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## **2009 Colorado General Assembly Legislative Session Review**

June 6, 2009

The First Regular Session of the 67<sup>th</sup> General Assembly of Colorado convened on Wednesday, January 7, 2009, and adjourned on Wednesday, May 6 -- the constitutionally limited 120 days.

This session was dominated by the state budget situation; due to General Fund revenue decreases, the Joint Budget Committee rewrote the FY 2008-09 budget, and had to re-develop a budget for FY 2009-10 to address further declines in state revenues as forecast in the [March 20, 2009 revenue forecast](#) from Legislative Council.

Three other topics were notable in 2009: First, the state adopted a variety of fee increases (primarily SB 09-108) designed to increase funds for transportation, representing the first increase in transportation funding since 1991. Second, the legislature adopted a “hospital provider fee” (HB 09-1293) which is designed to expand the state’s Medicaid program to cover more than 100,000 currently uninsured individuals. Finally, the state repealed the Arveschoug-Bird limit (SB 09-228), which had been in place since 1991 and limited the growth of the state’s operating budget. These three issues all represent significant policy changes and will be discussed later in this review.

We have provided a brief review intended to give the reader a general sense of actions taken by the General Assembly during the 2009 legislative session. We have included links to many backup and resource documents that will allow the reader to access much more information on various subjects.

During the session, a total of 666 bills (that's ominous!) as well more than 100 resolutions and memorials were introduced. This was about average in terms of total numbers of legislative proposals introduced in any given year. As might be expected, Democrats were understandably upbeat about the progress made on many of their legislative priorities, while Republicans were critical of legislative decisions made by the majority party that they felt were poor public policy. The Governor had until Friday, June 5 to either sign or veto any bills passed during the final few days of the legislative session. You can see a [complete listing of the Governor's action](#) on all bills through a link on the Governor's home page. Governor Ritter signed 455 of those bills into law and vetoed four bills: [HB 09-1170](#), concerning unemployment benefits for "locked out" workers; [HB 09-1180](#), which would have allowed concealed weapons permit holders to avoid criminal background checks when purchasing a firearm; [SB 09-050](#), requiring at least one member of the Limited Gaming Commission to reside in a county with limited gaming; and [SB 09-180](#), concerning collective bargaining for firefighters. The vetoes of HB 09-1170 and SB 09-180, both of which bills were strongly supported by organized labor and the unions, have greatly upset those same traditional Democrat party supporters and some Democrat legislators.

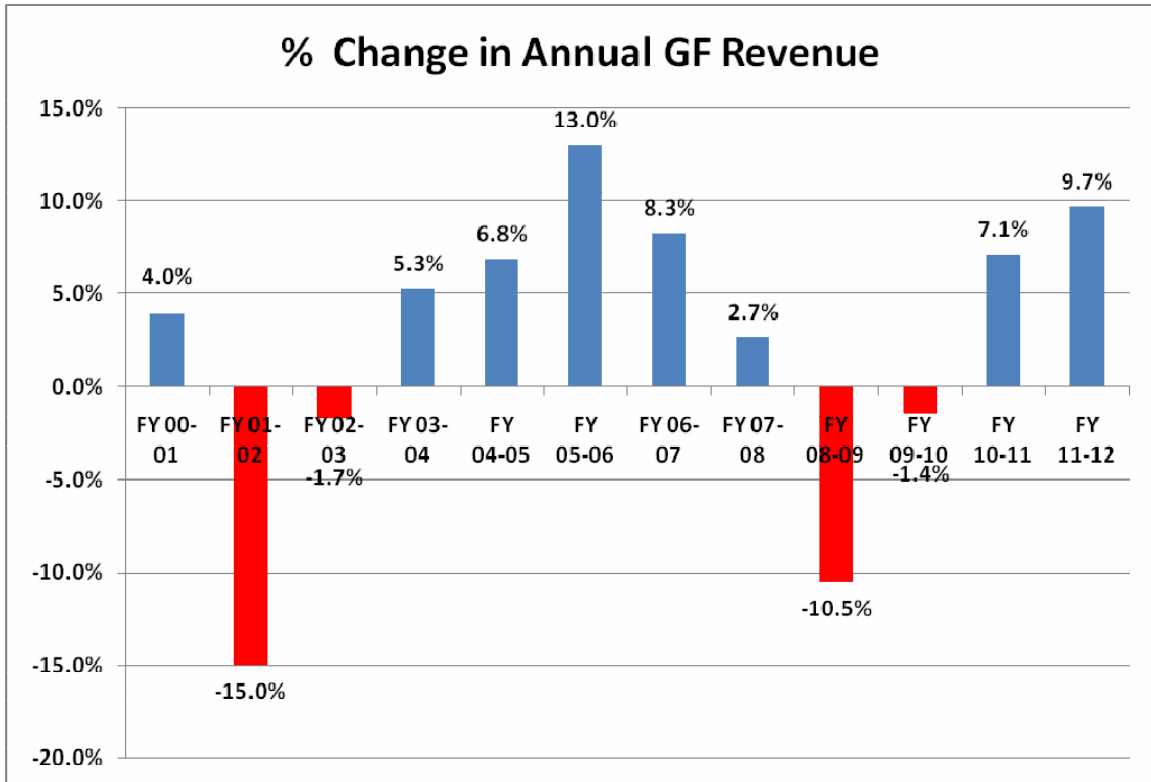
## **Elections & Term Limits**

This was the third year for Governor Bill Ritter and his Democratic colleagues to control both houses of the legislature (38-27 in the House and 21-14 in the Senate) and the Governor's office. This session was notable for the resignation of four Democrats: Senate President Peter Groff (to take a job in the Obama administration), Senate Business Committee Chair Jennifer Veiga (to move to Australia), and Representatives Gwyn Green (to spend time with family, especially grandchildren) and Anne McGihon (a new job with a Washington, D.C. based law firm). All vacancies have been filled through the vacancy appointment process.

