



COLORADO FISCAL  
POLICY INSTITUTE

**2010 FISCAL LEGISLATIVE REVIEW**  
**May 13, 2010**

## Colorado lawmakers made tough choices amid a punishing recession; more challenges are ahead

Colorado lawmakers confronted tough choices during the 2010 legislative session that ended Wednesday. Where to cut public services, and how deeply? Which tax breaks to scrutinize, and which to leave alone? How to meet the needs of the people of Colorado with less? How to plan for a future when federal aid dries up and state revenues have yet to fully rebound?

The answers our representatives came up with won't please everyone, of course. With a few notable exceptions, though, Colorado's elected officials acted responsibly.

Faced with an array of bad options, they balanced next year's budget with both deep cuts to vital services and limited increases in revenue raised by closing corporate tax loopholes. They wrestled with bills to increase fiscal accountability and transparency in bad times and good, and looked for workable strategies to help struggling families and businesses weather the recession and prepare for prosperity's return.

Unfortunately, despite signs of recovery, difficult times will continue for Colorado families. That reality means we all will need to continue the important discussions started this session about what kind of state we want to build for the future and how we want to pay for it.

### **Taxes**

The Colorado General Assembly took a bold step in the right direction in 2010 by eliminating and suspending certain tax loopholes as a means to solving the state's budget crisis. The General Assembly closed a dozen sales tax exemptions and income tax credits that will save the state more than \$450 million during the next three years. The Colorado Fiscal Policy Institute did not advocate for each particular bill included Gov. Bill Ritter's package of tax expenditure bills, but it did support the general notion of taking a balanced approach to balancing the state budget — examining the tax side of the ledger, not just the spending side.

#### *House Bill 10-1002*

**Sponsors:** Rep. Kefalas; Sen. Sandoval

**Status:** Signed by Governor

**Description:** Returns the state Earned Income Tax Credit (EITC) to the first-priority refund mechanism under the Taxpayer's Bill of Rights (TABOR). It increases the threshold necessary to trigger the Temporary Income Tax Rate Reduction TABOR refund mechanism so that the refund applies only if there is also enough surplus revenue to trigger the EITC refund.

**Our position:** The Colorado Fiscal Policy Institute supported this bill because it will benefit more than a quarter million working families with children in Colorado and make the state's tax system more equitable.

*House Bill 10-1107*

**Sponsors:** Rep. Fischer, Sen. Carroll

**Status:** Signed by governor

**Description:** Increases restrictions on including agricultural land in Urban Renewal Areas, which encourage development in blighted urban areas by providing tax incentives to companies.

**Our position:** The Colorado Fiscal Policy Institute supported passage of this bill because it will greatly limit the use of tax subsidies for development in areas where subsidies are not needed and were not intended – agricultural land.

*House Bill 10-1189*

**Sponsors:** Rep. Pommer; Sen. Heath

**Status:** Signed by governor

**Description:** Eliminates the sales and use tax exemption for direct mailings, including advertising leaflets, discount coupons, envelopes and labels.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1190*

**Sponsors:** Rep. Pommer; Sen. Heath

**Status:** Signed by governor

**Description:** Eliminates the sales and use tax exemption for the storage, use or consumption of energy used for industrial purposes.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1191*

**Sponsors:** Rep. Pommer; Sen. Heath

**Status:** Signed by governor

**Description:** Eliminates the sales and use tax exemption on the purchase of candy and soda.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1192*

**Sponsors:** Rep. Pommer; Sen. Heath

**Status:** Signed by governor

**Description:** Eliminates the sales and use tax exemption for standardized software.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1193*

**Sponsors:** Rep. Pommer; Sen. Heath

**Status:** Signed by governor

**Description:** Requires out-of-state retailers that make sales in Colorado but do not collect Colorado sales and use tax to notify purchasers of their obligation to pay sales and use tax on their purchases.

