

TAX AND FINANCE

Income Taxes

HB 10-1040 (Postponed Indefinitely)
College Invest Lifelong Learning Savings

HB 10-1055 (Signed Into Law)
*Department of Revenue Fees Paid to
3rd Party Debt Collectors*

HB 10-1087 (Postponed Indefinitely)
*End Automatic Employer Tax
Withholding*

HB 10-1169 (Postponed Indefinitely)
Conservation Easement Credit Validity

HB 10-1196 (Signed Into Law)
*Eliminate Certain Cars Qualified for Tax
Credits*

HB 10-1197 (Signed Into Law)
*Reduce Conservation Easement Cap
Amount*

HB 10-1198 (Postponed Indefinitely)
Suspend Credit Alternative Minimum Tax

HB 10-1199 (Signed Into Law)
*Net Operation Loss Deduction
Temporary Limit*

HB 10-1200 (Signed Into Law)
*Enterprise Zone Investment Tax Credit
Deferral*

HB 10-1263 (Postponed Indefinitely)
*Limit Income Tax Benefit for
Compensation Paid*

HB 10-1280 (Postponed Indefinitely)
*Colorado Nonprofit Job Growth Income
Tax Credit*

HB 10-1285 (Signed Into Law)
Overweight Vehicle Fine Tax Incentives

HB 10-1295 (Postponed Indefinitely)
*Income Tax Credits for Nonpublic
Education*

HB 10-1296 (Postponed Indefinitely)
*Incentive Enrollment Qualified Kids in
Private School*

HB 10-1350 (Lost in Senate)
Requirements for Economic Incentives

HB 10-1396 (Postponed Indefinitely)
Enterprise Zone Tax Credits

SB 10-133 (Postponed Indefinitely)
*Income Tax Credit for Rehiring
Employees*

SB 10-162 (Signed Into Law)
Modifications to Enterprise Zone Act

SB 10-202 (Signed Into Law)
Savings Accounts for Job Retraining

SB 10-212 (Signed Into Law)
*Repeal Most TABOR Refund
Mechanisms*

Income Tax - Checkoff Colorado Bills

HB 10-1073 (Signed Into Law)
Colorado 2-1-1 Checkoff

HB 10-1156 (Postponed Indefinitely)
*Public Financing General Assembly
Campaigns*

SB 10-059 (Postponed Indefinitely)
Colorado DARE Checkoff

SB 10-139 (Signed Into Law)
Unwanted Horse Fund Tax Checkoff

SB 10-172 (Signed Into Law)
*Continuing Expiring Income Tax
Checkoffs*

Sales and Use Taxes *(includes state and local)*

HB 10-1018 (Signed Into Law)
Reduce Waste Tire Stockpile Risks

HB 10-1189 (Signed Into Law)
*Eliminate Sales Tax Exemption for
Direct Mail*

HB 10-1190 (Signed Into Law)
*Suspend Industrial Fuel Sales & Use
Tax Exemption*

HB 10-1191 (Signed Into Law)
*Eliminate Candy & Soda Sales Tax
Exemption*

HB 10-1192 (Signed Into Law)
*Sales & Use Tax of Standardized
Software*

HB 10-1193 (Signed Into Law)
Sales Tax Out-of-State Retailers

HB 10-1194 (Signed Into Law)
*Eliminate Nonessential Articles Sales Tax
Exemption*

HB 10-1195 (Signed Into Law)
*Suspend Agricultural Sales & Use Tax
Exemption*

HB 10-1243 (Signed Into Law)
*Transportation Related Powers of
Special Districts*

HB 10-1284 (Signed Into Law)
Medical Marijuana Regulations

HB 10-1285 (Signed Into Law)
Overweight Vehicle Fine Tax Incentives

HB 10-1289 (Postponed Indefinitely)
*Telecommunications Sales Tax
Exemption*

HB 10-1396 (Postponed Indefinitely)
Enterprise Zone Tax Credits

SB 10-142 (Signed Into Law)
Local Sales Tax Appeal Time Limit

SB 10-214 (Postponed Indefinitely)
*Clarify Medical Products Sales Tax
Exemptions*

SCR 10-007 (Postponed Indefinitely)
*Sales & Use Tax of Tangible Personal
Property*

Property Taxes

HB 10-1046 (Signed Into Law)

Receipt of Tax Payment by County Treasurer

HB 10-1093 (Postponed Indefinitely)

Assessor Limit Real Property Actual Value

HB 10-1107 (Signed Into Law)

Urban Renewal Area Agricultural Lands

HB 10-1129 (Postponed Indefinitely)

Property Tax Higher Actual Valuation

HB 10-1197 (Signed Into Law)

Reduce Conservation Easement Cap Amount

HB 10-1257 (Postponed Indefinitely)

Limit Property Tax Exemption Reductions

HB 10-1267 (Signed Into Law)

Property Tax of Independent Residential Solar

HB 10-1293 (Signed Into Law)

Study Agricultural Exemption Property Tax

HB 10-1386 (Signed Into Law)

Property Tax Exemption Filing Fees

HB 10-1431 (Signed Into Law)

Renew Energy Facility Property Tax Valuation

HCR 10-1005 (Adopted)

Exempt Possessory Interests in Real Property

SB 10-019 (Signed Into Law)

Valuation of New Hydroelectric Facilities

SB 10-085 (Postponed Indefinitely)

Exempt Personal Property Tax Pilot Program

SB 10-086 (Postponed Indefinitely)

Phased-in Fully Depreciated Property Exempt

SB 10-177 (Signed Into Law)

Promote Biomass Energy Development

SB 10-190 (Signed Into Law)

Suspend Senior Property Tax Exemption

Severance Taxes

HB 10-1060 (Signed Into Law)

Penalty for Failing to Withhold Severance Tax

HB 10-1174 (Postponed Indefinitely)

Reduce Severance Tax Credit to Promote Jobs

Cash Fund Transfers to the General Fund

HB 10-1323 (Signed Into Law)

Use of Tobacco Tax Master Settlement

HB 10-1325 (Signed Into Law)

Natural Resource Damage Recovery Fund

HB 10-1327 (Signed Into Law)

Cash Fund Transfers Augment General Fund

HB 10-1383 (Signed Into Law)

Funding Financial Assistance Higher Education

HB 10-1388 (Signed Into Law)

Cash Fund Transfers Augment General Fund

HB 10-1389 (Signed Into Law)

Capital Construction Transfers

Changes to Cash Fund Revenue Distributions

HB 10-1006 (Postponed Indefinitely)

Fund Water Resources Tier 1 Operational

HB 10-1250 (Signed Into Law)

Water Conservation Board Construction Fund

HB 10-1319 (Signed Into Law)

Modify Severance Tax Trust Fund LEAP Transfers

HB 10-1323 (Signed Into Law)

Use of Tobacco Tax Master Settlement

HB 10-1326 (Signed Into Law)

Increase Severance Tax Appropriations Division of Parks

HB 10-1339 (Signed Into Law)

FY 09-10 Distribution Limited Gaming Fund Moneys

HB 10-1378 (Signed Into Law)

2010 Transfers for Health Care Services

HB 10-1398 (Signed Into Law)

Species Conservation Trust Fund

HCR 10-1007 (Postponed Indefinitely)

Transfer of Great Outdoors Colorado Moneys to State Education Fund

SB 10-025 (Signed Into Law)

Extend Water Efficiency Grants

SB 10-206 (Postponed Indefinitely)

Distribution of State Share of Limited Gaming Revenue

SB 10-215 (Postponed Indefinitely)

State-supervised Lottery

SCR 10-004 (Postponed Indefinitely)

Games with Element of Chance

SJR 10-010 (Signed Into Law)

Declare Fiscal Emergency Tobacco Tax

Fee Legislation

HB 10-1001 (Signed Into Law)
Renewable Energy Standards Solar Certification

HB 10-1096 (Signed Into Law)
Designate VIN Inspectors

HB 10-1114 (Signed Into Law)
Register Agent Money Transmitter

HB 10-1139 (Signed Into Law)
Iraq Afghanistan Veteran License Plate

HB 10-1172 (Signed Into Law)
Mobile Machinery SOT

HB 10-1212 (Signed Into Law)
Required Rules Late Vehicle Registration Fee Exemptions

