

General Assembly

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HB 11-1118 (Enacted)
Public Highway Authority Performance Audits

The General Assembly discussed a number of topics relating to the operations of the state government's legislative branch during the 2011 legislative session. These topics included: State Capitol Building dome restoration; the authority of the Colorado Channel to broadcast legislative proceedings; changes to fiscal note analysis; the creation of interim committees; increased legislative oversight of various processes; changes to legislative staffing and administration; efforts to complete and influence the redistricting process for congressional districts following the 2010 Census; the regulation of lobbyists; and changes to the Office of the State Auditor's authority.

State Capitol Building Dome Restoration

House Bill 11-1310 continues efforts by the General Assembly to fund the repair and restoration of the State Capitol Building dome, transferring up to \$5.0 million from the State Historical Fund to the Capitol Dome Restoration Fund for FY 2013-14. This money will be reduced, dollar for dollar, by any funds in the Capitol Dome Restoration Trust Fund from fund-raising efforts on behalf of the State Capitol Dome Restoration Project, as well as from grants made by the State Historical Society for the project. The bill also allows for the calculation of the value of in-kind gifts and donations to reduce the transfer cost; extends the authorization for the fund-raising program through 2014; allows the Governor's Office of State Planning and Budgeting and the Capital Development Committee to approve emergency contingency expenditures for the project from the Capitol Dome Restoration Fund or the Capitol Dome Restoration Trust Fund; and allows any surplus money from the Capitol Dome Restoration Trust Fund to be repaid to the State Historical Fund at the end of the project.

Colorado Channel

Senate Bill 11-231 allows the Colorado Channel Authority to broadcast audio recordings of the General Assembly's proceedings via the Internet. Audio recordings the House and the Senate were previously maintained by the legislative staff and not archived by the Colorado Channel. The bill also clarifies that the authority board members who are appointed by legislative leadership must be current members of the General Assembly and represent a major political party.

Fiscal Notes

The General Assembly considered several ways to include additional analysis in fiscal notes, which currently report the fiscal impact on state and local government revenue and spending for every bill considered in the legislature. **House Bill 11-1239** requires the fiscal note for bills that create new crimes or change the penalties or elements of an existing crime to include the following information:

- a description of the elements of the new crime or the new, amended, or additional elements of an existing crime;
- an analysis of whether the new or amended crime can be charged under current law;
- a comparison between the proposed crime classification (and associated penalties) and other similar offenses; and
- an analysis of the current and anticipated future prevalence of the criminal behavior addressed by the bill.

House Bill 11-1277, a K-12 education omnibus bill, includes a requirement that whenever a bill is introduced that imposes a new mandate or requires an increase in service, each affected school district or Board of Cooperative Services has seven days following the bill's introduction to submit to Legislative Council Staff a brief summary of the fiscal impact. Any summary received by staff is to be provided in addition to the fiscal note for the bill.

House Bill 11-1078, which was postponed indefinitely, would have required that a "poverty impact statement" be prepared by Legislative Council Staff on legislative measures, upon request of the chair or ranking minority member of a committee of reference, when the legislative measure affected various issues such as education, job creation, work-support, and tax policies.

Senate Bill 11-116, which was also postponed indefinitely, would have required Legislative Council Staff to prepare business fiscal impact statements on all proposed legislation and all proposed rules of the executive branch. The bill would have allowed Colorado businesses to submit comments within a designated five-day period following the introduction of legislation or notification of a proposed rule, and staff would have summarized these comments in the fiscal note or forwarded them to the agency proposing the rule.

Interim Committees

In addition to the statutory committees meeting during the interim, the General Assembly approved the creation of three new committees to meet in the 2011 interim.

