OFFICE OF STATE PLANNING AND BUDGETING

Tax Exemption Proposal
January 27, 2010

Todd Saliman
Executive Director

FY 2009-10 Additional Revisions to Colorado Tax Exemptions

Proposal:
The State's General Fund budget shortfall has continued to worsen since the last balancing plan involving tax exemptions and credits was put forth. The Governor is therefore proposing new changes to Colorado tax exemptions. The Governor's plan, like his previous submission, provides a balanced approach to Colorado's tax exemptions. The Governor's plan implements eight of the previously proposed adjustments to tax exemptions to start March 1, 2010 instead of July 1, 2010. This change will provide approximately $18.8 million General Fund toward closing the FY 2009-10 budgetary shortfall. Additionally, this proposal includes changes to fiscal impact estimates for the exemption to limit net operating losses to $250,000, taxation of software, and elimination of the alternative minimum tax credit, which were included in the November 6 budget proposal. Estimates associated with this plan are provided in Attachment A.

Summary of Request:

Direct Mail Advertising: 39-26-102(15), C.R.S. (2009): $290,000

- Cooperative direct mail advertisers currently do not have to pay sales or use tax on any materials that are sent in the mail. Normally, materials used for advertising would attract use tax on those materials from the advertisers using them. This proposal would eliminate the exemption for direct mail advertising materials, effective March 1, 2010. The estimated FY 2009-10 impact from this exemption is $290,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Industrial and Manufacturing Energy Use: 39-26-102, C.R.S. (2009): $9,600,000

- Currently, sales and purchases of all energy sources used in industrial or manufacturing services are exempt from taxation. Approximately 35 other states tax energy used in industrial or manufacturing processes. Nearly all of these states have tax rates above Colorado's sales tax rate of 2.9 percent. This proposal would suspend the exemption for energy used in manufacturing and industrial uses for two years and four months, effective March 1, 2010. The estimated FY 2009-10 impact from this exemption is $9,600,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Non-Essential Food Containers: 39-26-707 (1) (c) and (d), C.R.S. (2009): $420,000

- Currently, any article sold to or purchased by a retailer or vendor of food, meals or beverages that is passed along to the consumer for use is not taxable. This includes cartons, bags, napkins, condiments, and plastic ware at restaurants. Effective March 1, 2010, this proposal would eliminate this exemption for most purchases by restaurants except for containers that are essential for food service, such as cups for drinks or bowls for chili or salads. The estimated FY 2009-10 impact from this exemption is $420,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Candy and Soft Drinks: 39-26-707 (1) (e), C.R.S. (2009): $3,580,000

- Enacted in 1980, all food sales in Colorado that are intended for home consumption are exempt from sales tax. The only exemptions to this rule pertain to carbonated water, chewing gum, prepared salads, cold sandwiches, deli trays and hot or cold beverages served uncovered from vending machines. This proposal seeks to redefine the list of exemptions, to remove the exemption on both candy and soft drinks purchased for home consumption, regardless of where the item is purchased, and would become effective March 1, 2010. The estimated FY 2009-10 impact is $3,580,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Agricultural Compounds and Bull Semen: 39-26-716 (2) (d), C.R.S. (2009): $300,000

- Enacted in 1999, agricultural compounds such as insecticides, fungicides, vaccines, hormones, animal drugs, and similar compounds administered to, or otherwise used in caring for livestock are exempt from taxation. The sales and purchases of bull semen for agricultural or ranching purposes have also been exempt. This proposal seeks to suspend the exemption of these agricultural compounds and bull semen for three years and four months, effective March 1, 2010. The estimated FY 2009-10 impact is $300,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Pesticides: 39-26-716 (2) (e), C.R.S. (2009): $580,000

- Enacted in 1999, all sales and purchases of pesticides that are registered by the Commissioner of Agriculture for use in the production of agricultural and livestock products pursuant to the Pesticide Act under Article 9 of Title 35 are exempt from taxation. This proposal seeks to suspend the exemption of these pesticides for three years and four months, effective March 1, 2010. The estimated FY 2009-10 impact is $580,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

