



Tomlinson & Associates - (303) 660-6036
www.lobbycolorado.com

2010 Colorado General Assembly Legislative Session Review

June 15, 2010

The Second Regular Session of the 67th General Assembly of Colorado convened on Wednesday, January 13, 2010, and adjourned on Wednesday, May 12 -- the constitutionally limited 120 days. Similar to 2009, this session was dominated by the state budget situation, but other issues (regulation of medical marijuana and teacher tenure, for example) also generated controversy. This report provides a brief review of the major actions taken at the Capitol in 2010. We have included links to many backup and resource documents that will allow the reader to access much more information on various subjects.

The Governor has 30 days after adjournment *sine die* of the legislature to either sign or veto any bills passed during the final few days of the session. That is the reason that we are submitting this review after June 11, the final day for Governor Ritter to act on those bills. A total of 217 Senate bills and 426 House bills were introduced – a combined total 643 bills. Of those, [Governor Ritter signed 455 into law and vetoed five](#) of the bills. It's interesting to note that one of the bills [vetoed by Governor Ritter was HB 10-1409](#), which addressed state employee compensation and which would have guaranteed pay increases for certain state employees under certain circumstances.

The combined tsunami effect of term limits, budget crisis, one-party control of the Executive and Legislative branches of government, fall elections and future re-districting of legislative districts based on the 2010 census created possibly the most contentious session in memory. The political gamesmanship oftentimes

overshadowed the substantive work to be done. Let's all hope that statesmanship wins out in the November elections.

Elections & Term Limits

This was the fourth year for Governor Bill Ritter and his Democratic colleagues to control both houses of the legislature (37D/27R/1U in the House and 21D/14R in the Senate) and the Governor's office. There will be numerous changes to the legislature next year due to term limits and also sitting legislators choosing not to run for re-election. Additionally, Governor Ritter shocked everyone in early January when he announced that he would not be running for re-election. Candidates to succeed him include Denver Mayor John Hickenlooper (D) and former State Representative and U.S. Congressman Scott McInnis (R) and Evergreen businessman Dan Maes (R).

Term Limits. A number of legislators are retiring because of term limits: Speaker Terrance Carroll; Representative Jerry Frangas, House Finance Committee Chair Joel Judd; House Minority Leader Mike May; House Transportation Committee Chair Buffie McFadyen; House Education Committee Chair Mike Merrifield; Joint Budget Committee Chair Jack Pommer; and House Majority Leader Paul Weissmann. Additionally, JBC Vice Chair Senator Moe Keller and JBC member Senator Abel Tapia are term-limited, as is Senator Ken Kester. You can see that term limits takes a toll on legislative leadership every two years.

Retiring from Office/Running for a Different Office. Senate Transportation Committee Chair Dan Gibbs is leaving the legislature to run for Summit County Commissioner. Senate Minority Leader Josh Penry and Senator Dave Schultheis are not running for re-election. Representatives Cory Gardner and Scott Tipton are running for Congress in CD 4 and 3, respectively. Additionally, Senate Finance Committee Chair Paula Sandoval was elected to the Denver City Council in early May and has resigned her seat.

