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The 2014 Legislative Session: Moderation in all Things?

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The phrase, "Moderation in all Things," is a common extrapolation of Aristotle's "Doctrine of the Mean" or finding middle ground. The 2014 Session can be viewed by CACI as an example of this common saying and was evident with the passage of bills that involved months of dialogue between the parties and were resolved through fair and meaningful compromise. The session also had its fair share of bad-for-business bills, however, CACI and its allies lobbied against those bills which were successfully killed on the vine.

The 2014 Session was a stark comparison to the 2013 Session where political conflict was the daily entrée at the State Capitol, and controversial issues dominated the debates. Each session is like a football game, depending on which party controls which chamber or chambers—and, most critically, by how many votes. And, this session's football game had plenty of maneuvers and strategic plays as we had anticipated.

Historical Context for the 2014 Session:

First, however, a little historical perspective may be helpful to understand the 2014 session. In terms of outcomes, the 2014 session was more like the 2011 and 2012 sessions when the Republicans controlled the House and the Democrats controlled the Senate. But the reason for the similarity was very different.

Many Capitol Dome observers saw the [2011 legislative reapportionment](#) as mainly benefiting the Democrats, who had the lion's share of influence over the reapportionment process. This set the stage for political battles in 2012 and 2013.

In 2013, the Democrats controlled both chambers by a healthy political margin, 37 to 28 seats in the House and 20 to 15 seats in the Senate. In each chamber, the liberal faction of the Democratic caucus was dominant. The session turned out to be one of the most acrimonious in recent memory, with legislators passionately battling over such divisive issues as civil unions, gun control, civil justice, marijuana, election reform and a renewable energy mandate increase for rural Colorado.

For example, in 2013, the legislature approved—and Governor John Hickenlooper signed into law—the following two bills, which CACI strongly opposed and asked the Governor to veto:

- The so-called "trial lawyers bill," HB-1136, which allows for the award of compensatory damages, punitive damages and attorney's fees and costs to be brought against employers in State court for discrimination claims;
- SB-252, which imposed higher renewable-energy standards on most rural electric cooperative associations (notably, Intermountain Rural Electric Association) and electricity generators (notably, Tri-State Electricity Generation and Transmission) who supply the co-ops.



Then came the early September 2013 recall elections of Senate President John Morse (D-Colorado Springs), Senate District 11, and Senator Angela Giron (D-Pueblo), Senate District 3, because of their support for the gun-control bills, which upended the Colorado political scene. Republican Bernie Herpin was elected to replace Senator Morse, and Republican George Rivera was elected to replace Senator Giron.

A third Democratic Senator, Evie Hudak (Westminster), Senate District 19, resigned in late November as she confronted a possible recall election because of her support for the gun-control bills. Had she been recalled and a Republican elected to replace her, the control of the Senate would have switched to the Republicans. A district vacancy committee picked Democrat Rachel Zenzinger to replace Hudak.

Although the Democrats continued to control the Senate, their comfortable 20-to-15 majority prior to the recall elections had shrunk to a razor-thin, 18-to-17 margin.

The 2014 Session:

Given the political earthquake in the Senate, CACI's recalibrated its lobbying strategy for the 2014 session because moderate Senate Democrats had gained significant power and could determine the outcome of many controversial pieces of legislation, including anti-business proposals. The results were that the General Assembly did not send the Governor any real bad-for-business bills.

In fact, CACI only asked the Governor to veto one bill, which he did: [HB-1108](#), which would have reduced co-payments on rehabilitative services to those charged for primary-care services but, consequently, increased health-care premiums for workers and employers. CACI and a business coalition had worked to defeat the bill as it progressed through the legislature.

CACI on Offense:

Given the altered political reality of the Senate that induced compromise, here are some of CACI's major accomplishments for the session:

Over a nine-month period beginning in 2013, CACI worked with its members and business allies on a compromise [workers compensation](#) bill that has been sent to the Governor for signature. CACI created a coalition to ensure that there was a coordinated voice by business on any change to the workers compensation system being proposed by AFL-CIO (the proponents of the bill). That effort ensured there would be no increase in premiums for Colorado businesses while providing increased choice for injured workers. The bill also improves the language in current statute for choice of physicians in rural areas of the State where the number of physicians are limited.

In a similar vein, the [wage-claim](#) bill, [SB-5](#), reflected months of work by CACI with the sponsors and the bill's supporters to reach a compromise that directs unresolved claims by workers over wages, benefits and vacation pay to the Colorado Department of Labor and Employment, which will then investigate and could issue orders for employers to pay workers and could cite the employers.

[HB-1178](#), a CACI-initiated bill which received wide bipartisan support, awaits the signature of the Governor and will provide an [exemption to the sales-and-use tax for qualified space equipment](#) stored within the state, thus providing a boost to the aero-space industry and the state's economy.

[HB-1295](#), another CACI-initiated bill sent to the Governor, extends the effective date for the definition of "[retail sale](#)," which was adopted last year, from July 1, 2014, until after the U.S. Congress enacts the proposed Federal "Marketplace Fairness Act" to authorize the states to require "certain retailers" to pay, collect, or remit state or local sales taxes.



[Senate Joint Resolution SJR-38](#), which concerns the creation of uniform sales-and-use tax definitions by the state’s home rule cities and which urges them to work through the Colorado Municipal League to create a “package of uniform definitions recommended for adoption by all home rule, locally collecting municipalities.” SJR-13 points out that the “standardization of definitions of the goods and services subject to sales or use tax” or those exempted “would improve Colorado’s business environment ...”

Few organizations, however, can bat 1000 for a legislative session. CACI advocated for [HB-1389](#), a bill advanced by a business coalition that included CACI, which would have granted a sales-and-use tax exemption for information technology equipment used in new and refurbished “qualified data centers.” The bill failed in the Senate when the bill was assigned to four committees of reference on the second to last day of Session.

CACI on Defense:

The following bills, which CACI opposed, died:

[SB-196](#) would have established a new state-administered, paid family medical-leave program, which would have been voluntarily supported by workers but would have cost the State \$26.3 million in the first two years of start-up.

