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2006 Colorado General Assembly Legislative Session – End of Session Summary

June 19, 2006

The Second Regular Session of the 65th General Assembly of Colorado convened on Wednesday, January 11, 2006 at 10 am. The Legislature again adjourned a couple of days earlier than the constitutionally mandated 120-day limit. Adjournment *sine die* this year came on Monday, May 8.

The 2006 session of the Colorado General Assembly was extremely political and partisan. With the November, 2006 elections just around the corner, and with the control of not only the House of Representatives and the state Senate but also the Governor's office at stake, both parties worked hard to define and control the important issues. The Democrats were successful in 2004 in achieving majority control of both houses of the legislature for the first time since 1960. Governor Bill Owens is term-limited this year and the Governor's office is a prize the Republicans dearly want to keep and that the Democrats covet greatly.

Key Issues

The key issues this year included:

- **Budget and the economy** – Referendum C passed, giving the state some budgetary breathing room. See below for more information.
- **Health Care** – Due to the increase in available spending from the passage of **Referendum C**, the Colorado General Assembly was able to restore programs that were drastically cut during the recent recession. Such programs included mental health services, several reimbursement rates for providers were increased, wait lists for services for newborn children

with developmental disabilities were reduced and drug and alcohol rehabilitation programs for pregnant women were restored. In addition, existing programs were adequately funded in order to expand access to services for low-income adults and children; [SB 06-044](#) (signed by the Governor) will allocate \$15 million to expand eligibility for the Colorado Indigent Care Program from 200% of the Federal Poverty Level (FPL) to 250% FPL.

Several proposals were discussed this session regarding the need for increased transparency in the health care system. Such information, it is believed, would allow consumers to make more educated discussions and possibly serve to help address the rising cost of health care. Bills that sought to bring greater transparency in the healthcare system included: [HB 06-1045](#) ; hospital-acquired infections reporting (signed by the Governor); [SB 06-141](#) health facility reporting requirements (defeated in the House); and [HB 06-1278](#) Colorado hospital report card (signed by the Governor). Bills that sought to expose contract information between business entities for the purchase of prescription drugs [SB 06-164](#) (defeated in the Senate) and to standardize contracts between physicians and insurance companies [SB 06-198](#) (vetoed by the Governor) would have had a significant impact on the cost and access to employer sponsored health insurance.

Proposals that sought to address affordable prescription drugs continued to be hot topics this past session. In an unusual partnership, the labor unions joined with the pharmaceutical manufacturers (PhARMA) to develop a proposal to create a low cost drug program - [HB 06-1252](#) (defeated in the House). In addition, [SB 06-001](#) (vetoed by the Governor) would have achieved cost savings by implementing a preferred drug list and [HB 06-1100](#) (defeated in the House) failed to achieve cost savings. There is no doubt that this topic will be hotly discussed next year as well.

Finally, [SB 06-036](#) (signed by the Governor), reauthorizes existing Colorado law that requires insurance carriers participating in the small group market (1-50 employees) to offer a basic and standard plan to businesses. The proposal continues the standard and basic plans and adds a new basic plan option.

- **Indoor Smoking** – [HB 06-1175](#) passed and will become effective on July 1, 2006. The only exception to the ban on indoor smoking will be casinos. A lawsuit has been filed on behalf of small, “mom & pop” taverns, asking that the law not be allowed to become effective, but the chances of success are minimal.