In the 2010 elections, we will see 13 legislators being term-limited, including House Speaker T. Carroll, House Majority Leader Weissmann, House Minority Leader May, House Finance Committee Chair Judd, House Transportation Committee Chair McFadyen, House Education Committee Chair Merrifield, and Joint Budget Committee Chair Pommer. Of the eight House members term-limited in 2010, seven are Democrats - only Representative May is a Republican. In the Senate, term limits will impact Senate Ag Committee Chair Isgar, current JBC Chair Keller, Senate Finance Committee Chair Sandoval and former JBC Chair and current JBC member Tapia. Senator Kester is the lone Republican Senator that will be term-limited.

## **Budget**

The Legislature approves an annual General Fund budget based on revenues available for the upcoming fiscal year. The national economic slowdown has decreased state General Fund revenues in FY 2008-09 and future years. The chart below shows the recent year change in state GF revenue collections.



General Fund revenues are primarily collected through income and sales taxes. With the downturn in the economy, all major components of General Fund revenue have decreased in the last 9 months. The table below reflects March 20, 2009 Legislative Council forecast of General Fund revenues by category compared to the prior year.

#### General Fund Revenue Collections: FY 08-09 compared to FY 07-08

	FY 07-08	FY 08-09 (March est.)	Percent Change
<b>Individual Income</b>	\$4,973.7	\$4,423.7	<b>-11.1%</b>
<b>Corporate Income</b>	507.9	350.9	<b>-30.9%</b>
<b>Excise/Sales Taxes</b>	2,411.1	2,265.8	<b>-6.0%</b>
<b>Other</b>	258.1	246.4	<b>-4.5%</b>
<b>Total</b>	<b>\$8,150.8</b>	<b>\$7,286.8</b>	<b>-10.5%</b>

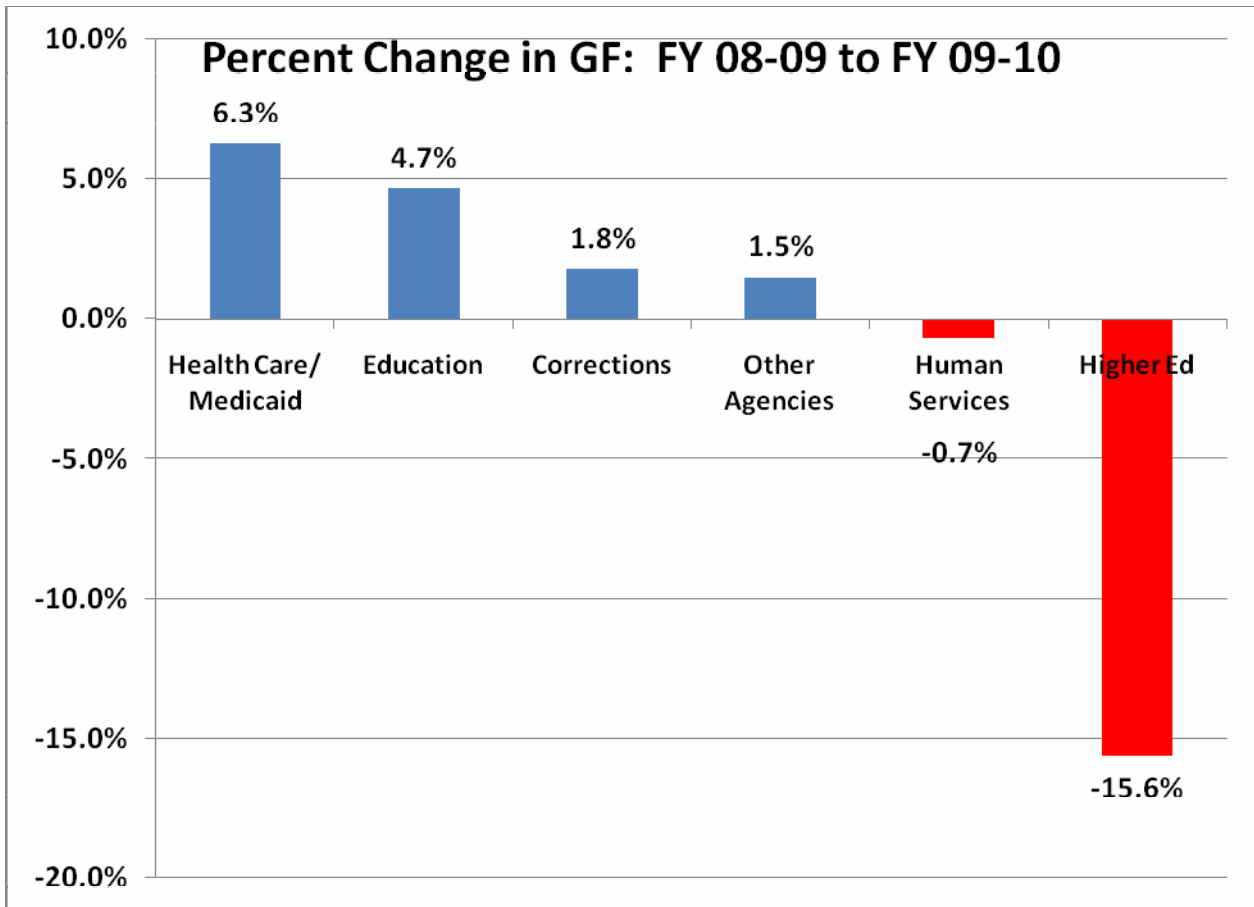
*All figures in millions, and include revenues collected for State Education Fund, based on March 2009 forecast.*

Given this severe revenue loss, the General Assembly balanced the FY 2009-10 budget through a combination of budget reductions, cash fund transfers, and revenue enhancements. The Joint Budget Committee has a [complete listing of all the actions taken to balance the budget](#); provided below are a few examples in each category.

