



# COLORADO CHAMBER OF COMMERCE

**2020 Legislative Session Summary**

## **The Colorado Chamber of Commerce Legislative Overview of the 2020 Session**

*The global COVID-19 pandemic, record unemployment, and a \$3.3 billion budget shortfall interrupted the session, changing the course of the legislature.*

The 2020 state legislative session in Colorado was an unprecedented one. Lawmakers went into recess in March due to the global COVID-19 pandemic for what was supposed to be two and a half weeks. More than two months later, the legislature reconvened in late May to a new set of circumstances – record unemployment, layoffs, businesses closing their doors, a \$3.3 billion budget hole, and extraordinary uncertainty for what was to come.

As the second half of the legislative session approached, House and Senate leadership made it clear Controversial proposals – like the public health insurance option – took a back seat and any bill with a fiscal note faced extreme scrutiny.

Still, despite rhetoric from legislators that the focus of the remainder of the session would solely be on helping workers and businesses recover from the crisis, many new bills were filed that took aim at the business community. The last few weeks of session brought on a flurry of last-minute legislation that keep the lights on and their doors open.

The opposition and backlash from the business community was overwhelming. The Colorado Chamber's government affairs team worked day and night to fight these ill-conceived bills – and in most cases, the bills were fixed, killed, or completely gutted. To put things in perspective, the number of anti-business bills that the Colorado Chamber opposed and successful killed in the 2020 legislative session was more than double compared to the previous year – from 8 bills in 2019 to 20 this year.

### **A Massive Tax Increase Thwarted, Saving Hundreds of Millions for Colorado Businesses**

The biggest success story for the Colorado Chamber in the 2020 state legislative session was its fight against House Bill 1420, which blindsided the business community when it was filed just days before the end of legislative session. The bill would have decoupled the state from several valuable federal business tax deductions, capped the net operating loss tax exemption at \$400,000, and eliminated the manufactured energy tax exemption and regional home office tax credit. It would have amounted to hundreds of millions of dollars per year in new taxes for Colorado employers – in the middle of the worst economic crisis in decades.

Colorado Chamber members flooded the Colorado House and Senate with calls and emails in opposition to the bill. Because of that, key lawmakers are raised serious concerns about its impact on businesses and their employees. The bill was almost completely gutted after more than 500 businesses reached out to their lawmakers opposed to HB 1420 using the Colorado Chamber's grassroots tools.

## Other COVID-19 Bills Impacting the Business Community

The global pandemic produced several other bills impacting the business community, from new mandates on employers to structural changes to workers compensation and unemployment insurance.

Senate Bill 205 garnered a significant amount of media and public attention as lawmakers sought to provide mandatory paid sick leave to all Colorado employees. The Colorado Chamber worked closely with lawmakers to craft a bill that balanced the needs of businesses and workers and were able to resolve several concerns to bring the Chamber to a neutral position. After adding some business-friendly amendments, the bill passed and was signed into law.

Another major legislative victory for the Colorado Chamber this session was the defeat of Senate Bill 216, which would have dramatically altered the state's Workers Compensation program for COVID-19 related claims. The bill shifted the burden of proof to employers, which would have had to meet the incredibly high standard of "clear and convincing evidence" that an employee did not contract the virus at work. This would have increased Workers Compensation premiums for employers by up to \$2.2 billion. After hearing the overwhelming opposition from the Colorado Chamber and business community, the bill died before making it to the Senate Floor.

The Colorado Chamber worked with lawmakers on several other COVID-19 labor and employment bills to protect the business community from costly litigation or new regulatory and financial burdens – including a whistleblower protection bill (HB 1415), a price gouging bill (HB 1414), and a bill altering unemployment insurance. The changes and amendments made to these bills satisfied business concerns and brought the Chamber to a neutral position.

### Looking Ahead

The 2021 legislative session will present even greater challenges for the business community as lawmakers continue to grapple with how to address the ongoing economic fallout from COVID-19. With additional strains on the state budget expected, employers will be vulnerable to footing the bill to fill budget holes or fund new programs.

The upcoming election will also have a significant impact on the direction of the legislature next year. If the Democratic Party maintains a majority in both chambers, we can expect the pressure on businesses to continue. Controversial bills that were delayed in the 2020 legislative session will gain new life – from new health care mandates, environmental regulations, and employment legislation.

One of the most closely watched issues on the 2020 ballot is the initiative creating a new state-run family and medical leave program in Colorado. The initiative mirrors previous proposals that failed to pass the legislature several times.

### Colorado Chamber Results by the Numbers:

The Colorado Chamber took positions on 39 bills in the 2020 legislative session.

- 20 bills** were opposed by the Chamber and died.
- 2 bills** were opposed by the Chamber and passed.
- 5 bills** were supported by the Chamber and died.
- 4 bills** were supported by the Chamber and passed.
- 8 bills** were neutral or amended by the Chamber passed.