- **Seat belts** – Should the state mandate or encourage their use? [HB 06-1125](#) would have created a “primary” offense for not wearing a seat belt. In other words, law enforcement officers could stop drivers merely for the reason of not wearing a seat belt. Currently, seat belt usage is a “secondary” offense. Proponents argue that increased seat belt usage will save lives and allow the state to receive \$12 million in federal highway funds for FY 06-07. Opponents would say that law enforcement officers might use the primary enforcement law as a way to harass drivers, particularly young or minority drivers. The bill passed the House on a vote of 33-32, then passed the Senate. When the bill went back to the House for concurrence with the Senate amendments, the House failed to re-pass the bill on a vote of 32-33. This means that Colorado will still not have a primary seat belt enforcement law.
- **Compensation to property owners by oil and gas drillers.** [HB 06-1185](#) was intended to deal with this contentious issue that surfaces (pun intended) each year at the Capitol. Proponents of the bill believed the bill would give the surface owners more relief from disruptions and damages to their property by gas and oil drilling operations than current law allows. The oil and gas industry, on the other hand, was fearful that the net effect of the legislation might be to, in the worst case scenario, shut down all drilling and ultimately lead to significantly higher energy costs. In an emotional speech, Senator Jim Isgar (D-Hesperus), asked that the bill be laid over, effectively killing it, since consensus could not be achieved by the proponents and opponents.
- **Eminent domain** – should government be allowed to take private property? Renewed emphasis because of the [Kelo v. City of New London](#) case that was decided by the United States Supreme Court in 2005. Several bills were introduced, but only three ultimately passed. These include:
 - [SB 06-078](#) – concerning the use of eminent domain for toll roads by private corporations
 - [SB 06-154](#) – statutes that authorize eminent domain powers
 - [HB 06-1411](#) – urban renewal
- **PERA reform** – The huge unfunded liability of the state’s public employees’ retirement association (PERA) was a major problem for the legislature to deal with. Ultimately, [SB 06-235](#) passed and was signed by the Governor. The bill will reorganize the PERA board and will call for partial funding of the liability by PERA employees in the form of decreased amounts of pay increases for the next several years.
- **Illegal immigration** – What can the state do to reduce illegal immigration? More than a dozen bills on this emotional issue were introduced. The

House State Affairs committee, on February 22, postponed indefinitely (P'd) most of the bills. Other bills introduced included the following:

- [HB 06-1306](#) – this bill requires the State Auditor to study the implementation of the “Secure and Verifiable Identity Document Act”. (passed)
 - [HB 06-1343](#) – this bill would prohibit a state agency or political subdivision from entering into or renewing a contract with a business that knowingly employs illegal immigrants. (passed)
 - [SJM 06-001](#) – this joint memorial asks President Bush and Congress to enforce existing immigration laws. (no final action)
 - [SB 06-206](#) – this bill prohibits the smuggling of humans into Colorado. (passed)
 - [SB 06-090](#) – this bill will require greater cooperation between local governments and the federal government and will eliminate “sanctuary” cities. (passed)
 - [SB 06-225](#) – this bill will increase funding to the Colorado State Patrol to help enforce human smuggling laws. (passed)
 - [HJR 06-1023](#) – this resolution, passed by the General Assembly and sent to Congress, encourages the federal government to adopt the [recent recommendations of the Western Governors’ Association](#) with regards to immigration. (passed)
 - *Also, there was a special session called on the issue of illegal immigration. A [separate report](#) was prepared on that session.*
- **Sexual abuse** – Several bills were introduced that would eliminate or extend the statute of limitations in both criminal and civil cases of sexual abuse of minors. Again, this has been a highly emotional issue and the Catholic Archdiocese weighed in heavily in the debate. The bills are:
 - [HB 06-1088](#) – statute of limitations on sex offense against a child. Signed by the Governor.
 - [HB 06-1090](#) – sex offenders. Failed to pass.
 - [SB 06-143](#) – statute of limitations for civil damages caused by sexual conduct. Failed to pass.
 - **“Wal-Mart Bill”** – [HB 06-1316](#) would have required any Colorado employer with more than 3,500 employees to spend at least 11% of total payroll on employee health insurance or to pay the state the difference, with the assumption that those employees would be forced to turn to the state for health care (Medicaid). Obviously the bill would have affected Wal-Mart, but it also would have impacted numerous other Colorado employers. The House Business Affairs & Labor Committee killed this bill that was pushed by organized labor. The bill was similar to legislation introduced around the country at the request of organized labor.
 - **Air quality** – Environmental lobbyists at the Capitol were successful in introducing [HB 06-1113](#), which would allow the state to set more stringent

air quality standards than the EPA currently has in place. The bill was killed on the floor of the House on 2nd reading debate and later that same day, [HB 06-1309](#) was introduced. The bill passed, but was vetoed by Governor Owens.