- **Budget Reductions.** The General Assembly adopted a number of budget reductions; some of these (such as the state funding reductions to higher education) are temporarily backfilled by federal stimulus dollars. Other budget reductions include the repeal of the developmental disabilities navigator program, delaying (by 7 years) the implementation of the child welfare mental health pilot program, repealing the inmate assistance grant program, and repealing the appropriation for the alternative teacher compensation grant program.
- **Transfers of Cash Funds into the General Fund.** Examples of such transfers include \$69 million from the Major Medical Insurance Fund, \$33 million from the Higher Education Maintenance and Reserve Fund, and \$20 million from the Severance Tax Fund.
- **Tax Policy Changes.** As a result of the interpretation of a recent [Colorado Supreme Court ruling on SB 07-199](#), the Office of Legislative Legal Services has opined that the General Assembly now has the authority to make changes to the state's tax policies that might result in a revenue increase, as long as the revenue generated would not exceed the allowable TABOR revenue limit. Given this newfound authority, the legislature adopted two bills that increased state revenues. [HB 09-1342](#) eliminates the state sales tax exemption for cigarettes, and is anticipated to increase General Fund revenues by \$31 million in FY 2009-10. [HB 09-1366](#) eliminates the deduction for capital gains on Colorado-based investments, and is anticipated to raise approximately \$7 million in FY 2009-10.

The [Joint Budget Committee](#) introduced [SB 09-259](#), the "Long Bill", or state budget bill on April 6. Rather than looking through the 600 pages of line items in the long bill, you may want to focus on the [Long Bill Narrative](#), which is a summary of the detail in the Long Bill (as introduced).

The chart below compares the GF appropriations to state agencies as contained in the Long Bill. Please note: The table below compares final 08-09 GF, after legislative decisions during the 2009 session, versus the GF appropriations in the 2009-10 Long Bill. Once all the other bills containing appropriations are tabulated, there will be some variance. Please check the JBC website for the Appropriations Report on July 1; this will summarize all appropriations for FY 2009-10. Finally, the \$122 million reduction reflected in higher education is being "backfilled" with federal stimulus moneys for FY 2008-09, FY 2009-10, and FY 2010-11.



### Implications for future budgets

The budget challenges facing Colorado are multi-year in nature. Provided below is a brief discussion of the some of the related issues.

#### Referendum C

Referendum C was passed in November, 2005. The premise of Referendum C was to allow for restoration of funding for education, health care, and transportation. While it modified TABOR by allowing the state to retain all state revenues over the five year period, it did not change other budgetary constraints (such as the Arveschoug-Bird 6 percent appropriations limitation.) As required by Referendum C, the Office of Legislative Council prepared the [“Excess State Revenues”](#) report detailing the amount of excess state revenue the state retained under the provisions of the referendum and how the revenues were appropriated. FY 2009-10 is the last year of the Ref C “timeout”; the state will be subject to TABOR refunds beginning in FY 2010-11.

#### Arveschoug-Bird Limit

Due to the passage of [SB 09-228](#) (repeal of the Arveschoug-Bird operating budget limitation), the General Assembly will be able to consider increases in the state’s operating budget should General Fund revenues increase in excess of 6.0 percent in any year. This will allow the Legislature to consider restoring funding

to those programs cut during the economic downturn. This is an important piece of legislation and is explained in layman's terms in the [Revised Fiscal Impact](#) note prepared by Legislative Council on April 24, 2009.

### **PERA**

One state-wide issue that did not generate significant discussion this year was the overall long-term solvency of the [Public Employees Retirement Association](#). It is likely that the legislature will consider legislation to improve the solvency of PERA in the 2010 session. In the first 11 months of 2008, PERA's assets decreased from \$41 billion to \$30 billion. PERA presented [summary information](#) to the Legislative Audit Committee in March.

### **Outlook for FY 2010-11**

After the passage of the FY 2009-10 Long Bill, the Joint Budget Committee staff projected a GF shortfall of \$875 million for FY 2010-11. This figure will be modified with the June, September, and December, 2009 quarterly revenue estimates, but this is still a significant shortfall. The General Assembly will likely again use a combination of budget reductions, transfers of cash funds (though many of these were drained this year), and tax policy changes (revenue enhancement) to address this anticipated shortfall.

### **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 simply "reduce state appropriations" in order to balance the budget, this may prove to be exceedingly difficult (if not impossible) given the various budgetary constraints. For example, Amendment 23 protects K-12 education, and the receipt of federal stimulus funds provides some protection for higher education and Medicaid as well. Taking those agencies "off-line", and understanding that immediate budget reductions in the Department of Corrections would be extremely difficult to make, there are very few areas of state government which can be reduced to achieve a savings of \$875 million in annual appropriations.

One concept that has generated discussion is a roll-back of some of the [tax reductions made in 1999](#). Consider that the primary reductions made in 1999 – reducing the state individual and corporate income tax rate from 5.0% to 4.63%, and reducing the state sales tax from 3.0% to 2.9% – would, if reversed, generate approximately \$380 million and \$80 million, respectively, based on current estimated FY 08-09 revenues. This change, however, would require a vote of the people in order to comply with TABOR.

