Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee
From: Amanda Bickel, JBC Staff (303) 866-4960 or (303) 246-6874
Date: Tuesday, August 5, 2025
Subject: Addressing General Fund Revenue Shortfalls

Current Budget Situation

***Impact of federal HR 1*:** Legislative Council Staff (LCS) and the Governor's Office of State Planning and Budgeting (OSPB) released analyses of federal H.R. 1 (The One Big Beautiful Bill Act or OBBA) on July 30, 2025. Their revised forecast documents project that gross state General Fund revenue for FY 2025-26 will fall below the March 2025 forecast used to set the FY 2025-26 budget and below the June forecasts for both agencies. The LCS analysis reflects a $745.2 million (4.2 percent) downward revision to General Fund revenue below the LCS's June forecast for FY 2025-26 and anticipates that the year will end with a 10.6 percent General Fund reserve, even after various tax credits are triggered off. OSPB estimates a state revenue decline of approximately $1.2 billion in FY 2025-26 and $700 million per year in subsequent years. OSPB projects a $954.9 million FY 2025-26 deficit and anticipates that the year will end with a 9.0 percent General Fund reserve.

Role of the Governor and General Assembly in Addressing Sudden Revenue Declines: In previous downturns, addressing shortfalls has required involvement of both the General Assembly in regular and special session and governors, who have used executive orders to act more quickly. Several statutory provisions either require or allow the Governor to take action to respond to revenue shortfalls. The ones most commonly referenced include:

Section 24-75-201.5, C.R.S.

> (a) Whenever the revenue estimate for the current fiscal year, prepared in accordance with section 24-75-201.3 (2), indicates that general fund expenditures for such fiscal year based on appropriations then in effect will result in the use of one-half or more of the reserve required by section 24-75-201.1 (1)(d), the governor shall formulate a plan for reducing such general fund expenditures so that said reserve, as of the close of the fiscal year, will be at least one-half of the amount required by said section 24-75-201.1 (1)(d). The governor shall promptly notify the general assembly of the plan. The plan shall be promptly implemented by the governor, using the procedures set forth in section 24-2-102 (4) or 24-50-109.5 or any other lawful means.

Section 24-2-102, C.R.S.

> (4) If, during any fiscal period, there are not sufficient revenues available for expenditure during such period to carry on the functions of the state government and to support its agencies and institutions and such fact is made to appear to the governor, in the exercise of his discretion, by executive order, he may suspend or discontinue, in whole or in part, the functions or services of any department, board, bureau,

> or agency of the state government; except that the authority of the governor to restrict the expenditure of moneys appropriated from the capital construction fund shall be determined by the provisions of section 24-75-201.5. Such discontinuance or suspension shall become effective upon the first day of the calendar month following the entry of such executive order and shall continue for such period of time, not to exceed three months, as shall be determined by such executive order. If, during any such period of time, it again appears to the governor that such deficiency of revenues still persists, from time to time, he may extend the operation of such executive order for a like period of time not to exceed three months; but the state shall not be liable for the payment of any claim for salaries or expenses purporting to have accrued against any such department, board, bureau, or agency during any such period of suspension, and the controller shall not issue nor may the state treasurer honor any warrant therefor. Elective officers shall not be subject to the provisions of this article, parts 2 and 11 of article 30, and articles 31, 35, 36, and 101 to 111 of this title.

These and related statutes[1] will be discussed in a separate presentation from the Office of Legislative Legal Services.

In general, JBC Staff believes that it is prudent to make cuts sooner rather than later, so that money is not expended that cannot be recaptured. This likely necessitates some actions by the Governor's Office before the General Assembly is in session. However, given the General Assembly's general powers of appropriation, as well as the authority it retains to make or change law, the General Assembly should be informed and engaged as much as possible before any executive budget balancing plan is finalized and implemented.

