



POLICY POSITIONS

During the second regular session of the 67th Colorado General Assembly, the Chamber took action on the following legislation. The positions were written based on the content of bills at the time the Chamber took action and may not reflect additional changes to the legislation.

SUPPORT:

SB 003 Higher Education Flexibility/ MORSE—MIDDLETON (Support 5/04/10) (Sent to Gov. 5/26/10)

This bill allows increased flexibility for state institutions of higher education in several areas including setting tuition, planning budgets, managing admissions ratios and distribution of financial aid. The Chamber supports finding a long-term, sustainable funding source that will support and improve the competitive standing of our state's higher education system. Because such a source has not yet been identified—and in light of the high probability of substantial cuts to the funding these institutions will receive from the General Fund in coming years due to budget constraints—the Chamber believes these institutions require increased flexibility.

SB 029 Create Efficiencies In State & Local Government/ PENRY—CURRY (Support 2/16/10) (Lost 5/03/10)

This bill would have encouraged the governor's office to pursue a number of efficiencies in state government in specific areas by requiring review and recommendations for cost savings. It identified several specific areas to change or examine. The Chamber supports the pursuit of greater effectiveness within government by utilizing practices routinely observed in the private sector, including consolidation and elimination of redundancies.

SB 036 Program Results for Educator Preparation/ JOHNSTON—MERRIFIELD (Support 1/14/10) (Signed 1/15/10)

This bill requires the Department of Education to analyze and report the effectiveness of the Educator Preparation Program with data from the educator identifier system. This bill was introduced on January 13 and was signed into law by Governor Ritter on January 15. The bill was passed with urgency in order to strengthen Colorado's "Race to the Top" application. The Chamber supports additional accountability measures and the goal of improving our education system. A highly effective education system and a well-educated population is an essential pillar needed to support a productive community and competitive workforce.



Due to the rapid timing of this bill's passage, the Chamber did not track votes on this bill. The Chamber was unable to notify members of the legislature of our support prior to their opportunity to vote.

[SB 133 Income Tax Credit for Rehiring Employees/ HEATH—RICE \(Oppose unless amended 2/16/10; Support if amended 4/27/10\) \(PI'd 5/05/10\)](#)

Originally, this bill would have arbitrarily chosen beneficiaries of the tax credit and would have been highly complicated to track and administer. As amended, this bill would have established an income tax credit to incentivize Colorado businesses for hiring. The Chamber changed its position on April 27 from oppose to support, due to an amendment that was offered and accepted in the House Business Affairs and Labor Committee. The amendment addressed the Chamber's original concerns with the bill regarding stringent rehiring and timing requirements.

[SB 162 Modifications To Enterprise Zone Act/ HEATH—HULLINGHORST \(Support 2/23/10\) \(Sent to Gov. 5/20/10\)](#)

This bill changes the "Urban and Rural Enterprise Zone Act" by specifying how to calculate the population of an area that may be included in an enterprise zone and by increasing the population allowed for an urban enterprise zone. The bill also replaces the current auditing practice with a new pre-certification process for taxpayers to follow in order to claim an enterprise zone income tax credit. Further, it establishes predictable fees associated with plan review and requires the state to track (in aggregate) and report the use of the program. The Chamber supports this bill because it should improve the effectiveness and functionality of the Act.

[SB 164 Blueprint For A Leaner Government Act/ KOPP—STEPHENS \(Support 2/09/10\) \(PI'd 2/17/10\)](#)

The bill would have formed task forces through the Legislative Audit Committee and the Committee on Legal Services to review government departments and programs, and to make legislative recommendations related to cost savings and other efficiency measures. The Chamber supports this kind of pursuit of greater effectiveness within government and appreciated the bipartisan inclusion of individuals from the public and private sector on this bill.

[SB 191 Principal And Teacher Effectiveness/ JOHNSTON—SCANLAN \(Support 4/12/10\) \(Signed 5/20/10\)](#)

The Chamber supports a high performing education system and quality instruction. We applaud responsible reforms that reinforce effectiveness. This bill creates a system to develop greater accountability for educators and principals and enhances education for students in Colorado. Colorado's current system does not effectively provide evaluation that allows teachers to learn



and grow and have even greater impact on student achievement. This proposal allows teachers and principals to identify areas that need to be improved with meaningful and fair evaluations. The Chamber recognizes that Colorado's economic potential is tightly tied to the strength of our education system. This legislation is a step toward ensuring our future workforce is able to compete in a global, knowledge-based economy.

[HB 1119 SMART Government Act/ FERRANDINO—SHAFFER B. \(Support 2/23/10\) \(Sent to Gov. 5/25/10\)](#)

This bill establishes the "State Measurements for Accountable, Responsive, and Transparent (SMART) Government Act," which makes several changes to the state's budgeting process including improved budgetary efficiencies, administrative flexibility and rewarding agencies for strategic planning. The Chamber supports this bill because of its requirements for consideration of suggested budgetary efficiencies and promotion of administrative flexibility through consolidation, prioritization and strategic planning, emphasis on performance-based goals and measures, and reporting about outcomes and overall encouragement of transparency in the budgeting process.