HB 10-1224 (Signed Into Law)
Review of the Colorado Podiatry Board

HB 10-1278 (Signed Into Law)
Ombudsman for CO Common Interest Ownership

HB 10-1329 (Signed Into Law)
Solid Waste User Fee

HB 10-1377 (Signed Into Law)
Cash Fund Agriculture Programs 2 Years

HB 10-1386 (Signed Into Law)
Property Tax Exemption Filing Fees

SB 10-038 (Signed Into Law)
Organic Certification Act

SB 10-103 (Signed Into Law)
Colorado State Parks License Plate

SB 10-120 (Signed Into Law)
Prepaid Wireless Telephone 911 Surcharge

SB 10-161 (Signed Into Law)
Charter School Collaboratives

HB 10-1007 (Signed Into Law)
County Clerk and Recorder Fee

HB 10-1101 (Vetoed)
Farm Truck Registration

HB 10-1125 (Signed Into Law)
Regulate Grease Collection and Disposal

HB 10-1141 (Signed Into Law)
Mortgage Company Registration

HB 10-1209 (Signed Into Law)
Voluntary Identifier of Military Branch

HB 10-1214 (Signed Into Law)
Adopt a Shelter Pet Special License Plate

HB 10-1241 (Signed Into Law)
Fire Suppression Systems Registration Fee

HB 10-1281 (Vetoed)
Telecommunications Voice-Over-Internet-Protocol Wireless Deregulation Basic Service

HB 10-1336 (Signed Into Law)
Department of Public Safety Expenditures for School Safety

HB 10-1379 (Signed Into Law)
2010 Nursing Facility Rate Reductions

HB 10-1415 (Signed Into Law)
Sunrise Surgical Technologist Registration

SB 10-071 (Signed Into Law)
Create Seniors Lifetime State Parks Pass

SB 10-108 (Signed Into Law)
General Education Courses

SB 10-124 (Signed Into Law)
Michael Skolnik Medical Transparency Act

SB 10-198 (Signed Into Law)
Reduce Late Vehicle Registration Fees

HB 10-1044 (Signed Into Law)
Licensure of Youth Organizations

HB 10-1106 (Signed Into Law)
Child Welfare Adoption Multiethnic Act

HB 10-1128 (Signed Into Law)
Registrations Regulatory Efficiency

HB 10-1161 (Signed Into Law)
Livery License Plate

HB 10-1211 (Signed Into Law)
Reduce Late Vehicle Registration Penalty

HB 10-1221 (Signed Into Law)
River Outfitters Sunset Licensing

HB 10-1260 (Signed Into Law)
Physicians and Physicians Assistants Fees

HB 10-1284 (Signed Into Law)
Medical Marijuana Regulations

HB 10-1365 (Signed Into Law)
Incentives for Utilities to Convert Coal to Natural Gas

HB 10-1385 (Signed Into Law)
Funding Insurance Fraud Cases

SB 10-006 (Signed Into Law)
Identification Documents Reduce Poverty

SB 10-072 (Signed Into Law)
Colorado Seed Potato Act

SB 10-109 (Signed Into Law)
Medical Marijuana Dr. Patient Relations

SB 10-144 (Signed Into Law)
Mounted Equipment Registration Tax

Rainy Day Fund

HB 10-1072 (Postponed Indefinitely)
Create Budget Stabilization Reserve Fund

HCR 10-1009 (Postponed Indefinitely)
Create State Savings & Trust Fund

HB 10-1177 (Postponed Indefinitely)
Create Colorado Economic Stability Fund

HCR 10-1003 (Postponed Indefinitely)
Severance Tax Revenue for Rainy Day Fund

| | | |
|--|--|--|
| TABOR-Related Legislation | | |
| HB 10-1002 (Signed Into Law) <i>Priority of TABOR Refund Methods</i> | HCR 10-1006 (Postponed Indefinitely) <i>Voter Approval for Tax Policy Changes</i> | SB 10-212 (Signed Into Law) <i>Repeal Most TABOR Refund Mechanisms</i> |
| SCR 10-002 (Deemed Lost) <i>General Assembly Authority to Enact Additional Education Funding</i> | SCR 10-008 (Postponed Indefinitely) <i>Clarification of Tax & Fee Incentives TABOR</i> | |
| State Budget Process | | |
| HB 10-1119 (Signed Into Law) <i>State Measurements for Accountable, Responsive, and Transparent Government Act</i> | HB 10-1126 (Postponed Indefinitely) <i>Priority-based Budgeting for Colorado</i> | |
| Review of Tax System | | |
| HB 10-1429 (Lost in House) <i>Legislative Review of Tax Benefits</i> | SJR 10-002 (Adopted) <i>Request for Comprehensive Tax Study</i> | |

During the 2010 legislative session, the General Assembly debated a number of proposals that affect the state's tax and public finance system. Much of the public finance legislation enacted during the 2010 session was influenced by a continuing decline in state revenue that began in 2008.

The first section of the *Tax and Finance* summary discusses bills that affect specific state and local taxes. Following sections provide information on legislation that affects cash funds and fees. The concluding sections contain information about bills that affect other areas of state public finance, such as a state rainy day fund and the budget process.

Contents of Tax and Finance Summary of 2010 Session

- **Bills Affecting Taxes**
 - ✓ Income (including the income tax checkoff program)
 - ✓ Sales and Use
 - ✓ Property
 - ✓ Severance
- **Bills Affecting Cash Funds**
 - ✓ Cash Fund Transfers to the General Fund
 - ✓ Changes to Cash Fund Revenue Distributions
 - ✓ Fee Legislation
- **Bills Affecting Other Areas of State Public Finance**
 - ✓ Rainy Day Fund
 - ✓ TABOR-Related Legislation
 - ✓ State Budget Process
 - ✓ Review of Tax System

Bills Affecting Taxes

During the 2010 session, the General Assembly debated a total of 56 bills affecting the taxes paid to both state and local governments. This section discusses legislation that affects the state income tax, sales and use taxes, property taxes paid to local governments, and the state severance tax.

Income taxes. The General Assembly debated 25 bills that impact state income taxes. Included in these are 5 bills affecting the income tax checkoff program, of which 3 were adopted. The state uses federal taxable income as the starting point for the income tax base. The state's income tax rate is a flat 4.63 percent.

Table 1 shows the revenue impact for each bill affecting income taxes. The total impact of these income tax measures to the General Fund is (\$13,000), \$34.8 million, and \$67.2 million in FY 2009-10, FY 2010-11, and FY 2011-12, respectively.

Table 1
Legislation Adopted in the 2010 Session Affecting State Income Taxes

| Bill | Title | Revenue Impact | | | Tax Year Effective |
|----------------|--|-------------------|-------------------------|--------------------------|--------------------|
| | | FY 2009-10 | FY 2010-11 | FY 2011-12 | |
| HB 10-1055 | Third Party Debt Collectors - Income Tax | | \$1.5 | \$3.0 | Permanent |
| HB 10-1196 | Alternative Fuels Credit | | \$2.7 | \$2.7 | 2011 Only |
| HB 10-1197 | Conservation Easement Credit | | \$18.5 | \$37.0 | 2011-2013 |
| HB 10-1199 | Net Operating Loss Deduction | | Up to \$8.2 | Up to \$16.5 | 2011-2013 |
| HB 10-1200 | Enterprise Zone Investment Tax Credit | | Between \$4.0 and \$7.5 | Between \$8.0 and \$15.0 | 2011-2013 |
| HB 10-1285 | Commercial Vehicle Fine Tax Incentives | No Revenue Impact | | | Permanent |
| SB 10-162 | Modifications to Enterprise Zone Act | No Revenue Impact | | | Permanent |
| SB 10-202 | Savings Accounts for Job Retraining | Up to (\$0.013) | Up to (\$0.033) | Up to (\$0.033) | Permanent |
| SB 10-212 | Repeal Most TABOR Refund Mechanisms | No Revenue Impact | | | Permanent |
| TOTAL/A | | (\$0.013) | \$34.8 | \$67.2 | |

/A Includes lowest estimate for HB 10-1200.

Bills that impact General Fund revenue. The legislature adopted six bills that impact General Fund revenue. Five bills make changes to income tax credits and deductions, and one makes a change to the administration of income taxes.

House Bill 10-1196 reduces the number of years in which the purchase of certain fuel efficient vehicles are eligible for an income tax credit. The tax credit for these vehicles will only be available in tax year 2010. **House Bill 10-1197** places a \$26 million cap on the total amount of conservation easement tax credits for tax years 2011 through 2013. **House Bill 10-1200** limits investment tax credits claimed in an enterprise zone to \$500,000. Credits above this amount can be claimed in 2014. **House Bill 10-1199** limits the amount of net operating loss (NOL) a corporation may carry forward against income taxes owed to \$250,000 for tax years 2011 through 2013. In addition, **Senate Bill 10-202** establishes a new state income tax deduction for matching contributions made by employers to lifelong learner accounts.

Finally, **House Bill 10-1055** allows the Department of Revenue to collect from taxpayers the added cost of third-party collection agencies when a taxpayer's bill must be sent to a collection agency or attorney.

