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## 2010 Colorado General Assembly Legislative Session Outlook

January 12, 2010

The Second Regular Session of the 67<sup>th</sup> General Assembly of Colorado is scheduled to convene on Wednesday, January 13, 2010 at 10 am. The Legislature will meet for a constitutionally mandated limit of 120 days, with *adjournment sine die* occurring no later than midnight on Wednesday, May 12, 2010. You can obtain more information on the General Assembly, including contact information for legislators, information on bills that have been introduced, schedules for committee hearings and links for listening to live audio broadcasts of the proceedings of the legislature by going to the [Colorado General Assembly homepage](#). The [deadline schedule for the 2010 legislative session](#) is also available. The House of Representatives will again be televised, both on the [internet](#) and on Comcast cable television channel 165. For the first time, the Senate will be televised as well.

### **Elections, etc.**

There is one to word describe the events of the past two weeks – “**WOW!**”

November, 2010 will see the election or re-election of the Governor and Lt. Governor, State Treasurer, the Secretary of State, Attorney General, one United States Senator, all seven members of Congress, 19 of the 35 Colorado State Senators, all 65 members of the Colorado House of Representatives, and numerous local government officials. Some of these elections are regularly scheduled because of two- or four-year terms, others by virtue of [term limits in Colorado](#), and still others brought about because of resignations.

In what has to be the most shocking news yet of this election season, Governor Bill Ritter announced on January 5 that he would not be running for re-election in 2010. This immediately set off the expected scrambling, speculation and press announcements from and about the potential candidates on the Democratic side. Former US Senator and current Secretary of the Interior Ken Salazar has indicated that he will not run. Denver Mayor John Hickenlooper announced late this afternoon that he is running and will likely be the only Democratic candidate.

On the Republican side, former Congressman Scott McInnis is the front-runner in a primary against Evergreen businessman Dan Maes.

**Term limits** and resignations will take a heavy toll on legislative leadership in 2011. Joint Budget Committee Chair Rep. Jack Pommer and Vice-Chair Senator Moe Keller are both term-limited, as is JBC member Senator Abel Tapia. Senate Transportation Chair Dan Gibbs has announced that he will not run for re-election, instead choosing to run for Summit County Commissioner. Senate Minority Leader Josh Penry has dropped his run for Governor and subsequently has announced that he will not run for re-election in 2010. Senate Finance Committee Chair Paula Sandoval is term-limited and will run for Denver City Council.

On the House side, Speaker Terrance Carroll and Majority Leader Paul Weismann are both term-limited. As well, Finance Committee Chair Joel Judd is term limited and running in a primary for Senator Sandoval's seat. Transportation Committee Chair Buffie McFadyen and Education Committee Chair Mike Merrifield are both term-limited. Republican House Minority Leader Mike May is also term-limited.

Finally, in another surprising move, House Speaker Pro-Tem and Agriculture Committee Chair Kathleen Curry recently disaffiliated from the Democrat Party and is now an Independent. House leadership replaced her as Speaker Pro-Tem and Ag Committee Chair, although she remains a member of the Ag Committee.

### **Initiatives on the 2010 Ballot**

It is very important that the reader know of three potentially devastating ballot initiatives that will appear on the November, 2010 general election ballot. These initiatives have been certified as having the requisite number of signatures of qualified Colorado voters and have been designated as Proposition 101, Amendment 60 and Amendment 61. Each of these three initiatives, if passed, could have draconian impact on state and local governments. The proponents of these three initiatives are not well known and have generally flown "under the radar". The only proponent that is well known in Capitol circles is long time and now retired lobbyist Freda Poundstone, one of the advocates of Prop 101. Much of the language of the initiatives is similar to what we have seen over the years in amendments put forward by anti-tax crusader Doug Bruce.

The Bell Policy Center has done a very good [analysis of the three initiatives](#). Also, the law firm of Sherman & Howard has done a [client advisory](#) on the initiatives that is of interest.

To summarize, **Proposition 101** would:

- Reduce specific ownership fees on cars to \$2 for new cars and \$1 for used cars, with a total of \$10 per year per car for all license and registration fees. Also eliminates or reduces other various vehicle taxes and fees. **Estimated loss in highway construction/maintenance funding of about \$465 million per year.**
- Reduce the state income tax rate from 4.63% to 3.5%. **Estimated loss in General Fund revenue to the state of \$1.2 billion per year.**
- Reduce or eliminate telecommunications fees of about \$4.5 million per year.