[HB 1143 Uses At RTD Transfer Facilities/ MCNULTY—JOHNSTON \(Support 2/02/10\) \(Signed 4/15/10\)](#)

Under existing law, retail and commercial goods and services are permitted to be offered at Regional Transportation District (RTD) transfer facilities and station locations. This bill permits RTD to negotiate and enter into similar agreements for the provision of residential and other uses at transfer facilities, so long as such uses are consistent with local laws relating to planning and zoning, and conducted in a manner that encourages multimodal access for all users. The Chamber supports this bill because it could maximize the use of the land around transit stations by encouraging commercial and residential development.

[HB 1154 Mandates Analysis Legislative Council Moratorium/ CURRY—MITCHELL \(Support 2/02/10\) \(P'd 2/04/10\)](#)

Currently, when the legislature considers a new health insurance mandate, the proposal is submitted to a commission for mandated health insurance benefits for analysis. This bill would have required that such analysis be conducted by the Legislative Council with input from the Commissioner of Insurance, the Division of Insurance, any other appropriate state department and others, rather than the commission. The bill also would have imposed a one-year moratorium on the enactment of any new mandated health insurance benefit to allow time for the market to stabilize and time to implement federal health care reform legislation (if enacted). The Chamber supported this proposal because it promoted a thorough process to review the financial and social impacts of mandates and allowed time to enact new requirements that will affect the businesses that provide health insurance benefits.



[HB 1160 Wellness Incentives Rewards Outcomes/ RICE—MITCHELL \(Support 3/23/10\) \(Signed 5/26/10\)](#)

Existing law allows health insurance carriers to offer incentives or rewards to encourage participation in a wellness and prevention program. This bill allows such incentives or rewards to be based on outcomes, with the caveat that the incentive or reward under the wellness and prevention program is consistent with the nondiscrimination requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). This policy reinforces practices encouraged by the Chamber through the Chamber Health Plus program. It promotes wellness and encourages prevention measures that could positively impact the individual behavioral aspect of health care reform. Such efforts have the potential of improving health for individual and, as a result, causing a decrease in costs within the entire health care delivery system.

[HB 1270 Codify DOR Rule Regarding Computer Software/ MURRAY—SPENCE \(Support 2/09/10\) \(PI'd 3/09/10\)](#)

This bill would have codified into state law the Department of Revenue's current regulations related to the sales or use tax on sales of computer software. The Chamber believed it would have been important to have clear definitions about how rules and regulations are to be implemented, rather than granting unspecified authority to departments to carry out policy. Further, the Chamber believes that careful and deliberate consideration must be given to larger, precedent-setting issues, such as defining tangible versus intangible property and addressing the matter of taxation of services.

[HB 1281 Telco VoIP Wireless Deregulation Basic/ CASSO—SPENCE \(Support 5/03/10; Oppose as amended by House Approps 5/04/10; Support 5/04/10 on Floor Action\)](#)

This bill will create a clear path for telecom corporations, which are regulated by the Colorado Public Utilities Commission's at Category Two for wireless and Voice-over Internet Phone (VoIP), to move those businesses into Category Three. Category Three is a less-regulated field, and many companies that have VoIP and wireless business are already at that level. The Chamber supports deregulation in telecommunications for the purpose of competitive equity.

[HB 1283 Patient Safety Issues/ RIESBERG—SANDOVAL \(Support 2/23/10\) \(PI'd 4/05/10\)](#)

This bill would have required physicians to participate in ongoing professional development activities when obtaining or renewing a medical license. The bill would have also enacted the "Patient Safety Act," which required that health care providers make reasonable efforts to verify the employment history and references of all applicants for any job that involves access to patients and also required employers to share information about work performance affected



by drug and alcohol use, drug diversion, patient abuse and crimes of violence by current and former employees. The proposal would have protected providers who supply such information. The Chamber believes this bill would have enhanced the ability of the health care system to provide high-quality care through increased accountability and ongoing learning. Additionally, the proposal would have helped health care facilities guard against employees who could pose a danger to patients.

[HB 1289 Telecommunications Sales Tax Exemption/ LISTON—SCHEFFEL \(Support 2/16/10\) \(Pl'd 3/05/10\)](#)

This bill would have created a phased-in exemption from the sales and use tax for purchases in excess of \$500 of machinery and machine tools to be used for providing telecommunications service, in Colorado, for sale or profit. The Chamber supported this proposal because it would have encouraged jobs and investment by maximizing dollars spent on cable, telephone and wireless equipment.