***Software Exemption: 39-26-102 (15), C.R.S. (2009)*: $3,000,000**

- The Department of Revenue promulgated a series of regulations concerning software. The most recent regulation, promulgated in 2006 under the prior administration, substantially narrows what is considered taxable software. The 2006 regulation defines software as taxable only if: 1) it is packaged for repeated sale, 2) it is subject to a non-negotiable, tear open license agreement, and 3) it is delivered by way of a tangible medium. This proposal would clarify the definition of tangible personal property in 39-26-102 (15), C.R.S. (2009) to limit the vast number of exemptions allowed, effective March 1, 2010. The estimated FY 2009-10 impact is $3,000,000 General Fund.
- This proposal also revises the fiscal impact estimates for eliminating the exemption for software purchases. The revised estimated impact for FY 2010-11 and FY 2011-12 is $20,000,000 in each fiscal year. Estimates have been revised to reflect the incorporation of U.S. Department of Commerce Bureau of Economic Analysis software consumption data that has enhanced the Department of Revenue's analysis.

Sales Tax Collections for Online Purchases: No specific statute – sales tax nexus requirement contained in 39-26-102(3), C.R.S. (2009) – definition of "Doing business in this state.": $1,000,000

- The State of New York recently enacted a statute to specify that any vendor that is making sales into the state and is also utilizing affiliates in the state to advertise or otherwise solicit business for the vendor must collect the State's sales tax. This proposal would enact a similar policy in Colorado. The estimated FY 2009-10 impact is $1,000,000 General Fund. Fiscal impact estimates for FY 2010-11 and FY 2011-12 are unchanged.

Alternative Fuel Vehicle Credits

- This proposal revises the FY 2011-12 fiscal impact estimate related to the change to alternative fuel vehicle credit eligibility. The Governor's proposal to revise alternative fuel vehicle credits would eliminate category seven vehicles from the group of vehicles eligible for a credit of up to $6,000. Previous estimates included an estimated impact for calendar year 2012, however the credit is only available in calendar years 2010 and 2011, per HB 09-1331. Therefore, the estimated impact for FY 2011-12 has been reduced to $1,250,000.

Alternative Minimum Tax and Tax Credit

- This balancing proposal also revises the fiscal impact estimates for eliminating the alternative minimum tax and tax credit: the revised estimated impact for FY 2010-11 is $0 and the revised estimated impact for FY 2011-12 is also $0. Further analysis by the Department of Revenue has revealed that the credit claimed is nearly equal to the amount of tax paid, which is reflected by the revised estimates.
- The alternative minimum tax was originally intended to prevent high income and wealthy individuals from using tax law loopholes to avoid paying taxes. However, over time the impact of this policy has changed and it now affects taxpayers who don't have very high income or don't claim significant tax deductions. This proposal will streamline Colorado's tax system and repeal a tax that is widely considered to be unfair, needlessly complex, and antiquated.

Limiting Net Operating Loss to $250,000

- This proposal revises the fiscal impact estimates for limiting net operating losses to $250,000 per year: the revised estimated impact for FY 2010-11 is $8,250,000 and the revised estimated impact for FY 2011-12 is $16,500,000. This revision is the result of updated calculations since the previous publication