**Amendment 60** would:

- Amendment 60 would amend Article X, Section 20 of the Colorado Constitution ("TABOR") to add a new section to establish additional limits on property taxes. This section will be in addition to all other provisions of TABOR. Some of the provisions of this proposal appear intended to override court decisions interpreting TABOR and to roll back certain prior voter approvals under TABOR. In other words, to "Re-Bruce" all elections that have occurred since 1992 to "de-Bruce".
- Electors may vote on property taxes whether they are a resident of the district or not.
- Mandate that all property tax elections occur in November.
- Limit future property tax increases to a maximum length of 10 years.
- Apparently reverse the legislative action of SB 07-199, the mill levy freeze enacted for school finance and upheld by the Colorado Supreme Court.
- Make numerous other changes to property tax votes, elections and laws.

**Amendment 61** would:

- Ban the use of any kind of debt by the state of Colorado. Colorado would then become the only state in the country without authority to issue debt. This would also apply to units of local government – cities, counties, school districts, special districts.
- Limit the amount of debt issued by local governments and only if approved by voters in a November election.
- Require current debt, such as certificates of participation (COP's) "shall be paid".

These are all extremely dangerous ballot initiatives that will have a lot of appeal to uninformed voters and, if passed, will cripple the ability of the state or local governments to continue to operate. ***We urge the reader to become educated and informed on these initiatives before casting your vote in November.***

### Recap of 2009 Session

The 2009 session ended in May. While the legislature wrestled with a budget shortfall, the influx of federal ARRA funds temporarily backfilled many program reductions.

In addition to the budget, the 2009 session was notable for three major policy issues: First, the state adopted a variety of fee increases (through [SB 09-108](#)) designed to increase revenues 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 (General Fund) budget.

### Major Issues -- 2010

As was the case in 2009, the condition of the state’s budget will dominate the legislative discussion in 2010. Perhaps the best way to understand the challenges surrounding the state budget is to review the budget changes of the last decade. The table below considers the state’s GF revenues and certain caseload changes of the last decade.

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

	FY 2000-01	FY 2009-10	% change
Colorado Population	4,339,000	5,018,000	15.7%
K-12 Student Enrollment	742,145	818,443	10.3%
Higher Education Enrollment	123,256	144,577	17.3%
Prison Population	16,833	22,633	34.5%
Medicaid Recipients	263,107	489,612	86.1%
General Fund Revs (millions)	\$6,553	\$6,500	-0.8%

To summarize, *Colorado has more people, more K-12 students, more higher education students, more prisoners, and more Medicaid recipients than the state had ten years ago -- and we are attempting to serve this increased caseload with the same amount of General Fund as collected in FY 2000-01.* This is not a stable fiscal model!

## FY 2009-10 Budget

Since the FY 2009-10 budget was adopted by the legislature in April, the FY 2009-10 General Fund revenue has dropped by \$333.2 million – a 4.9 percent reduction in 9 months (according to Legislative Council estimates). This reduction has led the Governor to propose various spending reductions and revenue enhancements. The Governor’s proposals are detailed in the [Governor’s FY 2010-11 Budget Balancing Fact Sheets](#) and [Governor Ritter’s FY 10-11 Budget Balancing Plan](#). One key component of the governor’s request as outlined in the Budget Balancing Plan for FY 2010-11 is **modification of 13 different tax policies**. Eliminating these exemptions and credits is projected to raise approximately \$132 million in FY 2010-11. These revenue enhancements have generated lots of discussion and will be hotly debated in 2010. The legislative proposals required to accomplish these budget-balancing recommendations will be introduced early in the session and leadership hopes to have them passed and on the Governor’s desk by early February.

At the presentation of the [December 2009 quarterly revenue estimate](#), Natalie Mullis, the Chief Economist for Legislative Council, began her presentation by stating that “In Colorado, the recession appears to be over.” Colorado has experienced job growth in July (likely in response to the federal stimulus funds) as well as in October and November. However, Ms. Mullis indicated that the recovery will be slow, mostly constrained by the extremely tight credit market. Colorado’s peak employment was May, 2008; since that time we have lost 5 percent of our jobs (1 in 20). To illustrate the slow recovery, Ms. Mullis does not expect Colorado to achieve the May 2008 employment level until *after 2012*. The table below compares the sources of General Fund revenues.