## Policy Council Positions:

<u>Energy &amp; Environment Council Bills</u>	<u>Bill Title/Description</u>	<u>Council Position</u>
HB 1025 (Reps. Benavidez/Snyder & Sens. Court/Tate)	Sales Tax Exemption Industrial and Manufacturing Energy Use	Oppose/Dead
HB 1059 (Sen. Hansen & Rep. Jackson)	Valuation of Energy Storage Equipment	Support/Dead
HB 1064 (Rep. Hooton)	PUC Study of Community Choice Energy	Oppose/Dead
SB 168 (Sens. Hansen/Pettersen & Rep. Valdez)	Sustainable Severance & Property Tax Policies	Oppose/Dead
SB 204 (Sen. Fenberg & Reps. Jackson/Caraveo)	Additional Resources To Protect Air Quality	Oppose/Passed
<u>Governmental Affairs Council Bills</u>	<u>Bill Title/Description</u>	<u>Council Position</u>
HB 1093 (Reps. McCluskie/Wilson & Sen. Donovan)	County Authority License and Regulate Business	Neutral as Amended/Passed
HB 1142 (Rep. Cutter)	Hazard Mitigation Grant Program	Oppose/Dead
HB 1195 (Reps. Titone/Singer & Sens. Bridges/Cooke)	Right to Repair	Oppose/Dead
HB 1227 (Rep. Melton & Sen. Foote)	Network-level Distracted Driving Technology	Oppose/Dead
SB 10 (Sen. Donovan & Reps. Froelich/Valdez)	Repeal Ban on Local Government Regulation Of Plastics	Oppose/Dead
SB 109 (Sen. Gardner)	Short-term Rentals Property Tax	Oppose/Dead
SB 138 (Sen. Rodriguez)	Consumer Protection Construction Defect Time Period	Oppose/Dead
<u>HealthCare Council Bills</u>	<u>Bill Title/Description</u>	<u>Council Position</u>
HB 1158 (Reps. Tipper/Herod & Sens. Winter/Fenberg)	Insurance Cover Infertility Diagnosis Treatment Preserve	Neutral as Amended/Passed
HB 1160 (Reps. Jackson/Roberts & Sens. Ginal/Donovan)	Drug Price Transparency Insurance Premium Reductions	Oppose/Dead
HB 1198 (Rep. Buckner & Sens. Fields/Ginal)	Pharmacy Benefits Carrier and Pharmacy Benefit Manager Requirements	Oppose/Dead
HB 1264 (Rep. Kennedy)	Health Care Contract Hospital System Carriers Providers	Oppose/Dead
HB 1349 (Reps. Roberts/Kennedy & Sen. Donovan)	Colorado Affordable Health Care Option	Oppose/Dead
SB 119 (Sen. Ginal & Rep. Jaquez Lewis)	Expand Canadian Prescription Drug Import Program	Oppose/Dead
SB 127 (Sens. Smallwood/Todd)	Committee Actuarial Review Health Care Plan Legislation	Support/Dead
SB 163 (Sens. Gonzales/Priola & Rep. Mullica)	School Entry Immunization	Support/Passed
SB 215 (Sens. Moreno/Donovan & Reps. Kennedy/McCluskie)	Health Insurance Affordability Enterprise	Oppose/Passed
<u>Labor &amp; Employment Council Bills</u>	<u>Bill Title/Description</u>	<u>Council Position</u>
HB 1089 (Rep. Melton)	Employee Protection Lawful Off-duty Activities	Oppose/Dead
HB 1193 (Reps. Landgraf/Van Winkle)	Income Tax Benefits for Family Leave	Support/Dead
HB 1222 (Rep. Carver & Sens. Hisey/Todd)	Veterans Hiring Preference	Support/Dead
HB 1348 (Rep. Kennedy & Sen. Gonzales)	Additional Liability Under Respondeat Superior	Oppose/Dead
HB1414 (Reps. Weissman/Titone & Sens. Foote/Pettersen)	Price Gouge Amid Disaster Deceptive Trade Practice	Neutral as Amended/Passed

HB 1415 (Reps. Herod/Sullivan & Sens. Pettersen/Rodriguez)	Whistleblower Protection Public Health Emergencies	Neutral as Amended/Passed
SB 80 (Sen. Rodriguez)	Consumer Protection Act Damages	Amend/Dead
SB 93 (Sens. Foote/Fenberg & Rep. Jackson)	Dispute Resolution Fairness Act	Oppose/Dead
SB 205 (Sens. Fenberg/Bridges &Reps. Becker/Caraveo)	Requiring Employers to Provide Paid Sick Leave	Neutral as Amended/Passed
SB 207 (Sens. Hansen & Winter)	Unemployment Insurance	Amend/Passed
SB 216 (Sen. Rodriguez & Rep. Mullica)	Workers' Compensation For COVID-19	Oppose/Dead
<b><u>Tax Council Bills</u></b>	<b><u>Bill Title/Description</u></b>	<b><u>Council Position</u></b>
HB 1022 (Reps. Kraft-Tharp/Van Winkle & Sens. Williams/Tate)	Sales and Use Tax Simplification Task Force	Support/Passed
HB 1023 (Reps. Kraft-Tharp/Van Winkle & Sens. Williams/Tate)	State Address Data for Sales and Use Tax Collection	Support/Passed
HB 1024 (Reps. Benavidez/Snyder & Sen. Moreno)	Net Operating Loss Deduction Modifications	Neutral as Amended/Passed
HB 1025 (Reps. Benavidez/Snyder & Sens. Court/Tate)	Sales Tax Exemption Industrial & Manufacturing Energy Use	Oppose/Dead
HB 1420 (Reps. Sirota/Gray & Sens. D. Moreno/Hansens)	Adjust Tax Expenditures For State Education Fund	Oppose/Passed
HB 1421 (Reps. Roberts/Saine & Sens. Donovan/Sonnenberg)	Delinquent Interest Payments Property Tax	Support/Passed
SB 99 (Sen. Rankin & Rep. Will)	Thresholds for Sales Tax Collection Requirements	Support/Dead