January 27, 2010 Tax Exemption Proposal
Attachment A

	Exemption / Credit Considered	Summary of Current Law and Proposal	Current Proposal: FY 2009-10 Fiscal Impact	Nov. 6 Proposal: FY 2010-11 Fiscal Impact	Revised FY 2010-11 Fiscal Impact	Nov. 6 Proposal: FY 2011-12 Fiscal Impact	Revised FY 2011-12 Fiscal Impact	Statutory Citation	Implementation Date	Duration of Proposal
1	Eliminate Exemption for Direct Mail Advertising	Current law allows for sales and use tax exemptions for all materials used by cooperative direct mail advertisers generating discount coupons, advertising leaflets, preprinted newspaper supplements, or other printed documents. This proposal would eliminate the exemption.	$290,000	$1,450,000	$1,450,000	$1,450,000	$1,450,000	39-26-102 (15)	3/1/2010	Ongoing
2	Suspend Exemption for Industrial and Manufacturing Energy Use	Current law allows for an exemption on all sales and purchases of energy used in industrial or manufacturing services in Colorado. This proposal would suspend this exemption for two years and four months.	$9,600,000	$48,000,000	$48,000,000	$48,000,000	$48,000,000	39-26-102 (21)	3/1/2010	Two Years and Four Months
3	Eliminate Exemption for Non-Essential Food Containers	Current law allows for the purchase of materials used by food or meal vendors to be exempt from sales tax if those materials are sold at the time of food or beverage purchase without a separate charge to the consumer. This proposal would make taxable non-essential items, such as: cartons, napkins, bags, condiments, and plasticware at restaurants.	$420,000	$2,100,000	$2,100,000	$2,100,000	$2,100,000	39-26-707 (1) (c) and (d)	3/1/2010	Ongoing
4	Eliminate Exemption for Candy and Soft Drinks	Current law allows for an exemption on sales tax for nearly all food sold at grocery stores. This proposal would modify the existing definition of taxable food items to exclude candy and soft drinks that are non-essential, less-healthy food choices.	$3,580,000	$17,900,000	$17,900,000	$17,900,000	$17,900,000	39-26-707 (1) (e)	3/1/2010	Ongoing
5	Eliminate Exemption for Agriculturial Compounds and Bull Semen	Current law allows for insecticides, fungicides, vaccines, hormones, and other animal drugs used in caring for livestock to be exempt from taxation. Likewise, all sales and purchases of bull semen for agricultural or ranching purposes are exempt. This proposal would suspend these sales tax exemptions for three years and four months.	$300,000	$1,500,000	$1,500,000	$1,500,000	$1,500,000	39-26-716 (2) (d)	3/1/2010	Three Years and Four Months
6	Eliminate Exemption for Pesticides	Current law allows for all pesticides that fall under the Pesticide Act under Article 9 of Title 35 to be exempt from sales tax. This proposal would suspend this exemption for three years and four months.	$580,000	$2,900,000	$2,900,000	$2,900,000	$2,900,000	39-26-716 (2) (e)	3/1/2010	Three Years and Four Months
7	Limit Corporate Enterprise Zone Investment Tax Credit to $250,000	Current law allows for any depreciable equipment purchased and used within an enterprise zone to be eligible for a 3% tax credit. This proposal would limit the amount of investment tax credits per taxpayer to $250,000 per year, for three years, beginning January 1, 2011.	No Impact	$4,450,000	$4,450,000	$8,900,000	$8,900,000	39-30-104	1/1/2011	Three years
8	Revise Alternative Fuel Vehicle Credits	Effective January 1, 2010, taxpayers can receive a tax credit up to $6,000 per year for certain alternative fuel vehicles ($7,500 per year for plug-in hybrids). This proposal would limit which vehicles would be eligible for this credit - to no longer include vehicles with miles per gallon (mpg) rates between 30 and 40 mpg.	No Impact	$1,250,000	$1,250,000	$2,500,000	$1,250,000	39-22-516	1/1/2011	Ongoing

