

## SESSION ENDS WITH GREAT SUCCESS ON MUNICIPAL ISSUES

### Affordable housing

The League supported HB 09-1138, which was intended to provide some clarification to the rent control statute in Title 38, Section 38-12-301, C.R.S., that prohibits municipalities from enacting rent control on private residential property. Specifically, this bill would have clarified that neither property subject to a deed restriction nor contractual agreements between a local government and a private party fall under the prohibition in the rent control statute.

With cases pending at the district court level, many municipalities, particularly in mountain communities where providing affordable/ workforce housing is critical, would like to see the rent control statute amended to make these clarifications. The legality of deed restrictions and contractual arrangements seems clear; however, apparently it is not clear to the property owners currently involved in litigation who claim the rent control statute prohibits agreements and/or deed restrictions. Statutory clarification would alleviate the local governments' involvement in, and expenditure of taxpayer's dollars on, needless litigation.

Unfortunately, HB 1138 failed to pass through the House Local Government Committee, and was postponed indefinitely on a 6-5 vote.

**Bill:** HB 09-1138, Clarification of rent control statute

**Sponsors:** Rep. Kathleen Curry, D-Gunnison; Sen. Gail Schwartz, D-Snowmass Village

**Status:** Postponed indefinitely

**Position:** Support

**Lobbyist:** Erin Goff

### Annexation

SB 09-142 would have required a municipality, when annexing property up to a right-of-way, to annex the entire right-of-way.

This bill was brought forward by Colorado Counties Inc. and was sponsored by Sen. Lois Tochtrop, D-Thornton. The League opposed the bill as an unreasonable requirement, considering that every annexation is different and should be dealt with on the local level.

SB 142 failed to pass through its first committee of reference early in the session. A similar bill introduced during the 2008 session also failed.

**Bill:** SB 09-142, Annexation of rights-of-way

**Sponsor:** Sen. Lois Tochtrop, D-Thornton

**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

### Budget

The budget process was unusual this year in light of the recession and the need for the legislature to cut money out of the FY 2008-09 budget along with cutting the FY 2009-10 budget. The result was more than 20 budget related bills in addition to the Long Appropriations Bill, SB 09-259.

The JBC initially proposed \$300 million in cuts to higher education to be backfilled with reserve dollars from Pinnacol Assurance, the state's workers compensation insurer of last resort that covers more than 60 percent of the market in Colorado. Two bills — SB 09-273 and SB 09-281 — would have accomplished this highly controversial proposal. Ultimately, Gov. Bill Ritter said he would not support the cuts to higher education and opposed the Pinnacol transfers, which sent the House and Senate into action. They ultimately made other cuts

and cash fund transfers to restore higher education's budget. SB 09-281 survived as a requirement that Pinnacol be audited during the interim.

While CML's members were largely spared the effects of the state's budget axe, there are impacts that will be felt at the local level. In SB 09-279, the General Assembly transferred nearly \$30 million in local governments' severance tax money away from Department of Local Affairs and the grant program that helps fund projects in impacted communities. The loss of those funds means projects that employ people and grow the economy will not get funded.

Also, local governments' share of the Highway Users Tax Fund will be impacted, but not as dramatically as first proposed. A portion of the driver's license renewal fee has always been transferred to the Highway Users Tax Fund, and municipalities share in that money. In SB 09-274, that portion of the fee is being diverted to operate the Driver's License Bureau. In total, the transfer is more than \$12 million; the hit to the municipal share of HUTF is just over \$3 million. CML worked with the Colorado Department of Transportation to amend SB 09-274 to make the transfer effective for only the current fiscal year and next year's budget. We want to protect this piece of the HUTF pie for future years.

One budget reduction bill will be familiar to some who remember the budget cuts from the 2003 session. SB 09-227 will delay the state's required annual \$25.3 million payment to the unfunded liability in the Fire & Police Pension Association's Old Hire plan until FY 2011-12, nearly identical to the action taken in 2003. The state will pay for any additional accrued unfunded liability, as well, but the delay also means the state is staring at more than \$80 million in final

### INSIDE STATEHOUSE REPORT

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payment in FY 2014-15. CML actually supported the bill because the JBC agreed to include language that will assist many local governments with some extra time to pay off the local share of unfunded liability. Some local governments may actually have new unfunded liability, thanks to the recession, and they will also benefit from the amendment allowing up to 20 years to pay off any unfunded liability.

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**Lobbyists:** Kevin Bommer, Mark Radtke

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## Business personal property tax

SB 09-85, which began as an immediate elimination of a significant revenue stream for local governments (the business personal property tax), morphed into a 40-year phased elimination, and finally became authorization to form a task force to study the issue.

The unfunded task force was approved to look at the issue of business personal property tax, and CML will have an automatic seat on the task force created in SB 09-85. The bill was approved on the final day of the session after taking its many forms following its introduction in January. BPPT makes up an average of 12 percent of the property tax collected by municipalities — but varies greatly based on the amount of commercial and industrial activity in community.

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**Bill:** SB 09-85, Business personal property tax

**Sponsors:** Sen. Mark Scheffel, R-Parker, Rep. Kent Lambert, R-Colorado Springs

**Status:** Before governor

**Position:** Formerly opposed

**Lobbyist:** Mark Radtke

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## Deposit of public funds

Reacting to a change in Federal Deposit Insurance Corporation rules, HB 09-1257 increases the limit on the deposit of public funds in a single certificate. The FDIC insured limit was increased from \$100,000 to \$250,000 and state law now tracks that new insurance limit.