Timing of Executive and Legislative Action: Staff presumes that the Executive Branch is in the process of considering options for addressing the shortfalls described in the July 30 LCS and OSPB analyses of the OBBA. Members of the JBC have already been notified of a pause on some controlled maintenance spending pending further review by the Executive Branch. How any changes will be addressed mechanically—via legislative and/or executive action—is not yet clear. At least in recent decades, the General Assembly has not attempted to enact substantial budget re-writes outside of the regular legislative session. It has, however, engaged with prior governors during the interim about budget reduction plans.

Statutory Requirement for Governor Plan for Reductions*:* In 2002, 2003, 2009, and 2010, governors relied heavily on Section 24-2-102(4), C.R.S., as the basis for executive orders that restricted spending on programs separate from any reductions specifically enacted by the General Assembly. In recent decades, governors have relied less on Section 24-75-201.5, C.R.S.,

[1] In addition to provisions outlined above, note Section 24-50-109.5, C.R.S., which authorizes certain personal services reductions when the General Assembly has declared a fiscal emergency by joint resolution, and other subsections of 24-75-201.5. This includes a provisions which allows the Governor to transfer funds from the Capital Construction Fund to the General Fund when the reserve declines by 1.0 percent of appropriations, a provision specifying that the Governor may consult with the Colorado Commission on Higher Education related to higher education reductions, and a provision added in S.B. 25-310 (Concerning Proposition 130), which requires a plan when the reserve falls below $1.0 billion.

which triggers executive actions based on the status of the reserve, although this statute was referenced in a 1991 executive order.

One advantage of Section 24-75-201.5, C.R.S., from the perspective of the General Assembly, is that it **requires the submission of a plan** from the Executive Branch to the General Assembly, so that the General Assembly is kept informed and—if desired—has the opportunity to suggest changes or alternatives.

However, **this statute is *unlikely to be triggered under the current circumstance*** because (a) the General Fund reserve stands at 15 percent, and even the recent declines projected by OSPB and LCS will not reduce the reserve by 7.5 percent; and (b) the most recent presentation regarding OBBA does not qualify as a forecast prepared under Section 24-75-201.3 (2), C.R.S., which speaks specifically to the quarterly revenue forecasts prepared by OSPB on June 20, September 20, December 20, and March 20 of each year.

Recommendation

- Staff recommends that the Committee consider sponsoring legislation to modify Section 24-75-201.5, C.R.S., to:
  (a) ensure that the Executive Branch acts promptly to limit state spending in the event of a substantial rapid revenue decline; and
  (b) ensure that the JBC and GA receives information on proposed Executive Branch plans for any budget restrictions as quickly as possible.

  Specifically:
  - **Staff recommends changing the threshold at which the Governor is required to restrict spending and submit a plan**. Instead of tying this to a projection that the reserve will decline by 50 percent, **statute could specify that the provision is triggered when the revenue estimate for the current fiscal year indicates that General Fund expenditures for the year, based on appropriations then in effect, will result in the reserve falling by an amount that exceeds 2.0 or 3.0 percent of General Fund appropriations.** As noted above, OSPB and LCS currently project that the FY 2025-26 General Fund reserve will fall by 4.4 to 6.0 percent of General Fund appropriations, leaving a reserve of 9.0 percent (OSPB forecast) to 10.6 percent (LCS forecast) of General Fund appropriations in the absence of other action. However, under current law, revenue would need to decline by 7.5 percent of appropriations to trigger the statute. This is only because the current reserve is so large. Prior to 2020-21, the statutory General Fund reserve ranged from 2.0 percent to 7.25 percent.[2] Therefore a decline of 50 percent of the reserve equaled a decline in revenue equal to 2.0 to 3.0 percent of General Fund appropriations. The proposed modification would functionally restore the trigger to this earlier scale.

[2] See 24-75-201.1(1)(d), C.R.S.

