



**MEMORANDUM**  
**SEPTEMBER 28, 2018**

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**TO:** BOARD OF DIRECTORS

**FROM:** CHRIS TREESE  
ZANE KESSLER

**SUBJECT:** COLORADO STATE AFFAIRS

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**ACTION:** *None requested with this memo; action may be requested at the quarterly meeting based on interim committee actions.*

**STRATEGIC INITIATIVE(S):**

1. *A – E Outreach and Advocacy*  
*Others*

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This memo provides a review of the Water and Gallagher Interim Committees' actions and a brief outlook to the November ballot and the 2019 Colorado session. Zane will provide verbal updates (and perhaps last minute handouts) at the October quarterly meeting covering actions taken by the Gallagher Interim Committee this coming week.

**Water Interim Committee.**

The Water Resources Review Committee (Interim Water Committee) requested 10 bills be drafted for consideration. One was withdrawn from drafting, two were withdrawn from consideration before a vote. Only four bills received the required 2/3 vote to proceed as interim committee bills in the 2019 session. Zane witnessed the final vote and reports the outcomes as follows:

**Final Interim Water Resources Review Committee Bills**

**Bill 1** - Republican River Water Conservation District boundary adjustments – **Passed 7-3**

**Sponsors:** Arndt and Crowder

**Summary:** Bill 1 adjusts the boundary of the Republican WCD formed to address issues raised by the Republican River interstate lawsuit (well curtailments and costs of building a pipeline to deliver water). The bill will also address changing meeting dates of the board.

**Bill 2** - Severance Tax Operational Fund Distribution Methodology – **Passed Unanimously**

**Sponsors:** Donovan, Corum, Esgar, and Saine

**Summary:** Bill 2 includes two specific legislative requests: 1) increase the Tier 2 reserve requirement to 100% of a year's authorized expenses and 2) fund Tier 2 programs in arrears, after money has been received rather than based on projected severance tax revenue. This will avoid the problem of a "claw back" should revenues fail to materialize (as happened last year). Representative Rankin has indicated his willingness to champion a JBC bill in 2019 to provide the transitional funding necessary to implement Bill 2.

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**Bill 3 - Memorial for Arkansas Valley Conduit – Passed Unanimously**

**Sponsors:** Crowder and Esgar

**Summary:** Bill 3 is a Senate Joint Memorial urging Congress to fund the Arkansas Valley conduit as the final and promised piece of the Fryingpan-Arkansas Project. The conduit would provide safe drinking water supply directly from Pueblo Reservoir. The wells currently used by lower Ark Valley municipalities contain uranium in excess of EPA standards.

**Bill 4 - Reciprocity Requirement to Accept Out-of-State Radioactive Waste – Failed 5-4**

**Bill 5 - Corps of Engineers to Dredge Lower Arkansas River – Passed 7-3**

**Sponsors:** Crowder, Corum, and Esgar, Catlin

**Summary:** Bill 5 is also a Senate Joint Memorial requesting the Army Corps of Engineers dredge a portion of the Lower Arkansas River from below the Fort Lyons diversion to the John Martin Reservoir to improve channel flow and reduce flooding.

**Bill 6 - Protect Water Quality Adverse Mining Impacts – Withdrawn**

**Bill 7 – Authorizing CWCB-approved Deficit Irrigation Pilot Projects – Failed 6-3**

**Bill 9 - No Waiver Sovereign Immunity for Prescribed Fires – Failed 2-8**

**Bill 10 - Healthy Soil Task Force – Withdrawn**

Remember that “interim committee bills” do not receive any special status or process expedition in the regular session. The only “advantage” of an interim bill is to the bill’s sponsor in that interim committee bills do not count against a sponsor’s limitation on the number of bills to be introduced. Also keep in mind that bills considered by an interim committee that were either withdraw before final consideration or failed to achieve interim committee support can be introduced without limitation.

We are not requesting the Board take positions on the bills that will proceed as interim committee bills. There will be time during the 2019 regular session.

**Gallagher Interim Committee**

The special Interim Committee to Address Gallagher Amendment Alternatives met for three months, including meetings in Glenwood and Pueblo. The committee requested eight bills for drafting. Recall that one of these bills was revenue protection for the Colorado River District and two other water conservation districts. With the Board’s confirmation at your September meeting—and consensus of the other two districts - I requested this bill be withdrawn. Representative Rankin agreed and a draft was not submitted.