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**Bill:** HB 09-1257, Public funds deposits & FDIC limit

**Sponsors:** Sen. Mark Scheffel, R-Parker; Rep. Christine Scanlan, D-Dillon

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Mark Radtke

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## Elections

### Mail-in ballots

This session saw consideration of a large number of election-related bills. Fortunately, most of this legislation was not harmful from a municipal point of view. A major reason for this was the robust involvement

of several county clerks, as well as the secretary of state, in managing this legislation. Election bills often attract a lot of ill-advised amendments, and management of these bills this session permitted far less monkey business than in past years.

The League supported HB 09-1216, after a CML-sponsored amendment was added to the bill which requires municipal clerks to provide “mail-in” ballots to municipal voters who have signed up with the county clerk as a “permanent mail-in voter.” This change was implemented after extensive consultation with our municipal clerks, through the Colorado Municipal Clerks Association. The League particularly recognizes and appreciates the help of Woodland Park Clerk Cindy Morse for her efforts serving as legislative liaison to CMCA.

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**Bill:** HB 09-1216, Election code revisions

**Sponsors:** Sen. Linda Newell, D-Littleton; Rep. Carole Murray, R-Castle Rock

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Geoff Wilson

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### FCPA filings

A late-session bill, HB 09-1357, centralizes the filing of Fair Campaign Practices Act reports with the secretary of state. The only exception to this is for FCPA filings in municipal elections; these continue to be filed with the municipal clerk. Certain technical issues prevent the inclusion of municipal filings in this central system; the League will be working with Colorado Municipal Clerks Association, the secretary of state's office and others, to determine whether these issues can be overcome in the months ahead.

HB 09-1153 sheds some additional light on conditions that trigger filing obligations incident to creation of an “issue committee” under the FCPA.

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**Bill:** HB 09-1357, Fair Campaign Practices Act filings

**Sponsors:** Rep. Ed Vigil, D-Fort Garland; Sen. Gail Schwartz, D-Snowmass Village

**Status:** Before governor

**Position:** Monitor

**Lobbyist:** Geoff Wilson

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### Miscellaneous election bills

Numerous other bills made various changes to the Uniform Election Code, the election code that the county clerks utilize for their elections, including municipal “coordinated elections.” A full rundown of these bills will appear in the League's soon-to-be released *2009 Laws Enacted Affecting Municipal Government*.

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**Lobbyist:** Geoff Wilson

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## Eminent domain

### Extraterritorial condemnation

HB 09-1258, introduced in the House by Rep. Bob Gardner, R-Colorado Springs, was postponed indefinitely by the House State Affairs Committee fairly early in the session. This bill purported to regulate the constitutionally authorized extraterritorial exercise of eminent domain by home rule municipalities.

In 2008, the Colorado Supreme Court decided the case of *Town of Telluride v. San Miguel Valley Corp.*, in which the court held that C.R.S. 38-1-101(4)(b) (that prohibits any municipality from acquiring by condemnation property located outside its territorial boundaries for the purpose of parks, recreation, open space, conservation, preservation of views or scenic vistas, or for similar purposes except where the municipality has obtained the consent of both the owner of the property and the governing body in which territorial boundaries the property is located) is an invalid abrogation of the eminent domain power granted to home rule municipalities by Article XX of the state constitution.

The legislative declarations in HB 1258 claimed that the legislation intended not to prohibit, but to set “reasonable restrictions” on the ability of a home rule municipality to condemn property extraterritorially. However, the terribly far-reaching “regulations” in the bill were tantamount to a prohibition, prompting the League's opposition to HB 1258.

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**Bill:** HB 09-1258, Eminent domain: Extraterritorial condemnation regulation

**Sponsors:** Rep. Bob Gardner, R-Colorado Springs; Sen. Shawn Mitchell, R-Broomfield

**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

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### 18-month suspension

A second eminent domain bill, SB 09-145, sponsored by Sen. Dave Shultheis, R-Colorado Springs, would have required an automatic 18-month suspension in all condemnation proceedings, statewide, by any public entity pursuing any condemnation (absent an imminent threat to health or safety). The League opposed this unreasonable and arbitrary restriction on the constitutionally authorized power of eminent domain. HB 145 was postponed indefinitely by the Senate state affairs committee very early in the session.

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**Bill:** SB 09-145, Eminent domain: 18-month suspension

**Sponsor:** Sen. Dave Shultheis, R-Colorado Springs

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**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

## Federal mineral lease and severance tax

### Good intentions for FML would have damaged coalition

In the 2008 session, SB 08-218 was the culmination of an effort that rewrote the manner in which FML revenue is distributed among the State, local governments and education. By being a supportive part of the coalition, CML was able to secure two huge victories in the high stakes negotiations over millions of dollars in revenue:

- Local governments were able to stave off attempts to dip into the historic cut of 40 percent of FML revenue designated to local governments.
- CML was able to dramatically increase the amount of FML money returned to municipalities within FML counties of origin than had previously been the case.

Rep. Randy Baumgardner, R-Hot Sulphur Springs, was able to convince the House Agriculture Committee to adopt a strike-below amendment to HB 09-1051 that would have scrapped the 18-month long coalition effort that led to SB 08-218. In spite of the apparent "windfall" to some municipalities and counties, CML continued to oppose HB 09-1051.

As amended, HB 1051 would have altered the terms of the agreement made by the coalition in 2008, by taking 10 percent off the top of all FML revenue and returning it to municipalities and counties in FML counties of origin. The effect on the distribution formula would have caused a nearly \$10 million annual reduction to higher education. The House Finance Committee agreed and defeated the legislation on a 9-1 vote.

Unfortunately, there may never be enough FML or severance tax revenue to deal with all of the impacts facing municipalities in oil, gas and mineral production areas.