  - In addition, **the General Assembly could clarify that the trigger also takes effect when there is a change to a forecast such as that first presented on July 30, 2025, i.e., the trigger is not tied *exclusively* to the quarterly revenue forecasts.**

- Staff also recommends that the JBC consider small changes to Section 24-2-102 (4), C.R.S. Specifically:
  - **Staff recommends changing the archaic reference to a "fiscal period", for which the definition is uncertain, to instead say "fiscal year"; and**
  - **adding language requiring that the General Assembly be notified of a plan to reduce expenditures pursuant to Section 24-2-102(4) before it is implemented, even if the 24-75-201.5 reserve trigger has not been met.**

  The General Assembly could also consider more substantial changes to 24-2-102(4), C.R.S., including defining more narrowly what constitutes "not sufficient revenue". Currently, the Governor has the sole authority to determine when there is "not sufficient revenue" and then respond accordingly. JBC Staff is not recommending changing this provision at this time, because specific future circumstances are hard to predict, and staff is cautious about restricting the Executive Branch's ability to respond rapidly to unanticipated fiscal challenges.

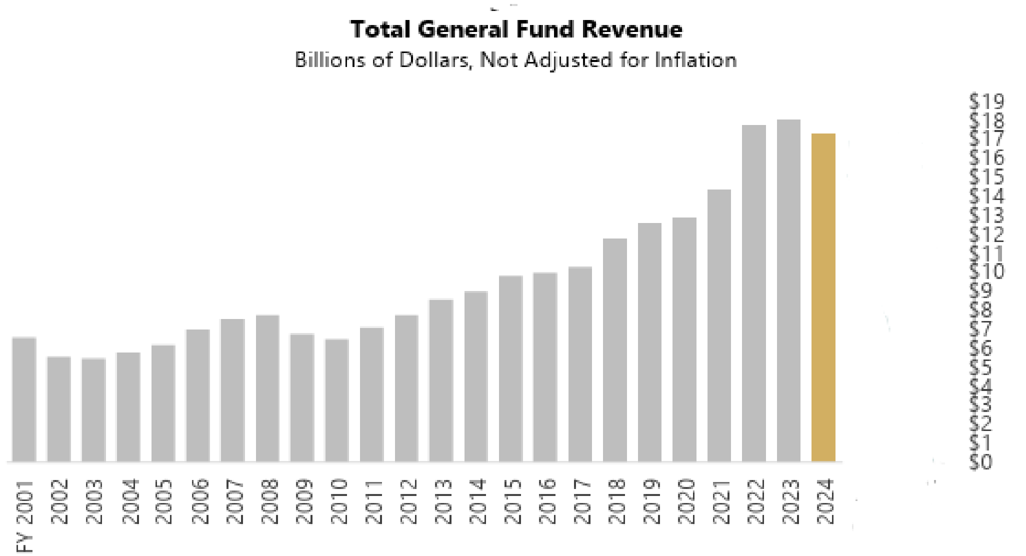
- If the General Assembly is interested in receiving a plan by a particular date in response to the July 30, 2025 forecast, statute could be amended to add a more targeted one-time provision related to FY 2025-26, assuming the General Assembly has an opportunity to do so through a special legislative session. Failing that, the JBC could send a letter to the Governor making a related request for a plan by a particular date.

