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2008 Colorado General Assembly Legislative Session Outlook

January 11, 2008

The Second Regular Session of the 66th General Assembly of Colorado is scheduled to convene on Wednesday, January 9, 2008 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 7, 2008. 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 2008 legislative session](#) is also available. The House of Representatives will also be televised for the first time, both on the internet and on Comcast cable television.

This will be the second year for the Democrats to have control of both houses of the legislature as well as the Governor's office since the early 1960's. Because 2008 is an election year, with all 65 House seats and 18 of the 35 Senate seats up for election, politics will undoubtedly play an important role in much of the debate on the issues. A number of legislators are term limited ([seven in the Senate](#) and [ten in the House](#)). Additionally, several legislators have either resigned or announced their intention not to run for re-election (Senators Fitz-Gerald and May and Representatives Butcher, Witwer and Hicks).

Major Issues

The general consensus is that this session will be focused on health care and health insurance issues, transportation funding, economic development,

environmental regulation, K-12 and higher education funding and, of course, the state's budget.

Budget

The budget will again dominate the legislative session, as it has the past several sessions. 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 2008 legislature will set the budget for FY 2008-09, the fourth year 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.

Governor Ritter presented his [budget request](#) to the [Joint Budget Committee](#) in early November. Most of the annual budget debate concerns the allocation of new General Fund available each year. Capped at a 6.0 percent increase by the Arveschoug-Bird limitation, *Governor Ritter proposes an increase of \$430 million for FY 2008-09.* The table below shows the allocation of these new dollars:

	Amount of Increase (in millions)
Education	\$159.3
Health Care Policy and Finance (Medicaid)	102.2
Higher Education	59.5
Corrections	38.1
Human Services	29.1
Remaining 14 Departments of State Government	42.1
Total	\$430.3

As reflected above, 90 percent of the anticipated "new" General Fund is recommended to be allocated in the largest five departments. The other 14 state agencies account for approximately 10 percent of state General Fund appropriations.

General Fund Revenues

The Governor's [Office of State Planning & Budgeting](#) (OSPB) and the [Legislative Council Staff](#) economists present quarterly revenue forecasts to the Joint Budget Committee on September 20, December 20, March 20 and June 20. Both December 2007 forecasts increased their General Fund (GF) projections for the forecast period. The **OSPB General Fund forecast for FY 2007-08 increased by \$62.2 million**, and the **LCS forecast increased by \$162.7 million for FY 2007-08.**

The table below compares the estimated GF revenues.

Projected GF Revenues

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
OSPB	\$7,853.3	\$8,142.8	\$8,557.9	\$9,023.0	\$9,530.9
LCS	\$7,875.0	\$8,160.8	\$8,615.2	\$9,103.9	\$9,665.4
Difference	(\$21.7)	(\$18.0)	(\$57.3)	(\$80.9)	(\$124.5)