Other income tax legislation adopted. **House Bill 10-1285** raises the fines on commercial motor vehicles and uses the additional fine revenue to fund a 3 percent investment income tax credit for the purchases of commercial vehicles based in enterprise zones.

Senate Bill 10-162 made several changes to reporting requirements affecting state income tax credits claimed by businesses operating in state enterprise zones. Specifically, the legislation requires investors to pre-certify investments in enterprise zones beginning in 2012 in order to receive tax incentives under the program.

Senate Bill 10-212 changes several income tax credits available in years when the state has revenue to refund above the TABOR limit to taxpayers. These changes are discussed in the TABOR section of this document.

Bills not adopted. The legislature debated 11 additional measures affecting income taxes that were either lost or postponed indefinitely.

- **House Bill 10-1040**, would have allowed adult lifelong learners to deduct any amount received as employer matching contributions from state income taxes;
- **House Bill 10-1087**, would have eliminated the requirement that employers deduct and withhold Colorado income taxes from an employee's wages starting January 1, 2011;
- **House Bill 10-1169**, would have restricted the ability of the Department of Revenue to contest an appraisal and credit claimed for a conservation easement credit donated prior to January 1, 2008;
- **House Bill 10-1198**, would have suspended Colorado's alternative minimum tax (AMT) and the related credit against the state income tax claimed on the federal income tax form;
- **House Bill 10-1263**, would have limited the deduction corporations can claim for employee compensation costs on their income taxes to the first \$250,000 per employee;
- **House Bill 10-1280**, would have established a state income tax credit for contributions to fund new jobs at Colorado nonprofit organizations;
- **House Bill 10-1295**, would have created an income tax credit for individuals who enroll children in a home-based or private school and to any taxpayer who offers a scholarship to a child who enrolls in a private school;

- **House Bill 10-1296**, would have created a refundable income tax credit equal to \$1,000 per qualified child for individuals who enroll their children in a private school;
- **House Bill 10-1350**, would have affected income tax reporting. Among other provisions, the bill would have specified that the annual report prepared by the Colorado Economic Development Commission would include a comprehensive plan detailing how the state can implement a program for tracking the success of every grant, loan, or tax credit program intended to generate jobs;
- **House Bill 10-1396**, would have eliminated all the state income tax credits available to qualified taxpayers in state enterprise zones; and
- **Senate Bill 10-133**, would have created a state income tax credit for Colorado businesses that rehire workers who have been laid off.

Income Tax — Checkoff Colorado. Colorado taxpayers can contribute to certain programs through tax checkoffs by donating a portion of their income tax refund or by increasing the amount owed on their tax return. Each checkoff listed on the form raises money for different programs. There were 14 checkoffs on the 2009 Colorado income tax form. The number of checkoffs that may appear on the form is limited to fifteen. Three tax checkoffs were to end in 2009.

The legislature adopted a bill to extend the three tax checkoffs that were scheduled to sunset and, for the first time, extended them for ten years rather than three. The legislature also adopted two bills that create two new income tax checkoffs: the Colorado 2-1-1 First Call For Help Fund and the Unwanted Horse Fund. The Colorado 2-1-1 First Call For Help Fund will be added to the 2010 tax form as the 15th tax checkoff.

Table 2
Legislation Adopted in the 2010 Session Affecting Colorado's Income Tax Checkoff Program

| One Bill Extends Existing Income Tax Checkoffs | |
|--|--|
| Senate Bill 10-172 Continuing Tax Checkoffs: | This bill extends the voluntary income tax checkoffs benefitting Colorado's Domestic Abuse Program Fund, the Pet Overpopulation Fund, and the Breast and Women's Reproductive Cancers Fund through income tax year 2019. |
| Domestic Abuse Program Fund | Donations contributed to this fund help support services provided by community-based domestic abuse programs. These agencies provide 24-hour crisis line response, emergency safe shelter, counseling, and advocacy services for victims of domestic violence. |
| Pet Overpopulation Fund | Donations contributed to this fund help provide community grants to subsidize spay/neuter surgeries for pets of qualified owners and supports spay/neuter education programs. |
| Breast and Women's Reproductive Cancers Fund | Donations contributed to this fund provide support to individuals for education, prevention, treatment, and management of breast and women's reproductive cancers. |
| Two Bills Create New Income Tax Checkoffs | |
| House Bill 10-1073 2-1-1 first Call for Help | This bill creates a new income tax checkoff that contributes money to a statewide health and human services referral service for Colorado citizens. |
| Senate Bill 10-139 Unwanted Horse Fund | This bill creates a new income tax checkoff for the Colorado Unwanted Horse Alliance, a registered Colorado nonprofit organization. the fund provides money to help horse rescue facilities care for the increasing number of unwanted horses. |

Two additional checkoffs were debated and postponed indefinitely. **Senate Bill 10-059** would have collected donations for Colorado Drug Abuse Resistance Education (D.A.R.E.), a statewide nonprofit organization that provides youth training resources and communicates with local law enforcement. Additionally, **House Bill 10-1156** would have created a new program and checkoff for partial public financing of campaigns for members of the General Assembly.

Sales and use taxes. The General Assembly debated 16 bills, of which 12 were adopted, that impact sales and use taxes. 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 total impact of these bills to the General Fund is \$14.7 million, \$86.9 million, and \$102.2 million in FY 2009-10, FY 2010-11, and FY 2011-12, respectively. Table 3 lists 2010 session bills that affect sales and use taxes.

Table 3
Legislation Adopted in 2010 Session Affecting Sales and Use Taxes
(Amount in Millions)

| Bill | Summary | Revenue Impact | | | Duration |
|--------------|--|------------------------|---------------|----------------|----------------------------------|
| | | FY 2009-10 | FY 2010-11 | FY 2011-12 | |
| HB 10-1018 | Waste Tire Fee Sales Tax Repeal | | \$0.025 | \$0.025 | Permanent |
| HB 10-1189 | Repeal Direct Mail Exemption | \$0.2 | \$0.8 | \$0.8 | Permanent Effective 3/1/2010 |
| HB 10-1190 | Repeal Exemption for Energy Use for Industrial Purposes | \$7.2 | \$37.6 | \$40.2 | March 1, 2010 - June 30, 2012 |
| HB 10-1191 | Candy and soda Exemption Repeal | \$1.4 | \$18.0 | \$18.0 | Permanent Effective 5/1/2010 |
| HB 10-1192 | Repeal Software Regulation | \$4.6 | \$23.7 | \$24.1 | Permanent Effective 3/1/2010 |
| HB 10-1193 | Out-of State Retailers (Online Sales) | \$0.02 | \$0.2 | \$12.5 | Permanent Effective 3/1/2010 |
| HB 10-1194 | Repeal Nonessential Food Container Exemption | \$0.4 | \$2.0 | \$2.0 | Permanent Effective 3/1/2010 |
| HB 10-1195 | Repeal Exemption for Agricultural Products | \$0.9 | \$4.6 | \$4.6 | March 1, 2010 - June 30, 2013 |
| HB 10-1243 | Transportation Powers and Special Districts | No Revenue Impact | | | Permanent |
| HB 10-1284 | Sales Tax Exemption for Indigent Patients purchasing Medical Marijuana | Revenue Impact Unknown | | | Permanent |
| HB 10-1285 | Commercial Vehicle Fine Tax Incentives | No Revenue Impact | | | Permanent |
| SB 10-142 | Local Sales Tax Appeal | No Revenue Impact | | | Permanent |
| TOTAL | | \$14.7 | \$86.9 | \$102.2 | |

Sales and use tax exemptions. Of the 12 bills that were adopted, seven either suspended or temporarily repealed certain state sales and use tax exemptions. Thus, these bills levy state sales and use taxes on certain purchases that otherwise would have been exempt from taxes and increase General Fund revenue.

House Bill 10-1189, which became effective March 1, 2010, applies the state sales and use tax to advertising materials cooperatively delivered by mail in Colorado. This includes advertising leaflets, discount coupons, envelopes, and labels. Advertising in newspapers or preprinted newspaper supplements remain exempt.

House Bill 10-1190 eliminates the state sales and use tax exemption for storage, use, or consumption of energy for industrial purposes from March 1, 2010, through June 30, 2012. This excludes the storage, use, or consumption of fuel purchased for railroad transformation services, or purchased for off-road or agricultural purposes.

House Bill 10-1191, which became effective May 1, 2010, excludes the purchase of candy and soft drinks from the state sales tax exemption for purchases of food for home consumption.

House Bill 10-1192, which became effective March 1, 2010, repeals the Department of Revenue regulation on taxable computer software and subjects certain standardized software to the sales and use tax.