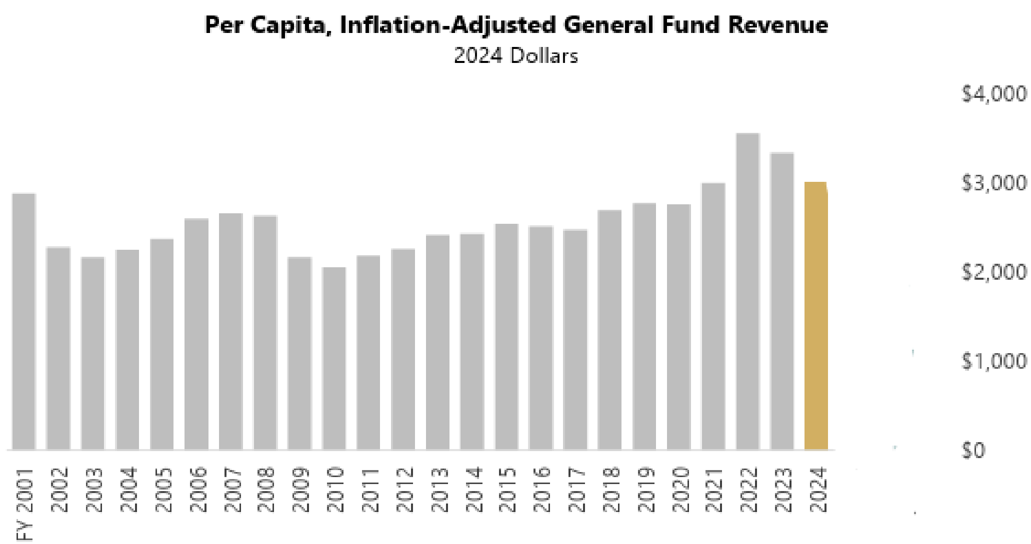
- While staff believes that the proposed statutory changes offer benefits, staff recognizes that the Governor's Office is probably *already* developing a plan for spending restrictions. Further, as discussed above, previous governors have chosen to adopt spending restrictions even if the reserve has not fallen below 50 percent, based on Section 24-2-102(4), C.R.S. and other provisions of law. Thus, staff believes the primary near-term benefit of the proposed changes are that that the JBC and General Assembly would be guaranteed to receive a plan for cuts and potentially have the opportunity to discuss them with the Governor before they are implemented.

A Little History

Given its Constitutional balanced budget requirement, Colorado has had to significantly readjust its budget downward in response to economic downturns and other economic shocks three other times so far this century—in 2001 and 2002; in 2009 and 2010; and in 2020.

The chart below, taken from a budget overview presentation last year, shows the cycle of General Fund revenue declines and increases from FY 2000-01 to FY 2023-24. Notably, while the General Assembly addressed a severe anticipated revenue decline in 2020 due to the COVID-19 pandemic, revenue ultimately did not decline in FY 2019-20.





Source: Office of the State Controller and U.S. Bureau of Labor Statistics, with Legislative Council Staff calculations, and September 2024 LCS forecast.

Source of Graphic: LCS, JBC, and LLS Staff, "Understanding the State Budget: The Big Picture", Fall 2024, Adjusted to eliminate out-year forecasts. https://leg.colorado.gov/sites/default/files/r24-1030_understanding_the_state_budget_2024-accessible.pdf

Sections below provide brief summaries and more detailed timelines for the response to two recent recessions: the recession of the early 2000s and the Great Recession that began in 2008.

2001-02 to 2003-04

Summary

The dot-com bust, the September 11, 2001 terrorist attacks, and federal tax changes contributed to significant state revenue declines beginning in 2001. Budgeted General Fund obligations were cut from $6.7 billion as originally budgeted for FY 2001-02 (March 2001) to $5.7 billion in the FY 2003-04 budget (March 2003), representing a **reduction of about $1.0 billion, or nearly 15 percent**.[3] These net cuts were required *despite* typical inflationary and caseload pressures on the budget over these three years.

The period from September 2001 to March 2003 was characterized by *ever-worsening revenue forecasts*, in which successive quarterly forecast projected less revenue available than the prior one. This resulted in multiple actions by the General Assembly and the Governor, including budget reductions imposed both via Executive Order and supplemental appropriations cuts, substantial transfers of cash funds to the General Fund, and accounting adjustments such as the "paydate shift" in which a final month of state staff pay was moved into the next fiscal year.

As reflected below, *achieving reductions involved executive orders, generally citing Section 24-2-102 (4), C.R.S., vetoes by the Governor, and multiple actions by the General Assembly to apply cuts, make funds transfers, and make other types of spending adjustments*.

