

# TAX AND FINANCE

## Cash Fund Transfers

**SB 11-161** (Enacted)  
Colorado Department of Health and  
Environment Laboratory Cash Fund

**SB 11-163** (Enacted)  
Repeal Alternative Fuels Rebate  
Program

**SB 11-164** (Enacted)  
Cash Fund Transfers for FY 2010-11

**SB 11-210** (Enacted)  
Phase-out Supplemental Old Age  
Pension Health Fund

**SB 11-219** (Enacted)  
2011 Transfers for Health Care  
Services

**SB 11-222** (Enacted)  
Capital Construction Transfers

**SB 11-224** (Enacted)  
Supplemental Nursing Home Visitor  
Program Fund Increase

**SB 11-225** (Enacted)  
Innovative Health Program Grant  
Fund Transfers

**SB 11-226** (Enacted)  
General Fund Transfers

## Other Public Finance Policy Changes

**SB 11-156** (Enacted)  
FY 2010-11 General Fund Reserve  
Reduction

**SB 11-159** (Enacted)  
Distribution of State Share of Limited  
Gaming Revenue

**HB 11-1280** (Postponed Indefinitely)  
Limit General Fund Appropriations  
Growth

## Income Taxes

**HB 11-1014** (Enacted)  
Child Care Contribution Income Tax  
Credit

**HB 11-1045** (Enacted)  
Colorado Innovation Investment Tax  
Credit

**HB 11-1081** (Enacted)  
Liquefied Petroleum Gas Vehicles  
Included for Incentives

**HB 11-1170** (Postponed Indefinitely)  
Extend Credit for Alternative Fuel  
Facilities

**HB 11-1208** (Deemed Lost)  
Conservation Easements

**HB 11-1300** (Enacted)  
Conservation Easement Tax Credit  
Dispute Resolution

**HB 11-1314** (Postponed Indefinitely)  
Enterprise Zone Tax Credit  
Pre-certification

## Income Taxes-Checkoff Colorado

**SB 11-081** (Enacted)  
9Health Fair Tax Checkoff Extension

**SB 11-102** (Enacted)  
Mental Health Tax Checkoff

**SB 11-109** (Enacted)  
Public Education Fund Tax Checkoff

**SB 11-272** (Enacted)  
Adult Stem Cells Cure Fund Tax  
Checkoff

**HB 11-1028** (Enacted)  
Alzheimer's Association Tax  
Checkoff

**HB 11-1037** (Enacted)  
Military Family Tax Checkoff

**HB 11-1071** (Enacted)  
Roundup River Ranch Tax Checkoff

**HB 11-1097** (Enacted)  
Goodwill Industries Tax Checkoff

**HB 11-1177** (Enacted)  
Healthy Rivers Fund Tax Donation

**HB 11-1295** (Enacted)  
Multiple Sclerosis Tax Checkoff

## TAX AND FINANCE (Cont.)

### Sales and Use Taxes

**SB 11-056** (Postponed Indefinitely)  
Use Tax Exemption Out-of-State Retailers

**SB 11-263** (Enacted)  
Clarify Medical Products Sales Tax Exemption

**HB 11-1109** (Enacted)  
Telecommunications Equipment Local Sales Tax Exemption

**HB 11-1265** (Enacted)  
Sales and Use Tax Refund Claims

**HB 11-1318** (Postponed Indefinitely)  
Colorado Policy Use Tax Out-of-State Retailers

**SB 11-178** (Enacted)  
Manner of Local Sales Tax Exemption

**HB 11-1005** (Enacted)  
Reinstate Tax Exemption for Ag Products

**HB 11-1158** (Deemed Lost)  
Colorado Wood Products Incentives

**HB 11-1293** (Enacted)  
Repeal HB 10-1192 Related to Software

**SB 11-223** (Enacted)  
Sales Tax Vendor Fee

**HB 11-1091** (Enacted)  
Sales Tax Exemption for Medical Equipment

**HB 11-1162** (Deemed Lost)  
Sales Tax Exemption for Soft Drinks

**HB 11-1296** (Enacted)  
Continue State Sales Tax on Cigarettes

### Property Taxes

**SB 11-026** (Postponed Indefinitely)  
New Business Personal Property Tax Exemption

**HB 11-1011** (Enacted)  
Board of Assessment Appeals Hearing

**HB 11-1146** (Enacted)  
Define Agriculture Land for Property Taxes

**HB 11-1263** (Postponed Indefinitely)  
Business Personal Property Tax Exemption

**SB 11-119** (Enacted)  
Appeal Valuation Commercial Real Property

**HB 11-1042** (Enacted)  
Classification of Residential Land when Residential Improvement Removed

**HB 11-1226** (Enacted)  
Disabled Veterans Property Tax Exemption Application Information

