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The 2017 Legislative Session Summary: Bipartisan Compromise, a Precious Commodity

By

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and

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If there are only two words--one an adjective, one a noun--to describe the first regular session of the 71st General Assembly, it's two words that have been rarely used in recent years on contentious legislative issues: "bipartisan compromise." Perhaps the two most important reasons for the fragile sprouting of bipartisan compromise this session were:

1. 2017 is not an election year, following a very polarizing 2016 political year;
2. Leadership by Senate President Kevin Grantham (R-Canon City) and House Speaker Crisanta Duran (D-Denver) exhibited a willingness to work together to address the State's most pressing problems.

For CACI and the statewide business community that it represents, the three top issues for the 2017 session were:

- Transportation funding;
- Regulatory reform; and
- Construction-litigation reform.

During this session, and in the last several legislative sessions, CACI and the business community have been thankful for the balance of power in the General Assembly and have played defense against many anti-business "messaging" bills. This year CACI and the business community saw significant progress on major challenges facing the State such as increased funding for transportation infrastructure and construction-litigation reform. Such progress on these issues had not always been reached in previous legislative sessions.

CACI's Legislative Agenda:

Beyond the Big Three business issues, there were many more [bills](#) which CACI lobbied to pass, amend or defeat, that ranged from taxation and energy and environment to employment law and health-care. Providing guidance and advice to CACI's veteran lobbying team was the CACI Board of Directors and members who serve on CACI's five Councils, which met monthly during the session:

- Energy and Environment
- Governmental Affairs
- HealthCare
- Labor and Employment
- Tax



Partisan politics continued to play a role in the General Assembly in which power is split between the Democrat-controlled House and the Republican-controlled Senate. In each chamber, the two caucuses sought to advance their traditional legislative agendas, which should surprise no one. Energy, climate change, charter schools, school finance, health-care, Medicaid, marijuana and guns, for example, were staples once again of partisan legislative debate.

Playing to segments of their bases, both political parties engaged in annual, to-be-expected “messaging bills,” which would pass one chamber on a party-line vote only to die in the other chamber, usually in the “kill committee.” Notably, members of the House Democrat Caucus annually launch a salvo of messaging bills aimed at businesses, which CACI strongly opposed.

Top Accomplishments:

Despite political differences between parties and within the four caucuses, two important bills were passed by the legislature through bi-partisan compromise:

- SB-267, the rural sustainability bill, and
- HB-1279, the construction-litigation reform bill.

Rural Sustainability:

[SB-267](#) was co-sponsored by [Senator Lucia Guzman \(D-Denver\)](#), [Senate President Pro Tempore Jerry Sonnenberg \(R-Sterling\)](#), [House Majority Leader KC Becker \(D-Boulder\)](#) and [Representative Jon Becker \(R-Fort Morgan\)](#).

Debate in both chambers highlighted the political compromise, which was one of the most complex bills the legislature has considered in recent years other than the annual budget known as the Long Bill and the annual K-12 school finance bill. In the Senate, 17 Democrats and 8 Republicans passed the bill on a 25-to-10 vote, while 37 House Democrats were joined by 12 Republicans to pass the bill in the House.

Conversion of the hospital provider fee into a state enterprise was the driving engine for the complex bill. Without the conversion, hospitals across the state, especially those that serve low-income patients, including Medicaid patients, face a total funding cut of \$528 million. The pending cuts to small rural hospitals especially alarmed rural Republican legislators.

Another major reason for CACI’s support of the bill is that it will provide almost \$2 billion for transportation. Granted, the outstanding list of transportation projects, according to the Colorado Department of Transportation, is \$9 billion. But, with the demise of the bipartisan transportation funding bill, HB-1242, SB-267 became the vehicle by which a significant amount of money would be dedicated to transportation. The issue of transportation funding will likely re-emerge since Colorado voters could face ballot initiatives on this issue in November.

SB-267 covers a wide range of policies, revenue and spending provisions:

- Protects hospitals and other medical facilities from funding cuts totaling \$528 million,
- Creates a “state enterprise” for the hospital provider fee,
- Increases spending on State capital maintenance,
- Generates \$2 billion by mortgaging state buildings,
- Provides \$1.8 billion for transportation infrastructure,
- Reins in Medicaid spending by increasing some co-pays,
- Provides businesses with business personal property tax relief,

- Increases funding for rural K-12 education and the State Education Fund,
- Increases recreational marijuana taxes,
- Encourages state agencies in future years to cut spending by 2 percent, and
- Lowers the Taxpayers' Bill of Rights (TABOR) revenue cap by \$200 million.

Construction-Litigation Reform:

In April, as various bills seeking to address the issue died or languished, it seemed that, once again, the General Assembly would be stalemated for the fifth year in a row on how to ignite construction of townhomes and condominiums across Colorado. Late on the night of April 18th, however, bipartisan sponsors and organizations on both sides of the issue reached agreement in HB-1279 that balances the interests of builders with units' owners. Consequently, the signature achievement of the General Assembly on the thorny issue of construction-litigation reform was [HB-1279](#) which passed in the Senate on a [33-0 vote](#) and a [64-1](#) vote in the House.

Key provisions of the compromise include:

- A majority of homeowners—instead of a majority of a homeowner association board—must vote to approve filing a lawsuit against a developer over alleged construction defects;
- Extending the statute of limitations by 90 days during the voting period for homeowners to discover and report alleged defects before unit owners proceed with a vote on whether or not to pursue a lawsuit against the builder;
- Reducing the types of unit owners who can participate in the vote; Detailing more specifically the process for the election on whether or not to pursue a lawsuit, including informing homeowners of the pros and cons of a lawsuit.

Five other bills concerning construction-litigation reform died this session which included:

- [HB-1169](#), "Construction Defect Litigation Builder's Right to Repair"
- [SB-45](#), "Construction Defect Claim Allocation of Defense Costs,"
- [SB-155](#), "Statutory Definition of Construction Defect"
- [SB-156](#), "Homeowners' Association Construction Defect Lawsuit Approval Timelines,"
- [SB-157](#), "Construction Defect Actions Notice Vote Approval"

Transportation Infrastructure Funding:

Key pieces of legislation that CACI strongly supported and lobbied addressed transportation funding and regulatory reform but failed to pass in both chambers during the session.

HB 1242, a major transportation funding bill, died in the Senate Finance Committee. CACI and the business community had hoped the measure would at long last tackle the state's woefully underfunded system of roads and bridges that, according to the Colorado Department of Transportation (CDOT), needs \$9 billion to bring it up to snuff. The bill was the product of more 6 months of negotiations among Senate President Grantham, House Speaker Duran and a large coalition of interest groups. The Senate prime co-sponsors of the bill were Senate President Grantham and [Senator Randy Baumgardner \(R-Hot Sulfur Springs\)](#), and House prime sponsors were Speaker Duran and [Representative Diane Mitsch-Bush \(D-Steamboat Springs\)](#).

HB-1242 was intended to create a stable, 20-year plan for transportation funding by increasing the state sales tax by 0.5 percent to 3.4 percent, and issue \$3.5 billion in bonds to fund transportation projects. In general, many Republican lawmakers opposed increasing the state sales tax for long-term transportation funding without commensurate cuts to state spending that would direct funds

to transportation. Repeated efforts in both chambers to institute such cuts during debate on the Long Bill, the state's budget measure, were rejected.