[HB 1330 All-payer Health Claims Database/ KEFALAS—MORSE \(Support 3/23/10\) \(Signed 5/26/10\)](#)

The bill creates an advisory committee to make recommendations regarding the formation of a Colorado All-payer Health Claims Database for the purpose of transparent public reporting of health care information. The advisory committee will be funded by gifts, grants and donations. The data will be available to the public, state agencies and private entities – consistent with privacy laws. This bill follows up on the work of the Blue Ribbon Commission for Health Care Reform (also known as the 208 Commission), as well as the Center for Improving Value in Health Care (CIVHC), which is working to study and recommend ways to establish health care reform models for expanding coverage and decreasing health care costs for Colorado residents.

[HB 1365 Incent Utility Convert Coal To Natural Gas/ SOLANO—WHITEHEAD \(Support 3/30/10\) \(Signed 4/19/10\)](#)

In anticipation of emission requirements of the federal Clean Air Act, this proposal requires that, by August 15, 2010, all regulated utilities that own or operate coal-fired electric generating units, submit to the Colorado Public Utilities Commission an emissions reduction plan for those units. The plan is required to cover 900 megawatts, or 50 percent of the utility's generating capacity, whichever is less. The plan must give primary consideration to conversion of the units to natural gas or other low-emission resources, and may not cover any units already planned for retirement prior to January 1, 2015. The Chamber recognizes that there is no silver bullet to protect Colorado's air quality. However, steps must be taken today to keep the state from falling out of compliance with Environmental Protection Agency (EPA) standards. This action was considered especially important because if Colorado did not produce a plan to reduce its emissions by early 2011, the EPA could produce a plan for the state.



[HB 1394 Professional Construction Insurance/ RICE—SCHEFFEL \(Support 5/04/10\) \(Signed 5/21/10\)](#)

This legislation addressed concerns around a Colorado Court of Appeals ruling in *General Security Indemnity Company of Arizona v. Mountain States Mutual Casualty Company* which threatened to undermine the responsible and fair construction defect laws in Colorado by potentially creating a standard where insurance companies – from whom construction defect insurance policies were purchased by developers to insure themselves and their property owners – would not be required to pay for claims of property damage caused by negligent construction.

OPPOSE:

[SB 011 Workers' Compensation Conflicts Of Interest/ CARROLL M.—MIKLOSI \(Oppose 12/01/09\) \(Sent to Gov. 5/18/10\)](#)

This bill makes several changes to workers' compensation law concerning conflicts of interest by physicians, insurers and employers, including the addition of burdensome disclosure requirements for independent medical examination (IME). The bill creates secondary and conflicting rules for the practice of medicine already covered under malpractice statutes and rules of ethics under the Board of Medical Examiners. The bill also declared contractual agreements where two parties agreed to finite terms for benefits only while the injured party lived (reversionary interest) and tried to negate those contracts retroactively.

[SB 012 Workers' Compensation Benefits Knowing Penalty/ TOCHTROP—PACE \(Oppose 12/01/09\) \(Sent to Gov. 5/18/10\)](#)

This bill could double penalties for employers or insurers for violating workers' compensation laws, and lowers the legal standard for penalizing insurers from "willfully" to "knowingly." The Chamber believes the current standard of "willfully" is appropriate and should continue to be utilized, rather than the more nebulous proposed language.

[SB 028 Work Share Program/ HEATH—PACE \(Oppose 1/19/10\) \(Sent to Gov. 5/20/10\)](#)

This bill establishes a new program that allows Unemployment Insurance (UI) benefits to be paid proportionately to individuals currently employed – but it reduced hours. Currently, UI benefits are available to employees who have lost their job. The Chamber is opposed to fractional eligibility for UI benefits. The Chamber opposes adding to the current \$800 million



unfunded liability that exists within the UI fund. Business is responsible for covering this funding gap, which is a due to a historically high rate of unemployment and the high volume of unemployment claims in this economy.

[SB 033 Fair Legal Employment Act/ SCHULTHEIS—BAUMGARDNER \(Oppose 1/19/10\) \(PI'd 3/03/10\)](#)

This bill concerned a requirement for business to verify work eligibility status through a federal electronic verification system known as “e-verify.” The Chamber was concerned about the level of accuracy and the capacity of the system to handle the volume of use that would be required.

[SB 076 Unreasonable Insurance Claims Practices/ CARROLL M.—PRIMAVERA \(Oppose 1/19/10\) \(Signed 5/17/10\)](#)

This bill assumes unfair claims settlement and deceptive acts involving the business of insurance. The Chamber believes the existing rules and level of oversight is sufficient to gauge the reasonableness in denial of insurance claims.

[SB 114 Taxpayer Transparency Act Of 2010/ CARROLL M.—WEISSMANN \(Oppose 2/02/10\)](#)

The bill extends the Colorado Open Records Act (CORA) to all writings of an entity that receives public moneys or performs a governmental or other public function. The Chamber believes that the current requirements for openness in public contracts achieve transparency. Additional record keeping of all writings related to a public contract is unnecessary and impractical to practice and enforce.