Finally, one of the most frequent questions we are asked, as regular participants in the legislative process, is "when will the legislature come back into special session to deal with the budget?". Senator Moe Keller, the Chair of the JBC this

year, recently spoke to that question. ***In her opinion, the legislature will not have to return for special session based on several factors:***

- Governor Ritter can deal with nearly another \$200 million in revenue shortfall by spending down the final 2% of the state's statutory reserve (about \$138 million) and using federal flexibility funds given the state through the [ARRA](#) of about \$50 million;
- The Governor, through Executive Order, can allow the State Comptroller and the State Treasurer to make transfers on June 30 and July 1, 2009 in order to balance the budget for FY 2008-09;
- The Governor could require state departments to reduce expenditures, which in turn could be implemented permanently through "negative supplemental" bills introduced and passed in 2010.
- Actual revenue collections were tracking very closely to forecasts through mid-May, 2009.

Governor Ritter has established an [ARRA Accountability Board](#), Chaired by OEDIT Executive Director Don Elliman, to oversee the accountability for the nearly \$3.5 billion that Colorado is expected to receive through ARRA.

## Transportation

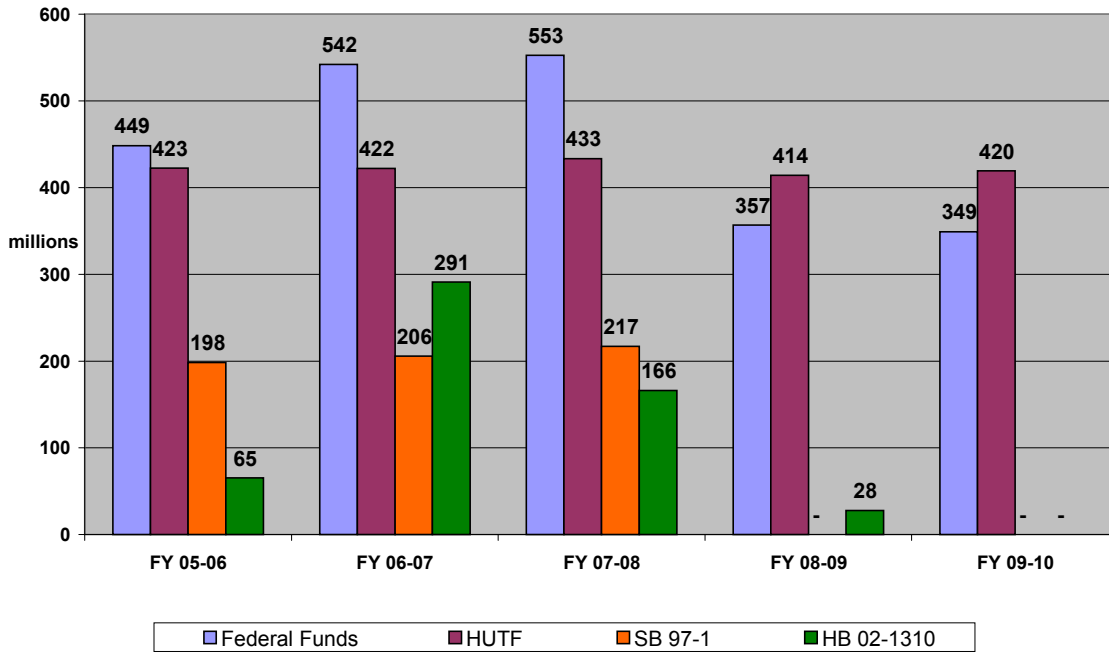
Governor Ritter this year proposed that a new, stable revenue stream must be dedicated to transportation. His Blue Ribbon Transportation Finance and Implementation Panel submitted its "[Report to Colorado](#)" in January, 2008. *This report noted that over 40 percent of state highways are in disrepair currently; under current revenue projections, this will reach 60 percent by 2016.* At present, at least [126 bridges](#) in the state are considered structurally deficient. The CDOT [2035 Statewide Transportation Plan](#) has a wealth of information on the status of the state's highways and bridges.

Under the provisions of the federal stimulus package, there will be [ARRA](#) funds available for transportation and transit. [Colorado will receive \\$500 million for transportation projects](#). Several CDOT projects are already underway, with many more scheduled to start in the near future.

Like many states, Colorado is faced with stable or declining transportation revenues with an aging transportation infrastructure. The declining revenue for transportation is illustrated in the table below. The following table shows the declines in federal funding (in blue), the relative stability of Colorado's gas tax (in purple), and total instability of the two other sources of state revenue: The SB 97-01 diversion of state sales tax revenues (in orange) and the HB 02-1310 two-thirds allocation of remaining GF revenues (in green). Consider that the declining revenue reflected in the table below comes during a time when the purchasing power of these dollars has severely diminished as a consequence of inflation. The reader should note that passage of SB 09-228 will eliminate the SB 97-001 "triggers" for transportation funding, as well as the HB 02-1310 transfer to the HUTF.

## Sources of Transportation Funding

FY 05-06 through FY 09-10 (est.)



The 2009 legislative session saw the passage of a measure designed to increase and to stabilize transportation funding. [SB09-108](#), better known as the “FASTER” bill, passed and was signed by the Governor, who characterized the measure as creating, “...*the first sustainable funding source for transportation in nearly two decades, allowing for the repair of unsafe bridges and the upkeep of aging roads and highways*”.