However, CML was not willing to renege on the coalition agreement that led to SB 08-218 and more direct distribution for FML-impacted municipalities.

**Bill:** HB 09-1051, FML revenue for impacted local governments

**Sponsor:** Rep. Randy Baumgardner, R-Hot Sulphur Springs

**Status:** Postponed indefinitely

**Position:** Oppose

**Staff:** Kevin Bommer

## Bipartisan effort in Senate will provide local infrastructure funding

With the General Assembly poised to swipe more than \$20 million out of the Local Government Severance Tax Fund to backfill the state's budget, CML has been very concerned about energy-impacted communities' ability to deal with continuing infrastructure issues. SB 09-232 had been a potential vehicle to address that problem, but it included a complicated process for using local government FML bonus payment money being held in reserve to fund certificates of participation. CML maintained a neutral position on the bill while trying to help the sponsor change the bill to something CML could support.

The bipartisan efforts of Sen. Schwartz and Senate Minority Leader Josh Penry, R-Grand Junction, led to an amendment that will put \$17 million of that bonus payment money to work immediately for infrastructure projects. As amended, the bill takes bonus payment money not tied up in Roan Plateau lease objections and makes it available to FML municipalities and counties for infrastructure projects. The Department of Local Affairs Energy Impact Advisory Committee will make recommendations to the executive director in the same manner as standard energy impact assistance grants.

If ultimately enacted, CML will help distribute DOLA's guidance on application procedures and other details such as any matching requirements. It is believed that projects that are multijurisdictional and address significant infrastructure concerns in the areas most heavily impacted by the production of energy resources on federal mineral lands will be ranked the highest.

**Bill:** SB 09-232, FML-funded local infrastructure

**Sponsor:** Sen. Gail Schwartz, D-Snowmass Village; Rep. "Buffie" McFadyen, D-Pueblo West

**Status:** Before governor

**Position:** Support

**Staff:** Kevin Bommer

## Labor

### Governor asked to veto unconstitutional state-mandated collective bargaining

SB 09-180, state-mandated collective bargaining for firefighters, was readopted by the Senate after concurring with House amendments to the bill. Senate Republicans were joined by Sens. Moe Keller, D-Wheat Ridge, Jim Isgar, D-Hesperus, and Joyce Foster, D-Denver, in opposition to the bill. In the House, Reps. Joe Rice, D-Littleton, Debbie Benefield, D-Westminster, and Lois Court, D-Denver, voted with the Republicans against the bill.

## Your CML advocacy team:



**Kevin Bommer** advocates municipal interests on beer and liquor, severance tax and federal mineral lease, pensions, water and wastewater, workers compensation, health care, public safety communications, homeland security and more. [kbommer@cml.org](mailto:kbommer@cml.org)



**Erin Goff** advocates municipal interests on housing, immigration, criminal justice, urban renewal and tax increment financing, eminent domain, annexation, growth and other land use issues. [egoff@cml.org](mailto:egoff@cml.org)



**Mark Radtke** advocates municipal interests on transportation, energy, sustainability, tax and fiscal policy, and other issues of municipal interest concerning state legislation and regulations. [mradtke@cml.org](mailto:mradtke@cml.org)



**Geoff Wilson** advocates municipal interests on sales and use taxation, telecommunications, elections and environmental matters. [gwilson@cml.org](mailto:gwilson@cml.org)

## Important phone numbers

**General bill information**  
303-866-3055

**House**  
303-866-2904 or  
800-811-7647 (Jan.-May)

**Senate**  
303-866-2316 or  
888-473-8136 (Jan.-May)

**Legislative Council**  
303-866-3521

**Department of Local Affairs**  
303-866-2771

**Governor's Office**  
303-866-2471

**General Assembly Web site**  
[www.leg.state.co.us](http://www.leg.state.co.us)

## Statehouse Report

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The bill will head to the desk of Gov. Bill Ritter, who stated his opposition to SB 180 at the *CML Annual Legislative Workshop* in February and has not wavered from that position throughout the legislative session. Gov. Ritter will be asked by CML to continue to uphold the principles of home rule and local control with his veto of SB 180.

Joining CML with separate veto requests will be other organizations that were part of the coalition of opposition representing the many local government entities that stand to be impacted by SB 09-180 now, as well as if it were to be expanded in the future, as the proponents intend.

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**Bill:** SB 09-180, State-mandated collective bargaining for firefighters  
**Sponsor:** Sen. Lois Tochtrop, D-Thornton; Rep. Ed Casso, D-Commerce City  
**Status:** Before governor  
**Position:** Oppose  
**Staff:** Kevin Bommer

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### Prevailing wage doesn't prevail

Legislation was introduced this session that would have imposed federal Davis-Bacon wages on almost every public project in the state, including those at the local level that received any project funding from state grants and loans. CML opposed HB 09-1208, and Davis-Bacon's wasteful red tape that prevents local governments from stretching scarce tax dollars for public works projects. The bill lost on a 7-4 vote in House Business Affairs and Labor.

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**Bill:** HB 09-1208, Prevailing wage for public works projects  
**Sponsor:** Rep. John Soper, D-Thornton  
**Status:** Postponed indefinitely  
**Position:** Oppose  
**Staff:** Kevin Bommer

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### Land use planning: Military installations

HB 09-1201, sponsored by Rep. Jeanne Labuda, D-Denver, and Sen. Nancy Spence, R-Centennial, would have required each local government within a specified distance of certain military installations to amend its master plan and zoning regulations to ensure that future development affecting property in the zone is compatible with the high noise and accident potential generated by the operation of military installations. An amendment to the bill also would have authorized the attorney general to bring suit against a local government not in compliance with the requirements of HB 09-1201.

