



2021 ANNUAL REPORT



OVERVIEW OF THE 2021 LEGISLATIVE SESSION

New obstacles to economic recovery with
lasting consequences for business.



2021 Session Summary

LEGISLATURE PROMISES RECOVERY, DELIVERS FURTHER ECONOMIC CHALLENGES

By Loren Furman & Cynthia Meyer

Overview



Loren Furman

As we approached the 2021 legislative session, it was clear that the political landscape would be challenging. The global pandemic presented serious obstacles for the Colorado business community; burdensome local restrictions, declining revenue, disruptions in the supply chain, and a growing labor shortage has plagued certain industries and businesses across the state. A recent Colorado Chamber survey found that about three-quarters of Colorado businesses indicated that they are or were negatively impacted by the pandemic. Unfortunately, many businesses did not survive 2020, and others will feel the economic consequences for years to come.

The 2021 Session proved to be very challenging and the Colorado Chamber has had to get aggressive in fighting ill-informed policies at the Capitol. Despite this environment, the Chamber succeeded in killing or improving many bad bills this session.

Early in the session, the Colorado Chamber launched a hard-hitting campaign against several anticipated proposals. The primary message to lawmakers was simple: prioritize jobs. In addition to the strains of the pandemic, Colorado employers are already facing extraordinary new costs due to regulatory and legislative actions taken in the last several years – from a new paid leave mandate to increasing unemployment insurance rates to prohibitive energy regulations. A study by the nonpartisan Common Sense Institute estimated the annual cost for these proposals alone is \$1.8 billion on the business community at large.



Cynthia Meyer



DENVER
BUSINESS JOURNAL

Colorado business leaders mount early campaign against bills raising costs, regulations

In March, the Colorado Chamber joined together with business leaders from local chambers of commerce and industry groups to make their case in a press conference that amplified the message. All in all, the Chamber's grassroots effort led to more than 2,000 contacts made with legislators from members of the business community on Chamber-priority bills.

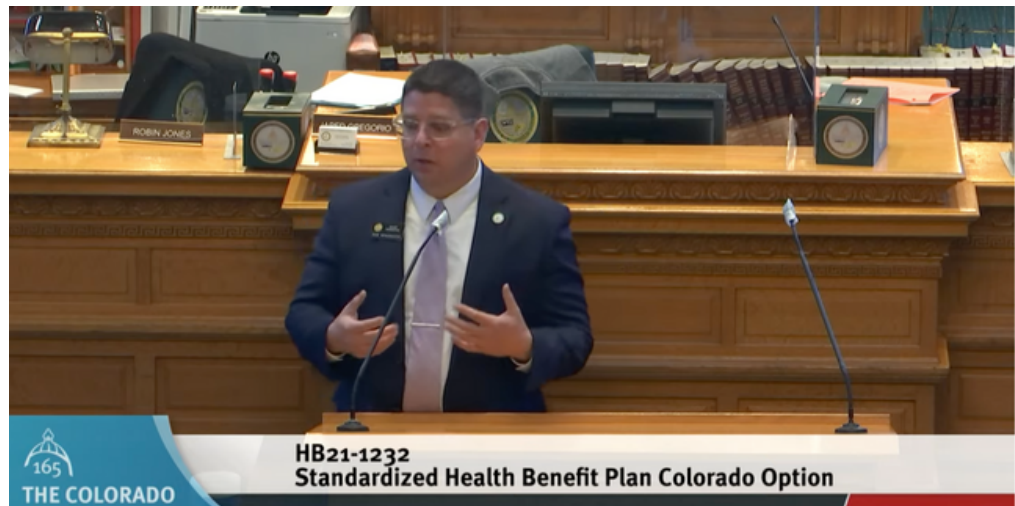
This outreach helped the Colorado Chamber secure important victories. An overly broad workplace harassment bill that would have done more for trial lawyers than workers was killed in a House Committee after significant business backlash. A sweeping workers compensation bill that would have undone a tedious bipartisan agreement reached several years ago also failed.

And several bad-for-business bills saw significant improvement thanks to the work of the Colorado Chamber's lobby team – from tax reform legislation to the public health care option.