## Labor & Employment Council:

### **HB 1089 - Employee Protection Lawful Off-Duty Activities (Sponsor: Representative Melton)**

Position: **Oppose**

Status: Died in House Committee on Business Affairs on 2/19/20

- The bill would have prohibited an employer from terminating an employee for lawful activities off duty but are unlawful under federal law;
- This bill attempted to overturn the *Dish Network* case that allows employers to discipline/fire employees for recreational marijuana use since it remains “unlawful” under federal law;
- The Colorado Chamber lobbied against this bill which was successfully defeated in committee by a unanimous NO vote.

### **HB 1193 - Income Tax Benefits for Family Leave (Sponsors: (Reps. Landgraf/Van Winkle)**

Position: **Support**

Status: Died in Finance Committee on 5/28/20

- HB 1193 created tax incentives to encourage employers to voluntarily support paid parental and medical leave programs for their eligible employees and to encourage eligible employees to save for time away from work during parental and medical leave;
- This bill was introduced as a response to and compliment with family and medical leave insurance legislation and other mandated paid leave bills;
- The Colorado Chamber testified in support of this bill but it was defeated in the first committee.

### **HB 1222 - Veterans Hiring Preference (Sponsors: Representative Carver & Senators Hisey/Todd)**

Position: **Support**

Status: Died in State Affairs Committee on 6/3/20

- This bill created a statutory basis to allow a private employer to give preference to a veteran and the spouse of a disable veteran or veteran killed in the line of duty;
- The Colorado Chamber lobbied in support of the bill but it was defeated in the first committee of reference

### **HB 1348 - Additional Liability Under Respondeat Superior (Sponsors: Representative Kennedy & Senator Gonzales)**

Position: **Oppose**

Status: Died in House Judiciary Committee on 5/26/20

- HB 1348 attempted to overturn a recent CO Supreme Court decision that prevented a plaintiff from asserting additional claims against an employer arising out of the same incident, even where the employer admits liability for the tortious actions of the employee;

- The bill would have allowed for multiple tort claims against the employer and the Colorado Chamber actively opposed this bill and it was defeated in the first committee.

### **SB 80 - Consumer Protection Act Damages (Sponsor: Sen. Rodriguez)**

Position: **Oppose**

Status: Died in House Finance Committee on 6/4/20

- SB 80 would have amended the Colorado Consumer Protection Act (CPA) to allow a plaintiff in an individual action may be awarded damages equal to the sum of \$500 per violation;
- Additionally the bill would have amended the CPA to allow class action cases under the Act and to award damages to the class;
- The Colorado Chamber opposed this bill and worked with the bill sponsor to try to significantly amend the bill to limit the litigation expansion of the bill.
- The bill died in the House after passing the Senate due to its non-COVID priority status during the limited legislative session.

### **SB 93 - Dispute Resolution Fairness Act (Sponsors: Senators Foote/Fenberg & Representative Jackson)**

Position: **Oppose**

Status: Died in House Finance Committee on 6/4/20

- Created the Consumer and Employee Dispute Resolution Fairness Act by enacting certain requirements and disclosures in form contracts, limits on the use of arbitration, and prohibitions of certain contractual clauses against public policy;
- With the Colorado Chamber's involvement, the bill was significantly amended to limit the scope of limited terms and requirements in employment and other standard contracts;
- The bill died in the House after passing the Senate due to its non-COVID priority status during the limited legislative session.

### **SB 205 – Required Paid Sick Leave by Employers (Sponsors: Sens. Fenberg, Bridges; Representatives Becker, Caraveo)**

Position: **Neutral as Amended**

Status: Signed by Governor on 7/14/20

SB 205 requires that businesses allow workers one hour of paid sick leave for every 30 hours worked. The Colorado Chamber lobbying team worked with the bill sponsors to resolve some concerns the business community had with the bill, including technical changes and clarifications and the creation of a new private right of action. Amendments added to the bill:

- Strengthened the administrative complaint process by requiring the employee to file a complaint with CDLE first and a demand to the employer before filing a lawsuit.
- Employers have 14 days to remedy a problem before litigation.

