



72<sup>nd</sup> General Assembly

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## EXECUTIVE SUMMARY

The 2019 General Assembly began with great anticipation for the newly installed Democratic majorities, 41-24 in the House and 19-16 in the Senate. A half decade of repressed desire to tighten business regulation, expand access to health care and raise environmental standards awaited realization. Progressives in the caucuses felt that their time to set the Democratic agenda had come. In the early weeks of the session, there seemed to be little to stop the realization of their goals. Health care proposals included a pilot for a public option, authority for the insurance commissioner to set provider reimbursements, caps on charges for prescription drugs and authority to import drugs from Canada. Business regulation would have required paid family leave, public advertising of all job openings. In addition, there were bills proposing local rent control and local minimum wage authority. The centerpiece environmental bill gave complete authority over most of the economy to the Air Quality Control Commission to reduce greenhouse gases by 90% by turn 2050.

It is difficult to pinpoint when the atmosphere changed and moderation set in but by the end of the session, the tide had turned and an openness to compromise, amendment and even killing of the most radical bills manifested itself. In short order, the abolition of the death penalty died, aggressive changes to the sex education agenda stalled in committee, and members demanded study of the massive family leave proposal before implementation. That led to the success of Senate Republicans at selective filibustering of Democratic bills and finding Democratic allies who did not share all of the priorities of their progressive colleagues. In addition, Democrats began to chafe under the demands of the Progressive new Democratic Governor, Jared Polis. The Governor was able to secure passage and funding of his highest priority, Full-Day Kindergarten, a \$175 million item. But, late in the session the Governor lost another priority on a decisive Senate vote. HB1333 would have raised tobacco and e-cigarette taxes dramatically to finance a variety of health and education programs. Widely supported and heavily lobbied, the bill passed the House but numerous Democratic Senators joined Republicans in dealing a stunning floor defeat at the end of the session signaling their independence.

## STATE BUDGET

This year's budget totaled \$30.5 billion dollars and was signed into [law](#) by Governor Jared Polis on his 100<sup>th</sup> day in office. The budget includes \$175 million for Full-Day Kindergarten, \$100 million buy-down of the budget stabilization factor, a \$300 million boost for transportation, a 3% raise for state employees, and a 13% increase for state institutions of higher education with a commitment to keep tuition increases flat.

The Governor's insistence on funding Full-Day Kindergarten this session displaced many legislative spending priorities. During the budget process the Joint Budget Committee was forced to reduce set-asides for many Departments and Agencies due to the broad based commitment to Full-Day Kindergarten. The constitutional mandate to balance the budget can act as a constriction on legislative ambitions even when revenues are relatively lavish. That constriction combined with a highly engaged Governor with strong budget priorities left minimal resources for the legislators to put towards their individual priorities.

The \$300 million for transportation was a small commitment addressing a huge transportation shortfall and was a compromise with Republicans who are champions for increased transportation spending.

## K-12 EDUCATION

A bipartisan majority of the legislature passed the hallmark education policy item of Governor Jared Polis's agenda, funding for Full-Day Kindergarten, in the final days of the session. [HB19-1262](#), sponsored by Representatives Barbara McLachlan (Durango – D) and Jim Wilson (Salida – R) and Senators Rhonda Fields (Aurora – D) and Jeff Bridges (Greenwood Village – D), will provide \$175 million in additional funding to school districts and charter schools who choose to provide Full-Day Kindergarten.

Great strides were made in addressing funding for K-12 with a substantial dedication of \$100 million toward reducing the Budget Stabilization Factor, the mechanism designed by the legislature to cut funding to K-12 during the Great Recession. In addition to the \$100 million buy-down of the Budget Stabilization Factor, the legislature committed an additional \$22 million to fund Tier B Special Education students, \$20 million in one-time dollars for rural schools, and \$7 million to the Charter School Institute Mill Levy Equalization Fund, through the annual School Finance Act, [SB19-246](#).

[HB19-1190](#), sponsored by newly appointed legislator Cathy Kipp (Ft. Collins – D), was the sole anti-charter school bill introduced this session. If passed the bill would have eliminated the CSI Mill Levy Equity Fund. The Fund was first established in 2017 after the passage of HB17-1375 in order to address the unique inequity that exists for Charter School Institute schools who are by their nature unable to access locally raised dollars as they are authorized by the Charter School Institute within the Department of Education. HB19-1190 died in the House Education Committee on a strong bipartisan vote of 12-1.