### General Fund Revenues: FY 09-10 compared to FY 07-08

	FY 07-08	FY 08-09	FY 09-10	Two Year % Change
Excise/Sales Taxes	\$2,411.5	\$2,199.5	\$2,088.8	-13.4%
Individual Income	4,973.7	4,333.3	4,224.1	-15.1%
Corporate Income	507.9	292.5	281.5	-44.6%
Other	258.1	252.4	241.3	-6.5%
<b>Total</b>	<b>\$8,150.8</b>	<b>\$7,077.7</b>	<b>\$6,835.7</b>	<b>-16.1%</b>

*All figures in millions; total includes those dollars diverted to the State Education Fund*

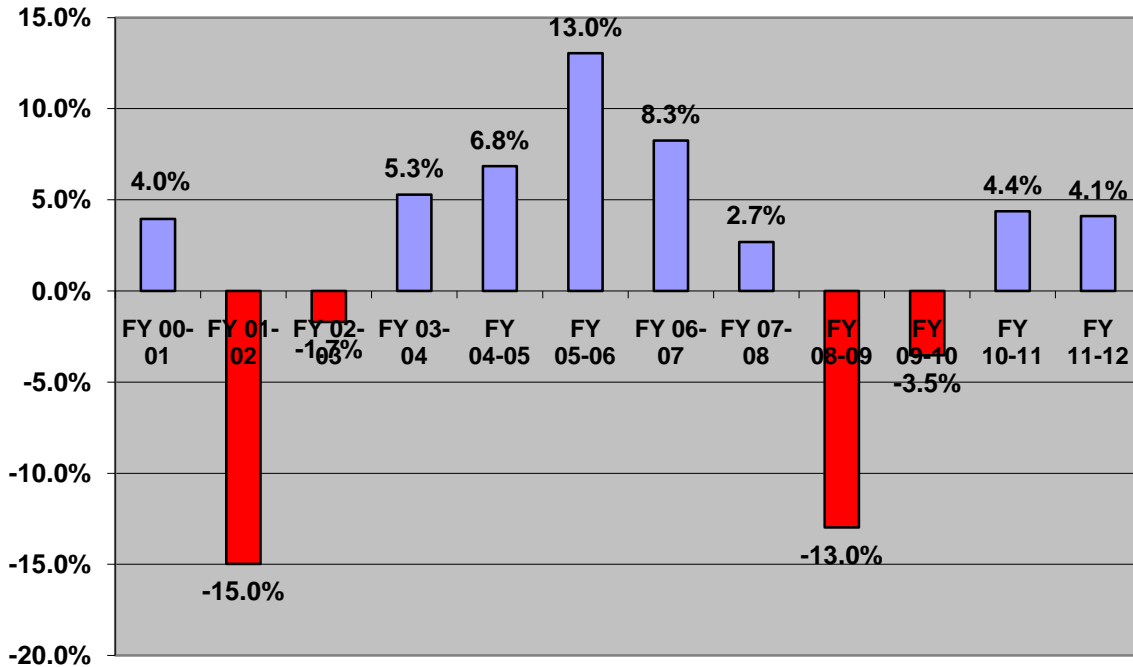
As shown above, the Legislative Council projects a decrease in each major source of General Fund revenue in FY 09-10. The total projected two year General Fund revenue decrease is 16.1 percent.

The Legislature will continue to monitor the GF revenues, and will receive the next quarterly forecast on March 22. The General Assembly traditionally uses the March 22 revenue forecasts to finalize the state budget for the coming fiscal year.