- **K-12 Education**

This legislative session, due to the passage of Referendum C, the School Finance Act ([SB 06-1375](#)) saw not only the constitutionally mandated increase of inflation plus one percent due to the passage of [Amendment 23](#) in 2000, but also a \$23 million dollar increase for special education students.

As in past years, the issue of school choice continued to stimulate discussion among K-12 advocates and legislators. [SB 06-125](#) (defeated in the Senate) would have significantly curtailed innovation, particularly for at-risk kids, by curtailing the use of online education. Finally, [HB 06-1008](#) (signed by the Governor) will provide eligible districts and schools (including charters), a modest reimbursement for offering supplemental online services to students. In addition, the Governor signed [SB 06-073](#) which requires high school students to stay in school until the age of 17 rather than 16 years of age – this measure hopes to decrease the truancy rate in Colorado.

Finally, [HB 06-1283](#) referred a measure to the ballot ([Referendum I](#)) that will require that 65% of a districts operational budget be spent on services that directly impact student achievement. A similar measure, [Amendment 39](#), will also be on the ballot.

- **Economic Development**

On June 5th Governor Owens signed into law a package of bills to stimulate economic development. The \$26.5 million package includes funding for job creation, the bioscience sector, film sector, and tourism. The source of funding for the package is gaming (gambling) revenue, which would have been needed to backfill the General Fund, if Referendum C had not passed. ***This is the largest and most significant package of economic development legislation to pass in recent memory.*** The bills include:

- [HB 06-1017](#) – (Performance-Based Incentive) will provide an incentive to companies that create new jobs. *\$3 million a year for 5 years.*
- [HB 06-1360](#) – (Proof of Concept) will provide incentives for research institutions to continue to seek new discoveries in the bioscience arena and to create related bio-tech companies. *\$2 million one-time funding.*

- [HB 06-1362](#) – (Motion Picture Industry) will promote the motion picture industry by offering incentives to those involved in the production of movie films in Colorado. *\$500,000 one time funding.*
- [HB 06-1201](#) - (Tourism) will promote Colorado tourism efforts. According to the 2004 [Longwood study](#) , for every dollar spent on advertising for tourism, an estimated \$18.10 is generated in local and state taxes. *\$19 million a year for five years*
- [HB 06-1384](#) - (Colorado State Fair) to pay off existing debt and maintain the fair’s structures. *\$550,000 annually*

Dynamic modeling passed both houses by a large margin (35-0 in the Senate, 55-10 in the House). [SB 06-48](#) (signed by the Governor) requires that funding from non-state sources be secured before any research by Legislative Council can begin. Dynamic modeling is a necessary tool in order to demonstrate in real time how changes in tax policy and incentives that are offered to companies to locate and grow in Colorado impact the overall economy of the state. The law allows Legislative Council, the folks who write fiscal notes, the ability to begin to assess what is needed in order to develop a Colorado specific dynamic model. It is estimated that a fully functional model would cost upwards of \$10 million dollars to construct and to maintain the model with current data.

Unfortunately, [HB 06-1091](#) which would have allowed enterprise zone tax credits for commercial rolling stock (trucks and trailers) was defeated in the Senate. This concept is extremely important to the commercial trucking business that has basically left Colorado because of a lack of incentives. The bill would have corrected what appears to be an oversight in the original EZ legislation that was passed more than 10 years ago.

With the passage of Referendum C, which gave the state a five year timeout on TABOR surplus refunds, any action that impedes the growth of the general fund base would be contrary to part of the intent of Referendum C – that is, to reverse the “ratchet” effect of the past several years. Tax credits and other measures that would impact the amount of funds coming into the state’s base are not feasible legislative proposals. Thus, next year again, we will be forced to be creative with incentives that are offered to stimulate our economy and retain and attract primary jobs.