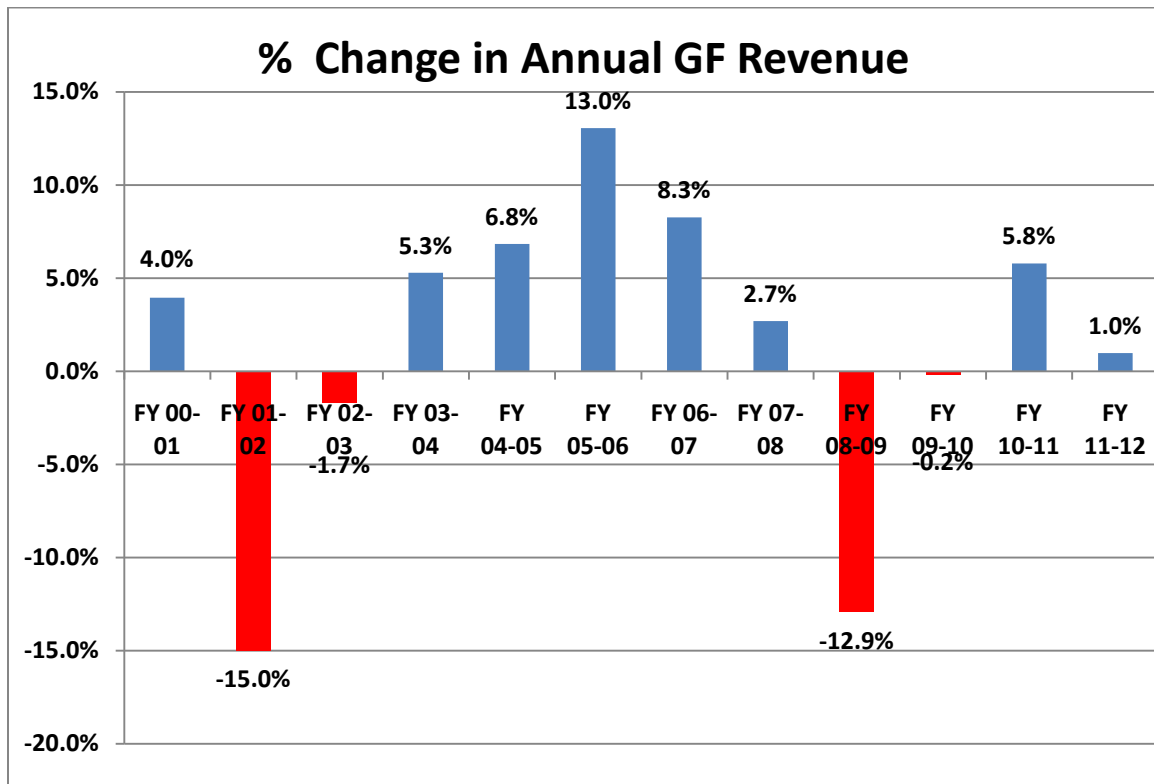
2010 Election. All 65 house seats are up for election in November, and 17 Senate seats are up. In addition to the 7 open seats, the following Senators are running for reelection: Brophy, Harvey, Kopp, Lundberg, Morse, Renfroe, Romer, Schwartz, Tochtrop, and Whitehead. The results of these races could produce additional changes to the legislative membership.

2011 Session Leadership. In the House, Speaker Carroll, Majority Leader Weissmann, and Minority Leader May will all be replaced because of term limits. In the Senate, the Senate Republican Caucus has already elected Senator Mike Kopp to the position of Minority Leader. Senators Brandon Shaffer and John Morse are expected to return to their current positions (President and Majority Leader respectively) if the Democrats retain control and Senator Morse is successful in his re-election bid (Senate President Shaffer is mid-term and not running for re-election this year).

2011 Joint Budget Committee. In anticipation of the effect of term limits, several new JBC members have already been selected for 2011. At this point, the following members are on the JBC: Representatives Mark Ferrandino (D-Denver), Dickey Lee Hullinghorst (D-Boulder County), Cheri Gerou (R-Jefferson County) and Senators Moe Keller (D-Jefferson County), Mary Hodge (D-Adams County), and Al White (R-NW Colorado). Senator Keller’s legislative term ends this year, so there will be at least one more change in JBC membership prior to the 2011 budget cycle.

Budget

The Legislature approves an annual General Fund budget based on revenues available for the upcoming fiscal year. This year’s budget bill or “Long Bill”, so called because of its length, is [HB 10-1376](#). You can also access a [narrative summary](#) of the Long Bill that provides a description of the appropriations to each department and changes from the previous fiscal year. The chart below shows the recent year change in GF revenue collections. You can see that the state experienced a dramatic slowdown in state GF revenues in FY 2008-09, and a further decline in FY 2009-10.



Given this severe revenue loss, the General Assembly balanced the FY 2010-11 budget through a combination of appropriations reductions, cash fund transfers, and revenue enhancements; provided below are a few examples in each category.

- **Appropriations Reductions.** For the first time since the passage of Amendment 23 in 2000, the General Assembly reduced General Fund appropriations for K-12 education. First they eliminated a scheduled \$110 million transfer, and next reduced K-12 funding by an additional \$260 million General Fund. In addition to K-12 Education, a number of other state agencies will realize reductions in state General Fund support. These include the Governor’s Office (-18.73%), Agriculture (-18.16%), Revenue (-4.57%), and Local Affairs (-3.47%). *(Note – these percentage changes reflect the passage of the Long Bill but may not include other separate legislation.)*
- **Transfers of Cash Funds into the General Fund.** Examples of such transfers include \$11 million from the Base Account of the Severance Tax Fund, \$10 million from the Local Government Severance Tax Fund, and \$10.4 million from the Capital Construction Fund.
 - Remember that General Funds are tax dollars – sales, income, etc.
 - Cash funds are “user fees” – tuition, license and inspection fees, etc.
- **Tax Policy Changes.** As a result of the interpretation of a recent [Colorado Supreme Court ruling on SB 07-199](#), the General Assembly adopted a number of tax policy changes designed to increase GF revenues. The primary tax policy changes are listed in the table below with the anticipated revenue generated.