**Our position:** The Colorado Fiscal Policy Institute lobbied for and testified in favor of this bill not only because it increases the revenue available for funding core services, but also because up until this bill was passed, out-of-state retailers, especially those engaged in Internet sales, received an unfair advantage over local retailers as a result of their evasion of sales tax. COFPI worked with legislators and joined several other organizations to ensure the final version of this bill was fair and fiscally sound.

*House Bill 10-1194*

**Sponsors:** Rep. Ferrandino; Sen. Heath

**Status:** Signed by governor

**Description:** Eliminates the sales and use tax exemption for non-essential articles, containers and bags that are provided with consumer meals free of charge.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1195*

**Sponsors:** Rep. Ferrandino; Sen. Heath

**Status:** Signed by governor

**Description:** Suspends the sales and use tax exemption for the sale, storage, use or consumption of some agricultural compounds including semen for agriculture and ranching, and pesticides for production through the 2012-13 fiscal year.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1196*

**Sponsors:** Rep. Ferrandino; Sen. Heath

**Status:** Signed by governor

**Description:** Reduces the number of years that alternative fuel vehicles are eligible for an income tax credit. The tax credit for these vehicles will still apply in 2010.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it increases the revenue available for funding core services such as education and health care, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1199*

**Sponsors:** Rep. Ferrandino; Sen. Heath

**Status:** Signed by governor

**Description:** Limits to \$250,000 the net operating loss a corporation may carry forward in 2011-13. Any net operating loss that is foregone during these tax years may be carried forward one additional year for each year a corporation is limited by the temporary cap.

**Our position:** The Colorado Fiscal Policy Institute lobbied for and testified in favor of this bill in its original form, which excluded the provision that corporations could carry forward foregone net operating losses after the suspension period concluded. COFPI maintained support of the bill

in its final form because it increases the revenue available for funding core services such as education and health care, albeit temporarily, and it supports a balance between cutting the budget and closing corporate tax loopholes.

*House Bill 10-1263*

**Sponsors:** Rep. Pommer; Sen. Boyd

**Status:** Failed

**Description:** Limited to \$250,000 (per person) the salary a business could deduct as a business expense from its annual income taxes in Colorado.

**Our position:** The Colorado Fiscal Policy Institute aided in the drafting and development of the legislation, which garnered extensive support from community groups and legislators.

Unfortunately, at the end of the session, the legislators involved in this measure made a strategic compromise involving the removal of this bill from consideration and it was subsequently killed by its sponsor.

*Senate Bill 10-133*

**Sponsors:** Sen. Heath and Rep. Rice

**Status:** Failed

**Description:** Gives companies a \$1,000 income tax credit for hiring people who are collecting unemployment insurance.

**Our position:** The Colorado Fiscal Policy Institute opposed the bill because the credit would not have created jobs or encouraged hiring. Rather it would have cost the state \$5.3 million per year at a time when the state is cutting spending on vital services.

In addition to the bills listed above, The Colorado Fiscal Policy Institute opposed a handful of other ineffective and untested tax and fiscal bills, most of which were defeated. These bills were born out of inefficient or misguided tax policy and, if passed, would have required more state revenues in spite of the \$1 billion budget deficit. The bills include:

- *House Bill 10-1087:* Elimination of the requirement that an employer withhold Colorado Income Tax. Sponsors: Swalm/Cadman. Failed.
- *House Bill 10-1180:* Concerning the criteria to qualify for a performance-based incentive for film production activities in Colorado. Sponsor: Massey. Passed.
- *House Bill 10-1280:* Concerning an incentive to create Colorado nonprofit jobs by establishing an income tax credit. Sponsors: Summers/Romer. Failed.
- *House Bill 10-1289:* Concerning an exemption for machinery used to provide telecommunications service from the state sales and use tax. Sponsors: Liston/Scheffel. Failed.
- *House Bill 10-1295:* Concerning the creation of income tax credits for nonpublic education. Sponsors: Lambert/Lundberg. Failed.
- *House Bill 10-1296:* Concerning an incentive for enrollment of qualified children in private schools. Sponsors: Swalm/Penry. Failed.
- *Senate Bill 10-029:* Concerning the creation of efficiencies in governmental entities that provide services to the people of the state. Sponsor: Penry. Failed.
- *Senate Bill 10-085:* Concerning the creation of a business personal property tax exemption reimbursement pilot program. Sponsors: Scheffel/Priola. Failed.
- *Senate Bill 10-086:* Concerning a phased-in exemption for fully depreciated business personal property. Sponsors: Scheffel/Priola. Failed.