House Bill 10-1193, which became effective March 1, 2010, clarifies the sales and use tax responsibilities of retailers that are not currently collecting sales tax and increases the Department of Revenue's enforcement power with regards to collecting these taxes. The bill specifies that out-of-state retailers must collect and remit state sales tax from Colorado residents if they are part of a controlled group of corporations, which is an Internal Revenue Service designation that defines firms that are legally related to each other. Retailers that do not collect Colorado sales tax must notify Colorado purchasers that sales or use tax is due on taxable purchases made from the retailer and that the State of Colorado requires the purchaser to file a use tax return. The retailer is also required to send notification to all Colorado purchasers by January 31 of each year showing the total amount paid by the purchaser from the retailer in the previous calendar year. This information must be filed annually with the Department of Revenue. The retailer will be fined for failing to comply with this law.

House Bill 10-1194, which became effective March 1, 2010, eliminates the sales and use tax exemption for articles, containers, and bags that are provided without a separate charge to a consumer of food, meals, or beverages, if it is nonessential to the purchase and becomes the personal property of the customer.

House Bill 10-1195 suspends the sales and use tax exemption 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. The exemption is suspended through the end of FY 2012-13.

Other bills adopted. The General Assembly adopted five additional measures affecting sales and use taxes.

House Bill 10-1018 made several changes to the state's waste tire program and how the sales tax applies to the fee. Among these changes, the bill specifies that sales tax is not to be assessed upon the state waste tire fee.

House Bill 10-1243 affects sales taxation by special districts. The bill authorizes a metropolitan district that provides transportation-related services to seek voter approval to levy a sales tax and use tax on purchases within the unincorporated portion of the district.

House Bill 10-1284 creates new licenses for the regulation of medical marijuana and includes a new sales tax exemption. The bill specifies that all sales of medical marijuana to indigent patients are exempted from sales taxes.

House Bill 10-1285 raises the fine on commercial motor vehicles and uses the additional fine revenue to fund a sales tax refund for state sales and use taxes paid on Class A vehicles. The refund is based on the proration of annual specific ownership taxes paid on the vehicles. The bill also moves the effective date of the existing sales tax refund to tax year 2010.

Senate Bill 10-142 affects local government sales taxation. When a local government determines that a taxpayer owes sales or use taxes in excess of the amount paid, the government must mail a deficiency notice to the taxpayer by certified mail. Senate Bill 10-142 requires that any taxpayer protest must be filed with the local government within 30 days after the date of the notice.

Bills not adopted. The legislature postponed indefinitely four additional measures affecting sales and use tax.

House Bill 10-1289 would have phased in an exemption on sales and use tax for purchases in excess of \$500 of machinery and machine tools used to provide telecommunications service.

House Bill 10-1396 would have eliminated the sales and use tax exemption for purchases of certain machinery or machine tools used solely and exclusively in a designated enterprise zone.

Senate Bill 10-214 would have exempted from sales and use taxes drugs and therapeutic devices furnished by a licensed provider as part of professional services provided to a patient or client by a licensed medical provider who is not a physician. Currently, drugs and materials must be furnished by a licensed physician to be exempt from sales tax. The bill defined a licensed provider as any person authorized to prescribe drugs.

Senate Concurrent Resolution 10-007 would have submitted to the voters in November 2010 an amendment to Article X of the Colorado Constitution that would have exempted certain items such as computer software from sales tax and eliminate use tax for all items.

Property taxes. The legislature debated 16 bills, of which 11 were adopted, that affect property taxes paid on real and personal property. Property taxes are assessed on the value of this property and collected by local governments.

Of the bills adopted, one measure suspends the senior homestead exemption for the 2010 and 2011 property tax years, and four measures affect property taxes paid by renewable energy generation facilities. Additionally, six miscellaneous property tax measures were adopted, including a concurrent resolution that exempts possessory interests from property tax liability.

Senior homestead exemption. The General Assembly debated two bills that affect the senior homestead exemption. In 2000, Colorado voters approved adding this exemption to the state constitution. Under this exemption, the first 50 percent of up to \$200,000 of a home's value is exempt from property tax. Homeowners must be over age 65 and have lived in their home for at least 10 years to qualify. In 2003, the property tax exemption for disabled veterans was added by the voters.

Senate Bill 10-190, which was adopted, suspends the senior homestead exemption for qualifying seniors for the 2010 and 2011 property tax years, but leaves the exemption for disabled veterans intact.

House Bill 10-1257, which was postponed indefinitely, would have established a minimum senior and disabled veteran homestead exemption in any year when the General Assembly authorized a 1.5 percent increase in the number of full-time state employees.

Property tax liability for renewable energy facilities. The legislature debated four measures that affect property taxes for renewable energy facilities. All four measures were adopted.

House Bill 10-1267 defines leased, residential solar electric generation facilities as household furnishings, thereby exempting such systems from personal property tax.

House Bill 10-1431 specifies that the cost of transmission lines is excluded from the valuation of renewable energy facilities that begin generating energy before 2012. This cost is included for facilities that begin generating electricity in 2012 or thereafter.

Senate Bill 10-019 specifies that, for purposes of property taxation, new hydroelectric facilities be valued using the income approach in certain instances. Thus, the actual value will be based on the projected gross revenue of such facilities.

Senate Bill 10-177 specifies that, for purposes of property taxation, biomass energy facilities be valued using the income approach in certain instances. Thus, the actual value will be based on the projected gross revenue of such facilities.

Other property tax measures. The General Assembly adopted six additional property tax measures in the 2010 session.

House Bill 10-1046 specifies how county treasurers are to record late property tax payments without a United State Postal Service (USPS) postmark. The bill also eliminates the requirement that late payments sent via private post have both a USPS and private postage meter postmark.

House Bill 10-1107 specifies that if agricultural land is included in an urban renewal area, county assessors must value the land at its fair market value.

House Bill 10-1197 specifies that land used for residential purposes would continue to be valued as agricultural land unless it is used for nonagricultural residential purposes.

House Bill 10-1293 establishes a nine-member task force to study the assessment and classification of agricultural and residential land and propose legislation to ensure that land is valued based on its actual use.

House Bill 10-1386 adjusts the filing fees for tax-exempt status applications on real and personal property, and allows the Property Tax Administrator to waive all or a portion of the late filing fees for good cause.

House Concurrent Resolution 10-1005 proposes amending the constitution to create an exemption from property taxation for possessory interests in real property. Starting in 2012, the proposed amendment exempts a possessory interest from property taxation if the market value of the interest is \$6,000 or less. Possessory interests include the private operation of a farm or ranch on public land, or the operation of a recreational activity, such as a ski area, on government land that generates revenue for the operator.

Four other measures affecting property taxation were postponed indefinitely.

House Bill 10-1093 would have prohibited assessors, when valuing real property, from considering the value of stock or ownership in a company when using the market or income approaches, and from considering the value of personal property.

House Bill 10-1129 would have allowed taxpayers to pay property taxes based on the prior year's assessed value while waiting for the final decision on an appeal of a property tax increase of more than 300 percent.

Senate Bill 10-085 would have created a five-county voluntary pilot program for counties to temporarily provide a business personal property tax exemption.

Senate Bill 10-086 would have gradually exempted, over 12 years, the actual value of full-depreciated business personal property from property taxes.

Severance taxes. The state severance tax is primarily paid by companies that extract oil, natural gas, coal, molybdenum, and other metallic minerals. The General Assembly debated two bills, of which one was adopted, that affect this tax.

Oil and gas producers must withhold 1 percent of the gross income distributed to individuals or entities that own some or all of the rights to oil and gas production. **House Bill 10-1060** creates a penalty for failing to make the required amount of severance tax withholding payments. It also establishes a penalty for failing to file an annual report reflecting the amounts withheld with the Department of Revenue.

The legislature debated another bill affecting state severance taxes that was postponed indefinitely. Oil and natural gas severance taxpayers can claim a tax credit of 87.5 percent of the local property taxes they pay on the value of their oil and gas production. **House Bill 10-1174** would have reduced the amount of the credit by half for 2011 and 2012, and allocated the additional severance tax revenue received to help schools retain teachers and to increase the availability of credit to small businesses.

Bills Affecting Cash Funds

Colorado state government receives its revenue from the federal government, state taxes, and state fees. Most fee revenue and some program-specific tax revenue are deposited into **cash funds** that are earmarked for specific state programs. The General Assembly adopted bills in the 2010 session that transferred money from some of these cash funds to the General Fund. Other bills changed how certain cash fund revenue is distributed. Additionally, the General Assembly also adopted bills that increase fee revenue deposited in state cash funds. The three issues are discussed below.

Cash fund transfers. The General Assembly debated and adopted six bills that transfer cash fund money to the General Fund. A total of \$136.5 million in transfers were authorized for FY 2009-10 and \$41.7 for FY 2010-11.