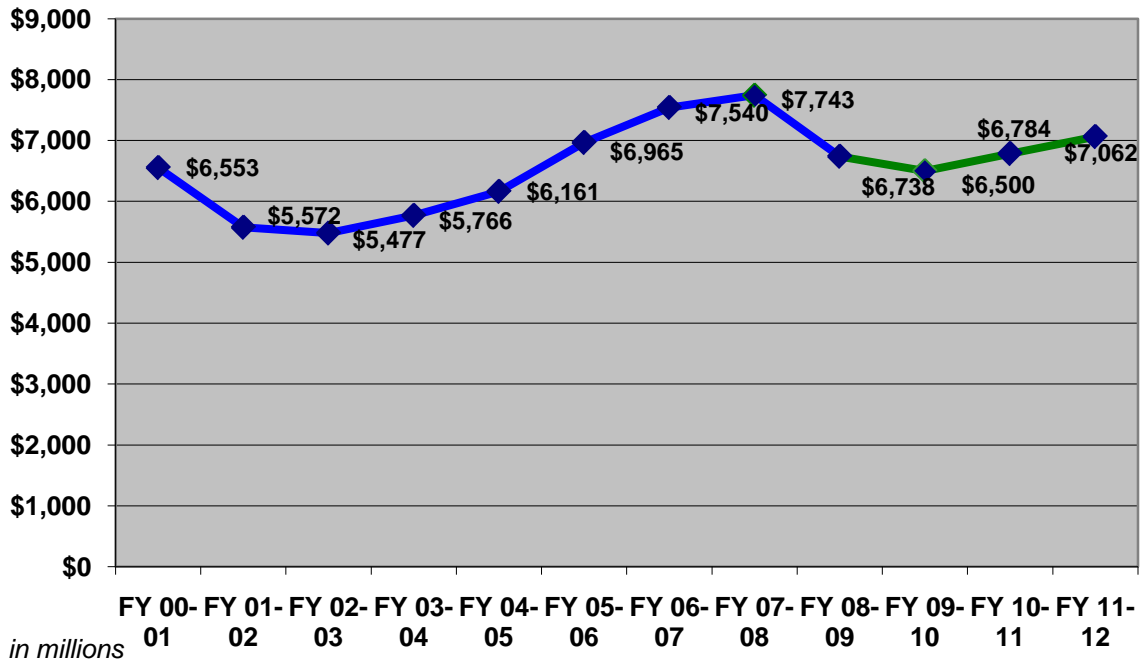
### Historical and Projected Changes for the General Fund

In considering the current revenue shortfall, it is instructive to consider the recent history of Colorado's General Fund. The two tables below display the annual change in GF by percent (Table 1) and the total GF revenues by year (Table 2).

**Table 1: Annual Change in GF Revenues**  
Actual (FY 01 -- FY 09) and Projected (FY 10 -- FY 12)



**Table 2: General Fund Revenues:  
Recent Year Actuals and Projections**



**Other Budget Information**

The passage of Referendum C in November, 2005 gave the state a five year “time out” to help recover from the ratchet down effect of TABOR during the economic downturn of 2001-05. The 2010 legislature will set the budget for FY 2010-11, the first year *after* the expiration of the of the five year Referendum C timeout. 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. The Joint Budget Committee Staff publishes an annual summary of state appropriations called [Budget in Brief](#), which can provide helpful background information on the appropriations level of each state agency. The Leeds School of Business at the University of Colorado presented their [Colorado Business Economic Outlook 2010](#) in December.

**TABOR Refunds**

With the expiration of Referendum C, Colorado will be subject to TABOR’s revenue limits beginning in FY 10-11. Neither the [Legislative Council](#) nor [Office of State Planning & Budgeting](#) quarterly forecast projects a TABOR refund during the forecast period.

**Capital Construction Dollars/GF Transfers to Transportation**

In recent years, the legislature has transferred a portion of sales tax revenues to Transportation (through SB 097-01) and transferred excess GF revenues to

transportation and capital construction (through HB 02-1310). Both of these transfer mechanisms were eliminated with the repeal of the Arveschoug-Bird limitation through SB 09-228.

Instead, the provisions of SB 09-228 provide certain transfers to transportation, capital construction, and a state reserve fund, subject to applicable triggers. The table below shows the transfers, assuming sufficient general fund revenues to meet the triggers.

#### SB 09-228 Allocations

	Transportation	Capital Construction	Reserve
FY 2012-13	2.0%	0.5%	0.5%
FY 2013-14	2.0%	0.5%	0.5%
FY 2014-15	2.0%	1.0%	0.5%
FY 2015-16	2.0%	1.0%	0.5%
FY 2016-17	2.0%	1.0%	0.5%

The trigger for the five year transfer is a minimum increase of personal income growth of 5.0 percent.

#### Forecasted CPI Rate

The CPI rate is used as the basis for funding K-12 Education, as the provisions of ***Amendment 23 (passed by the voters in 2000) require an appropriation of inflation plus 1.0 percent for the statewide base per pupil funding through FY 2010-11.*** After that year, the base is required to increase by inflation. In addition, in some years the legislature has based the allowable higher education tuition increase on the CPI rate as well. The table below shows the December, 2009 CPI forecasts for the Denver/Boulder/Greeley area.