Detailed Timeline

September 2001: The September 2001 Legislative Council revenue estimate indicated that General Fund revenues for FY 2001-02 would be roughly $310 million short of previous estimates.

October 2001: the Governor adds a provision to an existing special session call, enabling the General Assembly to take action during a special session to recapture over $210 million General Fund originally transferred to the Capital Construction Fund and to avoid further capital transfers.

November 2001: FY 2002-03 budget request submitted, balancing to the Governor's September forecast.

December 2001: the December LCS revenue estimate projects that revenue will be $155 million below the *September* estimate

January 2002: FY 2001-02 supplementals and FY 2002-03 revised Governor budget request, balancing to the Governor's December forecast.

[3] FY 2001-02, FY 2002-03, FY 2003-04 Joint Budget Committee Appropriations Reports.

Early 2002 Legislative Session: JBC and General Assembly adopt initial round of FY 2001-02 supplemental budget changes, including $120 million in budget reductions and $147.3 million in cash transfers to the General Fund.

March 2002 to end of Legislative Session:

FY 2001-02 Budget: LCS March revenue estimate for FY 2001-02 is $232.1 million below the *December* 2001 forecast. JBC adds additional FY 2001-02 adjustments, including stopping previously approved capital projects that were less than 25 percent expended, transferring $53.6 million in cash funds to the General Fund, and authorizing the reserve to go to zero, while enabling the Governor to transfer money from another cash fund at year end to provide a 2.0 percent reserve.

FY 2002-03 Budget: For FY 2002-03, the General Assembly adopts a 5.3 percent General Fund appropriations increase from FY 2001-02, based in part on a projected 8.7 percent rebound in gross General Fund revenue. Although multiple transfers for capital activities, as well as TABOR refunds, are suspended or not required, the enacted budget includes salary survey and performance pay increases, as well as a 1.0 percent community provider rate increase. The General Assembly also adopts H.B. 02-1445 to establish a procedure to be followed by the Governor in the event of a revenue shortfall in FY 2002-03, including implementing an expenditure reduction plan when the OSPB forecast shows that revenue will fall below a 2.0 reserve.

May/June 2002: Governor expresses objections to the scale of the FY 2002-03 enacted budget, noting that the FY 2001-02 budget was balanced primarily through $1.2 billion in cash fund transfers.

Governor *vetoes* $46 million in capital and operating appropriations from the FY 2002-03 Long Bill and informs the House, in a letter date May 31, 2002 of a requirement that executive agencies restrict 4.0 percent of their General Fund budgets.

The Governor's June 2002 forecast document indicates that the revenue forecast has continued to fall and that he has implemented a plan to reduce General Fund expenditures by $220 million, including through the 4.0 percent spending restrictions on Executive Branch departments eliminating inflationary provider increases, and freezing early-phase capital projects. An *executive order* dated June 28, 2002 cites *Section 24-2-102 (4), C.R.S.* as the basis for directing state agencies to assist in meeting the constitutional requirements of a balanced budget, including through the suspension of certain provider rates.[4]

---

[4] A July 2, 2002 memo from the Office of Legislative Legal Services to the General Assembly raises questions about whether the information provided by the Governor constitutes a sufficient "plan": "While the "June 2002 Revenue Forecast" indicates a revenue shortfall in FY 2002-03 that triggers the Governor's statutory authority to formulate and implement a budget reduction plan, it does not appear that the May 31 letter complies with the process for formulating a plan, notifying the General Assembly, and implementing a plan within the meaning of the applicable statute, if that was the Governor's intent…"

December 2002: Legislative Council Staff's December 2002 forecast projects an FY 2002-03 General Fund revenue shortfall of $809.8 million for FY 2002-03. The Governor issues another **executive order** extending the June 28, 2002, order regarding "suspension of certain contractual terms regarding provider rates due to the fact that funds are not available" for an additional 3 months.