Regulatory Reform Fails 8 Years in a Row:

For the eighth year in a row, the legislature failed to pass a bill addressing regulatory reform. Partisan politics played a significant role in the debate, and several political players resisted efforts to provide businesses, especially small companies, with regulatory relief. Of the Big Three issues, this was the one with the least amount of compromise.

First, a Republican regulatory reform bill, [SB-1](#), which had bipartisan support in the Senate and which CACI supported, was killed by the House Business Affairs and Labor Committee on March 2nd on a party-line, [7-to-6](#) vote. SB-1 provided regulatory relief to small companies that inadvertently violate state rules by giving them a chance to first comply without facing a fine.

In mid-March, [Representative Tracy Kraft-Tharp \(D-Arvida\)](#), the Committee chair, introduced [HB-1270](#), "Agency Discretion Enforcing Rules Small Business" which provided state agencies discretion on whether to impose fines on small businesses - defined as an employer with 50 or less workers - for a first-time, minor violation of certain agency rules. The politics surrounding HB-1270, however, damaged its chances of success in the Republican-controlled Senate. CACI did not take a position on HB-1270 which died in the Senate Appropriations Committee.

Meanwhile, two other regulatory reform bills died:

- [SB-186](#), "Reduce Regulatory Burden Rules on Businesses," which died in the House Business Affairs and Labor Committee. It was endorsed by CACI.
- [SB-276](#), "Alleviate Fiscal Impact of State Regulations," which died in the House State, Veterans and Military Affairs Committee.

Messaging bills:

Everyone under the Gold Dome knows that messaging bills introduced in one chamber are very likely to die in the other chamber, given the balanced make-up of the General Assembly. Nonetheless, legislators persist in introducing messaging bills requiring the CACI lobbying team to vigorously oppose and testify against those bills that hurt businesses. Thankfully, the majority of those bills are defeated in the Republican-controlled Senate. This year's package of "messaging bills" sought to address the issue of income inequality, which is a State and national strategy issue, and are likely to be pursued again during the 2018 Session.

The primary messaging bills that CACI successfully fought this session are:

- [HB-1307](#), Family and Medical Leave Insurance Program Wage Replacement **DEAD**
- [HB-1001](#), Employee Leave Attend Child's Academic Activities **DEAD**
- [HB-1290](#), Colorado Secure Savings Plan **DEAD**
- [HB-1305](#), Limits on Job Applicant Criminal History Inquiries **DEAD**

CACI Policy Council Bills and Positions

Energy & Environment Council Bills

[SB 14](#) by Sen. Baumgardner/Rep. Becker, J.
[SB 89](#) by Sens. Fenberg & Lundberg
[SB 145](#) by Sen. Fenberg & Rep. Foote
[SB 188](#) by Sen. Marble
[SB 271](#) by Sen. Cooke & Rep. Pabon
[HB 1227](#) by Reps Winter & Sen. Priola
[HB 1336](#) by Reps. Young & Foote
[HB 1256](#) by Rep. Foote
[HB 1285](#) by Rep. Mitsch-Bush & Sen. Jahn
[SJM 005](#) by Sen. Jones & Rep. Foote

Health Care Council Bills

[SB 003](#) by Sen. Smallwood & Rep. Neville
[SB 57](#) by Sen. Guzman
[SB 88](#) by Sen. Holbert & Rep. Hooten
[SB 151](#) by Sen. Crowder & Rep. Ginal
[SB 206](#) by Sen. Gardner & Rep. Singer
[HB 1236](#) by Rep. Kennedy & Sen. Coram
[HB 1247](#) by Rep. Danielson/Sen. Sonnenberg
[HB 1286](#) by Rep. Esgar & Sen. Crowder
[HB 1318](#) by Rep. Ginal & Sen. Crowder

Labor & Employment Council Bills

[SB 001](#) by Sen. Neville & Rep. Neville
[HB 1001](#) by Rep. Buckner
[HB 1254](#) by Rep. K. Becker & Sen. Kagan
[HB 1269](#) by Rep. Danielson/Nordberg & Sen.
[HB 1290](#) by Rep. Pettersen
[HB 1305](#) by Rep. Foote & Sen. Guzman
[HB 1307](#) by Rep. Winter
[HB 1314](#) by Reps. Salazar & Melton
[SB 186](#) by Sen. Tate & Rep. Carver
[SB 276](#) by Sen. Neville & Rep. Neville

Tax Council Bills

[SB 009](#) by Sen. Crowder
[SB 112](#) by Sen. Neville & Rep. Pabon
[HB 1049](#) by Rep. Thurlow
[HB 1063](#) by Rep. Leonard/Sen. Neville
[HB 1090](#) by Rep. Kraft-Tharpe/Sen.
[HB 1216](#) by Rep. Kraft-Tharpe/Sen. Neville

Governmental Affairs Council Bills

[SB 191](#) by Sen. Tate & Rep. Wist, Willett
[SB 213](#) by Sen. Hill
[HB 1254](#) by Rep. KC Becker/Sen. Kagan
[HB 1309](#) by Rep. Jackson/Sen. Guzman

Bill Title/Description

Inspection requirements/Underground Tanks
 Installation Electricity Storage Systems
 Electric Utility Distribution Acquisition Plan
 Repeal Income Tax Credit Motor Vehicles
 Investor Owned Utility Cost Recovery Program
 Electric Demand-Side Mngt Program Extension
 Additional Protections/Forced Pooling
 Oil & Gas Set-Backs/Schools
 Water Quality Permit Program
 Reduce Energy Subsidies

Bill Title/Description

Repeal of CO Health Benefit Exchange
 Hospital Provider Fee Enterprise
 Network of Providers
 Consumer Access to Health Care/Intermediaries
 Out-of-Network Providers Payments
 Annual Report on Hospital Expenditures
 Patient Choice Health Care
 State Employee Health Carrier Requirements
 Annual Report Pharmaceutical Costs Data

Bill Title/Description

Alleviate Fiscal Impact of State Regulations
 Parental Leave for Academic Activities
 Removal of Cap on Non-Economic Damages
 Discussing Salaries Among Employees
 Retirement Savings Mandate
 Limits Job Applicant Criminal History Inquiries
 Family & Medical Leave Wage Replacement
 Colorado Right to Rest
 Reduce Regulatory Burden Rules on Business
 Alleviate Fiscal Impact of State Regulations

Bill Title/Description

Increase Per-Schedule Exemption of BPPT
 Intergovernmental Tax Disputes
 Elimination of Interest/Tax Abatements
 Concerning Reduction in BPPT
 Continuation Advanced Industry Tax Credit
 Sales & Use Tax Simplification Task Force

Bill Title/Description

Market Based Rates/Interest on Judgments
 Automated Driving Motor Vehicles
 Removal of Caps on Non-Economic Damages
 Documentary Fee to Fund Affordable Housing

Council Position

Support/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Neutral/**Sent to Gov.**
 Support/**Sent to Gov.**
 Oppose/**Dead**
 Oppose/**Dead**
 Support/**Sent to Gov.**
 Oppose/**Dead**