- more than 6 months to a person whom the employee is responsible for providing health or safety related care.
- Created a tighter definition for “successor employer” for purposes of tracking unused or rollover earned sick time.
- Capped the amount of sick leave time an employee can earn in a year to 48 hours, including rollover time and during a declared health emergency.
- Limited the time from 1 year to 6 months that an employer has to reinstate paid sick leave to an employee if they are separated from employment and rehired.
- Clarified that some notice acceptable to the employer (oral, written or electronic) is required prior to taking leave.
- Required that for leave for four or more days, the employer can require documentation – like a doctor’s note – that the leave is for an authorized purpose in the bill.
- Ensured that an employer can count an employee’s unused paid sick leave toward the supplemental paid leave (up to 80 hours in a declared health emergency).
- Allowed an employer to discipline an employee for violating any provisions of the law.
- Changed the standard of evidence for businesses to prove they’re providing paid sick leave, from “clear and convincing” to “preponderance of evidence.”

The bill was also amended in the House to allow for an exemption for small businesses until 2021. The ultimately passed with these amendments.

**SB 207 - Unemployment Insurance (Sponsors: Senators Hansen/Winter; Representatives Gray/Sullivan)**

Position:      **Amend**

Status:        Signed by Governor on 7/14/20

This bill as introduced cobbled together several different issues – some of which were important to the Colorado Department of Labor and Employment but others significantly altered current independent contractor statutes.

- The Colorado Chamber lobbied the bill sponsors and other members of the Legislature to improve the bill and amendments were successfully adopted in the Senate Finance Committee that resolved the concerns with the independent contractor language;
- Amendments were later adopted in the House that were supported by other business groups that will increase unemployment insurance premiums for employers. The amendments adopted included:
  - Freezing the unemployment insurance (UI) chargeable wage base at \$13,600 for calendar year 2021;
  - increasing the Unemployment Insurance chargeable wage base to:
    - \$17,000 for 2022
    - \$20,400 for 2023
    - \$23,800 for 2024



- \$27,200 for 2025 and
  - \$30,600 for 2026, adjusted thereafter by changes in average weekly earnings rounded to the nearest \$100.
- Based on this increase in the wage base that ultimately increases premiums for employers, the new law suspends the solvency surcharge for calendar years 2021 and 2022 to provide some relief for employers.

### **SB 216 - Workers Compensation (Sponsors: Senator Rodriguez & Representative Mullica)**

Position:     **Oppose**

Status:       Died in Senate Appropriations Committee on 6/10/20

Sb 216 would have shifted the burden of proof in workers compensation claims on employers, creating a presumption that essential workers contracted the virus on the job and requiring employers to prove, at an incredibly high standard of “clear and convincing evidence,” that a worker did not contract the virus at their workplace.

- This burden shift went against the traditional workers compensation burden of proof process for COVID-19 claims only and no negotiation was proffered on this bill. Further, the bill would not have required that employees get a test to prove that they indeed did contract the virus;
- The bill would have increased Workers Compensation premiums for employers by approximately \$60 million to \$2.2 billion due to anticipated costs to the current Colorado’s workers compensation system;
- Thanks to the aggressive lobbying from the Colorado Chamber and others in the business community, the Senate Appropriations Committee heard overwhelming concerns and questions on how this would impact employers. The committee prevented it from reaching the Senate Floor, effectively killing the bill.

### **HB 1414 - Price Gouging Amid Disasters (Sponsors: Representatives Weissman/Titone & Senators Foote/Pettersen)**

Position:     **Neutral as Amended**

Status:       Signed by Governor on 7/14/20

HB 1414 gives the Attorney General enforcement authority over price gouging during a public health crisis. The Colorado Chamber worked with lawmakers and the Attorney General’s Office to amend the bill, ensuring the following:

- The act of price gouging is limited only during a declared emergency;
- There is no creation of a new private right of action – investigations are limited to the Attorney General or District Attorney;
- The price gouging “period” is limited to 180 days.



**HB 1415 - Whistleblower Protection in Public Health Emergencies (Sponsors: Representatives Herod/ Sullivan & Senators Pettersen/Rodriguez)**

Position: Neutral as Amended

Status: Signed by Governor on 7/11/20

HB 1415 prohibits discrimination and retaliation against employees who raise workplace safety concerns during a public health emergency. The original bill allowed workers to file a civil suit directly against an employer instead of pursuing relief through an administrative process first – which would have created additional litigation costs for businesses;

The Colorado Chamber worked to successfully amend the bill to require employees to exhaust all administrative remedies through the Colorado Department of Labor and Employment before bringing a civil action against an employer in court. Other amendments to the bill from the business community include:

- one who contracts with 5 or more independent contractors.
- Limiting the application of the bill to a declared emergency.
- Narrowing the scope of the whistleblowing threats to health or safety to those workplace conditions that the principal controls.
- Ensuring the bill is not retroactive and only applies to investigative complaints made after the bill is signed into law.
- Clarification that workers can still be terminated if they break other company policies.