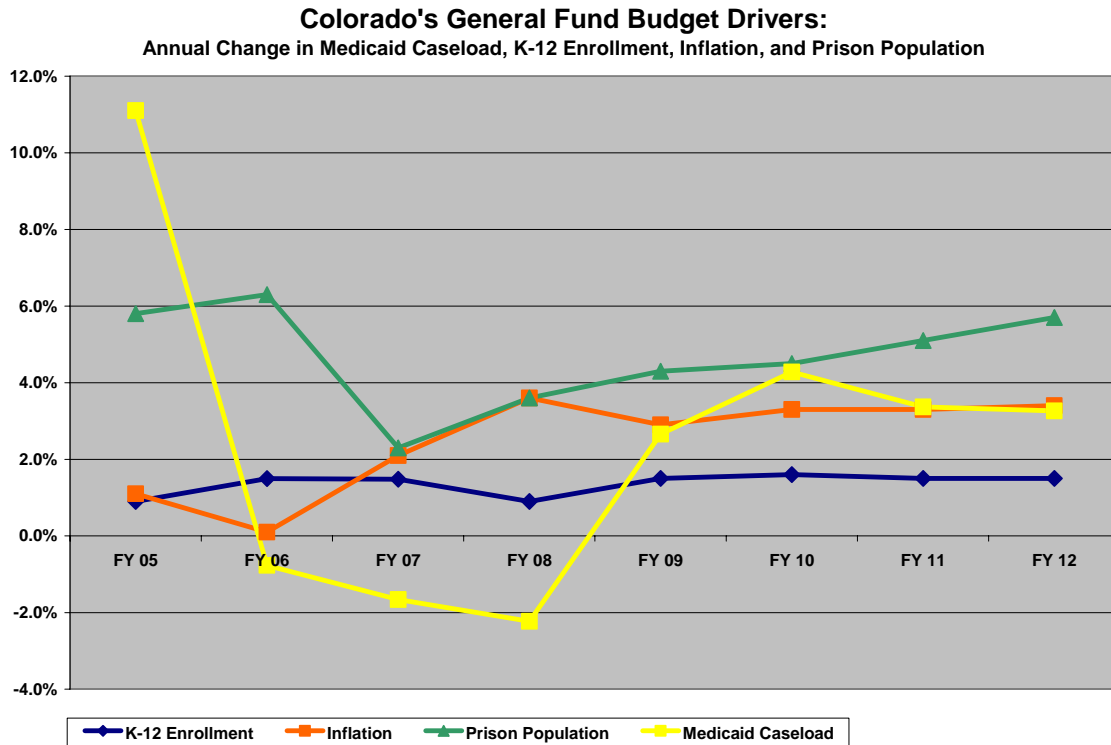
Dollars in millions

Future GF Appropriations

Both forecasts project General Fund revenues sufficient to allow the state to appropriate up to the 6.0 percent Arveschoug-Bird limitation each year through the forecast period. The 6% limit is critical, as it is in the state Constitution (through TABOR). During the economic downturn from 2001-2005, General Fund revenues fell short of the 6% limit, leading to the “ratchet down” of the state’s budget.

Projections of Future Caseload and Inflation

The LCS December forecast contains projections of prison population, K-12 enrollment, and inflation. Using these budget drivers, as well as Medicaid caseload projections from the Joint Budget Committee staff, one can estimate the availability of future GF appropriations. The chart below reflects the recent year and forecasted changes in these important areas.



Please note, this is a simplistic chart in that it does not distinguish which type of Medicaid or prison caseload is anticipated to grow. Nor does the chart account for any change in any other area of state government. Still, however, the chart is a useful analytical tool to consider possible future General Fund allocations. Consider that Education, Medicaid, and Corrections account for 71 percent of the state General Fund budget. The ***chart indicates, with the exception of inflation, the other areas are forecasted to increase more in FY 08-09 than in FY 07-08. If these projections hold until the next quarterly forecast, and absent any other changes, the increased projections could result in the state having less budgetary flexibility for other areas of state government, such as Higher Education and Human Services.***

Capital Construction Dollars

The state does not have a consistent, dedicated source of revenue to support capital construction. Instead, the state has established a complex formula with four thresholds for the distribution of General Fund revenue. Some excess revenues can accrue to the Capital Construction Fund under certain conditions. Each of the following thresholds must be fully satisfied before any revenue flows into the next threshold.

General Fund Revenue Thresholds

1. The first threshold for the General Fund is to maintain the required 4.0 percent appropriations reserve. Legislative efforts to increase this reserve (the “rainy day fund”) have failed in recent years.
2. Once the reserve is satisfied, the next threshold relates to the 6 percent Arveschoug-Bird appropriations limit. The statute directs that the General Fund revenue has to be sufficient to allow for a 6 percent appropriations increase from the previous fiscal year.
3. After the first two thresholds are met, 10.335 percent of state sales tax revenue is transferred to the Highway Users Tax Fund (HUTF) per the provisions of SB 97-001. See below for more information on SB 97-001 transfers.
4. Finally, if all three prior thresholds are fully satisfied, excess General Fund is allocated two-thirds to transportation and one-third to capital construction, according to the provisions of HB 02-1310.