#### December 2009 CPI Forecasts

	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013
OSPB	-1.2%	1.5%	2.5%	2.5%	2.5%
LCS	-0.9%	0.6%	1.1%	1.7%	N/A

#### Long Term Budget Issues

In order to address the long-term budget challenges resulting from the constitutional provisions of TABOR, Gallagher, and Amendment 23, the Legislature charged the [Long Term Fiscal Stability Commission](#) with developing possible solutions. The Commission met during the summer, and made a number of recommendations, including a proposed constitutional commission to address budgetary issues. Such a proposal would have to be approved by the legislature (with two-thirds majority) and then approved by the voters before being created.

## Transportation

Funding of Colorado's roads and bridges including both the maintenance of the current system and critically needed construction of new lane miles, remained the top 2010 transportation priority for Governor Ritter. In the spring of 2007, Governor Ritter appointed the [Colorado Transportation Finance and Implementation Panel](#). A year after the 2008 report of the panel was released, the 2009 legislature passed [SB09-108, \(Gibbs/Rice\)](#) better known as the "FASTER" bill. Governor Ritter 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".

This bill will raise approximately \$200 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. (Since 2010 will be the first full year of FASTER, the calendar year will reflect a full calendar year's revenue)

We expect to see several legislative attempts to either reduce the fees and/or change the fee structure in an attempt to quell the groundswell of dissatisfaction with the fee structure existing among the electorate. There is also an [initiative](#) that has qualified for the November General Election ballot that proposes to make a draconian cut in FASTER and eventually eliminate the fees altogether. Should this measure succeed, funding for bridge and road repairs would be rolled back beyond what we have seen in recent decades.

The following table outlines the current fee schedule under FASTER:

<a href="#">Estimated FY 2009-10 Revenue from Fees, Fines, and Surcharges Under SB 09-108</a>					
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	\$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>2</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>No information is available on the number of vehicles subject to the late registration fee.

Other actions of the 2009 General Assembly included a \$5 million appropriation for the State Transit and Rail Fund to be used for grants to local governments for local transit projects and also the authorization for RTD to go to the ballot for a potential tax increase without approval of the legislature. Provisions were also included to strengthen local, regional and state collaboration on transportation, 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 was created in SB 09-108 and which will pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects.

The interim [Transportation Legislative Review Committee](#) has proposed five bills for the 2010 session:

- [Bill A](#)      Modify Toll Evasion Notice Process
- [Bill B](#)      Reduce Waste Tire Stockpile Risks
- [Bill C](#)      Reserved Parking Disabled Enforcement
- [Bill D](#)      Driver's License & Permit Education
- [Bill E](#)      Highway Work Zone Accident Reporting

### **Health Care / Health Insurance**

Health care has been a front-burner topic for the last several years.

#### Recap of healthcare strides made in 2009:

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.

This was accomplished through passage of [HB 09-1293](#) , known as **The Colorado Healthcare Affordability Act of 2009** or the “**Provider Fee Bill**”. It was a Joint Budget Committee bill with bi-partisan support and strong backing among the health care advocate organizations throughout the state.

A year in development, this bill allows Colorado to leverage state funds to draw down additional federal funds to provide coverage to more than 100,000 uninsured Coloradans. By assessing a provider fee on hospitals, Colorado is expected to generate an additional \$600 million a year to provide coverage to the uninsured, and receive \$600 million in federal matching funds. These funds would cover more than 100,000 uninsured Coloradans through Medicaid and the Child Health Plan Plus. 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.

One of the major questions about this legislation is, “Won't the hospitals just shift the fee onto insurers and consumers?” Proponents have indicated that the answer to that is “no”. Currently, care for uninsured patients and Medicaid underpayment to hospitals are two of the primary drivers of cost-shifting in healthcare. This proposal will increase hospital reimbursement rates, cover a significant portion of the uninsured and thereby reduce the cost shift. Provisions are included in the legislation to ensure that the provider fee is not shifted onto patients or insurers.

Other healthcare measures also moved through the 2009 session. [HB 09-1103 the 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 rather than waiting for a lengthy assessment process to be completed.