The legislation will raise approximately \$250 million annually through a variety of fees to fund repairs to 126 structurally deficient bridges and local road safety projects. The most visible fee will be an increase in motor vehicle registrations and permits. The following table outlines the increased fee schedule:

<u>Estimated FY 2009-10 Revenue from Fees, Fines, and Surcharges Under SB 09-108</u>					
Type of Fee	Current Fee	New Fee	Fee Change	Number Affected	Total Fee Impact
Road Safety Surcharge <sup>1</sup>	\$0.00	\$22.74	\$22.74	5,539,613	\$125,944,295
Bridge Safety Surcharge <sup>1</sup>	\$0.00	\$9.10	\$9.10	5,539,613	\$50,406,850
Daily Fee on Rental Cars <sup>2</sup>	\$0.00	\$2.00	\$2.00	12,138,750	\$24,277,500
Oversize Vehicle Surcharge <sup>1</sup>	\$79.63	\$159.26	\$79.63	54,750	\$4,360,000
Permit Fee for Divisible Loads <sup>1</sup>	\$0.00	\$100.00	\$100.00	10,000	\$1,000,000
Late Registration Fee <sup>3</sup>	\$10.00	\$25.00	\$15.00	n/a	n/a
<b>TOTAL</b>					<b>\$205,988,645</b>

<sup>1</sup>This represents the average proposed fee for all vehicles in FY 2009-10. Road and Bridge Safety Surcharges will increase in FY 2010-11. The permit fee for divisible loads starts January 1, 2010.

<sup>2</sup>Assumes 62,250 vehicles rented for 195 days each.

<sup>3</sup>No information is available on the number of vehicles subject to the late registration fee.

Other provisions include \$5 million for the State Transit and Rail Fund to fund grants to local governments for local transit projects. Also, authorization for RTD to go to the ballot (for revenue increases) without approval of the legislature. Provisions were included to strengthen local, regional and state collaboration including protections for local and regional participation in planning and funding decisions for the Statewide Bridge Enterprise and the High Performance Transportation Enterprise (HPTE) which will pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects.

Although the FASTER bill garnered the transportation spotlight, other significant measures made their way through the legislative process and were signed into law:

- **HB09-1034 – Allow Regional Transportation Authority Property Taxes** – Subject to voter approval, authorizes a regional transportation authority (RTA) to impose a uniform mil levy of up to 5 mils on all taxable property within its territory.
- **HB09-1094 – Prohibits use of cell phone while driving** – Prohibits the use of a cell phone for voice or texting for drivers under 18 and texting for all drivers. Penalties will be \$50 for the first offense and \$100 for the second offense.
- **SB09-003 – Motor Vehicle Emissions Programs** - Moves Weld and Larimer counties from the basic emissions program to the enhanced emissions program. Expands the program area to include all previously excluded portions of Adams and Arapahoe.

- [\*\*SB09-078\*\*](#) – **Devolve State Highways to Local Governments** - Allows the State Transportation Commission to determine that all or a portion of a state highway no longer functions as a part of the state highway system. Upon agreement with a county or municipality containing that portion of the state highway, such abandoned road shall become a county or city street.
- [\*\*SB09-094\*\*](#) – **CDOT Transit and Rail Division** – Creates the Transit and Rail Division within CDOT. The Division will be responsible for the planning, development, operation and integration of transit and rail into the statewide transportation system.
- [\*\*SB09-274\*\*](#) – **Use Highways Users Trust Fund (HUTF) Fees for Division of Motor Vehicles** – As part of the budget-balancing package of bills, this bill appropriates “off the top” funds from HUTF during FY 2008-09 and FY 2009-10 to the Division of Motor Vehicles to fund the Drivers License Program. Estimates range from \$17 million to \$20 million diversion of HUTF funds that otherwise would have gone to HUTF and to counties and municipalities.

## Education

- **K-12 Education**

The most significant K-12 Education bills this year concerned concurrent enrollment. The Legislature adopted two bills – [\*\*HB 09-1319\*\*](#) and [\*\*SB 09-285\*\*](#) – both designed to facilitate the concurrent enrollment of high school students in college and technical education courses. This concept had been championed by the Governor’s P-20 Council. In addition, the Legislature adopted [\*\*HB 09-1065\*\*](#), which creates an educator identifier system and outlines the parameters in using the related data.

The annual school finance act ([\*\*SB 09-256\*\*](#)) was approved amidst the debate on the state budget; in the end, the act appropriated an increase of 4.9%, but approximately \$110 million of the increase is restricted until January 29, 2010. This will allow the legislature to measure the quarterly economic forecasts and the level of projected funding in the State Education Fund and rescind those funds if needed.

Finally, after many years of discussion the General Assembly approved [\*\*SB 09-282\*\*](#), which creates a new division in PERA for the Denver Public Schools Retirement System.

- **Higher Education:**

- **Funding**

The debate over funding for higher education dominated the first two months of the session; while higher education was reduced by \$122 million of General Fund, that amount will be backfilled with federal ([\*\*ARRA\*\*](#)) stimulus dollars for FY 2008-09, FY 2009-

10, and FY 2010-11. At this point, however, there is no plan for replacing those one-time federal stimulus dollars.

- **Legislation Impacting Colleges and Universities**

In addition to the budget, the legislature approved measures to: authorize a new “global” campus within the CSU System ([SB 09-086](#)); create an education innovation institute at the University of Northern Colorado ([SB 09-032](#)); provide graduate programs at Metro State College ([HB 09-1295](#)); and authorize the merger of San Juan Basin Area Vocational School and Pueblo Community College ([SB 09-043](#)). One proposal generated significant public debate – allowing children of undocumented immigrants to receive in-state tuition status – it was defeated ([SB 09-170](#)). Additionally, the general assembly passed [HB 09-1272](#), which implements the provisions of Amendment 50, passed in the November, 2008 general election and which will raise the limits on limited-stakes gambling in Colorado and expand the operating hours of casinos, with the increased revenue to the state being used primarily to fund the state’s community colleges.