Council Position

Monitor/**Dead**
 Support/**Dead**
 Neutral/**Signed by Gov.**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**

Council Position

Support/**Dead**
 Neutral/**Dead**
 Oppose/**Dead**
 Neutral/**Sent to Gov.**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Oppose/**Dead**
 Support/**Dead**
 Support/**Dead**

Council Position

Support/**Dead**
 Support/**Signed by Gov.**
 Neutral/**Signed by Gov.**
 Support/**Dead**
 Support/**Sent to Gov.**
 Support/**Sent to Gov.**

Council Position

Support/**Dead**
 Support/**Sent to Gov.**
 Oppose/**Dead**
 Oppose/**Dead**



CACI Board of Directors' Bills

- [SB 45](#) by Sen. Grantham/Rep. Duran
- [SB 155](#) by Sen. Tate & Rep. Saine
- [SB 156](#) by Sen. Hill & Rep. Wist
- [SB 157](#) by Sen. Williams & Rep. Melton
- [SB 267](#) by Sen. Sonnenberg/Rep. K. Becker
- [HB 1169](#) by Rep. Leonard & Sen. Tate
- [HB 1242](#) by Speaker Duran/Prez. Grantham
- [HB 1279](#) by Rep. Garnett/Sen. Guzman

Bill Title/Description

- Const. Defect Claim Allocation of Defense Cost
- Statutory Definition of Construction Defect HOA
- Const. Defect Lawsuit Approval Timeline
- Const. Defect Action Notice Vote Approval
- Sustainability of Rural Colorado
- Const. Defect Litigation Right to Repair
- Transportation Infrastructure Funding
- Const. Defect Actions Notice Vote Approval

Board Position

- Support/**Dead**
- Support/**Dead**
- Support/**Dead**
- Support/**Dead**
- Support/**Sent to Gov.**
- Support/**Dead**
- Support/**Dead**
- Support/**Sent to Gov.**

Energy & Environment Council

SB 17-14 - Limits on Underground Storage Tank Regulation (Sponsors: Senator Baumgardner & Representative J. Becker)

CACI Position: **Support**

Bill Status: Died in House Transportation & Energy Committee on 5/3/17

- SB 14, which was requested to be introduced this Session by the Transportation Legislation Review Committee, prohibited a local government from imposing inspection requirements for underground petroleum storage tanks or charging inspection fees for the inspection of underground petroleum storage tanks;
- The bill which was defeated on 5/3/17 in the House Transportation & Energy Committee based on concerns raised by local jurisdictions.

SB 17-89 - Allowing Electric Utility Consumers to Install Energy Storage Equipment (Sponsor: Senator Fenberg)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Business, Labor & Technology on 2/8/17

- Requires the PUC to adopt rules governing the installation and use of electricity storage systems by residential and small commercial customers of utilities regulated by the PUC. The bill also creates certain requirements related to utility interconnection, approval, and charges. The bill also created a Class 2 misdemeanor for utility employees who do not substantially comply with PUC rules governing electricity storage systems;
- CACI testified in opposition to the bill based on concerns raised by utility members that the bill did not address actual cost of ensuring the connection of private electricity storage systems to the grid were safe and secure meaning ratepayers rather than the owner of the private storage system would bear the actual costs of the interconnection.

HB 17-145 - Electric Utility Distribution Grid Resource Acquisition Plan (Sponsors: Senator Fenberg & Representative Foote)

CACI Position: **Oppose**

Bill Status: Postponed Indefinitely in Senate Committee on Agriculture, Energy & Natural Resource based on Sponsor's request.



- Directed specified electric utilities to prepare, and the Colorado Public Utilities Commission to review, proposals to integrate distributed energy into their plans to acquire new infrastructure. The bill was postponed indefinitely on a 9-0 vote based on the bill sponsor’s request.

SB 17-188 - Repeal Income Tax Credit for Motor Vehicles (Sponsor: Senator Marble)

CACI Position: **Oppose**

Bill Status: Died on Senate Second Reading Calendar on 4/24/17

- SB 188 as amended would have referred a ballot measure to the voters for the November 2017 election. If approved, the bill would have repealed state income tax credits for purchases of innovative motor vehicles and trucks including:
 - all credits for innovative passenger motor vehicles, including those for electric, plug-in hybrid electric, compressed natural gas, and liquefied petroleum gas vehicles, and for vehicles with idling reduction technologies; and
 - some credits for innovative trucks, including those for electric, plug-in hybrid electric, liquefied natural gas, and hydrogen trucks, and for trucks with idling reduction technologies or aerodynamic improvements.
- CACI testified in opposition to the bill based on concerns raised by CACI Energy and Environment Council members since many companies rely on the current tax credit to make business decisions related to the vehicles used in their operations.

HB 17-271 - Investor Owned Utility Cost Recovery Program (Sponsors: Senator Cooke & Representative Pabon)

CACI Position: **Neutral as Amended**

Bill Status: Sent to Governor

- The bill as amended, requires the Colorado Public Utilities Commission to evaluate investor-owned utilities' current service extension policies for serving new load applications through a non-adjudicatory proceeding, with exceptions for gas-only utilities. During the proceeding, which must take place by February 2018, the PUC is required to consider certain general load extension procedures, equitable allocation of costs, and variables that affect time lines. Within 90 days after the conclusion of the proceeding, the PUC may promulgate rules related to the findings;
- CACI testified in opposition to the bill and had concerns with the bill as introduced but changed its position to “neutral” based on amendments resolving CACI members’ concerns.

HB 17-1227 Electric Demand-Side Management Program Extension (Sponsors: Representatives Lawrence & Winter; Senators Priola & Fenberg)

CACI Position: **Support**

Bill Status: Sent to Governor

- As of 2007, the Colorado Public Utilities Commission is required to establish goals for Colorado

investor-owned electric utilities to achieve by a 5% reduction by 2017 relative to 2006 levels in a utility's:

- retail system peak demand, measured in megawatts; and
 - retail energy sales, measured in megawatt-hours.
- HB 1227 extends these demand-side management programs to 2028, and also requires the PUC to set new goals for demand-side management programs implemented between 2019 and 2028 of a 5% reduction in peak demand and energy sales based on 2018 levels;
 - The bill was amended in the Senate Finance Committee, however, when the bill reached the Senate Floor, a Committee of the Whole amendment was adopted that returned the bill to its introduced version which CACI supported. The bill passed in both chambers and has been sent to the Governor for signature.

HB 17-1285 - Refinance Water Quality Pollution Control Program (Sponsors: Reps. Mitsch-Bush & Lawrence; Senator Jahn & Cooke)

CACI Position: Support

Bill Status: Sent to Governor

- This bill is a result of months of stakeholder meetings between the CACI Water Quality Permit Coalition and the CO Department of Public Health & Environment which resulted in an agreement to increase permit fees beginning July 1, 2018 for five sectors - Commerce & Industry, Municipal Separate Storm Sewer Systems, Pesticides, Public & Private Utilities, and Water Quality Certifications. Additional details are provided as follows:
 - The bill allows for a one-time transfer from the Water Quality Improvement Fund to replace cash funds for fiscal year 2017/18;
 - The bill ensures that the fees remain set in statute & program fees and General Fund amounts are set to sufficiently fund the program for a minimum of five years;
 - The bill directs that use of funding should focus on processing permits, providing technical and compliance assistance, processing site application and design reviews, and maintaining stakeholder involvement for all aspects of the clean water program;
 - The bill also Directs the Department to report permitting statistics and staffing levels for the clean water program and to summarize costs of the program.