- **TRANSPORTATION:**
 - **Transportation Funding:**

Funding for construction and maintenance of the state’s highways remains a serious concern for the Colorado General Assembly. The JBC staff presented a [CDOT briefing document](#) to the budget committee on December 8. More than a year ago, CDOT estimated that the state’s highway funding needs for the next

25 years will be at least \$60 billion and perhaps as much as \$120 billion. The [CDOT Transportation Finance Task Force Report](#) has more information.

With the successful passage of Referendum C, The Colorado General Assembly was able to focus on restoring some of the recent cuts in transportation programs. Of course, during the session debate centered on which programs to restore and ultimately more money was able to go to highway and transportation projects. Had Referendum D passed authorizing state bonding, up to \$1.7 billion would have been available for funding of state transportation projects, maintenance of highways, capital construction of schools and colleges and for fire and police pensions. Notwithstanding the failure of Referendum D, the June 20 Legislative Council revenue estimates indicate that between FY 2006-07 and FY 2010-11, there will be total revenues available for transportation from SB97-001 of \$766.3 million and an additional \$256.7 million through the HB 02-1310 split.

- **Toll roads and highways:**

In other transportation related areas, the General Assembly addressed the issue of toll roads and specifically the two toll road bills vetoed by the governor last year. The legislature passed, and the Governor signed, [HB 06-1003](#) and [SB06-115](#), addressing the authority of a private company to construct a toll road or highway and placing numerous requirements on a private toll road company. These requirements include notification; submittal to local, regional and state planning processes; environmental, economic, and social impact analyses; mitigation measures and financial plans; and approval for inclusion in all applicable regional transportation and statewide transportation plans.

- **Transportation and eminent domain:**

The General Assembly addressed the general public's concern about the power of a private company to exercise eminent domain in acquiring land for a private highway/road project. The legislature passed, and the governor signed, [SB 06-078](#) which denies the power of eminent domain to a private toll road/highway company to acquire right-of-way for a toll road but allows a private company to enter into a "public-private initiative" with the Colorado Department of Transportation to utilize eminent domain in the construction of a toll road.

- **Other transportation legislation – some making it into law and others not:**

A number of other transportation measures were introduced into the 2006 session of the General Assembly, some succeeding and others falling along the wayside. The House passed a resolution, [HR06-1012](#), calling for the promotion of a Front Range commuter rail system. The inclusion of contiguous counties into the RTD district, [HB 06-1338](#), was also passed

and signed into law as was a plan to implement drive-by screening for the testing of auto emissions, [HB 06-1302](#).

Budget

The budget for FY 2006-07 was a welcome relief from the past several years, when the JBC was looking for additional areas that could be cut. The Joint Budget Committee also had to develop a spending plan for excess revenues that can be applied to the FY 2005-06 budget as a result of the passage of Referendum C. According to the provisions of Referendum C, these funds must be allocated 1/3 to K-12 education, 1/3 to higher education and 1/3 to health care, while still keeping overall state spending increases over the prior year to 6%.

The Joint Budget Committee agreed that a total of \$136 million would be available under the state's 6% spending limit for allocation on the 1/3, 1/3, 1/3 basis for FY 2005-06. In addition, there will be revenues that are available above the 6% limit that will be allocated, based on HB 02-1310 - 2/3 to transportation and 1/3 to capital construction. A [chart showing these distributions](#) is also available.

You can see more detail on the FY 2006-07 budget for the state, [HB 06-1385](#), the "Long Bill". Also, the [Long Bill narrative](#) is available, as is the [FY 2006-07 Appropriations Report](#).

On June 20, 2006 the Governor's Office of State Planning and Budgeting ([OSPB](#)) and the staff economists at the [Office of Legislative Council](#) released their quarterly revenue forecasts. Revenues continue to increase, with both personal and corporate income taxes on the rise and an increase in capital gains taxes.