**HB 11-1305** (Enacted)  
Residential Valuation Assessment Ratio

**HB 11-1010** (Enacted)  
Incidental Use of Tax Exempt Property

**HB 11-1141** (Postponed Indefinitely)  
Economic Stimulus Business Personal Property Tax Exemption

**HB 11-1241** (Enacted)  
Charitable Use Property Tax Exemption

### Other Taxes

**SB 11-184** (Enacted)  
Tax Reporting

**HB 11-1255** (Lost in House)  
Colorado Alternative Energy Park Act

**HB 11-1103** (Postponed Indefinitely)  
Incentivize Certain Wind Turbine Systems

**HB 11-1104** (Postponed Indefinitely)  
Tax Expenditure Reports

### State Fees

**SB 11-125** (Enacted)  
Nursing Home Fees and Order of Payments

**SB 11-212** (Enacted)  
Use Provider Fee Offset General Fund Medicaid

**SB 11-213** (Vetoed)  
Children's Basic Health Plan Assess Monthly Enrollment Fee

During the 2011 session, the legislature debated a number of bills that affect the state's public finances and taxpayers in Colorado. The tax and finance section summarizes the bills that were considered that affect the state's budget and the main tax sources that provide money to the state's operating budget. Other bills affected the administration of these taxes and the local governments that take part in the implementation of these tax systems. Additionally, the section includes a summary of bills affecting state fees.

## **Economic Forecast and the Budget**

The General Assembly adopted a number of bills during the 2011 session to respond to a revenue shortfall that resulted from the second recession of the 2000s that began in late 2008. General Fund revenue for purposes of the state budget for FY 2010-11 was \$6.8 billion, the same level of revenue in FY 2000-01, ten years earlier. However, during the ten-year period, state expenditures grew significantly. For example, K-12 enrollment grew by 97,800 full time equivalents, or 14.2 percent, as Medicaid caseload nearly doubled, increasing 95.4 percent (a 262,717 caseload change).

During the beginning of the legislative session, the General Assembly adopted bills that responded to a 5 percent budget gap for the current fiscal year, FY 2010-11. In addition, the General Assembly budgeted for the FY 2011-12 shortfall. The combined revenue decline for both years was nearly \$1.3 billion. When the legislature debated a package of budget bills to balance the budget for FY 2010-11, measures to address the shortfall included refinancing K-12 education with federal dollars, reducing the General Fund reserve, and enhancing General Fund revenue through cash fund transfers. For the FY 2011-12 budget, the legislature adopted a number of bills that transferred cash fund revenue to the General Fund. These transfers affected severance tax revenue, federal mineral lease revenue, and tobacco settlement revenue.

The following sections highlight a number of bills that were adopted by the General Assembly during the 2011 session that responded to these budgetary needs.

## **Cash Fund Transfers**

The Colorado state government receives its revenue from the federal government, state taxes, and state fees. Most fee revenue and some tax revenue are deposited into state **cash funds** that are earmarked for specific state programs. The legislature debated bills that transferred money from some of these cash funds to the General Fund.

The General Assembly adopted nine bills in the 2011 session that transferred money from several state cash funds to the General Fund. A total of \$109.5 million, \$130.2 million, and \$2.4 million in transfers were authorized for FY 2010-11, FY 2011-12, and FY 2012-13, respectively.

Table 1 lists each cash fund transfer adopted in the 2011 session and the amount of the transfer.