HB 17-1336 - Additional Protections Forced Pooling Order (Sponsors: Representatives Foote & Young)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans and Military Affairs on 5/3/17

- Under current law, an individual may apply to the Colorado Oil and Gas Conservation Commission for an order to pool oil and gas resources located within a specifically identified drilling area, known as statutory pooling. HB 1336 as amended requires the following:



- The Commission provide a 90-day notice of a hearing to consider an application;
- Prospective oil and gas operators first provide affected interest owners with an explanation of the laws governing forced pooling before applying;
- Oil and gas operators file an electronic report with the commission stating the number of nonconsenting owners and percentage of acres that have been force pooled within the drilling subject to the order; and
- The Commission post reports identifying nonconsenting owners in searchable database on website.

- CACI opposed the bill based on concerns raised by its Energy and Environment Council members. Concerns were that the bill would place unnecessary hurdles to pooling which is needed more than ever with horizontal drilling, and unnecessarily delay oil and gas operations and extend the combined time to drill a well to almost six months.

HB 17-1256 - Oil & Gas Facilities Distance from School Properties (Sponsors: Representative Foote; Senators Aguilar & Jones)

CACI Position: Oppose

Bill Status: Died in Senate Committee on Agriculture, Natural Resources & Energy on 4/12/17

- HB 1256 if passed would have increased the current 1,000-foot setback rule from school buildings and other high occupancy buildings to 1,000 feet from the school property line for newly permitted oil and gas production facilities and wells. The current setback requirement is applied to public schools, private schools, and child care centers;
- CACI's Energy & Environment Council voted to oppose this bill based on the existing regulations and set-back requirements that the oil and gas industry must currently follow;
- The bill passed on a party line vote on the House Floor and died in the Senate Committee on Agriculture on 4/12/17.

SJM 005 - Reduce Energy Subsidies (Sponsors: Senator Jones & Representative Foote)

CACI Position: Oppose

Bill Status: Died in Senate Committee on Agriculture, Natural Resources, & Energy on 4/26/17

- This memorial alleged that the oil & gas, coal and renewable energy industries have received billions of dollars in subsidies from the federal government and asks Congress to phase out the subsidies for the oil & gas and coal industries over five years so that it aligns with the same phase out of renewable energy subsidies;
- CACI opposed the memorial based on concerns of Energy and Environment Council members that the memorial did not properly define subsidies. While it defined subsidies for renewable energy to only include credits, it defined subsidies for oil and gas and coal to include credits and ordinary deductions.



HealthCare Council

SB 17-003 - Repeal of Colorado Health Benefit Exchange (Sponsors: Senator Smallwood & Representative Neville)

CACI Position: Monitor

Bill Status: Died on Senate Second Reading Calendar on 5/8/17

- The bill would have repealed the State's health insurance exchange, Connect for Health Colorado, as of January 1, 2018. It would have provided Connect for Health Colorado one year to wind-down its operations by December 31, 2018, and then transfer any unencumbered funds to the State Treasurer to deposit in the General Fund. The bill would have repealed the legislative oversight committee and the premium tax credit;
- CACI's Health Care Council chose to monitor this bill based on a split in the Council on a position, and the lack of predictability on the Federal Affordable Care Act during the time the Council discussed the bill.

SB 17-57 - Hospital Provider Fee Enterprise (Sponsor: Senator Guzman)

CACI Position: Support

Bill Status: Died in Senate Committee on Finance 3/21/2017

- SB 57 would have created the Colorado Healthcare Affordability and Sustainability Enterprise within the Department of Health Care Policy and Financing. As outlined in the bill's fiscal note, in exchange for the payment of a healthcare affordability and sustainability fee by hospitals, the purpose of the "enterprise" is to administer the program and support hospitals that provide uncompensated medical services to uninsured patients and that participate in publicly funded health insurance programs;
- CACI's Board of Directors supported similar legislation in 2016 which also created a Hospital Provider Fee Enterprise Program. This bill failed to receive enough support in the Senate Committee on Finance, however, a more complex piece of legislation (SB 267) did pass this Session and creates a similar program.

SB 17-88 - Participating Provider Network Selection Criteria (Sponsors: Senator Holbert & Representative Hooten)

CACI Position: Neutral as Amended

Bill Status: Signed by Governor on 4/18/17

- The bill as introduced included provisions that placed several requirements and restrictions on insurance carriers when they are selecting a network of health care providers, including:
 - Limiting the type of criteria that a carrier can use for selecting those providers;
 - Restricting how carriers can deselect those providers;
 - Creating additional reporting and regulatory requirements on carriers.



- CACI testified against SB 88 as introduced and worked with the sponsors, the Colorado Medical Society and CACI Health Care Council members for many weeks to find a compromise on the legislation. A compromise was ultimately reached with CMS through a Senate Floor amendment which was adopted and the bill passed as amended.

SB 17-151 - Consumer Access to Health Care (Sponsors: Senator Crowder & Representative Ginal)

CACI Position: Oppose

Bill Status: Died in Senate Committee on Business, Labor & Technology on 2/15/17

- SB 151 required a health insurance carrier or an intermediary that conducts credentialing, utilization management, or utilization review to:
 - Base health care coverage authorizations and medical necessity determinations on generally accepted and evidence-based standards and criteria of clinical practice;
 - Disclose to a carrier's policyholders and providers the evidence-based standards and criteria of clinical practice and processes that the carrier uses for coverage authorizations and medical necessity determinations of health care services;
 - Ensure that coverage authorizations and medical necessity determinations are performed by a health care provider;
 - Categorize a condition as a new episode of care if the same provider has not treated the policyholder for the condition within the previous 30 days.
- CACI opposed the bill based on concerns of its Health Care Council members that the bill would increase the cost of insurance for employers and their employees.

SB 17-206 - Out-of-Network Providers Payments (Sponsors: Senator Gardner & Representative Singer)

CACI Position: Oppose

Bill Status: Postponed Indefinitely based on request of the sponsor in Senate Committee on Business, Labor, & Technology on 4/10/17

- SB 206 would have required state-regulated health insurers to follow certain procedures when paying claims for out-of-network provider services at in-network facilities. As outlined in the bill's fiscal analysis, the insurer would have been required to advise the out-of-network provider and covered person of the applicable in-network cost-sharing amount owed. Then, the health insurer is required to pay the out-of-network provider directly, with the amount being equal to the lesser of the out-of-network provider's billed charge or the 80th percent of all current charges for the particular health care service, provided under similar conditions. The bill also established an independent dispute resolution process through which a provider may have a payment for a claim under the procedures in the bill reviewed;
- CACI opposed the bill based on concerns of Health Care Council members that the benchmark insurers would be required to pay was based on costs set by providers and would dramatically increase the cost of insurance for employers and their employees.