[HB-1297](#) would have required the Colorado Department of Public Health and Environment to study and report on the health and quality of life effects of oil and gas operations for selected communities in Adams, Boulder, Larimer and Weld Counties. The study would have been conducted with input from a politically appointed scientific-oversight committee.

[HB-1397](#) would have allowed the Office of the Colorado Consumer Counsel to intervene in complaints between a consumer and a utility before the Colorado Public Utilities Commission.

Finally, throughout a session, the political grapevine under the Gold Dome hums with rumors that various bills are being worked on and will be introduced. CACI made its strong opposition known that it would oppose such a rumored bill that would have greatly expanded a worker’s access to his or her personnel file. The bill was never introduced.



Energy & Environment Council Bills	Bill Name/Description	Council Position
HB 1030 by Coram/Mitch Bush/Schwartz/Roberts	Incentives for Hydroelectric	Neutral as Amended/Passed
HB 1297 by Ginal/Aguilar	O&G Effects Survey	Oppose/Dead
HB 1326 by Primavera/Scott/Hodge	Alternative Fuel Trucks	Support/Passed
HB 1339 by Gerou/Hodge	Create HSSR Fund	Support/Passed
HB 1397 by Garcia/Ulibarri	Consumer Counsel Participate PUC Rate Cases	Oppose/Dead
SB 73 by Jahn/Gerou	Brownfield Remediation	Support/Passed
SB 93 by Jahn/May/Sonnenberg	Pipeline Right-of-Way	Support/Dead
SB 134 by Hodge/May/Gerou	Repeal Statutory Water Fee	Oppose/Dead
HealthCare Council Bills	Bill Name/Description	Council Position
HB 1053 by McCann/Aguilar	Pediatric Dental Requirements	Support/Signed by Governor
HB 1108 by Primavera/Tochtrop	Copayments for Rehab Services	Oppose/Vetoed by Governor
HB 1192 by Joshi/Lundberg	Repeal Health Benefit Exchange	Oppose/Dead
SB 187 by Aguilar/Roberts/Stephens/Schafer	Cost Containment Commission	Support/Passed
Labor & Employment Council Bills	Bill Name/Description	Council Position
HB 1033 by Szabo/Tochtrop	Regulatory Reform	Support/Dead
HB 1075 by Melton	Deferral of UI Benefits	Oppose/Dead
HB 1091 by Swalm/Jahn	Workers Comp Modification Rating	Oppose/Dead
HB 1278 by Rosenthal/Tochtrop	Workers Comp Accreditation Program	Support/Passed
HB 1302 by Buckner/Johnston	Fraudulent Transfer Actions	Neutral as Amended/Passed
HB 1383 by Williams/Tochtrop	Workers Comp Physician Choice	Support/Passed
SB 005 by Ulibarri/Singer	Wage Claims	Neutral as Amended/Passed
SB 57/HB 1318 by Heath/Hullinghorst	Extension/UI Funds for Training	Support as Amended/Dead
SB 74 by Rivera/Szabo	Employment Discrimination	Support/Dead
SB 118 by Steadman	Protections for Individuals w/Disabilities	Neutral as Amended/Passed
SB 196 by Ulibarri/Salazar	Family Medical Leave Program	Oppose/Dead
Tax Council Bills	Bill Name/Description	Council Position
HB 1003 by DeGrosso/Kefalas	State Income Tax/Disaster Relief	Support/Passed
HB 1014 by DeGrosso/Heath	Job Growth Incentive Tax Credit	Support/Passed
HB 1094 by Pabon/Jahn	Sales Tax Holiday	Support as Amended/Dead
HB 1178 Ferrandino/DelGrosso/Hodge/Grantham	Exemption for Space Flight Property	Support/Passed
HB 1279 by Young/Heath	Business Personal Prop Tax Exemption	Support/Passed
HB 1285 by Ryden/Aguilar	Requiring Tax Preparer Disclosures	Neutral as Amended/Dead
HB 1305 by McCann/Sonnenberg	Renewable Energy EZ Credits	Support/Dead
HB 1327 by Williams/Scheffel	Measures to Expand Deployment Telecom	Support/Signed by Governor
HB 1389 by DeGrosso/Scheffel	Sales & Use Tax Exemption for IT Equipment	Support/Dead
Manufacturing Bills	Bill Name/Description	Position
HB 1013 by Lee/Todd	Advanced Industries Workforce Program	Support/Dead
HB 1085 by Fields/Zenzinger	Adult Education Program	Support/Passed
SB 004 by Todd/Wilson	Four-year Degree Program	Support/Signed by Governor
Other Bills	Bill Name/Description	Position
HB 1058 by Labuda	Labeling of Genetically Engineered Food	Oppose/Dead
HB 1165 by Fischer/Tochtrop	Construction Contract Retainage	Oppose/Dead
HB 1226 by Labuda	Local Gov Authority to Regulate Plastics	Oppose/Dead
HB 1303 by Scott/Ferrandino	Public Testimony/Remote Locations	Support/Passed
HB 1317 by Duran/Nicholson	CO Child Care Assistance Program Changes	Support/Passed
HB 1328 by Williams/Nicholson	Connect CO Broadband Act	Support/Passed
HB 1329 by Williams/Murray/Kerr/Scheffel	Deregulate Internet Protocol	Support/Signed by Governor
HB 1330 by Williams/Tochtrop	Updating Telecomm Technology Language	Support/Signed by Governor
HB 1331 by Williams/Murray/Nicholson/Kerr	Regulate Basic Local Exchange Service	Support/Signed by Governor
SB 10 by Kefalas/Fischer	Manufactured Home Communities	Oppose/Dead
SB 166 by Carroll/Tyler	Mobile Application/Local Businesses	Support/Passed



Energy & Environment Council

HB 1030 Incentives for Hydroelectric (Sponsors: Reps. Coram and Mitsch Bush & Sens. Schwartz and Roberts)

CACI Position: **Neutral as Amended**

Bill Status: Sent to Governor on 4/30/14

- HB 1030 facilitates the development of hydroelectric energy systems, and designates the Colorado Energy Office (CEO) to coordinate the state review of proposed hydroelectric energy projects as part of the federal licensing process;
- Initial concerns about language in the legislation that incorporated community hydroelectric energy facilities into the community solar garden statute were resolved by the bill sponsors.