[SB 126 Pharmaceutical Transparency Act/ CARROLL M.—TYLER \(Oppose 2/23/10\) \(Sent to Gov. 5/18/10\)](#)

This bill enacts the “Pharmaceutical Transparency Act,” which requires manufacturers of drugs, medical devices and other medical supplies to file annual disclosure statements with the Secretary of State. In these statements, manufacturers must disclose any payment made to a health practitioner. Additionally, any health practitioner that has an ownership interest in a pharmaceutical manufacturer must disclose this information. Reporting would include the costs of marketing and advertising in-state and any gifts, fees, subsidies or other payments made to providers. The Chamber believes this bill creates a duplication of reporting requirements at the federal level, which makes this legislation unnecessary. Additionally, the Chamber believes this legislation would discourage pharmaceutical companies from hosting clinical trials in Colorado, the consequence of which could be a considerable loss of bioscience research and development, a key and growing industry cluster.



[SB 185 Residential Warranty Of Habitability/ SHAFFER B.—MERRIFIELD \(Oppose 3/16/10\) \(Pl'd 5/05/10\)](#)

This bill would have modified residential warranty of habitability laws, which are currently implied into every residential rental agreement. Existing law was created and put into place less than two years ago following an extensive mediation process. This bill would have changed the policy by removing the requirement for a tenant to provide written notice prior to a breach of the warranty, and it modified the standard of condition that would constitute a breach. Additionally, it created a right of action for tenants including disciplinary action and treble damages. This proposal would have endangered property owners' rights and may have further upset the rental housing market, which has suffered in the current economy. The Chamber believes that safeguards in place to protect tenants must be fair to property owners and not leave owners exposed to expensive liability or increased regulatory burden. This bill would have had the potential to drive costs up and jeopardize availability of housing.

[SB 203 Independent Expenditures After Citizens United/ CARROLL M.—WEISSMANN \(Oppose 5/4/10\) \(Sent to Gov. 5/20/10\)](#)

The bill makes changes to state law to regulate independent expenditures made in connection with state elections.

NOTE: The Denver Metro Chamber does not endorse candidates or engage in candidate campaign expenditures; however, the organization's members may choose to do so and would be impacted by this legislation.

The Chamber supports appropriate, reasonable and equitable disclosure and transparency requirements around campaign finance matters. The organization opposes this measure, as it believes it creates overly burdensome and, in some cases, duplicative reporting requirements; adds burdensome definitions around Colorado companies who have foreign investors or leadership components; and inserts into Colorado law an unbalanced playing field between business interests and other entities, such as organized labor. Additionally, its onerous requirements chill the U.S. Constitutional protection of free speech.

[HB 1002 Priority Of TABOR Refund Methods/ KEFALAS—SANDOVAL \(Oppose 2/02/10\) \(Signed 4/05/10\)](#)

This bill delays a reduction in the income tax rate by increasing the threshold needed to trigger such action. Additionally, it stops the reduction unless there is also an earned income tax credit refund. This reduction will only occur when the revenue limit set in the Taxpayers Bill of Rights (TABOR – Article X of the Colorado Constitution) is reached. The Chamber is opposed to this bill because it charges the state government with redistributing a portion of income tax that would



otherwise be credited back to the individual who earned it. The current law was agreed to by voters by the passage of Referendum C in 2005.

[HB 1009 Pinnacol Assurance Board of Directors/ MIKLOSI—HODGE \(Oppose 1/26/10\) \(Signed 5/26/10\)](#)

This bill expands and dictates the composition of the Pinnacol Assurance Board of Directors. The Chamber opposes this bill because it is a conflict of interest for one of the agencies that facilitates workers' compensation to serve on the board of directors of a workers' compensation company. The Division of Workers Compensation and the Industrial Claims Appeals Office are both housed in the Department of Labor. These entities have the authority to adopt and amend rules and regulations to govern workers' compensation proceedings and hearings, which determine injured workers' claims. This bill gives the director of the department a fiduciary duty to Pinnacol while at the same time having a responsibility for overseeing the process that determines claims, creating a situation that constitutes a conflict of interest.

[HB 1012 Limit Surveillance Workers' Compensation Claims/ PACE—CARROLL M. \(Oppose 12/01/09\) \(PI'd 5/05/10\)](#)

This bill would have placed limitations on the use of surveillance of employees who have submitted a workers' compensation claim. This bill removed a means to verify the legitimacy of claims and to investigate other claims for reasons other than fraud. The Chamber believes this bill could have driven up cost to the workers' compensation system and slowed response time in resolving claims. Additionally, the potential of fraud in the system could rise if there is no mechanism to deter misuse.

[HB 1056 ID Theft Disposal Of Records/ FRANGAS—CARROLL M. \(Oppose 1/19/10\) \(PI'd 2/25/10\)](#)

This bill would have required businesses to destroy all identifying information on paper and electronic documents/records before disposal. Violators would have faced a penalty fine of \$500 per paper. The Chamber opposed this bill because of the high level of penalty per sheet, the difficulty of enforcing the bill and the broad title.