HB 17-1236 - Annual Report on Hospital Expenditures (Sponsors: Representative Kennedy & Senator Coram)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 4/24/2017

- HB 1236 would have required the Department of Health Care Policy and Financing in consultation with the Hospital Provider Fee Oversight and Advisory Board, to prepare an annual report detailing the cost of uncompensated care provided by general hospitals in the state. The bill required certain information to be submitted by the hospitals and the cost categories;
- CACI's Health Care Council took an oppose position on the bill based on concerns raised by CACI hospital members regarding the language and requirements provided in the bill.

HB 17-1247 - Patient Choice Health Care Provider (Sponsors: Representative Danielson & Becker, J.; Senator Sonnenberg)

CACI Position: Oppose

Bill Status: Died in House Committee on Health, Insurance & Environment on 4/13/2017

- Prohibits a health benefit plan or third-party administrator plan covering services by licensed chiropractors, optometrists, or pharmacists (providers) from:
 - Limiting or restricting a covered person's ability to select a provider of the covered person's choice if certain conditions are met;
 - Imposing a copayment, fee, or other cost-sharing requirement for selecting a provider of the covered person's choosing
 - Imposing other conditions on a covered person or provider that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing; or
 - Denying a provider the right to participate in any of its network contracts in this state or as a contracting provider in this state, so long as provider agrees to specified conditions.
- CACI testified in opposition to the bill and has opposed similar legislation, which has been attempted and has failed during the last three legislative sessions. Its opposition is based on concerns that limiting co-payments on a patient for the services described above ultimately triggers an increase in costs to businesses who seek to provide affordable health care coverage for their workers.

HB 17-1286 - State Employee Health Carrier Requirements (Sponsors: Representative Esgar & Senator Crowder)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 5/3/17

- The bill would have required health insurance carriers that contract with the State to provide group benefit plans to state employees to:



- Participate in individual market through the health insurance exchange (Connect for Health);
 - Offer at least three plans in two counties in a geographic rating area with the highest premiums in the individual market; and
 - Participate in Medicaid, the children's basic health plan, and specific grant programs.
- The bill required that if a carrier offered plans through the exchange, the carrier must offer a plan in at least two counties in the region of the state with the highest average premiums. The carrier must offer at least three plans, including:
- one plan that has a substantially similar benefit and cost-sharing structure to that offered to state employees;
 - one plan with similar benefits to state employee plan but different cost-sharing structure;
 - one plan that is substantially less expensive in terms of monthly premiums as compared to the previous two plans listed above.
- CACI's Health Care Council members raised concerns with this bill based on the restrictions placed on carriers in the bill if they chose to contract with the State.

HB 17-1318 - Division of Insurance Annual Report Pharmaceutical Costs Data (Sponsors: Representative Ginal & Senator Crowder)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on State, Veterans, & Military Affairs on 5/3/17

- This bill would have required health insurers to submit various information to the Division of Insurance in the Department of Regulatory Agencies on the cost of pharmaceuticals covered under individual and group health insurance plans. The data would have been required to be submitted by March 31, 2018 through March 2020. In the first year, carriers would have been required to provide cost data for 2015 through 2017, and then in future years for the prior calendar year only;
- CACI Health Care Council members took an "oppose" position on the bill based on the requirements placed on health care carriers to meet the provisions of the bill.

Labor & Employment Council

SB 17-001 - Alleviate Fiscal Impact of State Regulations (Sponsors: Senator Neville & Representative Neville)

CACI Position: **Support**

Bill Status: Died in House Committee on Business Affairs and Labor on 3/2/17

- SB 001 provided that when a business with 500 employees or less commits a first-time, minor violation of certain administrative rules, state agencies must notify the business in writing of



the violation, how to correct the violation, and provide business 30 business days to cure violation;

- If the business failed to address the violation within that time, the agency may impose a fine. A business may request additional time if it has made a good faith effort to address the violation;
- CACI testified in support of the bill which passed on a bi-partisan vote in the Senate. The bill was defeated on a party line vote in the House Business Affairs & Labor Committee on 3/2/17 because the Chair of that committee was introducing her own regulatory reform bill.

HB 17-001 - Parental Leave for Academic Activities (Sponsors: Representative Buckner & Senator Kerr)

CACI Position: **Neutral**

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 3/15/17

- In 2009, the Parental Involvement in K-12 Education Act passed which allowed an employee to take leave from work to attend academic activities for their child. The bill included a sunset provision of September 1, 2015;
- During the last two legislative sessions, bills have been attempted to continue this Act. HB 1001 included the same provisions of the 2009 Act as follows: limitation of the parental leave activities to parent-teacher conferences or meetings related to special education services, interventions, dropout prevention, attendance, truancy, or discipline issues. The leave was also limited to 6 hours per month and 18 hours in any academic year. An employee was also required to provide employer with at least one week's notice of the leave except in emergency situations;
- CACI has remained neutral on the 2016 and 2017 legislation based on the sponsors' efforts to maintain the language that was negotiated with CACI in 2009.

HB 17-1254 - Removal of Cap on Non-Economic Damages for Death of a Child (Sponsors: Representative K.C. Becker & Senator Kagan)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on State, Veterans, & Military Affairs on 5/3/17

- HB 1254 would have removed the cap on damages for noneconomic loss or injury that may be awarded in an action for the wrongful death of a minor child and clarifies that the definition of a minor child applies to a person who has not yet reached the age of 21;
- CACI's Labor & Employment Council and Government Affairs Council took an "oppose" position on this bill. Concerns were raised that a lack of a cap could shut down a business based on the potential litigation costs. Without a cap on damages, insurance companies cannot assess the type of risk that a business will experience and determine how to appropriately insure that business. CACI testified against the bill and shared these concerns as well as the history of the caps which have been in place for 30 years.



HB 17- 1269 - Repeal Prohibition of Wage Sharing Information (Sponsors: Representative Danielson & Nordberg; Senators Martinez-Humenik & Donovan)

CACI Position: Neutral

Bill Status: Sent to Governor

- HB 1269 amends the current law which prohibits certain classes of employees from sharing wage information. Once this bill becomes law, federal, state, or local government employees; agricultural employees; and interstate railroads and airlines employees will all have the ability to discuss wage information with other employees.

HB 17-1290 - Colorado Secure Savings Plan (Sponsors: Reps. Pettersen & Buckner; Senator Todd & Donovan)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 4/26/17

- HB 1290 would have created a statewide retirement savings plan program requiring private sector employers to participate in the program. Similar legislation has been attempted and failed during prior legislative sessions;
- CACI’s Labor & Employment Council took an “oppose” position on the bill based on concerns that the bill did not provide protections that private plans offer and that no other state has a similar program that is currently operational. The bill also failed to provide state liability by the State, thereby creating risk to individuals’ funds that would be placed in the program;
- Finally, the bill failed to compensate employers for the continual compliance and audits that would be required. Employers would bear the cost of ongoing compliance including:
 - Additional insurance to protect employers from lawsuits;
 - Hiring staff to ensure compliance;
 - An annual audit to ensure they are compliant; and
 - Establishing a system for deposits to the state.