January 27, 2010 Tax Exemption Proposal
Attachment A

	Exemption / Credit Considered	Summary of Current Law and Proposal	Current Proposal: FY 2009-10 Fiscal Impact	Nov. 6 Proposal: FY 2010-11 Fiscal Impact	Revised FY 2010-11 Fiscal Impact	Nov. 6 Proposal: FY 2011-12 Fiscal Impact	Revised FY 2011-12 Fiscal Impact	Statutory Citation	Implementation Date	Duration of Proposal
9	Limit Gross Conservation Easement Credits	Current law allows for taxpayers to receive an income tax credit for conservation easements on property, equal to 50% of the value of the easement, not to exceed $375,000. This proposal would reduce the maximum per credit to not exceed $135,000 for three years.	No Impact	$13,000,000	$13,000,000	$26,000,000	$26,000,000	39-22-522	1/1/2011	Three Years
10	Elimination of Alternative Minimum Tax and Tax Credit	Current law in Colorado on taxable income mirrors the federal definition of taxable income. This also applies to the federal allowance for alternative minimum tax and the alternative minimum tax credit. This proposal would repeal the alternative minimum tax and tax credit in Colorado.	No Impact	$2,500,000	$0	$5,000,000	$0	39-22-105	1/1/2011	Ongoing
11	Eliminate Software Exemption	Current regulations promulgated by the Department of Revenue allow for an exemption for software purchases so long as: 1) it is not packaged for repeat sale, 2) it is not subject to a non-negotiable, tear open license agreement, and 3) it is not delivered on a disc or other tangible medium. This proposal seeks to redefine the regulations followed by the Department (specifically related to the definition of tangible personal property), to limit the vast number of exemptions currently allowed by these regulations.	$3,000,000	$15,000,000	$20,000,000	$15,000,000	$20,000,000	39-26-102 (15)	3/1/2010	Ongoing
12	Enforce Sales Tax Collections for Online Purchases	Current law does not specifically enforce the collection of state sales tax on many internet purchases. This proposal would seek to enforce such tax collection responsibility associated with certain vendors who maintain certain in-state relationships that help the vendor to establish and maintain their Colorado market. This proposal would also expand the Department of Revenue's authority to obtain sales data from out-of-state vendors selling into Colorado who do not collect the Colorado sales tax.	$1,000,000	$5,000,000	$5,000,000	$5,000,000	$5,000,000	39-26-102	3/1/2010	Ongoing
13	Limit Net Operating Loss to $250,000	Current law allows for corporations that incur a loss in a given tax year to carry that loss forward to offset income in a future year, allowing corporations to get "back to zero" net income before paying income taxes. This proposal would temporarily limit the amount of net operating loss to be carried forward and applied against income to $250,000, for each of the next three years. The net operation loss period would also be extended for three years, to coincide with the years that corporations would be limited by this cap.	No Impact	$16,750,000	$8,250,000	$33,500,000	$16,500,000	39-22-504	1/1/2011	Three Years
	Total Impact of All Exemption and Credit Revisions:		**$18,770,000**	**$131,800,000**	**$125,800,000**	**$169,750,000**	**$151,500,000**			

OFFICE OF STATE PLANNING AND BUDGETING

Budget Reduction Proposal
January 27, 2010

Todd Saliman
Executive Director

Cash Fund Transfer – Higher Education Maintenance and Reserve Fund

Proposal:

This proposal requests to transfer balance from the Higher Education Federal Mineral Lease Maintenance and Reserve Fund in the amount of $4,326,389 in FY 2009-10, under the authority of 23-19.9-102 C.R.S. (2009). This balance typically is used to generate interest, so that the interest can be used to fund controlled maintenance projects for institutions of higher education. However, current law also allows a transfer of the balance of the funds when the Legislative Council forecast indicates that there is not enough General Fund revenue to maintain a 4% reserve. As required by the statute, OSPB has applied the Federal Mineral Lease forecast from Legislative Council from December 18, 2009, rather than utilizing the OSPB forecast.

Assumptions and Tables to Show Calculations:

	FML Bonus Revenues: Legislative Council Forecast December 2009	**Higher Education Maintenance and Reserve Fund**	**Local Government Permanent Reserve Fund**
		50.00%	50.00%
FY 2009-10	$8,483,115	$4,241,558	$4,241,558
FY 2010-11	$12,391,036	$6,195,518	$6,195,518
FY 2011-12	$14,982,312	$7,491,156	$7,491,156

Higher Education Federal Mineral Lease Maintenance and Reserve Fund Projection December 2009 – OSPB Revised Using Legislative Council FML Bonus Revenues Forecast			
Fiscal Year	**Spillover Projection**	**Interest**	**Accruing Total**
FY 2009-10	$4,241,558	$84,831	$4,326,389
FY 2010-11	$6,195,518	$123,910	$6,319,428
FY 2011-12	$7,491,156	$168,551	$7,659,707

OSPB is requesting transfers as follows:

	Higher Education Federal Mineral Lease Maintenance and Reserve Fund
FY 2009-10 Transfer	$4,326,389
FY 2010-11 Transfer	$6,319,428

Current Statutory Authority or Needed Statutory Change:

Current statutory authority allows the General Assembly to make this transfer, since the most recent legislative council quarterly revenue estimate indicates that the amount of total General Fund revenues for will not be sufficient to allow the state to maintain the four percent reserve. Doing so will prevent a reduction to state-supported institutions of higher education.

