

In Re: Hickenlooper v. Coffman
2015 SA 296

Attorney General's Brief Addressing Jurisdictional Questions

Exhibit I



Colorado's Governor Is Not Thrilled With His Own Budget Proposal

By Rachel Estabrook

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When it comes to Colorado's state budget, a fee that hospitals pay in order to serve poor clients is related to school funding and road improvements, at least as far as Gov. John Hickenlooper is concerned.

His new budget proposal aims to fill a \$373 million gap between what the state will owe and what it will bring in starting in July 2016. To do that, he proposed cutting funding for higher education, as well as some state-financed construction projects, and dipping into a reserve fund for K-12 schools.

"The money's got to come from somewhere," Hickenlooper said Monday. The cuts have to be made because even though the state is doing well financially, it's running up against the so-called TABOR limit -- a requirement in the Taxpayer Bill of Rights that if the state takes in a certain amount of money, it must return some to citizens instead of keeping it in state coffers.

And the state is hitting that limit because the Hospital Provider Fee, which hospitals pay in order to get reimbursements from the federal government to serve low-income patients, is bringing in more money than anticipated, Hickenlooper says.

The governor has proposed removing the fee from the TABOR calculations. That proposal did not get traction in the legislature last session, though the governor is still trying to build support for it.

Critics don't want to reduce the amount of money taxpayers get through refunds, and some Republican lawmakers think the fee itself is an unconstitutional tax and should be eliminated.

Besides the state budget, Hickenlooper also discussed the state's health insurance exchange; the governor's effort to limit the attorney general's power to pursue lawsuits on behalf of the state; and Hickenlooper's recent international trade trip. Click the "listen" above to hear his conversation with Colorado Matters host Ryan Warner. Read edited highlights below.

Hickenlooper on his suggestion that Colorado colleges and universities get more freedom to raise tuition, which could be necessary if his budget passes:

"I'm not sure it is better [for students]. One of our prime issues we're trying to address is the inflation of tuition costs at all the state schools, just as in every part of the country, we've seen that run away. But... money ends up having to be refunded back to voters [because of the Taxpayer Bill of Rights], and if you refund that money, you can't give it to universities and you can't limit the growth of tuition... The money's got to come from somewhere [to meet the state's budget obligations]."

On the financial sustainability of the health insurance exchange Connect for Health Colorado:

"I'm cautiously optimistic that it will be able to support itself. We're always looking at, in case it doesn't, do we have a fallback? What's our alternative? Can we use the federal exchange as a backup? But if we can make it work doing everything locally, I think we're better off. So we're going to push pretty hard to try to make sure it's self-sustaining..."

The first couple years were very bumpy. I think over the last six months we've had the first sustained period where it appears the website is working much more efficiently, people aren't having as many struggles to get enrolled online. I mean it's actually working."

On his petition to the state Supreme Court to review Attorney General Cynthia Coffman's authority to sue over the federal Clean Power Plan:

"I think the way the system's meant, was designed, is that the governor and the attorney general should be consulting together on legal issues facing the state. But ultimately, the attorney general needs a client, and I think the governor was intended to be that voice, to speak for the agencies, the departments, to speak for the people. And I think if the attorney general and the governor don't agree, my reading and [that of] the lawyers in our office is that this was intended ultimately to be the governor's decision."

Note: CPR News requested an interview with Attorney General Coffman, but her spokesman declined while the Clean Power Plan issue is pending before the Colorado Supreme Court.

<http://www.cpr.org/news/story/colorados-governor-not-thrilled-his-own-budget-proposal>