January 2003 to end of Session:

FY 2002-03 Budget: In January the Governor submits FY 2002-03 supplemental requests The March 2003 revenue estimate for FY 2002-03 is $80.2 million lower than the December 2002 estimate. The General Assembly adopts a range of mid-year budget changes, including enacting 10.0 percent reductions on most department budgets for FY 2002-03, as well as adopting the "paydate shift", an accounting adjustment to move the final month of annual salaries for FY 2002-03 from June 30 to July 1.

The Governor also extends and enhances his previous budget reduction instructions in a March 25, 2003 executive order*:*

> "I find that the deficiency of revenues addressed in Executive Order D 031 02 persists. Without sufficient revenues available for appropriated expenditures, it is necessary to take the cost saving measure of suspending certain functions of state government. Pursuant to C.R.S. § 24-2-102(4), I direct all agencies of state government to continue to assist in meeting the constitutional requirements of a balanced budget. I authorize the suspension or discontinuation, in whole or in part, of certain functions or services of any state department, board, bureau or agency of the state government as determined necessary by the executive director of the affected principal department to comply with Article X, Section 16 of the State Constitution for fiscal year 2002-2003. This order includes the suspension of certain contractual terms regarding provider rates due to the fact that funds are not available."

FY 2003-04 Budget: Due to ongoing downward adjustments to the revenue forecast, there remained a large gap between General Assembly actions and a balanced budget in March 2023. Based on the OSPB March 2003 revenue forecast, OSPB emphasized the need for additional cuts of $452 million in FY 2003-04 to meet a 4.0 percent reserve. The Governor's Office indicated that it expected $219 million would need to be cut after capital transfers were reduced. However, the Governor's Office did not submit proposed cuts that would address all additional reductions needed, so JBC Staff presented additional options to the JBC for balancing the FY 2003-04 budget. Since most one-time funding options and technical budget maneuvers had been exhausted by that point, actual budget reductions were severe.

As of the end of the session, and based on the March 2003 forecast, General Fund Appropriations for FY 2003-04 were for an increase of just 2.3 percent. Most capital construction and controlled maintenance transfers were eliminated, except to provide a cash low emergency reserve. In addition, among other adjustments, there were large cuts to higher education ($94.1 million General Fund/13.7 percent) with related increases in tuition, closure of units at the state mental health institutes, and a wide variety of other substantive cuts.

After the 2003 legislative session: As FY 2003-04 progressed, revenue forecasts finally began to improve, and federal stimulus funds were received, ending the cycle of downward revenue and expenditure revisions.

FY 2008-09 to FY 2011-12

Summary

The collapse of the housing market in December 2007 and subsequent Great Recession contributed to significant state revenue declines and budget impacts beginning with the FY 2008-09 budget. Budgeted General Fund obligations were cut by **$1.0 billion (about 13 percent)** from $7.8 billion as originally budgeted for FY 2008-09 in March 2008 to $6.8 billion for FY 2009-10 (as of March 2010). General Fund obligations remained at $7.2 billion in FY 2010-11 and FY 2011-12, which was below the FY 2007-08 level. The state only fully returned to FY 2007-08 per capita inflation-adjusted General Fund revenue levels in 2018. Cuts were required despite typical inflationary and caseload pressures, which had to be offset with other reductions. The impacts in some departments were felt particularly after federal recovery funds expired in FY 2011-12.

The period from September 2008 to March 2010, in particular, was characterized by *ever-worsening revenue forecasts*. This resulted in multiple actions by the General Assembly and the Governor, including budget reductions imposed both via executive order and supplemental appropriations cuts, including state staff furloughs, substantial transfers of cash funds to the General Fund, and actions such as the creation of the education "negative factor/budget stabilization factor" to bring the budget into balance.

As reflected below, *achieving reductions involved executive orders, generally citing Section 24-2-102 (4), C.R.S., as well as the Governor's authority to administer appropriations, and multiple actions by the General Assembly to apply cuts, make funds transfers, and make other types of spending adjustments*.