23-19.9-102. Higher education federal mineral lease revenues fund - higher education maintenance and reserve fund - creation - sources of revenues - use.

(1) (a) The higher education federal mineral lease revenues fund is hereby created in the state treasury. For the 2008-09 fiscal year and for each succeeding fiscal year, the lesser of the first fifty million dollars of the total amount of moneys required to be transferred to the revenues fund and the maintenance and reserve fund pursuant to section 34-63-102 (5.5), C.R.S., or all of such moneys shall be transferred to the revenues fund and the remainder of such moneys shall be transferred to the maintenance and reserve fund. Interest and income derived from the deposit and investment of the revenues fund shall remain in the revenues fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year. The state treasurer may invest the revenues fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(2) (a) The higher education maintenance and reserve fund is hereby created in the state treasury. The principal of the maintenance and reserve fund shall consist of moneys transferred to the maintenance and reserve fund pursuant to section 34-63-102 (5.3) (a) (II), C.R.S. Except as otherwise provided in paragraph (b) of this subsection (2), the principal of the maintenance and reserve fund shall remain in the fund and shall not be expended for any purpose. The general assembly may annually appropriate interest and income derived from the deposit and investment of moneys in the maintenance and reserve fund for controlled maintenance projects for the system of public higher education that are selected through the process set forth in sections 24-30-1303 (1) (k.5) and 2-3-1304 (1) (b), C.R.S. The state treasurer may invest the maintenance and reserve fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(b) (I) If the amount of moneys in the revenues fund will be insufficient to cover the full amount of the payments due to be made under lease-purchase agreements authorized pursuant to section 23-1-106.3 (3), the general assembly may transfer from the principal of the maintenance and reserve fund or from any other sources to the revenues fund sufficient moneys to make the payments.

(II) If, at any time during a fiscal year, the most recent available quarterly revenue estimate prepared by the staff of the legislative council indicates that the amount of total general fund revenues for the fiscal year will not be sufficient to allow the state to maintain the four percent or higher reserve required by section 24-75-201.1 (1), C.R.S., the general assembly may make supplemental appropriations of principal of the maintenance and reserve fund or the state controller may allow overexpenditures to be made from principal of the maintenance and reserve fund pursuant to and in accordance with the requirements of section 24-75-111, C.R.S., in order to offset any reduction in the amount of one or more general fund appropriations for the fiscal year for operating expenses of state-supported institutions of higher education that resulted from the insufficiency in the amount of total general fund revenues.

TREASURER'S OFFICE

Budget Reduction Proposal
January 27, 2010

Cary Kennedy
Treasurer

Savings from Refinance Certificates of Participation – Anschutz Medical Campus

Proposal:

In 2005, the State issued certificates of participation (COPs) to fund construction on the Colorado University's Anschutz medical campus. On December 1, 2009, the Office of State Planning and Budgeting submitted a fact sheet that utilized savings from refinancing of certificates of participation for Colorado State Penitentiary II and from Higher Education Federal Mineral Lease to balance the FY 2009-10 and FY 2010-11 budgets. At the time, there were hopes that the Anschutz medical campus could also be refinance, but it was not included in the December 1 fact sheet. This proposal seeks to use savings from the refinance of the Anschutz medical campus COPs to increase General Fund. The refunding of the Anschutz Medical Center (UCDHSC Fitzsimons Academic Projects) certificates of participation, Series 2009 was complete on December 9, 2009.