[HB 1068 White & Yellow Page Delivery/ FERRANDINO \(Oppose 1/19/10\) \(PI'd 3/02/10\)](#)

This bill would have required that individuals and business opt-in to receive phone books or any delivered package that weighs more than one pound. The opt-in would have been good only for five years, at which time the delivery recipient would have had to opt-in again. The Chamber opposed this bill due to the broad nature of the delivery language and the importance to business customers of broad publication of business phone numbers.



[HB 1087 End Automatic Employer Tax Withholding/ SWALM—CADMAN \(Oppose 1/19/10\) \(PI'd 2/10/10\)](#)

This bill would have eliminated automatic withholding of taxes by employers unless both parties voluntarily agreed to the withholding. The Chamber believes the current system is working appropriately. Additionally, we believe this change would have caused a cash flow problem for the state by only providing revenue quarterly or once a year making the funding of key services more difficult.

[HB 1088 Devolve State Commuter Highways to Local Governments/ VAAD \(Oppose 1/19/10\) \(PI'd 2/02/10\)](#)

This bill would have required that state highways or portions of state highways inside metropolitan planning areas (MPA) that are used 80 percent of the time by travelers inside the MPA to be removed from the state transportation system. These highways would have then become the responsibility of the municipality or county in which they reside. The Chamber opposed this bill because local governments already negotiate with CDOT about taking roadways off the state system, and they currently work to reach agreements that are manageable for both parties. This bill would have forced that action and created an unmanageable financial burden on cities and counties who did not have the ability to pay for the maintenance of state highways.

[HB 1103 Catastrophic Illness Fund For Children/ TODD—STEADMAN \(Oppose 3/23/10\) \(PI'd 5/03/10\)](#)

This bill would have imposed a new annual fee on health care benefit plans per individual and per plan type. While the intended purpose of the fund was laudable, the Chamber opposed this bill because the fee was not fairly assessed, the amount arbitrarily chosen, and this practice would have set a poor precedent. Further, the impact of the fee was unknown for both payers and intended beneficiaries, especially when coupled with costs and coverage changes associated with large-scale national health care reforms.

[HB 1107 Urban Renewal Area Agriculture Lands/ FISCHER—CARROLL M. \(Oppose 2/02/10\) \(Signed 4/14/10\)](#)

This bill restricts the inclusion of agricultural lands within urban renewal areas and outlines procedures for county assessors when classifying agricultural land for property tax purposes. In doing so it damages the prospects of additional job growth in Colorado's fastest growing industry cluster – cleantech – which often has a sizeable manufacturing component and requires large parcels of land adjacent to rail lines. With the enactment of this bill, Colorado will effectively eliminate 12-15 percent of the total number of jobs we could gain in one year.



Additionally, this legislation could lead to sprawl, as future developments would be forced to bypass open agricultural land.

[HB 1144 Prohibit Set Fee For Dental Services/ RICE—MORSE \(Oppose 2/02/10\) \(Lost 2/04/10\)](#)

This bill would have prohibited dental insurance carriers from influencing fees for dental services not covered by the carrier. The Chamber opposed this bill because it would have interfered with the freedom to contract between a dental practitioners and insurance carriers. It is a common practice for insurance carriers to work with dentists to provide discounts on behalf of patients for both covered and non-covered services. Dentists are not forced to agree to discounts and may choose to accept or refuse insurers' plans.

[HB 1152 Civil Rights ADA/FRANGAS—SHAFFER B. \(Oppose 4/30/10\) \(Pl'd 5/03/10\)](#)

This bill would have increased current fines and imposes criminal penalties for violation of the Americans with Disabilities Act (ADA) in Colorado public accommodations laws. The legislation would have duplicated an existing federal ADA law and imposed arbitrary fines and penalties. The Denver Metro Chamber is strongly supportive of the rights of disabled Americans and supports the enforcement of the ADA; however, the expansion and funding of a state agency to duplicate an existing federal program would have been unnecessary and a misuse of resources.

[HB 1159 Mitigation For Water Exports/ PACE—GIBBS \(Oppose 1/12/10\) \(Lost on 2nd Reading 2/05/10\)](#)

The bill would have required mitigation far above what is already required in law. The Chamber seeks to protect the ability of districts to work together to proactively address water issues. The practical effect of this proposal would have prohibited cooperative efforts between water districts that were encouraged previously by the Colorado Department of Natural Resources under the Interbasin Compact Committee process created by House Bill 05-1177, the Colorado Water for the 21st Century Act. Given the Chamber's history of support for HB 05-1177, we opposed this bill.

[HB 1162 Retainage Construction Contracts/ SOPER—BACON \(Oppose 2/02/10\) \(Lost on 2nd Reading 4/20/10\)](#)

This proposal outlined payment requirements in construction contracts, including retainage, which is the percentage of a payment allowed to be retained from a contractor, to have ensured that work was satisfactorily completed and standards, penalties, interest and subcontractor payment schedules would have been met. The Chamber opposed this bill because it artificially determined uniform requirements without consideration of unique project needs or lending situations. Concerns also existed that it would hinder lending by removing retainage amounts currently required by financial institutions. Additionally, such rigid



contract stipulations and schedules set by state law infringe on freedom to contract within construction projects.