HB 17-1305 - Limits on Job Applicant Criminal History (Sponsors: Representatives Foote & Melton; Senator Guzman)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans, & Military Affairs on 5/1/17

- HB 1305 would have prohibited employers with 15 or more employees from:
 - Advertising that a person with a criminal history may not apply for a position;
 - Placing a statement in an employment application that a person with a criminal history may not apply for a position; or
 - Inquiring about an applicant's criminal history on an employment application.
- CACI’s Labor & Employment Council took an “oppose” position on the bill and CACI testified against the bill based on concerns that include: that the legislation allowed the state government to interfere with private employers’ hiring processes; it created a workplace safety

and liability risk for employers and employees; and it failed to apply a fair application by limiting the provisions of the bill to only private sector employers.

HB 17-1307 - Family & Medical Leave Insurance Program Wage Replacement (Sponsors: Representative Winter; Senators Moreno & Fields)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 5/3/17

- HB 1307 is similar to legislation attempted and failed during the last three legislative sessions. The bill would have created a new government program within the CO Department of Labor & Employment allowing eligible workers to receive a partial wage replacement for up to 12 weeks of leave from employment per year for the purposes of caring for a new child or a family member with a serious health condition or who is unable to work due to the individual's own serious health condition.
- The start-up funding for the Program was based on gifts, grants, donations, and bonds, and every employee in the state would have paid an annual premium to be determined by the Director of the Division based on a percentage of the employee's yearly wages. Additionally, a solvency surcharge could be assessed on workers to keep program solvent;
- CACI's Labor & Employment Council took an "oppose" position on the bill based on concerns that the bill failed to provide a long-term, sustainable funding source and that workers could also be forced to pay a solvency surcharge. The Council was also concerned with the requirement on employers to administer the program within the workplace and also guarantee the same or equivalent position for the employee when they return after 12 weeks.

HB 17-1314 - Colorado Right to Rest Act (Sponsors: Representatives Salazar & Melton)

CACI Position: Oppose

Bill Status: Died in House Committee on Local Government on 4/19/17

- HB 1314 would have created the Right to Rest Act and prohibited the State and local jurisdictions from enacting laws that limit, prohibit or penalize homeless individuals the right to use and move freely in public spaces; the right to rest in public spaces; the right to eat, share or give food in public spaces where food is not prohibited, or the right to occupy a person's motor vehicle;
- The bill was opposed by CACI and the Colorado Municipal League among other interest groups and was defeated in the House Committee on Local Government. This legislation was attempted and failed during the 2016 Legislative Session as well.

SB 17-186 - Reduce Regulatory Burden Rules on Business (Sponsors: Senator Tate; Representatives Carver & Lawrence)

CACI Position: Support

Bill Status: Died in House Committee on Business Affairs and Labor on 4/27/17



- SB 186 would have required state agencies to prepare a regulatory flexibility analysis on any rule promulgated by a state agency and the bill applied to businesses with 100 employees or less. The flexibility analysis would have included:
 - Consideration of less stringent compliance or reporting requirements;
 - performance standards for small businesses;
 - exemptions of small businesses from all or any of the proposed requirements;
 - whether less burdensome rules may be applied to small businesses;
 - the necessity, fiscal impact of the proposed rules, and identification of the least costly alternatives to the proposed rules.
- This bill was one of 4 bills introduced during the 2017 Session addressing regulatory reform. The bill died on a party line vote in the House Business Affairs & Labor Committee.

SB 17-276 - Alleviate Fiscal Impact of State Regulations (Sponsors: Senator Neville & Representative Neville)

CACI Position: Support

Bill Status: Died in House Committee on State, Veterans, & Military Affairs on 5/4/17

- SB 276 provided that when a business with 100 employees or less commits a first-time, minor violation of certain administrative rules, state agencies must notify the business in writing of the violation, how to correct the violation, and provide business 30 business days to cure violation;
- If the business failed to address the violation within that time, the agency may impose a fine. A business may request additional time if it has made a good faith effort to address the violation;
- CACI testified in support of the bill which passed in the Senate. The bill was defeated on a party line vote in the House Committee on State Affairs. This was one of four bills introduced this Session addressing regulatory reform for businesses. All of those bills were defeated.

Tax Council

SB 17-009 – Increase Per-Schedule Exemption on Business Personal Property Tax (Sponsors: Senator Crowder & Representative Leonard)

CACI Position: Support

Bill Status: Died in House Committee on State, Veterans, & Military Affairs on 5/3/2017

- SB 009 was amended in the Senate Finance Committee and would have increased the Business Personal Property Tax exemption for business personal property from \$7,300 to \$10,000 in 2017 and 2018. The bill also stated that the exemption would be adjusted for inflation every two years. The bill was defeated in the House State Affairs Committee on a party line vote.



SB 17-112 - Sales & Use Tax Payment to Wrong Government (Sponsors: Senator Neville & Representative Pabon)

CACI Position: Support

Bill Status: Signed by Governor on 4/18/17

- SB 112 sought to clarify the General Assembly's intent when it passed a law to address the dispute resolution process for when a taxpayer mistakenly paying a sales or use tax to one local government when they should have paid that disputed amount to a different local government. The goal of the bill is to prevent a taxpayer from paying two different jurisdictions. A recent court case applied the statute of limitations to this process, resulting in taxpayer paying the tax twice to two different local governments. The bill as introduced clarified that the relief available to taxpayers is available and will continue to be available regardless of the expiration of any limitation period;
- The bill passed out of the Senate on a unanimous vote but was amended in the House based on the request of the Colorado Municipal League which had concerns that taxpayers could abuse the system and avoid paying the taxes owed to a specific jurisdiction. The amendment adopted included a notice requirement to be provided by a local jurisdiction to a taxpayer for taxes owed but if a taxpayer fails to comply within 90 days of receiving the notice then the taxpayer is not protected from having to pay a second jurisdiction unless the taxpayer received a similar notice from the second jurisdiction that is contrary to the first jurisdiction;
- CACI's Tax Council took a "support" position on the bill which ultimately passed out of both chambers as amended and was signed by the Governor on 4/18/17.

SB 17-299 - Apportionment of Income of Enterprise of Data Centers (Sponsors: Senators Holbert & Moreno; Representatives Kraft-Tharp & Van Winkle)

CACI Position: Support

Bill Status: Sent to Governor

- SB 299 as amended allows a taxpayer that invests in an enterprise data center in Colorado to use a beneficial apportionment factor when allocating federal taxable income to Colorado. Under current law, companies apportion federal taxable income to Colorado based on sales made within the state. SB 299 allows taxpayers who qualify to lower their apportionment factor and apportion income based on how many of their customers have a billing address in the state. The bill requires that a taxpayer invest at least \$150 million in a data center in a consecutive five-year period starting January 1, 2013. The bill applies to corporate tax years beginning July 1, 2018;
- The bill also states that a taxpayer must enter a memorandum of understanding with the Office of Economic Development and International Trade to be eligible. During that process, OEDIT can seek input from the Department of Revenue for taxpayer specific information. The bill provides a penalty if that taxpayer information is not kept confidential.