What is ahead for the **2010 session** of the General Assembly? There are two long and deepening shadows being cast over healthcare in Colorado during 2010 and probably beyond. First is the uncertainty of when and how the federal health care reform will affect Colorado programs and legislative initiatives. A recent article in the [Denver Post](#) highlights the plans being laid by some legislators and citizens to challenge any federal re-write of health care rules and regulations. One proposal aims to bar the state from requiring its citizens to purchase health insurance and another is a proposal by Representative Cindy Acree, who wants Colorado to opt out of the federal plan on the grounds the federal government is “usurping state’s rights”.

Under current proposals being debated in Congress, a lot of the federal reforms do not go into effect until 2013 or 2014. Assuming the federal reforms pass into law in their current form, the states will have a couple of years of legislative and regulatory uncertainty to align their laws and regulations.

The second specter shading the legislative scene is the state budget and the cuts that have been made to various programs and funds. Additional reductions could be realized.

The interim committee on healthcare, the [Health Care Task Force](#), has proposed eight committee bills for introduction early in the 2009 session. These measures are as follows:

- [Bill A](#) No Gender Individual Health Ins Rates
- [Bill B](#) Home Health Care
- [Bill C](#) Screening Brief Intervention Referral
- [Bill D](#) Standardized Health Ins Information
- [Bill E](#) Required Maternity Coverage Individual
- [Bill F](#) CoverColorado Provider Fee Schedule

[Bill G](#) Medicaid Dental Services Contract Admin  
[Bill H](#) Behavioral Health Crisis Response Services

## **Human Services**

The major issue in Human Services will involve **child welfare**. In April 2008, Governor Ritter created the Child Welfare Action Committee to provide recommendations to improve the state's child welfare system. This Committee issued its [final report](#) in September 2009. Among the findings and recommendations were a disconnect between county and state efforts; inconsistent performance among the county efforts at child welfare; and unmet data needs at the county level. The theme of the report was the existence of a need for greater consistency in the child welfare area. There is likely to be legislation addressing this theme in 2010.

Regarding **services for individuals with developmental disabilities**, the multiple budget reductions have (so far) avoided any reduction in the number of state funded slots in the disabilities programs. Maintaining this funding will be a high priority in the coming session. In addition, the Department recently issued a consultant's report on the number of unfunded mandates in the DD system; it is unknown how the Department will respond to this report.

## **Services for Seniors**

Great strides have been made during the past decade in funding services for seniors. However, projections for revenues in FY 2009-10 and FY 2010-11 indicate that senior services will likely make a "contribution" to help alleviate the fiscal crisis.

### **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, it is expected that the state will receive \$1.2 million in American Recovery and Reinvestment Act (ARRA/ Economic Stimulus) dollars.

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

### **Property Tax Exemption:**

The legislature has instituted 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 homes for at least ten years. This moratorium will be in place in the FY2009-10 fiscal year and the FY2010-11 fiscal year. The net impact of the legislature's decision to temporarily

suspend the senior homestead property tax exemption is nearly \$100 million per year.

### **Legislative Action in the 2010 General Assembly Session:**

Budget issues will dominate legislative actions in 2010. Continuing revenue shortfalls will lead the way in making more cuts to an already lean state government. Stimulus monies are plugging some holes with enhanced Medicaid, education and other funding. ARRA dollars also carry requirements of maintenance of effort (MOE) prohibiting certain budget cuts at the risk of losing federal money. As these ARRA funds “sunset” over the next eighteen months, Colorado will not have these federal funds available and it is likely that some programs will lose their federal protection against budget cuts.

### **Other possible senior-related legislation that could be seen during the 2010 session:**

- \* Clarify eligibility for the state Home Care Allowance relative to eligibility for [Medicaid Home and Community Based Services](#).
- \* Restore the State Earned Income Tax Credit for the working poor to first place as a TABOR refund mechanism.
- \* Allow local governments and developers to enter into voluntary agreements to provide for affordable housing.
- \* Expand eligibility and participation in the [Supplemental Nutrition Assistance Program](#) (food stamps).
- \* A variety of bills to improve and clarify state statutes relating to end of life decisions, including advanced care directives, streamlining and clarifying forms, and addressing decision making issues associated with hospice and palliative care. These may include a new statute providing for Medical Orders for Scope of Treatment (MOST), consistent with the goal of enhancing patient centered, compassionate care through timely discussion between individuals and their health care providers and the use of standardized forms.