HB 1297 Oil & Gas Effects Survey (Sponsors: Rep. Ginal & Sen. Aguilar)

CACI Position: **Oppose**

Bill Status: Died in Senate Appropriations Committee on 4/29/14

- HB 1297 would have required the Colorado Department of Public Health and Environment (CDPHE) to study and report on the health and quality of life effects of oil and gas operations for selected communities in Adams, Boulder, Larimer, and Weld Counties. The study would be conducted with input from a politically appointed scientific oversight committee (SOC) composed of nine voting members and four non-voting members;
- CACI lobbied and testified against the bill due to concerns that legislation proposed a public opinion survey rather than a scientific study, that the proposed analysis had a predetermined outcome, and that the political appointment of the “Scientific Oversight Committee” injected further bias into the proposal. Senators Hodge and Steadman joined Republicans on the Senate Appropriations Committee in defeating the bill.

HB 1326 Alternative Fuel Trucks (Sponsors: Reps. Primavera and Scott & Sen. Hodge)

CACI Position: **Support**

Bill Status: Passed in House & Senate - Sent to Governor

- HB 1326 makes changes to three areas of tax policy affecting low-emission and alternative fuel vehicles. It creates a new income tax credit, reduces the number of vehicles eligible to claim an existing sales and use tax exemption, and reduces the taxable value of certain vehicles for the purpose of calculating the specific ownership tax;
- CACI worked with a wide coalition of stakeholders on the bill to support the legislation, which provides economic and environmental benefits, and saves the state money by modifying existing criteria to qualify for the state sales tax exemption.

HB 1339 Create HSSR Fund (Sponsors: Reps. Gerou & Sen. Hodge)

CACI Position: **Support**

Bill Status: Passed in House & Senate

- This Joint Budget Committee-sponsored legislation creates the Substance Site Respond Fund and specifies that the fund be used for the future operation and maintenance costs of Superfund sites under the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA);
- CACI supported the bill and the anticipated payback of funds, which were collected as fees from CACI members and other entities to contribute to the State’s 10% share for the federal match at CERCLA. Instead, those fees were used to balance the budget during the economic downturn experienced in recent years.



HB 1397 Consumer Counsel Participation in PUC Rate Cases (Sponsors: Rep. Garcia & Sen. Ulibarri)

CACI Position: **Oppose**

Bill Status: Died in House State, Veterans & Military Affairs Committee on 5/5/14

- HB 1397 would have expanded the duties of the Office of Consumer Counsel (OCC), and directed the OCC to conduct an investigation on the regional disparities in rates charged to customers of all electric utilities in the state, and allowed the OCC to intervene in individual complaints at the Public Utilities Commission (PUC);
- CACI opposed the bill based on the significant scope and its late introduction. While some sections of the bill only applied to electric utilities, other sections included all CO utilities, making it a significant undertaking by the OCC. Additionally, the OCC’s sunset review is scheduled for 2015, and CACI believes a sunset review is the more appropriate time for evaluating whether the duties of the OCC should be modified.

SB 73 Brownfield Remediation (Sponsors: Sen. Jahn & Rep. Gerou)

CACI Position: **Support**

Bill Status: Passed in House & Senate - Sent to Governor

- Beginning in tax year 2014 through tax year 2022, Senate Bill 73 creates an income tax credit for individuals, organizations, and other qualified entities that perform any approved environmental remediation of contaminated property, known as “brownfields.” The total amount of the credit allowable is:
 - 40 percent of the first \$750,000 of remediation costs, and
 - 30 percent of costs over \$750,000 up to \$1.5 million dollars.
- The bill allows the Department of Public Health and Environment (CDPHE) to authorize \$3 million in tax credits each year the credit is available. No credit shall be allowed for any costs exceeding \$1.5 million dollars on any individual project, and a certificate from CDPHE verifying that the project qualifies, is required to claim the income tax credit. The credit may be carried forward for up to five years, or the taxpayer may choose to transfer all or a portion of the income tax credit to another taxpayer, regardless of whether the transferor received value in exchange for the credit.
- CACI’s Industrial Waste Committee Chair Jim Spaanstra worked with bill sponsors and CDPHE on the bill language, which reinstates and restructures a prior brownfields tax credit. CACI believes SB 73 will significantly increase the amount of private funds spent on environmental cleanup and will serve as an important economic development tool.

SB 93 Pipeline Right-of-Way (Sponsors: Sen. Jahn & Reps. May and Sonnenberg)

CACI Position: **Support**

Bill Status: Dead - House Laid Over to 5/9/14

- SB 93 would have clarified that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain pursuant to Article 5, Title 38, C.R.S. The bill reiterates the applicability of state constitutional provisions concerning just compensation for property taken by eminent domain, as well as federal pipeline safety regulations;
- This legislation passed the Senate by a wide margin with bi-partisan support, but was laid over without debate on the House floor, thereby killing the bill.

SB 134 Repeal Statutory Water Fee (Sponsors: Sen. Hodge & Reps. May and Gerou)

CACI Position: **Oppose**

Bill Status: Died in Senate Appropriations Committee on 2/21/14

- SB 134, which was recommended by a Joint Budget Committee staffer, would have established a new structure for cash funds and fees in the Water Quality Control Division (WQCD) of the Colorado Department of Public



Health and Environment (CDPHE). The bill also repealed statutory fees for clean water and drinking water programs and transferred fee-setting authority to the Water Quality Control Commission (WQCC);

- CACI, along with other regulated entities, opposed SB 134 due to the dramatic shift from statutory fee schedules to fee-setting by rulemaking that was proposed in the bill. Opponents of the bill committed to participating in a stakeholder process on with issue with the goal of assessing how to best address the diversity of programs within the WQCD, appropriate permit fees, how those fees are adjusted, and the ability of the WQCD to recover additional cost impacts;
- Based on the commitment of CACI and other entities in the regulated community to engage in a stakeholder process on the issue of water quality fees, Sen. Hodge agreed to postpone the bill indefinitely, thereby killing the bill.