If you can visualize, this is similar to three “buckets”, one above the other, into which you pour water. After the first bucket (the 6% Arveschoug-Bird limit) is filled, water flows into the second bucket (SB 97-001 diversions), then finally into the third bucket (HB 02-1310 transfer – 2/3 to HUTF, 1/3 to capital construction). Legislative Council Staff prepared a [“flow chart”](#) in December, 2006 which details how appropriations are prioritized and in what amounts. Please keep in mind that the actual numbers depicted are from last year (FY 2006-07), but hopefully you will be able to see how the allocation process works.

In addition to the automatic thresholds outlined above, the General Assembly can bypass thresholds #'s 2 and 3 above and transfer additional General Fund revenues into the Capital Construction Fund as well.

The Legislative Council forecast projects \$83.1 million will accrue to the Capital Construction Fund through threshold #4 above for FY 2008-09 – a \$6 million decrease since the June forecast (due to an audit adjustment). The OSPB forecast includes the amount necessary to fund the Governor’s recommended projects -- \$110 million. In order to fully fund the Governor’s requested budget for capital construction projects in FY 2008-09, the legislature would be required to transfer at least \$27 million GF to the Capital Construction Fund. For the period **from FY 2007-08 to FY 2011-12, the CCF will receive about \$167.8 million from the HB 02-1310 transfers.**

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. In addition, in some years the legislature has based the allowable higher education tuition increase on the CPI rate as well. The Consumer Price Index used in this calculation is for the Denver-Boulder area.

The table below shows the December 2007 CPI forecasts.

December 2007 CPI Forecasts

	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011
OSPB	2.8%	2.9%	3.1%	3.2%	3.0%
LCS	2.9%	3.3%	3.3%	3.4%	3.1%

SB 97-001 Transfer to HUTF

The provisions of **SB 97-001 require that 10.335 percent of all state sales tax revenues be transferred to the Highway Users Tax Fund (HUTF) if the state collects revenues sufficient to appropriate up to the 6.0 percent Arveschoug-Bird limit and maintain the required 4.0 percent reserve.** The Legislative Council forecast predicts a full SB 97-001 transfer through FY 2011-12; the Governor’s forecast predicts full transfers through FY 2009-10, with partial transfers in the subsequent years. **The HUTF will receive \$1,669.7 million through SB 97-001 diversions and HB 02-1310 transfers between FY 2007-08 and FY 2011-12.**

Referendum C

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 2001-04. The five year window of Referendum C will expire after FY 2009-10. Neither forecast projects a TABOR refund in FY 2010-11 or FY 2011-12. **The current estimate for the amount of revenue that will**

be retained by the state during the five-year “time out” is \$6.3 billion, up from the \$6.1 billion forecasted by LCS in September, 2007.

Long-Term Budget Issues

In mid-December, three organizations announced the findings of a joint research project: [Looking Forward: Colorado’s Fiscal Prospects After Ref C](#). This report, by the [Colorado Fiscal Policy Institute](#), [the Bell Policy Center](#), and the [Colorado Children’s Campaign](#), offered four observations:

1. Colorado state government services have only partially recovered from the economic downturn of 2001-03.
2. Nevertheless, given the current constitutional budget restrictions, the State will not be able to offer any additional services.
3. The Arveschoug-Bird formula determines where revenues will go in the future. By capping operating budget appropriations, additional revenues are directed to transportation and capital construction.
4. The budgets for the major areas of state government are interrelated and fully allocated. To increase the funding for one area of state government requires new revenues to state government or reductions in the existing services of a different area of state government.

Speaker of the House Andrew Romanoff (D-Denver) has also been working on a possible plan to “fix” the budget problems the state faces. The Speaker’s plan would have two parts – the first part would ask the voters, in 2008, to approve a one-time suspension of the single-subject rule for Constitutional changes. If this were put to the voters and approved, the General Assembly could then take substantive action in 2009. The [Denver Post editorialized](#) in favor of this approach on January 6, 2008.