Table 4 lists each cash fund transfer adopted in the 2010 session and the amount of the transfer.

Table 4
Cash Fund Transfers to the General Fund Adopted in the 2010 Session

| Bill Number | Cash Fund | Net Transfer to the General Fund | | |
|--|---|----------------------------------|-------------|------------|
| | | FY 2009-10 | FY 2010-11 | FY 2011-12 |
| HB 10-1323 | Tobacco Settlement - Comprehensive Primary and Preventive Care (Section 24-75-1104.5 (1) (b) (II), C.R.S.) | \$352,357 | \$2,831,620 | |
| | Tobacco Settlement - Comprehensive Primary and Preventive Care Grant Program Account (Section 24-75-1104.5 (1) (b) (II), C.R.S.) | \$1,990,500 | | |
| | Tobacco Settlement - Short-Term Innovative Health Program Grant Fund (Section 24-75-1104.5 (1) (b) (II), C.R.S.) | | \$1,600,000 | |
| HB 10-1325 | Natural Resource Recovery Fund (Section 25-16-104.7, C.R.S.) | \$150,970 | \$156,464 | \$156,464 |
| HB 10-1327 | Higher Education Maintenance and Reserve Fund (Section 23-19.9-102 (2) (b) (IV), C.R.S.) | \$2,300,000 | | |
| | Motor Fleet Management Fund (Section 24-30-1115, C.R.S.) | \$397,143 | | |
| | Waste Tire Cleanup Fund (Section 24-32-114 (1.7), C.R.S.) | \$1,900,000 | | |
| | Public Safety Communications Trust Fund (Section 24-37.5-506 (3.5), C.R.S.) | \$230,520 | | |
| | Capital Construction Fund - Emergency Controlled Maintenance Account (Section 24-75-302 (11), C.R.S.) | \$335,000 | | |
| | Processors and End Users of Waste Tires Cash Fund (Section 25-17-202.5, C.R.S.) | \$500,000 | | |
| | Local Government Permanent Fund (Section 34-63-102 (5.3) (a), C.R.S.) | \$14,305,697 | | |
| | Severance Tax Trust Fund - Perpetual Base Account* (Section 39-29-109 (2) (a), C.R.S.) | \$2,000,000 | | |
| | Severance Tax Trust Fund - Operational Account (Section 39-29-109.3 (6), C.R.S.) | \$11,000,000 | | |
| | Local Government Severance Tax Fund* (Section 39-29-110 (6), C.R.S.) | \$50,327,796 | | |
| Law Enforcement Assistance Fund for the Prevention of Drunken Driving* (Section 43-4-402 (3), C.R.S.) | \$1,560,315 | | | |
| HB 10-1383 | Colorado CollegeInvest Scholarship Trust Fund (Section 23-3.1-206.9 (2) (c), C.R.S.) | \$29,800,000 | | |

Table 4
Cash Fund Transfers to the General Fund Adopted in the 2010 Session (Cont.)

| Bill Number | Cash Fund | Net Transfer to the General Fund | | |
|-------------------|--|----------------------------------|---------------------|--------------------|
| | | FY 2009-10 | FY 2010-11 | FY 2011-12 |
| HB 10-1388 | Medical Marijuana Program Cash Fund (Section 25-1.5-106 (3) (c), C.R.S.) | | \$3,000,000 | |
| | Severance Tax Trust Fund - Perpetual Base Account* (Section 39-29-109 (2) (a), C.R.S.) | | \$11,000,000 | |
| | Local Government Severance Tax Fund* (Section 25-1.5-106 (3) (c), C.R.S.) | | \$10,000,000 | |
| | Alternative Fuels Rebate Fund (Section 39-33-105 (3), C.R.S.) | | \$1,500,000 | |
| | Law Enforcement Assistance Fund for the Prevention of Drunken Driving* (Section 43-4-402 (4) (a) and (b), C.R.S.) | | \$1,082,980 | \$1,082,980 |
| HB 10-1389 | Capital Construction Fund (Section 24-75-302 (10) (b), C.R.S.) | \$13,317,845 | | |
| | Higher Education Federal Mineral Lease Revenues Fund (Section 23-19.9-102 (1) (c), C.R.S.) | \$750,000 | \$7,000,000 | |
| | Fitzsimons Trust Fund (Section 23-20-136 (3) (c), C.R.S.) | \$5,054,918 | \$3,448,537 | |
| | TOTALS | \$136,273,061 | \$41,619,601 | \$1,239,444 |

Source: Joint Budget Committee

*Indicates that a cash fund transfer from the fund was authorized in more than one bill.

Changes to cash fund revenue distributions. During the 2010 session, the General Assembly debated 14 bills, of which 9 were adopted, that changed how certain cash fund revenue is used. For example, some of the gaming money that would otherwise have been transferred for local governments and economic development programs was diverted to the General Fund. The following sections discuss bills that made changes to distributions of revenue from severance taxes, the state lottery, tobacco master settlement funds, Amendment 35 tobacco taxes, and gaming.

Severance Tax Trust Fund. The state severance tax is primarily paid by energy production and mining companies that extract oil, natural gas, coal, molybdenum, and other metallic minerals. Some of this revenue is retained by the state and other portions are allocated to local governments.

The legislature debated 6 bills, of which 5 were adopted, that affect the distribution of severance tax revenue. Most of these impact the use of severance tax money allocated to the Operational Account of the Severance Tax Trust Fund. This fund receives 25 percent of severance tax receipts and mostly finances programs in the Department of Natural Resources. One measure affects the use of severance tax money allocated to the Perpetual Base Account, which is used for water projects in the state. This account receives 25 percent of severance tax revenue and is also managed by the Department of Natural Resources.

House Bill 10-1319 eliminates the transfer of \$6.5 million for both FY 2010-11 and FY 2011-12 from the Operational Account of the Severance Tax Trust Fund to the Governor's Energy Office for home energy efficiency projects. It also transfers \$1.6 million from the Department of Human Services program for low-income energy assistance (LIEAP) to the Operational Account of the Severance Tax Trust. Federal money is available to replace the loss of state funding for both programs.

House Bill 10-1326 uses additional money from the Operational Account of the Severance Tax Trust Fund to fund the Division of Parks and Recreation in the Department of Natural Resources. This reduces the amount of General Fund money needed for the division.

House Bill 10-1398 transfers money from the Operational Account of the Severance Tax Trust Fund to the Species Conservation Trust Fund (SCTF) for programs to conserve native species.

Senate Bill 10-025 transfers up to \$550,000 annually from the Operational Account of the Severance Tax Trust Fund to the Water Efficiency Grant Program. The bill extended this program from July 1, 2012, until July 1, 2020. The program provides financial assistance to communities, water providers, and eligible agencies for water conservation-related activities and projects.

House Bill 10-1250, which was signed by the Governor, transfers \$36 million over a three-year period to the Colorado Water Conservation Board from the Perpetual Base Account of the Severance Tax Trust Fund for the purchase of water from the Animas-La Plata Project.

House Bill 10-1006, which was postponed indefinitely, would have allowed the Division of Water Resources in the Department of Natural Resources to receive up to 5 percent of funds in the Operational Account of the Severance Tax Trust Fund.

Lottery. Colorado is among several states that has established a state-supervised lottery. All proceeds remaining after prizes and expenses are allocated based on requirements in the state constitution. The legislature debated three measures regarding state lottery revenue, all of which were postponed indefinitely.

Senate Bill 10-215 would have required the Colorado Lottery to operate new lottery games that would increase net lottery proceeds to use for financial assistance for higher education.

Senate Concurrent Resolution 10-004 would have asked voters to require the Colorado Lottery to operate two new lottery games—a monitor lottery game, such as Keno, and a video lottery at a horse racing track at the Colorado State Fair—to finance postsecondary education financial assistance. The resolution also would have changed the limited gaming tax structure from a graduated rate to a single rate.

House Concurrent Resolution 10-1007 would have asked voters to permit the transfer of proceeds from the lottery to the State Education Fund to help fund public schools following a declaration of a state fiscal emergency by the legislature and the Governor.

Tobacco Master Settlement Account (MSA). As part of the Tobacco Master Settlement (MSA) agreement, states, including Colorado, agreed to release participating tobacco manufacturers from health-related claims in return for annual payments. Currently, most of the payments that Colorado receives from this settlement are used for health-related programs. The legislature adopted one bill that affects the distribution of this revenue.

House Bill 10-1323 transfers tobacco MSA money to the General Fund, reducing the amount of money for certain tobacco MSA-funded programs. The bill also reallocates all of the tobacco money received by the Indigent Health Care Program, which was repealed by the bill, to the Children's Basic Health Plan (CBHP). The additional tobacco money to CBHP effectively reduces General Fund spending obligations for CBHP.

