

Representative Pommer Kills Own Bill Limiting Corporate Income-Tax Credit for Employee Compensation

April 30--This afternoon, in the House Finance Committee, Representative Jack Pommer (D-Boulder), killed his own bill, HB-1263, which was a priority bill for defeat by CACI.

CACI strongly opposed HB-1263, which would have “de-coupled” state business income-tax deductions from Federal deductions. The bill would have increased taxes on businesses by \$27.7 million for the two years beginning July 1, 2010. CACI understood that the Colorado Office of Economic Development and International Trade also had significant concerns with the bill.

Representative Pommer, who chairs the influential Joint Budget Committee and the House Appropriations Committee, told the House Finance Committee that the Capitol had been beset by a “swarm of business lobbyists” whose arguments against his bill “were patently untrue.” He said lawmakers had been caught this session in a “maelstrom” by business groups and lobbyists who “called us anti-business.” In a left-handed compliment to the business lobbying corps, Representative Pommer said “. . . we react to the people who lobby the hardest . . .”

The bill’s fiscal note estimated that HB-1263 would have brought in \$8.8 million in fiscal 2010-2011, beginning July 1, 2010, and \$18.9 million in the following fiscal year. In other words, the bill would have increased taxes on businesses by \$27.7 million over the two fiscal years.

This proposal was not included in Governor Ritter’s efforts to balance the 2009-2010 budget nor in his proposed 2010-2011 budget released last November.

Under Federal income-tax law, salary or other compensation for personal services generally are deductible in computing the taxable income of the payer of services. This avoids double taxation since the amounts paid to the provider of the services are generally included in their income. Additionally, Federal tax law imposes limits on an amount of compensation that may be deducted (\$1 million), but that only applies to publicly-traded corporations and corporations receiving Federal bailout funds.

CACI’s objections to the bill included the following:

- HB-1263 included “other compensation for personal services,” which encompassed all benefits, including accident and health insurance benefits, retirement plans and other income received as “compensation” which are currently excluded from taxable income.
- HB-1263 would have complicated Colorado income-tax law by creating a significant difference between Federal income-tax law and Colorado income-tax law and would have imposed an unusual and unnecessary cost on Colorado businesses.
- The bill would have discouraged companies and corporate headquarters (including high-tech and green jobs) from locating to Colorado. This bill would have required Colorado to create more incentives to attract companies to Colorado.
- Neither the payer nor the recipient would have needed to be a resident or even be present in Colorado for HB-1263 to apply.
- A corporation headquartered in London with business activity in Colorado would have been subjected to the limit if the corporation filed a Colorado state income-tax return.

Because the cost of living in London is higher, salaries there will be higher than for an equivalent Colorado position. HB-1263 imposes value systems on businesses in different cultures half a world away.

- HB-1263 would have affected corporations and sole proprietors paying for personal services. Consider an attorney who hires a private investigator who charges above \$250,000 based on national market pay rates. The attorney would have lost the deduction above \$250,000, giving him a cost disadvantage with firms outside Colorado.