Summary of Request:

- Tax exempt bonds can be refinanced (or "refunded") to take advantage of market conditions and create savings to the issuer one time in advance of their typical 10 year call date.
- The refinancing was conducted to take advantage of current historic lows for interest rates in order to generate cash flow savings for the State. The refinancing ensured that the sum of annual payments under the refinanced COPs would not exceed the current sum schedule of payments. However, in order to maximize the advantages of refinancing at the earliest opportunity possible fiscal year(s), some increase to the annual payment amount in the out years (still within statutory constraints) was required.
- Concentration of savings in the earliest possible fiscal years is mostly accomplished through deferral of the principal component of payment. All COPs have semi-annual payment schedules, with the series for Anschutz making payments on May 1 and November 1 (principal payment in November).
- The savings in FY 2010-11 are achieved by adjusting the projected General Fund transfer need for the Capital Construction Fund within the Office of State Planning and Budgeting's quarterly forecast. The FY 2010-11 savings from the Anschutz medical campus refinancing were already incorporated into the December 18, 2009 forecast, and will continue into future forecasts. Therefore, this fact sheet only addresses the savings from the impact to FY 2009-10.
- On December 1, 2009, the Office of State Planning and Budgeting and the Colorado Department of Higher Education submitted a request to deappropriate Capital Construction Funds in the amount of $5,142,063 from the Capital Construction line item on page 236 of SB 09-259 titled "Lease Purchase of Academic Facilities at Fitzsimons." This same amount was requested to be transferred to the General Fund. This action was made possible by the availability of fund balance in the Fitzsimons Trust Fund. However, that request did not reduce to the total amount needed for annual payments for the certificates of participation.
- In order to accomplish this additional savings in FY 2009-10, the Office of State Planning and Budgeting is requesting:

a. A deappropriation of $4,196,981 Cash Funds from the Capital Construction line item on page 236 of SB 09-259 titled "Lease Purchase of Academic Facilities at Fitzsimons." These Cash Funds are no longer needed since the annual payment for FY 2009-10 has been reduced. Please see the attached CC-B form.

b. A bill to transfer $4,196,981 from the Fitzsimons Trust Fund into the General Fund.

Assumptions and Tables to Show Calculations:

Please see the table on the following page for an updated schedule of payments. This is the same table provided in the Office of State Planning and Budgeting December 18, 2009 capital construction forecast.

State of Colorado Refunding UCDHSC Fitzsimons Academic Projects Certificates of Participation, Series 2009

Year	Fiscal Year	[A] Original Total Base Rentals	[B] Savings	[C] = [A] - [B] Total Base Rentals	[D] = Less Cash Funds from Tobacco Master Settlement	[E] = [C] - [D] General Fund Transfer Need
1	FY 2009-10	$13,142,063	$4,196,981	$8,945,082	$8,000,000	$945,082
2	FY 2010-11	$13,143,213	$3,448,537	$9,694,676	$8,000,000	$1,694,676
3	FY 2011-12	$13,144,713	$363	$13,144,350	$8,000,000	$5,144,350
4	FY 2012-13	$13,141,563	($1,505,238)	$14,646,800	$8,000,000	$6,646,800
5	FY 2013-14	$13,143,650	($1,504,288)	$14,647,938	$8,000,000	$6,647,938
6	FY 2014-15	$13,142,888	($1,506,013)	$14,648,900	$8,000,000	$6,648,900
7	FY 2015-16	$13,143,038	($1,505,063)	$14,648,100	$8,000,000	$6,648,100
8	FY 2016-17	$13,145,388	($1,500,688)	$14,646,075	$8,000,000	$6,646,075
9	FY 2017-18	$13,141,838	($1,507,875)	$14,649,713	$8,000,000	$6,649,713
10	FY 2018-19	$13,143,213	($1,504,913)	$14,648,125	$8,000,000	$6,648,125
11	FY 2019-20	$13,141,963	($1,505,413)	$14,647,375	$8,000,000	$6,647,375
12	FY 2020-21	$13,142,213	($1,506,788)	$14,649,000	$8,000,000	$6,649,000
13	FY 2021-22	$13,142,963	($1,503,913)	$14,646,875	$8,000,000	$6,646,875
14	FY 2022-23	$13,143,213	($1,506,538)	$14,649,750	$8,000,000	$6,649,750
15	FY 2023-24	$13,141,963	($1,338,663)	$14,480,625	$8,000,000	$6,480,625
16	FY 2024-25	$13,145,806	$526,838	$12,618,969	$8,000,000	$4,618,969
17	FY 2025-26	$13,142,356	$10,298,419	$2,843,938	$2,843,938	$0
18	FY 2026-27	$13,143,594	$0	$13,143,594	$8,000,000	$5,143,594
19	FY 2027-28	$13,142,375	$0	$13,142,375	$8,000,000	$5,142,375
20	FY 2028-29	$13,146,375	$0	$13,146,375	$8,000,000	$5,146,375
21	FY 2029-30	$13,146,250	$0	$13,146,250	$8,000,000	$5,146,250
22	FY 2030-31	$13,145,625	$0	$13,145,625	$8,000,000	$5,145,625
		$289,156,257	$575,749	$288,580,508	$170,843,938	$117,736,570