HealthCare Council

HB 1053 Pediatric Dental Requirements (Sponsors: Rep. McCann & Sen. Aguilar)

CACI Position: **Support**

Bill Status: Signed by Governor on 2/19/14

- HB 1053 allows the Commissioner of Insurance in the Department of Regulatory Agencies to adopt rules to ensure that requirements for pediatric dental benefits are consistent regardless of whether the dental plan is purchased from inside or outside of the Colorado Health Benefit Exchange;
- The legislation addressed issues in the market that federal rulemaking had made confusing and simplified the regulatory process at the state level.

HB 1108 Copayments for Rehabilitation Services (Sponsors: Rep. Primavera & Sen. Tochtrop)

CACI Position: **Oppose**

Bill Status: Vetoed by Governor on 3/28/14

- As introduced, HB 1108 prohibited the co-pay or cost sharing for physical rehabilitation services from exceeding the cost sharing required for primary care, and prohibited cost sharing from exceeding 20% of the total cost of the visits. The bill applied to services provided by physical therapists, occupational therapists, chiropractors, acupuncturists, and massage therapists. The bill was amended to remove the 20% provision before the passing the House of Representatives;
- CACI opposed the bill on the basis that it would increase the cost of insurance premiums and eliminate consumer choice. Following passage of the bill, CACI organized a coalition of chambers of commerce, businesses and trade associations in submitting a veto request to the Governor. The bill was successfully vetoed by Governor Hickenlooper.

HB 1192 Repeal Colorado Health Benefit Exchange (Sponsors: Rep. Joshi & Sen. Lundberg)

CACI Position: **Oppose**

Bill Status: Died in House Public Health & Human Services Cmte on 3/11/14

- The bill would have repealed the Colorado Health Benefit Exchange Act, effective January 1, 2015, and required the State Treasurer to transfer any unencumbered moneys that remain in the Exchange to the General Fund;
- CACI supported creation of the Colorado Health Benefit Exchange through SB 11-200, and therefore CACI opposed repealing the law outlined in HB 1192.



SB 187 Health Care Cost Containment Commission (Sponsors: Sens. Aguilar and Roberts & Reps. Stephens and Schafer)

CACI Position: **Support**

Bill Status: Passed in Senate & House – Sent to Governor

- The bill establishes the Colorado Commission on Affordable Health Care to study the drivers of health care costs and evidence-based cost containment strategies, and make recommendations for action. The Commission will use state data to conduct empirical analysis of health care utilization in the State. The Commission will have 12 voting members, representing various public and private sector health care experts and five nonvoting members from state government. The Commission will also create small advisory committees to study specific areas, and coordinate with other Colorado entities studying health care costs as appropriate.

Labor & Employment Council

HB 1033 Regulatory Reform (Sponsors: Rep. Szabo & Sen. Tochtrop)

CACI Position: **Support**

Bill Status: Died in House State Veterans & Military Affairs on 3/5/14

- HB 1033 required that state agencies issue written warnings for any first-time violation of a new rule by a business of 100 or fewer employees instead of being assessed a fine or penalty. The bill also required state agencies to provide educational outreach to businesses on how to comply with the new rule;
- The bill was met with opposition from labor organizations and CACI worked with the sponsor and the opposition to try to reach an agreement on the bill. HB 1033 ultimately died in the House State Affairs Committee based on a lack of consensus on the bill language.

HB 1075 Reduction in Deferral of Unemployment Ins. Benefits (Sponsor: Rep. Melton)

CACI Position: **Oppose**

Bill Status: Died in House Business, Labor & Econ Dev. Committee on 2/25/14

- HB 1075 would have removed the 10 week deferral penalty period of receiving UI benefits if an individual was on unemployment, accepts a job and then separates from the job within 30 days because it's unsuitable. The bill would have reduced the deferral period to the period of time that they held the job prior to separation;
- CACI's Labor & Employment Council took an opposed position on this bill based on concerns that it would increase fraud by individuals who would take advantage of the system and draw down funds from the UI Trust Fund more quickly. The sponsor chose to kill his bill during the House Business & Labor Committee based on those concerns.

HB 1091 Workers Compensation Experience Modification Factor (Sponsors: Rep. Swalm & Senator Jahn)

CACI Position: **Oppose**

Bill Status: Died in House Business, Labor & Econ Dev. Committee on 2/27/14

- HB 1091 required workers compensation carriers to issue a refund on workers compensation insurance premiums when a claim closes at a dollar amount that is lower than what the carrier estimated. As a result, it would have required an employer's experience modification factor to be recalculated immediately;
- CACI's Labor & Employment Council took an opposed position on this bill based on concerns that if refunds are provided to some employers and not others, those other employers will likely see an increase in their workers compensation premiums. Therefore, the bill rewarded those employers that have several claims versus those



that do not. Another concern was that the bill required the adjustment to occur only if the carrier over-estimated the claim but not if the carrier under-estimated the claim. Finally, the recalculation and issuance of the premium refund had to occur each time the carrier over-estimated the claim even by one penny. Those administration costs would have been passed onto Colorado employers.

HB 1278 Workers Compensation Accreditation Program (Sponsors: Rep. Rosenthal & Sen. Tochtrop)

CACI Position: **Support**

Bill Status: Passed in House and Senate - Sent to Governor

- HB 1278 is a sunset bill that continues the current accreditation program for physicians that conduct medical impairment assessments on injured workers. The bill also removes the cap on registration fees for accreditation.