Overly Broad Workplace Harassment Bill Dies After Business Pushback

This legislative session saw a series of proposals targeting employers at one of the worst possible times for our state's economy – but few bills drew as much opposition from the business community as Senate Bill 176, the so-called "Protecting Opportunities and Workers Rights Act."





One of the most problematic aspects of the bill was its new definition of “harassment,” which created a broad, untested legal standard that would have led to a flood of new claims against public and private employers. The definition removed the requirement under current law that the conduct must be “severe or pervasive” to file a civil claim and instead replaced that standard with an extremely broad definition that would undoubtedly lead to costly lawsuits for employers at a time when the business community is still struggling to recover from the economic fallout of the pandemic.

The Colorado Chamber also pointed out that this change directly contradicted the standards legislators set for themselves just three years ago. In an op-ed published in Colorado Politics, the Chamber’s Loren Furman brought this hypocrisy to light. She pointed out that under the 2018 rules that legislators passed to govern their own actions and the subsequent workplace harassment policies, the General Assembly’s definition of harassment maintains a “severe or pervasive” conduct standard that unreasonably interferes with a person’s work performance or adversely affects a person’s employment opportunities.

Furman suggested that the legislators use this definition as the standard to set on the private sector, rather than the overly broad definition set forth in SB 176. It offered more protections to employees and was more expansive than current Colorado law, while still providing enough clarity to prevent unreasonable or frivolous claims.

Another aspect of the bill that the Chamber sought to change was a provision that would have included independent contractors as eligible to file a claim under the law, essentially making employers responsible for the conduct of contractors. Employers exercise little direct oversight or authority over independent contractors, and this would have exposed businesses to unfair, excessive litigation.

SB 176 would have made it much easier for an individual to file a harassment claim - a claim could be filed after just a single incident under the bill, rather than requiring a pattern of conduct or behavior. The Colorado Civil Rights Division testified that they expected a significant influx in claims that could overwhelm the department.

The fiscal note for the bill also anticipated that the state's litigation costs for these claims would increase 25%, and that estimate excludes costs associated with additional settlements. The bill also created excessive punitive fines that would punish good faith actors.

After aggressive outreach to the House Judiciary Committee by Colorado Chamber members and other business groups, SB 176 was killed in a 9-2 vote in the House Judiciary Committee. The sponsor's attempted a strike-below amendment to the bill, but were unsuccessful.

Business Tax Reform Bills Look Much Different from Last Summer

Last summer, lawmakers made a rushed attempt to fast-track a sweeping tax reform bill that would have removed a series of critical business tax credits and exemptions, increasing the tax burden on businesses in the heat of the global pandemic. The bill, HB 1420, died after an unprecedented grassroots effort from the Colorado business community against the bill.

It was clear at the end of the 2020 session that the sponsors would try again in 2021. The Colorado Chamber's lobby team worked closely with legislators to preserve many of the tax credits that were on the chopping block in HB 1420. The effort produced House Bills 1311 and 1312, which were a significant change from their predecessor.

While some provisions of HB 1420 remained in the new bills, several critical tax credits – like the manufactured energy tax exemption and the decoupling of CARES Act funding – were not attempted again.

The bill package also raised the exemption cap for the business personal property tax from \$7,900 to \$50,000, a welcomed change for the business community.

In an effort to “close loopholes,” the bill still eliminated tax credits for the coal industry and makes it more difficult for insurance companies to claim the regional home office tax deduction. While HB 1311 and HB 1312 were an improvement from what we saw last year, the Colorado Chamber still fought the bills aggressively due to the economic impact of increasing taxes on businesses in the middle of a recession. Further, lawmakers were actually facing a budget surplus, raising the question of why this proposal was even necessary. A series of amendments were accepted that the 3 of 6 reporting rule was reinstated, the regional home office restrictions were slowed, terms and definitions were clarified, and certain provisions were properly adjusted for inflation, among other improvements.

“As the third legislative session with one party in control of virtually all of state government, the Colorado Chamber has had to get aggressive in fighting ill-informed policies at the capitol. Despite this challenging environment, the Chamber succeeded in killing or improving many bad bills this session.”

