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# The 2016 Legislative Session: “Messaging Bills” Overshadow Progress at the State Capitol

By

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## Overview of 2016 Session

The Second Regular Session of the Seventieth Colorado General Assembly came to a close on Wednesday, May 11<sup>th</sup>, against the backdrop of a critical presidential election-year whose partisan context and developments are unprecedented in recent years.

The optimism and bipartisanship expressed by the legislature’s four majority and minority leaders on opening day on January 13th evaporated quickly.

The major business issues at the beginning of the session were transportation funding and construction-defects reform. Converting the hospital provider fee to a state enterprise was the top priority of Governor John Hickenlooper (D) and Speaker Dicky Lee Hullinghorst (D-Boulder) because removing the fee from under the TABOR revenue cap would free up funds for transportation, capital construction and education. The session’s major business issues at the end of the session remained unaddressed, however, because the Majority House Democrats and the Majority Senate Republicans were unable to compromise and send legislation addressing these two issues to the desk of Governor Hickenlooper.

Perhaps the most important accomplishment of the legislature this session, from CACI’s perspective, is that it did no real harm to the business community, although it can be argued that the state’s business climate received some significant dings. Certain legislators seemingly cared little for the state’s economic development efforts and business climate and the effects that their anti-business bills had on the perception of business leaders both within Colorado and elsewhere.

## Why So Many “Message” Bills?

Both majority Senate Republicans and majority House Democrats, controlling their respective chambers, sent each other a large number of election-year, political “message” bills, all of which quickly died in each chamber’s “kill committee.”



Message bills are clearly intended to put legislative supporters and opponents on the record to enhance election chances for supporters and to diminish election odds for opponents, whether for the primary election on June 28<sup>th</sup> or the general election on November 8<sup>th</sup>. Message bills are intended to appeal to a party's base and its core values, with the hope that the bills will spur greater voter turnout by a party's members.

The Republicans' message bills centered on core issues important to the conservative Republican base: guns, abortion, religion and illegal immigration. Although these GOP issues had little to do with CACI's pro-business lobbying agenda, there was at least one bill, HB-1202, that specifically targeted businesses because of illegal immigration concerns. HB-1202, which died in the House "kill committee," would have mandated that employers use the Federal e-Verify system to check the legal status of new or prospective workers.

The Democrats' message bills centered on the dual state-and national-themes (important to progressive/liberal Democrats) of lessening income/wage inequality and curbing corporate malfeasance (as they defined it). The Democrats' message bills thus had the potential to negatively affect the state's business community and, therefore, landed squarely on CACI's lobbying agenda to be opposed.

#### Control of the Legislative Chambers is at Stake

The real reason behind the lack of agreement by the two majority caucuses on the two major issues is the stark political fact that the Democrats control the House by only two votes and the Republicans control the Senate by one vote. Thus, it's in the political self-interest of the four caucuses to do everything they can to retain or take control of their respective chamber at the November general election. About a half-dozen seats in the two chambers are up for grabs this election, and the outcome of the races for these seats will determine which political party controls which chamber for the 2017 and 2018 legislative sessions.

Consequently, sacrificing progress on transportation funding and construction-defects reform during the 2016 session appears to be the price the four caucuses are willing to pay to gamble on a political payoff in November.

Finally, although the anti-business bills advocated by the Democrats died, they will likely be re-introduced in the 2017 session. If the Democrats retain the House but regain the Senate, then CACI and its business allies face the very real possibility that these bills will pass and be sent to Governor John Hickenlooper.

CACI's political strategy will remain the same this year: (1) endorse and support pro-business legislative candidates and (2) pursue strategies to ensure that political control of the legislature at least remains split between the two parties. Recent past sessions—(2013-2014 and 2009-2010) in which the Democrats have controlled both chambers have generally proved challenging for CACI and its business allies, to say the least.

#### The Disquieting Political Tone

In the House, the moderate Democrats were unwilling to buck their leadership to help the Republicans defeat anti-business bills, save for a couple of exceptions. Meanwhile, some House and Senate Republicans were more than willing to buck their leadership on key votes.



More disconcerting to CACI, however, was the behavior by a small group of House Democrats who chose to make personal, verbal attacks on business groups and their lobbyists during committee hearings, on the House floor and on social media outlets. Here are two examples:

On the House Floor, during Second Reading debate on HB-1388, the so-called “ban-the-box” bill, [Representative Joe Salazar \(D-Thornton\)](#) complained that business lobbyists come before House committees to oppose bills being advocated by the Democrats and “always” say “the sky is falling.” Representative Salazar asserted that the business lobbyists fail to provide the committees with “data” about the impact of the bills and always say “we don’t want government telling us what to do.”

On the House Floor during Second Reading debate on HB-1275, the so-called “tax haven” bill, [Representative Mike Foote \(D-Louisville\)](#) asserted that two hundred to three hundred Colorado companies are engaged in sheltering income through “shell companies” in off-shore tax havens, although he would not release a list of the companies. These companies “don’t follow the rules,” he said. He also said that “fancy and expensive lobbyists” for big business were fighting HB-1275 and that their argument “rests on a house of cards.” Representative Salazar said that he was “tired of corporate welfare” and that corporations “get to skirt their fair share” of paying taxes by sheltering their income off-shore in the tax havens.


#### The Bad and the Ugly Bills Killed

Here are the anti-business bills—all of which are election-year message bills sponsored by the Democrats—that CACI and its business allies worked extremely hard to successfully defeat:

- HB-1275, which would have placed onerous requirements on Colorado corporations operating abroad in so-called “tax havens” as determined by the Colorado Department of Revenue.
- HB-1310, HB-1355, HB-1430 and SB-179, which would have restricted oil-and-gas production.
- HB-1361, would have created contract inference and potential for increased health care costs.
- HB-1403, which would have mandated an employee-funded, state-administered retirement plan for workers at companies lacking a retirement plan.
- HB-1388, which would have prohibited employers from asking about an applicant’s criminal history on employment applications.
- HB-1435, which would have mandated a fee on employers that don't provide health insurance to low-wage workers.
- SB-114, which would have mandated on employers certain amounts of sick leave allowable to workers.
- HB-1294, which would have mandated health-benefit coverage to be carried by employers that would have resulted in higher costs of health-care benefits for workers.

#### A Few “Not-So-Bad” Bills Pass

Here are the bills that CACI initially opposed in their introduced form but then worked with the sponsors to amend to CACI’s satisfaction, which allowed CACI to take a “neutral” position. Truth be told, lobbying a sponsor to amend a bill to gain bipartisan support that also will allow CACI to move



to a neutral position usually takes a great deal more effort and political sensibility than just outright lobbying to kill a bad-for-business bill.

These “not-so-bad” bills were passed by the legislature with bipartisan support and sent to Governor Hickenlooper:

- HB-1438, which details accommodations that a business must provide pregnant workers.
- HB-1432, which allows a worker to access his or her personnel file once a year with protections for employers.
- SB-203, which ensures a fair and thorough review of current state” tax expenditures.”
- SB-56, which protects employer's confidential information on State employee whistleblower claims.

#### A Few Good Bills Pass

Despite the harsh political tone of the session, the four caucuses managed to pass a few bills that were good for business or, at least, will cause minimal discomfort.

The following good bills have been sent to the Governor:

- HB-1114, which reduces unnecessary regulation on businesses by eliminating the need to include a duplicate I-9 verification form in an employee's personnel file.
- SB-179, which directs the Colorado Department of Labor and Employment (CDLE) to revise current rules to make it clearer on how employers should classify workers as independent contractors; ensure consistency among CDLE auditors in how they audit employers; and requires the CDLE to assign a full-time employee as a resource to employers asking the CDLE to provide guidance on proper classification.
- HB-1232, which continues an important program for seven years that allows businesses to request a determination from the Colorado Department of Revenue on potential taxes owed to avoid audits and fines.
- HB-1405, the “Long Bill,” which is the state’s 2016-2017 \$27 billion budget with \$150 million new funding for transportation.