## State budget

*House Bill 10-1376, the Long Bill*

**Sponsors:** Rep. Pommer and Sen. Keller

**Status:** Signed by governor

**Description:** Outlines the state budget for fiscal year 2010-11, which begins July 1. Although general fund revenue — primarily sales and income taxes — is expected to increase for the first time in three years it is still not projected to return to the 2007-08 level. That means the General Assembly had to close a \$1 billion revenue shortfall in the budget. The budget-balancing measures fall into three categories:

- \$635.6 million in various cuts
- \$250.5 million in revenue increases
- \$158.1 million savings by reducing the available reserve

The cuts portion is tricky to measure because “cuts” are not always reflected in a simple decline in spending from year to year. “Cuts” typically represents one of four types of reductions in spending — savings accumulated by continuing cuts from the previous year, transfers from cash funds, reductions of services even though total spending may still increase, and outright reductions in spending.

The first, maintaining the cuts enacted for the 2009-10 fiscal year budget, is estimated to save the state \$138.1 million in the 2010-11 budget.

The transfers from cash funds come at a cost to the services provided by those funds. The largest transfer is \$29.8 million from the Colorado CollegeInvest Scholarship Trust Fund, which will limit the availability of financial aid for low-income students even as the General Assembly allows colleges to raise tuition 9 percent. Other transfers include:

- \$10 million from the Local Government Severance Tax Fund, which will reduce the aid that goes to communities with oil, gas, and coal production.
- \$11 million from the Severance Tax Trust Fund Perpetual Base Account, which provides loans for water projects.
- \$8.6 million from the Capital Construction fund.
- \$7 million from the Higher Education Federal Mineral Lease Trust Fund.
- \$4 million from the settlement with cigarette makers, which provides support for a variety of health care programs.

The reduction in services is the most difficult portion of budget cuts to identify, although it can be found in nearly every part of the budget. In many departments even though spending will increase slightly in 2010-11 it is often not sufficient to offset the growth in population and increasing demand for services, which is typically caused by the economic challenge facing families during the recession. The best example might be Medical Services Premiums line item, which is essentially the largest portion of Medicaid funding in the budget. Colorado will increase spending on the Medical Services Premiums by \$229 million, or 7.8 percent next year. However the number of people enrolled in Medicaid is expected to grow 11.1 percent, to more than 550,000, which will translate into spending 2.3 percent less per Medicaid client.

Outright spending reductions include:

- \$260 million cut to public schools.
- \$6.7 million cut from the division of child welfare, which provides homes for foster children and protection for abused children.
- \$1.8 million cut from the county administration line item in the Department of Human Services, which provides staff to process the skyrocketing demand for food stamps, Medicaid and cash assistance.
- \$8 million cut from Mental Health, and Alcohol and Drug Abuse Services.

The cuts to all state services could have been worse. The 2010-11 budget includes the final \$450 million in federal support provided to the state through the Recovery Act. Without that assistance the state budget would have seen a total reduction of \$38 million.

**Our position:** The Colorado Fiscal Policy Institute did not take a formal position on House Bill 10-1376, but it did advocate for a balanced approach to solving the budget crisis, which meant considering measures that raise revenue to mitigate cuts in services Colorado families depend on.