**Table 1**  
**Cash Fund Transfers to the General Fund Enacted in the 2011 Session**

Bill Number	Cash Fund	Net Transfer to the General Fund		
		FY 2010-11	FY 2011-12	FY 2012-13
SB 11-161	Laboratory Cash Fund Diversion (Transfer from the General Fund) (Section 25-1.5-101 (1)(e)(II), C.R.S.)	(\$3,218)	(\$12,800)	(\$17,800)
SB 11-163	Alternative Fuels Rebate Fund (Section 39-33-105 (3), C.R.S.)	\$258,000	\$400,000	\$400,000
SB 11-164	Major Medical Insurance Fund (Section 8-46-202 (1.8), C.R.S.)	\$10,000,000	\$0	\$0
	Drug Offender Treatment Fund (Section 18-19-103 (5.5)(c), C.R.S.)	\$672,725	\$0	\$0
	Contingency Reserve Fund (Section 22-54-117 (1)(h), C.R.S.)	\$2,853,383	\$0	\$0
	Colorado Travel and Tourism Promotion Fund (Section 24-49.7-106 (6), C.R.S.)	\$2,500,000	\$0	\$0
	Supplemental Old Age Pension Health and Medical Care Fund (Section 25.5-2-101 (3)(b)(VI), C.R.S.)	\$2,000,000	\$0	\$0
	Local Government Permanent Fund (Section 34-63-102 (5.3)(a)(I)(e), C.R.S.)	\$4,800,000	\$0	\$0
	Local Government Mineral Impact Fund (Section 34-63-102 (5.4)(b.7), C.R.S.)	\$15,000,000	\$0	\$0
	Domestic Abuse Program Fund (Section 39-22-802 (4), C.R.S.)	\$200,000	\$0	\$0
	Severance Tax Trust Fund-Perpetual Base Account (Section 39-29-109 (2)(a)(VII), C.R.S.)	\$5,000,000	\$0	\$0
	Local Government Severance Tax Fund (Section 39-29-110 (7)(a), C.R.S.)	\$60,000,000	\$0	\$0
SB 11-210	Supplemental Old Age Health and Medical Care Fund (Section 25.5-2-101 (3)(a)(IV.5), C.R.S.)	\$0	\$736,087	\$0
SB 11-219	Colorado Health Care Services Fund (Transfer from the General Fund) (Section 25.5.-3-112 (1)(b.6), C.R.S.)	\$0	(\$1,000,000)	\$0
SB 11-222	Higher Education Maintenance and Reserve Fund (Section 23-19.9-102 (2)(b)(V), C.R.S.)	\$1,128,624	\$0	\$0
SB 11-224	Tobacco Litigation Settlement Cash Fund (Section 24-75-1104.5 (1)(a)(IV), C.R.S.)	\$0	\$797,627	\$1,701,603
SB 11-225	Short-term Innovative Health Program Cash Fund (Section 24-22-115 (1)(b), C.R.S.)	\$0	\$1,691,000	\$0
	Tier 2 Tobacco Settlement Programs* (Sections 24-75-1104.5, 25-1-512, 25-4-2301, and 27-66-104, C.R.S.)	\$0	\$249,000	\$249,000

**Table 1**  
**Cash Fund Transfers to the General Fund Enacted in the 2011 Session (Cont.)**

Bill Number	Cash Fund	Net Transfer to the General Fund		
		FY 2010-11	FY 2011-12	FY 2012-13
SB 11-226	Read-to-Achieve Cash Fund** (Section 22-7-908 (5), C.R.S.)	\$1,864,845	\$0	\$0
	Tobacco Litigation Settlement Cash Fund Health Care Supplemental Appropriations and Overexpenditure Account (Section 24-22-115 (4)(c), C.R.S.)	\$0	\$669,519	\$0
	Debt Collection Fund (24-30-202.4 (3)(f), C.R.S.)	\$0	\$249,494	\$0
	Child Welfare Action Committee Cash Fund** (Section 26-1-135 (2)(c), C.R.S.)	\$0	\$155,104	\$0
	Local Government Mineral Impact Fund (Section 34-63-102 (5.4)(b.8), C.R.S.)	\$0	\$30,000,000	\$0
	Severance Tax Trust Fund-Perpetual Base Account (Section 39-29-109 (2)(a)(IX), C.R.S.)	\$0	\$48,100,000	\$0
	Severance Tax Trust Fund-Operational Account (Section 39-29-109.3 (6)(b), C.R.S.)	\$0	\$3,950,000	\$0
	Local Government Severance Tax Fund (Section 39-29-110 (7)(c), C.R.S.)	\$0	\$41,000,000	\$0
	Low-Income Energy Assistance Fund (Section 40-8.7-112 (1)(d) and (1)(e), C.R.S.)	\$3,250,000	\$3,250,000	\$0
<b>TOTAL</b>		<b>\$109,524,359</b>	<b>\$130,235,031</b>	<b>\$2,332,803</b>

\*Senate Bill 11-225 authorizes that all unencumbered moneys for FY 2011-12 and each year thereafter from several Tier II Tobacco Programs be transferred to the General Fund. Tier 2 programs, which receive money from the Tobacco Litigation Settlement Fund, generally are used for health care programs.

\*\*Senate Bill 11-226 requires the transfers of all remaining amounts in these funds.

### Other Public Finance Policy Changes

In addition to cash fund transfers, the General Assembly adopted legislation that enhanced General Fund revenue. **Senate Bill 11-156** temporarily reduced the General Fund Reserve from 4 percent of General Fund appropriations to 2.3 percent for FY 2010-11. The General Fund reserve will increase back to 4 percent in FY 2011-12. The legislation does not directly affect state expenditures, but it increases the amount of money in the General Fund available for appropriations in FY 2010-11. Reducing the General Fund reserve from 4 percent to 2.3 percent of appropriations is estimated to provide an additional \$118.0 million for spending in FY 2010-11.

Another bill, **Senate Bill 11-159**, enhances General Fund revenue by transferring money from limited gaming that otherwise would have been allocated for certain economic development and other programs to the General Fund. Specifically, the bill transfers about \$20.6 million to the General Fund from the Limited Gaming Fund for each fiscal year beginning FY 2010-11 through FY 2012-13.