**Energy & Environment Council:**

**HB 20-1025 – Sales Tax Exemption Industrial & Manufacturing Energy Use (Sponsors: Representatives Benavidez & Snyder / Senators Court & Tate)**

Position: Oppose

Bill Status: Died on 5/28/20 in House Committee on Finance

- This bill sought to change the current sales tax exemption for energy used in manufacturing which has been in Colorado statutes for decades and is allowed in over 40 states. The bill changed the current process for receiving the exemption by requiring that taxpayers use a meter or third party to evaluate the amount of energy used in the manufacturing of the product by a company;
- The tax exemption was reviewed by the State Auditor's Office and the Tax Expenditure Review Committee during the State Auditor's quarterly review of current tax expenditures and credits. The State Auditor did not recommend the change proposed in HB 1025 to the current statute in its review process;
- The Colorado Chamber led a coalition of members and other organizations to defeat the legislation based on the concerns of the cost to purchase a meter and/or a third-party evaluator, and the lack of guidance in the bill on how many meters would be required for large operators. The bill was killed in the House Finance Committee when the Legislature reconvened in May 2020.

**HB 20-1059 – Valuation of Energy Storage Equipment (Sponsors: Representatives Jackson & Bird / Senators Winter & Tate)**

Position: **Support**

Bill Status: Died on 5/28/20 in House Committee on Finance

Beginning January 1, 2020, this bill would have required that energy storage equipment owned or operated by a utility is state assessed for property tax valuation in a similar manner to renewable energy facility properties.

**HB 20-1064 – PUC Study of Community Choice Energy (Sponsor: Representative Hooton)**

Position: **Oppose**

Bill Status: Died on 6/16/20 in House Appropriations Committee

This bill would have directed the Public Utilities Commission (PUC) to evaluate the viability of the wholesale, opt-out model of community choice energy (CCE) in Colorado through a third-party feasibility study and an investigatory proceeding. CCE is defined as a mechanism that allows cities, counties, or groups of cities and counties, to combine their purchasing power and choose alternative electricity suppliers while the incumbent utility continues to own and operate the transmission and distribution system.

**SB 20-168 – Sustainable Severance & Property Tax Policies (Sponsors: Senators Hansen & Pettersen / Representative Valdez A.)**

Position: **Oppose**

Bill Status: Died on 6/13/20 in Senate Committee on Appropriations

- This bill would have extended and expanded a property tax exemption for community solar gardens, increased coal severance tax collections, reimbursed local governments for the reduction in local property tax revenue, created a new TABOR refund mechanism and transferred money into the Just Transition Cash Fund to assist communities and workers whose coal-related industries and jobs are subject to significant economic transition.
- The Colorado Chamber testified in opposition to the bill based on concerns that the bill:
  - Eliminated a tax exemption or credit for one industry and used the new revenue to backfill lost revenue related to the extension of a tax credit for another industry;
  - Repealed the severance tax exemption and credits related to coal production retroactively back to January 1, 2020 thereby changing a company's tax burden part way through the tax year that would have been very disruptive to that company's ability to plan its business operations; and
  - Would have used the severance tax, which at least a portion of which has historically development, to backfill the lost revenue related to the extension of a tax credit for another industry.

**SB 20-204 – Additional Resources To Protect Air Quality (Sponsors: Senator Fenberg / Representatives Jackson & Caraveo)**

Position: **Oppose**

Bill Status: Signed by Governor on 6/30/20

- This bill increases fees relating to air quality, including the Stationary Source Fund emission fee, in order to fund a new state enterprise that will conduct air quality modeling, monitoring,

data assessment, and research; and implement emission mitigation projects. The bill also authorizes this new enterprise to establish and collect fees;

- The Colorado Chamber provided testimony in opposition to the bill to both the Senate Committee on Transportation & Energy and the Senate Committee on Finance;
- While the bill amounts to a significant new cost on many Colorado businesses and the bill could not be defeated, amendments that improved the bill included the following:
  - Requiring the enterprise to promote the development of unbiased, high quality science and prohibiting it from advocating for or developing air quality policy;
  - Prohibiting the enterprise board from participating as a party in any air quality-related rulemaking proceedings or having any role in the implementation of Colorado's air quality laws;
  - Expanding the enterprise board to include two representatives of fee payers;
  - Subjecting the enterprise board to open meeting and open record laws; and
  - Requiring the enterprise board to conduct a stakeholder process before establishing any fees and capping the amount of fees that can be collected

### HealthCare Council:

#### **HB 20-1158 – Insurance Cover Infertility Diagnosis Treatment Preserve (Sponsors: Representatives Tipper & Herod / Senators Winter & Fenberg)**

Position: Neutral as Amended

Bill Status: Signed by Governor on 4/1/20

- As introduced, this bill would have required all health plans regulated by the Colorado Division of Insurance to provide coverage for the diagnosis of and treatment for infertility and standard fertility preservation services including four completed oocyte retrievals with unlimited embryo transfers in accordance with the guidelines of the American Society for Reproductive Medicine using single embryo transfer when recommended and medically appropriate;
- The Colorado Chamber was instrumental in amending the bill to reduce the number of oocyte retrievals from four to three. Each retrieval can cost as much as \$30,000 or more and therefore reducing the number reduced the cost of the bill and its impact on the cost of insurance for Colorado businesses and their employees. As a result of this change, the Colorado Chamber changed its position from Amend to Neutral.