**HB 17-1049 - Eliminate Property Tax Abatement Refund Interest (Sponsors: Representative Thurlow & Senator Coram)****CACI Position: Neutral as Amended****Bill Status:** Signed by Governor on 4/24/17

- HB 1049 as introduced would have eliminated the 1% per month refund interest that a taxpayer can currently collect when property taxes that are assessed are determined to be wrong or illegally levied after the taxpayer filed a petition for abatement. Under current law, interest accrues from the point that erroneous taxes are paid, which can be up to two years before a petition is filed;
- The bill was brought by a county assessor that was concerned that property owners are waiting the full two years to file a petition for abatement and attempting to game the system to collect the full amount of interest;
- CACI Tax Council members raised concerns with the introduced bill and participated in a stakeholder meeting with the bill sponsor. Ultimately, a compromise was reached and an amendment was adopted to the bill reducing the amount of time that interest accrues by calculating interest based on when the petition is filed. CACI changed its original position of “oppose” to “neutral” on the bill as amended.

HB 17-1063 - Concerning a Reduction in Business Personal Property Tax (Sponsors: Representative Leonard & Senator Neville)**CACI Position: Support****Bill Status:** Died in House Committee on State, Veterans, & Military Affairs on 2/1/17

- HB 1063 would have created a \$50,000 business personal property tax exemption beginning in 2017. The exemption would have applied to all personal property taxpayers including state assessed utilities. The bill died based on the significant fiscal impact to the State which started at \$1 million for fiscal year 2017/18 and increased to \$2.1 million by fiscal year 2018/19.

HB 17-1090 - Continuation of the Advanced Industry Tax Credit (Sponsors: Representative Kraft-Tharp & Senator Gardner)**CACI Position: Support****Bill Status:** Sent to Governor

- HB 1090 continues the Advanced Industry Investment Income Tax Credit Program for tax years 2018 to 2022. The bill authorizes the Office of Economic Development and International Trade in the Governor's Office to issue \$750,000 worth of state income tax credits each year from 2018 to 2022 to qualified investors. Under current law a business must have less than \$5 million in annual revenue and be actively operating and generating revenue for less than five years to qualify for an investment. The bill allows a business to only be required to meet one of the criteria.

HB 17-1216 Creation of Sales & Use Tax Simplification Task Force (Sponsors: Rep. Kraft-Tharp & Senator Neville)**CACI Position:** Support**Bill Status:** Sent to Governor

- HB 1216 creates the sales and use tax simplification task force & is required to study sales and use tax simplification between the state and local governments, between the state and home rule jurisdictions. The task force consists of 15 members:
 - two members of House of Representatives, including appointees of the Speaker and minority leader;
 - two members the Senate, including appointees of the President and minority leader;
 - one representative of the Department of Revenue;
 - one representative of the Colorado Municipal League (CML);
 - one representative of Colorado Counties, Inc. (CCI);
 - one representative of a statewide association of small businesses;
 - one representative of statewide chamber of commerce, appointed by Governor;
 - one sales tax attorney not representing a local government, appointed by Governor;
 - Executive director of the Streamlined Sales Tax Governing Board, Inc., or designee; and
 - four representatives of municipalities appointed pursuant to CML bylaws, including one from each of four population membership categories.
- An amendment was adopted to the bill to clarify that one of the Task Force members would be someone with state and local tax experience not employed by a home rule, or statutory city or county and would be appointed by the Governor.

Government Affairs Council

SB 17-191 -- Market-Based Interest Rates on Judgments (Sponsors: Senator Tate & Rep. Willett)**CACI Position:** Support**Bill Status:** Died in House Committee on State, Veterans & Military Affairs on 4/19/17

- SB 191 would have eliminated the minimum post-judgment interest rate beginning January 1, 2018 and would have required that the interest rate on damages for personal injuries caused by a tort be the same rate in statute as the post-judgment interest rate. The bill also changed the date that the Secretary of State would have set the annual rate of post-judgment interest from December 21 to January 2 of each year.

SB 17-213 – Automated Driving Motor Vehicles (Sponsors: Senator Hill & Moreno; Reps. Winter & Bridges)**CACI Position:** Support**Bill Status:** Sent to the Governor on 5/1/17

- SB 213 as amended states that the regulation of automated driving systems is a matter of



statewide concern and that any state agency or political subdivision of the state cannot adopt or enforce a policy, rule, or ordinance establishing standards for an automated driving system that are different from the standards established for a human driver;

- The bill also states that automated driving system vehicles that are not yet capable of complying with all state and federal laws cannot be tested unless approved by State Patrol and the Colorado Department of Transportation. The bill creates a traffic infraction for violation of the testing requirement and requires CDOT to submit a report to the Transportation Legislation Review Committee by September 1st of each year regarding the testing of automated driving systems.

HB 17-1254 - Removal of Caps for Non-Economic Damages for Death of a Child (Sponsors: Rep. K.C. Becker & Senator Kagan)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans, & Military Affairs on 5/3/17

- HB 1254 would have removed the cap on damages for noneconomic loss or injury awarded in a lawsuit for the wrongful death of a minor child. The bill defined minor child up to 21 yrs of age;
- CACI’s Labor & Employment Council and Government Affairs Council both took an “oppose” position to the bill based on the catastrophic impact that HB 1254 would have on Colorado businesses. The caps on non-economic damages have been in place since 1996 and prior to that time, insurance was either unattainable or unaffordable for businesses. Without a cap, insurance companies can’t, or its close to impossible, to assess the type of risk that a business will experience and determine how to appropriately insure that business;
- CACI testified against HB 1254 which died on a party-line vote in the Senate State Affairs Committee.

HB 17-1309 - Documentary Fee to Fund Affordable Housing (Sponsors: Rep. Jackson & Senator Guzman)

CACI Position: Oppose

Bill Status: Died in Senate Committee on State, Veterans & Military Affairs on 5/3/17

- HB 1309 would have raised the documentary fee by 2 cents commencing January 1, 2018. The bill provided that funds generated from the fee be transmitted by the county treasurer to the Colorado Housing and Finance Authority at least once each month to be credited to a statewide Affordable Housing Investment Fund created within the bill, to be spent on supporting new or existing affordable housing programs;
- The bill also required the authority to submit a report to the governor and to the Senate and House finance committees that included information on moneys allocated to, and spent from the fund;
- The bill died in the Senate State Affairs Committee based on concerns raised by the Colorado Association of Realtors and other interest groups.

CACI Board of Directors' Bills

SB 17-45 – Construction Defect Claim Allocation of Defense Costs (Sponsors: Senate President Grantham & House Speaker Duran)

CACI Position: **Support**

Bill Status: Died in Senate Committee on Appropriations on 5/9/17

- SB 45 as outlined in the bill's fiscal analysis, would have allowed an insurance company to request that the court apportion the defense costs equally among all the insurers involved in a construction defect lawsuit. The bill also required that the Court establish the contribution claim within 90 days after the lawsuit was filed and resolve the case. After a final judgment was entered, an insurer may apply to the District Court for final apportionment of defense costs, and the Court must equitably allocate those costs among the insurers;
- SB 45 was the first of six bills introduced during the 2017 Session addressing construction defects litigation. SB 45 died in the final days of Session.