## CACI Policy Council Bills and Positions

### Energy & Environment Council Bills

[HB 1004](#) by Reps. Winter & Arndt  
[HB 1044](#) by Rep. Becker, J. & Sen. Hill  
[HB 1071](#) by Rep. Windholz  
[HB 1088](#) by Rep. Dore  
[HB 1091](#) by Rep. Thurlow/Sen. Sonnenberg  
[HB 1181](#) by Rep. Buck  
[HB 1256](#) by Rep. Bro  
[HB 1310](#) by Rep. Salazar & Sen. Carroll  
[HB-1355](#) by Rep. Foote & Sen. Ulibarri  
[HB-1430](#) by Rep. Lebsock  
[SB 46](#) by Sen. Cooke  
[SB 129](#) by Sen. Jones & Rep. Arndt

### Bill Name/Description

Measurable Goals in State Climate Action Plan  
 Extending Petroleum Storage Tank Fund  
 County Initiative Powers  
 Fire District Impact Fee New Development  
 Biennial Filing for Rate-Regulated Utilities  
 Local Gov. Must Compensate for Fracking Ban  
 South Platt River Basin Water Storage Study  
 Liability for Oil & Gas Operations, Earthquakes  
 Local Gov. Siting Authority Over O&G Facilities  
 O&G Development Plan Mandated Disclosure  
 Retain State Flexibility in Clean Power Plan  
 Neutral Administration of the COGCC

### Council Position

Oppose/**Dead**  
 Support/**Signed by Gov**  
 Oppose/**Dead**  
 Amended/**Neutral**  
 Support/**Signed by Gov**  
 Support/**Dead**  
 Support/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Support/**Dead**  
 Oppose/**Dead**

### HealthCare Council Bills

[HB 1047](#) by Rep. Buck & Sen. Newell  
[HB 1107](#) by Rep. Joshi  
[HB 1294](#) by Rep. Lontine & Sen. Guzman  
[HB 1326](#) by Rep. Primavera & Sen. Crowder  
[HB 1361](#) by Rep. Primavera & Sen Newell  
[HB 1381](#) by Rep. Primavera  
[HB 1387](#) by Rep. Primavera  
[HB 1420](#) by Rep. Hullinghorst & Crowder

### Bill Name/Description

Multi-State Physician Licensure  
 Timeframes for DORA Disciplinary Proceedings  
 Re: Contraceptive Coverage by Health Plans  
 Consumer Access to Physical Rehab Services  
 Any Willing Pharmacy  
 Breast Cancer Screening Insurance Mandate  
 Health Coverage Mandate, Protein Deficiencies  
 Hospital Provider Fee Shift

### Council Position

Support/**Passed**  
 Support/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Amended/**Neutral**  
 Support/**Dead**

### Labor & Employment Council Bills

[SB 56](#) by Sen. Lambert  
[SB 76](#) by Ulibarri & Rep. DelGrosso  
[SB 96](#) by Sen. Heath  
[SB 114](#) by Sen. Carrol & Rep. Danielson  
[SB 179](#) by Heath, Robertson & DelGrosso  
[HB 1001](#) by Reps. Danielson & Buckner  
[HB 1002](#) by Rep. Buckner & Sen. Kerr  
[HB 1114](#) by Rep. DelGrosso & Sen. Ulibarri  
[HB 1154](#) by Rep. DelGrosso  
[HB 1166](#) by Reps. Winter & Sen. Donovan  
[HB 1191](#) by Rep. Salazar  
[HB 1202](#) by Rep. Wist & Sen. Tate  
[HB 1347](#) by Rep. Danielson & Sen. Ulibarri  
[HB 1388](#) by Rep. McCann  
[HB 1432](#) by Rep. Winter & Sen. Kerr  
[HB 1438](#) by Rep. Winter & Sen. Humenik

### Bill Name/Description

Whistleblower Protections  
 Elimination of Employment Verification  
 Re-Creation of Pay Equity Commission  
 Paid Sick Leave  
 Classification of Workers  
 Equal Pay on Bids for State Contracts  
 Parental Leave  
 Elimination of Employment Verification  
 Definition of Employer  
 Prohibit Seeking of Salary History  
 Homeless Bill of Rights  
 Mandatory E-Verify  
 Information on Violation of Wage Laws  
 Ban the Box /Applicant's Criminal History  
 Access to Employee Personnel Records  
 Pregnancy Accommodations

### Council Position

Amended/**Neutral**  
 Support /**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Support/**Sent to Gov**  
 Oppose/**Dead**  
 Neutral/**Dead**  
 Support/**Sent to Gov**  
 Support/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Amended/**Neutral**  
 Oppose/**Dead**  
 Amended/**Neutral**  
 Amended/**Neutral**



**Tax Council Bills**

[HB 1087](#) by Rep. J. Becker  
[HB 1232](#) by Rep. Kraft-Tharpe & Sen. Tate  
[HB 1275](#) by Rep. Foote & Sen. Jone  
[SB 67](#) by Sen. Scheffel & Rep. Williams  
[SB 36](#) by Sen. Neville & Rep. Kraft-Tharpe  
[SB 203](#) by Sen. Lambert & Rep. Hamner

**Bill Name/Description**

Increased Vendor Allowance  
 Continuation of Private Letter Ruling Program  
 Tax on Corp Income Sheltered in Tax Havens  
 Tax Exemption Broadband Equipment  
 Surety Requirements on Tax Appeals  
 Evaluation of Tax Expenditures

**Council Position**

Support/**Dead**  
 Support/**Sent to Gov**  
 Oppose/**Dead**  
 Support/**Dead**  
 Support/**Sent to Gov**  
 Amended/**Neutral**

**Governmental Affairs Council Bills**

[HB 1136](#) by Rep. Esgar & Sen. Garcia  
[HB 1227](#) by Reps. Kagan/DelGrosso & Sen. Hill  
[HB 1365](#) by Reps. Moreno & Wils  
[HB 1403](#) by Petterson/Todd  
[HB 1435](#) by Reps. Duran & KC Beck  
[SB 16](#) by Sen. Cadman & Rep. Hulinghorst  
[SB 194](#) by Sen. Scott & Rep. DelGrosso  
[SB 183](#) by Sen. Scheffel & Rep. Williams  
[SB 210](#) by Sen. Baumgardner & DelGrosso  
[SB 211](#) by Sen. Cadman & Rep. Hulinghorst

**Bill Name/Description**

Multiple Crew on Freight Trains  
 Child Care Assistance  
 Seal of Bi-literacy  
 Creation of CO Secure Savings Plan  
 Low Wage Employer Corp Responsibility Act  
 Modify Scientific & Cultural Facilities District  
 Regional Transportation Development Projects  
 Clarify Portion of 911 Call / PUC Regulation  
 Fix Colorado Roads Act  
 Limit Certain Contests Past Sp. Dist Elections

**Council Position**

Oppose/**Dead**  
 Support/**Sent to Gov**  
 Support/**Dead**  
 Oppose/**Dead**  
 Oppose/**Dead**  
 Support/**Signed by Gov**  
 Support/**Dead**  
 Support/**Sent to Gov**  
 Support/**Dead**  
 Support/**Sent to Gov**



## Energy & Environment Council

### **SB 46 Retaining State Flexibility in Response to the Federal Clean Power Plan (Sponsor: Sen. Cooke)**

CACI Position: **Support**

Bill Status: Died in Senate Agriculture, Natural Resources & Energy Committee on 3/17/16

- The federal Clean Power Plan (CPP) generated a significant amount of debate during the 2016 legislative session. In addition to SB 46, Sen. Cooke also introduced SB 61 and SB 157, each focusing on some element of the political and regulatory efforts, and related expenses, to develop and enforce the Plan in Colorado;
- While SB 46 was introduced just six days into session, the U.S. Supreme Court, on February 9, 2016, issued a series of stay orders to effectively delay the implementation of the federal CPP until the pending legal challenges to the plan are resolved. The Supreme Court stay orders enacted nationally much of what SB 46 aimed to accomplish in Colorado;
- Accordingly, Sen. Cooke requested that his own bill, SB 46, be killed in its first committee of reference. In its place, Sen. Cooke advanced SB 157 which sought to force state regulators to suspend all activities aimed at developing or implementing the CPP until the Supreme Court's stay is lifted and new deadlines for submission of state plans have been established.

