

March 1, 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.

“We often refuse to accept an idea merely because the tone of voice in which it has been expressed is unsympathetic to us.” Friedrich Nietzsche

72 Days to Sine Die

Tax Bills Signed

Governor Bill Ritter signed nine bills suspending or eliminating tax exemptions and credits this week. Seven of the bills take effect immediately, with HB 1196 – Income Tax Credit Vehicles Using Alternative Fuels taking effect on August 11, and HB 1191 – Eliminate Candy and Soda Sales Tax Exemption taking effect May 1. Below are the signed bills of the package, which were fought fervently by the business community and Republican legislators for the various negative effects they would have on businesses in an already struggling economy.

- House Bill 1189 - Eliminate Sales Tax Exemption for Direct Mail
- House Bill 1190 - Suspend Industrial Fuel Sales and Use Tax
- House Bill 1191 - Eliminate Candy and Soda Sales Tax Exemption
- House Bill 1192 - Repeal Sales and Use Tax of Standardized Software
- House Bill 1193 - Sales Tax Out-of-State Retailers
- House Bill 1194 - Eliminate Non-Essential Articles Sales Tax Exemption
- House Bill 1195 - Suspend Ag Sales & Use Tax Exemption
- House Bill 1196 - Income Tax Credit Vehicles Using Alternative Fuels
- House Bill 1199 - Limit the Net Operating Loss Deduction Temporary Limit

Two bills from the original proposed package are still under consideration. HB 1197 – Reduce Conservation Easement Cap Amount by Rep. Mark Ferrandino (D-Denver) and Sen. Rollie Heath (D-Boulder) caps the amount of conservation easement income tax credits that may be claimed, and is expected to generate \$18.5 million for the

state in the current budget year, and \$37 million for FY 2010-11. HB 1197 has passed the House and been assigned to the Senate Finance Committee.

The Colorado Urban and Rural Enterprise Zone Act of 1986 established an enterprise zone program to provide incentives and tax credits for private enterprise to expand and for new businesses to locate in economically distressed areas of the state. Under state law, a taxpayer can claim a state income tax credit equal to three percent of any qualified investment. HB 1200 – Limit Enterprise Zone Investment Tax Credit by Rep. Dickey Lee Hullinghorst (D-Longmont) and Sen. Heath would limit the amount of the investment tax credit that a taxpayer can claim to \$250,000 for tax years 2011, 2012, and 2013, and defer any portion of the credit that exceeds \$250,000 to tax year 2014. The bill has been assigned to the House Appropriations Committee for its Committee of Reference, although the other tax bills were ultimately heard in Finance Committee as well.

Right to Trespass Passes House

Legislation to eliminate the legal rights of private property owners in favor of commercial river outfitters who float through private property without permission has passed the House. The bill essentially disregards the Colorado Supreme Court ruling in *People v. Emmert* that “The public has no right to use the waters overlying private lands for recreational purposes without the consent of the owner.” If passed, HB 1188 – Clarify River Outfitter Navigation Right by Rep. Kathleen Curry (I-Gunnison) and Sen. Mary Hodge (D-Brighton) is anticipated to prompt lawsuits by landowners over whether the state, by authorizing trespass through their property, has illegally taken private property for public use.

PERA Signed, Lawsuit Coming

On Tuesday, Gov. Ritter signed SB 1 – Eliminate PERA’s Unfunded Liability by Senate President Brandon Shaffer (D-Boulder), Senate Minority Leader Josh Penry (R-Grand Junction), and House Majority Leader Andy Kerr (D-Lakewood). The reform bill changes the amounts to be contributed by both employers and employees, places a cap on cost of living adjustments for retirees, modifies benefit calculations and eligibility, and creates new contributions and guidelines for working retirees. As the legislation marks the first time that a state has cut the benefits of current retirees, sponsors have long-anticipated the lawsuit that will be filed on behalf of retirees.

Sen. Penry’s message to those retirees is that the changes are unfortunate but essential. “If we don't reduce these automatic pension increases, the entire fund is poised to go bankrupt. Think United. Think GM. That didn't work out well for the company or the retirees. These reforms are tough, but they're necessary.”

Payday Lending Introduced

The anticipated bill to refer a 36% cap on lending interest rates to Colorado voters has been introduced. Rep. Mark Ferrandino (D-Denver) and Sen. Chris Romer (D-Denver) are carrying HB 1351 - Deferred Deposit Loan Interest Rate, which would ask voters to cap the APR on payday loans, a change that would put most of the industry out of business by applying a annual percentage rate to a charge better described as a fee. Short-term, unsecured loans can provide relief to employed individuals who have an

immediate financial need, but proponents of the bill believe those individuals would be better off without that option and should instead look to friends and family, charity, or cash advances on credit cards. However, studies have shown that individuals who utilize payday lenders are well aware of their other financial options, and make an informed choice they believe to be the best for themselves. The bill has been referred to the House Judiciary Committee and is scheduled to be heard, Monday, March 8.

Auto Dealer Bill Angers Car Manufacturers

A bi-partisan bill to provide remedies for previously terminated motor vehicle dealers has passed the House and will be heard today in the Senate. HB 1049 by Representatives Joe Rice (R-Littleton) and Marsha Looper (R-Calhan) and Senators Chris Romer (D-Denver) and Shawn Mitchell (R-Broomfield) would ensure that any dealer terminated due to company bankruptcy have the right of first refusal within 10 years, or the dealer must be adequately compensated for its investment should a motor vehicle manufacturer decide to reestablish the same line-make of automobiles in the same market area after terminating a dealer. The bill also requires auto manufacturers to repay any ousted dealer for facility upgrades they were required to make in the last five years in which they were open. GM, Chrysler and other manufacturers are opposing the bill, which is supported by the Colorado Automobile Dealers Association. GM launched a print and radio ad campaign against the legislation to the tune of \$60,000 which was met by outrage from legislators. The bill will be heard in the Senate Business, Labor and Technology Committee this Monday afternoon.

Medical Marijuana Tax Proposed

The sponsor of a bill to create regulations for medical marijuana dispensaries intends to amend his bill to include an excise tax on medical marijuana. Sen. Chris Romer (D-Denver) is sponsoring HB 1284 - Medical Marijuana Regulations, along with Sen. Nancy Spence (R-Aurora) and Representatives Tom Massey (R-Poncha Springs) and Ken Summers (R-Lakewood). In order to create an excise tax similar to that on alcohol, that provision of the bill would have to be approved by voters, as all tax increases require voter approval under TABOR. Romer has indicated that resulting revenue would be designated to fund drug education programs, substance-abuse treatment centers and medical care for veterans and the poor. The bill is scheduled for its first hearing in the House Judiciary Committee later this week.

Convenience Store Bill Dies

A bill to allow convenience stores to sell full-strength beer died on an 8-3 vote in the House Finance Committee this week. HB 1186 – Let Convenience Stores Sell Malt Liquor by Rep. Larry Liston (R-Colorado Springs) pitted the convenience stores against liquor stores and brewers along with manufacturers and wholesalers. Brewers expressed concerns that the microbrew market would suffer as convenience stores stock nationally recognized brands, and liquor stores worried for their market share as name brand convenience stores benefit from corporate backing for promotion and advertising. The bill was double-assigned for committee hearings, and originally passed the House Business Affairs Committee before being postponed indefinitely last week.

Introduced Bills

House	353
Senate	175
Total	528