Also, the General Assembly debated **House Bill 11-1280**, which would have affected annual General Fund appropriations. Under current law, General Fund appropriations are limited to an

amount equal to 5 percent of Colorado personal income. Beginning in FY 2011-12, the bill would have limited General Fund appropriations growth to 6 percent over the prior year's appropriations. The bill also required year-end surplus revenue above the new limit to be transferred to a newly created State Rainy Day Fund that would distribute money to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund once certain conditions were met. This bill was postponed indefinitely.

During the 2011 session, the General Assembly debated many bills affecting the taxes paid to both state and local governments. The General Assembly discussed legislation that affects the state income tax, sales and use taxes, and property taxes paid to local governments. The General Assembly also considered legislation on tax amnesty and other taxes.

## **Income Taxes**

The state's income tax rate is a flat 4.63 percent, and is the same for all income levels and for both households and businesses. The General Assembly debated and adopted bills that affect income tax credits available to taxpayers. The General Assembly also adopted legislation affecting taxpayer disputes with the Colorado Department of Revenue about conservation easement tax credits. As in previous years, the legislature adopted several bills affecting the state's income tax checkoff program.

***State income tax credits.*** **House Bill 11-1045** affects a state income tax credit for economic innovation. Under the Colorado Innovation Investment Tax Credit Program (CIITC) administered by the Colorado Office of Economic Development and International Trade, qualifying businesses involved in research and development or certain manufacturing could claim a state income tax credit for qualifying investments during tax year 2010. House Bill 11-1045 allows the tax credit to be claimed after tax year 2010 until all the existing funds transferred from the CIITC program to the General Fund for the credits are exhausted.

The General Assembly also adopted **House Bill 11-1081**, which allows vehicles converted to run on liquefied petroleum gas (LPG), or propane, to be eligible for the state's income tax credit for alternative fuel or innovative vehicles in tax years 2014 and after. The alternative fuel or innovative vehicle income tax credit is based on a percentage of the additional vehicle cost. The credit is also refundable, meaning that any credit amount that exceeds a taxpayer's income tax liability is refunded to the taxpayer.

**House Bill 11-1014** affects the credit for corporate and individual taxpayers who contribute money to promote child care in Colorado. Under prior law, beginning with tax year 2011, the credit was not available for any income tax year when General Fund revenue for the fiscal year is forecast to be insufficient to allow General Fund appropriations to grow by 6 percent. The bill repeals the existing trigger for the tax credit beginning in tax year 2013 and makes additional changes to the credit in tax years 2013 and 2014.

Additionally, the General Assembly considered several bills affecting income tax credits that were not adopted. For example, **House Bill 11-1170** would have extended the income tax credit that is available for the construction, reconstruction, or acquisition of an alternative fuel facilities through tax year 2015. This credit expires at the end of tax year 2010.

Current law requires that, beginning January 1, 2012, a taxpayer that does business in an enterprise zone must first obtain pre-certification from the enterprise zone administrator before engaging in an activity for which the taxpayer intends to claim an enterprise zone tax credit.

**House Bill 11-1314** would have repealed the requirement that a taxpayer located in an enterprise zone obtain pre-certification. Both of these bills were postponed indefinitely.

*State income tax credits claimed under the conservation easement program.* The General Assembly adopted legislation that affected taxpayers who had claimed state income tax credits for a conservation easement donation. A conservation easement is a voluntary legal agreement between a landowner and a charitable organization or government entity that permanently preserves scenic or agricultural open space, natural habitat, or recreational areas for the benefit of the public.

**House Bill 11-1300** authorizes a new expedited method to resolve differences between taxpayers and the Colorado Department of Revenue (DOR) for state income tax credits claimed under the program that have either been disallowed or disputed by the department. For any disputed credit in which the executive director has not issued a final determination by May 19, 2011, the bill allows taxpayers to waive the hearing process before the executive director and appeal directly to a district court. Further, the bill requires the executive director to issue a final determination on a dispute for which a hearing is requested by July 1, 2014, and on all other disputes by July 1, 2016. In addition, House Bill 11-1300 modifies the cap on the aggregate amount of conservation easements that can be claimed for income tax purposes for tax years 2011, 2012, and 2013.

The General Assembly also debated **House Bill 11-1208**, which would have restricted the ability of the DOR executive director to contest appraisals and tax credits claimed for easements donated prior to January 1, 2008, unless certain conditions applied. This bill was lost in the House.

## **Income Tax Checkoff Program**

Colorado taxpayers can contribute to various organizations listed on the Colorado income tax form by donating a portion of their income tax refund or by increasing the amount owed on their tax return. There were 15 checkoff programs on the 2010 Colorado income tax form, which is the statutory limit. Five of these checkoff programs that appeared on the 2010 income tax form required an extension by legislation in order to appear on future income tax forms.