In Colorado, all of the military installations and local government representatives who testified on this bill agreed that they all work very well together and we currently have no encroachment concerns in the state. Nothing is more widely considered a matter of local concern than local land use planning. These municipalities understand the potential ramifications of allowing development to encroach onto military installations within their boundaries.

HB 1201 would have created an unfunded mandate on these local governments and constituted an infringement on local control in an attempt to solve a problem that simply does not exist in Colorado.

The League opposed HB 09-1201, which ultimately failed to pass through the House Local Government Committee and was postponed indefinitely.

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**Bill:** HB 09-1201, Military installations: land use planning  
**Sponsors:** Rep. Jeanne Labuda, D-Denver; Sen. Nancy Spence, R-Centennial  
**Status:** Postponed indefinitely  
**Position:** Oppose  
**Lobbyist:** Erin Goff

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### Meth task force extension

SB 09-231 extends the repeal of the State Methamphetamine Task Force from July 1, 2010, to July 1, 2014.

The task force began meeting in the summer of 2006 and is making great strides toward developing best practices for addressing the meth problem in Colorado. The League has a presence on this task force and supports its continued efforts.

This bill passed easily through both the House and the Senate, and was signed by the governor on April 20.

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**Bill:** SB 09-231, Extend state methamphetamine task force  
**Sponsors:** Sen. Josh Penry, R-Grand Junction; Rep. Judy Solano, D-Brighton  
**Status:** Signed by governor  
**Position:** Support  
**Lobbyist:** Erin Goff

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### Prompt pay

Another attempt by subcontractors to write favorable construction contract language into law was defeated with the loss of SB 09-95. The so-called "prompt pay" bill would have set payment schedules for subcontractors, written retention limits into statute and allowed subcontractors to walk off the job if payment schedules were not met. CML fought successfully to defeat the bill and retain the ability of all parties to

negotiate construction contract language that meets the needs of each project.

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**Bill:** SB 09-95, Construction contract prompt pay  
**Sponsors:** Sen. Abel Tapia, D-Pueblo; Rep. Jim Riesberg, D-Greeley  
**Status:** Postponed indefinitely  
**Position:** Oppose  
**Lobbyist:** Mark Radtke

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### Purchasing: E-procurement

SB 09-099 allows the Department of Personnel and Administration to establish an e-procurement system to help streamline state purchasing.

Local governments participating on state contracts help increase the volume and lower the cost for all entities using many state purchasing agreements; however, the loosely written language of the bill would have allowed the state to charge all the costs to vendors and local governments to pay for the entire system, regardless of whether or not local governments actually used the system.

CML secured language that would allow fees to be charged to local governments that use the e-procurement system.

Local purchasing officers and CML will revisit this issue in the interim, as this aspect of the state purchasing system needs to be discussed much more thoroughly.

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**Bill:** SB 09-099, State purchasing e-procurement system  
**Sponsors:** Sen. John Morse, D-Colorado Springs; Rep. Mark Ferrandino, D-Denver  
**Status:** Before governor  
**Position:** Monitor  
**Staff:** Kevin Bommer

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### Qualified immunity

The League supported two bills during the 2009 session that gave qualified immunity to certain individuals assisting in times of disaster or emergency.

#### Volunteer firefighters

The final version of SB 09-13 reflects negotiations and discussions with fire chiefs, volunteer firefighters, CML, and the Colorado Trial Lawyers Association. This bill will give qualified immunity to volunteer firefighters when they are assisting in an emergency or disaster, as well as to fire departments that donate equipment to other agencies. In the process of amending the bill, incident management teams will also receive qualified immunity, and it was clarified that the full provisions of the Governmental Immunity Act will always be construed to apply to any governmental entity but not to any non-governmental entity that would not otherwise be entitled to the acts protections.

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**Bill:** SB 09-013, Qualified immunity for firefighters

**Sponsors:** Sens. Dan Gibbs, D-Silverthorne, and Gail Schwartz, D-Snowmass Village; Reps. Claire Levy, D-Boulder and Steve King, R-Grand Junction

**Status:** Before governor

**Position:** Support

**Lobbyist:** Kevin Bommer

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### Building officials

A second bill, HB 09-1080, gives qualified immunity to building officials when they are assisting in an emergency or disaster situation. The bill went into effect immediately upon being signed by the governor on March 20.

The League supported HB 09-1080 throughout the process and appreciates the hard work of Rep. Don Marostica, R-Loveland and Sen. Suzanne Williams, D-Aurora, and the support of the majority of the legislature and the Governor in passing this important piece of legislation.

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**Bill:** HB 08-1080, Good Samaritan law – building officials

**Sponsors:** Rep. Don Marostica, R-Loveland; Sen. Suzanne Williams, D-Aurora

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Erin Goff

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## Sales and use tax

### Motor vehicle registration

Colorado municipalities are heavily dependent on sales and use tax revenues, and one of the most significant items to which taxes apply is automobiles. Consequently, legislation such as HB 09-1230, which proposed various changes to the way county clerks collect this tax incident to vehicle registration are of immense interest to the League. This bill was proposed by the Colorado Automobile Dealers Association. Although CML opposed HB 09-1230 as originally introduced, we worked closely with proponents, the county clerks, and the Department of Revenue to resolve our issues, and ended up dropping our opposition.

As approved by the General Assembly, the bill now implements a very limited “hold-harmless” concerning auto dealers in state-collected jurisdictions and directs the Transportation Legislative Review Committee to review various aspects of state address locator databases used to aid tax remittance.