### **SB 129 Regarding the Neutral Administration of the CO Oil and Gas Conservation Commission (Sponsors: Sen. Jones & Rep. Arndt)**

CACI Position: **Oppose**

Bill Status: Died in the Senate Agriculture, Natural Resources & Energy Committee on 3/2/16

- SB 129 sought to redefine the statutory mission of the Colorado Oil and Gas Conservation Commission (COGCC), currently focused on “fostering” responsible oil and gas development in the state, by deleting that language and requiring the COGCC to take on a more administrative and regulatory enforcement focused-mission;
- CACI lobbied and testified in opposition to this legislation, expressing strong concerns about attempts to codify failed proposals that were considered, but ultimately rejected by the Governor’s 2014 oil and gas task force, which attempt to undermine Colorado’s existing state statutory and regulatory oversight of the industry.

### **HB 1004 Creating Measurable Goals & Deadlines in State Climate Action Plan (Sponsors: Reps. Winter & Arndt)**

CACI Position: **Oppose**

Bill Status: Died in the Senate Agriculture, Natural Resources & Energy Committee on 3/30/16

- HB 1004 would have required the state climate action plan to include specific measurable goals regarding the reduction of greenhouse gas emissions or the increase in Colorado's adaptive capability to respond to climate change, deadlines for these goals, and an annual analysis of progress being made in relationship to each goal;



- CACI lobbied and testified in opposition to the bill based on concerns that the bill had the potential to result in significant unintended consequences for Colorado’s business climate and the State’s economy. CACI also shared concerns that such goals would be created without industry input and at a time when uncertainty exists regarding the legality of the federal Clean Power Plan.

**HB 1044 Extending the Authorization for the Petroleum Storage Tank Fund (Sponsors: Rep. Becker, J. & Sen. Hill)**

**CACI Position: Support**

**Bill Status:** Signed by Governor on 3/2/16

- Prior to the passage of HB 1044, the use of the petroleum storage tank fund for petroleum storage tank facility inspections and meter calibrations would have been repealed on July 1, 2018. HB 1044 extends this date to September 1, 2023. CACI’s Energy & Environment Council took a support position on this bill to ensure that this successful state program, now a national model for storage tank maintenance and site remediation, has the authorization needed to continue to operate.

**HB 1071 Regarding County Ballot Initiative Powers (Sponsor: Rep. Windholz)**

**CACI Position: Oppose**

**Bill Status:** Died in the House State, Military & Veterans Affairs Committee on 2/1/16

- HB 1071 sought to create the ability for citizens to initiate ballot initiatives to change county-level laws and policies, similar to Colorado’s citizen-initiated statewide ballot measure process;
- CACI lobbied in opposition to this bill, expressing strong concerns about economic harm that unpredictable changes to local government law and policies, resulting from a newly created county ballot initiative power, could generate for local economies and key industries operating across Colorado. This bill is another example of how anti-industry activists attempted to utilize “local control” as a proxy issue for their broader attempts to limit or ban oil and gas operations.

**HB 1088 Creating the Authority for Local Fire Districts to Implement Impact Fees on New Development (Sponsors: Rep. Dore & Sen. Roberts)**

**CACI Position: Neutral as Amended**

**Bill Status:** Sent to Governor on 5/5/16

- As introduced, HB 1088 authorized the board of any local fire protection district to impose an impact fee on the construction of new buildings, structures, facilities, or improvements, including oil and gas wells, on previously improved or on unimproved real property;
- CACI initially took an oppose position to HB 1088, due to the burden that new taxes or fees place on Colorado’s business climate and new developments of any kind. However, Rep. Dore worked to substantially amend the bill to focus on existing impact fee setting authority statutes and the ability of fire districts to enter into memoranda of understanding (“MOUs”) with municipalities and developers to address critical funding challenges. Upon the adoption of the amendments, CACI changed its position to neutral.





**HB 1091 Regarding the Biennial Filing Deadlines and Requirements for Rate Regulated Utilities (Sponsors: Rep. Thurlow & Sen. Sonnenberg)**

**CACI Position:** Support

**Bill Status:** Signed by Governor on 3/23/16

- This bill changes the due date for biennial filing reviews for rate-regulated investor owned utilities from October 31 to another date determined by the Colorado public utilities commission. CACI supported this legislation, as it sought to achieve administrative streamlining and provide flexibility to impacted CACI members subject to PUC oversight regarding how and when they respond to regulatory filing deadlines.

**HB 1181 Local Governments Required to Compensate Mineral Rights Holders for Fracking Ban (Sponsors: Rep. Buck)**

**CACI Position:** Support

**Bill Status:** Died in House State, Veterans & Military Affairs Committee on 2/24/16

- This bill sought to ensure that local governments would be liable for compensating royalty and mineral rights holders if their private property interests in undeveloped oil and gas or other mineral reserves were limited or nullified by local government rules, regulations, or prohibitions on extraction and production operations;
- CACI lobbied and testified in support HB 1181, working with oil and gas industry associations and mineral rights holders to convey the importance of private property rights to Colorado industries and the state economy. The bill died on a party line vote in the House State, Veterans & Military Affairs Committee.

**HB 1256 South Platt River Basin Water Storage Study (Sponsors: Rep. Brown & Sen. Sonnenberg)**

**CACI Position:** Support

**Bill Status:** Died on the House Calendar

- In response to growing concerns regarding the increasing demands on state water supplies, particularly given Colorado’s status as a regional headwaters state, HB 1256 requires the Colorado Water Conservation Board, in coordination with the state engineer, to conduct a hydrology study of the South Platt River Basin. The study would sought to determine, for each of the previous 20 years, how much water has been delivered to Nebraska in excess of the amount required under the existing South Platt River compact, and must also include information regarding potential future water storage sites and associated cost-benefit analyses for those sites.
- CACI supported this legislation and the sponsors’ efforts to research the future water needs of Colorado’s economy and the impacts that down-stream demands on Colorado’s water supplies could generate within the state.



**HB 1310 Expanded Liability for Oil and Gas Operators for Damages Caused by Industrially Induced Earthquakes (Sponsors: Rep. Salazar & Sen. Carroll)**

**CACI Position:** **Oppose**

**Bill Status:** Died in Senate Agriculture, Natural Resources & Energy Committee on 4/28/16

- HB 1310 sought to amend existing evidentiary statutes governing relations between surface owners and oil and gas operators in a way that would have substantially expanded Colorado operators' liability risks associated with tort claims resulting from oil and gas activity in Colorado. The bill also sought to codify a new standard of liability for oil and gas operators, that would hold operators strictly liable for their conduct if oil and gas operations, including fracking, cause an earthquake that damages property or injures an individual;
- CACI lobbied and testified in opposition to HB 1310, working closely with our oil and gas members and trade associations to defeat this legislation. CACI highlighted the importance of the oil and gas industry to Colorado's economy, and opposed the effort to expose the oil and gas industry, or any sector of the business community, to the unchecked risk of litigation that would result from the passage of this first-of-its-kind strict liability standard for earthquake damages.