In an effort to address the capital needs plaguing the state's public schools, Rep. Shannon Bird (Westminster – D) and Senator Rachel Zenzinger (Arvada – D) introduced [HB19-1055](#). The bill provides an influx of cash to the Building Excellent Schools Today (BEST) program over the next two years from the BEST Reserve to allow for additional cash grants to districts and schools to address their capital needs. It will also increase the amount of retail marijuana excise tax revenue that is credited to the public school capital construction assistance fund, increase the maximum total amount of annual lease payments payable by the state for financial assistance provided under the terms of lease-purchase agreements, more precisely tying the total amount of financial assistance provided to charter schools to the number of students enrolled in charter schools and provides over \$25 million to help districts with their capital needs associated with the implementation of Full-Day Kindergarten and expanded Pre-K through [HB19-1262](#). The bill also includes a one-time appropriation to the Charter School Capital Assistance Fund to account for an error made by the Department of Education this year that would have required a "claw-

back” of \$4.25 million for charter schools. The bill passed through both chambers and will soon be signed into law.

K-3 Literacy was another prominent theme with education this session. In January, the Joint Budget Committee Staff expressed major concerns in the state’s early literacy program created through the passage of the READ Act in 2012. The concerns led one of the Joint Budget Committee members, Senator Bob Rankin (Carbondale – R), to initiate an update to the law. He enlisted the support of the Chair of the Senate Education Committee, Nancy Todd, to introduce a bill to improve the READ Act. The bill, [SB19-199](#), was amended significantly from its introduced version to incorporate feedback from school districts, advocates, and the Department of Education. The bill includes increased accountability for districts using READ Act funds, additional dollars for the Early Literacy Grant program, continued appropriation for the per pupil intervention dollars to implement the READ Act requirements, and new requirements for teacher training for K-3 teachers.

[HB19-1161](#), the Comprehensive Physical Education Pilot, sponsored by Representatives Janet Buckner (Aurora – D) and Jim Wilson, and Senators Nancy Todd and Kevin Priola (Henderson – R), faced an up-hill battle this session. The battle was not due to policy but rather finances. Legislators from both sides of the aisle recognized the need for the program and the state’s lack of prioritization of physical education in schools. Physical education teachers, advocates, and the bill sponsors worked hard to press the issue with the legislature and in the end were successful in passing HB19-1161 which will provide resources to grantee schools who will apply to the Department with their plan to implement the program as articulated in the statute. In the final days of the session the bill was amended into the school Finance Act due to concerns over the backlog of bills in the Senate. The School Finance Act passed with the inclusion of the Comprehensive PE Pilot.

[HB19-1032](#), Comprehensive Human Sexuality Education, drew hundreds of witnesses to the capitol from across the state and evoked thousands of emails and calls made to their offices, mainly in opposition, to the bill intended to update the state’s comprehensive sex education requirements. Proponents lauded the bills attempt to clear up inconsistencies in implementation of the current law which in some cases meant that schools were teaching abstinence only education. Proponents also spoke passionately to new requirements for teaching students about consent. Opponents were critical of what they view as an infringement on parental rights and responsibilities with sensitive topics such as sex education, what does and does not constitute consent, and all FDA contraceptive methods as a part of the likely curriculum. The bill stalled for a month in the Senate. On the second to last day of the legislative session after facing mounting pressure the bill sponsors and proponents offered a strike-below amendment to the bill and significantly amended the proposal. One of the

compromises included the allowance of charter school waivers from the updated policy. The bill passed quietly on the last day of the session.

One of the most controversial topics in education, The Great Teachers and Leaders law, SB10-191, was once again a major point of contention this session. The Colorado Education Association (CEA) worked with Senator Tammy Story (Jefferson County – D) on several iterations of a bill that would have made substantial changes to current law. The introduced version, [SB19-247](#), aimed to change the percentage of student growth measures used in an educator’s evaluation. Current law state’s that 50% of an educator’s evaluation must be based on multiple measures of student growth while the other 50% is focused on an educator’s qualitative measures of their professional practice. SB19-247 would have changed the percentage dedicated to student growth measures from 50% to 30%. The bill would have also set up a commission to review certain aspects of the law and make recommendations for future changes. The bill was laid over in its first Committee and died on the calendar.