During the 2011 session, the General Assembly adopted a number of bills extending or creating checkoff programs. Table 2 summarizes the bills affecting the income tax checkoff program that were adopted by the General Assembly. Five bills were adopted that extend existing income tax checkoff programs for five years, income tax years 2011 through 2015.

The legislature further adopted five bills that create new checkoff programs and established a priority system for how new or renewed programs are added to the income tax form. Newly-created programs can only appear on the tax form when an existing program is removed, either by failing to meet the required threshold on collections, or by a legislative change. If more than one program is placed in line, the order of programs is determined by the date and time that the Governor signs the bill creating the new program. In addition, the number of new slots available on the form must be certified by the DOR executive director by November 1 of each year.

**Table 2**  
**2011 Legislation Affecting Colorado Income Tax Checkoff Programs**

<b>Bills that Extend Existing Checkoff Programs For Tax Years 2011-2015</b>	
<b>Senate Bill 11-081</b> 9Health Fair Tax Checkoff Extension	Extends the checkoff benefitting the 9Health Fair Fund that is used to provide free and low-cost health screening and education.
<b>Senate Bill 11-272</b> Adult Stem Cells Cure Fund Tax Checkoff	Extends the checkoff benefitting the Adult Stem Cells Cure Fund that is used to advance umbilical cord blood collection for public blood banks and to promote awareness across the state.
<b>House Bill 11-1028</b> Alzheimer's Association Tax Checkoff	Extends the checkoff benefitting the Alzheimer's Association Fund that is used to support of individuals and families caring for persons with the disease.
<b>House Bill 11-1037</b> Military Family Tax Checkoff	Extends the checkoff benefitting the Military Family Relief Fund that is used for emergency grants for financial hardships to members of the Colorado National Guard or reservists and their families when ordered to active military duty.
<b>House Bill 11-1177</b> Healthy Rivers Tax Donation	Extends the checkoff benefitting the Colorado Healthy Rivers Fund that is used to award competitive grants to Colorado residents working toward the restoration and protection of land and natural resources within Colorado watersheds.
<b>Bills that Create New Checkoff Programs for Five Tax Years*</b>	
<b>House Bill 11-1097</b> Goodwill Industries Tax Checkoff	Creates a new checkoff to collect donations for Goodwill Industries, a nonprofit organization that provides services for the disabled and disadvantaged.
<b>Senate Bill 11-102</b> Mental Health Tax Checkoff	Creates a new checkoff to collect donations for Mental Health America (MHA) of Colorado, a nonprofit organization that addresses mental health issues.
<b>House Bill 11-1295</b> Multiple Sclerosis Tax Checkoff	Creates a new tax checkoff benefitting the National Multiple Sclerosis Society. The bill also imposes requirements that the DOR periodically post the amount of donations received from each voluntary contribution on the income tax form.
<b>Senate Bill 11-109</b> Public Education Fund Tax Checkoff	Creates a new checkoff to collect donations for the Public Education Fund, which is created by the bill. Money in the fund is distributed to the Department of Education for use in the Colorado Preschool Program.
<b>House Bill 11-1071</b> Roundup Ranch Tax Checkoff	Creates a new checkoff to collect donations for the Roundup River Ranch, a nonprofit organization that provides camping activities to children with life threatening illnesses.

*\*The bills are listed in the order that the Governor signed them into law and in order as the programs will be listed in the queue for new checkoffs in the future. Additionally, each bill extended the new checkoff program for five tax years after the checkoff is certified to appear on the income tax form.*

## **Sales and Use Taxes**

The General Assembly debated several bills impacting the sales taxes paid to both the state and to local governments. The state sales and use tax rate is 2.9 percent and is imposed on the purchase of tangible personal property and certain services. The General Assembly considered sales tax bills that impacted the state budget, sales tax exemptions, taxes for out-of-state purchases, and certain refund claims, as well as bills affecting local sales taxes.

**Sales tax policy changes and the state budget.** During the 2011 session, the General Assembly adopted two bills affecting sales tax policy that were recommended by the Joint Budget Committee as part of its FY 2011-12 budget package that increase state revenue. **Senate Bill 11-223** temporarily reduces the fee that vendors retain for compensation of sales tax collection expenses between July 1, 2011, and June 30, 2014. The bill reduces the vendor fee from 3.33 percent to 2.22 percent during this period. This is estimated to result in an additional \$23.6 million and \$24.5 million in sales tax revenue in FY 2011-12 and FY 2012-13, respectively.