- **Other Higher Education Issues**

Much of the budget debate in 2006, 2007, and 2008 focused on the National Center for Higher Education Management Systems ([NCHEMS study](#)) and the funding shortfall faced by Colorado colleges and universities. That issue was not raised this year, leading one to question whether that issue is now “off the table”. While all of higher education is underfunded, the NCHEMS study found significant differences in the relative funding among institutions when compared to peer institutions on a national perspective.

Finally, David Skaggs, Executive Director of the Department of Higher Education, has announced a multi-year higher education planning effort designed to focus all sectors of higher education on achieving statewide goals and priorities. This effort should begin in July.

## **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 [3<sup>rd</sup> 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.

[Governor Ritter’s economic development agenda](#) for 2009. The key points of the Governor’s economic development agenda included:

- **[HB 09-1001 - Job Growth Incentive Program](#)**: A new tax-credit program to incentivize businesses to create jobs in Colorado. For a company to qualify for this program, the company must apply to the Economic Development Commission and meet specific criteria. The company will be eligible for a tax credit of up to 50 percent of its annual FICA taxes paid on new employees. The tax credit for new employees would be calculated on a year-to-year basis for five years according to the number of FTE's on the company's payroll at year's end. The recent announcement by DaVita, a Fortune 500 health-care related company, specifically mentioned HB 09-1010 as a factor in the decision to re-locate company headquarters to Denver.
- **[SB 09-067 - Colorado Credit Reserve Program](#)**: Colorado Credit Reserve is a pool guaranty program originally established and administered by the Colorado Housing and Finance Authority ([CHFA](#)). The revitalized program is designed to encourage lenders to extend credit amounts up to \$500,000 to Colorado businesses. By committing \$2.5 million to this program at a maximum of 2.5 percent per loan (the percentage varies according to loan size), the state could leverage more than \$50 million in new loans.
- **[SB 09-171 - New Energy Jobs Program](#)**: This bill will increase funding by \$1 million per year to this program, which will be targeted for new energy job training programs. These new funds will be used to create job training programs for new energy jobs and will allow community colleges to apply for cluster-based grants.
- **Clean Energy Fund**: Gov. Ritter also proposed increasing current funding to the Clean Energy Fund by \$1.4 million, with priority given to economic development incentives for clean energy companies. This funding was included in the Long Bill.

Also important to the state's economic development efforts this year was the passage of [HB 09-1010](#). This bill will re-vitalize the state's film industry by relocating the Colorado Film Commission to the Governor's Office of Economic Development and International Trade (OEDIT) and renewing the emphasis on attracting and creating film industry jobs in Colorado. The Colorado program remains relatively small in comparison to a number of other states, but this is a critical first step.

## Energy and the Environment

A major focus of Governor Ritter's administration has been on the "New Energy Economy". On March 12, at his New Energy Expo, Governor Ritter signed a number of bills aimed at creating new jobs and highlighting clean-energy legislation. The new energy bills passed and signed into law this year include:

- **[SB 09-051](#)** – Renewable Energy Finance Act
- **[SB 09-075](#)** – Operation of Low-Speed Electric Neighborhood Vehicles
- **[SB 09-098](#)** – Blended Diesel Fuels

- [SB 09-124](#) – Agricultural Energy-Related Projects
- [HB 09-1126](#) – Incentives for Development of Solar Thermal Installations
- [HB 09-1145](#) – Encourage Construction of New Homes Using Solar Energy
- [HB 09-1312](#) – Renewable Energy Loans for Schools
- [HB 09-1331](#) - Hybrid and Alternative Fuel Vehicle Income Tax Credit

As well, there were a number of environmental regulation/utility bills that did not pass this year for various reasons. These bills included the following:

- [HB 09-1055](#) – Utilities Disclose Carbon Usage – postponed indefinitely
- [HB 09-1156](#) – Study Electrical Plant Closure Costs – postponed indefinitely
- [HB 09-1277](#) – Electric Utility Customer Information Fuel Mix – postponed indefinitely.
- [HB 09-1300](#) -- Clean Energy Development Program – postponed indefinitely
- [HB 09-1323](#) – Cooperative Electric Association Energy Efficiency – postponed indefinitely
- [SB 09-238](#) – Enforce Limited Local Fees Solar Panels -- postponed indefinitely

There were, however, three bills in this category that were adopted.

- [HB 09-1092](#) – Concerning the Risk of Underground Utilities Caused by Excavation – Passed
- [HB 09-1345](#) – Electric Utilities Integrate Transportation Infrastructure – passed
- [SB 09-051](#) – Renewable Energy Financing Act – passed
- And, in a gratifying show of collegiality and cooperation, we saw the passage of [SB 09-141](#), concerning the creation of the Fountain Creek Watershed, Flood Control and Greenway District. Colorado Springs and Pueblo worked together to support this important legislation.

## **Insurance**

### **Health Care/Insurance**

Confronting the worst Colorado economy in 75 years, the General Assembly and Governor Ritter increased access to safety-net services, particularly for those people who live on the margins – at risk children, the sick and the elderly. A robust agenda for health care reform and expansion of access, cost containment and improvement in quality was achieved.