After several years of defeats, the advocates for [HB19-1194](#), a bill to limit a public school’s ability to suspend or expel children ages preschool through second grade, were successful. The bill faced little opposition in a Democratic controlled legislature and it is hoped it will curb the rates of suspensions and expulsions of male children of color in particular.

## ENERGY

Notwithstanding the defeat of Proposition 112 by the voters in November, the new Democratic majority felt compelled to respond to the concerns of their constituents about oil and gas development and its consequences to support passage of [SB19-181](#) regulating the operations of the oil and gas industry. The centerpieces of the bill were an increase in local government authority to regulate operations and a change in the membership of the Oil and Gas Commission, once heavily weighted toward industry representatives and now mostly representatives of land owners and environmental interests. Under current law the duty of the Oil and Gas Commission was to promote development and growth in the industry. SB19-181 removes that focus.

[HB19-1261](#) might be the most consequential bill of the legislative session. It will empower the Air Quality Control Commission to take essentially whatever steps it believes necessary to reduce greenhouse gas emissions by 50% by 2030 and 90% by 2050 on a 2005 baseline. This plenary authority to regulate utilities, manufacturing, mobile sources and agriculture can only be removed or diminished by subsequent legislation. It is a dramatic commitment to attacking the problems of climate change.

The Public Utilities Commission like most executive branch agencies is subject to periodic sunset review and renewal by action of the General Assembly. This year, [SB19-236](#), was the vehicle for extension of the Commission. Proponents of stricter environmental regulation amended the bill to include giving the Commission authority to do resource planning for electricity generating utilities and to expand its general environmental approach.

[HB19-1313](#) is a companion bill to HB19-1261. The most salient element of the bill was the provision committing Xcel Energy to reducing their carbon emissions by 80% by 2030 and 100% by 2050 in return for flexibility in meeting those goal. Ultimately HB19-1313 was amended onto SB19-236, the PUC sunset which passed on the final day of the session.



## HEALTHCARE

One of the most important ways that the healthcare delivery system improves quality and increases patient safety is by professional review. This is the process by which medical professionals critically analyze the quality of their care delivery, either in response to an accident or concern about the manner of care delivery. In Colorado professional review is subject to periodic sunset review. In 2019, the vehicle for extension of professional review was [SB19-234](#). Universally supported by the healthcare community and by the Department of Regulatory Agencies, peer review has never been well received by trial lawyers. After extended negotiations and the intervention of the Senate President, a strong supporter, the bill passed the Senate. With the assistance of the Senate President and the House Majority Leader, a compromise was struck between the healthcare community and the Colorado Trial Lawyers Association. The bill then passed the House on the 119<sup>th</sup> day of the session.

The West Slope of Colorado has among the highest health insurance premium rates in the country. For several years the legislature has grappled with this problem which is aggravated by the relatively small number of providers of some healthcare services with whom insurers can contract. As a result, all too frequently insured patients who take care to have procedures done in in-network facilities or who are unfortunate enough to end up in an emergency room are surprised by wildly excessive out-of-network bills by providers whom they never planned to be treated by. This problem is not exclusive to the Western Slope, even though it may be more acute there. [HB19-1174](#), sponsored by Rep. Daneya Esgar (Pueblo – D) and Senators Brittany Pettersen (Lakewood – D) and Bob Gardner (Colorado Springs – R) was passed over the bitter opposition of the Medical Society and sets caps on charges that out-of-network providers can require health plans to pay. The bill was chiefly authored by the Colorado Consumer Health Initiative and supported broadly by the health plans. It is hoped that it will result in lowering health insurance premiums and preventing surprise medical bills from being sent to patients.

In response to a growing concern among providers and patients about what can sometimes be a cumbersome prior-authorization process Representatives Dafna Michaelson-Jenet (Commerce City – D) and Yadira Caraveo (Adams County – D) introduced [HB19-1211](#) to update and improve prior-authorization requirements. As introduced, the bill had numerous problems that created consternation amongst the health plans. Prior-authorization is a utilization management tool used by health plans to ensure that the patient avoids low-value and high-cost care that may be unnecessary. The sponsors worked diligently with stakeholders to amend the bill to an acceptable place for all interested parties. The bill passed both chambers and awaits the Governor's signature.