Miscellaneous Factors

- Department of Corrections –
 - Projects inmate population to grow from about 22,500 now to about 28,000 by 2012. This is an annual growth rate of about 4.6%.
- K-12 Education
 - The Department of Education receives inflation plus 1%, plus enrollment increases, through Amendment 23. The K-12 appropriation is approximately 43% of the entire state General Fund appropriation each year.
 - K-12 enrollment is expected to increase 1.4% between FY 2007-08 and FY 2008-09.
- Severance tax revenues are extremely volatile, depending on the price of natural gas and gasoline.
 - FY 2006-07 -- \$145.1 million
 - FY 2007-08 -- \$129.1 million
 - FY 2008-09 -- \$213.9 million

- FY 2009-10 -- \$181.8 million
- FY 2010-11 -- \$216.7 million
- FY 2011-12 -- \$214.4 million
- Individual income taxes are up 4.9%
- State sales tax revenues are up 6.7%

Transportation

Funding of Colorado's roads and bridges including both the maintenance of the current system and critically needed construction of new lane miles, remains near the top of the priority list for Governor Ritter and the legislature. In the spring of 2007, Governor Ritter appointed the [Colorado Transportation Finance and Implementation Panel](#).

The Governor's 32-member "Blue Ribbon Panel" was charged with identifying long-term sustainable programs and funding sources for transportation in Colorado. In looking at highway funding, it is important to remember that Colorado's gasoline tax, the primary source of transportation funding, has not increased since 1991 (because of the TABOR requirement to put a proposed tax increase on the ballot for a statewide vote). The General Assembly has allocated additional General Fund revenue in good economic years, but this funding is sporadic and unpredictable.

Transportation Investment Focus:

- The first phase of the panel's recommendations focuses on how future transportation dollars should be invested. The panel recommended the following investment focus:
 - Mobility investments in large corridor reconstruction projects statewide to address safety and congestion.
 - Shoulder improvements to address impacts of increased agricultural and oil-and-gas activities as well as bicycle, pedestrian and overall safety.
 - Transit enhancements in both our urban and rural areas to address human service/health access, jobs and recreation needs.
 - Environmental stewardship to mitigate impacts.
 - Bike/pedestrian enhancement, including safe routes to schools and to encourage reduction in vehicle use and provide safe walking environments.
 - Allocation for local governments to invest in roadways and transit, recognizing both are part of the broader transportation network.

Transportation Funding Recommendations:

- The second phase of the panel's recommendations deal with funding thresholds and potential revenue sources:
 - ***Preferred threshold - \$1.5 billion annually***

- Additional options include \$2 billion, \$1 billion and \$500 million

\$1.5 billion Funding Sources Recommendation

Revenue Sources		
Revenue Source	Incremental Fee or Tax	Revenue Generated*
Increased Vehicle Reg. Fee	\$100 average fee increase	\$500 million
Increased Motor Fuel Tax	13¢ per gallon	\$351 million
New Daily Visitor Fee	\$6 daily fee	\$240 million
Increased Sales & Use Tax	.35% increase	\$312 million
Increased Severance Tax	1.7% effective increase	\$96 million
Total Annual Increased Revenue		\$1,499 million

Other funding sources were investigated by the DRCOG committee and the panel:

- indexing fuel taxes to inflation,
- establish a state sales tax on fuel purchases,
- establish a tax on vehicle miles traveled (VMT),
- increase sales taxes on vehicles and vehicle parts,
- establish a sales tax on vehicle repair services,
- increase income taxes,
- implementation of a statewide property tax,
- creation of a lodging and vehicle rental tax,
- creation of a weight-distance tax on trucks,
- dedication of Referendum C extension to transportation and
- creation of local impact fees.

The recommendations of the panel and those of other groups, such as the report of [DRCOG's](#) Ad Hoc Committee on Transportation Finance, will be grist for the 2008 legislative mill. Some of the financing schemes could possibly appear on the general election ballot in the fall of 2008. Those increased funding sources that are fees; e.g., registration fee or visitor fee, can be implemented by the Legislature. Fuel tax, sales, or income tax increases would require an affirmative vote of the electorate in accordance with TABOR.