The next component of Governor Ritter's healthcare reform was introduced and passed as [HB 09-1293](#), known as **The Colorado Healthcare Affordability Act of 2009** or the "**Provider Fee Bill**". House Bill 1293 will allow Colorado to leverage state funds of \$600 million in provider fees to be matched with federal funds of \$600 million. By assessing a provider fee on hospitals, the combined \$1.2 billion would cover more than 100,000 currently uninsured Coloradans through Medicaid and the Child Health Plan Plus. The funds also would improve hospital reimbursement rates for service provided through Medicaid and the Colorado Indigent Care Program (CICP).

The goal of the legislation is to provide health insurance coverage to more than 100,000 uninsured Coloradans, primarily children. The proposal will also help stem the rising cost of health insurance for businesses and families by addressing cost-shifting, one of the key drivers of rising costs, without increasing the burden on taxpayers. The bill was supported by the Colorado Hospital Association and the business community.

Other healthcare measures passed this year include:

- [HB 09-1103](#) **Presumptive Eligibility Bill** - allows for Medicaid coverage to commence without the current lengthy (up to two years) vetting process. In other words, as soon as the paperwork is completed an individual could begin receiving Medicaid benefits. If there should be a determination of non-eligibility, the recipient would not be liable for any retroactive payments.
- [HB09-1059](#) – **Clinical Trials Bill** - This measure will provide continued coverage for an individual for their normal health care needs while they are participating in a clinical trial program for emerging therapies.
- [HB 09-1111](#) – **Health Resources for Underserved Areas** - In order to maximize the effectiveness of programs supporting rural and underserved communities in Colorado, this legislation streamlines and strengthens the state's health care provider loan forgiveness program and establishes the Primary Care Office at the Department of Public Health and Environment.
- [HB09-1020](#) – **Expedite Medical Program Re-enrollment** – As a part of an ongoing effort to make it easier for families to navigate the Medicaid and CHIP+ programs, this bill calls for the establishment of phone and Internet-based systems for re-enrollment in public insurance programs.
- [HB09-1012](#) – **Incentives for Wellness and Prevention Programs** – Allows insurance carriers to offer discounts to employers and individuals who voluntarily engage in health and wellness programs.
- [SB09-244](#) – **Insurance Coverage for Autism** – Requires coverage for the treatment of autism, including applied behavior analysis for children up through the age of eight years. The mandated coverage in this bill applies only to private sector employers, and the business community opposed the bill.

- [SB09-002](#) - **Motor Vehicle Fees to Support Emergency Responders** – This measure will increase the funding for first responders through a small (\$1/year) increase in the motor vehicle registration fee.
- [HB09-1349](#) - **Continue Health Care After Employment** – This legislation will allow laid-off workers to have the opportunity to continue their health insurance policy in accordance with Colorado law.
- [HB09-1353](#) – **Medical Benefits for Legal Immigrants** – Eliminates the arbitrary waiting period for **legally** present pregnant women and children to enroll in the Medicaid and CHIP+ programs.

Among the more important bills that were defeated was a proposal to study a single-payer system ([HB 09-1273](#)).

### **Workers' Compensation**

In late 2008, the claimants' attorneys (WCEA) brought a "wish list" of issues to be addressed in legislation during the 2009 legislative session, as has been done in the past. Some of the issues were procedural in nature and several dealt with increased benefits. Also as in past years, the claimants' attorneys on the one side and insurers and employers on the other successfully negotiated at length on the proposed changes. Ultimately, two bills passed and were signed into law that will make changes to the workers' compensation act. These are [SB 09-168](#), dealing with procedural changes and [SB 09-243](#), dealing with benefits. The National Council on Compensation Insurance (NCCI) has produced a cost estimate on passage of SB 09-243 and their estimate is that it will generate minimal ( $\pm 0.7\%$ ) additional cost to the overall workers' compensation system.

### **Pinnacol Assurance**

During the last few weeks of the session, [SB 09-273](#) was introduced to balance the FY 2009-10 budget by transferring \$500 million from the reserves of Pinnacol Assurance. Of that proposed \$500 million, a total of \$300 million would be transferred to funding higher education. Pinnacol is the dominant worker's compensation insurance writer in the state and had originally been formed in 1915 as the Colorado Compensation Insurance Authority. Intense debate and lobbying took place on the issue of whether Pinnacol was indeed a state agency and whether the legislature could rightfully transfer those funds. Questions were also raised by supporters of the legislation about whether Pinnacol had accumulated too much reserve and might be able to reduce premiums. Ultimately, the bill was defeated. However, a companion bill, [SB 09-281](#), was introduced and signed into law. It will establish an [interim study committee](#) charged with studying Pinnacol Assurance during the 2009 interim.

## **General Insurance Legislation**

### **Property/Casualty**

A return to no-fault insurance, [HB 09-1226](#), was introduced and short-lived. Senator Morgan Carroll introduced two bills that were opposed by the insurance industry. [SB 09-061](#) would have required that any internal review of an insurance claim, independent medical exam or utilization review would have to be done by a licensed Colorado health care professional in good standing. Senator Carroll's other bill was [SB 09-103](#), which would make pay or bonuses based on denial of insurance claims an unfair insurance practice. (This issue is currently addressed in [10-1-101, C.R.S.](#)) Both bills ultimately were defeated.

Another important bill that engaged the insurance industry, the business community and the healthcare provider community was brought by the [Colorado Trial Lawyers' Association](#). The bill was [HB 09-1344](#). The bill dealt with medical malpractice insurance and opponents argued that it would have had a substantial impact on increased health care costs in the state. The bill was defeated on 2<sup>nd</sup> reading in the House.