A perennial issue before the General Assembly is the Any Willing Pharmacy bill, [HB19-1154](#), the retail pharmacists attempt to prohibit health insurance companies from encouraging the use of mail-delivery or network pharmacies. It was the same debate that has been held annually for decades and the result was the same. The bill was defeated in its first committee.

[HB19-1168](#), sponsored by Rep. Julie McCluskie (Summit County – D), is an attempt to address the outrageous costs of health insurance on the individual market and in particular on the Western Slope. As introduced the bill would have set up a state Reinsurance Pool financed in part by federal matching funds anticipated through a 1332 waiver. The bill would have also empowered the Insurance Commissioner to set rates for hospitals and doctors to charge patients in the individual market in order to reach a benchmark, 35% reduction on the West Slope. The bill faced numerous challenges with especially strong opposition from the hospitals who agreed to pay \$500 million over the next five years in exchange for removing the Commissioner's rate-setting authority. Ultimately, the entire funding scheme failed because federal law restricted the amount that the hospitals could pay for their portion of the program from the hospital provider fee. In a last-ditch effort to find the funding for the reinsurance program the Governor's office worked with legislative leadership in the House on alternative revenue sources.

In addressing concerns about health insurance rates on the Western Slope a variety of approaches manifested themselves in legislation. One approach was in [SB19-004](#) which as introduced would have established a very small public option pilot program in Eagle County. From the onset the bill faced numerous challenges, one basic challenge being whether or not the program was even possible. Ultimately, proponents settled for a revival of the dormant legislation enabling the establishment of a cooperative to reduce purchasing costs for health insurance. The companion legislation, [HB19-1004](#), will provide for a study of a public option for health insurance coverage presumably to compete with the private sector in hopes of reducing health insurance premiums. After the completion of the study that shall be delivered to the committees of reference within the General Assembly, the Department is authorized to seek a 1332 waiver to effectuate the policy recommendations.

[HB19-1320](#) began as a bill to increase hospital reporting and accountability to their communities and to the state. The most important provision was one calling for the establishment of community benefit boards to which non-profit hospital boards would have to report a wide range of information and plans for future development. That provision was stricken and in the end the bill passed with a requirement for posting of data on a new website.

[HB19-1296](#) a bill intended to reduce the cost of prescription drugs and require more transparency in the market died on the calendar in the final days of session. As introduced, the bill contained multiple problematic provisions including drug specific and client specific rebate

reporting received from the manufacturer, including other fees, to the Division of Insurance (DOI); drug specific and client specific reporting of the rebates retained to the DOI; pharmacy spread reporting for specific drugs and clients to the DOI, separately identifying reimbursements and dispensing fees; the identification of proprietary information was up to the DOI to determine what information was proprietary; DIR fee section without exceptions for FWA or criminal activity, and mandated pass through language in a way that could not be implemented as it was the higher of 51% of the rebate or an amount that ensures that a patient was not paying more than 125% of the cost to acquire the medication. The bill was vigorously opposed by the pharmaceutical, health insurance, and business communities and died on the calendar in the final week of session.

## HIGHER EDUCATION

In an incredibly difficult budget year, the Colorado institutions of higher education successfully lobbied the legislature to increase the state's investment by 13%. In exchange for the 13% increase the institutions agreed to keep tuition flat, representing a win for both the institutions and students. During the intense debate on the Long Bill a deal was made between the Senate Democrats and their Republican colleagues to significantly increase the appropriation for transportation. The increase for transportation put the increase for higher education in jeopardy. The higher education community rallied to impress upon legislators on both sides of the aisle the importance of holding higher education steady at the 13% increase. In the end, the efforts of the higher education community were successful and the transportation dollars were identified through other sources of revenue.