Tax Policy Change	Anticipated Annual Revenue Increase (in millions)
Eliminate Sales Tax Exemption for Energy Used in Industrial Purposes (HB 10-1190)	\$37.6
Sales Tax Standardized Software (HB 10-1192)	\$23.7
Eliminate Sales Tax Exemption for Candy and Soda (HB 10-1191)	\$18.0
Limit Net Operating Loss Carry Forward (HB 10-1199)	\$8.2
Sales Tax Collections from Out-of-State Retailers (HB 10-1193)	\$4.7
Suspend Sales Tax Exemptions on Certain Ag Products (HB 10-1195)	\$4.6
Disqualify Category 7 Vehicle Tax Credit (HB 10-1196)	\$2.7
Eliminate Sales Tax Exemption on Non-essential food containers (HB 10-1194)	\$2.0
Eliminate Sales Tax Exemption on Direct Mail Materials (HB 10-1189)	\$0.8
Total GF Revenue Impact	\$102.3

These tax policy changes, or “tax increases” (as some described them) generated substantial debate as they moved through the legislative process.

Implications for future budgets

The budget challenges facing Colorado are multi-year in nature. The infusion of cash funds to supplant General Fund money and one-time reductions in spending will need to be revisited. Also, the final receipt of ARRA funds in 2011 will combine to require additional budget reductions in FY 2011-12. In fact, the

Colorado Legislative Council recently estimated the FY 2011-12 total budget shortfall at \$1.7 billion. This figure will change and should be considered a “rough estimate” at this point, but it gives an indication of the magnitude of the potential shortfall facing the 2011 legislature, especially when looking at the state General Fund appropriation for FY 2010-11 of about \$7 billion total.

Economic Forecasts

The [Office of Legislative Council](#) and the [Governor’s Office of State Planning & Budgeting](#) each issue quarterly revenue forecasts. The FY 2010-11 Long Bill is built on the [March 19, 2010 forecast of the OLC](#). *The next quarterly revenue forecasts will be presented to the Joint Budget Committee on Monday, June 21 at 9:30 am in LSB-A.* You can [listen online](#) to the revenue forecast. The forecast presented in March indicated that “Colorado's economy is slowly recovering from the "Great Recession." The state's educated workforce and favorable industry mix positions the state to be a leader as business investment recovers. However, weak real estate markets, high debt levels, bank failures, and tight credit conditions will constrain economic growth over the next few years.” And that”A General Fund shortfall will exist in FY 2011-12”. The forecast of June 21 will be very important in developing strategy for the 2011 session.

Budget Summary

The budget discussion leads to a fundamental policy question: ***Does Colorado have sufficient state revenues to conduct the basic functions of government?*** While some will argue that Colorado should continue to “reduce state appropriations” in order to balance the budget, this may prove to be exceedingly difficult (if not impossible) given the various budgetary constraints and the magnitude of the shortfall. This problem is further exacerbated by the three ballot initiatives that will appear on this fall’s ballot and which will be discussed near the end of this summary. ***Are we, as a state, at a critical threshold wherein voters will have to decide exactly what services we want government to provide and that we are willing to fund through our tax dollars?***

10 year Comparison of Revenues and Caseloads

In our [2010 Legislative Mid-Session Review](#), we included a table showing relative General Fund available and case load/enrollment comparisons with the FY 2000-01 budget and this year’s budget. Many readers have found this especially helpful in understanding the fiscal crisis the state finds itself in today and for the next several years.

We have updated and included that table below.

10 Year Comparison: Economic and Caseload Indicators FY 01 to FY 10

	FY 2000-01	FY 2009-10	change	% change
Colorado Population ⁱ	4,328,000	5,061,000	+733,000	16.9%
K-12 Student Enrollment ⁱⁱ	724,508	832,368	+107,860	14.9%
Higher Education Enrollment ⁱⁱⁱ	123,256	144,577	+21,321	17.3%
Prison Population ^{iv}	16,833	22,857	+6,024	35.8%
Medicaid Recipients ^v	263,107	512,398	+249,291	94.7%
General Fund Revs (millions) ^{vi}	\$6,553	\$6,729	+\$177	2.7%

To summarize, *Colorado's General Fund budget is \$177 million more than 10 years ago.* With this additional money, the state is attempting to provide services for 107,000 additional K-12 students, 21,000 additional college students, 6,000 prisoners, and **250,000(!) more Medicaid recipients.** This is not a stable fiscal model!