HB 1302 Fraudulent Transfer Actions (Sponsors: Rep. Buckner & Sen. Tochtrop)

CACI Position: **Neutral as Amended**

Bill Status: Signed by Governor on 5/2/14

- HB 1302 as amended provides an additional remedy for creditors seeking judicial relief when a debtor fraudulently transfers property with the intent to hinder, delay, or fraud a creditor. In such cases, this bill allows a creditor to seek a judgment for one and one-half times the value of the asset transferred, or one and one-half times the amount necessary to satisfy the creditor's claim, whichever is less;
- CACI and other interest groups worked with the proponents (CO Trial Lawyers Association) to clarify confusing language in the bill to ensure the bill is narrowed to penalize those individuals that transfer property with the intent of fraud.

HB 1383 Workers Compensation Physician Choice (Sponsors: Rep. Williams & Sen. Ulibarri)

CACI Position: **Support**

Bill Status: Passed in House & Senate – Sent to Governor

- HB 1383 is a compromise workers’ compensation bill that expands an injured worker’s current choice of physicians from two to four doctors. All other provisions of current law were maintained including the current medical fee schedule and cost containment provisions. The 2014 legislation was pursued by AFL-CIO based on concerns that injured workers are not receiving adequate doctor choice for on-the-job injuries. Discussions regarding AFL’s legislative interests began in August 2013 through three stakeholder meetings held by the CO Dept. of Labor & Employment.
- In anticipation of 2014 legislation, CACI convened the Workers Compensation Employer Coalition in January, 2014 to ensure that employers had a coordinated voice on the issue. After working within the coalition and AFL over 9 months, two problematic provisions of AFL’s original three-part workers compensation proposal were **eliminated** which included:
 - Increasing an injured worker’s workers compensation benefits by 50% if the injury was caused by an employer’s serious and willful misconduct.
[Concerns: A change in the current statute on worker safety could create increased litigation for employers who must defend claims by workers that an employer put them in an unsafe working environment];
 - Requiring the Dept. of Labor & Employment to track employment separation agreements reached between an injured worker and an employer.
[Concerns: Requiring the State to track these agreements creates an opportunity for legislators to use that data and attempt to eliminate separation agreements through future legislation. Additional concerns have been raised regarding the potential for proprietary information between an employer and worker could be exposed].



- The bill as passed did not include the above provisions that the WC Employer Coalition opposed. Instead, the bill increased doctor choice by two additional doctors. The bill also provided more flexibility for employers in rural areas from what was in current law. A supermajority of the coalition was either neutral or supportive of the bill which passed in both chambers. Additionally, an MOU was agreed to between the parties stating that no physician choice legislation would be pursued unless agreed upon by those parties.

SB 005 Wage Claims (Sponsors: Senator Ulibarri & Rep. Singer)

CACI Position: **Neutral as Amended**

Bill Status: Passed in House & Senate – Sent to Governor

- In the 2012 and 2013 legislative sessions, CACI opposed earlier versions of this legislation that sought to recover wages for workers from “bad apple” companies that had closed. The proponents are the Colorado chapter of 9to5, the National Association of Working Women and the Colorado Plaintiff Employment Lawyers Association;
- During those prior legislative sessions, there was an impasse on three critical issues between CACI and the proponents: 1) the broad definition of employer; 2) piercing the “corporate veil” by suing officers and directors individually if the business filed for bankruptcy; and 3) removal of balance of award of attorneys’ fees for the prevailing party, which is in current statute.
- During the summer and fall of 2013, CACI worked with the sponsors and other stakeholders over many months to address CACI’s concerns with the early versions of the measure. Dan Block, Attorney, Robinson Waters & O’Dorisio, P.C., a CACI member helped guide CACI during those discussions to ensure that employers were protected from increased costs or litigation;
- This Session, CACI’s Labor & Employment Council reached a neutral position based on the extensive work on the bill language during the prior months. The bill now includes some of the following provisions:
 - Employers will be required to mail a check for wages to the last known address of the worker or former worker according to the employer’s records;
 - If employee has filed a claim in small-claims court and, if the employer has paid the amount owed within 14 days of the filing of the claim, then the claim is dismissed;
 - Provides an investigation process, administrative actions, rulemaking and appeals process.

SB 57/HB 1318 Extension of Unemployment Insurance Funds for Training (Sponsors: Sen. Heath & Rep. Hulinghorst)

CACI Position: **Support as Amended**

Bill Status: SB 57 Died in Senate Business & Labor Committee on 4/30/14

HB 1318 Died in House Committee on Appropriations on 4/10/14

- Currently the Division of Unemployment Insurance offers an approved training program to unemployed individuals who are drawing down unemployment insurance funds but are trying to get back to work. Prior to 2014, the federal government had provided funding to support this training program but that funding has been discontinued. The bill as introduced would have drawn down \$15 million from the UI Trust Fund to continue paying for the program. CACI opposed taking the funds out of the UI Trust Fund based on the limited funds available in the Fund, and the sponsors agreed to amend the bill to have the funds taken from the State’s General Fund. The bill was amended but the bill died based on lack of support to fund the program out of the General Fund.

SB 74 Employment Discrimination Law (Sponsors: Sen. Rivera & Rep. Szabo)



CACI Position: **Support**

Bill Status: Died in Senate State Veterans & Military Affairs Cmte on 2/17/14

- During the 2013 Session, HB 13-1136 was passed that allowed plaintiffs filing employment discrimination claims against any size employer to seek compensatory and punitive damages in state court after pursuing administrative options through the Colorado Civil Rights Commission or the State Personnel Board;
- SB 74 would have prohibited any award of punitive damages for employment discrimination claims made under state law and compensatory damages for claims made against employers with fewer than 15 employees. The bill was quickly defeated in the first committee of reference.

SB 118 Employment Discrimination Law (Sponsors: Sen. Rivera & Rep. Szabo) Protections for Individuals with Disabilities (Sponsors: Sen. Steadman & Rep. Melton)

CACI Position: **Neutral as Amended**

Bill Status: Passed in House & Senate – Sent to Governor

- The bill as amended conforms several existing definitions with the federal Americans with Disabilities Act of 1990 related to discrimination of an individual based their disability. Provisions include changing the term "assistance dog" to "service animal" and adding civil penalties for when a service animal or service animal in training is harmed in a willful or wanton manner. The bill eliminates an unclassified misdemeanor and a class 3 misdemeanor for violations committed under current law;
- CACI’s Labor & Employment Council members including Ted Olson, Attorney, Law Firm of Sherman & Howard, and Chris Ottele, Attorney, Law Firm of Husch Blackwell, pointed out several concerns with how the bill as introduced could have created additional burdens on Colorado employers. They worked with CACI and the CO Civil Justice League to streamline some of the language that was duplicative or confusing when compared to current or federal law. They also helped clarify the penalties and attorney fees outlined in the bill.