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**Bill:** HB 09-1230, Motor vehicle registration  
**Sponsors:** Sen. Abel Tapia, D-Pueblo;

Rep. Ken Summers, R-Lakewood

**Status:** Signed by governor

**Position:** Monitor

**Lobbyist:** Geoff Wilson

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### Sales tax collection

The League supported HB 09-1101, a bill proposed by the Department of Revenue, that permits penalties against taxpayers who remit tax, but fail to accompany their remittance with a tax return. Some retailers have been sending large checks to the Department of Revenue without a tax return. This significantly complicates the department’s ability to distribute tax revenues to the appropriate local jurisdictions, so this bill really benefits state-collected municipalities in an important way.

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**Bill:** HB 09-1101, State sales tax collection requirements

**Sponsors:** Sen. Jennifer Veiga, D-Denver; Rep. Debbie Benefield, D-Arvada

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Geoff Wilson

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### Sales tax collection

County dissatisfaction with the Department of Revenue’s collection efforts on their behalf was behind introduction of HB 09-1130, a bill supported by Colorado Counties Inc.. As introduced, this legislation would have bifurcated collection of municipal sales taxes between the county and the DOR based on a novel classification of retailers, with no apparent benefit to municipalities.

No demonstration of competence by the county to actually perform this important revenue collection function was required under the bill. CML opposed the bill as introduced, but we dropped our opposition once the bill was amended to simply permit intergovernmental agreements between state-collected entities and the department to enhance collections. Indeed, the authority clarified by HB 09-1130 could well end up being beneficial to state-collected jurisdictions.

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**Bill:** HB 09-1130, Sales tax collection by county governments

**Sponsors:** Rep. Bob. Gardner, R-Colorado Springs; Sen. Jim Isgar, D-Hesperus

**Status:** Signed by governor

**Position:** Formerly opposed

**Lobbyist:** Geoff Wilson

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### Miscellaneous tax bills

Prompted by a recent Supreme Court decision, the waning days of the session saw introduction of a couple of bills aimed at eliminating sales tax exemptions. The court’s opinion implies that repeal of such exemptions may be accomplished without

a TABOR election. Consequently, bills removing the sales tax exemption for vending machine sales and cigarettes were introduced. At press time, the vending machine bill had been killed, and the cigarette exemption repeal was proceeding. We are watching these bills closely because they may lead to important litigation clarifying the authority of local governments in this regard.

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**Lobbyist:** Geoff Wilson

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## Sewer rates

Several sewage districts, with which the City of Littleton has “connection agreements” enabling these districts to connect to the city sewer plant, were upset about the way the City went about setting the connection charges that the districts pay to the City. The districts hired a lobbyist and got HB 09-1006 introduced.

The bill proposed to change the statute concerning extraterritorial municipal sewer rates, which presently require such rates to be “just, reasonable, and necessary.”

As it has with numerous bills like this over the years, CML urged that this quintessentially local dispute not be decided at the Capitol. Accordingly, and to his credit, bill sponsor Rep. Jim Kerr, R-Littleton, asked that HB 09-1006 be killed, upon a demonstration by the City that it was willing to provide more of an opportunity for the districts to express their views to the City directly.

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**Bill:** HB 09-1006, Sewer system rate users outside boundary

**Sponsors:** Rep. Jim Kerr, R-Littleton; Sen. Mike Kopp, R-Littleton

**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Geoff Wilson

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## Solar installation fees

This session witnessed a further attempt to usurp local authority over building permit fees. A statute adopted last year capped building permit fees for solar installations at \$500 for residential and \$1,000 for commercial. The League was successful in defeating SB 09-238 which would have redefined fees to “total compensation.” The bill would have allowed individuals to sue municipalities retroactively to the enactment of last year’s bill for failure to abide by the new definition.

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**Bill:** SB 09-238, Building fees for solar installation fees

**Sponsors:** Sen. Shawn Mitchell, R-Broomfield; Rep. Judy Solano, D-Brighton

**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Mark Radtke

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## Transportation: Funding

The first new revenue stream for the Highway User's Tax Fund in 18 years is now law.

A pair of vehicle registration fee surcharges were approved with the passage of SB 09-108. Local governments will share in the \$160 million road safety surcharge that is imposed beginning July 1. CML estimates this will add an additional \$26 million annually to the municipal share of the Highway Users Tax Fund — roughly a 26 percent increase in the monthly disbursement received by each city and town. SB 09-108 is the product of a two year effort by CML and its partners in the Governor's Blue Ribbon Panel on Transportation Financing. While this bill is a significant step forward, there remains much work ahead to meet current and future transportation funding needs.

SB 09-108 also gives local governments significant power over decisions to toll existing free traffic lanes. The League helped defeat HB 09-1187 that would have given carte blanche to the Colorado Department of Transportation to toll existing free lanes.

With SB 09-108 on the books, the League then had to fight losing the increase in HUTF that we had just gained. We were successful in limiting a transfer of HUTF dollars to support driver's license bureaus to a one-time event to meet the current budget crisis. We also managed to retain the 6 percent limit on annual diversions of HUTF for State Patrol and Ports of Entry originally repealed by SB 09-228. As passed, the bill eliminates the 6 percent cap only on general fund spending. This has the effect of halting the general fund transfers to CDOT known as Senate Bill 1 dollars. While municipalities don't share in those funds, the League worked with our partners to ensure at least five years worth of continued general fund transfers to CDOT.

HB 09-1034 expands the menu of available tax sources for Regional Transportation Authorities to include property tax. RTAs would have to gain voter approval to levy a property tax.