ⁱFrom Legislative Council, March 2010 Quarterly Revenue Estimate

ⁱⁱFrom Colorado Department of Education

ⁱⁱⁱFrom Colorado Department of Higher Education

^{iv}From Colorado Department of Corrections, May 2010 Monthly Report

^vFrom the Department of Health Care Policy and Financing, April 2010 Monthly Report

^{vi}From Legislative Council, comparison of FY 2000 Actual and FY 2010 Projected GF Revenues

Transportation

After the registration fee increases adopted in 2009 through SB 09-108, this was a relatively quiet session for transportation. The legislature modified the penalties for late registrations ([SB 10-198](#), [HB 10-1211](#)), but didn't consider any additional funding sources. The General Assembly also authorized a "devolution study" (through [HB 10-1405](#)) to study whether any state system highways should be transferred to local governments – the concept being that since Colorado Boulevard, Wadsworth Boulevard and Federal Boulevard, as an example, in Denver are major local thoroughfares, should not the cities maintain and repair those roads? HB 1405 will not generate any additional highway construction or maintenance funds, but will cause debate to happen about where existing funds are allocated.

Education

K-12 Education

Two issues dominated the K-12 discussions at the Capitol this year. The most significant Education bill this year concerned teacher tenure reform. In light of Colorado's rejection for "Race to the Top" funding from the federal government, the legislature adopted [SB 10-191](#), "Principal and Teacher Effectiveness" - described as the most significant measure of education reform in recent years. This bill, which had unanimous Republican support and split the Democrats, barely survived on 7-6 votes in the House Education and House Appropriations committees. The most important provision of the bill impacts job security for teachers. No longer will teachers achieve tenure (or non-probationary status) after three years on an automatic basis; rather, teachers will achieve non-probationary status depending on three years of effectiveness based on student achievement. Teachers can lose non-probationary status based on unsatisfactory performance.

For the first time since the passage of Amendment 23 in 2000, the General Assembly reduced funding for K-12 education. First the General Assembly eliminated a scheduled \$110 million transfer, and next the General Assembly reduced K-12 funding by \$260 million General Fund for FY 2010-11. The annual school finance act ([HB 10-1369](#)) was approved amidst the debate on the state budget.

The most noteworthy of the many other bills considered for K-12 education include specified emergency powers over charter schools ([HB 10-1345](#)) and the creation of the Charter School and Charter Authorizer Standards Review Committee ([HB10-1412](#)). Finally, the legislature directed the State Board of Education to consider the arts when establishing graduation guidelines ([HB 10-1273](#)).

Higher Education:

The Legislature passed [SB 10-003](#), in order to provide more flexibility to governing boards of higher education. State colleges and universities can raise tuition up to a maximum of 9.0 percent per year for resident students for the next five years; tuition increases above that threshold will require approval by the Colorado Commission on Higher Education. Other legislative issues affecting higher education included allowing Colorado Mountain College to offer baccalaureate degrees ([SB 10-101](#)), Mesa State to expand its graduate offerings ([SB 10-079](#)), and improving statewide transfer agreements between two and four year institutions ([HB 10-1208](#)).

The most significant issue that was NOT discussed is finding a long-term funding solution for Colorado higher education. With the current economic downturn, only the use of federal ARRA moneys has allowed the state to maintain its support for higher education. For FY 2010-11, ARRA funds will make up approximately 40% of the state's appropriations to colleges and universities. However, the ARRA moneys will be exhausted after FY 2010-11. Although SB 10-003 allows a mechanism for the consideration of larger tuition increases in future years, it is unlikely that tuition alone can make up for possible losses in General Fund support.

Economic Development and the Economy

The [Economic Development Council of Colorado](#) (EDCC), at their annual fall conference in October, 2008 presented the results of the [3rd Annual Citizens' Survey on the Economy](#). In the survey, the citizens of Colorado indicated that the economy is the most important issue that the General Assembly should deal with in 2009. Further, 90% of the citizens surveyed supported state efforts to attract and retain primary jobs – primary employers being thought of as a business or organization that generates a substantial portion of their revenues through exporting goods and services from the region. That is, the business' economic activity results in new money injected into the regional or state economy. As mentioned before, *business needs and wants predictability and stability* in making decisions to expand or re-locate to Colorado.