#### **HB 20-1160 – Drug Price Transparency Insurance Premium (Sponsors: Representatives Jackson & Roberts / Senators Ginal & Donovan)**

Position: Oppose

Bill Status: Died on House Second Reading Calendar

- The bill would have required health insurers, drug manufacturers, pharmacy benefit managers (PBMs) and nonprofit organizations focusing on pharmaceutical treatment to report information relating to the cost of prescription drugs to the Commissioner of Insurance including providing advanced notice of certain price increases;
- The Colorado Chamber opposed the bill out of concerns that it did not adequately safeguard confidential information and also required advanced notice of certain price increases.

**HB 20-1198 – Pharmacy Benefits Carrier & Pharmacy Benefit Manager Requirements (Sponsors: Representative Buckner / Senators Fields & Ginal)**

Position: **Oppose**

Bill Status: Died on 6/10/20 in House Committee on Health & Insurance

HB 1198 would have required health insurance carriers and pharmacy benefit managers (PBMs) to report certain information related to compensation to the Colorado Division of Insurance and would have prohibited certain business practices in the industry.

**HB 20-1264 – Health Care Contract Hospital System Carriers Providers (Sponsor: Representative Kennedy)**

Position: **Oppose**

Bill Status: Died on 6/10/20 in House Committee on Health & Insurance

The bill would have created restrictions on contracts between health systems and insurance carriers or other health care providers and required disclosure of certain contractual relationships.

**HB 20-1349 – Colorado Affordable Health Care Option (Sponsors: Reps. Roberts & Kennedy / Senator Donovan)**

Position: **Oppose**

Bill Status: Died on the calendar in House Committee on Appropriations

- This bill would have directed the Commissioner of Insurance to design a health insurance plan (the “Colorado Option” plan) to be offered by private health insurance carriers in the individual market beginning in 2022. The bill also would have required health insurance carriers to offer the Colorado Option in each county where the carrier offers an individual health benefit plan and require hospitals to participate in the Colorado Option plan unless exempted by the bill or the Commissioner of Insurance;
- The Colorado Chamber opposed the bill based on concerns that it directed private companies how to conduct their business operations, as well as the anticipated increase in costs to the small and large group insurance markets.

**SB 20-119 – Expand Canadian Prescription Drug Import Program (Sponsors: Senator Ginal / Representative Jaquez Lewis)**

Position: **Oppose**

Bill Status: Died on 6/10/20 in House Committee on Health & Insurance

- This bill would have authorized the importation of drugs from nations other than Canada, conditional upon the enactment of federal legislation permitting states to do so. Senate Bill 19-005, which has not been implemented, created the Canadian Drug Importation Program and program and submit it for approval to the United States Secretary of Health & Human Services by September 1, 2020;
- The Colorado Chamber opposed the bill based on concerns of consumer safety and that it expands a program that has not been implemented.

**SB 20-127 Committee Actuarial Review Health Care Plan Legislation (Sponsors: Senators Smallwood & Todd)**

Position: **Support**

Bill Status: Died on 6/13/20 in Senate Committee on Appropriations

- This bill would have created the Health Benefit Plan Design Review Committee to review introduced legislation that imposed new requirements or modified existing requirements for health insurance plans in Colorado and assessed the costs and benefits of the proposed changes;
- The Colorado Chamber supported the bill to ensure lawmakers had important information about the costs and benefits of changes to Colorado's health insurance plans and the fiscal impact on Colorado citizens before voting on those changes.

**SB 20-163 – School Entry Immunization (Sponsors: Senators Gonzales & Priola / Representatives Mullica & Roberts)**

Position: **Support**

Bill Status: Signed by Governor on 6/26/20

- The bill creates a standardized form for parents to request an exemption from immunizations that are required to attend school in Colorado. The form must be signed by a doctor, nurse or pharmacist. In lieu of the signed form, the bill also allows a parent to receive an exemption for their child by certifying they watched a state-issued online education video about vaccines. The intent of the bill is to increase immunization rates in Colorado;
- The Colorado Chamber supported the bill because increasing immunization rates will reduce sickness and therefore lower health costs and premiums for Colorado businesses and their employees.

**SB 20-215 – Health Insurance Affordability Enterprise (Sponsors: Senators Moreno & Donovan / Representatives Kennedy & McCluskie)**

Position: **Amend**

Bill Status: Signed by Governor on 6/30/20

- This bill creates the "Health Insurance Affordability Enterprise," which extends and refinances last year's reinsurance program by carrying over the federal Health Insurance Tax (HIT), which expires at the end of this year, as a fee paid to the state which closely mirrors the federal tax. The bill creates a "premium wrap" to ensure no Coloradan's net healthcare premium cost increases as a result of the Reinsurance Program. It also creates a funding stream to address the "family glitch" in which individuals are not eligible for federal subsidies on the exchange because they can obtain coverage for themselves from their employer but the cost of coverage for their family members is not affordable;
- While the Colorado Chamber initially opposed the bill due to increased health insurance costs through a series of amendments;

- Changes that reduce the current and future fiscal impact on employers include the following:
  - Reducing the fee on for-profit carriers from 2.5% of premiums collected to 2.1%.
  - Prohibiting the Commissioner of Insurance from implementing a public health care option.
  - Capping expenditures the enterprise can make.