All the numbers are net of cost of issuance and represent the lowest end of all estimates received.

Current Statutory Authority or Needed Statutory Change:

The University of Colorado has authority within existing statute to refinance the certificates of participation. Budget actions in appropriations bills can reconcile current budgets to actuals. However, the following statutory language will need to be revised to allow funds in the Fitzsimons Trust Fund to be transferred back to the General Fund.

23-20-136. Fitzsimons trust fund - creation - legislative declaration - repeal.

(3) (a) There is hereby created in the state treasury the university of Colorado health sciences center at Fitzsimons trust fund, referred to in this section as the "Fitzsimons trust fund", the principal of which shall consist of those general fund revenues that may be transferred to the capital construction fund as provided in section 24-75-302 (2), C.R.S., and then appropriated from the capital construction fund to the Fitzsimons trust fund and of moneys appropriated to the Fitzsimons trust fund from the capital construction fund pursuant to subsection (3.5) of this section. The principal and interest of the Fitzsimons trust fund shall not be expended or appropriated for any purpose other than that stated in subsection (5) of this section. The state treasurer may, in the state treasurer's discretion, deposit, redeposit, invest, and reinvest moneys accrued or accruing to the Fitzsimons trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(3.5) (a) For the 2006-07 fiscal year and for each fiscal year thereafter in which the state receives moneys pursuant to the master settlement agreement, and in which money is due to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly, the state treasurer shall transfer to the capital construction fund and the state controller shall transfer from the capital construction fund to the Fitzsimons trust fund the lesser of the amount due to any lessor during the fiscal year or, except as otherwise provided in section 24-75-1104.5 (5), C.R.S., eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount transferred pursuant to this subsection (3.5) in any fiscal year shall not exceed eight million dollars.

(5) Moneys in the Fitzsimons trust fund may be appropriated to pay for capital construction projects for the university of Colorado health sciences center at the former Fitzsimons Army base that have received the prior approval of the board of regents of the university of Colorado, the Colorado commission on higher education, the capital development committee, the general assembly, and the joint budget committee or for lease payments on any lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly.

HOUSE BILL 03-1256
SECTION 3. Lease-purchase agreement - university of Colorado health sciences center. *(1) (a) The state of Colorado, acting by and through the board of regents of the university of Colorado, is authorized to execute lease-purchase agreements for up to twenty-five years to finance the construction of academic facilities for the university of Colorado health sciences center at the former Fitzsimons army base. The total amount of said lease-purchase agreements shall not exceed two hundred two million eight hundred seventy-six thousand one hundred nine dollars ($202,876,109), plus reasonable and necessary administrative, monitoring, and closing costs and interest. The annual aggregate rentals under all lease-purchase agreements authorized by this section shall not exceed fifteen million one hundred thousand dollars ($15,100,000).*

(b) The academic facilities for which lease-purchase agreements are authorized by paragraph (a) of this subsection (1) include the following:
(I) Education facility IB;
(II) Education facility II;
(III) Library at Fitzsimons;

(IV) Academic office complex;
(V) Environmental health and safety II;
(VI) Facility support; and
(VII) Education bridge.