The 2010 legislative session saw introduction of several pieces of legislation opposed strongly by economic developers across the state. These bills included [HB 10-1350](#), concerning requirements for economic incentives, [HB 10-1396](#), concerning enterprise zone tax credits and [HB 10-1429](#), legislative review of tax credits. Each of these bills seemed to be based on the premise that tax credits or other economic incentives do not actually serve to generate business in the state and proponents of the bills argued for more “transparency and accountability” in tax credits and incentives. Ultimately all three bills failed in the legislature, but Governor Ritter did issue [Executive Order D 2010-009, “Directing the Colorado Economic Development Commission to Report Certain Job Creation Activities and to Prepare a Plan for Tracking the Success of Grants, Loans, and Tax Credits Intended to Generate Jobs”](#).

The EDCC will be conducting a “2010 Citizens' Survey on the Economy” in the late summer and will be presenting the results of the survey at their annual Fall Conference, to be held October 6-8 at the Curtis Hotel in Downtown Denver. We will share the results of that survey with you and will be making the survey available to legislative and gubernatorial candidates to help them in developing their 2011 legislative agendas.

Other economic development legislation included [HB 10-1333](#), the Green Jobs Colorado Program; [HB 10-1180](#), incentives for the Colorado film industry; [SB 10-158](#), the Creative Industries Division bill; and [SB 10-162](#), enterprise zone modernization.

PERA

The State's Public Employees Retirement Association (PERA) saw its assets decline from \$41 billion to \$30 billion in 2008. This year, in an effort to strengthen its long-term fiscal stability, the legislature adopted [SB 10-001](#), which will increase employer contributions by 2.0 percent, increase employee contributions by 2.0 percent (through the Supplemental Amortization Equalization Disbursement), and cap the cost of living increases at 2.0 percent. According to PERA's actuaries, the combination of these changes will help to provide long-term financial stability for PERA. It is important to note, however, that much of the "heavy lifting" for PERA including the employer contribution increases will take place in future years – beginning in 2013 – so no employer commitment is required until that time. This will impact the state, all school districts, and many special districts and local governments.

Human Services

The most significant legislation in the Human Services arena was the establishment of a Child Protection Ombudsman Program through [SB 10-171](#). The program will receive and review complaints, investigate cases, and recommend a statewide grievance policy in child welfare cases. This legislation follows significant discussion in the child welfare area during the last few years.

Energy and the Environment

A major focus of Governor Ritter's administration has been on the "[New Energy Economy](#)". In his four years in office, Governor Ritter has successfully advocated for 56 energy-related bills. This year, two pieces of legislation deserve special recognition:

- [HB 10-1001](#) increases the Renewable Portfolio Standard for Investor Owned Utilities from 20 percent to 30 percent by 2020.
- [HB 10-1365](#) requires all Investor Owned Utilities that own or operate coal-fired power plants to submit an emissions reduction plan to the PUC by August 15, 2010. The plan must give primary consideration to conversion of the units to natural gas or other low-emissions resources. The PUC must approve, modify or deny plans based on specified criteria.

Insurance

Health Care/Insurance

Colorado Attorney John Suthers has joined with 14 other AG's in a lawsuit asking the courts to declare the provision of the new federal legislation requiring individual to have health insurance as being unconstitutional. A lot of the federal

reforms do not go into effect until 2013 or 2014. States will have several years of legislative and regulatory turmoil to align their laws and regulations with the federal legislation.

Governor Ritter has given his analysis of the effects on Colorado of the federal legislation. The following is the analysis by the executive branch: [National Health Care Reform Act's and its effect Upon Colorado](#).