**HB 1355 Creating Local Government Authority to Regulate the Location of Oil and Gas Facilities (Sponsors: Rep. Foote & Sen. Ulibarri)**

**CACI Position:** **Oppose**

**Bill Status:** Died on 2<sup>nd</sup> Reading on House Floor on 4/4/16

- HB 1355 sought to empower local governments with a newly created authority to regulate siting decisions regarding where oil and gas facilities would be located within their jurisdiction. Additionally, the bill would have repealed the existing principle of state law preemption in allowing local government siting regulations to supersede state law and the oversight authority of the Colorado Oil and Gas Conservation Commission;
- CACI lobbied and testified in opposition to HB 1355, expressing strong concerns about the increased risk that local governments would implement a highly unpredictable patchwork of unreasonable limits or bans on oil and gas activity from locality to locality across the state. Empowering local governments with the ability to disregard prevailing state law in adopting severe limits or bans on industry activity would create such a high level of risk and uncertainty that operators would simply elect to minimize ongoing operations and future investments in Colorado;
- The defeat of this legislation on a rare second reading "division" vote in the Democratic majority House signaled a strong level of bipartisan opposition. CACI joined its oil and gas members, trade associations, and a range of potentially impacted businesses and business organizations in defeating this legislation.



**HB 1430 Required Disclosure of Oil and Gas Development Plans to County Governments**

**(Sponsors: Rep. Lebsack)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate Agriculture, Natural Resources & Energy Committee on 4/28/16

- HB 1430 sought to add county governments to the list of local governments to which oil and gas operators are required to disclose their five year drilling and development plans. CACI joined a strong coalition of oil and gas members and trade and business organizations in opposition to the bill and highlighted that this seemingly minor change in practice was unnecessary and redundant to existing practices, and would have resulted in a needless increase in the compliance burden for industry operators. Furthermore, the proposal included in HB 1430 has just recently been considered and rejected by both the Governor’s oil and gas task force and the Colorado Oil and Gas Conservation Commission.

**HealthCare Council**

**HB 1047 Regarding the Adoption of an Interstate Compact for Physician Licensure (Sponsors: Reps. Buck & Winter; Sens. Newell & Roberts)**

**CACI Position: Support**

**Bill Status:** Sent to Governor for signature

- HB 1047 enacts and authorizes the Governor to enter Colorado into an interstate compact with other states to recognize and allow physicians licensed in a compact member state to obtain an expedited license, enabling them to practice medicine in Colorado or another member state;
- CACI lobbied in support of this legislation, joining a broad coalition of CACI Health Care Council members in the hospital and health insurance industry that are working to remove legal obstacles to the increased utilization of cost-saving technologies and practices such as remote telehealth services.

**HB 1107 Regarding Timeframes for DORA Disciplinary Proceedings (Sponsors: Rep. Joshi)**

**CACI Position: Support**

**Bill Status:** Died in House State, Veterans & Military Affairs Committee on 2/22/16

- HB 1107 sought to enact a 7-year time limit on administrative complaints against persons regulated by the department of regulatory agencies (DORA), and to require DORA licensing authorities to render a final decision in a disciplinary proceeding within 2 years after the making of a motion, commencement of an investigation, or filing of a complaint;
- CACI lobbied and testified in support of HB 1107, voicing strong concerns about the current lack of a statute of limitations for administrative complaints filed against professions regulated by DORA. CACI expressed the burden that indefinite record keeping requirements place on professionals and their businesses, and the need for a more efficient and reasonable statute of limitations policy to be adopted for administrative complaints filed against DORA-regulated professions.



**HB 1294 Health Insurance Requirements for Mandated Contraceptive Coverage (Sponsors: Rep. Lontine & Sen. Guzman)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State, Military & Veterans Affairs Committee on 4/11/16

- HB 1294 sought to require health plans to cover contraceptives and related services as preventive services at no cost to the covered woman, including coverage for all FDA-approved contraceptive drugs, devices, and other products for women, and those prescribed by the covered person's health care provider or otherwise authorized under state or federal law;
- CACI opposed this legislation based on concerns that the bill created a new mandate that dictated specific requirements regarding how health insurers design their health plan offerings and statutorily limit cost sharing mechanisms for specific health products or services.

**HB 1326 Requirements for Health Insurers Contracts with Intermediaries and Physical Therapists (Sponsors: Reps. Primavera & Willett; Sen. Sonnenberg)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State, Military & Veterans Affairs Committee on 4/13/16

- HB 1326 sought to create new statutory mandates regarding the specific terms and conditions that health insurers must include in or exclude from their service agreement contracts with providers of rehabilitative physical therapy and related services, and health insurance intermediaries that aid in the administration of health benefits. The bill also aimed to mandate how health insurers must analyze and process certain claims who can process claims, and how specific claims must be classified. The bill would have also prohibited specific billing and cost sharing practices currently utilized by health insurers to control the cost of care and keep health premiums affordable;
- HB 1326 represents the third bill in three concurrent legislative sessions that attempted to utilize legislative contract interference for the narrow benefit of a specific set of health service providers, physical therapists. Under a study required by similar legislation in 2015, it was ultimately determined that similar policies do, in fact, increase health care costs and health insurance premiums. In 2014, Governor Hickenlooper vetoed similar legislation out of concern that contract interference on behalf of specific provider groups ultimately raises health insurance premiums in Colorado. CACI's Health Care Council took an oppose position on the bill based on concerns that it created contract interference and increased costs on health care premiums.

**HB 1361 Any Willing Pharmacy (Sponsors: Reps. Becker, J. & Primavera; Sens. Newell & Sonnenberg)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate Finance Committee on 5/6/16

- HB 1361 sought to prohibit a health insurance plan or pharmacy benefit management firm (PBM) from limiting or restricting a covered person's ability to select a pharmacy or pharmacist of the covered person's choice if certain conditions are met. The bill would have also



prohibited health plans or PBMs from imposing a co-payment, fee, or other cost-sharing requirement for selecting a pharmacy of the covered person's choosing, or other conditions that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing;

- CACI strongly opposed HB 1361, citing the negative impacts that legislative contract interference and additional statutory mandates have on the price of the health insurance premiums that employers incur in order to provide health benefits to their employee base. Under HB 1361, health plans and PBMs would be mandated to do business with all pharmacies operating in Colorado, thus eliminating these businesses' choice as to what business agreements best serve their business goals. HB 1361 passed in the House but ultimately died on a 3-2 vote in the Senate Finance Committee.

**HB 1381 Expanding the Health Insurance Mandates Regarding Breast Cancer Screenings**

**(Sponsors: Rep. Primavera)**

CACI Position: **Oppose**

Bill Status: Died in Senate State, Military & Veterans Affairs Committee on 5/2/16

- HB 1381 requires annual health care coverage for breast cancer screening using the breast imaging modality appropriate for each individual as determined by the individual's physician or radiologist. This bill expands the existing statutory mandate for health care coverage for annual preventative mammogram screenings for breast cancer;
- CACI opposed this legislation citing concerns that expanding the existing coverage mandates to include new, unproven, and more expensive diagnostic technologies at zero cost share would increase the use of higher cost procedures, and health premiums in Colorado, without the promise of achieving any added health benefit.

**HB 1387 Requiring Health Insurance Coverage for Certain Protein Deficiencies (Sponsors: Rep. Primavera)**

CACI Position: **Neutral as Amended**

Bill Status: Sent to Governor for signature on 5/5/16.

- HB 1387 requires health benefit plans, except for supplemental policies, to provide coverage for severe protein allergic conditions including immunoglobulin E and nonimmunoglobulin E-mediated allergies to multiple food proteins; severe food protein induced enterocolitis syndrome; eosinophilic disorders as evidenced by the results of a biopsy; and impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract;
- CACI opposed this legislation as introduced based on concerns that it created a new state mandate. However, the sponsor agreed to an amendment aimed at balancing the goal of this legislation with existing health insurance practices. Upon adoption of this amendment, the CACI Health Care Council changed its position to neutral.