Senate Bill 11-111 creates an Educational Success Task Force in the Colorado Department of Education (CDE). The task force will study and review the relevant data, and make recommendations to education policy makers concerning strategies to prevent students from falling behind at important junctures in their academic careers. Members of the task force will be appointed jointly by the State Board of Education and the Colorado Commission on Higher Education and will include persons who have experience in intervention education services and remedial education as researchers, practitioners, and parents of students who have received or may receive such services. At a minimum, the task force is to include: education experts; parents of students enrolled in public schools; members of the Early Childhood Leadership Commission; elementary and secondary teachers from urban and rural school districts; representatives of urban and rural school districts; persons who assist students, including students with disabilities, in planning for postsecondary education; representatives from area vocational schools, junior colleges, two-year institutions, four-year institutions, and research universities; members of the business community; and representatives from bipartisan or nonpartisan education advocacy or research organizations. Additionally, the task force will include six legislators: three members of the Senate, two appointed by the President and one appointed by the Minority Leader, and three members of the House, two appointed by the Speaker and one appointed by the Minority Leader. Staff support for the task force will be provided by Legislative Council Staff and the Office of Legislative Legal Services, and may be provided by CDE and the Department of Higher Education as necessary and practicable within existing appropriations.

Senate Bill 11-133 creates a legislative task force to study and assess the interaction of school discipline practices with the juvenile justice system. The task force must include three members of the Senate, two appointed by the President and one appointed by the Minority Leader, and three members of the House, two appointed by the Speaker and one appointed by the Minority Leader. It

must also include up to ten non-voting members with experience and knowledge in the areas of school discipline and juvenile justice, selected jointly by the chair and vice chair of the task force. The task force must hold at least four public meetings. In addition to any testimony or written comments received, the task force must review any available, non-identifying state data collected by the Colorado Department of Education (CDE), school districts, or law enforcement agencies. The task force may also solicit information from national research organizations that have expertise in evidence-based practices for addressing school discipline issues. Staff support for this task force will be provided by Legislative Council Staff and the Office of Legislative Legal Services.

Senate Bill 11-200 creates the Colorado Health Benefit Exchange, a nonprofit organization that is an instrumentality of the state, which will establish and operate a competitive insurance marketplace in Colorado. The bill includes the formation of a ten-member Legislative Health Benefit Exchange Implementation Review Committee to guide implementation of the exchange, make recommendations, and carry legislation. Three members of the review committee will be appointed by the President of the Senate and two members will be appointed by the Senate Minority Leader. Two of the President's appointees and one of the Senate Minority Leader's appointees must be members of the Senate Health and Human Services Committee; the Business, Labor, and Technology Committee; or the Legislative Audit Committee. Each of the remaining Senate appointees are representatives of the Senate at-large. Three members of the committee will be appointed by the Speaker of the House and two members will be appointed by the House Minority Leader. Two of the Speaker's appointees and one of the House Minority Leader's appointees must be members of the House Health and Environment Committee, the Economic and Business Development Committee, or the Legislative Audit Committee. Each of the remaining House appointees are representatives of the House at-large. Staff support for the Legislative Health Benefit Exchange Implementation Review Committee will be provided by Legislative Council Staff and the Office of Legislative Legal Services. The committee must meet on or before August 1, 2011, and may meet up to five times per year thereafter to review the exchange's financial and operational plans and grant applications.

Legislative Oversight

Senate Bill 11-046, which was postponed indefinitely, would have required all bills, with some exceptions, to have an accountability clause, which under current law triggers a post-enactment review by the nonpartisan legislative services agencies. Inclusion of an accountability clause on a bill is currently optional, but when included, the clause must identify either a two-year or five-year review option. The bill would have eliminated the two-year option, so only five-year reviews would have been conducted. **Senate Bill 11-118**, which was postponed indefinitely, would have amended the General Assembly's annual rule review procedure to require review of each recently adopted rule, and approval or disapproval of each rule reviewed, by legislative committees of reference.

Legislative Staff and Administration

Legislative Council Staff prepares and publishes the ballot information booklet (Blue Book). **House Bill 11-1035** requires that each analysis in the Blue Book contain language about how the ballot measure was placed on the ballot and how the ballot title and text of the measure were drafted. For referred measures, the required statement will inform readers that the ballot title and text of the

measure were drafted by professional legal staff of the General Assembly and referred to voters by a vote of the General Assembly. For initiated measures, the statement will describe that the ballot title was drafted by professional staff of the Secretary of State, the Attorney General, and the General Assembly and that the text of the measure was drafted by the proponents of the initiative, who collected the required number of signatures to place the measure on the ballot.