Several important pieces of health care/health insurance legislation were enacted this year, including the following:

- [HB 10-1008 Gender Discrimination in Individual Health Insurance Rates](#): Prohibits gender discrimination in health insurance.
- [HB 10-1004 Standardized Health Insurance Information](#): The bill requires the commissioner of insurance to adopt rules establishing standard formats for policy forms and explanation of benefit forms provided by health insurance carriers to consumers.
- [HB 10-1021 Required Maternity Coverage in Individual Insurance Policies](#): The bill requires entities issuing individual sickness and accident insurance policies in this state to provide the same coverage for maternity care as is currently mandated for all group sickness and accident insurance policies. The bill also requires both individual and group policies to provide coverage for pregnancy management, including contraceptive counseling, drugs, and devices. The bill excludes abortion procedures and services from pregnancy.
- [HB10-1202 Insurance Coverage for Oral Chemotherapy Treatments](#): This would require insurance carriers to cover oral chemotherapy drugs under the medical coverage of the health insurance policy as is the case with infused chemotherapy agents rather than as a prescription drug.
- [SB 10-167, Medicaid Efficiencies Act](#) The goal of the bill is to save taxpayer money by eliminating waste and improving efficiencies in the state's Medicaid system.
- [HB 10-1138, Health Care Jobs for Colorado](#) Provides incentives for health care professionals to practice in rural and underserved communities.
- [HB 10-1160, Health Insurance Incentives for Wellness Programs](#) Provides for health insurance carriers to offer incentives for individuals and members of small group insured's who participate in wellness programs.
- [HB 10-1166, Insurance Policies Written in Plain Language](#) Requires insurance companies to write policies in plain, easy-to-understand language (10th grade level).
- [HB 10-1330, All-Payer Database](#) Improves transparency in the health care system by establishing a database of claims and providers.

- [HB 10-1332, Standardized Insurance Coding](#) Streamlines and standardizes insurance claims and will cut down on duplication and bureaucracy that takes doctors' time away from patient care.

Workers' Compensation

During the 2009 interim, the Pinnacol Assurance Interim Committee met and ultimately passed seven pieces of legislation that were introduced in 2010. Although the charge to the committee was to look at the operations of Pinnacol Assurance, the quasi-governmental successor to the state fund for workers' compensation insurance, the legislation introduced by the committee included bills with a significant impact on other insurance carriers as well as self-insured employers. These bills coming from the Pinnacol Interim Committee were generally opposed strongly by the business/insurance/employer communities and included:

- [HB 10-1009](#), dealing with the composition of the Pinnacol Board. The bill passed after it was amended.
- [HB 10-1012](#), dealing with limitations on surveillance in cases of suspected fraud. The bill was defeated.
- [HB 10-1038](#), dealing with a brochure to be provided to injured workers. This bill was amended and passed without opposition.
- [HB 10-1356](#), dealing with rate setting and Pinnacol's financial accounting requirements. This bill would have required the Commissioner of Insurance to "...approve the lowest rate recommended by the rating agency or an independent actuary". It was defeated.
- [SB 10-011](#), dealing with conflict of interest by medical providers. This one passed over the strong objections of insurers and employers.
- [SB 10-012](#), dealing with increased penalties on insurers and employers. This also passed over the strong objections of insurers and employers.
- [SB 10-013](#), regarding a survey of injured workers to determine their level of satisfaction in how their work comp claim was handled. Again, this bill passed.

Two other bills dealing with workers' compensation were also introduced and passed with virtually no opposition. These bills are the work product of long and intense negotiations between the Workers' Compensation Education Association (WCEA – the injured workers' claimants bar), the Colorado Self-Insurers' Association (an association of large public and private sector employers that self-insure for workers' comp and that represent about 18% of the total Colorado workforce), Pinnacol Assurance Company, and the other major workers' comp carriers in Colorado, including Liberty Mutual Group, and the various business and employer groups in Colorado. The bills are:

- [SB 10-163](#), dealing with procedural matters in workers' compensation, and;
- [SB 10-187](#), dealing with substantive issues, including changes in benefits.

General Insurance Legislation

Several other bills this year caused a lot of consternation for the insurance industry. Most of these bills were directed at health insurers but collaterally brought property/casualty insurers under the coverage of the bill(s). These included [HB 10-1168](#), prohibiting subrogation by health insurers (passed); [SB 10-076](#), concerning unreasonable insurance claims practices (passed); and, [HB 10-1234](#), concerning settlement of insurance claims (failed).

Possibly the most troublesome bill of the entire legislative session from an insurance perspective is [HB 10-1394](#). This bill deals with construction defects and the proponents included an unlikely coalition of homebuilders, trial lawyers, and some in the business community. The concern of the insurance industry is that this bill will cause (general liability) insurers to be responsible for the defect and the repair of the defect *retrospectively* and for which the insurer did not collect premium. A number of companies writing general liability insurance for contractors have indicated their intent to leave the Colorado marketplace. Predictability and stability are key for any business and these companies believe this bill does not lend itself to predictability or stability. The bill was signed by Governor Ritter.