**HB 1420 Reclassification of the Hospital Provider Fee as a State Enterprise (Sponsors: Rep. Hulinghorst & Sen. Crowder)**

**CACI Position: Support**

**Bill Status:** Died in Senate Committee on Finance on 5/10/16.

- HB 1420 was a second attempt at legislation in the last two years and one of the most controversial issues considered during the 2016 Session. The bill would have created a CO Healthcare Affordability and Sustainability Enterprise within the Dept. of Health Care Policy and Financing. The enterprise would have been responsible for the collection of a new Healthcare Affordability and Sustainability Fee to replace the Hospital Provider Fee provided under current law;
- The Hospital Provider Fee Program was created through HB 09-1293 and allows the State to collect a provider fee from hospitals across the state. That fee revenue is matched with federal dollars and used to reimburse hospitals for uncompensated care and to expand Medicaid and Child Health Plan Plus programs. The Hospital Provider Fee revenue is also subject to the TABOR limit and the Program is expected to collect more than \$600 million in fees for the upcoming budget year;
- The bill, was strongly supported by the Governor and the House Speaker, moved the Program out of the State’s General Fund and would have directed available funding in the General Fund to transportation, education and the severance tax fund. Republicans opposed this bill because they believe the Hospital Provider Fees should continue to be subject to the TABOR limit and the Program should remain in the General Fund unless the voters decide otherwise. The bill was ultimately defeated during the second to last day of Session in the Senate Finance Committee.

**Labor & Employment Council**

**SB 56 Enhanced Whistleblower Protections (Sponsors: Sen. Lambert & Rep. Lee)**

**CACI Position: Neutral as Amended**

**Bill Status:** Sent to Governor for signature

- The bill as amended expands current protections for whistleblowers by assigning certain state agencies to determine if information shared by a state employee is protected under the Colorado Open Records Act, or other laws. The three review agencies include: the Office of Legislative Legal Services, the Department of Law, and Judicial Department;
- CACI and a coalition of its members amended the introduced bill to ensure that review agencies would be required to maintain the confidentiality of data if an agency determines that the disclosed information includes trade secrets, or confidential commercial, financial, geological, or geophysical data. The amended version also provided that if a review agency determines there is a substantial likelihood the information received is not confidential under CORA or other law, the review agency must notify the owner of that data;



- Additionally, the amended bill requires the review agency to retain the information for at least 30 days after notifying the owner before releasing the information to the General Assembly, or to the public. Owners of the information would have 30 days following the notification to file an action under the Colorado Rules of Civil Procedure, if the owner believes release of the information will harm them.

**SB 76 Elimination of Employment Verification (Sponsors: Sen. Ulibarri & Rep. DelGrosso)**

**CACI Position:** **Support**

**Bill Status:** Died in Senate Business, Labor & Technology Committee on 2/16/16

- This bill is one of two similar bills introduced this Session with the intent of repealing a law passed in 2006 requiring employers to maintain a duplicative verification document in an employee’s personnel files that states the employer completed an I-9 verification form. An employer is currently already required to file an I-9 form in accordance with Federal law;
- This bill was defeated in the Senate Business Labor & Technology Committee, however, HB 1114 which is a similar bill and is detailed below, was adopted.

**SB 96 Re-Creation of Colorado Pay Equity Commission (Sponsors: Senator Heath)**

**CACI Position:** **Oppose**

**Bill Status:** Died in Senate Business, Labor & Technology Committee on 2/24/16

- This bill was an attempt to re-create the Colorado Pay Equity Commission within the Colorado Department of Labor & Employment which had a sunset in statute of September 2015. The bill contained the identical language as the bill attempted during the 2015 Session to continue the program. Neither bill included state funding for support of the Commission and only allowed for gifts, grants & donations which the Commission has not received in the last few years. The bill died on a party line vote in the Senate Business, Labor & Technology Committee on 2/24/16.

**SB 114 Employee Earned Paid Sick Leave (Sponsors: Senator Carroll & Rep. Danielson)**

**CACI Position:** **Oppose**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee

- SB 114 is a repeat of legislation attempted in previous years requiring that all employers provide paid sick leave to each of their employee as follows:
  - at least 1 hour for every 30 hours worked, up to 72 hours per 12-month period if the employer has more than 10 employees; or at least 1 hour for every 30 hours worked, up to 40 hours per 12-month period if the employer has fewer than 10 employees.
- CACI’s Labor & Employment Council took an oppose position on SB 114 based on the following concerns:
  - Allowed workers to carry forward accrued sick leave, a costly expense for employers;
  - Restricted the worker’s use of sick leave which prevents flexibility by an employer;
  - Mandated how sick leave records should be maintained by an employer;



- Created confusion for employers who would have been required to comply with both State and Federal paid leave requirements.

- CACI lobbied and testified against the bill which was defeated on a party line vote in the Senate State, Veterans Affairs Committee.

**SB 179 CDLE Unemployment Insurance Classification (Sponsors: Sens. Roberts, Heath & Reps. DelGrosso & Lee)**

**CACI Position: Support**

**Bill Status:** Sent to Governor for signature

- Over the last four years, CACI and other interest groups have attempted to resolve concerns with current statutes and departmental rules on the classification of workers as independent contractors. These concerns are based on audits and fines employers have received by the CO Dept. of Labor & Employment (CDLE) due to confusion with existing rules and laws. In January 2016, the CDLE convened a Task Force which included business groups, labor organizations, contractors, truckers and the CO Fiscal Institute. The Task Force agreed on the following recommendations to be implemented through SB 179 to resolve those concerns:
  - Develop guidance through formal rules on factors that establish an independent contractor status;
  - Improve the close-out letter process allowing employers to provide more information to be considered by an auditor prior to an appeal;
  - Create FTE to serve as a resource to employers for guidance on proper classification of workers & guidance on audit findings & options for curing or appealing an audit;
  - Establish internal methods to ensure consistency among auditors during the audit process;
  - Establish an independent audit review group that will review audit and appeal results twice a year to ensure continuous improvements in the audit process.
- CACI lobbied and testified in support of the bill which passed unanimously in both the House and Senate.

**HB 1001 Equal Pay on Bids for State Contracts (Sponsors: Rep. Danielson & Senator Ulibarri)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State Veterans & Military Affairs on 3/30/16

- HB 1001 was one of the first bills of many that were part of the House Democrats package of pay equity bills. The bill required contractors that bid on state contracts to certify that they:
  - do not pay their employees at wage rates less than the rates paid to other employees on the basis of gender, race, ethnicity, or national origin;
  - do not discipline their workers for sharing information regarding salaries.
- The bill also required employers to publish salary ranges and retain information on their employees during the time of the contract. Language in the bill also authorized the State to audit contractor and subcontractor records to determine compliance with equal pay laws. If a contractor had knowingly submitted false information, the contract could be terminated;





- CACI took an oppose position to this bill based on concerns that the bill duplicated Federal and state equal pay laws such as the CO Anti-Discrimination Act, the CO Wage Act, the Federal Equal Pay Act, and the NLRB Act. Additional concerns were the burdensome record keeping requirements provided in the bill which could leave employers subject to litigation for requesting information on workers regarding their race, ethnicity, and national origin.

**HB 1002 Employee Leave to Attend Child’s Academic Activities (Sponsors: Rep. Buckner & Sen. Kerr)**

**CACI Position: Neutral as Amended**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee on 3/9/16

- This bill would have re-enacted the Parental Involvement Act adopted in 2009 which required employers with 50+ employees to provide 18 hours of leave per academic year to workers to attend parent-teacher conferences, or meetings regarding special education, dropout prevention, attendance, truancy and disciplinary issues. The 2009 bill included a sunset of September 2015;
- A bill attempting to continue this law was repealed in 2015 and opposed by CACI because it expanded the original provisions of the 2009 law;
- During the 2016 Session, HB 1002 attempted to continue the law by ensuring that the bill only contained the language adopted in 2009. Despite passage in the House, the bill was defeated in the Senate State, Veterans and Military Affairs Committee on 3/9/16.