(c) Enactment of this act shall satisfy the requirements of sections 24-82-102 (1) (b) and 24-82-801, Colorado Revised Statutes, which require authorization of a lease-purchase agreement by a bill other than an annual general appropriations bill or a supplemental appropriations bill. (2) (a) The state of Colorado, acting by and through the regents of the university of Colorado, may, at the regents' sole discretion, enter into one or more lease-purchase agreements authorized by subsection (1) of this section with any for-profit or nonprofit corporation, or commercial bank as a trustee, as lessor, including but not limited to the nonprofit corporation created pursuant to section 24-82-703, Colorado Revised Statutes, or the Colorado educational and cultural facilities authority created pursuant to section 23-15-104, Colorado Revised Statutes.

(d) The lease-purchase agreements authorized in subsection (1) of this section may provide for the issuance, distribution, and sale of instruments by the lessor evidencing rights to receive rentals and other payments made and to be made under the lease-purchase agreements. In the event such instruments are issued, distributed, or sold, they shall be issued, distributed, or sold by the lessor, or any person designated by the lessor, and not by the state and shall not create a relationship between the purchasers of such instruments and the state or create any obligation on the part of the state to said purchasers. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the Colorado constitution or the law of the state concerning or limiting the creation of indebtedness of the state and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the Colorado constitution.

OFFICE OF STATE PLANNING AND BUDGETING

Expenditure Estimate Revision
January 27, 2010

Todd Saliman
Director, OSPB

Revision to Estimated FY 2009-10 Interest Payments for School Loans

Proposal:
In order to address timing differences between revenue collections and expenditures, which can cause many Colorado school districts to incur annual cash flow deficits, the Colorado Department of the Treasury administers the State of Colorado Education Loan Program. Pursuant to 29-15-112 and 22-54-110, C.R.S. (2009), the State Treasurer is authorized to issue short term debt in order to make interest-free loans to participating Colorado school districts. Participating districts are required to adopt a resolution pledging repayment from property tax revenues and must provide to the Treasurer a promissory note to verify the repayment obligation. The State must receive payment on all outstanding loans by June 25.

The Treasurer issues two series of Education Tax and Revenue Anticipation Notes (ETRAN) each fiscal year to finance the School Loan Program. On July 22, 2009, the Treasury issued $255 million in notes (Series 2009A) on behalf of the State of Colorado Education Loan Program to meet cash flow shortages experienced by local school districts. On January 14, 2010, the Treasury issued an additional $260 million in notes (Series 2010A) for this program. Series 2009A were issued at a premium of $3,468,150; and the interest on them is $4,961,111. Series 2010A were issued at a premium of $1,874,600; and the interest on them is $2,253,333. All of these notes mature on August 12, 2010, and by statute the interest is payable from the General Fund.

Summary of Request:
- Three main factors contribute to volatility in estimating interest payments on school loans: interest rates, premium payments, and the amount of notes issued. Premium payments from bond purchasers offset some of the interest payments on school loans made from the General Fund. The second ETRAN issuance occurred on January 14, 2010, and premium payments and the total amount of bonds sold are now known. Therefore, the OSPB has revised estimates of FY 2009-10 interest payments on school loans.

Assumptions and Tables to Show Calculations:
- Revised estimates incorporate interest and premium payment figures associated with the July 22, 2009 issuance of ETRAN Series 2009A and the January 14, 2010 issuance of ETRAN Series 2010A.

Summary of Revised Estimate

FY 2009-10 Estimated Interest Payments on School Loans	
ETRAN Series 2009A Premium*	($3,468,150)
ETRAN Series 2009A Interest	$4,961,111
ETRAN Series 2010A Premium*	($1,874,600)
ETRAN Series 2010A Interest	$2,253,333
Estimated Cost of Issuance	$250,000
Revised December 18, 2009 OSPB Estimate	**$2,121,694**
December 18, 2009 OSPB Estimate	$5,211,153
Difference Between Estimates	*$3,089,459*

**Premium payments paid by investors offset the interest payments that must be made by the state.*