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**Bill:** HB 09-1034, FASTER

**Sponsors:** Sen. Dan Gibbs, D-Silverthorne; Rep. Joe Rice, D-Littleton

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Mark Radtke

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## Transportation: Neighborhood electric vehicles

The League worked closely on legislation aimed at sorting out what may travel on our streets and highways. SB 09-75 allows neighborhood electric vehicles on

roadways with speed limits of no greater than 35 miles per hour. NEVs would have to be registered and insured like a motor vehicle and be equipped with all standard vehicle safety equipment. NEVs would be allowed to cross roadways with speed limits greater than 35 mph. The bill also gives city councils and town boards the authority to permit the use of golf carts on city streets. Each municipality can write its own rules of the road if they decide to permit golf carts.

HB 09-1026 categorizes the varieties of motor scooters now on the roads and sets standards for their operation. This new law also authorizes city councils and town boards to allow Segway-like vehicles on public rights-of-way.

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**Bill:** SB 09-75, Neighborhood electric vehicles

**Sponsors:** Sen. Gail Schwartz, D-Snowmass Village; Rep. Don Marostica, R-Loveland

**Status:** Before governor

**Position:** Support

**Lobbyist:** Mark Radtke

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## Transportation: State highway turnback

With the first round of requests already in motion, the legislature approved the statutory language needed to implement the Maintenance Incentive Pilot Program. The League partnered with the Colorado Department of Transportation and Colorado Counties Inc. to develop this voluntary program that offers a one-time payment to municipalities to assume ownership of state highway segments.

SB 09-78 is the responsible method for shedding miles from the state system. CDOT has already started the MIPP process by soliciting applications from local governments to take control of state highways. In the first round of proposals \$39 million in requests were received from cities and counties. The Transportation Commission will approve \$20 million worth of transfers in June.

Meanwhile the League was successful in once again defeating a bill that would have dumped state highways onto local budgets. HB 09-1114 would have unilaterally transferred ownership of any state highway determined to carry primarily local or regional traffic to the appropriate municipal or county government — without compensation.

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**Bill:** SB 09-78, Voluntary state highway turnback

**Sponsors:** Rep. Linda Newell, D-Littleton; Rep. Joe Rice, D-Littleton

**Status:** Signed by governor

**Position:** Support

**Lobbyist:** Mark Radtke

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## Urban renewal/ Tax increment financing

The 2009 session saw a number of attacks on urban renewal and tax increment financing. The League was successful in holding off these attacks this year because the legislature determined that they just went too far. However, many legislators, along with the counties and various environmental interests, continue to believe there is a need for some level of urban renewal reform. As always, the League remains open to discussion during the interim on any reasonable concerns regarding urban renewal. Following is a description of the three urban renewal bills introduced during the 2009 session:

### Special districts exempt from TIF

HB 09-1013, sponsored by Rep. Jerry Sonnenberg, R-Sterling, would have required urban renewal authorities to forego the TIF revenue derived from the property tax levied by special districts that provide emergency services. This bill passed through the House local government committee but was ultimately defeated on Second Reading on the House floor. The League opposed HB 1013 as arbitrary and unnecessary, because the vast majority of these districts negotiate with and enter into agreements with the urban renewal authority, to the extent they are impacted by an urban renewal project.

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**Bill:** HB 109-1013, Special districts exempt from TIF

**Sponsor:** Rep. Jerry Sonnenberg, R-Sterling

**Status:** Postponed Indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

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### Agricultural land exclusion

HB 1070, sponsored by Rep. Randy Fischer, D-Fort Collins, would have prohibited the inclusion of agricultural land and vacant land (with some exceptions) in an urban renewal area. It also would have revised the blight definition by eliminating two of the criteria and amending two others. Additionally, it would have expanded the limited arbitration provisions currently in statute to enable any taxing entity located within an urban renewal area to take the urban renewal authority to arbitration to "enforce the requirements of" the urban renewal statute. This bill, as introduced, was far-reaching and would have had a deleterious effect on the ability of urban renewal authorities to redevelop slummed and/or blighted areas.

Rep. Fischer offered an amendment in committee to take out the onerous arbitration expansion and simply prohibit the inclusion of ag and vacant land in urban

renewal areas. Given more time to work on language, the League may have been able to drop its opposition to the bill, however, the definitions of ag and vacant land remained too broad and our opposition held strong. This is certainly the top issue up for discussion over the summer.

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**Bill:** HB 09-1070, Urban renewal statute changes

**Sponsor:** Rep. Randy Fischer, D-Fort Collins

**Status:** Postponed Indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

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#### **TIF allocation**

Last, but certainly not least, HB 09-1327 was introduced fairly late in the session by Rep. Dickey Lee Hullinghorst, D-Longmont. HB 1327 would have required urban renewal authorities to give 50 percent of the TIF revenue collected in an urban renewal area to the other taxing entities located within the urban renewal area (the county, special districts, and school districts). The bill also would have required URAs to make findings that they will cover any financial shortfalls that these taxing entities experience, for any reason, during the TIF period.

HB 09-1327 passed through the House Local Government Committee and the House Committee of the Whole, but ultimately failed to pass out of the Senate Local Government Committee, where it was postponed indefinitely on a 6-1 vote.

This bill would have been enormously detrimental to urban renewal authorities, crippling this important tool for redeveloping slummed and blighted areas and creating new jobs throughout the state.

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**Bill:** HB 09-1327, Urban renewal modification – TIF allocation

**Sponsors:** Rep. Dickey Lee Hullinghorst, D-Longmont; Sen. Lois Tochtrop, D-Thornton

**Status:** Postponed indefinitely

**Position:** Oppose

**Lobbyist:** Erin Goff

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#### **Water**

SB 09-165 utilizes an existing grant program in the Colorado Department of Public Health and Environment dedicated for small communities and establishes a funding mechanism that will only trigger in years of exceptional severance tax revenue. Specifically, SB 165 will create the “Small Communities Drinking Water and Wastewater Grant Fund” in statute. The fund will only be used for CDPHE grants made pursuant to its authority in statute. Income and interest derived by the fund will remain in the fund, and any unexpended

and unencumbered funds will remain in the fund and not credited to the general fund.