### Governmental Affairs Council:

#### **HB 1093 - County Authority License and Regulate Business (Sponsors: Representatives McCluskie/Wilson & Senator Donovan)**

Position:     **Neutral as Amended**  
Status:       Signed by Governor on 3/23/20

- The bill allows local board of county commissioners the authority to license and regulate short-term lodging rentals within the county. They may also advertise the rentals and can fix the fees, terms, and manner for issuing and revoking business licenses;
- Concerns were raised by members of the Governmental Affairs Council which were resolved through amendments to the bill.

#### **HB 1142 – Hazard Mitigation Grant Program (Sponsor: Representative Cutter)**

Position:     **Oppose**  
Status:       Died in House Finance Committee on 5/28/20

- The bill would have created a Hazard Mitigation Enterprise to be funded by fees charged to insurance companies that provide property and hazard insurance. The fee would have been equal to 0.05% of the gross amount of premiums on policies covering property or risks in the state in the previous year, minus the amount paid as reinsurance premiums, and amounts paid to policy holders as return premiums;
- Concerns were raised by Colorado Chamber members that the bill not only increased fees on insurance companies that would have been passed along to policy holders, but also circumvented voter approval of such a fee by establishing a State enterprise for the program. The Colorado Chamber and its members lobbied against the bill which died in the House Finance Committee when the Legislature reconvened in May.

#### **HB 1195 – Right to Repair (Representatives Titone/Singer & Senators Bridges/Cooke)**

Position:     **Oppose**  
Status:       Died in House Business Affairs & Labor Committee on 5/27/20

- This bill would have changed the Colorado Consumer Protection Act by requiring manufacturers of digital electronic equipment to make documentation, parts, embedded software, or tools to service the equipment and reset an electronic security lock available to any independent repair provider or owner;
- Concerns were raised by many Colorado Chamber members regarding this bill which was ultimately killed by the House Business Committee when the Legislature reconvened in May.



## **HB 1227 – Network-level Distracted Driving Technology (Sponsors: Representative Melton & Senator Foote)**

**Position:** **Oppose**

**Status:** Died in House Business Affairs & Labor Committee on 2/26/20

- This bill would have required providers of mobile phones to have distraction control technology available to customers so that they could limit content on their mobile phone while they are driving;
- Concerns were raised by Colorado Chamber members regarding potential cost and confidentiality of technology information. The bill was ultimately defeated in the House Business Affairs Committee.

## **SB 109 – Short-term Rentals Property Tax (Sponsor: Senator Gardner)**

**Position:** **Oppose**

**Status:** Died in Senate Finance Committee on 2/11/20

SB 109 would have changed the definition of short-term rentals for property tax purposes to the following:

- the building or unit is available for rent for less than 30 consecutive days; and
- the building or unit is occupied by the owner for less than 30 days per year.
- The bill would have classified short term rentals as non-residential property beginning in 2022 as nonresidential property based on the usage of the units in 2021.

The bill was opposed by the Colorado Realtors Association and homeowners of short-term rental property that were concerned about the change in tax assessment on their property. The bill was ultimately defeated in the Senate Finance Committee.

## **SB 138 – Consumer Protection Construction Defect Time Period (Sponsor: Senator Rodriguez)**

**Position:** **Oppose**

**Status:** Died on Senate 2<sup>nd</sup> Reading Calendar on 5/28/20

- The bill would have increased the statutory limitation period for construction defects litigation actions from six years to ten years. It would have also allowed for a pause of the limitation period on any statutory or equitable basis and a pause until the claimant determines the defect and the cause of the defect;
- The bill was opposed by the Colorado Chamber and many other interest groups based on concerns that it was changing the construction defect law that had been negotiated in prior years. Interest groups would like to give those changes time to adjust within the construction market prior to changing the law again.



## Tax Council

### **HB 1022 - Sales and Use Tax Simplification Task Force (Sponsors: Representatives Kraft-Tharp/Van Winkle & Senators Williams/Tate)**

Position:      **Support**

Status:        Signed by Governor on 6/29/20

- Continues the sales and use tax simplification task force for 6 years;
- Includes a process for selecting a chair and vice-chair of the task force;
- Modifies the task force's duties;
- Requires the joint technology committee to seek regular updates from the office of information technology (OIT) and the department of revenue (DOR) regarding the development of the electronic sales and use tax simplification (SUTS) system, to monitor and encourage participation by businesses and home rule municipalities in the SUTS system, and to seek regular updates from OIT and DOR regarding the purchase and development of a geographic information system (GIS) database; and
- Removes requirement that the task force undergo an evaluation by the department of regulatory agencies prior to the task force's repeal.