[HB 1168 Limit Reimbursement Fully Compensation Injured Person/ LEVY—STEADMAN \(Oppose 2/02/10\) \(Signed 4/28/10\)](#)

This bill limits repayment of benefits back to insurers from an injured party who recovers damages from the party responsible for the injury. Under some circumstances, current law allows an insurer to recover payments made to an injured party if he/she is compensated for his losses by a third party. The Chamber opposes this bill because it will drive up the cost of insurance coverage for consumers, if insurers are responsible for overlapping payment of benefits. The injured individual(s) should be compensated by one insurance company or the other, depending on which party is found to be at fault, but both companies should not be responsible for compensating the injured.

[HB 1174 Reduce Severance Tax Credit To Promote Jobs/ FRANGAS—ROMER \(Oppose 1/26/10\) \(PI'd 2/09/10\)](#)

Under current law, oil and gas producers and interest owners are permitted to claim a credit against the state severance tax on oil and gas for property taxes paid. This bill would have reduced the amount of the credit by 50 percent for a two-year time period to generate additional severance tax revenue paid to the state. The bill proposed to designate 90 percent of the new revenue raised to teacher retention. Voters rejected a similar proposal in the 2008 election - embodied then in Amendment 58. The Chamber opposed Amendment 58 because of the impact it would have on energy prices and the overall effect it would have on this key industry cluster. Further, we do not believe it is prudent to tax one key industry for broad, statewide needs.

[HB 1190 Suspend Industrial Fuel Sales & Use Tax Exemption/ POMMER—HEATH \(Oppose 1/26/10\) \(Signed 2/24/10\)](#)

Under current law, sales and purchases of all energy sources used in industrial or manufacturing services are exempt from sales and use tax. This bill eliminates the exemption for more than two years to raise an estimated \$48 million in additional tax dollars paid by business to the state. The Chamber is strongly opposed to the elimination of this exemption because of the sharp increase in tax on business that will result, as well as the pass through of cost on to consumers. The affect of this increased cost will negatively impact jobs among businesses of varying size and type.

[HB 1192 Sales and Use Tax of Standardized Software/ POMMER—HEATH \(Oppose 1/26/10\) \(Signed 2/24/10\)](#)



Current law allows certain types of software to be exempt from sales and use tax as determined by the Department of Revenue. This bill redefines the types of software that would be subject to tax, with an estimated result of \$15 million in additional taxes paid by businesses to the state. The Chamber opposed this proposal due to the unspecified authority granted to the Department of Revenue to promulgate rules in a very short time, by March 2010. Further, the organization is concerned about the manner in which tangible versus intangible property is defined, the issue of taxation of services and the poor precedent that would be set by the bill in both areas.

[HB10 –1199 Net Operating Loss Deduction/ FERRANDINO—HEATH \(Oppose 1/26/10\) \(Signed 2/24/10\)](#)

Under current law, a corporation may reduce its state income tax by carrying forward a net operating loss (NOL). There is no annual limit on the amount of NOL that may be carried forward. This bill limits the amount to \$250,000 for the next three income tax years. The Chamber is strongly opposed to this limitation because of the significant financial disadvantage it creates for businesses and their annual accounting of assets. Eliminating existing NOL procedures is especially detrimental in the current economic times. The effect of the increase in taxes owed will negatively impact jobs among businesses of varying size and type.

[HB 1200 Enterprise Zone Tax Credit Deferral/ HULLINGHORST—HEATH \(Oppose 1/26/10\) \(Sent to Gov. 5/25/10\)](#)

Currently, the enterprise zone investment tax credit allows a taxpayer to claim an income tax credit on property used exclusively in an enterprise zone for at least one year. A taxpayer is allowed to claim the credit for the first \$5,000 of income tax liability, plus an amount equal to 50 percent of the tax liability in excess of that amount. This bill limits the amount of the credit that a taxpayer may claim to \$250,000. The Chamber is strongly opposed to this repeal because it rescinds a commitment on which businesses have already made decisions. The effect of the increase in taxes owed by business to the state will negatively impact jobs among companies of varying size and type.

[HB 1202 Insurance Coverage Chemo Treatment/ PRIMAVERA—TOCHTROP \(Oppose 2/09/10\) \(Signed 4/15/10\)](#)

This bill requires that a health benefit plan that covers cancer chemotherapy treatment provide coverage for prescribed, orally administered anticancer medicine at a cost to the patient at, as the legislation reads, “the same copayment percentage or relative coinsurance amount as is applied to the cost of other cancer medicines,” such as those administered intravenously. The Chamber opposes this bill because it is a poor precedent for the legislature to assume the level of expertise needed to define “medically necessary treatments” and mandate such coverage.