Health Care / Health Insurance

The 2008 legislative session will be a busy time for those interested in health care and health insurance. There is wide speculation that this issue may be the most significant issue of the entire session. There are approximately 790,000 Coloradans that do not have health insurance. More than 200,000 of those are children. In 2006, at Governor Owens' urging, the legislature passed [SB 06-208](#). This legislation created the [Blue Ribbon Commission on Healthcare](#)

Reform , which has come to be known as the “208 Commission”. The Commission consisted of 27 members, and had four Task Forces.

The Commission and the various task forces held numerous community meetings around the state during the past eighteen months. The Commission solicited proposals from interested groups and received a total of 31 responses outlining suggested plans for addressing the issue of health care/health insurance. The Commission, after studying the 31 proposals, decided on four proposals that were then forwarded to an independent group for cost analysis.

The Commission will present their final report to the General Assembly and the Governor by January 31, 2008. The draft final report, in large part, is drawn from the Commission’s 5th proposal – the proposal designed by the Commission itself. However, many of the elements included in the 5th proposal were included in a number of the other 31 proposals submitted to the Commission. Below are two charts from the 208 Commission, outlining the various final proposals’ key elements and the associated cost and anticipated coverage.

Key Design Elements of 208 Commission Proposals

Proposal	Medicaid/CHP + Expansions	Premium Subsidies	Employer Mandate	Individual Mandate	Insurance Market Reform	Insurance Pools
Better Health Care for All Colorado	Kids living below 300% FPL	Sliding scale voucher <300% FPL for adults: full-cost buy-in to “Exchange”	none	none	Modified community rating in exchange	Exchange; subsidy population only
Solutions for a Healthy Colorado	Kids and PG Women <250% FPL Parents <100% FPL	Sliding scale tax credit for adults <250% FPL; for ESI or non-group	None	Mandate with penalty of \$500; and no vehicle registration	Modified community rating;	Connector; optional to all insured
A Plan for Covering Coloradans	Kids <300% FPL Parents <300% FPL Other Adults <100% FPL	Sliding scale voucher <400% FPL; for ESI or non-group	\$347 penalty per uninsured worker	Mandate with penalty = lowest cost premium; Auto Enroll Medicaid/CHP+	Community rating guarantee issue, merge insured markets	Purchasing pool; all insured must use
Colorado Health Services Plan (Single Payer)	All residents: 3+ months in state	No premiums; 8.1 percentage point increase in income tax	ESI eliminated; 6% payroll tax	All Residents 3+ Months;	Only supplemental coverage remains	n/a

Commission Proposal (5th Proposal)	Kids <250% FPL; Adults < 205% FPL; Medically Needy Disabled Buy-in	Sliding scale subsidy for all below 400% FPL	None	Mandate with penalty; includes legal non-citizens	Modified Community for non-CoverColorado eligible people	Insurance Clearing-house
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Source: The Lewin Group for the 208 Commission

Anticipated Cost and Coverage of 208 Commission Final Proposals

Proposal	Total Program Cost (new money)	Number of Uninsured Covered	Percent of Uninsured covered	Program Spending per newly insured person
Better Health Care for all Colorado	\$595 Million	324,600	41%	\$3,015
Solutions for a Healthy Colorado	\$271 Million	658,400	82.5%	\$2,091
A Plan for Covering All Coloradans	\$1.28 Billion	683,200	86.3%	\$4,605
Colorado Health Services Plan (Single Payer)	(\$1.39 Billion)*	791,800	100%	N/A
Commission Proposal	\$1.06 Billion	694,300	87.6%	\$3,406

Source: The Lewin Group for the 208 Commission

Note: Single payer plan savings presented to Lewin assumes Colorado will get a Federal waiver for \$8.4 Billion new Federal Dollars. If the waiver is not approved savings are not realized and cost increases.