Local Government Issues

Each year there are a number of bills introduced that have potential impact on local governments throughout the state. In some cases, the legislature attempts to impose a “one size fits all” set of sideboards on issues that local elected officials deal with daily. In some cases, there are genuine disagreements between the local governments over how issues should be handled; i.e., cities and counties often disagree on tax increment financing (TIF) and urban renewal. In every case, local control is of utmost importance to local elected officials.

This year was no different. Bills affecting local governments included:

- Medical Marijuana: The General Assembly adopted legislation which defines the relationship between doctors who prescribe medical marijuana and their patients ([SB 10-109](#)). In addition, [HB 10-1284](#) regulates medical marijuana dispensaries and provides for local control of such dispensaries. Both of these issues generated significant debate and citizen interest, and could be revisited in 2011.
- TIF/URA Issues: [HB 10-1107](#) was passed this year after lengthy meetings between stakeholders during the summer and fall of 2009. The primary focus of the bill is on the point of including agricultural land in the urban renewal area.
- General Government
 - [HB 10-1162](#) – Retainage on Construction Contracts. Died in the House. Supported by a small group of sub-contractors and generally opposed by all governmental entities at all levels.
- Labor Issues

- [SB 10-084](#) – Peace Officers Bill of Rights – died in the Senate. Supported by the police unions and opposed by city councils and police chiefs.
- Land Use
 - [HB 10-1205](#) – Land Use Planning for Military Installations – amended to address many of the concerns of local governments, and signed by the Governor.

This is just a small sampling of the many bills that local governments work on during the legislative session. For more information, go to the [Colorado Municipal League](#) and [Colorado Counties, Inc](#) websites.

How Did Business Fare?

A brief analysis might include the following bills:

- **Not Popular with Business**
 - The Pinnacol Interim Committee bills – especially HB 1012 (failed), HB 1356 (failed), SB 11, 12 and 13 (all passed);
 - HB 1263 – capping at \$250,000 the amount of each executive salary that a business could take as an operating expense (died);
 - HB 1350, 1396, and 1429 – dealing with tax credits and incentives (all failed, but Governor Ritter issued a subsequent [Executive Order](#));
 - The “dirty dozen” bills that eliminate or suspend tax credits or exemptions for business as part of the budget balancing package – HB 1189 through HB 1200.
 - HB 1269, allowing for “pain and suffering”, punitive damages and attorney fees on small businesses in state employment discrimination cases, duplicating penalties that exist in federal law for larger employers (failed).

Older Coloradans

To help balance the FY 2009-10 budget, the Joint Budget Committee reduced the General Fund portion of the State Funding for Senior Services line item by \$1 million. Although American Recovery and Reinvestment Act funds for senior nutrition partially compensated for that reduction, the cut was continued in the FY 2010-11 budget even though the federal funds expired.

The Older Coloradans Cash Fund

At the end of FY 2008-2009 the [Older Coloradans Cash Fund](#) had a balance of \$450,000 in accumulated interest. At the close of FY 2009-10 it is anticipated the balance will be around \$540,000. It is estimated that the fund will earn about \$130,000 in interest annually after that. This led the Joint Budget Committee to replace approximately \$300,000 of the General Fund portion of the State Funding for Senior Services line item with [Older Coloradans Cash Fund](#) interest money, thereby freeing up that General Fund money for budget

balancing. The Older Coloradans Cash Fund is distributed across the state through Colorado [Area Agencies on Aging](#) for services provided to older adults in their homes and communities. See: [The Division of Aging in the Colorado Department of Human Services](#) for details on these services.

Senior Property Tax Exemption

The General Assembly passed [SB 10-190](#) to suspend the Senior Property Tax Exemption for the 2010 and 2011 property tax years. The bill has the effect of increasing the General Fund revenues by about \$92 million for FY 2010-11. Its stated intent is that the money is to be used to provide a portion of the state share of funding public schools, after maintenance of the General Fund Reserve.

Study of Long Term Care Services and Supports

[HB 10-1053](#) as enacted directs the Department of Health Care Policy and Financing (DHCPF) and the Department of Human Services (DHS) to conduct studies of the state's long term care system, (depending whether sufficient gifts, grants and donations are received) to determine whether cost savings can be realized to the state by prioritizing state funding for services that are provided to seniors to enable them to remain in their own homes and communities for as long as possible. The specific services to be studied are those funded by the Older Coloradans Cash Fund mentioned above and allocated to local service providers by the Area Agencies on Aging (AAA). If the study shows cost savings through community-based services the state would then develop a strategic plan for prioritizing such services to be presented to the legislature for implementation.