Costly Workers Compensation Proposal Killed in House

This session lawmakers filed a bill that would have upended the process of filing workers' compensation claims and increased costs for employers.

SB 197 would have eliminated all of the workers' compensation physician choice statutory provisions that were negotiated between the Colorado Chamber and labor groups through a long, drawn-out process between 2013 and 2014. The bill also allowed a change of doctor up until maximum medical improvement, which means that a treating physician could determine that a worker is ready to go back to work while a worker's attorney could recommend additional physicians, prolonging the process and increasing workers compensation costs for employers.

Pinnacol Assurance estimated that the bill would have increased workers compensation insurance costs on employers by almost 15% per year. After passing the Senate, the bill ultimately died in the House due to feedback from employers and the Colorado Department of Labor and Employment.

Long-Anticipated Transportation Funding Package Passed into Law

Transportation funding has been a neglected issue in the legislature for years due to disputes over funding sources between the majority and minority parties. The business community has repeatedly called for a bipartisan funding solution and this session, lawmakers were dedicated to making it a priority. The topic took a front seat in Speaker of the House Alec Garnett's opening address at the beginning of session, where he said, "I'm not the first Speaker in recent memory to stand here and say this will be the year we get transportation done. But with your help and hard work, I'm determined to be the last."

The result was Senate Bill 260, a long-anticipated proposal that provides \$5.3 billion in funding for transportation projects through a variety of fees, general fund dollars, and federal stimulus money. The funds generated will go towards road and highway improvements, electrification, and pollution mitigation.

Republicans were frustrated that the proposal focused heavily on air quality mitigation measures, and many in the Colorado business community agreed. According to the survey conducted by the Colorado Chamber in May, 63% of Chamber members believed that a transportation package should only support funding roads and bridges – and not include air quality mitigation as part of the package.

The source of funding for the proposal was also controversial – while some of the funding will come from the general fund, SB 260 increases and creates new fees on rideshare and delivery companies, electric vehicles, diesel fuel, and road usage.

While the bill may not be the most favorable solution to our transportation and infrastructure issues, the additional funding to improve our roads was long overdue and will undoubtedly be a positive for the Colorado business community.

Colorado Will Get a “Non-Public Option Program”

Creating a “Colorado Option” in health insurance has been a priority of leadership and the governor since 2018 when Democrats gained the control of state government. Their first attempt in the 2019 session stalled in negotiations between insurers, hospitals, and physicians. After the pandemic hit in early 2020, Gov. Polis committed to putting the proposal on hold yet again to prioritize critical COVID-19 legislation.

It was made clear at the beginning of this session that 2021 would be the year – and the third attempt at Colorado’s public option ultimately became law through House Bill 1232. In negotiations, however, the proposal was shifted from a true government-run public option to a quasi-public option, where the state will require insurers to offer a specific plan to the small group and individual market. The parameters of the plan will be directed by the State.



Regardless of whether the plan is a true public option, the Colorado Chamber has maintained that any plan only offered to the small groups and individuals will inevitably lead to a cost-shift onto employer-sponsored plans. This will raise premiums for any employee that receives insurance through their jobs and make it difficult for employers to continue offering these benefits.

Further, the Colorado Chamber and stakeholders in the health care industry questioned the wisdom of this model in actually addressing costs and access to health care. A similar plan was recently passed in the state of Washington, which went on the market late last year. Like the Colorado option, Washington's plan requires private insurers to offer a standardized plan directed by the state to the individual market and uses rate-setting to dictate prices. So far, the plan has done little, if anything, to lower premiums in Washington.

While the Colorado Chamber opposed the final version of HB 1232, it did see some favorable amendments through the legislative process.

Most notably, the original bill required health care plans to drop premiums by 20% based on 2021 numbers by 2024, while the final bill lowered that to 15%. The original bill also required mandatory participation for doctors, hospitals, and health care plans. The final bill removed penalties for doctors who did not comply with the mandatory participation requirement and loosened the enforcement provisions for hospitals by removing the loss of licensure provision.