Additionally, **House Bill 11-1296** extends the state sales and use tax to the sale of cigarettes for FY 2011-12 and FY 2012-13. Local sales and use taxes are not affected by this bill. This bill is estimated to result in an additional \$27.6 million and \$26.3 million in FY 2011-12 and FY 2012-13, respectively.

**Sales tax exemptions.** During the 2011 session, the General Assembly considered a number of bills affecting sales tax exemptions. These bills generally specify that tangible goods and certain services will not be subject to sales taxes. For example, **House Bill 11-1005** reinstates the exemption from sales and use taxes for the sale or storage, use, or consumption of agricultural compounds used in caring for livestock, semen for agricultural and ranching purposes, and pesticides for use in the production of agricultural and livestock products. This bill repeals House Bill 10-1195 which suspended this exemption through June 30, 2013. The bill reinstates the exemption as of July 1, 2011.

**House Bill 11-1293** defines tangible personal property to exclude standardized computer software, effectively restoring a sales and use tax exemption that was repealed by House Bill 10-1192. Computer software will be taxed only if it is prepackaged for repeated sale or license, governed by a tear-open nonnegotiable license agreement, and delivered to the customer in a tangible medium. This tax law change will be effective July 1, 2012.

The General Assembly also passed two sales tax bills affecting the medical and health care industries. **House Bill 11-1091** clarifies and modifies the sales and use tax exemption for medical equipment and therapeutic devices. The bill provides for a sales and use tax exemption for *all* medical equipment that is dispensed with a prescription. The definition of durable medical equipment is extended to include mobility enhancing equipment and repair and replacement parts for that equipment. The bill removes the sales and use tax exemption for medical equipment purchased without a prescription.

Additionally, **Senate Bill 11-263** exempts from sales tax prescription and nonprescription drugs and materials when furnished as part of professional services provided to a patient or client by a licensed medical provider who is not a physician. The bill defines licensed provider as any person authorized to prescribe drugs.

The legislature debated a number of other measures affecting sales tax exemptions that were not adopted. **House Bill 11-1162** would have restored the sales and use tax exemption for the purchase of soft drinks, including purchases through vending machines and for off-premises consumption. This exemption was eliminated beginning on May 1, 2010. Another bill, **House Bill 11-1158**, would have provided a sales and use tax exemption for the sale, storage, and use of wood from salvaged trees killed or infested in Colorado by *spruce beetles*. Colorado law currently includes an exemption affecting *pine beetle* infested trees. This bill was lost in the House.

***Sales and use tax for out-of-state purchases.*** For several sessions, the General Assembly has debated legislation that affects how the state's sales and use tax policy will be applied to certain out-of-state purchases. As a result of legislation passed in 2010, House Bill 10-1193, retailers must collect and remit state and local sales tax from Colorado residents if they are part of a controlled group that has a retailer with a physical presence in the state and that retailer engages in constitutionally sufficient solicitation in Colorado. The bill also requires retailers with more than \$100,000 of gross sales to Colorado consumers —and that do not collect Colorado sales tax — to follow certain notification and reporting requirements. These reporting requirements in House Bill 10-1193 are currently in litigation.

During the 2011 session, the legislature debated two bills affecting sales taxes imposed on out-of-state purchases. **House Bill 11-1318**, which was postponed indefinitely, would have repealed House Bill 10-1193 and related DOR regulations affecting out-of-state purchases. In addition, this bill would have required an out-of-state retailer with more than \$500,000 in annual gross sales that does not collect Colorado sales tax to notify consumers that use tax may be due on the purchase.

Another bill, **Senate Bill 11-056** would have exempted from use tax the storage, use, or consumption of any tangible personal property purchased by Colorado purchasers from an out-of-state retailer that does not collect Colorado sales tax. This bill was also postponed indefinitely.

***Sales and use tax refund claims.*** The General Assembly also adopted legislation that addresses the time frame for sales and use tax refund claims submitted to the DOR. Within the past year, the department has changed its interpretation of the law with regard to deadlines for sales tax refund claims at the point of purchase. Prior to 2010, the department allowed all sales tax refunds to be claimed up to 3 years after the purchase. The department changed this policy to allow refunds to be claimed up to 60 days after purchase.

**House Bill 11-1265** changes the period of time that a taxpayer may claim a sales tax refund back to 3 years of the date of purchase. The bill applies to all refunds of sales or use tax filed before, on, or after the effective date of the bill. In addition, interest will be paid on some of the refund claims, which is currently being paid by the DOR at 6 percent.

***Local sales taxes.*** The General Assembly adopted two bills affecting the authority of local governments to apply sales tax exemptions. **House Bill 11-1109** grants a town, city, or county the authority to exempt the sale of machinery and equipment used directly in the provision of telephone and telegraph service or mobile telecommunications service from local sales taxes. Such machinery and equipment remains subject to the *state* sales tax. This bill does not affect special districts.