**HB 1114 Elimination of Employment Verification (Sponsors: Rep. DelGrosso & Senator Ulibarri)**

**CACI Position: Support**

**Bill Status:** Sent to Governor for signature on 5/11/2016

- This bill was the second of two similar bills introduced this Session with the intent of repealing a law passed in 2006 requiring employers to maintain a duplicative verification document in an employee’s personnel files that states the employer completed an I-9 verification form. An employer is currently already required to file an I-9 form in accordance with Federal law;
- CACI lobbied and testified in support of HB 1114 along with other interest groups and worked to address concerns raised by Senate legislators. Based on those efforts and amendments adopted to improve the bill, HB 1114 successfully passed the House and Senate with a unanimous vote.

**HB 1154 Employer Definition to Clarify Franchise Status (Sponsors: Rep. DelGrosso)**

**CACI Position: Support**

**Bill Status:** Died in House Committee on Local Government on 3/16/16

- HB 1154 was introduced in response to the recent NLRB decision on franchises and clarified that the definition of “employer” only includes a person that possesses authority to control an employee’s terms and conditions of employment and exercises that authority directly. The bill also stated that a franchisor is not considered an employer unless the Court finds that the franchisor some control over the franchisee or its employees;



- Stacey Campbell and Daniel Combs, CACI members and attorneys for the Law Firm of Campbell Litigation helped draft the bill language to protect the interests of CACI franchise members. The bill received opposition by labor organizations and was defeated in the first committee of reference.

**HB 1166 Prohibits Employers from Seeking Salary History from Job Applicants (Sponsors: Rep. Winter & Sen. Donovan)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee on 3/30/16

- HB 1166 would have prohibited any employer from requesting an applicant’s salary history either verbally or on a written employment application. The bill was amended to state that an employer can ask for the salary history but only if the employer has posted the salary range for the position;
- CACI’s Labor & Employment Council opposed the bill based on concerns that it created a new type of discrimination claim under the CO Anti-Discrimination Act which was expanded in 2013 and included enhanced legal remedies which have costly consequences for employers. The bill also did not recognize companies that hire staff in many other states or employers who hire for multiple positions, thereby requiring them to interview each applicant without knowing if they would meet the salary requirements.

**HB 1191 Bill of Rights for Persons Who Are Homeless (Sponsors: Rep. Salazar)**

**CACI Position: Oppose**

**Bill Status:** Died in House Local Government Committee on 2/24/16

- HB 1191 would have created a “Right to Rest” for homeless individuals to move freely in public spaces or parked vehicles without discrimination. The bill also “encouraged” cities, counties and other state subdivisions to not enact laws, ordinances, or rules and regulations impacting homeless individuals;
- Although the sponsor removed private right of action language that was found in prior legislation which would have allowed a person who is homeless to sue businesses that remove them from their premises, the bill continued to draw strong concerns from CACI members and local government entities. The bill died in the House Local Government Committee on 2/24/16.

**HB 1202 Mandatory Employer E-Verify Participation (Sponsors: Rep. Wist & Senator Tate)**

**CACI Position: Oppose**

**Bill Status:** Died in House State, Veterans & Military Affairs Committee on 3/9/16

- HB 1202 would have required all employers with 10 or more employees to enroll and participate in the federal E-Verify program to verify the work eligibility status of all newly hired employees. The bill also required all employers to maintain documentation of enrollment and included fines for failing to maintain their enrollment. The fines ranged from up to \$5,000 for a first offense and up to \$25,000 for a second offense. For subsequent offenses, the State could fine an employer up to \$25,000 and suspend their business license for up to six months;



- CACI’s Labor & Employment Council took an oppose position on this bill based on concerns that it created a mandate on all employers, while some may already use the E-Verify Program. CACI members also had concerns with the excessive fine structure provided in the bill.

**HB 1347 Information on Violation of Wage Laws (Sponsors: Rep. Danielson & Senator Tate)**

**CACI Position: Neutral as Amended**

**Bill Status:** Died in Senate Business, Labor & Technology Committee on 5/6/16

- CACI worked with the House sponsor to ensure HB 1347 was amended to protect an employer’s confidential information if the CO Dept of Labor and Employment issues a final determination of a wage violation and the determination becomes public;
- HB 1347 as amended would have treated information regarding a wage law violation as public record and an employer could designate information submitted to the division as proprietary, a trade secret, or privileged information as long as the director of the division is not bound by the employer's designation. Additionally, before any information is released, the Division's director would have notified the employer of the potential release and an employer had 20 days to provide documentation showing that the information to be released represents a trade secret;
- Despite the efforts to resolve CACI’s concerns through the amendments, the bill failed in the Senate Business & Labor Committee on 5/6/16.

**HB 1388 Prohibiting an Employer from Requesting Criminal Background Information (Sponsors: Rep. McCann)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee on 5/4/16

- This HB 1388 would have prohibited employers from asking an applicant’s criminal history until an applicant has been offered an interview or conditional offer of employment. The bill also would have required employers to maintain applications for 9 months. CACI opposed this legislation for several reasons which included:
  - Potential for a workplace safety and liability risk for employers and employees;
  - Lack of a fair application within the bill by exempting public subdivisions and targeting private sector employers;
  - Allowing government to interfere with the private sector’s hiring process;
  - Imposing costs on an employer to conduct a background check through CBI and FBI versus allowing for self-reporting by the applicant.
- CACI lobbied against and testified in opposition to the bill where it was defeated in the Senate State, Veterans & Military Affairs Committee on 5/4/16.

**HB 1432 Providing Employees Access to Personnel Records (Sponsors: Rep. Winter & Sen. Kerr)**

**CACI Position: Neutral as Amended**

**Bill Status:** Sent to Governor for signature on 5/11/2016

- CACI has worked with the proponents of this bill for several years. This Session, CACI reached an agreement with the proponents on the bill which allows workers to receive access to their



personnel records once per year. The review shall occur at an employer's office at a time convenient to both parties, and a former employee may inspect their file one time after being terminated. The bill also states that the review shall only be in the presence of a person responsible for managing personnel data and may require the employee pay for the costs of duplication of documents. The bill also clarifies that it does not create or authorize a private cause of action for workers.

- The bill excludes the following documents from the definition of personnel file:
  - records required to be placed in a separate file by federal or state law or rule;
  - records pertaining to confidential reports from previous employers of the employee;
  - records relating to an active disciplinary investigation by the employer or a regulatory agency, or an active criminal investigation; and
  - any information in a document or record that identifies any person who made a confidential accusation, as defined by the employer, against the employee.

**HB 1438 Employer Accommodations Related to Pregnancy (Sponsors: Rep. Winter & Sen. Martinez-Humenik)**

**CACI Position: Neutral as Amended**

**Bill Status:** Sent to Governor for signature

- CACI worked with the sponsors of this legislation for several months based on concerns with the introduced version of the bill. The amended version requires employers to engage in a timely, good-faith, interactive process when an employee or applicant requests reasonable accommodations related to pregnancy or physical recovery from childbirth. Reasonable accommodations may include:
  - provision of more frequent or longer break periods;
  - more frequent bathroom, food, or water breaks;
  - acquisition or modification of equipment or seating;
  - limitations on lifting;
  - temporary transfer to a less strenuous or hazardous position or light duty, if available;
  - assistance w/manual labor or modified schedules, as long as certain conditions are met.
- If requested, employers must provide these accommodations to an applicant or an employee, unless the accommodations place an undue hardship on the employer's business. "Undue hardship" is defined as an action requiring significant difficulty or expense to the employer.
- Employers must provide written notice of the right to be free from discriminatory or unfair employment practices related to these requirements to new employees and existing employees within 120 days of the bill's effective date, and they must post the notice in a conspicuous place;
- The bill also clarifies that it neither increases nor decreases an employee's rights, under any other law, to paid or unpaid leave associated with the employee's pregnancy. The bill also specifies that a court must not award punitive damages in a civil action involving a claim of failure to make reasonable accommodations for conditions related to pregnancy or childbirth if the defendant demonstrated good faith efforts to comply with the requirement.