It is anticipated that various elements of the Commission's final report will be incorporated into legislation. As you can see, a major new source of funding is needed in order to achieve comprehensive health care reform. And again, as with transportation funding, any new tax(es) would have to be voted on and approved by the electorate in the November, 2008 general election. In addition, legislators have drafted several of their own ideas which will be introduced and debated. Ideas ranging from the ability to purchase insurance from outside the state of Colorado to a very basic employee benefit plan with subsidies. *Most Democrats and the Governor have acquiesced from covering all uninsured to focusing on covering uninsured children in Colorado as a top priority for the 2008 legislative session. That alone is estimated to cost approximately \$200 million.*

At odds with health care reform are proposals that are anticipated to be introduced that will cause a serious domino effect in the cost of health insurance. For example, a proposal to increase medical malpractice caps is expected. This will have the impact of raising rates for doctors to obtain malpractice coverage

significantly and thus might reduce the number of doctors willing to do high-risk procedures – like delivering babies. Diminishing access severely restricts any efforts to reform the system so that more individuals have access to a physician for medical care.

Other expected legislation will include bills to stipulate the allowable minimum loss ratio for insurance companies and a proposal that will dictate how insurance companies can measure physician performance in regards to efficiency and quality measures – information that essentially helps consumers choose an appropriate doctor. If you are a health care policy junkie – this is definitely your session!

Services for Seniors

Once again, Representative Jim Riesberg (D-Greeley) will introduce a proposal to further fund the Older Coloradans Cash Fund. These funds are distributed to [Area Agencies on Aging](#) across the state that provide grants for community-based services to persons sixty years of age or older to assist them in living in their own homes and communities through programs such as Meals on Wheels. The bill will be introduced requesting an additional ongoing \$3.0 million. While this level of funding is above the level of funding prior to the budgetary downturn, the growing number of seniors has necessitated the increased funding.

Education

K-12 Education

K-12 education is the largest share of the state budget, receiving approximately 42.3 percent of the General Fund appropriations in FY 2007-08. K-12 education continues to grow at a rate of inflation plus 1 percent, as a result of [Amendment 23](#). The taxpayers' bill of rights - [TABOR](#) -coupled with the [Gallagher Amendment](#) has forced the state to pay a greater and greater share in the financing of Colorado's public schools. The local share contributed to education has decreased to approximately 37 percent, while the state share has increased to approximately 63 percent. In the 2007 legislative session, the Governor proposed stabilizing the anticipated decline in the local mill levies supporting K-12 education. This change passed as part of [SB 07-199](#), the School Finance Act, with the result of decreasing the amount of State funds needed for K-12 education. Of interest is the fact that the [Independence Institute](#) (self-proclaimed as "Colorado's Free Market Think Tank") has filed a lawsuit claiming that the mill levy stabilization amendment is illegal and unconstitutional under the provisions of TABOR. Governor Ritter has stated publicly that he and legislative leadership feel confident that the language of SB 07-199 will prevail.

In April, Governor Ritter announced the formation of a [P-20 Council](#), which met during the summer to develop policy recommendations to better coordinate the state's preschool, K-12 education, and higher education systems. The Council offered [15 recommendations](#), including expanding preschool and kindergarten,

creating a P-20 data system, and modifying the state's testing requirements within the K-12 system. The Council will continue to meet in 2008, with a likely focus on higher education.

Since the P-20 council finalized its recommendations, Senators Peter Groff and Chris Romer have announced a proposal to provide more administrative, managerial, and financial flexibility to individual schools in exchange for greater results. This concept has generated significant interest and will likely receive substantial discussion during the 2008 session.

Higher Education

Financial issues will drive the policy discussions around higher education in 2008. The [Colorado Commission on Higher Education \(CCHE\)](#) has been working to develop a new funding allocation formula for the state's colleges and universities. This formula will be peer based. Each Colorado institution will be measured against a national list of peer institutions for that school; those institutions receiving the least state funding, in comparison to their peers, will then receive larger increases. Representatives of CCHE have announced that the final methodology should be considered by the Commission on January 18. The current debate on this issue includes the following questions:

What are the appropriate peer institutions for Colorado's institutions of higher education?

What is the appropriate share of state support for each sector of higher education?

Beyond the new funding allocation, state leaders will continue to discuss possible alternative revenue sources to support higher education. Some have suggested using a portion of the severance tax revenues.