The General Assembly also adopted **Senate Bill 11-178**, which expands the process for a statutory local government (town, city, or county) to adopt a sales tax exemption. Under prior law, statutory local governments could only adopt some state sales tax exemptions using the same manner by which the original ordinance was enacted, and all existing ordinances were adopted by election. Senate Bill 11-178 allows adoption of certain sales tax exemptions by statutory local governments without an election. Sales tax exemptions for machinery or machine tools, electricity, coal, wood, gas, fuel oil, and food could be affected by the bill.

## Property Taxes

The legislature debated several bills during the 2011 session that affect property taxes paid on real and personal property.

**Residential assessment rate.** The state Constitution requires the General Assembly to establish the ratio of valuation of assessment for residential real property, or the residential assessment rate, every two years. This requirement is known as the Gallagher Amendment. The General Assembly enacted **House Bill 11-1305**, which established the residential assessment rate at 7.96 percent for tax years 2011 and 2012, the same rate that has been in place since 2003.

**Property tax exemptions.** The General Assembly passed two bills regarding property tax exemptions. **House Bill 11-1010** pertains to property owned and used by fraternal and veteran's organizations for a charitable purpose, such as a grange hall. Such property is generally exempt from property tax. Prior law stated that an incidental use of such property may be exempt from property taxes if the use occurs on an occasional, noncontinuous basis, among other considerations. The law also contained an exception from an annual reporting requirement for such property that applied if the nonexempt use is less than 208 hours annually or if the gross income from such use is less than \$10,000 annually. House Bill 11-1010 eliminates the requirement that the nonexempt usage be on an occasional basis in order to qualify for the incidental exemption, and it raises the threshold for the reporting requirement exception from \$10,000 annually to \$25,000 annually.

The legislature also adopted **House Bill 11-1241**, which provides a nonprofit housing provider a property tax exemption for a maximum of five consecutive property tax years for property:

- used for charitable purposes; and
- upon which the provider intends to construct or rehabilitate housing to be sold to low-income applicants, regardless of whether or not there is actual physical use of the property.

**Business personal property tax.** The legislature debated three measures that affect business personal property taxes, none of which were adopted. Business personal property taxes are levied on equipment that is used in income-producing enterprises. As examples, it includes machinery, furniture, computers, and office supplies, as well as on utilities, telecommunications, and pipelines. Under current law, the property tax exemption for business personal property on a single personal property schedule is \$5,500 for property tax years 2011 and 2012, \$7,000 for property tax years 2013 and 2014, and an inflation-adjusted amount every two years thereafter.

**House Bill 11-1141** would have exempted all business personal property that is purchased in 2012 or 2013 from the levy and collection of property tax. Another bill, **House Bill 11-1263**, would have increased the exemption for property tax years 2013 and 2014 to \$14,000, which in turn increases the future inflation-adjusted amount of the exemption. The legislature also considered **Senate Bill 11-026**, which would have exempted from property tax an increasing percentage of all business personal property first used in a business in future property tax years, beginning in property tax year 2013.

**Other property tax bills.** The General Assembly adopted five additional property tax bills during the 2011 session. These bills are briefly described below.

**House Bill 11-1011** affects the appeals process for property taxes. The nine-member Board of Assessment Appeals (BAA) hears appeals filed by real and personal property owners regarding the valuation placed on their property. Under current law, one or more members of the BAA can conduct hearings on property tax appeals. House Bill 11-1011 authorizes an additional board member to be added after a hearing to review the proceedings and to render a decision in the event that board members who conducted the hearing are unable to reach a decision.

**House Bill 11-1042** affects the classifications of land in which residential improvements are made. Under current law, assessors have some discretion to determine if and when residential properties are reclassified as vacant when a residential improvement (home) is destroyed, demolished, or relocated. The current Division of Property Taxation's administrative and assessment procedures manual provides county assessors guidance on when residential land should be reclassified based on partial or complete demolition of a residential improvement and a landowner's intent to rebuild. This bill specifies land as residential where a residential improvement is destroyed, demolished, or relocated as a result of a "natural cause" in the year in which the destruction, demolition or relocation occurred plus two subsequent property tax years. Under the bill, land may maintain the residential classification for up to five additional property tax years if the county assessor determines that there is evidence that the owner intends to rebuild or locate a residential improvement on the land.

**House Bill 11-1146** affects property taxes on agricultural lands. Under current law, residential property on agricultural land is assessed at the residential assessment rate. However, the land underneath it is classified as agricultural, and is valued and assessed as such. This bill amends the definition of "agricultural land" to exclude up to two acres of land associated with residential improvements located on the land unless the residence is "integral to an agricultural operation" conducted on the land. The bill affects property taxes starting in property tax year 2012.

**House Bill 11-1226** eliminates the requirement that the first five digits of the applicant's social security number be removed or permanently obscured on an application for the disabled veterans property tax exemption.