SB 196 Family Medical Leave Program (Sponsors: Senator Ulibarri & Rep. Salazar)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Appropriations on 5/1/14

- SB 196 was introduced 15 days prior to the last day of Session and applied to all CO employers. The bill allowed workers to receive a wage replacement when taking family medical type leave for up to 12 weeks. It also required the CO Department of Labor & Employment to administer the program and required a new division to be created within the agency;
- In order to qualify for the program, workers must have worked 680 hours on the job, and lower paid workers would receive a higher wage replacement. The bill also mandated that employers hold the same or equivalent job for those workers who took the leave. Only four states have passed similar laws: CA, NJ, RI, Washington State (has not gone into effect due to lack of state funding) and CA is severely underutilized.
- CACI’s Labor & Employment Council took an oppose position to the bill based on the administrative burdens that would be placed on employers to facilitate the program, and the late introduction of the bill. The bill was defeated in the Senate Appropriations Committee due to the extraordinary revenue loss that the program would have created for the State to implement.



Tax Council

HB 1003 State Income Tax/Disaster Relief (Sponsors: Rep. Nordberg & Sen. Kefalas)

CACI Position: **Support**

Bill Status: Passed in House and Senate - Sent to Governor

- Bill allows a state withholding tax exemption for nonresident taxpayers who performed disaster-related work during a disaster period in the state. CACI's Tax Council took a support position on the bill based on the interests of many CACI members who would see this bill as an opportunity to partner with out-of-state workers that come to CO to help out during a disaster.

HB 1014 Job Growth Incentive Tax Credit (Sponsors: Rep. DelGrosso & Senator Heath)

CACI Position: **Support**

Bill Status: Passed in House and Senate - Sent to Governor

- HB 1014 as amended modifies the job growth incentive tax credit beginning in tax year 2014 by doing the following:
 - extends the period for which an employer may receive credits from 60 months (five years) to 96 months (eight years);
 - lowers the requirement that wages for jobs generating the credit be at least 110% of the average wage in the county within which the jobs are created to 100 percent of the county's average wage; and
 - requires employers to submit documentation that the credit was a major factor to locate or retain the project in the state.
- The bill had trouble during the legislative process based on a large fiscal impact placed on the bill. The fiscal note was eventually reduced thereby allowing the bill to pass.

HB 1094 Sales Tax Holiday (Sponsors: Rep. Pabon & Senator Jahn)

CACI Position: **Support**

Bill Status: Died in House Appropriations Committee on 4/4/14

- HB 1094 would have created a sales and use tax exemption for back-to-school items including clothing, shoes or school supplies, but it did not include computers, laptops or accessories. The exemption applied in 5 consecutive years beginning w/the first August after a fiscal year in which general fund revenues are at least \$8.5 billion;
- Concerns were raised during our Tax Council that the bill did not include computers or laptops and only included calculators. This would have created a burden for some companies to input that sole tax exemption into their database. The sponsor agreed to remove "calculators" from bill. The bill was defeated due to the large state fiscal impact.

HB 1178 Tax Exemption for Space Flight Property (Sponsors: Reps. DelGrosso, Speaker Ferrandino & Senators Hodge, Grantham)

CACI Position: **Support**

Bill Status: Passed in House & Senate – Sent to Governor & Scheduled for Bill Signing on 5/20/14

- HB 1178 is a CACI initiated bill based on interests shared by CACI's aerospace members during the fall of 2013. The bill provides a sales and use tax exemption for tangible personal property used in space flight. Current law only provides a 60-day exemption period for testing space flight equipment;



- Months prior to the start of the 2014 Session, CACI lobbyists worked with the Department of Revenue, Office of Economic Development and Legislative Council to ensure that the bill language was agreeable to those agencies and to ensure that the fiscal impact to the State would be minimal;
- CACI supporters included DigitalGlobe, Lockheed Martin, Ball Aerospace and The Boeing Company, Sierra Nevada Corporation - many of whom testified on behalf of the bill. Additionally, several economic development organizations and space organizations supported and testified on behalf of the bill.

HB 1179 Business Personal Property Tax Exemption (Sponsors: Rep. Young & Sen. Heath)

CACI Position: **Support**

Bill Status: Passed in House & Senate – Sent to Governor

- HB 1279 as amended creates a state income tax credit for businesses for the amount of business personal property tax (BPPT) paid in CO beginning January 1, 2015, for the next five income tax years. The credit is equal to the amount of BPPT paid, less the value of the tax benefit received by the taxpayer from deducting these taxes from his or her federal taxable income. This is accomplished by multiplying the amount of business personal property tax paid times 100 percent minus the taxpayer's federal marginal income tax rate minus the state's income tax rate of 4.63 percent;
- The credit is available in tax year 2015 only to businesses with \$15,000 or less of personal property - the threshold is adjusted annually for inflation thereafter. The tax credit is refundable, meaning that any portion of the credit exceeding a taxpayer's income tax liability must be refunded to the taxpayer. To claim the credit, the taxpayer must submit a copy of their property tax statement for business personal property to the Colorado Department of Revenue.