Ballot Initiatives

Proponents of three potentially devastating ballot initiatives quietly filed the initiatives with the Office of Legislative Council and then with the Colorado Secretary of State, as required by law, more than a year ago. They went through the title-setting process and then began the signature gathering phase. The initiatives were suspiciously similar to ideas brought forward by tax crusader and former legislator Doug Bruce, but his name was not associated overtly with any of the three initiatives. A broad, diverse coalition has come together to oppose these initiatives and the opposition to them grows daily as citizens realize the devastating impact they will have on the state of Colorado and its economy. The campaign organized to defeat the initiatives will be [Don't Hurt Colorado](#) and is being driven by Coloradans for Responsible Reform.

These initiatives include:

- Proposition 101 – is intended to drastically reduce a number of taxes and fees in Colorado, including dropping the income tax to 3.5% from the

current 4.63% and dropping car and truck registration fees ultimately to \$2 for a new car and \$1 for a used car. According to analysis by the [Bell Policy Center](#), ***the net impact of passage of Prop 101 would be a decrease in General Fund revenues to the state of more than \$1.7 billion per year!*** There would be similar loss in revenues to local governments also.

- Amendment 60 – would make broad changes to the state’s property tax laws, effectively “re-Brucing” all de-Brucing elections held since passage of TABOR in 1992 and would have a huge impact on K-12 school finance.
- Amendment 61 – would eliminate the ability of Colorado to use any kind of debt financing on capital projects (highways, prisons, college buildings) and would have similar impact on local governments (libraries, recreation facilities, jails, water and wastewater treatment facilities).

Every day, individuals and groups and associations are joining with Coloradans for Responsible Reform to fight these three initiatives. The [Bell Policy Center](#) has done an excellent job of preparing analyses of the impact of these initiatives, including a county-by-county analysis for the impact of Prop 101. ***We hope that you will join in helping us spread the word and urge your family members, friends and colleagues to “VOTE NO” on Prop 101 and Amendments 60 and 61. If you don’t take anything else away from this review of the legislative session, please read and understand the devastating impact passage of these initiatives could have on Colorado and join us in fighting them. Thanks!***

In addition to these issues, there will possibly be a [ballot initiative #45](#) designed to remove the residents of Colorado from under the federal health care reform legislation, particularly the mandate to have health insurance as being unconstitutional. This measure is currently the subject of litigation and a decision should be handed down any day as to whether or not this initiative will actually appear on the November general election ballot. The proponents of this initiative include the [Independence Institute](#), which describes itself as “Colorado’s free market think tank.”

Miscellaneous

Private Property v. Rafters. In response to a single dispute on one section of the Taylor River, the Colorado River Outfitters Association attempted to redefine private property rights in Colorado and allow whitewater rafting companies the right to float on waterways that have historically been used for such purposes ([HB 10-1188](#)). After substantial debate and lengthy testimony by the rafting companies, riparian property owners, farmers, ranchers, and many lawyers, the legislature did not pass the legislation. As it began to appear that the bill would die in the legislative process, proponents introduced four possible ballot initiatives. In response, Creekside Coalition, a group of riparian landowners, introduced twenty competing ballot initiatives. Subsequently, Governor Ritter has

taken the lead in attempting to achieve resolution of this issue without the divisive, expensive ballot issue campaigns. Just today, Governor Ritter announced success in bringing the two sides together and the initiatives will be withdrawn by both the rafters and the landowner groups.

[Interim Legislative Committees](#)

During the 2009 interim, the Legislature authorized many (21) studies on a variety of topics. In 2010, the Legislature suspended (through [SB 10-213](#)) all but the statutory committees – so there will be few official meetings at the Capitol. The only committees scheduled to meet are shown below:

Legislative Council
Executive Committee of Legislative Council
Joint Budget Committee
Legislative Audit Committee
Capital Development Committee
Capitol Building Advisory Committee
Committee on Legal Services.

The scheduled meetings for all of these committees can be found on the Legislative Council [calendar](#).

We hope that this summary review of the 2010 Colorado legislative session is of value to you, your colleagues and friends. We urge you to share it with them as you deem appropriate, with attribution. Please feel free to visit our website at www.lobbycolorado.com for more information.

[Danny L. Tomlinson](#), [Ed Bowditch](#) and [George Dibble](#). It may be reproduced/distributed with appropriate attribution.