## **Education**

### **K-12 Education**

The debate on K-12 Education will feature both funding and policy components. As to the funding issue, in order to address the necessary statewide General Fund reduction, the Governor has proposed a \$260 million reduction to K-12 education for FY 2010-11. [Amendment 23](#) requires the base per pupil funding to increase by inflation plus one percent, but the Amendment is not specific about the level of funding for the factors (cost of living, size, at-risk funding, etc.). The Governor’s office proposes to reduce funding through the factors. Some statewide education groups will possibly challenge this reduction as a violation of the intent of Amendment 23.

As to the policy discussions, the big debate will focus on possible changes to teacher and principal evaluation. It is unknown at this point how “sweeping” such legislation will be. In addition, other K-12 issues include stable funding for small

school districts, arts requirements for high school, and additional oversight for charter schools.

Outside of the legislative process, two issues will bear watching. First, many will be watching the federal [Race to the Top](#) program. The Lt. Governor and Commissioner of Education have been developing Colorado's application, which will be submitted later this month. The US Department of Education should determine the first round awardees in April, with a second round coming in September.

In October 2009, the Colorado Supreme Court ruled (in a 4-3 decision) that a lawsuit over K-12 funding adequacy should go to trial. The case is expected to go to trial in approximately a year. The case was originally filed in 2005, and the plaintiffs are arguing that the state is not meeting the "thorough and uniform" constitutional requirement for school funding.

### **Higher Education**

Heading into the final year of his first term, [Governor Ritter recently announced](#) a year-long study and strategic planning effort for higher education. This effort, to be completed prior to the 2011 session, will focus on higher education efficiency and funding. The Denver Post recently published an [editorial](#) questioning the need and timing of the planning process.

The funding issue will be very timely, because the state funding for higher education is scheduled to drop substantially once the federal stimulus funds run out. ***Consider that the state funding for higher education is scheduled to drop from \$705 million (in FY 05-06) to \$555 million (in FY 09-10) – with possible further reductions in FY 2011-12. One part of this discussion bears watching – the allocation of these GF reductions between governing boards. Currently, no formula has been developed – the Department of Higher Education has simply recommended that each governing board be "rolled back to its FY 05-06 level of funding.***

One issue which will likely *not* be considered is in-state tuition for children of undocumented immigrants. This issue – which was defeated after lengthy discussion in 2009 – will probably be delayed again until 2011.

Finally, in the 2008 election, the Community Colleges, in partnership with the casino owners, were successful in their efforts (through [Amendment 50](#)) to raise the betting limit at Colorado's mountain casino towns. The additional funding for the Community Colleges – estimated at approximately \$8 million -- will be distributed beginning in FY 2010-11.

### **Economic Development and the Economy**

The near-unanimous highest priority of legislators for the 2010 legislative session is "jobs, jobs, and jobs". Governor Ritter and the Office of Economic Development and International Trade (OEDIT) recently announced several

legislative initiatives dealing [with job training plans to help strengthen Colorado's workforce](#). These bills will deal with job re-training accounts, health care jobs in rural and underserved areas, nurse training loan forgiveness. Also, the Governor just last week announced proposed legislation to [expand Colorado's creative industries](#). These bills will create the Colorado Creative Industry Division, clarify legislation on art in public places and clarify the film incentive statutes. Also, Governor Ritter convened a "[Jobs Cabinet](#)", which recently issued its final report.

The legislative [Economic Opportunity Poverty Reduction Task Force](#) met this past summer and fall and will be introducing eight bills in 2010. The bills include:

<a href="#">Bill A</a>	Priority of TABOR Refund Methods
<a href="#">Bill B</a>	Employer Liability Negligent Hiring
<a href="#">Bill C</a>	Identification Documents Reduce Poverty
<a href="#">Bill D</a>	Statewide Strategic Use Fund Evaluation
<a href="#">Bill E</a>	Supplemental Nutrition Assistance Program Outreach
<a href="#">Bill F</a>	Economic Opportunity Task Force
<a href="#">Bill G</a>	Voluntary Agreement Affecting Rent Private Residential Property
<a href="#">Bill H</a>	Collaborative Mgmt Multi-agency Services

## **Insurance**

### **Division of Insurance**

During the past year, the Office of Policy, Research and Regulatory Reform has conducted a [Sunset Review of the Functions of the Division of Insurance](#). These reviews are conducted on a regular basis and long-time readers of this preview may remember that several years ago the bill to continue the Division failed and the DOI entered a "wind-down" phase until legislation was passed early in the following session to continue the DOI.