Additionally, this proposal could drive cost without consideration of treatment efficacy or patient safety. The Chamber opposed similar legislation last year (SB 09-250).

[HB 1263 Limit Income Tax Benefit For Comp Paid/ POMMER—BOYD \(Oppose 2/09/10\) \(Pl'd 4/30/10\)](#)

This bill would have increased the state income tax on individual income above \$250,000 and limited the deductibility of income above that amount for corporations. This means the company would have paid taxes on an amount over \$250,000 instead of it being deducted as an operating expense. The Chamber encourages job creation and growth in key industries in Colorado, including the retention and attraction of company headquarters and high-paying primary jobs to our state. We opposed this bill because it could have damaged those efforts by driving headquarters and high-paying jobs out of Colorado. This bill negatively affected everything from critical, high-value industries to professional sports teams.

[HB 1269 Workplace Fairness Civil Remedies Act/ LEVY—CARROLL M. \(Oppose 2/09/10\) \(Lost on 2nd Reading 4/15/10\)](#)

This bill would have increased the damages in employment discrimination court cases beyond what state law currently permits. It would have expanded penalties in financial and non-financial areas, including emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life. These damages would have been in addition to those already allowed under current law including front pay, back pay, interest on back pay, reinstatement and others. The Chamber supports workplace fairness and believes the current state-level court jurisdiction and level of awards is sufficient to penalize violators.

[HB 1350 Requirements For Economic Incentives/ PACE—CARROLL M. \(Oppose 2/23/10\) \(Lost on 2nd Reading 5/07/10\)](#)

The bill proposed that any entity that receives public moneys for the purpose of economic development be required to file an annual report and pay a filing fee. This bill also established that the Economic Development Commission can revoke credits or economic development incentives at any time for virtually any reason. The Chamber opposed this bill because it duplicated requirements already in place for recipients of economic development incentives.

[HB 1351 Max Interest Rate for Payday Loans/ FERRANDINO—ROMER \(Oppose 2/23/10\) \(Signed 5/25/10\)](#)

This bill limits the fee a lender may charge for a payday loan to 36 percent per year. The Chamber is opposed to this bill because it will restrict and possibly eliminate a regulated financial service and lending option, limiting consumers' choices to manage their short-term credit needs. Passage of this legislation will translate into a loss of jobs in the financial services



sector, as well as negatively impact the commercial real estate industry which has leased space to the industry.

[HB 1356 Workers' Compensation Policyholder Protection Act 2010/ RYDEN—TOCHTROP \(Oppose 12/01/09\) \(PI'd 4/06/10\)](#)

This bill would have required Pinnacle Assurance to distribute surplus holdings in excess of 800 percent of risk based capital (RBC) to policyholders. RBC is the amount of required capital that an insurance company must maintain based on the inherent risks in the insurer's operations and is how the Commissioner of Insurance measures solvency. The bill also directed the commissioner to choose the lowest workers' compensation pure premium rate recommended either by a rating organization or by the independent actuary employed by the commissioner. This bill arbitrarily dictated which rates must be accepted by the Commissioner of Insurance.

[HB 1357 False Claims Act/ MCFADYEN—ROMER \(Oppose 3/09/10\) \(Lost on 2nd Reading 5/11/10\)](#)

This bill would have authorized a civil action by the state, a political subdivision or a private person against a person who submits a false claim to the state or a political subdivision. It specified penalties for submitting false claims, established procedures and specified percentages of recoveries that may have been awarded as attorney fees. The Chamber supports the idea of promoting integrity in the workplace, but believed this bill went beyond even federal standards that encourage employees to report abuses. This bill rigorously positioned employees against one another, and against employers, by encouraging employees to seek out infractions. Prospective benefits of this bill were undermined by potential abuses.

[HB 1396 Enterprise Zone Tax Credits/ JUDD \(Oppose 4/06/10\) \(PI'd 4/28/10\)](#)

This bill proposed to eliminate key incentives that encourage economic investment, which are currently available through the Urban and Rural Enterprise Zone Act. The income tax and sales and use tax credits that are currently available to qualified taxpayers would have expired as of January 2011. The Chamber strongly supports efforts to spur economic development and encourage positive investment activity and job growth. Such opportunities are especially important as Colorado strives to move beyond the national recession. The Chamber believes the government should not revoke tools that foster a return to economic health.

[HB 1397 Employee Accrued Paid Sick Time/ PENISTON—CARROLL M \(Oppose 4/06/10\) \(PI'd 4/07/10\)](#)

The bill would have required all private employers in Colorado to provide paid sick leave to their employees, accrued at one hour of sick leave for every 30 hours worked. It dictated how leave is to be used and documented and authorizes the government to monitor the policy. The



Chamber believes that private businesses should be allowed to determine for themselves a policy that works best for their employees and their business. The private sector should remain free to determine its own personnel models.