Finally, discussion continues about the future of the College Opportunity Fund stipend program. Established in 2004 (through SB 04-189), this program was designed to increase enrollment by showing citizens the amount of state support going to higher education. In addition, the state wanted institutions to compete for students, and the stipends created through the College Opportunity Fund would follow the students. Finally, the program allowed institutions of higher education to achieve TABOR enterprise status.

Since the program was implemented in fall 2005, enrollment in higher education has not increased measurably. Some would blame the implementation of and subsequent confusion with the college opportunity fund program for this lack of increased enrollment. In addition, the state does not have a clear policy for funding institutions beyond the student stipend, leading to continuing questions by policy-makers about the future of higher education in the state.

Economic Development and the Economy

Governor Ritter stated during his election campaign that he would spend a significant amount of time on economic development for the state. On September 25, 2007 the Governor announced his [economic development legislative package for 2008](#). This package of legislative proposals is the most aggressive economic development legislation that we have seen in a number of years. Business leaders throughout the state have endorsed these proposals and we expect to see passage of all of the bills. This will be an important follow-up to the more than \$29 million that was appropriated during the 2006 legislative session to economic development efforts and to the successful passage of [HB 07-1277](#) and [HB 07-1060](#) in the 2007 session.

The [Economic Development Council of Colorado \(EDCC\)](#) released its [Second Annual Citizens' Survey on Economic Development in October, 2007](#). This survey showed that Coloradans remain upbeat about the state's economy and especially their local area. The top issue remains immigration, followed by health care, education and transportation. ***Economic development is a high or very high priority for 70% of Colorado voters!***

The [Colorado Economic Futures Panel](#), in its report released in January, 2006 outlined several [recommendations](#) for the continued economic prosperity of Colorado. The University of Denver has now convened the [Strategic Issues Program](#). The [2007 Colorado Constitutional Panel](#) has just released its [Final Report](#) on recommendations to change the Colorado Constitution.

Finally, a group comprised of many of the former members of the Economic Futures Panel has come together as [Colorado's Future](#). This group, headed by former Lakewood Mayor Steve Burkholder, has as its mission, "...to build public trust and improve the processes of public policy decision-making in a way that will build a better Colorado." Additionally, DU has begun forming the Center for Colorado's Economic Future, headed by Charlie Brown, former Director of the Colorado General Assembly Legislative Council.

Insurance

Auto

In last year's preview, we stated, "Most of the furor over the switch from a no-fault system of auto insurance to a tort system has died down. There remains, however, in the eyes of many legislators, a need to finance first responders and trauma centers. We can expect that there will be legislation of some sort introduced that will address this issue, likely through a mandatory medical payments addition to auto insurance policies. Legislation will likely take the form of a mandatory medical payments addition to the standard automobile policy."

We expect that again this year, legislation will be introduced and likely passed that will assist in financing first responders. The insurance industry and health care providers are working with the Governor's office to develop credible data in anticipation of this legislation.

We also expect that there will be legislation to create an Office of Consumer Counsel to represent consumers at the Division of Insurance. There also is talk of a "prior approval" bill that would require insurance rates to be approved by the Division of Insurance prior to being put into place. This is contrary to current law, which calls for rates "to be adequate, fair, non-discriminatory and not excessive" and which allows the DOI to investigate and modify rates that don't fit those guidelines.

Workers' Compensation

There have been rumors of a myriad of other bills relating to workers' comp, but nothing definite at this point. When the Republican legislature passed SB 91-218 in 1991 and Democrat Governor Roy Romer signed the legislation, annual increases in the cost of workers' comp insurance decreased from 10% - 20% per year to 0% - 2% increases. The business community and insurance industry are going to work hard not to let the reform passed 16 years ago be eroded. Possible legislation that has been mentioned for 2008 includes elimination of the schedule for extremity injuries, increase in PTD maximum awards, creation of a state rating bureau and disassociation with [NCCI](#), and a complete re-write of the workers' comp act.