Amendment 35 Tobacco Tax. Amendment 35 to the state constitution increased the excise tax on tobacco products to provide additional funding for public health care programs. The legislature approved two measures affecting this revenue. **House Bill 10-1378** changes how some of the money generated from the additional taxes on tobacco products is used for FY 2010-11. For example, the bill allocates some of the money to the Colorado Medicaid program which reduced General Fund spending on the program. Also, it changed how some of the money is used for funding to community health clinics, which allowed the state to receive additional federal money for services at these clinics and at Denver Health and Hospitals. For House Bill 10-1378 to be implemented, the state constitution requires that the legislature declare a fiscal emergency to allow tobacco tax revenue to be diverted for the purposes in the bill. This was accomplished with the passage of **Senate Joint Resolution 10-010**.

Gaming. Gaming revenue is derived from state taxes that are imposed on the net of wagers and payouts from gaming activity. The legislature debated two bills, of which one was adopted, affecting this revenue. **House Bill 10-1339** transfers \$20.7 million of the \$34.9 million in gaming revenue that would otherwise have gone to the General Fund in FY 2009-10 to certain economic development-related programs. It also reduces the transfer of gaming revenue to the Local Government Limited Gaming Impact Fund by \$2.0 million and transfers that amount to the General Fund. Under the bill, a total of \$16.2 million is transferred to the General Fund.

The legislature debated one additional bill affecting gaming revenue that was postponed indefinitely. As background, if the March revenue forecast indicates a General Fund budget shortfall, gaming money that is otherwise transferred to certain economic development programs is instead scheduled to be transferred to the General Fund unless the state legislature passes a bill to redistribute the money. **Senate Bill 10-206** would have removed these provisions so that the transfers to the programs would occur regardless of the amount of General Fund revenue.

Bills affecting fees. During the 2010 session, the General Assembly passed 44 bills that either created a new fee or changed an existing one. Of these bills, two were vetoed by the Governor.

Some bills that were adopted created new fees. For example, **House Bill 10-1284** regulates medical marijuana by creating state and local licensing authorities for dispensaries. Additionally, **Senate Bill 10-120** creates a new fee for prepaid wireless telephones to fund local enhanced 911 services. The revenue from this fee accounts for nearly 55 percent of the fee revenue increase from 2010 legislation in FY 2011-12. The revenue from this fee is retained by local governments.

Other fee bills were enacted that affect the funding for department operations. As an example, **House Bill 10-1377** refinances all of the inspection and consumer services programs in the Department of Agriculture so that they are funded entirely by fees for two fiscal years.

Table 5 provides a summary and revenue impact of each bill affecting state fees that was adopted. The total impact of these bills to state cash fund revenue is \$14.6 million and \$13.8 million in FY 2010-11 and FY 2011-12, respectively.

Fee bills vetoed by the Governor. Two bills affecting fees were vetoed by the Governor. **House Bill 10-1101** would have affected farm truck registrations and **House Bill 10-1281** addressed the regulation of Voice-Over-Internet-Protocol (VoIP) services.

Table 5

Legislation Adopted in the 2010 Session that Establish New Fees or Change Existing Fees Paid by Individuals or Businesses

| Bill | Title and Sponsor(s) | Summary of Fee Provisions | State Cash Funds Revenue Impact | |
|--------------------|--|--|---------------------------------|---------------------------------|
| | | | FY 2010-11 | FY 2011-12 |
| House Bills | | | | |
| HB 10-1001 | Renewable Energy Standards Solar Certification <i>Rep. Tyler, Sen. Schwartz, Sen. Whitehead</i> | Increases the costs of the Colorado Public Utilities Commission (PUC) which are recovered from fees assessed against investor-owned utilities. | \$68,600 | \$ - |
| HB 10-1007 | County Clerk and Recorder Fee <i>Rep. Judd, Sen. Brophy</i> | Increases the fee charged by the county clerk and recorder's office to \$10 for the first page of a document, maintains the \$5 fee for each added page, and eliminates a fee charged for documents requiring multiple entries. County governments will experience revenue increases beginning in FY 2010-11, which will be partially offset by the repeal of the per entry fee. | Local Government Revenue Impact | Local Government Revenue Impact |
| HB 10-1044 | Licensure of Youth Organizations <i>Rep. Carroll, T., Sen. Steadman</i> | Requires neighborhood youth organizations (NYOs) to obtain either a general child care center license or a separate NYO license. Fees estimated at \$200 will be created for the NYO licenses. | 15,000 | 15,000 |
| HB 10-1096 | Designate VIN Inspectors <i>Rep. Tipton, Sen. Morse</i> | Authorizes county sheriffs and municipal police chiefs to certify other individuals to perform certified vehicle identification numbers (VINs) inspections. Revenue will result from fees paid to receive VIN inspector certificates. | 5,000 | 5,000 |
| HB 10-1106 | Child Welfare Adoption Multiethnic Act <i>Rep. Casso, Sen. Sandoval</i> | Requires a background check for child welfare workers who work in child care facilities. The cost of the background check, which is charged to each worker, is \$39.50. | 55,300 | 23,700 |
| HB 10-1114 | Register Agent Money Transmitter <i>Rep. Liston, Sen. Johnston</i> | Requires an increase in fee revenue to cover the costs of registering money transmitter agents. | 38,000 | 33,150 |
| HB 10-1125 | Regulate Grease Collection and Disposal <i>Rep. Hullinghorst, Sen. Schwartz</i> | Requires individuals, companies, and trucks that collect, transport, store, process, or dispose of grease to register with the Department of Public Health and pay an annual fee to cover the costs of regulation. | 85,500 | 85,500 |
| HB 10-1128 | Registrations Regulatory Efficiency <i>Rep. Looper, Sen. Hudak, Sen. Bacon</i> | Repeals the requirement that agents representing student athletes register with the Division of Registration in the Department of Regulatory Agencies. Since the number of applicants is negligible, eliminating the regulatory program for athlete agents will not eliminate a measurable revenue stream for the division. | - | - |
| HB 10-1139 | Iraq Afghanistan Veteran License Plate <i>Rep. Apuan, Sen. Heath</i> | Creates the "Veteran of the Afghanistan War" and the "Veteran of the Iraq War" special license plates for individuals who served in Afghanistan or Iraq. The plate will be available for a one-time fee of \$50. | 167,800 | 195,700 |
| HB 10-1141 | Mortgage Company Registration <i>Rep. Carroll T., Sen. Tochtrop</i> | Requires mortgage loan originators to have a state license and be registered with the nationwide mortgage licensing system and registry, a national tracking system established by federal law, by January 1, 2011. As a result, the existing annual license fee of \$245 will increase by an estimated \$3.75. | 21,300 | 21,300 |
| HB 10-1161 | Livery License Plate <i>Rep. Nikkel, Sen. Spence</i> | Creates a livery license plate to be used by luxury limousines. Each set of license plates and tabs is estimated to cost about \$5.92. | 5,000 | 5,500 |

Table 5

Legislation Adopted in the 2010 Session that Establish New Fees or Change Existing Fees Paid by Individuals or Businesses