Criminal justice reform and the movement to "Ban the Box" on job applications has picked up steam across the country and made strides in Colorado this session. [SB19-170](#), sponsored by Senators Robert Rodriguez (Denver – D) and Jack Tate (Centennial R) and Representatives Leslie Herod (Denver – D) and Matt Soper (Grand Junction – R), referred to by many as "Beyond the Box" focused on inquiry into a college applicant's nonacademic conduct prior to admission at a Colorado institution. The bill aimed to limit the ability of an institution of higher education to look into the criminal history or disciplinary history at a prior institution of an applicant. The bill was heavily amended after significant lobbying to allow institutions the opportunity to look into an applicant's prior convictions for stalking, sexual assault, and domestic violence; an applicant's prior convictions within five years before submitting the application, for assault, kidnapping, voluntary manslaughter, or murder; an applicant's prior disciplinary history at another academic institution for stalking, sexual assault, and domestic violence; any criminal charges pending against the applicant, and an applicant's educational records related to academic performance. The changes made to the bill were critical to the majority of higher education institutions in the state.

Quality educator preparation and the state's teacher shortage were once again a hot-topic with legislators wanting to take major steps towards addressing both. [SB19-190](#), sponsored by three former teachers, Senators Nancy Todd (Aurora – D) and Bob Rankin (Carbondale – R) and Representatives Barbara McLachlan (Durango – D) and Jim Wilson (Salida – R) aims to increase the collaboration between the institutions of higher education and the Deans of Higher Education and the Department of Higher Education by bringing all parties together to review research and best practices in order to make recommendations to improve the state's educator preparation programs. The recommendations will come in the form of new guidelines to assist educator preparation programs in adopting and implementing best practices, including best practices to ensure that all teacher candidates have the necessary training to be able to teach

the state's student population to read. The bill also creates a new Teacher Mentor Grant Program. The goal of the program is to provide grant funds to eligible Local Education Providers and Educator Preparation Programs to provide training and stipends for teachers who serve as mentors to student-teachers working on their clinical practice. The bill was amended significantly from its introduced version and easily passed both chambers.

The passage of [SB19-007](#) represents the culmination of years of work by sexual assault prevention advocates, institutions of higher education, and Senator Faith Winter (Westminster – D). Joining Senator Winter in this effort were Senator Brittany Pettersen (Lakewood – D) and Representatives Barbara McLachlan (Durango – D) and Janet Buckner (Aurora – D). The bill requires institutions of higher education to adopt a sexual misconduct policy for enrolled students. The bill also sets up a process that must be followed in the event of sexual misconduct violation. Throughout the legislative session institutions worked with the bill sponsors to amend the introduced legislation to do among other things, allow flexibility for state institutions if the forthcoming changes to federal law on this topic conflict with the state law set up in SB19-007 and threaten federal funds for institution if the federal law is not followed. This change, among others, was a necessary amendment for institutions. After the bill was amended in the Senate Education Committee and on the Senate floor it moved quickly through the process and passed both chambers. It now awaits the Governor's signature.

## PROPERTY AND CASUALTY INSURANCE

[SB19-090](#) was a bill dealing with a new model for the new economy, car sharing. As with all such advances it requires adjustment in insurance policy. For insurers, the bill presented many issues including maintaining carrier choice of insuring car sharing arrangements, timing of coverage between driver and owner of vehicle and minimum coverages. In addition, navigating the concerns of others, including trial lawyers, challenged insurance advocates. Ultimately, the bill passed in a form acceptable to insurers.

[SB19-217](#) was a proposal built on a state law that limits the information juries may receive about medical damages in a personal injury lawsuit. The bill would have facilitated the expansion of medical lien companies which buy the rights to medical damages in return for paying for care for personal injury plaintiffs. Strongly opposed by the insurance and business communities the bill died on the calendar on the last day of session after almost dying multiple times before.

[SB19-109](#) by Senator Fenberg (Boulder – D) and Representative Garnett (Denver – D) increased the non-economic damage cap on tort actions to reflect inflation since 2007, the 1st time there was an increase. The increase applied to all torts except medical liability actions. The new cap is almost \$600,000.

[SB19-012](#) was a proposal by Senator Court (Denver – D) and Representative Melton to expand the scope of the ban on the use of mobile devices while driving. It would have applied to drivers of all ages, expanded prohibited devices, and increased penalties. It quickly ran into trouble with civil rights groups including the ACLU over profiling concerns. It struggled through the Senate before being killed in a House Committee.