### **HB 1023 – State Address Data for Sales & Use Tax Collection (Sponsors: Representatives Kraft-Tharp/Van Winkle & Senators Williams/Tate)**

Position:      **Support**

Status:        Sent to Governor on 3/10/20

- HB 1023 repeals the current hold harmless provisions for vendors that use the current state-certified electronic address databases 90 days after the new state Geographic Information System (GIS) database is established;
- Once the new GIS database is implemented, the bill allows for a hold harmless provision for vendors that use the state's new GIS database to determine sales and use tax rates for addresses and taxing jurisdictions.

### **HB 1024 - Net Operating Loss Deduction Modifications (Sponsors: Representatives Benavidez/Snyder & Senator Moreno)**

Position:      **Neutral as Amended**

Status:        Signed by Governor on 6/26/20

- HB 1024 changes the current net operating loss (NOL) deduction taxpayers are allowed to claim on Colorado corporate income taxes and states that the deduction may only be carried forward for up to 20 years, instead of an unlimited number of years as is allowed under federal law. This bill decoupled Colorado from federal law as it relates to the NOL deduction;
- The Colorado Chamber successfully secured an amendment to the bill clarifying that the change applied prospectively for tax years beginning January 1, 2021 so that taxpayers weren't penalized for prior tax reporting years.

## **HB 1025 - Sales Tax Exemption Industrial & Manufacturing Energy Use (Representatives Benavidez/Snyder & Sens. Court/Tate)**

Position: **Oppose**

Status: Died in House Finance Committee on 5/28/20

- This bill sought to change the current sales tax exemption for energy used in manufacturing which has been in Colorado statutes for decades and is allowed in over 40 states. The bill changed the current process for receiving the exemption by requiring that taxpayers use a meter or third party to evaluate the amount of energy used in the manufacturing of the product by a company;
- Committee during the State Auditor's quarterly review of current tax expenditures and credits. The State Auditor did not recommend the change proposed in HB 1025 to the current statute in its review process;
- The Colorado Chamber led a coalition of members and other organizations to defeat the legislation based on the concerns of the cost to purchase a meter and/or a third-party evaluator, and the lack of guidance in the bill on how many meters would be required for large operators. The bill was killed in the House Finance Committee when the Legislature reconvened in May 2020.

## **HB 1420 – Eliminating Current Tax Expenditures/Credits & CARES Funding (Sponsors: Representatives Sirota/Gray & Senators Moreno/Hansen)**

Position: **Oppose**

Status: Signed by Governor on 7/11/20

With limited days left in the Colorado legislative session, lawmakers rushed through HB 1420 during the last week of Session that would have amounted to a massive tax increase on the business community in the middle of the worst economic crisis in decades.

- House Bill 1420 would have decoupled the state from several valuable federal business tax deductions, capped the net operating loss tax exemption at \$400,000, and eliminated the manufactured energy tax exemption and regional home office tax credit. This would have cost businesses hundreds of millions of dollars per year;
- The bill was completely gutted after an outcry from the business community. More than 500 businesses reached out to their lawmakers about this bill through the Colorado Chamber's outreach tools, which amounted to significant pressure on the legislature. Amendments to the bill include the following:
- Allowed the continuation of the long-standing tax exemption provided to businesses who use energy for industrial purposes;
- Removed the \$400,000 cap on the current Net Operating Loss tax exemption that businesses take for the carry-forward of business losses;
- Allowed continuation of the long-standing regional home office tax credit;
- Removed detrimental annuity plan language;

- Increased the thresholds of the tax deduction allowed under the federal Tax Cuts & Jobs Act 199A deduction thereby protecting small and mid-sized businesses that take the deduction.

The bill passed as amended in the final day of Session but involved two days of filibustering by the House Republicans which helped give the Colorado Chamber the pressure it needed to secure the amendments that significantly cleaned up the bill.

### **HB 1421 - Delinquent Interest Payments Property Tax (Representatives Roberts/Saine & Senators Donovan/Sonnenberg)**

Position:      **Support**

Status:        Signed by Governor on 6/14/20

- The bill allows a board of county commissioners or a city council to temporarily reduce, waive, or suspend delinquent interest payments for property taxes. Upon approval of the county treasurer, such authorization applies to a county or city that, between January 1 and June 1, 2020, collected less than 90 percent of the amount of property tax revenue that was collected between January 1 and June 1, 2019;
- This bill was brought by Colorado Chamber members concerned with a lack of flexibility in current law allowing local jurisdictions to reduce or waive interest payments for property taxes.

### **SB 99 - Thresholds for Sales Tax Collection Requirements (Sponsors: Senator Rankin; Representative Will)**

Position:      **Support**

Status:        Died in Senate Finance Committee on 2/4/20

- SB 99 would have increased the retail sales threshold for sales tax economic nexus from \$100,000 to \$200,000 for collecting and remitting sales tax, as well as increase the retail sales threshold for destination sourcing from \$100,000 to \$200,000;
- The bill was defeated due to concerns that it would have created a significant loss of revenue to the State by changing the threshold amount required to collect and remit sales tax to the State.