SB 17-155 – Statutory Definition of a Construction Defect (Sponsors: Senator Tate & Representative Saine)

CACI Position: **Support**

Bill Status: Died on Senate calendar on 5/9/17

- SB 155 would have defined the term "construction defect" to mean a defect in the design or construction of any improvement to real property that causes damages to or the loss of use of personal property, or causes personal injury. SB 155 was one of six bill introduced regarding the construction defects issue and died on the Senate calendar during the final days of Session.

SB 17-156 – Homeowners' Association Construction Defect Lawsuit Approval Timelines (Sponsors: Senator Hill; Representative Saine & Wist)

CACI Position: **Support**

Bill Status: Died in House Committee on State, Veterans & Military Affairs on 4/20/17

- SB 156 was brought by the HOA coalition of interest groups that have been seeking a legislative solution on the construction defects litigation issue for the past four years. The bill was one of six bills introduced on this issue during the Session and would have required homeowner associations that plan to enter into a construction defects lawsuit to:
 - Receive written consent from the majority of homeowners in the association;
 - Give advance notice to the homeowners of the projected costs, duration, and financial impact of the construction defect claim;
 - Use mediation or arbitration through a neutral third party.

SB 17-157 – Construction Defect Actions Notice Vote Approval (Sponsors: Senator Williams & Representative Melton)

CACI Position: **Support**

Bill Status: Died in Senate Committee on Business, Labor & Technology on 3/13/17

- SB 157 would have required an HOA board to get approval of a majority of homeowners' association owners for entering into a construction defect lawsuit after providing the owners detailed information regarding the potential costs and benefits of entering into that lawsuit. The bill also limited the amount and type of contact that a developer or builder that is potentially subject to a lawsuit may have with the individual unit owners while the HOA is seeking the owners' approval for the lawsuit.
- SB 157 was one of six bills introduced during the 2017 Session addressing construction defects litigation and died in the Senate State Affairs Committee.

SB 17-267 - Sustainability of Rural Colorado / Hospital Provider Fee Enterprise (Sponsors: Senators Sonnenberg & Guzman; Representatives KC Becker & J. Becker)

CACI Position: **Support**

Bill Status: Sent to Governor

- SB 267 is the result of months of stakeholder meetings in an effort to reach a compromise on converting the state's Colorado Healthcare Affordability Program, a.k.a., hospital provider fee program out from the State's General Fund, into an enterprise. Attempts to pass this legislation failed in previous legislative sessions and SB 267 became one of the most complex bills that the legislature has considered in recent years. This bill as passed includes the following provisions:
 - Reverses the cut projected this budget year to hospitals totaling \$528 million and moves the Colorado Healthcare Affordability Program to an enterprise;
 - Lowers the state revenue cap by \$200 million;
 - Secures \$150 million to bond \$1.9 billion for transportation projects over four years. Of those funds, 25% is required to be spent in counties with populations of 50,000 or less and 10% will be spent toward transit needs;
 - Creates a permanent Business Personal Property Tax Credit for business personal property taxes paid on up to \$18,000 of the total actual value of a taxpayer's business personal property;
 - Requires the Department of Health Care Policy and Financing to report on how the \$45 million in administration costs is spent, and creates a 3% maximum administrative fee by HCPF to administer the funds;
 - Requires Medicaid reforms including the Delivery System Reform Incentive Payment Program and the ACE Kids Act and increases copays for Medicaid patients for outpatient services and pharmacy;
 - Makes the Senior Homestead Property Tax Exemption the first funding priority if there is a TABOR tax refund;
 - Secures \$120 million for capital construction for maintenance of state buildings;
 - Provides \$30 million for rural and small rural schools and provides additional revenue to the State Education Fund for all schools;
 - Requires each state agency, excluding the Department of Transportation & Education, to submit a plan for a 2% overall budget reduction.



HB 17-1169 - Construction Defect Litigation Builders’ Right to Repair (Sponsors: Representative Leonard & Senator Tate)

CACI Position: Support

Bill Status: Died in House Committee on State, Veterans & Military Affairs on 03/1/2017

- HB 1169 would have allowed for a construction professional to receive notice from a claimant who alleges there is a construction defect and allow the construction professional the ability to inspect the property, elect to repair the defect or tender an offer of settlement before the claimant can file a construction defect lawsuit;
- HB 1169 was one of six bills introduced during the 2017 Session addressing construction defects litigation and died in the House State Affairs Committee.

HB 17-1242 - New Transportation Infrastructure Funding (Sponsors: Senate President Grantham & Senator Baumgardner; House Speaker Duran & Rep. Mitsch-Bush)

CACI Position: Support

Bill Status: Died in Senate Committee on Finance on 4/25/17

- HB 1242 was the outcome of months of stakeholder meetings and coalition building to identify a solution to fund the \$9 billion in funding needed for statewide transportation infrastructure improvements;
- As introduced, the bill if passed by the General Assembly would have referred a measure to the 2017 ballot increasing the state sales tax rate of 2.9% to 3.52% to generate revenue for transportation improvements. The measure was estimated to generate \$702 million a year beginning in 2018 and the new sales tax rate would have been in effect beginning in January 2018 for 20 years;
- The bill also eliminated the state share of the Road Safety Surcharge within FASTER, saving consumers roughly \$75 million annually in fees. The bill also provided that a percentage of the funding could be used for local transit options;
- The bill passed out of the House and was amended in the Senate Transportation Committee and included the following changes:
 - Reduction of the sales tax increase from .62 cents to .5 cents making the total sales tax rate 3.4%;
 - Including a commitment of \$100 million for transportation funding from the State’s General Fund;
 - Changing the formula for CDOT funding for construction and maintenance of roads.
- CACI’s Board took a “support” position on the bill since it allowed for Colorado voters to decide whether to fund the State’s transportation needs through a sales tax increase. Ultimately the bill failed to get enough support by Republicans in the Senate Finance Committee where it died on a party line vote on 4/25/17.



HB 17-1279 - Construction Defect Actions Notice Vote Approval (Sponsors: Representative Garnett & Saine; Senators Guzman & Tate)

CACI Position: Support

Bill Status: Sent to Governor

- HB 1279 requires that, before the executive board of a homeowners' association can bring a construction defect lawsuit against a developer or builder, the board must do the following:
 - Notify all unit owners and the developer or builder against whom the lawsuit is being considered;
 - Call a meeting during which the Board and developer or builder has an opportunity to present facts and arguments regarding the situation. The developer or builder may, but is not required to, make an offer to remedy the defect; and
 - Obtain the approval of a majority of the unit owners after providing details regarding the lawsuit and its potential costs and benefits.

- The bill also states and as outlined in the bill's fiscal analysis, that the meeting of unit owners commences a 90-day voting period during which the HOA will accept votes for or against proceeding with the lawsuit. The statutes of limitation will be tolled during this period and the Association is also required to keep copies of its mailing list and records of the homeowners' votes. The voting period may end in less than 90 days if sufficient votes are received to approve the lawsuit;

- HB 1279 is the result of months of stakeholder meetings among the sponsors of the bill, business interest groups and trial lawyer representatives. The bill is one of six bills introduced this Session on the construction defects issue and prior attempts to pass legislation has failed during the last four years. Ultimately HB 1279 passed in both chambers and has been sent to the Governor for signature.