed documents. This proposal would eliminate the exemption for three years.	$1,450,000	$1,450,000	39-26-102 (15)	7/1/2010	3 years
2	Suspend Exemption for Industrial and Manufacturing Energy Use	Current law allows for an exemption on all sales and purchases of energy used in industrial or manufacturing services in Colorado. This proposal would suspend this exemption for two years.	$48,000,000	$48,000,000	39-26-102 (21)	7/1/2010	2 years
3	Eliminate Exemption for Non-Essential Food Containers	Current law allows for the purchase of materials used by food or meal vendors to be exempt from sales tax if those materials are sold at the time of food or beverage purchase without a separate charge to the consumer. This proposal would make taxable non-essential items, such as: cartons, napkins, bags, condiments, and plasticware at restaurants.	$2,100,000	$2,100,000	39-26-707 (1) (c) and (d)	7/1/2010	Ongoing
4	Eliminate Exemption for Candy and Soft Drinks	Current law allows for an exemption on sales tax for nearly all food sold at grocery stores. This proposal would modify the existing definition of taxable food items to exclude candy and soft drinks that are non-essential, less-healthy food choices.	$17,900,000	$17,900,000	39-26-707 (1) (e)	7/1/2010	Ongoing
5	Suspend Exemption for Agriculturial Compounds and Bull Semen	Current law allows for insecticides, fungicides, vaccines, hormones, and other animal drugs used in caring for livestock to be exempt from taxation. Likewise, all sales and purchases of bull semen for agricultural or ranching purposes are exempt. This proposal would suspend these sales tax exemptions for three years.	$1,500,000	$1,500,000	39-26-716 (2) (d)	7/1/2010	3 years
6	Suspend Exemption for Pesticides	Current law allows for all pesticides that fall under the Pesticide Act under Article 9 of Title 35 to be exempt from sales tax. This proposal would suspend this exemption for three years.	$2,900,000	$2,900,000	39-26-716 (2) (e)	7/1/2010	3 years
7	Limit Corporate Enterprise Zone Investment Tax Credit to $250,000	Current law allows for any depreciable equipment purchased and used within an enterprise zone to be eligible for a 3% tax credit. This proposal would limit the amount of investment tax credits per taxpayer to $250,000 per year, for three years, beginning January 1, 2011.	$4,450,000	$8,900,000	39-30-104	1/1/2011	3 years

	Exemption / Credit Considered	Summary of Current Law and Proposal	FY 2010-11 Fiscal Impact	FY 2011-12 Fiscal Impact	Statutory Citation	Implementation Date	Duration of Proposal
8	Revise Alternative Fuel Vehicle Credits	Effective January 1, 2010, taxpayers can receive a tax credit up to $6,000 per year for certain alternative fuel vehicles ($7,500 per year for plug-in hybrids). This proposal would limit which vehicles would be eligible for this credit - to no longer include vehicles with miles per gallon (mpg) rates between 30 and 40 mpg.	$1,250,000	$2,500,000	39-22-516	1/1/2011	Ongoing
9	Limit Gross Conservation Easement Credits	Current law allows for taxpayers to receive an income tax credit for conservation easements on property, equal to 50% of the value of the easement, not to exceed $375,000. This proposal would reduce the maximum per credit to not exceed $135,000.	$13,000,000	$26,000,000	39-22-522	1/1/2011	3 years
10	Elimination of Alternative Minimum Tax and Tax Credit	Current law in Colorado on taxable income mirrors the federal definition of taxable income. This also applies to the federal allowance for alternative minimum tax and the alternative minimum tax credit. This proposal would repeal the alternative minimum tax and tax credit in Colorado.	$2,500,000	$5,000,000	39-22-105	1/1/2011	Ongoing
11	Eliminate Software Exemption	Current regulations promulgated by the Department of Revenue allow for an exemption for software purchases so long as: 1) it is not packaged for repeat sale, 2) it is not subject to a non-negotiable, tear open license agreement, and 3) it is not delivered on a disc or other tangible medium. This proposal seeks to redefine the regulations followed by the Department (specifically related to the definition of tangible personal property), to limit the vast number of exemptions currently allowed by these regulations.	$15,000,000	$15,000,000	39-26-102 (15)	1/1/2011	Ongoing
12	Enforce Sales Tax Collections for Online Purchases	Current law does not specifically enforce the collection of state sales tax on internet purchases. This proposal would seek to enforce such tax collection responsibility associated with purchases of goods against certain online vendors. Such online vendors would be vendors that associate with in-state affiliates that help the vendor to establish and maintain their in-state market.	$5,000,000	$5,000,000	No statute change	1/1/2011	Ongoing

	Exemption / Credit Considered	Summary of Current Law and Proposal	FY 2010-11 Fiscal Impact	FY 2011-12 Fiscal Impact	Statutory Citation	Implementation Date	Duration of Proposal
13	Limit Net Operating Loss to $250,000	Current law allows for corporations that incur a loss in a given tax year to carry that loss forward to offset income in a future year, allowing corporations to get "back to zero" net income before paying income taxes. This proposal would temporarily limit the amount of net operating loss to be carried forward and applied against income to $250,000, for each of the next three years. The net operation loss period would also be extended for three years, to coincide with the years that corporations would be limited by this cap.	$16,750,000	$33,500,000	39-22-504	1/1/2011	3 years
	Total Impact of All Exemption and Credit Revisions:		**$131,800,000**	**$169,750,000**			