## Tax Council

### **HB 1087 Increased Vendor Allowance (Sponsor: Rep. Becker, J)**

**CACI Position:** **Support**

**Bill Status:** Died in House Committee on Finance on 3/16/16

- HB 1087 would have increased the vendor allowance that retailers currently collect for collecting and remitting sales tax which is a rate of 3 1/3 % of the tax. The bill would have increased the allowance over 5 years until it equaled 5 ½ % of the tax. The bill as introduced had a significant fiscal impact to the State budget which prompted an amendment which stated that businesses remitting \$75,000 or less would have the allowance increased to 4.5% beginning January 1, 2018. However, for all other businesses, the vendor fee did not change. Despite the amendment, the bill continued to have a significant fiscal impact to the State and was defeated in the House Committee on Finance on 3/16/16.

### **HB 1232 Continuation of Private Letter Ruling & General Information Letter Program (Sponsors: Rep. Kraft-Tharpe & Sen. Tate)**

**CACI Position:** **Support**

**Bill Status:** Sent to Governor for signature on 5/4/16

- In 2006, the CACI Tax Council developed legislation (HB 06-1312), that was adopted by the General Assembly and allowed for Private Letter Rulings (PLR) and General Information Letters (GIL) to be issued to taxpayers who are seeking guidance on their tax liability. The goal of the Program is to ensure that taxpayers continue to receive clarity on their tax liability so that they can remit the correct amount of taxes owed and avoid interest and penalties that could be assessed by the Department of Revenue;
- HB 1232 is the result of a sunset review conducted by the Dept of Regulatory Agencies which recommended continuation of the program. The bill provides for a seven (7) year continuation of the program and was amended to require the Department of Revenue to track the number of hours used by staff to complete a PLR or GIL. CACI lobbied and testified in support for the bill which passed unanimously in the House and Senate.

### **HB 1275 Taxation of Corporate Income Sheltered in Tax Havens (Sponsors: Rep. Foote & Sen. Jones)**

**CACI Position:** **Oppose**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee on 3/28/16

- HB 1275 regarding tax havens is the second time in the last two years a bill has been introduced on this issue. HB 1275 required a company's combined tax return to include any foreign affiliates that are incorporated in tax haven jurisdictions for the purposes of determining tax avoidance. The bill also allowed the Department of Revenue to develop a black listing of countries they believe are tax havens and made an exemption for including those affiliates, but only if the company can prove to the "satisfaction of DOR" that they are



incorporated in a tax haven for legitimate business purposes. CACI’s Tax Council took an oppose position on this bill based on the following concerns:

- The bill gave complete discretion to DOR to develop a black listing of countries without legislative review and approval. Other states abandoned black listing due to the damaging effects on a country’s reputation and the importance of maintaining strong trade relations and economic development opportunities with countries around the globe;
- The bill required a company to prove to the “satisfaction of DOR” that they are incorporated in a tax haven for legitimate business purposes, but failed to define a “legitimate business purpose” nor include criteria to be used. This gave a lack of certainty for taxpayers and unchecked discretion to DOR;
- The bill attempted to change 30 years of CO tax policy and the tax filing status of thousands of companies with no association to tax havens;
- The proponents also falsely accused multiple CO companies of hiding their money in tax havens while those companies are conducting legitimate business practices in other countries. Proponents also chose to target the same companies recruited by the CO Office of Economic Development and the Governor.

- CACI lobbied and testified against the bill along with Tax Council Chairwoman, Rhonda Sparlin; the World Trade Center; TerumoBCT and the Council on State Taxation. CACI partnered with a number of local organizations, companies and national organizations to successfully defeat this bill which died on a party line in the Senate State, Veterans & Military Affairs Committee.

**SB 67 Tax Exemption on Broadband Equipment (Sponsors: Sen. Scheffel & Rep. Williams)**

CACI Position: **Support**

Bill Status: Died in the House Committee on Finance on 5/10/16

- HB SB 67 as introduced would have created a property tax exemption for personal property used to provide broadband purchased on or after January 1, 2016. The bill was later amended to allow counties with a population of fewer than 60,000 to grant the exemption if the county has an agreement with a broadband service provider. Municipalities and school districts within the county would have 90 days to opt out of offering the exemption and it would apply to personal property purchased on or after January 1, 2017 with a sunset of the law in 2025. Despite the amendment, cities and counties continued to have concerns with the bill.
- CACI’s Tax Council took a support position on the bill which died in the House Committee on Finance on 5/10/16.

**SB 36 Surety Requirements on Tax Appeals (Sponsors: Sen. Neville & Rep. Kraft-Tharp)**

CACI Position: **Support**

Bill Status: Sent to Governor for signature

- SB 36 would repeal the requirements of filing a surety bond with the District Court or setting aside a savings account or deposit for the same amount when taxpayer seeks to appeal a final determination by the CO Department of Revenue or a local government to the District Court. The bill would only require the set aside of those funds if there is an appeal of a district court ruling;



- The bill passed in Senate but ran into problems in the House based on the fiscal impact on the bill of \$460,000 for FY 2016/17 and \$460,000 for FY 2017/18. The fiscal impact was prepared by the Department of Revenue and the Department of Judiciary which estimated that the bill would increase the number of tax disputes in District Court by 10 cases per year. The bill was amended in the House to include a reduction in the fiscal impact there by allowing the bill to move forward and pass on the final day of the session.

**SB 203 Evaluation of State Tax Expenditures (Sponsors: Rep. Hamner & Senator Lambert)**

**CACI Position: Neutral as Amended**

**Bill Status:** Sent to Governor for signature

- SB 203 directs the State Auditor to evaluate all state tax expenditures which were created starting in 1933. Tax expenditures are defined as tax-related provisions that reduce tax revenue. The evaluation would include:
  - the expenditure's purpose and its beneficiaries;
  - whether the expenditure is accomplishing its goal;
  - the economic costs and benefits of the expenditure;
  - comparison of similar expenditures in other states;
  - review of any other govt, nonprofit, or business programs that accomplish the same goals of the tax expenditure; and
  - any performance measures used to complete the evaluation.
- The bill requires the State Auditor to review each tax expenditure at least once every five years. The first evaluation is required to be posted on the General Assembly website by September 14, 2018;
- This is the third year that members of the General Assembly have introduced a tax expenditure review bill. With that in mind, and the possibility of seeing future bills on this same issue, CACI worked with a coalition of its members to amend the bill in a way that would make it palatable for taxpayers across the State. CACI and the coalition included language requiring the State Auditor to consult with industries in geographic areas across the State who receive the tax expenditures to ensure a fair assessment of the benefits the tax expenditures bring to the State. CACI also spent a great deal of time working with its members and proponents on language that protects taxpayer information that could be shared with the State Auditor by the Department of Revenue.

## Government Affairs Council

**HB 1136 Concerning At Least Two Crew on Freight Trains (Sponsors: Rep. Esgar & Sen. Garcia)**

**CACI Position: Oppose**

**Bill Status:** Died in Senate State, Veterans & Military Affairs Committee on 3/28/16

- HB 1136 would have required all freight trains to maintain at least two employees on board while trains are in motion, with fines for non-compliance to be overseen by the Public Utilities Commission. The fines provided in the bill were as follows:



- First offense: \$250 -\$1,000;
- second offense: \$1,000 - \$5,000, and;
- third offense: \$5,000 - \$10,000.