Rich Jones at the [Bell Policy Center](#) wrote a very comprehensive document – [A User's Guide to the State Budget Process](#) and I would encourage you to take a look at this very readable piece. It's included in the March 7, 2006 issue of "*Budget Watch*".

Capital Construction

Capital construction funding, which had been virtually non-existent during the economic downturn, received a welcome boost in FY 2006-07. Approximately \$128 million will be available for construction and maintenance of the state's capital assets. The [capital budget for FY 2006-07](#) is available.

Higher Education

It's important to remember the state's share of funding to the state colleges and universities was cut by about 33% during the recent economic downturn. Some of the cuts were made up by individual schools through tuition increases, but the net effect of the cuts was to reduce funding for the state's colleges by more than 25%. Another way to look at this is that in terms of real-dollar funding, the state's institutions of higher education are operating at about the FY 1995-96 level of funding, with current enrollments at about 135% of enrollment in that time frame. The state's colleges and universities benefited greatly from the passage of Referendum C and received more than \$60 million in funding restoration. This will allow tuition increases for the 2006-07 school year to be minimal. The stipends given to Colorado students were increased to \$2580 from \$2400 the previous year. Financial aid was also increased significantly.

Insurance

Auto

The summer and fall of 2005 saw an [Interim Committee on Auto Insurance](#). This committee was the outgrowth of dissatisfaction on the part of several legislators and non-traditional medical providers with the state's switch to tort based auto insurance from a no-fault system. The interim committee bills:

- [SB 06-019](#) - Concerning a Requirement that Emergency Medical Care Coverage be Included in Automobile Insurance Policies – *died in Appropriations Committee on March 10. Senator Hagedorn plans to introduce a replacement measure that would deal with the issue of funding "first responders"*.
- [HB 06-1036](#) – Concerning the Requirement that Automobile Insurance Carriers Offer Medical Payments Coverage in Connection with an Automobile Insurance Policy Issued in Colorado – *lost on a House floor vote on February 13.*
- [HB 06-1030](#) – Concerning the Requirement that an Insurer Make Certain Disclosures to Consumers Regarding the Content of Automobile Insurance Policies – *passed the House and Senate and now awaiting the Governor's signature.*
- [SB 06-041](#) – Concerning the Application of the Health Insurance Prompt Pay Provisions to Claims Made as a Result of a Motor Vehicle Accident – *passed the House and awaiting hearing in the Senate BLT Committee.*
- [HB 06-1043](#) – Create Consumer Insurance Council to Advise DOI and Commissioner – *Died on March 9.*
- [HB 06-1044](#) - "Clean Claim" Law – *Died on February 9.*

Workers Compensation

Rep. M. Carroll introduced a slightly different version of "employee choice" of treating physician in workers' comp injuries. This year's bill, [HB 06-1097](#) was estimated by NCCI to potentially add as much as \$23 million to the cost of workers' comp insurance for employers (both public and private sector) in

Colorado. The House Business Affairs & Labor committee wisely defeated this bill on February 13.

Miscellaneous

What about all of the partisan bickering, the charges of ethical breaches, the campaign slurs and all of those negative things that happen and that the press and media focus so heavily on? There's no denying that this was a tough session in that regard.

Former House Minority Leader Joe Stengel (R-Littleton), in the final year of his term-limited legislative career, was accused by the press and the House Democrats of over-billing for time spent on government business. By law, legislative leadership members are entitled to receive a \$99 per diem for days that they are working on "legislative" business. As Minority Leader, Rep. Stengel did spend a lot more time engaged in legislative activities than most legislators, but he actually billed the state for 240 days during 2005, including days when he was on vacation in Hawaii and days when he was taking the Colorado Bar exam. He reimbursed the state for some of those days (\$891), but it wasn't enough to relieve the pressure. He ultimately resigned as Minority Leader and Rep. Mike May (R-Parker) was elected Minority Leader.