*House Bill 10-1177*

**Sponsors:** Rep. King

**Status:** Failed

**Description:** Creates an “economic stability fund” — essentially a larger rainy day fund — for the state budget.

**Our position:** Although the Colorado Fiscal Policy Institute supports a larger rainy day fund, the organization testified against this bill because it would have required the state to start saving more money now, when the state can least afford it, and it would have required too high a threshold — the support of two-thirds of each house of the General Assembly — to spend the money during future economic downturns.

## **Accountability and transparency**

Distrust in government is at high-water mark. The Colorado Fiscal Policy Institute advocated this year for several measures that would improve how the state reports to its citizens about spending and taxes in an effort to highlight waste and generate confidence among taxpayers.

The General Assembly ensured better reporting on spending in the future by approving House Bill 10-1119. It will ensure taxpayers have access to more information about how and why the state spends money and encourage lawmakers to focus spending on the most important functions of government. Unfortunately, the Legislature turned its back on shining more light on tax expenditures so Coloradans will still have little idea about the value and costs of many of the many tax breaks that are awarded to businesses, ranchers, farmers, and families. The General Assembly defeated both House Bill 10-1429 and House Bill 10-1350 that would have let taxpayers understand who benefits most from tax breaks and provided some insight about how well tax incentives achieve their goals. Despite the failure of House Bill 10-1350, the governor issued an executive order on May 12 that accomplishes the same purpose.

*House Bill 10-1119*

**Sponsors:** Rep. Ferrandino and Sen. Shaffer

**Status:** Passed, awaiting governor's action

**Description:** Known as the SMART bill — State Measurements for Accountable, Responsive, and Transparent Government — it would create a performance-based process for developing the state budget.

**Our position:** The Colorado Fiscal Policy Institute testified in favor of this bill because it promotes accountability and transparency in state spending.

*House Bill 10-1350*

**Sponsors:** Rep. Pace; Sen. Carroll

**Status:** Failed

**Description:** Required the Colorado Office of Economic Development and International Trade (OEDIT) to present a study in January 2011 examining what it would take to provide better annual reporting of the effectiveness of job-creation subsidies, including tax credits. In addition OEDIT would be required to collect information on the median salary of jobs created through job-creation incentives, along with the data on the number of jobs and average salary data it already collects.

**Our position:** The Colorado Fiscal Policy Institute favored passage of this bill because it would have provided more information about the nature and quality of the job-creation investments the state is making with taxpayer dollars. Currently \$50 million is spent annually by the OEDIT on such job-creation measures. Despite the bill's failure, Gov. Bill Ritter on May 12 issued an executive order directing the Colorado Economic Development Commission to track and report the same information the bill would have required.

*House Bill 10-1400*

**Sponsors:** Rep. Apuan; Sen. Johnston

**Status:** Passed, awaiting governor's action

**Description:** Creates modest protections for consumers seeking Refund Anticipation Loans by requiring facilitators to provide verbal and written disclosures to customers.

**Our position:** The Colorado Fiscal Policy Institute supported this bill because it establishes reasonable restrictions on providers of high-cost loans that are aggressively marketed to low-income taxpayers who receive tax credits, like the Earned Income Tax Credit. The fees associated with Refund Anticipation Loans siphon millions of dollars each year from targeted tax credits intended to support working families, thereby dampening the overall effectiveness of those credits. House Bill 10-1400 better protects consumers and enhances accountability of tax expenditures.

*House Bill 10-1429*

**Sponsors:** Rep. Weissmann

**Status:** Failed

**Description:** Required an annual review by the joint finance committee of certain state tax benefits to determine if the benefits should be continued, modified or repealed.

**Our position:** The Colorado Fiscal Policy Institute lobbied for and testified in favor of this bill because it would have promoted efficiency and effectiveness in the Colorado tax code by adding transparency and accountability for Colorado taxpayers. COFPI has supported this kind of legislation and tax policy for more than 10 years.