Detailed Timeline

September 2008: The quarterly revenue forecast for FY 2008-09 reflects a decline from the March and June 2008 forecasts, as impacts of from the December 2007 housing market crisis and subsequent economic fallout is reflected in revenue forecasts.

2009 Legislative Session

<u>FY 2008-09 Budget</u>: Each successive LCS revenue forecast, including December 2008 and March 2009, reflects lower revenue. To maintain a balanced budget for FY 2008-09, the General Assembly closes a $905.5 million budget gap through use of over $500 million in one-time state funds (includes $361.5 million in cash fund transfers and $148.2 million by lowering the statutory reserve); using $120 million in federal stimulus funds, and applying $108.5 million in supplemental reductions, among other changes.

FY 2009-10 Budget: Based on the March revenue forecast, the General Assembly plans for $7.3 billion in General Fund obligations, supported in part from nearly $400 million in transfers from other funds. Estimates incorporate the impact of federal stimulus funds, particularly in the Medicaid, K-12, and higher education budgets. Provider rate reductions applied in FY 2008-09 are continued, and the budget does not include state staff salary increases.

June/July 2009: Based on further declines in the revenue forecast, the Governor issues an executive order in July 2009 ordering unpaid staff furloughs on 4 days in FY 2009-10.

August 2009: Governor submits a plan to the JBC on August 25, 2009 on its plans for balancing the FY 2009-10 budget. He issues an executive order outlining detailed specific reductions by department including provider rate reductions, closure of mental health institute beds, and suspension of various grant programs. As described in the executive order:

"As I stated in my letter to the Joint Budget Committee, in order to fully implement certain of the budget reduction measures contained in my administration's budget balancing plan, I must issue an executive order pursuant to *C.R.S. § 24-2-102(4)*, which, as described above, authorizes me to suspend or discontinue, in whole or in part, the functions or services of any department, board, bureau, or agency of the state government during any fiscal period when there are not sufficient revenues available for expenditures. Because section 24-2-102(4) only authorizes this Order to be in effect for three months, this Order must expire on November 30, 2009; it is anticipated, however, that the service and program suspensions identified in this Executive Order will be extended and continued by subsequent Executive Orders issued periodically throughout the remainder of the fiscal year."

October 2009 through April 2010: Extension and adjustments to the previous executive orders regarding budget cuts to FY 2009-10, including extensions authorized every three months.

2010 Legislative Session

FY 2009-10 Budget: The June 2009, September 2009, December 2009, and March 2010 revenue forecasts prepared by LCS reflected lower General Fund revenue for FY 2009-10 than had been forecast in March 2009. As a result, the General Assembly took additional actions to fill a $621.5 million budget gap, including $124.7 million in cash fund transfers and $443.3 million in supplemental reductions, among other changes.

FY 2010-11 Budget: The initial budget included provider rate increases but no increases for state staff salaries. It restored some FY 2009-10 cuts, but included other significant budget balancing initiatives, including more severe cuts to K-12 spending.

2011 Legislative Session and Beyond: Revenues continued to fall below expectations. While no additional executive orders were issued, balancing the budget during the legislative session remained a struggle. The OSPB March 2011 forecast for FY 2010-11, that was used for budgeting that year, was $287.3 million lower than the forecast used to set the FY 2010-11 budget in March 2010. The statutory reserve was reduced to 2.3 percent, and an additional $109.5 million was transferred from other cash funds into the General Fund, among other actions.

Revenue began to stabilize thereafter, but remained relatively flat, even as federal stimulus funds that had helped the budget phased out in FY 2011-12.

Note: The sources for information included in this memorandum include the Joint Budget Committee Annual Appropriations Reports and forecast documents available on the General Assembly's website https://leg.colorado.gov/ and Executive Order records available at: https://archives.colorado.gov/collections/governors/governor-john-hickenlooper-executive-orders

https://spl.cde.state.co.us/artemis/goserials/go4113internet/

https://spl.cde.state.co.us/artemis/goserials/go3911internet/