SB 165 will not cut into existing DNR funds and programs because the trigger for transfer will only be reached in years with exceptional severance tax revenue. In 2006-2008, \$90 million of local severance taxes were used to assist with mandated water and wastewater project costs (30 percent of all grants). The State of Colorado spent \$0. CML believes the local fund is doing its part, and it is good public policy for the State of Colorado to use some of its water money in exceptional severance tax years toward the state and local partnership for improved water quality.

When severance tax revenues return to exceptional levels, SB 165 will direct up to \$10 million to the grant fund, while DNR will be held harmless. There was no opposition to SB 09-165. The bill, signed into law on April 22, was supported by Colorado Counties Inc., the Colorado River Water Conservation District, Northwest Colorado Council of Governments, the Colorado Contractors Association, and environmental interests.

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**Bill:** SB 09-165, Small community water and wastewater grants

**Sponsors:** Sens. Jim Isgar, D-Hesperus, and Josh Penry, R-Grand Junction; Reps. Kathleen Curry, D-Gunnison and Cory Gardner, R-Yuma

**Status:** Signed by governor

**Position:** Support

**Staff:** Kevin Bommer

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# CML LEGISLATIVE BOX SCORE

2009 Regular Session

May 7, 2009

Subject

\* means with amendments

## SUPPORT

<b>SB 13</b>	<i>Firefighters – Good Samaritan law.</i> Gives qualified immunity to volunteer firefighters, as well as fire departments and other entities that donate surplus firefighting equipment. (Kevin Bommer)	Before Governor*
<b>SB 51</b>	<i>Renewable energy financing act.</i> Amends the “Colorado Clean Energy Finance Program Act.” (Geoff Wilson)	Signed by Governor*
<b>SB 64</b>	<i>Local inspections, plumbing and electric.</i> Revises requirements for plumbing and electrical inspections of school buildings. (Mark Radtke)	Postponed Indefinitely
<b>SB 75</b>	<i>Low-speed electric self-propelled vehicles.</i> Authorizes the operation of low speed electric vehicles on roads with a speed limit of 35 mph or less. (Mark Radtke)	Before Governor*
<b>SB 78</b>	<i>Devolve state highways to local governments.</i> Allows the transportation commission to determine that all or a portion of a state highway no longer functions in that capacity; allows agreement with local government abandon the highway to become a city street. (Mark Radtke)	Signed by Governor*
<b>SB 94</b>	<i>Transportation.</i> Creates transit and rail division in CDOT. (Mark Radtke)	Before Governor*
<b>SB 108</b>	<i>Transportation.</i> FASTER - Increases vehicle registration fee, imposes surcharges for transportation finance. (Mark Radtke)	Signed by Governor*
<b>SB 143</b>	<i>Photo radar.</i> Expands use of photo radar for traffic enforcement. (Mark Radtke)	Postponed Indefinitely
<b>SB 165</b>	<i>Water and wastewater.</i> Creates the small communities water and wastewater grand fund, to be funded by revenue that would otherwise be credited to the severance tax trust fund. (Kevin Bommer)	Signed by Governor*
<b>SB 227</b>	<i>FPPA.</i> Revises funding of FPPA old hire pension plans. (Kevin Bommer)	Signed by Governor*
<b>SB 231</b>	<i>State methamphetamine task force.</i> Extends the repeal of the state meth task force from 2010 to 2014. (Erin Goff)	Signed by Governor*
<b>SB 232</b>	<i>Infrastructure funding.</i> Provides for FML funding for local government infrastructure. (Kevin Bommer)	Before Governor*
<b>HB 1001</b>	<i>Income tax credit for job growth.</i> Establishes the Colorado job growth incentive tax credit. (Mark Radtke)	Signed by Governor*
<b>HB 1010</b>	<i>Film production tax credit.</i> Creates a tax credit for film production companies filming in Colorado. (Mark Radtke)	Before Governor*
<b>HB 1026</b>	<i>Low-power self propelled vehicles.</i> Defines and regulates various low-power self propelled vehicles. (Mark Radtke)	Before Governor*
<b>HB 1027</b>	<i>Yield to transit bus entering traffic.</i> Requires drivers to yield to transit buses entering traffic. (Mark Radtke)	Signed by Governor*
<b>HB 1034</b>	<i>RTA property tax.</i> Authorizes regional transportation authority property tax. (Mark Radtke)	Signed by Governor
<b>HB 1066</b>	<i>Division of Aeronautics.</i> Revises grant and funding procedures for the state aviation system grant program. (Mark Radtke)	Signed by Governor*
<b>HB 1080</b>	<i>Building code officials – Good Samaritan law.</i> Gives building code officials qualified immunity when volunteering during an emergency or disaster. (Erin Goff)	Signed by Governor*
<b>HB 1101</b>	<i>Sales tax collections requirements.</i> Specifies that delinquent retail vendors cannot retain amounts to cover collection/remittance expenses. Requires the Department of Revenue to take certain actions. (Geoff Wilson)	Signed by Governor*