Last-Minute Deal Resurrects Environmental Bill From Governor Veto

In what was arguably one of the most frustrating moves of the legislative session, Majority Democrats and the Governor's Office devised a last-minute amendment that gave new life to a bill that was all but dead at the beginning of session. Stakeholders and business groups had little time to respond or provide any feedback to the sweeping legislation, which will come with serious and lasting economic consequences.

The bill in question was Senate Bill 200, filed early in the legislative session, which imposed aggressive caps on greenhouse gas emissions and gave the state's environmental regulators broad control over virtually any entity that generates greenhouse gas.

SB 200 would have upended an ambitious clean energy bill passed two years ago that set greenhouse gas reduction goals for the state. That bill, HB19-1261 dubbed the Greenhouse Gas Roadmap, provided flexibility to utility companies to meet these goals and made Colorado a national leader in emissions reduction efforts. Colorado utility companies have worked hard to create a balanced pathway to meet these reduction targets, while maintaining consumer access and have submitted concrete plans for achieving these goals.

Due to the broad authority given to an unelected commission in SB 200, Gov. Polis threatened to veto the bill and the Colorado Chamber opposed it. The bill was virtually dead early in the session.

But in the final days, rushed negotiations attached SB 200 as a 25-page amendment to a different environmental bill – House Bill 1266. The bill codifies and accelerates the emissions reduction targets set forth in the Greenhouse Gas Roadmap. What were originally intentionally flexible targets for industry to meet emissions goals will now be imposed as hard caps in this bill.

The Colorado Chamber formally asked Governor Polis to veto HB 1266 along with a broad coalition of industry and business groups. Unfortunately, the Governor signed the bill on July 2nd, but did also issue an executive order formally prohibiting relevant state agencies and their personnel from planning or implementing cap-and-trade in Colorado. While this is not the ideal outcome, the accompanying executive order is a nod to a major concern raised by the business community through the process.



Meet the Colorado Chamber's Government Affairs Team



Loren Furman

Loren joined the Colorado Chamber of Commerce in January 2008 and serves on its leadership team as Senior Vice President. She manages all State and Federal policy issues for the Chamber including energy and environment, taxation, health care, labor and employment, tort/civil justice and manufacturing.



Katie Wolf

Katie Wolf Perkins joined the Colorado Chamber in Nov. 2020 as the Director of State Governmental Affairs, bringing over a decade of government affairs and lobbying experience. Over the years, Katie has established herself as a well-respected, bi-partisan lobbyist and has earned the admiration of her colleagues and Colorado's legislators.



Larry Hudson

Larry Hudson is a Partner at The Fulcrum Group a governmental affairs and communications firm. Larry lobbies for the Colorado Chamber of Commerce on labor and employment issues and information technology issues

A low-angle photograph of the Colorado State Capitol building, showing its ornate white columns and a golden-tiled dome against a clear blue sky. Two large blue circles are overlaid on the image, containing white text.

30

Bills the Colorado Chamber took positions on this legislative session.

2,062

Emails sent to legislators using the Colorado Chamber's grassroots tools.

A background image of the Denver skyline at sunset, with a blue sky transitioning into orange and pink hues. In the foreground, there is a curved road with green grass and some trees. A bridge with a blue arch is visible on the left side. The image is framed by a blue border.

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"On top of the global pandemic and its economic fallout, the Colorado business community has endured significant burdens, jeopardizing their ability to continue operating and employing millions of workers across the state. We believe that businesses are the key to economic recovery from this pandemic — let's allow them to pave the way for success."

Loren Furman, SVP of Government Affairs
Colorado Politics Op-Ed, February 24, 2021

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2021 LEGISLATION: IN-DEPTH ANALYSIS

Everything you need to know about how the legislation passed this year will impact your business.

GOVERNMENT AFFAIRS COUNCIL

HB 1162: Ban of Plastic Products

Sponsors: Reps. Valdez & Cutter; Senators Gonzales & Garcia

Position: **Oppose**

Bill Status: Signed by the Governor on July 6, 2021

Chamber Analysis

- HB 1162 phases out single-use plastic carryout bags and polystyrene products and repeals the state preemption prohibiting local governments from regulating the use or sale of plastic materials or products. It also allows local governments to enforce violations and civil penalties;
- The bill was amended in the House based on an agreement by the bill sponsors to remove the repeal of the local government preemption language which had been the sole reason for a “neutral” position by certain trade associations and businesses. That language was removed in the House but was placed back into the bill by the Senate sponsors to the surprise of all parties involved in the process of this bill. Those parties went back to an “oppose” position on the bill.