Unlike the Water Interim Committee, the Gallagher Interim only requires a simple majority vote for proposed legislation to receive approval and proceed as an interim committee bill in the 2019 session. The following is a brief summary of each of the bills scheduled for final committee

consideration on Wednesday, October 3. We will provide an update at the Board meeting regarding which bills, if any, will proceed as interim committee legislation.

**Bill 1** is a straight up repeal of Gallagher and is arguably the “cleanest” and most straight forward. Bill 1 would refer the proposed repeal to the voters as a referred constitutional question. As such, it will require 2/3 affirmative vote from each house to reach the ballot. As a repeal of existing constitutional language, it would require a simple majority statewide (not 55% per the Raise the Bar amendment). However, since Bill 1 doesn’t include any replacement language (see Bill 7), it will likely have a difficult time achieving majority support unless “packaged” with planned replacement language for Gallagher, which will also likely require voter approval. And even if it passed out as an interim bill, it will have a very difficult time reaching the required 2/3 support of each house.

**Bill 2** would change the classification of residences (or portions of residences) rented as short-term rentals (e.g., VRBOs and AirBnBs) from residential to commercial for property tax assessment purposes. Legislative Council staff estimates that this change would result in essentially no change to the residential assessment ratio (RAR) in 2019 (currently projected to decline 15%). Short-term is defined as rented or available for rent for a term of less than 30 days. Bill 2 also has the advantage of being a legislative “fix” to Gallagher, not requiring voter approval. I believe Bill 2 holds the most promise, both for the River District and statewide. I do not, however, suggest it has a rosier outlook for passage in the full legislature.

**Bill 3** is the bill setting the 2019-20 RAR. Bill 2, however, leaves blank the RAR number. Bill 2 essentially a placeholder for RAR figure-setting.

**Bill 4** provides state-funded “back fill” for fire protections districts whose residential property tax declines by at least 5% due to the change in RAR. Districts would receive from the state 95% of their reduced property tax revenues. Bill 4 only applies to the effects of the 2019 RAR reductions.

**Bill 5** provides an identical “back fill” of reduced property taxes for library districts. Bill 5 also applies only to the effects of the 2019 RAR reductions.

**Bill 7** offers a “replacement” program for the Gallagher Amendment if repealed by the voters (Bill 1). It creates eight regions in the state with individual RARs. Under Bill 7, the constitutional 45/55 ratio between residential and non-residential assessment is maintained, but RARs would be calculated in each region to maintain the 45/55 ratio within the region. The River District would include four of the state’s regions. It is nearly impossible at this time to project what impact Bill 7 would have on the District’s budget. We would still be subject to all TABOR limitations; therefore, the one safe projection is Bill 7 would not help the District’s finances in any way.

**Bill 8** combines the provisions of Bills 4 and 5, providing the same “backfill” mechanism for both fire protection and library districts in one bill.

As with the bills receiving support from the interim water committee, we are not requesting adoption of formal positions at this time. As always, policy direction and priorities are welcome input.

**November Elections:**

The stakes are high in next month's elections. Control (majority party) of both houses of Congress and at least Colorado's Senate are at stake. I won't make any predictions but will note that the District's legislative activities will be shaped significantly. Regardless of outcome, we expect we will be busy in 2019 with both water-related issues and a larger than historical number of freshman legislators in both Denver and D.C.

**November ballot questions:**

In addition to statewide and local office elections, there are 13 statewide questions on the November ballot (and numerous local questions). The Board considered the statewide questions at its September 13 special meeting in Grand Junction. At that time, you unanimously adopted separate positions in opposition to Amendment 74 and Proposition 112. Your final resolutions in opposition to each are attached.

**Budget:**

The state's experts think the current fiscal year that began July 1 could grow by an extra 2.5 percent or \$303.2 million. That growth includes \$44 million from the collection of state sales tax from online retailers.

Analysts also expect the budget that takes effect in July 2019 to grow by \$390 million or 3.1%. The extra revenue will push well beyond the spending cap that triggers refunds under Colorado's Taxpayer's Bill of Rights for FY19/20. TABOR refunds are not expected under the current fiscal year because "excess revenues" will first go toward senior citizen and military property tax relief.