### **Auto**

We expect to see legislation advocated by the Division of Insurance on "plain language" insurance policies. The bill applies only to auto and health insurance policies and requires policies to be written at a 10th grade level or a Flesch Reading score of no less than 60. Any violation of this constitutes a violation of the unfair claims practices act. Insurers are expected to strongly oppose the bill.

### **Workers' Compensation**

The [Interim Study Committee on Pinnacol Assurance](#) met extensively during the past summer and fall. The committee was formed as the result of passage of [SB 09-281](#). The committee meetings were lengthy and often contentious and ultimately seven bills were suggested by the Committee and will be introduced in 2010. You can view these proposed bills:

<a href="#">Bill A</a>	Workers Compensation Accountability
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<a href="#"><u>Bill B</u></a>	Workers' Comp Policyholder Prot Act 2010
<a href="#"><u>Bill C</u></a>	Limit Surveillance Workers' Comp Claims
<a href="#"><u>Bill D</u></a>	Pinnacol Assurance Board of Directors
<a href="#"><u>Bill E</u></a>	Workers' Comp Benefits Knowing Penalty
<a href="#"><u>Bill F</u></a>	Workers' Comp Conflicts of Interest
<a href="#"><u>Bill G</u></a>	Workers' Comp Claims Process Brochure

### **Local Government**

Local control and unfunded mandates will again be of the highest priority to local governments during the coming session. As the state's revenues drop, the potential always exists for the provision of those services to be passed to local governments.

We also expect that legislation dealing with urban renewal and tax increment financing will be introduced. Aurora Mayor Ed Tauer and former Larimer County Commissioner Kathay Rennels convened a working group over the summer that met numerous times in an effort to achieve compromise on URA/TIF issues and the traditional disputes between cities and counties on revenue sharing. The success of those meetings remains to be seen. Rep. Randy Fischer of Fort Collins and Rep. Dickey Lee Hullinghorst have both indicated that they will be introducing legislation on this important topic.

### **Public Health/Environment/Water**

The Department of Natural Resources and the Department of Public Health and Environment have new Executive Directors, though Jim Martin has moved from Health to Natural Resources. The new Director of the Department of Public Health and Environment, Martha Rudolf, faces trash, wastewater, and federal ozone compliance issues. It is unknown at this point how aggressive she will be in addressing those issues.

Jim Martin faces continuing questions about the regulation of the Oil and Gas Industry. Some legislators continue to claim that overregulation by the Oil and Gas Conservation Commission has caused the industry to "shut down". Others would argue that the price of oil and gas is more likely the cause of reduced drilling activity.

Rep. Kathleen Curry may introduce legislation trying to modify the balance of public ownership of river water versus private property rights. This issue has been adjudicated by the courts, but the legislature has not attempted to modify court decisions in recent years.

### **PERA**

One issue likely to generate significant press this year is additional funding for the state's Public Employees Retirement Association. As a result of the stock market crash, the state's PERA program lost \$13 billion in assets in recent years. In 2009, the Legislature tasked PERA with developing a set of recommendations

to ensure PERA has a 30 year amortization for all unfunded liabilities. In October, the PERA board voted to recommend a comprehensive plan that is called “2-2-2 plus”, referring to the 2 percent increase in employer contributions, 2 percent increase in employee contributions (paid through the Supplemental Amortization Equalization Disbursement) and a cap on the cost of living increase for PERA retirees. The “plus” aspect contains a number of other changes to the PERA program designed to further strengthen PERA funding.

### **Unemployment Insurance Fund**

The state’s UI fund is basically broke. The fund is paying out about \$20 million per week to more than 75,000 Colorado recipients. Colorado business owners will see legislation introduced early in the session that may increase their contribution by as much as 300%.

### **Medical Marijuana**

In the November 2000 general election, Coloradoans passed Amendment 20, and the Colorado Department of Public Health and Environment (CDPHE) was tasked with implementing and administering the Medical Marijuana Registry program. During the coming session, the state will attempt to bring sanity to the increasing number of marijuana dispensaries. Among the issues to be addressed: local control, licensing, definition of caregiver, sales tax payments, etc. This discussion will generate SIGNIFICANT media attention.

### **Summary**

This will again be a most interesting legislative session. We will be watching, lobbying and reporting on the various issues and will keep you informed. Please feel free to visit our website at [www.lobbycolorado.com](http://www.lobbycolorado.com) for more information as the session progresses. ***And have a happy and prosperous 2010!***

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