[HB 1409 State Employee Compensation/ POMMER—TAPIA \(Oppose 5/06/10\)](#)

This bill replaces the current state composition model with a system based on annual incremental rate increases in salary within an employee's pay grade or pay range. The Chamber opposes this bill, as it creates an unmanageable financial burden on the state by statutorily guaranteeing pay raises. Colorado's budget is fragile and a structural deficit remains. Actions such as this one are unwise.

[HB 1417 Pay Equity Commission/ PENISTON—WILLIAMS \(Oppose 4/20/10\) \(Signed 5/25/10\)](#)

The bill establishes a new pay equity commission within the Colorado Department of Labor and Employment (CDLE). Federal law is clear that equal pay for equal work is required. With understandable laws already in place that govern pay equity, the Chamber believes a new commission at the state level is unnecessary, redundant and may create confusion. Further, we are concerned that this bill may encourage the concept of equal pay for "comparable" work, broadening beyond equal pay for equal work. Private sector pay should be set by the marketplace rather than by subjective policy and legal disputes about comparable jobs. Finally, a similar CDLE commission was formed in 2007 and reported 14 recommendations to the department in 2008. We are unsure of the status of those recommendations made by the previous commission, which included the addition of CDLE staff, research, outreach and the creation of programs. If there is a reason to re-do the work of the previous group, the Chamber questions the prudence of doing so in the current budget climate.

[HB 1429 Legislative Review of Tax Benefits/ WEISSMANN \(Oppose 4/29/10\) \(Lost on 2nd Reading 5/04/10\)](#)

This bill would have required the Joint Finance Committee to conduct meetings on an annual basis to review specified state tax benefits (credits and exemptions) to determine whether they should be continued, repealed or modified. The lens for review by Legislative Council would have been as follows:

- Any known economic benefits related to the tax benefit
- Whether the tax benefit is accomplishing the purpose for which it was created
- The amount of state and local government tax revenue that is directly lost as a result of the tax benefit
- The fairness of the tax benefit
- Whether the tax benefit is in the public interest



The Chamber has called for the state to collect data that will allow both the public and private sector to better understand which industries are using these tax measures and at what magnitude. (See Sept. 29, 2009, letter to legislative leadership and Governor Ritter <http://www.denverchamber.org/pdfs/dmcc2009credits,incentivesletter.pdf>).

This bill was a highly subjective review that did not get to the information that would have been helpful in this discussion and debate. Additionally, it did not appear to engage the private sector in the process, but rather relied fully on Legislative Council to provide analysis and recommendations. More importantly, in these economic times, this type of effort would have added additional uncertainty to our business climate. The Chamber supports gaining good data, but this proposal fell short.

[SCR 004 Games with Element of Chance/ ROMER—MAY \(Oppose 4/27/10\) \(Pl'd 5/10/10\)](#)

This resolution would have referred a measure to the ballot for a vote of the people that would have amended the Colorado Constitution to change laws involving gaming and lottery, with proceeds to be utilized for higher education scholarships. The Chamber supports finding a long-term, sustainable funding source that will assist and maintain the future of our state's higher education system. The organization opposed this resolution because it does not focus on operational needs and could prove detrimental to the gaming funds currently allocated to community colleges with the passage of Amendment 50.

NEUTRAL:

(Neutrality on legislation only occurs when a bill is modified substantially, changing the organization's original position of from support or oppose.)

[SB 112 Workers' Compensation Insurance Rate Setting/ KOPP—SWALM \(Oppose 2/02/10, Neutral 2/23/10\) \(Signed 3/31/10\)](#)

This bill modifies current law regarding rate setting for workers' compensation insurance. The bill was amended to address the Chamber's previous about the method for calculating an employer's premium rate. Further, the bill was modified to protect the confidential nature of claims by allowing only aggregate data to be subject to Colorado Open Records Act requests. The Chamber originally took a position in opposition to this bill (February 2, 2010), but changed its position to neutral following amendments on February 23, 2010.

[HB 1017 Voluntary Agreement Affecting Rent Private Residential Prop/ KAGAN—BOYD \(Oppose 1/19/10; Neutral 4/01/10\) \(Signed 5/06/10\)](#)



This bill revises current state law, passed in 1981, which governs rent-controlled housing and prohibits counties and municipalities from enacting any ordinance that would control rent on private residential property. The bill authorizes public entities to enter into voluntary agreements about rental rates on private property. Concerns exist that this change could involve any remodeling, construction or new development project - regardless of size or scope - to be subject to such requirements.

The Chamber was initially opposed to this bill because it would adversely affect private property rights and could deter investment in rental housing. A strong and healthy housing and development market is critical for our state's future. As noted in a March 17, 2010 *Denver Post* editorial, 93 percent of U.S. economists stated that a ceiling on rents reduces the quality and quantity of housing available.

However, the Chamber changed its position from oppose to neutral on April 1 due to an amendment that confirms the voluntary nature of the bill. As amended, the bill prohibits the denial of permit applications for those applicants who choose not to limit rent.