- CACI testified in opposition of the bill based on concerns that the bill creates interference in contracts between two parties. The bill was defeated in the Senate State, Veterans & Military Affairs Committee.

**HB 1227 Child Care Assistance (Reps. Kagan & DelGrosso, Sens. Crowder & Hill)**

**CACI Position: Support**

**Bill Status:** Sent to Governor for signature on 5/5/16

- Under existing law, to receive low-income childcare assistance, counties can require applicants that are not part of Colorado Works to cooperate with establishing child support and enforcement mechanisms. This bill creates child care exemptions for applicants who are victims of domestic violence, sexual assault, harassment or stalking. CACI took a support position on this bill based on members’ interests in giving individuals access to child care so that they are able to enter the workforce and not rely on government assistance.

**HB 1365 Seal of Biliteracy for High School Diplomas (Reps. Moreno & Wilson)**

**CACI Position: Support**

**Bill Status:** Died in in Senate State, Veterans & Military Affairs Committee on 5/6/16

- HB 1365 would have authorized a school district, Board of Cooperative Educational Services, or institute charter high school to grant a diploma endorsement in bi-literacy to a student who demonstrates proficiency in English and at least one foreign language. CACI’s Governmental Affairs Council took a support position on this bill based on its goal to provide employers an avenue for identifying individuals who achieved bi-literacy skills that could be used on the job. The bill died in Senate State, Veterans & Military Affairs Committee.

**HB 1403 Colorado Secure Savings Plan (Sponsors: Reps. Pettersen & Buckner; Sens. Todd & Donovan)**

**CACI Position: Oppose**

**Bill Status:** Died in House Finance Committee based on withdrawal of bill by sponsors on 5/5/16

- HB 1403 created a mandated retirement savings program on Colorado’s private sector employees and employers. The proponents and sponsors of the bill brought the bill based on the premise that not enough employers offer workers a retirement savings program. The bill would have applied to employers of 100+ employees for the Plan’s first year, 50+ employers for the second year and 5+ employees in the 3rd year of implementation. Employers would also have been subject to a \$250 per employee fine for missing enrollment deadlines;
- CACI opposed this legislation based on concerns that employers would have no say in the retirement savings plan selected or the implementing company for payroll deductions. Other concerns were that Colorado employers that do offer retirement plans for their workers do not see a 100% participation rate by their workers, so therefore, a state mandated retirement plan provides no guarantees of participation.





Finally, employers would be subject to the costs and administrative burden of enrolling and managing workers' participation in the state plan;

- Additionally, under the state's plan, employers may not match payroll deductions or make any contributions on behalf of employees. If employers did this, the state would have to accept Employee Retirement Income Security Act (ERISA) fiduciary liabilities, disqualifying the Plan from Department of Labor's newly-issued ERISA exemptions. CACI lobbied and testified against this bill which was withdrawn by the sponsors in the House Finance Committee based on lack of support from Republicans and Democrats on the committee.

**HB 1435 Low Wage Employer Corporate Responsibility Act (Sponsors: Reps. Duran & KC Becker, Sens. Kefalas & Ulibarri)**

CACI Position: **Oppose**

Bill Status: Died in Senate State, Veterans & Military Affairs on 5/10/16

- HB 1435 would have created a public benefits enterprise housed under the Department of Health Care and Public Financing. The fund would be funded through a fee on employers with 250 or more employees, who pay workers less than \$12 per hour and who qualify for government assistance programs. The premise behind the bill was to find additional funding to backfill State Medicaid funding needs;
- The bill allowed employers to receive a credit against the fee if they provide health care benefits to their workers. The fees set by the Board of the enterprise were a minimum of \$0.25 per hour worked, per employee and as much as \$1/hour worked/employee;
- The bill was introduced very late in Session and the sponsors claimed it was not a "messaging" bill, however, they admitted there were structural problems with the legislation. The bill passed on the second to last day of Session in the House and was killed in the Senate State, Veterans Affairs Committee the same day.

**SB 16 Modify Scientific & Cultural Facilities District (Sponsors: Sen. President Cadman & Speaker Hullinghorst)**

CACI Position: **Support**

Bill Status: Signed by Governor on 4/29/16

- The Scientific and Cultural Facilities District (SCFD) funds scientific and cultural facilities in a seven-county Denver metropolitan area. Under current law, the 0.1 percent sales and use tax funding the SCFD is scheduled to expire on June 30, 2018. The SCFD is allowed to submit a ballot question to district voters at the 2016 or 2017 November election authorizing the extension of the tax for 12 years through June 30, 2030;
- SB 16 amends the ballot question regarding the extension of scientific and cultural facilities districts and creates a sales and use tax of \$.00064, then \$.00057 after \$38 million is raised. A large coalition of business interests worked to pass the bill in time for the November election.



**SB 183 Clarify Portion of 911 Call / PUC Regulation (Sponsors: Sens. Scheffel & Kerr, Reps. Williams & Lawrence)**

**CACI Position:** Support

**Bill Status:** Sent to Governor for signature

- SB 183 was amended significantly during the second to last day of Session in the House Business Affairs and Labor Committee. The bill as amended creates a legislative Task Force on 911 services. Based on the language in the final version of the bill, the Task Force is directed to study the issues surrounding 911 services and make findings and recommendations for the improvement and deployment of 911 services in Colorado;
- The bill as introduced bill defined basic emergency service as the 911 call made by a basic emergency service provider to a public safety answering point, such as a 911 call center, regardless of the technology used to provide the service.

**SB 194 Regional Transportation Projects (Sponsors: Sens. Scheffel, Rep. Williams & Lawrence)**

**CACI Position:** Support

**Bill Status:** Died in House Committee on Finance on 5/10/16

- SB 194 creates a new method for local governments to fund transportation projects adjacent to development areas by creating an incremental state sales tax. This would have allowed local governments to complete projects in undeveloped or under-developed areas due to inadequate or incomplete transportation infrastructure;
- The bill provided that the CO Department of Transportation Director would have direct oversight and final authority in determining whether an incomplete transportation project is deserving of additional funding.

**SB 211 Concerning Contests to Specified Special District Elections (Sponsors: Sens. Cadman, Scheffel, Reps. Hullinghorst & Duran)**

**CACI Position:** Support

**Bill Status:** Sent to Governor for signature

- SB 211 was introduced based on a recent court case that changed years of legal precedent by questioning the method of qualifying electors able to vote to form a new metro district before individual landowners or residents are present. Because most districts used this method at formation elections, their outstanding bonds are in doubt and planned bond issues are on hold;
- SB 211 ensures that special district elections cannot be contested on grounds that any person voting at the election was not eligible. Under current law, contesters must file a written complaint within 10 days of results being certified and posted, plus pay a \$224 filing fee.

**SB 210 The Fix Colorado Roads Act (Sen. Baumgardner, Reps. DelGrosso & Priola)**

**CACI Position:** Support

**Bill Status:** Died in Senate State, Veterans & Military Affairs on 5/10/16

- This SB 210 would have put a question on the 2016 ballot to authorize \$3.5 billion in TRANS bonds for state transportation projects.



SB 210 would have also diverted 5% of state sales taxes toward state transportation priorities and included language directing the Treasurer to not make conditional transfers if TABOR refunds are to be distributed;

- TRAns bonds were used in 1999 to fund construction of the T-REX I-25 widening project, with final debt payments from T-REX coming due during fiscal year 2019 - 2020. Costs for a statewide ballot initiative, reimbursements to counties and printing of the “blue book” are projected to be \$3,070,000, but ballot costs are appropriated separately through the State Department Cash Fund.