

House Kills Bill Targeting Business Tax Credits and Exemptions for Review

May 4--The House today killed on Second Reading HB-1429, which would have required the House and Senate Finance Committees each year to jointly review specific business tax exemptions and credits and decide whether they should be continued, repealed, or modified.

The CACI Governmental Affairs Council had made this bill a priority for defeat. In addition, CACI thanks its members who contacted their legislators to urge opposition to this proposal.

The bill died on a “division” 32-to-26 vote during which, to be counted, members stand first in support of the bill and then the remainder stand in opposition. The minority-party Republicans unanimously voted against the bill. They were joined by the following majority-party Democrats: Sue Schafer (Wheat Ridge), Karen Middleton (Aurora), Christine Scanlan (Dillon), Joe Rice (Centennial) and Wes McKinley (Walsh). In addition, Kathleen Curry, the independent/unaffiliated member from Gunnison, opposed the bill. CACI thanks all of these lawmakers for their bipartisan opposition to HB-1429.

An attempt to revive HB-1429 also failed. In a technical procedure, an amendment to the “Committee of the Whole” report failed on a recorded 29-to-35 vote (one House member was excused). The amendment was offered by Representative Jack Pommer (D-Boulder). The minority-party Republicans unanimously voted against the amendment. They were joined by the following majority-party Democrats: Ed Casso (Commerce City), Buffie McFadyen (Pueblo West), Sue Schafer (Wheat Ridge), Karen Middleton (Aurora), Christine Scanlan (Dillon), Joe Rice (Centennial) and Wes McKinley (Walsh). In addition, Representative Curry opposed the amendment. CACI thanks all of these lawmakers for opposing the “COW amendment.”

Representative Cheri Gerou (R-Evergreen) spoke on behalf of the opponents to the bill during the first debate on the bill and then later during the debate on the COW amendment. She labeled the bill a “witch hunt” aimed at the business community.

The following Democratic legislators spoke at the microphone in support of the bill and the COW amendment: Lois Court (Denver), John Kefalas (Fort Collins) Jeanne Labuda (Denver), Jack Pommer (Boulder), Beth McCann (Denver), Debbie Benefield (D-Arvada), Joel Judd (Denver), Daniel Kagan (Denver) and Claire Levy (Boulder).

House Majority Leader Paul Weissmann (D-Louisville) sponsored HB-1429, which was introduced only last Wednesday. The House Finance Committee approved the bill Friday. The bill targeted the following business taxes: severance tax, gasoline and special fuel tax, alcohol beverage tax, sales-and-use tax and income tax. The bill would have required the two legislative committees to jointly conduct the review by focusing on the following five criteria:

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

- Whether the tax benefit is in the public interest.

One of CACI's main objections to the bill was the relative subjectiveness of the above five criteria, including the "public interest," "fairness," "known economic benefits," "accomplishing the purpose," and the amount of "lost" state and local government tax revenue.

The bill would have required the staff of the Legislative Council to conduct a study of each tax. The Joint Finance Committee could have recommended bills to repeal or modify "any tax benefit" without being subjected to any of the legislature's bill-introduction deadlines or limitations.

On Friday, April 30th, Loren Furman, CACI Vice President of Governmental Affairs, testified before the House Finance Committee against HB-1429; here's an edited version of her prepared testimony:

Back in November when Governor Bill Ritter proposed the elimination and suspension of the 13 tax credits, exemptions and exclusions, it was no secret that CACI members were angry.

We were told loud and clear by the Governor's Office and the majority-party legislative leadership, however, that the reason that these were being proposed for elimination or suspension was for only one purpose: to help balance the state budget.

In January, when the House Finance Committee held the hearings on those bills, hundreds of businesses came to testify and many of them were CACI members. They sat in this room for hours waiting for the opportunity to explain to the Committee members why these credits, exemptions and exclusions are important to the operation of their business. None of them got a chance to do that because they couldn't stay until 2:30 a.m. in the morning when the Committee ended testimony.

Those members included Evraz Rocky Mountain Steel from Pueblo, which is the only steel producing company in Colorado. A tax expert from the Ball Corporation in Boulder did not get to testify. Ball built the instruments on the Hubble Space Telescope in its Boulder manufacturing plant. Both business leaders came to this Committee to explain the importance of the energy exclusion, which is so critical to producing their products.

My point is that important companies in Colorado rely on tax credits, exemptions and exclusions. These companies contribute greatly to our state's economy.

These companies have now "shared in the sacrifice" and have helped balanced the state budget when the State was in critical need of more tax revenue dollars.

I understand Representative Weissmann's wish to find a way to determine whether or not these tax credits create tax-revenue benefits for the State. But I also am concerned about the true intent of this bill, which is no secret: to eliminate more business tax credits and exemptions.

When the Governor proposed the elimination of the original 13 credits, exemptions and exclusions, we asked for a more thorough analysis to be conducted by the Colorado Department of Revenue. We were told that that information was impossible to obtain. So, I am confused as to how we are able to obtain this information now.

This bill says that the Director of the Legislative Council shall pick the tax benefits to be reviewed and shall prepare a report on the fiscal impact of each tax benefit.

Since the Colorado legislature does not allow “dynamic (economic) modeling,” I would submit that getting information to meet the five factors in this bill would not only be methodologically challenging but also incredibly subjective.

Without dynamic modeling, I do not believe that the Legislative Council staff would be able to determine correctly the “economic benefits” relating to a tax benefit nor the “fairness of the tax benefit.” How would they determine whether or not the tax benefit is in the “public interest?”

In addition, companies rely on the predictability of a state’s tax system for their annual budgets and planning on investments. This bill removes that predictability.

In closing, I would argue that this bill not only targets specific industries unfairly in the first year, but that it also sends a loud and clear message that we don’t think these tax provisions are important for encouraging such companies as Evraz Rocky Mountain Steel and the Ball Corporation and other companies to invest and operate in Colorado.

For further information on HB-1249, contact Loren Furman, CACI Vice President of Governmental Affairs, at 303.866.8642 or via e-mail at lfurman@COchamber.com