State Senator Deanna Hanna (D-Lakewood) was involved in an ethics complaint filed by Senate Majority Leader Ken Gordon (D-Denver). Senator Hanna had written a letter to a realtors political action group, asking for \$1,400 in "reparations". The group had donated \$400 to Hanna's senatorial campaign in 2004 but later gave \$1,800 to her opponent. "My reparations request stands," Hanna wrote to the group last summer. "It is my hope that you will make our relationship whole again. There are going to be some very important issues ahead of us." Hanna's resignation is effective March 22 in order to avoid a 17-17 standoff in the 35 member Senate. State Representative Betty Boyd (D-Lakewood) was chosen to replace Senator Hanna.

State Representative Angie Paccione (D-Fort Collins) was also involved in an ethics complaint that has since been dismissed. The complaint arose from an e-mail sent by an over-enthusiastic young campaign worker on Paccione's campaign for the 4th Congressional District. The e-mail had indicated that successful fundraisers for her campaign would be introduced on the floor of the House of Representatives. The Speaker of the House, the Majority Leader and the Minority Leader agreed that the complaint against Paccione had not risen to the level of an ethics violation, in that she immediately retracted the offer upon learning of it and that no such "reward" had been given.

Finally, on Friday, March 10 State Representative Jim Welker offered an emotional and tearful apology to the full House of Representatives for a racially charged e-mail he had forwarded the day before to several hundred people. The e-mail had been authored by the Rev. Jesse Peterson, a conservative black

evangelical minister and host of a nationally syndicated radio talk show. Several minority members of the House took the microphone to express their outrage and dismay about the essay. Speaker Andrew Romanoff then went to the microphone and reminded his colleagues that they were elected to solve problems and not pick fights or point fingers. He received a standing ovation for his comments.

Initiatives

Colorado has one of the most liberal initiative processes in the country, in terms of the ability of proponents to initiate and enact either statutory or constitutional changes. Colorado also has a very active citizenry that uses the initiative process often. Advocates for truly representative government, including many legislators, have tried unsuccessfully in the past to change the initiative process or requirements. This year, there will be a [ballot initiative on the initiative process](#) on the November, 2006 ballot **to ease** initiative requirements. Initiative #38 will also extend the initiative process to all levels of government. *This is an extremely dangerous initiative that is directly aimed at eliminating representative government.*

This initiative deserves a close look by anyone interested in how government works. Especially in light of TABOR, Amendment 23, Gallagher and other ballot proposals enacted in the recent past, which have greatly impacted the legislature's ability to effectively budget and govern the state, ***this initiative may be the worst we have seen in many years.*** The signatures gathered by proponents have already been certified by the Secretary of State and the initiative will be on the ballot in November as Amendment 38.

The leadership of the Independence Institute has also proposed a [ballot initiative aimed at limiting the amount of Referendum C revenues](#) the state may keep and spend over the next five years. The initiative would limit the amount to the \$3.7 billion that was *estimated* to be available when the [Blue Book](#) was prepared in the fall of 2005. Since revenues came in higher than expected (and continue to increase), and since the legislature appropriated the available revenues based on estimates available at the time of passage of the Long Bill, should this initiative pass, there will be disastrous impact on the operations of state government. The departments would be required, five months into the new fiscal year (July 1 – November 7) to make reductions equal to the increased spending available in the Long Bill. This, too, is a disastrous proposal that is not in the best interests of the state of Colorado or its citizens.

You can see more information on all of the [proposed ballot initiatives](#) by going to the [legislative home page](#) or the [Secretary of State's](#) website. We would urge you to become knowledgeable on the issues and candidates you'll be voting on in this November's election. This will be an extremely important election and the importance of thoughtful voting can't be emphasized strongly enough. The

Primary election will be on August 8 and the General election will be November 7. You may contact your county clerk for more information on registration and voting locations. All registered electors will receive a copy of the "Blue Book" prior to the General election. This document will explain the pros and cons of each of the initiated or referred measures.

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