## **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:

- TIF/URA Issues
  - [HB 09-1013](#) – Special Districts Exempt from URA's – died in committee
  - [HB 09-1070](#) – Agricultural Land Exclusion from URA's – died in committee
  - [HB 09-1327](#) – Allocation of TIF Revenues – died in committee
- Labor Issues
  - [SB 09-180](#) – State Mandated Collective Bargaining for Firefighters – vetoed by the Governor
  - [HB 09-1208](#) – Prevailing Wage on Public Works Projects – died in committee
- Land Use
  - [HB 09-1201](#) – Requirement to Amend Master Plans to Accommodate Military Installations – died in committee

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?

This question is always asked, especially given the fact that both houses of the legislature as well as the Governor's office are controlled by Democrats. A brief analysis might include the following bills:

- **Popular with Business**
  - [HB 09-1001](#) – New Jobs Creation Tax Credits (Signed by Governor)
  - [HB 09-1035](#) – Tax Rebate for Purchases by Clean-Technology and Medical Device Companies (Signed by Governor)
  - [HB 09-1105](#) – Income Tax Credit for “Angel Investors” (Signed by Governor)
  - [HB 09-1298](#) – Sales Tax Rebate on Purchase of Semi-Trailer Trucks (Signed by Governor)
  - [SB 09-037](#) – Subsequent Injury and Major Medical Fund (Signed by Governor)
  - [SB 09-085](#) – Phase-out of Business Personal Property Tax – amended to be a study committee (Signed by Governor)
  - [SB 09-173](#) – Use of STAR Bonds for Local Economic Development Projects (Signed by Governor)
- **Not Popular with Business**
  - [HB 09-1057](#) – Mandatory Parental Leave (signed by the Governor)
  - [HB 09-1170](#) – UI Benefits for “locked out” employees (vetoed by Governor Ritter)
  - [HB 09-1366](#) – Elimination of Capital Gains Tax Breaks (Signed by Governor)
  - [SB 09-244](#) – Mandatory Coverage for Autism (Signed by Governor)
  - [SB 09-273](#) – Transfer of Pinnacle Assurance Reserves (died in committee)
  - [SB 09-275](#) – Elimination of Vendor Fee on Sales Tax Collections– part of the budget-balancing package – will generate about \$39 million per year for the state (Signed by Governor)

## Older Coloradans

### The Older Coloradans Cash Fund

The Older Coloradans Cash Fund is distributed across the state through the [Area Agencies on Aging](#) to provide grants for community-based services to persons sixty years of age or older in order to assist them in living in their own homes and communities through programs such as Meals on Wheels. The legislature ended up cutting this fund for FY2009-10 by \$1,000,000. However, the Joint Budget Committee made this cut in full anticipation of the state

receiving \$1.2 million in American Recovery and Reinvestment Act (ARRA/ Economic Stimulus) dollars. The ARRA moneys can only be spent for congregant meals and meals on wheels services.

The legislature also borrowed about \$3 million from the Old Age Pension health and medical cash reserves to help address the budget shortfall.

### **Senior Property Tax Exemption**

The legislature decided to institute a one-year suspension of the senior homestead exemption on real property taxes. This has been an on-again and off-again tax relief for seniors who have continuously lived in their same home for at least ten years. This action was regrettably taken by the General Assembly in order to help balance the state's budget for FY 2009-10. The revenue to the state will be about \$98 million.

Also passed this year was [HB09-1196](#) - Nursing Home Penalty to Benefit Residents. The measure authorizes use of \$200,000 in the first year and about \$85,000 in the second year and thereafter from the Nursing Home Penalty Cash Fund to fund actions that will improve the quality of life of nursing home residents, another service for Colorado's senior population.

### **Ballot Initiatives**

At this time last year, Colorado voters were faced with numerous ballot initiatives headed for the November general election ballot. Several of those initiatives were ultimately pulled by the proponents, but a huge amount of money was spent in the attempt to pass or defeat these initiatives.

As of the date of this writing, only 24 [initiatives have been filed with the Office of Legislative Council](#). The subjects addressed in these initiatives range from secret ballot voting (by employees); civil unions; tax, debt and appropriations limitations; marriage; congressional term limits and Presidential qualifications. Obviously the majority of these proposed initiatives will not go all the way through the process and appear on the November, 2010 ballot but the reader would be well-advised to check the Legislative Council website regularly in order to stay abreast of those that are gaining traction.

### **Miscellaneous**

[Governor Ritter](#) and [State Treasurer Cary Kennedy](#) recently released the second annual [State Taxpayer Accountability Report \(STAR\)](#). The STAR Report provides information on the state's fiscal condition for Fiscal Year 2006-2007, the most recently available audited data.

## Interim Legislative Committees

During the coming summer and fall, there will be several legislative committees meeting. These include:

1. Health Care Task Force
2. Mental Illness in the Criminal Justice System
3. Police Officers' and Firefighters' Pension Reform Commission
4. Sunset Reviews Conducted by Standing Committees
5. Transportation Legislation Review Committee
6. Water Resources Review Committee

In addition to those "statutory" committees, a number of other Interim Committees are authorized each year. On April 20, the Legislative Council approved three committees for official Interim status for 2009.

7. Economic Opportunity Poverty Reduction Task Force ([HB 09-1064](#))
8. Hospice and Palliative Care ([HJR 09-1017](#))
9. School Finance ([HJR 09-1020](#))

The Executive Committee of Legislative Council met on May 7 and approved the following two additional interim committees for 2009.

10. Pinnacle Assurance ([SB 09-281](#))
11. Fiscal Stability ([SJR 09-044](#))

The [Legislative Council website](#) will post the summer calendar and membership on all of these Interim Committees over the next few weeks.

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We hope that this summary review of the 2009 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](http://www.lobbycolorado.com) for more information.

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