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“I’m optimistic that we’ll continue to work on these priorities on a bipartisan basis with the legislature, and I look forward to working with all of you in the Colorado business community as we prepare for the dawn of a new day of post-pandemic economic growth in Colorado.”

Governor Jared Polis addressing Colorado Chamber members at Colorado Business Day

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NOV

HB 1306: Accreditation of Postsecondary Institutions

Sponsors: Reps. Garnett & Geitner; Senators Rodriguez & Lundeen

Position: **Support**

Bill Status: Signed by the Governor on June 23, 2021

Chamber Analysis

- HB 1306 allows private school accreditation by an institutional or programmatic accreditation body recognized by either the DOE or the Council for Higher Education Accreditation;
- The bill also creates an exemption for private occupational schools regulated by the Division of Private Occupational Schools (DPOS), and makes it a deceptive trade practice for private schools to advertise or represent accreditation unless recognized by DOE or CHEA.

SB 20: Energy Equipment & Facility Property Tax Valuation

Sponsors: Senators Hansen & Hisey; Reps. Valdez & Soper

Position: **Support**

Bill Status: Signed by the Governor on April 22, 2021

Chamber Analysis

- SB 20 requires clean energy resources, energy storage facilities, and solar facilities with a generation capacity of under 2 megawatts to be valued for property tax purposes using the “income approach” rather than the “cost approach” beginning January 1, 2021.



SB 184: Ski Area Safety Plans & Accident Reporting

Sponsors: Senators Story & Danielson

Position: **Opposed**

Bill Status: Died

Chamber Analysis

- Required certain reporting by ski areas including those with an elevation drop of 500 feet or more and at least one elevated lift on accidents, deaths, specific information regarding the accidents and whether death occurred on site;
- The bill also created grounds for discipline if there was a failure to create and maintain a safety plan. The bill died in the first committee of reference.

SB 252: Community Revitalization Grant Program

Sponsors: Senators Fenberg & Holbert; Reps. Titone & Lontine

Position: **Support**

Bill Status: Signed by the Governor on June 16, 2021

Chamber Analysis

- SB 252 creates the Community Revitalization Grant Program within the Division of Creative Industries that is housed within the Office of Economic Development and International Trade (OEDIT). It allows for-profit, nonprofit entities, and local governments to receive grants for creative projects that would revitalize or help in the construction of commercial centers in Colorado



87%

of employers said their top request of the legislature before the 2021 session was to avoid increasing taxes on businesses.

Colorado Chamber Survey, December 2020

NO

ENERGY & ENVIRONMENT COUNCIL

HB 1189: Regulate Air Toxics

Sponsors: Reps. Benavidez & A. Valdez; Senators Gonzales & Moreno

Position: **Oppose**

Bill Status: Signed by the Governor on June 28, 2021

Chamber Analysis

- HB 1189 expands the monitoring requirements for stationary sources of air pollutants and authorizes the Air Quality Control Commission (AQCC) to list additional air pollutants as air toxics through rule. Covered facilities are those that are required to conduct fenceline monitoring, specifically stationary sources in specific industry sectors as defined by North American Industry Classification System (NAICS), ie petroleum refineries.
- Covered facilities must conduct fenceline monitoring of air toxics beginning July 1, 2024, except petroleum refineries must start January 1, 2023. Every covered facility must submit a plan to CDPHE one year prior to monitoring for approval.
- The bill also requires the AQCC to consider, AT LEAST every 5 years, adding additional stationary sources and new covered air toxics.