<b>HB 1106</b>	<i>Codify pending ordinance doctrine.</i> Specifies that an application for development permit is subject to any law pending at the time the application is submitted. (Erin Goff)	Postponed Indefinitely
<b>HB 1119</b>	<i>Rural substance abuse grant program.</i> Establishes the rural alcohol and substance abuse grant program. (Erin Goff)	Before Governor*
<b>HB 1126</b>	<i>Encourage solar thermal installations.</i> Allows local governments to provide incentives for solar thermal installations. (Mark Radtke)	Before Governor*
<b>HB 1138</b>	<i>Affordable housing – rent control.</i> Clarifies that deed restrictions are not prohibited by the rent control statute. (Erin Goff)	Postponed Indefinitely
<b>HB 1149</b>	<i>Solar home prewire and consultation.</i> Requires homebuilders to offer buyers the option of having the home prewired for solar. (Mark Radtke)	Signed by Governor*
<b>HB 1216</b>	<i>Election code revisions.</i> Amends portions of the election code regarding voting by electors. (Geoff Wilson)	Signed by Governor*
<b>HB 1235</b>	<i>Neighborhood cleanup good Samaritan law.</i> Provides good Samaritan immunity for neighbors who abate nuisances on abandoned residential property. (Erin Goff)	Postponed Indefinitely
<b>HB 1257</b>	<i>Public funds deposits &amp; FDIC limit.</i> Clarifies that the limit of public funds invested in one certificate may not exceed the amount insured by the FDIC. (Mark Radtke)	Signed by Governor
<b>HB 1259</b>	<i>Impact fees.</i> Authorizes local governments to impose impact fees to finance capital facilities for schools and special districts. (Erin Goff)	Postponed Indefinitely
<b>HB 1326</b>	<i>Elections.</i> Changes requirements for citizen-initiated petitions. (Geoff Wilson)	Before Governor*

**OPPOSE**

<b>SB 63</b>	<i>Limit eminent domain railroads.</i> With limited exceptions, prohibits railroad corporations from using eminent domain. (Mark Radtke)	Postponed Indefinitely
<b>SB 74</b>	<i>Firearms.</i> Prohibits local government ordinances requiring safe-storage. (Erin Goff)	Postponed Indefinitely
<b>SB 83</b>	<i>Limits public resources political process.</i> Further restricts involvement of state or local government in candidate campaigns or ballot issues, referred measures, or recall elections. (Geoff Wilson)	Postponed Indefinitely
<b>SB 95</b>	<i>Construction contract prompt pay.</i> Directs the manner in which certain construction contracts are paid and administered. (Mark Radtke)	Postponed Indefinitely
<b>SB 142</b>	<i>Annexation of ROW.</i> Requires a municipality annexing property that adjoins a right-of-way, to annex the entire right-of-way. (Erin Goff)	Postponed Indefinitely
<b>SB 145</b>	<i>Eminent domain.</i> Requires that all condemnation proceedings be automatically suspended for 18 months. (Erin Goff)	Postponed Indefinitely
<b>SB 180</b>	<i>Labor.</i> Firefighter and law enforcement officer collective bargaining act. (Kevin Bommer)	Before Governor* CML requests veto
<b>SB 238</b>	<i>Building fees for solar devices.</i> Limits local government building fees applicable to the installation of active solar energy devices. (Mark Radtke)	Postponed Indefinitely
<b>HB 1006</b>	<i>Sewer system rate users outside boundary.</i> Restricts imposition of certain sewer rates by municipalities. (Geoff Wilson)	Postponed Indefinitely
<b>HB 1013</b>	<i>TIF – excludes emergency responders.</i> An exception to statutory requirements governing the collection of excess property tax revenue by URAs in connection with TIF for certain special districts that provide emergency services. (Erin Goff)	Postponed Indefinitely
<b>HB 1051</b>	<i>FML Preference for Transportation.</i> Requires DOLA to consult with the Transportation Commission and give funding preference to grants for transportation. Makes CDOT an eligible grant recipient. (Kevin Bommer)	Postponed Indefinitely

<b>HB 1070</b>	<i>Urban renewal.</i> Prohibits inclusion of ag or vacant land in urban renewal areas, amends blight definition and expands arbitration provisions. (Erin Goff)	Postponed Indefinitely
<b>HB 1114</b>	<i>State highway abandonment.</i> Requires certain segments of state highway to be transferred to local governments. (Mark Radtke)	Postponed Indefinitely
<b>HB 1187</b>	<i>Tolling.</i> Allows tolling of existing toll free highways. (Mark Radtke)	Postponed Indefinitely
<b>HB 1201</b>	<i>Land use planning – military installations.</i> Requires local governments to amend master plans and zoning regulations to address development around military installations. (Erin Goff)	Postponed Indefinitely
<b>HB 1208</b>	<i>Labor.</i> Requires payment of prevailing wage for public works. (Kevin Bommer)	Postponed Indefinitely
<b>HB 1258</b>	<i>Limitations on extraterritorial condemnation.</i> Regulates the use of extraterritorial condemnation by home rule municipalities. (Erin Goff)	Postponed Indefinitely
<b>HB 1327</b>	<i>Urban renewal.</i> Requires allocation of TIF revenues to other taxing entities. (Erin Goff)	Postponed Indefinitely

**FORMERLY OPPOSED**

<b>SB 85</b>	<i>Phase out business personal property tax.</i> Exempts a percentage of business personal property from property taxation. (Mark Radtke)	Before Governor*
<b>SB 228</b>	<i>Flexibility to use state revenues.</i> Eliminates the 6% limit on growth of general fund appropriations; also eliminates automatic transfer of surplus to HUTF and capital construction funds. (Mark Radtke)	Before Governor*
<b>HB 1130</b>	<i>Sales tax collection by county governments</i> Authorizes counties to collect, administer and enforce sales tax. (Geoff Wilson)	Signed by Governor*
<b>HB 1230</b>	<i>Motor vehicle registration.</i> Revises motor vehicle registration tax collection process. (Geoff Wilson)	Signed by Governor*