| Bill | Title and Sponsor(s) | Summary of Fee Provisions | State Cash Funds Revenue Impact | |
|------------|--|---|---------------------------------|------------|
| | | | FY 2010-11 | FY 2011-12 |
| HB 10-1172 | Mobile Machinery Specific Ownership Taxes <i>Rep. Bradford, Sen. Cadman</i> | Changes the registration of mobile machinery in Colorado. The bill establishes demonstration plates and corresponding fees for special mobile machinery dealers or wholesalers, and authorizes the use of individual temporary registration plates, tags, or certificates that are good for up to 60 days. | 90,000 | 118,400 |
| HB 10-1209 | Voluntary Identifier of Military Branch <i>Rep. Balmer, Sen. Gibbs</i> | Allows a current military service member or veteran to request a driver's license or identification card that has a military identifier. The identifier is acquired after payment of a \$15 fee. | 121,500 | 243,000 |
| HB 10-1211 | Reduce Late Vehicle Registration Penalty <i>Rep. Tyler, Sen. Williams</i> | Amends the late fee applied to nonmotorized vehicles weighing 2,000 pounds or less. Owners of unregistered nonmotorized vehicles would be subject to a single \$10 late fee, and all fee revenue would be retained by county governments. Reductions in late fees decrease state revenue to the Highway Users Trust Fund. | (413,000) | |
| HB 10-1212 | Required Rules late Vehicle Registration Fee Exemptions <i>Rep. Rice, Sen. Schwartz</i> | Directs the Department of Revenue to create rules in consultation with county clerks and recorders to establish circumstances in which late fees are exempted for late motor vehicle registrations. | 0 | 0 |
| HB 10-1214 | Adopt a Shelter Pet Special License Plate <i>Rep. McCann, Sen. Schwartz</i> | Creates the "Adopt a Shelter Pet" special license plate for a one-time fee of \$50. | 83,900 | 97,900 |
| HB 10-1221 | River Outfitters Sunset Licensing <i>Rep. Curry, Sen. Schwartz</i> | Extends the licensing program for river outfitters. The bill directs the Board of Parks and Outdoor Recreation to adopt a license renewal schedule that will not exceed 3 years. | 48,000 | 26,000 |
| HB 10-1224 | Review of the Colorado Podiatry Board <i>Rep. Gerou, Sen. Boyd</i> | Implements several recommendations from the sunset review of the Colorado Podiatry Board. As a result, the bill will increase the existing \$200 annual license renewal fee by about \$35. | 7,000 | 7,000 |
| HB 10-1241 | Fire Suppression Systems Registration Fee <i>Rep. Casso, Sen. Tochtrop</i> | Creates a registration program for sprinkler fitters in the Colorado Department of Public Safety. Sprinkler fitters will pay a new fee estimated at \$20. | 0 | 100,000 |
| HB 10-1260 | Physicians and Physicians Assistants Fees <i>Rep. Riesberg, Sen. Boyd</i> | Replaces the existing limited (Shriner's) physician license with a broader pro bono license, and creates a new reentry license for physicians and physicians assistants that have not practiced within the prior two years. | 43,100 | 24,900 |
| HB 10-1278 | Ombudsman for CO Common Interest Ownership <i>Rep. Ryden, Sen. Carroll M.</i> | Creates the office of the homeowners' association (HOA) ombudsman in the Division of Real Estate of the Department of Regulatory Agencies and authorizes a fee for each HOA in the state. | 257,500 | 157,800 |
| HB 10-1284 | Medical Marijuana Regulations <i>Rep. Massey, Sen. Romer</i> | Regulates medical marijuana by creating the state and local medical marijuana licensing authority within the Department of Revenue as well as local licensing authorities around the state. The bill establishes several fees for these licenses. | 2,700,000 | 2,700,000 |

Table 5

Legislation Adopted in the 2010 Session that Establish New Fees or Change Existing Fees Paid by Individuals or Businesses

| Bill | Title and Sponsor(s) | Summary of Fee Provisions | State Cash Funds Revenue Impact | |
|------------------------------|---|---|---------------------------------|--------------------|
| | | | FY 2010-11 | FY 2011-12 |
| HB 10-1329 | Solid Waste User Fee <i>Rep. Peniston, Sen. Boyd</i> | Changes several provisions and fees which support solid waste management programs administered by the Colorado Department of Public Health and Environment. State revenue will increase but the amount is not known because the Solid Hazardous Waste Commission will determine the amount of the fees. | New Fee Revenue | New Fee Revenue |
| HB 10-1336 | Department of Public Safety Expenditures for School Safety <i>Rep. Schafer S., Sen. Newell</i> | Creates the School Safety Resource Center Cash Fund and authorizes the Department of Public Safety to collect gifts, grants, and donations and assess a fee. The fee will offset the costs of any training programs or conferences that the center provides. The estimated fee is \$65 per attendee. | 44,000 | 44,000 |
| HB 10-1365 | Incentives for Utilities to Convert Coal to Natural Gas <i>Rep. Solano, Sen. Whitehead</i> | Requires all regulated utilities that own or operate coal-fired electric generating units to submit to the PUC emissions reduction plans. The bill is estimated to increase revenue as a result of fees that will be paid by utilities. | 90,700 | 87,900 |
| HB 10-1377 | Cash Fund Agriculture Programs Two Years <i>Rep. Lambert, Sen. Tapia</i> | Refinances all of the Inspection and Consumer Services programs in the Department of Agriculture to be 100 percent cash funded for FY 2010-11 and FY 2011-12 only. | 1,300,000 | 1,400,000 |
| HB 10-1379 | 2010 Nursing Facility Rate Reductions <i>Rep. Ferrandino, Sen. White</i> | Makes changes to the Nursing Facility Provider Fee for Medicaid. In particular, the per diem fees paid by nursing facilities will increase in FY 2010-11. | 5,800,000 | |
| HB 10-1385 | Funding Insurance Fraud Cases <i>Rep. Lambert, Sen. Tapia</i> | Replaces the \$425 annual fee paid by insurance companies for the Department of Law to investigate and prosecute allegations of insurance fraud with a fee that is sufficient to cover the costs and create a 3-month reserve. The fee would increase by \$136 to an annual fee of \$561. | 225,800 | 225,800 |
| HB 10-1386 | Property Tax Exemption Filing Fees <i>Rep. Ferrandino, Sen. White</i> | Increases the filing fees for tax-exempt status applications on real and personal property as part of the budget package for FY 2010-11. | 301,000 | 301,000 |
| HB 10-1415 | Sunrise Surgical Technologist Registration <i>Rep. Gagliardi, Sen. Morse</i> | Creates registration requirements for surgical assistants. | 58,100 | 59,500 |
| Subtotal: House Bills | | | \$11,219,100 | \$5,978,050 |

Table 5

Legislation Adopted in the 2010 Session that Establish New Fees or Change Existing Fees Paid by Individuals or Businesses

| Bill | Title and Sponsor(s) | Summary of Fee Provisions | State Cash Funds Revenue Impact | |
|---------------------|--|--|---|---|
| | | | FY 2010-11 | FY 2011-12 |
| Senate Bills | | | | |
| SB 10-006 | Identification Documents Reduce Poverty <i>Sen. Boyd, Rep. Summers</i> | Provides individuals with the opportunity to obtain a free birth certificate, death certificate, or state identification card in certain circumstances. | (\$51,300) | (\$51,300) |
| SB 10-038 | Organic Certification Act <i>Sen. Hodge, Rep. Fischer</i> | Authorizes the Commissioner of Agriculture to contract with independent inspectors to conduct inspections of organic product producers and handlers. The cash fund is supported by license and inspection fees and is expected to have sufficient revenue to fund the increased expenditures without a fee increase for the next two fiscal years. | 0 | 0 |
| SB 10-071 | Create Seniors Lifetime State Parks Pass <i>Sen. Morse, Rep. Riesberg</i> | Creates an Aspen Leaf Lifetime Pass to Colorado State Parks for residents that are 64 years of age or older. The price of the lifetime pass will be set by the Colorado State Parks Board. | 411,000 | 416,500 |
| SB 10-072 | Colorado Seed Potato Act <i>Sen. Schwartz, Rep. Vigil</i> | Requires fee to plant certified seed potatoes. | 3,000 | 2,600 |
| SB 10-103 | Colorado State Parks License Plate <i>Sen. Sandoval, Rep. Baumgardner</i> | Creates the Colorado State Parks special license plate, available for a one-time fee of \$50. | 83,900 | 97,900 |
| SB 10-108 | General Education Courses <i>Sen. King K., Rep. Middleton</i> | Allows nonpublic institutions of higher education to request that the Colorado Commission of Higher Education review courses the school believes meet general education requirements for inclusion in gtPATHWAYS. The estimated fee for a 50-course review is \$18,410. The fiscal note assumes two reviews each fiscal year, for total fee revenue of \$36,820. | 36,800 | 36,800 |
| SB 10-109 | Medical Marijuana Dr. Patient Relations <i>Sen. Romer, Rep. Massey</i> | Amends state law concerning the role of physicians in certifying that an individual may benefit from medical marijuana and waives the fee for indigent applicants. | (90,000) | (90,000) |
| SB 10-120 | Prepaid Wireless Telephone 911 Surcharge <i>Sen. White, Rep. Rice</i> | Imposes a charge of 1.4 percent on the retail sale of prepaid wireless telephone service to fund local enhanced 9-1-1 services. The fees are collected by the DOR on behalf of local governments, much like the DOR collects sales taxes on behalf of local governments. The revenue shown to the right is thus not state revenue but local government revenue. | 3,171,700 Local Government Revenue | 7,611,900 Local Government Revenue |
| SB 10-124 | Michael Skolnik Medical Transparency Act <i>Sen. Carroll M., Rep. Ryden</i> | Modifies the Michael Skolnik Medical Transparency Act, which requires medical practitioners to disclose certain information to the State Board of Medical Examiners in the Department of Regulatory Agencies whenever they obtain or renew a license. The department will modify the fees charged to cover expenses. | 264,200 | 264,200 |
| SB 10-144 | Mounted Equipment Registration Tax <i>Sen. Scheffel</i> | Removes the requirement that certain mobile machinery be registered separately. This will eliminate collection of the \$0.50 fee for each mobile machinery transaction. | Minimal Decrease | Minimal Decrease |

