

February 22, 2010



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FOLLOWING THE LEADERS

An up to date review of Colorado government and politics as they relate to the clients of Axiom Strategies Inc.

“The house of delusions is cheap to build but drafty to live in.” Alfred Edward Housman

79 Days to Sine Die

Final Passage for Tax Exemption Elimination Package

The package of bills to eliminate various tax credits and exemptions came back to the House this week for consideration of Senate amendments, and debate on the already contentious package took on an even uglier tone. As debate raged over the effect the bills will have on struggling Colorado businesses, Joint Budget Committee chair Jack Pommer (D-Boulder) announced on the floor “Businesses don’t care about Colorado. They care about their own profits. They’ll get as much money as they can out of Colorado. And then they’ll leave the state.” An uproar over the comments ensued, but the House ultimately adopted the Senate versions of the eight bills, and the legislative package now moves to Governor Ritter’s desk. While the governor has not announced when he will act on the bills, there is no doubt he will sign the package that he initiated.

New Tax Exemption Introduced

On the heels of final passage of the bills to eliminate tax credits and exemptions for a variety of businesses, Senate Democrats introduced legislation to create a new tax exemption. SB 133 - Income Tax Credit For Rehiring Employees by Senators Rollie Heath and Chris Romer would establish an income tax credit to incentivize Colorado businesses to rehire laid-off workers sooner. The tax credit would be equal to 66 percent of an employer’s federal withholding for each employee, and is estimated to cost the state about \$5.5 million.

Similar incentives at the congressional level have been criticized as being ineffective, and essentially giving money to companies that would have hired workers regardless. Additional concerns have been raised that employers could game the system

by hiring back two part-time employees with the credit to fill a position that was previously one full-time position. Additionally, Democrats supporting the legislation will likely be asked to explain the difference between this bill and the credits they just eliminated, which were designated as loopholes that needed to be closed and described as “corporate welfare.” The bill passed the Senate Business Affairs and Labor Committee on a party-line vote, and now moves to Appropriations.

Another Tax Bill, And Another, And Another...

In case things were not contentious enough under the gold dome, other tax bills have been thrown into the mix. HB 1263 – Limit Income Tax Benefit for Compensation Paid by Rep. Pommer and Sen. Betty Boyd (D-Lakewood) would prohibit businesses from deducting more than \$250,000 in individual salaries as a business expense. The bill, which has been assigned to the House Finance Committee and will be heard on March 3, has raised serious concerns about the effect it would have on Colorado’s economic development efforts.

The business personal property tax was back on the table this year with the consideration of two bills. SB 85 – Exempt Personal Property Tax Pilot Program by Senator Mark Scheffel (R-Parker) and Rep. Kevin Priola (R-Henderson) would have created a pilot program for five counties that choose to temporarily provide a business personal property tax exemption, limited to only counties with a population greater than 20,000 or under 500,000. The bill also called for a study by Legislative Council on whether the business property tax exemptions stimulated economic growth in the state as a whole as well as in participating counties. However, the legislation would have required the state to reimburse participating counties for lost property taxes at annually decreasing amounts, generating a significant fiscal note, and the bill died 4-1.

Scheffel and Priola also sponsored SB 85 – Phased-in Fully Depreciated Property Exemption. SB 85 would have phased out the business personal property tax on fully depreciated equipment over a 12-year period. While the legislature has struggled for several years with the business personal property tax, the fiscal implications of its elimination always lead to the death of the legislation, and this year was no different. The Senate State, Veterans and Military Affairs Committee voted 3-2 to kill the bill.

Balancing Plan Submitted

In order to re-balance the FY 2010-11 budget, Governor Ritter submitted a \$340 million proposal to the Joint Budget Committee this week. The November budget proposal closed a \$1 billion shortfall for the next fiscal year, and revenues have continued to decline. A total of \$2.2 billion in shortfalls have been closed in the current FY 2009-10 budget. The proposals for cutting current year spending protect higher education, which has taken the brunt of budget cuts since the recession began, and further protects K-12 education by transferring \$135 million GF into the State Education Fund in order to keep the State Education Fund from becoming insolvent in FY 2010-11. The submitted plan is comprised of more than 30 separate items. Additionally, most state agency operating expenses will be reduced by 5 percent, anticipated to save \$1.4 million. In the Department of Health Care Policy and Financing, \$21.6 million is expected in savings from lower-than-projected caseloads of 14,600 clients. Additionally, an FMAP Extension in FY 2010-11 for January through June 2010 is anticipated to generate \$204.5

million federal funds to be used to offset Medicaid General Fund expenses. This component of the plan is consistent with multiple pieces of federal legislation under consideration by the United States House and Senate.

Tourism Budget Cuts Considered

During consideration of the supplemental bill for the Office of the Governor in the House Appropriations Committee, Representatives Randy Fischer (D-Fort Collins) and Joel Judd (D-Denver) attempted to eliminate all state funding for tourism promotion through the bill. While every program is on the table to balance the budget, the wisdom of cutting a revenue generating program like tourism promotion is questionable. The last time Colorado eliminated all funding for state tourism promotion, the state fell from the top of the list to 22nd in the country as a summer destination. The revenue-generating effects of tourism promotion speak for themselves: for every \$1 spent on tourism, \$6.25 comes back in state taxes and an additional 75 cents comes back in local taxes. In 2008, tourism generated \$10.9 billion in direct spending in Colorado, and tourism is the second largest industry in Colorado. The bill passed the House with tourism funding still in place, and will next be heard by the Senate Appropriations Committee.

Payday Bill to be Introduced

Rep. Mark Ferrandino will be introducing a bill that would refer a measure to voters for the 2010 ballot to cap annual interest rates at 36 percent. Unlike recent industry reform efforts that implemented repayment plans and limits on the number of consecutive loans, the industry believes this measure amounts to a ban, the effect that rate caps have had in other states. While proponents of the bill believe that banks, credit unions or other financial institutions will offer similar low-amount loans, in Colorado no other industry has expressed intent to offer unsecured low-income loans. Additionally, if passed, the industry expects to see job loss near 1,600 employees as stores close.

Legal Counsel Leaving Governor's Office

Governor Ritter's Chief Legal Counsel Trey Rogers will be leaving on March to return to his position as a partner with Rothberber Johnson & Lyons, LLP. Senior Deputy Legal Counsel Craig Welling has been named to fill Rogers' position. With the announcement that Ritter would not seek reelection, this is likely not be the last departure we will see from the executive office in the coming months, as staff search for employment before their current jobs come to an end.

Amendment 54 Unconstitutional

The Colorado Supreme Court today issued a ruling that the voter-approved Amendment 54 is unconstitutional under the First Amendment, holding that provisions of the constitutional amendment are overbroad, vague and violate equal protection. The court also found that the provisions remaining after purging the unconstitutional elements, including a public database of no-bid contract holders, do not constitute a meaningful legislative enactment, and purged the Amendment in its entirety from the Colorado Constitution. As enacted, the Amendment defined labor unions as no-bid contractors, barred a contract holder doing business with one government agency from giving to any candidate anywhere in Colorado, and additionally prohibited contractors

and their families from giving political contributions for two years following a no-bid government contract.

Introduced Bills

House	350
Senate	170
Total	520