HB 1285 Requiring Tax Preparer Disclosures (Sponsors: Rep. Ryden & Sen. Aguilar)

CACI Position: **Neutral as Amended**

Bill Status: Died on Senate Second Reading on 4/15/14

- The bill as introduced required tax preparers to provide disclosures to their clients that included the preparer's qualifications, fees, year-round contact information and whether they can represent the client in an audit. Preparers who failed to provide the client with the above-referenced disclosures would have committed a deceptive trade practice and were subject to civil penalties according to the bill. The bill also required the Dept. of Revenue to create a disclosure form and require all preparers to provide a copy of the form or a similar form to their clients before commencing work. The bill created a class two misdemeanor if the preparer provided fraudulent information in the disclosure form;
- CACI worked with other stakeholders to secure and pass an amendment to the bill that exempted CPA's, attorneys and enrolled agents. The only interest group not included in the amendment were the public accountants who continued to lobby against the bill and successfully killed the bill during Senate Second Reading.

HB 1305 Renewable Energy Enterprise Zone Tax Credits (Sponsors: Rep. McCann & Sen. Hodge)

CACI Position: **Support**

Bill Status: Died in House Committee on Appropriations on 4/4/14

- HB 1305 would have allowed renewable energy companies that have existing or future EZ investment tax credits the ability to monetize those credits at a rate of 85% up to \$2.5 million per year. The bill also required companies to file an affidavit with the EDC stating that they will make additional renewable energy investments in an enterprise zone within five years. The bill died based on the fiscal impact it had on the State's revenue.



HB 1327 Expand Deployment Communications Networks (Sponsors: Reps. Williams & Murray & Sens. Scheffel & Tochtrop)

CACI Position: **Support**

Bill Status: Signed by Governor on 5/9/14

- HB-1327 consolidates and streamlines permitting process, sets time limits for municipalities to respond to permit requests (90 or 150 days, depending on investment in an existing site or new build), expands Right of Ways (ROWs) to broadband for cable broadband providers and requires notification of utility trenching in order to co-locate and share costs of trenching;
- This bill contained a sales and use tax exemption meant to bring the industry more in line with treatment of other industries, but hit resistance in the House Business & Labor Committee and the provision was removed to keep the bill moving forward. The Senate re-inserted the tax exemption during State, Veterans and Military Affairs Committee work and the House concurred on 4/30/14;
- CACI’s Tax Council voted to support this bill and Government Affairs Council voted to support all five telecom reform bills as a package.

HB 1389 Sales & Use Tax Exemption for IT Equipment (Sponsors: Reps. DelGrosso, Pabon & Senators Scheffel, Newell)

CACI Position: **Support**

Bill Status: Died in Senate State, Veterans and Military Affairs Cmte on 5/6/14

- HB 1389 would have provided a sales tax exemption for IT equipment purchased for a new or refurbished data center and as amended, would have capped the exemption of the investment to \$1.5 million for projects approved annually by the Economic Development Commission. The exemption would have applied to:
 - new facilities with 25,000 square feet and greater and where there is an investment of \$30 million or more within a 60-month period, and
 - substantially refurbished buildings over 25,000 square feet that have been rebuilt or modified to accommodate a data center. The qualified refurbished center must invest at least \$15 million within a 24 month period.
- The bill was supported by CACI and several of its members along with the Colorado Technology Association. Based on the late introduction of the bill and various amendments needed to get the bill into a better posture, passing the bill through the entire legislative process was challenging in a short period of time. Although the bill passed out of the House on a bi-partisan vote, the Senate President assigned the bill to four committees on the second to the last day of session, eliminating any possibility of getting the bill passed in the Senate;
- The coalition will meet during the summer of 2014 to work on a revised version of the bill to be introduced during the 2015 Legislative Session.

Manufacturing Bills

HB 1013 Advanced Industries Workforce Program (Sponsors: Rep. Lee & Senator Todd)

CACI Position: **Support**

Bill Status: Died in Senate Committee on Appropriations on 5/1/14

- HB 1013 would have reimbursed businesses within advanced industries for a portion of the cost of hiring interns and apprentices at their business. CACI took a support position on the bill based on the positive feedback it received from its manufacturing members who also testified in support of the bill;



- The bill was killed in the Senate Committee on Appropriations based on concerns that it would take too much money from the grant program established by HB 14-1011.

HB 1085 Adult Education Program (Sponsors: Rep. Fields & Senator Zenzinger)

CACI Position: **Support**

Bill Status: Passed in House & Senate – Sent to Governor

- HB 1085 as amended creates an adult education and literacy grant program in the Adult Education Office at the CO Department of Education. The State Board of Education will have to adopt rules for creating the new program;
- The grant program will provide state funding for adult education and literacy programs that participate in workforce development partnerships. CACI took a support position on the bill based on the positive feedback it received from its manufacturing members in support of the bill.

SB 004 Four Year Degree Program (Sponsors: Senator Todd & Rep. Wilson)

CACI Position: **Support**

Bill Status: Passed in House & Senate – Signed by Governor on 2/27/14

- During the 2013 Session, a similar bill was attempted but failed based on opposition from other higher education institutions. SB 004 was supported by CACI’s manufacturing members and is a compromise bill that permits the State Board for Community Colleges and Occupational Education to establish technical, career, and workforce development bachelor of applied science degree programs at state-supported community colleges. All new bachelor degree programs must be approved by the Colorado Commission on Higher Education, and prior to approval, the CCHE must consider whether:
 - The State Board can provide data demonstrating workforce and student demand;
 - The accreditation requirements for the new program can be met by the college;
 - The new degree program is cost-effective for the student and the community college system; and
 - The new degree program can be provided through an existing statewide transfer agreement with an accredited four-year institution in the community college's geographical service area, or with a four-year institution that has a statewide service area.

Other Bills

HB 1058 Labeling of Genetically Engineered Food (Sponsors: Rep. Labuda)

CACI Position: **Oppose**

Bill Status: Died in House Health, Insurance & Environment Cmte 1/30/14

- HB 1058 would have amended the Colorado Food and Drug Act to define "genetically engineered" and allowed a person who sells, distributes, or offers food for sale in Colorado to label the food as not containing genetically engineered material if:
 - The food contains less than 1 percent genetically engineered material; and
 - The person submits an affidavit to the Department of Public Health and Environment (DPHE) affirming that the food meets the above standard;
- The bill also would have created a misdemeanor offense for falsely labeling food as not containing genetically engineered material for sale in Colorado, authorizing DPHE to promulgate rules for administration and enforcement of the provisions of the bill including a testing methodology to determine the presence of genetically engineered material.