Senate Joint Resolution 11-007 seeks to improve the efficiency of state government. In it, the General Assembly commits itself to conduct a review of the legislative branch and its offices and agencies, to include:

- incorporation of private sector organizational development best practices, such as lean government principles;
- increased and improved use of automation and information technology;
- simplification of current processes and infrastructure;
- streamlining of programs;
- a review of human resources methods and tools;
- the potential for implementing a shared services model of government;
- the potential for contracting with private sector businesses; and
- employee feedback and suggestions for improving efficiency.

Senate Joint Resolution 11-022 modifies the joint rules of the Senate and the House of Representatives regarding the creation of interim committees. The resolution incorporates the Legislative Council as the committee of reference on all bills that propose interim committees or allocate additional staff resources during the interim, and it provides deadlines for such bills. The resolution also clarifies the oversight responsibilities of committees of reference, requiring these committees to conduct hearings during the first 15 days of the legislative session to review the budgets of all departments that are within the subject-matter jurisdiction of each committee. Finally, the resolution makes several committee name changes and addresses committee oversight for the State Board of Land Commissioners and the Governor's Energy Office.

Senate Bill 11-181, which was postponed indefinitely, would have created the position of legislative statistician, tasked with:

- reviewing the statistical information proposed by the Office of the State Auditor (OSA);
- verifying whether reasonable efforts were taken by the OSA to apply the appropriate methodology and explain any deviations therefrom;
- certifying that the audit was conducted according to the appropriate statistical methodology as identified in the audit plan; and
- providing statistical support and training to all legislative service agencies.

The bill would have transferred 1.0 FTE from the OSA to the Legislative Council Staff to create this position. **Senate Joint Resolution 11-011**, which was also postponed indefinitely, would have allowed the Senate to exceed the maximum number of legislative aide hours allowed per Senator to the extent it had money available to do so. Under current law, the maximum number of legislative aide hours is 420 per Senator or Representative.

Redistricting

Pursuant to the U.S. and Colorado constitutions, the General Assembly is responsible for adjusting the boundaries of Colorado's congressional districts to balance population based on the 2010 Census. **Senate Bill 11-268**, which was deemed lost, and **House Bill 11-1319**, which was postponed indefinitely, proposed redistricting maps. Additionally, **House Bill 11-1276**, which was deemed lost, would have modified the statutory direction to the courts that must be used when determining the lawfulness of congressional districts or when adopting or enforcing changes to congressional districts. The bill would have repealed statutory direction enacted by the General Assembly in 2010 and restricted the use of "non-neutral" factors such as political party registration and electoral outcomes when evaluating congressional districts.

Regulation of Lobbyists

House Bill 11-1134, which was lost in the House, would have imposed restrictions on state government employment for persons within two years of being employed as a professional lobbyist. The restrictions would have applied to members of the Governor's cabinet, heads or deputy directors of state agencies, and those in the senior executive service. Specifically, these employees would have had to pledge not to work with clients or on matters related to their former employment, and would have been prohibited from working for state agencies that they previously lobbied. Affected employees would also have been prohibited from becoming professional lobbyists for two years after leaving government service.

Office of the State Auditor

Senate Joint Resolution 11-041 appointed Dianne E. Ray to the position of State Auditor, at the recommendation of the Legislative Audit Committee, for a five-year term beginning July 1, 2011.

The General Assembly also enacted bills giving additional authority to the Office of the State Auditor (OSA). **House Bill 11-1118** authorizes the OSA to conduct a performance audit, at the direction of the Legislative Audit Committee, of any public highway authority in the state. **Senate Bill 11-082** authorizes the OSA to conduct audits of security systems used for information technology maintained or administered by the state, including educational institutions, and the judicial and legislative branches. The OSA may conduct penetration or similar testing of computer networks or information systems in order to assess network or information system vulnerability and may contract with specialists to perform the required work.

Senate Bill 11-115 gives the OSA authority to conduct, or cause to be conducted, postaudits and performance postaudits of any state special purpose authority and any state entity designated as an enterprise as defined in the state constitution. Some authorities and entities of these types already have laws concerning audit review; however, the bill gives the auditor authority to audit all such authorities and entities, with the exception of any special purpose authority or state entity whose governing body includes the state auditor as an ex officio member, any hospital that is subject to audit under the "Colorado Medical Assistance Act" or Medicare, or any such entity that is subject to an audit by the federal government.