[SB19-237](#) by Senator Robert Rodriguez (Denver – D) was a proposal to increase damages under the consumer protection act and facilitate class action suits. It died on the last day of the legislative session.

## YOUTH DEVELOPMENT

Colorado's youth and their needs played a prominent role this session. From bills intended to curb the rise of teen vaping usage in Colorado, to a referred measure increasing the tobacco tax and closing the tax loophole on vaping, to a youth opioid prevention grant program, the legislature made issues impacting youth a priority.

The legislature voted to increase funds for the Tony Grampsas Youth Services (TGYS) Grant Program through the Long Bill, [SB19-207](#), after a successful amendment was offered in the House by the members of the Black and Latino Caucuses. During the floor debate in the House, several members spoke to the benefit of quality after-school programming, as provided through the Boys and Girls Clubs, YMCA, etc. The amendment was overwhelmingly adopted by a bipartisan collection of lawmakers. The legislature increased funds for the grant program by \$360,000 this session. The increase in funds is significant because of the pressure on the state's fiscal situation and the lack of funding received in many other key program areas. The TGYS Grant Program provides funding to local organizations for prevention, intervention, and education programs for children, youth, and their families designed to prevent youth crime and violence, youth marijuana use and child abuse and neglect.

The state's growing opioid crisis and the argument over what if any resources should be put towards youth prevention efforts once again came down to the final days of session. As introduced, [SB19-228](#), sponsored by Senators Winter and Moreno and Representatives Singer (Longmont – D) and Buentello (Pueblo – D), contained a provision creating a Youth Opioid Prevention Grant Program targeted at youth in geographic locations with high risk factors contributing to substance abuse combined with limited access to treatment. In the final days of the session, the sponsors of the bill amended several sections in order to reduce the fiscal note and keep the bill alive. The Youth Opioid Prevention Grant program survived the budget cuts and \$500,000 was appropriated to the fund. The \$500,000 represents the first investment made by the state focused solely on youth opioid prevention efforts.

On April 24<sup>th</sup>, with 10 days left to go in the session, [HB19-1333](#) concerning a Cigarette Tobacco and Nicotine Products Tax was introduced. Governor Polis introduced the legislation in a press conference flanked with public health advocates, the Boys and Girls Clubs, education leaders and healthcare professionals. The bill's prime sponsors are Rep. Yadira Caraveo (Adams County – D) and Sen. Rhonda Fields (Aurora – D) addressed their desire to curb the teen vaping rates in Colorado as the state leads the rest of the country in teen vaping. If passed the bill would have referred a ballot issue for voter approval to the November 2019 ballot to increase cigarette tax by eight and seventy-five one-hundredths cents per cigarette and the tobacco products tax by twenty-two percent of the manufacturer's list price; creating a tax on nicotine products that is

equal to sixty-two percent of the manufacturer's list price. The proceeds of the tax would be split between behavioral health services for children and youth, healthcare affordability and accessibility, the Colorado Preschool Program expansion and enhancement, and the newly created expanded learning opportunities program. The new expanded learning opportunities program would create a new agency within the Department of Education that would be administered by a non-profit organization to approve providers who would work directly with families to provide expanded learning opportunities to children ages 3-21 with a keen focus on low-income children and enhancing their access to quality out-of-school learning experiences. The bill passed the House on a vote of 34-31 on Wednesday morning of the final week of session. Late Wednesday evening the bill passed the Senate Finance Committee on a party-line vote only to be killed late Thursday night in dramatic fashion when a division vote was called less than a minute in to the second-reading of the bill on the Senate floor.

[HB19-1052](#) sponsored by Senators Bob Rankin (Carbondale – R) Jeff Bridges (Greenwood Village – D) and Representatives Janice Rich (Grand Junction – R) and Julie McCluskie (Summit County – D) authorized the creation of early childhood development service districts to provide services for children from birth through 8 years of age. Early childhood development services are defined to include early care and educational, health, mental health, and developmental services, including prevention and intervention. Districts are authorized to seek voter approval to levy property taxes and sales and use taxes in the district to generate revenues to provide early childhood development services. The district must be organized pursuant to the "Special District Act" as modified by the bill. The bill easily passed both chambers.