Table 5

Legislation Adopted in the 2010 Session that Establish New Fees or Change Existing Fees Paid by Individuals or Businesses

| Bill | Title and Sponsor(s) | Summary of Fee Provisions | State Cash Funds Revenue Impact | |
|--|---|--|---------------------------------|---------------------|
| | | | FY 2010-11 | FY 2011-12 |
| SB 10-161 | Charter School Collaboratives <i>Rep. Massey, Sen. K. King</i> | Creates the Charter School Collaborative Act, which allows charter schools to enter into contracts with each other. The bill also allows charter schools to enter into charter school collaboratives. As a result, the Colorado Department of Education can charge an administrative fee for regulation of or assistance to charter school collaboratives. | 10,000 | 10,000 |
| SB 10-198 | Reduce Late Vehicle Registration Fees <i>Sen. Whitehead, Rep. McKinley</i> | Amends state law to apply a single \$10 late fee (rather than \$25 per month) for late vehicle registrations for camper trailers, multipurpose trailers, and other non-motorized vehicles. | (458,800) | (443,600) |
| Subtotal: Senate Bills | | | \$3,380,500 | \$7,855,000 |
| Subtotal: Local Government Revenue from SB 10-120 | | | \$3,171,700 | \$7,611,900 |
| Total: All Fee Bills | | | \$14,599,600 | \$13,833,050 |

*Does not include House Bill 10-1101 and House Bill 10-1281, which were passed by the General Assembly and vetoed by the Governor. Both bills affected state fees.
As of July 9, 2010*

Legislation Affecting Other Areas of State Public Finance

The legislature debated additional measures that affect the state's public finances, including bills that would create a state rainy day fund, bills affecting TABOR, and the budget process. The legislature also debated conducting studies of the tax system in Colorado.

Rainy day fund legislation. Two bills and two concurrent resolutions that would have created a state rainy day fund were introduced during the 2010 legislative session. Each was postponed indefinitely.

House Bill 10-1072 was recommended by the Long-Term Fiscal Stability Commission and would have converted the General Fund Reserve into a State Budget Stabilization Reserve Fund. Under the bill, the required reserve balance would have grown to 15 percent of General Fund appropriations over time based on the pace of economic growth. **House Bill 10-1177** would have created the Colorado Economic Stability Fund. In years when General Fund revenue increased over the prior year, ten percent of the increase would have been deposited into the fund from the General Fund.

If passed by the General Assembly, **House Concurrent Resolution 10-1003** and **House Concurrent Resolution 10-1009** would have submitted to the voters in November 2010 an amendment to the state constitution to create the State Rainy Day Fund and the State Savings and Trust Fund, respectively. Under HCR10-1003, starting in FY 2011-12, \$25 million in severance tax revenue would have been credited to the fund in years when severance tax revenue exceeded \$50 million. Under HCR10-1009, starting in FY 2010-11, in fiscal years when there were sufficient funds to maintain the General Fund Reserve, revenue from the General Fund would be deposited into the fund in an amount equal to the required General Fund reserve balance in the prior fiscal year.

Table 6 provides a side-by-side comparison of these four failed measures.

Table 6
State Rainy Day Fund Legislation Defeated in 2010 Session

| | HB 10-1072 | HB 10-1177 | HCR 10-1003 | HCR 10-1009 |
|------------------------------------|---|---|---|--|
| Fund Name | State Budget Stabilization Reserve Fund | Colorado Economic Stability Fund | State Rainy Day Fund | State Savings and Trust Fund |
| Source of Funding | General Fund | General Fund | Severance Taxes | General Fund |
| Annual Amount Credited to the Fund | Graduated schedule similar to the General Fund Reserve, increasing to up to 15 percent of General Fund appropriations | 10 percent of the increase in General Fund revenue over the prior two fiscal years | \$25 million | An amount equal to the prior year's required General Fund reserve balance |
| Fund Balance Limit | 15 percent of General Fund appropriations | 15 percent of General Fund revenue | No limit | 10 percent of General Fund appropriations |
| Trigger for Spending Funds | Funds may be spent to balance the budget at any time. However, the governor must take action to balance the budget when the fund is drawn down to a certain point | A decline in General Fund revenue of 10 percent or more in any fiscal year and a joint resolution approved by a two-thirds majority vote and the Governor's signature | Enactment of a bill approved by three-fifths majority vote of both houses | Enactment of a bill authorizing the expenditure of the entire General Fund Reserve |

TABOR refund mechanisms. Article X, Section 20 of the Colorado Constitution requires that revenue in excess of the Taxpayer's Bill of Rights (TABOR) limit be refunded to taxpayers. The General Assembly determines how this "surplus" revenue is refunded. One such refund mechanism is a temporary income tax rate reduction, which requires that, beginning in the 2011 tax year, the state income tax rate be temporarily reduced from 4.65 to 4.5 percent when the state has a revenue surplus large enough to fund the rate reduction.

Two bills were adopted in 2010 that changed the order and number of TABOR refund mechanisms.

House Bill 10-1002 was recommended by the Economic Opportunity Poverty Reduction Task Force and increases the threshold necessary to trigger the temporary income tax rate reduction so that the refund only applies if there is also enough surplus revenue to trigger the earned income tax credit (EITC) refund. Therefore, this bill reorders the TABOR refund mechanisms, so that the EITC refund will precede the temporary income tax rate reduction mechanism when the TABOR surplus is large enough. **Senate Bill 10-212** repealed 11 of the 14 existing TABOR surplus refund mechanisms. For any year in which a refund of TABOR surplus revenue is required, the remaining refund mechanisms in statute will be the six-tier sales tax refund, the EITC, and the temporary income tax rate reduction. The following refund mechanisms were repealed by the bill:

- Foster Care Expense Tax Credit;
- Business Personal Property Tax Refund;
- Child Care Expense income Tax Credit;
- Research and Development Property Sales and Use Tax Refund;
- Motor Vehicle Registration Fee Reduction;
- High Technology Scholarship Program Credit;
- Interest, Dividends, and Capital Gains Exclusion;
- Pollution Control Equipment Refund;
- Reduced Sales and Use Tax on Trucks;
- Agricultural Value Added Tax Credit; and the
- Private Health Care Tax Credit

Other TABOR-related issues. Three TABOR-related concurrent resolutions were introduced but lost. **Senate Concurrent Resolution 10-008** would have submitted to the voters an amendment to define a "tax" and a "fee." If passed by the voters, the amendment may have more narrowly defined a fee and would have redefined special assessments as a tax, thereby requiring voter approval for new special assessments or increased special assessments. **House Concurrent Resolution 10-1006** would have submitted to the voters an amendment requiring prior voter approval for *any* tax policy change resulting in a net tax revenue gain. This resolution was aimed at eliminating exceptions to voter approval resulting from the March 16, 2009, Colorado Supreme Court ruling on *Mesa County Bd. of Comm'rs v. State*. Under the ruling, voter approval may not be required for tax policy changes that result in:

- *de minimis* increases in tax revenue (a *de minimis* amount has been interpreted to mean an amount less than the cost of an election); and/or
- net revenue increases that do not exceed a TABOR spending limit.

Senate Concurrent Resolution 10-002 would have submitted to voters an amendment authorizing the General Assembly to raise additional state revenue without prior voter approval if the resulting revenue was used to fund preschool through postsecondary education. This additional revenue would not have been subject to the constitutional limitation on fiscal year spending and would have been credited to the newly created State Education Improvement Fund. Moneys in this fund would have been subject to annual appropriation by the General Assembly for preschool and postsecondary public education purposes.

State budget process. The General Assembly adopted one bill affecting the state budget process. **House Bill 10-1119**, known as the SMART Government Act, requires each state agency to annually present, the department's strategic plan to the relevant committee of reference of the General Assembly. The presentation will include a discussion of the department's goals and performance measures, and the committees of reference will allow public testimony at each of these presentations. Beginning with the 2012 legislative session, the chair of each committee of reference is required to appoint two committee members to serve as liaisons with the relevant departments concerning the budget process. Another measure, **House Bill 10-1126**, would have created a biennial priority-based budget process. This bill was postponed indefinitely.

Review of tax system. The legislature adopted **Senate Joint Resolution 10-002**, which allows a comprehensive tax study to be performed by the University of Denver. The tax study will be funded by private dollars.

Additionally, **House Bill 10-1429**, which was lost in the House, would have required the Joint Finance Committee of the legislature to conduct annual meetings to review certain state tax benefits and to determine whether they should be continued, repealed, or modified. The state tax benefits that would have been reviewed included credits against and exemptions from the state severance tax, gasoline and special fuel tax, alcohol beverage tax, sales and use tax, and income tax. Beginning in 2011, the tax benefits would have been reviewed over a ten-year period.