Miscellaneous

Illegal Immigration

Illegal immigration was the topic for a special session of the legislature in July 2006. Several pieces of legislation were passed and many hailed the new laws as being the most comprehensive package of bills put forward and enacted by any state in the country. Several of those bills, however, have been difficult, expensive and impractical to implement, administer or comply with.

Recently, Representative Al White (R-Winter Park), a member of the Joint Budget Committee, stated that he believes that the state has incurred more expense in implementation of the various laws passed during the special session of 2006 than savings realized by not providing services to illegal immigrants.

Oil and Gas Drilling

The issue of appropriate compensation to surface landowners for damage caused by oil or gas drilling operations has been a thorny issue the past several years, as the price of gas and oil has increased and drilling has been profitable. Expect this issue to come up again. There was an [interim committee in 2007 concerning allocation of severance tax and federal mineral lease revenues](#)

and there will be legislation on these revenues. As mentioned earlier, many in the legislature are viewing the state's oil and gas deposits as the potential source of funding for much of the state's budgetary needs.

Environment

Expect to see legislation dealing with the very real and huge issue of pine beetle infestation in the Colorado mountains. This will be a joint effort with federal, state and local agencies. Also expect to see legislation that would limit the sale of federal lands and open spaces. Also, expect to see legislation that will improve and increase outdoor recreational opportunities for hikers, bikers, campers, anglers and hunters.

Water

Again, remember Mark Twain's words, "Whiskey is for drinking, water is for fighting". There will undoubtedly be much legislation introduced dealing with water. The University of Denver has established the [DU Water Futures Panel](#). The Panel released its [report](#), with recommendations, in September, 2007.

Amendment 41

This constitutional amendment, dubbed "Ethics in Government" passed by a 62% - 38% margin in the November, 2006 election. The proponents of the amendment, however, did an incredibly poor job of drafting the language of the amendment. It was touted as eliminating the ability of lobbyists to lavish expensive gifts, trips and entertainment on legislators. Because of the poor job of drafting, the unintended consequences of passage of this amendment are potentially enormous. The legislature will pass implementing legislation, but can not weaken the provisions of the amendment. We have provided [several memos](#) that you might find to be interesting reading on this subject. It's important to remember that this is a constitutional amendment that can only be changed by a vote of the people – similar to Gallagher, TABOR and Amendment 23.

The [First Amendment Council](#), chaired by Bill Becker of Adams County Economic Development, challenged Amendment 41 and on May 31, Denver District Court Judge Christine Habas granted an injunction against Amendment 41. The proponents have now appealed to the Colorado Supreme Court. A decision is expected this spring, but opponents remain confident that Judge Habas' ruling will stand.

Unions

In a surprise to nearly everyone, Governor Ritter vetoed [HB 07-1072](#) in early February, 2007. This bill would have eliminated the required second vote in union organizing and was strongly supported by organized labor and universally opposed by the business community. Naturally, the unions were disappointed in the [Governor's veto](#), but the business community praised him for his courage and thoughtfulness in the veto.

Then, in November, the Governor issued an Executive Order allowing employee organizations to establish partnership agreements with the state. The order would appear to make union organizing of state employees much easier. Although the Executive Order only applies to state employees, this action is causing a major rift between the governor and the business community while laying the basis for "right to work legislation" being drafted for introduction and spurring a potential ballot initiative. The executive order has an unspecified term and can be rescinded by Governor Ritter or any succeeding Governor. Republican legislators have indicated that they will introduce legislation specifying that even though state employees may unionize, they will not have the right to strike. This whole issue of unionization is likely to be one of the most contentious and partisan issues of the entire session. Of note is the fact that currently less than 8% of the total Colorado workforce is made up of union members.

Colorado Climate Action Plan

In November 2007, Governor Ritter announced the [Colorado Climate Action Plan](#), which contains information on agriculture, transportation, electric energy, greenhouse gas, and other areas. Renewable Energy and the environment remain a top priority of Governor Ritter, and we expect to see legislation in many (if not all) of these areas.

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 for more information as the session progresses. ***And have a happy and prosperous 2008!***

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January 11, 2008***