HB 1165 Construction Contract Retainage (Sponsors: Rep. Fischer & Sen. Tochtrop)

CACI Position: **Oppose**

Bill Status: Died in House Business, Labor & Econ. Develop Cmte on 2/27/14

- The bill would have required 95 percent of all costs under a construction contract to be paid at the time they are invoiced and due according to the contractual payment schedule. Any party that withholds funds (retainage) in excess of five percent of the amount due would be liable in a civil action for release of the excess withheld plus interest and legal expenses. The bill did not apply to projects with a total contract value less than \$150,000, contracts concerning residential buildings with four or fewer dwelling units, and construction contracts with a public entity.

HB 1226 Local Government Authority to Regulate Plastics (Sponsors: Rep. Labuda)

CACI Position: **Oppose**

Bill Status: Died in House Business, Labor & Econ. Develop Cmte on 2/13/14

- Under current law, a local government may not require or prohibit the use or sale of specific types of plastic materials or products, or restrict or mandate containers, packaging, or labeling for any consumer product. HB 1226 would have removed this restriction;
- Proponents of the bill indicated that their goal was specifically to ban polystyrene, a.k.a. “foodservice foam”, which would have cost restaurants, food trucks and other related businesses and organizations thousands of dollars annually due to the higher cost of substitute products, with no environmental benefit from the substitute products. Additionally, the broad language of the bill would have allowed local governments to ban a wide variety of products, potentially affecting an extensive range of businesses.

HB 1303 Testimony in Remote Locations (Sponsors: Reps. Scott, Speaker Ferrandino & Senator Schwartz)

CACI Position: **Support**

Bill Status: Passed House and Senate – Sent to Governor

- HB 1303 allows the Executive Committee of the Legislative Council to consider, recommend, and establish policies allowing legislative committees to take remote testimony from one or more locations in Colorado. The Executive Committee is authorized to enter into agreements with state institutions of higher education to host remote sites and provide facilities, equipment, and staff;
- Several of CACI’s local chamber members from across the State supported this bill so that they have an opportunity for their members to testify on bills if they are unable to travel to the State Capitol.

HB 1317 CO Child Care Assistance Program Changes (Sponsors: Rep. Duran & Sens. Nicholson and Kefalas)

CACI Position: **Support**

Bill Status: Passed House and Senate – Sent to Governor

- The legislation makes several updates to the Colorado Child Care Assistance Program (CCCAP) in the Department of Human Services (DHS). CCCAP provides subsidies to eligible families to offset the costs of child care. Families must meet income and eligibility requirements in order to receive a subsidy. CACI’s Government Affairs Council took a support position on the bill based on interests by CACI members whose workers would benefit from the legislation.



HB 1328 Connect Colorado Broadband Fund (Sponsors: Reps. Williams & Coram & Sens. Nicholson & Crowder)

CACI Position: **Support**

Bill Status: Signed by Governor on 5/10/14

- HB-1328 approves deployment of broadband to unserved areas through grants, where “unserved” is tied to the federal service standard (currently at 4Mbps down, 1Mbps up); makes universal broadband service a goal for Colorado. Funds for this grant will come from the PUC determining whether high cost areas have “competitive” service providers. Where an area is deemed competitive, high cost dollars would instead be given to the grant fund and creates a Broadband Fund Committee to administer the funds (\$3-5 million). CACI’s Government Affairs Council voted to support all five telecom reform bills as a package.

HB 1329 Deregulate Internet Protocol (Sponsors: Reps. Williams, Murray & Sens. Scheffel & Kerr)

CACI Position: **Support**

Bill Status: Signed by Governor on 5/9/14

- HB-1329 puts status quo treatment of Voice Over Internet Protocol (VoIP) into statute, ensuring IP-enabled phone services are not regulated now or going forward. Keeps 9-1-1 authority with the PUC. CACI’s Government Affairs Council voted to support all five telecom reform bills as a package.

HB 1330 Updating Telecom Technology Language (Sponsors: Reps. Williams & Sen. Tochtrop)

CACI Position: **Support**

Bill Status: Signed by Governor on 5/9/14

- HB-1330 updates definitions to reflect current technology, providers and service options, ensuring Universal Basic Service continues to all in Colorado; allows the PUC to determine Local Exchange Carrier (LEC) competitiveness every three years;
- CACI’s Government Affairs Council voted to support all five telecom reform bills as a package.

HB 1331 Regulate Basic Local Exchange Service (Sponsors: Reps. Williams, Murray & Sens. Nicholson & Kerr)

CACI Position: **Support**

Bill Status: Signed by Governor on 5/9/14

- HB-1331 clarifies that Basic Local Exchange Carriers (LECs) can be reimbursed from the “High Cost Support Mechanism”, a.k.a. high cost fund, regardless of whether basic service is regulated. Independent LECs (ILECs) are subject to Provider of Last Resort (POLR) obligations and can only charge one uniform price for their territory. PUC support mechanisms are limited to high-cost areas without effective competition.
- CACI’s Government Affairs Council voted to support all five telecom reform bills as a package.

SB 10 Manufactured Home Communities (Sponsors: Sen. Kefalas & Rep. Fischer)

CACI Position: **Oppose**

Bill Status: Died in Senate Judiciary Committee on 2/19/14

- The bill would have made numerous changes to the landlord-tenant relationship for manufactured homes and manufactured home communities, including changes in definitions; requirements and procedures in creating, modifying and terminating lease agreements; and procedures subsequent to the sale or redevelopment of manufactured home communities.



SB 166 Mobile Application for Local Businesses (Sponsors: Sen. Carroll & Rep. Tyler)

CACI Position: **Support**

Bill Status: Passed House and Senate – Sent to Governor

- SB 166 directs the Office of Economic Development & Information Technology to create an application that identifies local businesses in CO. The bill includes businesses owned, located, headquartered or that manufacture in the State. The application will be searchable based on the goods and or services the business sells.