**Senate Bill 11-119** requires any petitioner appealing a valuation of income-producing non-residential real property or a denial of an abatement of taxes to provide the following information for two full years including the base year for the relevant property tax year:

- actual annual real estate income;
- tenant reimbursements;
- itemized detailed expenses; and
- detailed rent roll data as specified.

## **Other Tax Issues**

**Tax amnesty and tax reporting.** During the 2011 session, the General Assembly enacted legislation establishing a tax amnesty program for Colorado taxpayers. From October 1 through November 15, 2011, **Senate Bill 11-184** allows taxpayers to pay certain overdue taxes, including one-half of any interest due, without being subject to any fine or civil or criminal penalty otherwise

provided for by current law. The amnesty program applies broadly to several types of state, local, and special district taxes, including for example: income, sales and use, and severance taxes, and taxes on gasoline or special fuel. Senate Bill 11-184 also requires the DOR to prepare a biannual tax profile and expenditure report by January 1, 2013, and by January 1 every two years thereafter. The report is required to be provided to the public on the department's website and to all members of the General Assembly. In addition, the executive director of DOR is required to give a presentation every two years about the report to the House and Senate Finance Committees.

The General Assembly also considered another tax reporting bill, **House Bill 11-1104**, which was postponed indefinitely. This bill would have required DOR to prepare an annual tax expenditure report on or before January 1 of each year, beginning in 2012.

***Incentives debated for business development.*** As the recession impacts the state's economy, the General Assembly continued to debate legislation to provide tax incentives to Colorado individuals and businesses. These bills include a number of income, sales, and property tax policies that are aimed at several Colorado industries.

For example, **House Bill 11-1255** would have authorized one or more contiguous counties or municipalities to apply to the Colorado Economic Development Commission for approval of an alternative energy park. The bill specified that an alternative energy park is a geographic area approved by the commission. The bill would have also allowed the Director of the Colorado Office of Economic Development and International Trade to apply to the commission for the creation of a park. House Bill 11-1255 authorized the use of tax increment financing, using either local property tax revenue, municipal sales tax revenue, or both, to finance construction of specified improvements within alternative energy parks, and also included certain income tax credits. This bill was lost in the House.

**House Bill 11-1103** would have created a series of tax incentives to promote electrical generation through the use of distributed generation wind turbine systems. The incentives would have included certain income tax credits, sales tax exemptions, and an exemption for certain businesses from the income tax withholdings requirements during the 2012 tax year. This bill was postponed indefinitely.

## **Legislation Affecting State Fees**

During the 2011 session, the General Assembly passed 37 bills that affected state fees. These bills generally made changes to existing fees paid by citizens and businesses in Colorado. More than 90 percent of the additional fee revenue in both FY 2011-12 and FY 2012-13 affects the Medicaid program and is the result of two bills enacted during the 2011 session, **Senate Bill 11-212** and **Senate Bill 11-125**.

**Senate Bill 11-212** authorizes the Department of Health Care Policy and Financing (DHCPF) to use hospital provider fee revenue to offset General Fund expenditures for the Medicaid program in fiscal years 2011-12 and 2012-13 only. As a result, it is assumed that DHCPF will increase the fees assessed on each hospital provider so that sufficient revenues are received. The amount of the fee increase for any individual hospital will vary significantly, based upon their size and net revenue, among other factors. This bill is expected to raise revenue from state fees by \$50 million and \$25 million in FY 2011-12 and FY 2012-13, respectively.

**Senate Bill 11-125** increases the provider fee assessed on nursing facilities. The Nursing Facility Provider Fee was implemented in 2008 as a result of legislation that established a new reimbursement system for Medicaid recipients who reside in nursing homes and require 24-hour care. Fees are set annually by the State Medical Services Board in accordance with federal regulations, and are charged on a non Medicare-resident day basis. Senate Bill 11-125 increases this fee from a cap of \$7.50 to a cap of \$12 per non Medicare-resident day, plus inflation. This bill will result in an additional \$15.5 million and \$15.7 million in revenue in FY 2011-12 and FY 2012-13, respectively.

The total impact of all bills affecting state fees is **\$68.9 million** and **\$44.4 million** in FY 2011-12 and FY 2012-13, respectively. The following table provides a list of fee legislation enacted in the 2011 session. This table can be found at the following link: [2011 Fee Legislation Table](#)

Additionally, one bill enacted by the General Assembly was vetoed by the Governor and did not become law. **Senate Bill 11-213** would have established a new monthly fee for families enrolling in the Children's Basic Health Plan with incomes of between 205 and 250 percent of the federal poverty level. The fee would have been \$20 per month for the first child and \$10 per month for each additional child, up to a maximum of \$50 per month per family.