HB 1266 & Environmental Justice Disproportionate Impacted Community

SB 200: & Greenhouse Gases Increase Environmental Justice

Sponsors: Rep Jackson; Senators Winter & Buckner &

Rep Jackson; Senators Winter & Moreno

Position: **AMEND as introduced – OPPOSE as passed**

Bill Status: Signed by the Governor on June 23, 2021

Chamber Analysis

- As introduced HB 1266 created the Environmental Justice Action Task Force within in the Department of Public Health and Environment (CDPHE), and requires the Air Quality Control Commission (AQCC) which is also part of CDPHE, to engage with disproportionately impacted communities on proposed state actions.
- SB 200 was a bill that would have imposed aggressive caps on greenhouse gas emissions and gave the state's environmental regulators broad control over virtually any entity that generates greenhouse gas and fining authority to enforce the caps. Due to the broad authority given to an unelected commission and the carefully negotiated agreement from just 2 years ago in HB19-1261, Governor Polis threatened to veto the bill. The Colorado Chamber adamantly opposed SB 200.
- Unfortunately, once it become obvious that SB 200 was untenable for the Governor to sign – and even to pass through the Senate, SB 200 was given new life as an amendment to HB 1266. Evolving negotiations with Democratic leadership, the Governor's office and stakeholders reached an agreement in the final days of session, behind closed doors, giving opponents less than 24 hours to review a 25 page amendment, and no time to provide any feedback outside of testimony.



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“The substantial changes made in this legislation will lead to increased electricity costs and loss of jobs- neither are optimal outcomes emerging from a devastating pandemic and will directly financially impact the bottom line of those who this bill was originally intending to help,”

Coalition Veto Request Letter for SB 200

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- Some changes were made from the original SB 200 – most significantly, the codification of the Greenhouse Gas Roadmap only applies to the electric, industrial, and manufacturing sectors (the bill excludes buildings and transportation). HB 1266 accelerates the target reductions for the industrial and manufacturing sectors substantially, moving the baseline of 2005 emission rates to 2015 emission rates, excluding oil and gas, with the same reduction goal of 20% by 2030. Additionally, it accelerates the reduction targets for oil and gas to 36% by 2025 and 60% by 2030 – a substantial increase from the Greenhouse Gas Roadmap.
- HB 1266 creates a new funding source for the Environmental Justice Action Task Force by directing the AQCC to add GHG to the list of air pollutants required to be reported in an APEN by December 31, 2022, and to establish in rule a per-ton fee on GHG emissions in an amount that is sufficient to cover the indirect and direct costs required to develop and administer GHG programs.
- The new version also gives the AQCC more authority to rewrite energy plans for entities who are not meeting the targets or making sufficient progress – as defined by the AQCC.

HB 1269: PUC Study of Community Choice Energy

Sponsors: Reps. Hooton & Kipp; Senator Donovan

Position: **Oppose**

Bill Status: Signed by the Governor on June 25, 2021

Chamber Analysis

- HB 1269 directs the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to evaluate the viability of the wholesale, opt-out model of community choice energy (CCE) in Colorado. 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 investor-owned utility continues to own and operate the transmission and distribution system. The report must be complete and recommendations made to the General Assembly by January 15, 2022.

SB 125: Alternate Proposals Air Quality Control Rulemaking

Sponsors: Senator Cooke

Position: **Support**

Bill Status: Died

Chamber Analysis

- SB 125 would have directed the Air Quality Control Commission (AQCC) to promulgate procedural rules governing the submission and consideration of alternate proposals to rules addressing ambient air quality standards. These rules must establish deadlines for submission, consideration, and review of the proposal, and establish procedures for assigning a hearing officer to determine whether the proposal complies with certain requirements.

SB 163: Cost Benefit Analysis for Rules Additional Requirements

Sponsors: Senator Rankin

Position: **Support**

Bill Status: Died

Chamber Analysis

- Under current law, a person may request that a cost-benefit analysis (CBA) of a proposed rule be completed by a rulemaking agency. SB 163 would have modified that process by:
 - allowing a cost-benefit analysis to be requested up to 15 days before the scheduled rulemaking hearing
 - requiring that the cost-benefit analysis be completed at least 5 days prior to the rulemaking hearing, instead of the current 10 days prior
 - requiring that the cost-benefit analysis include both economic and non-economic benefits, and whether the proposed rule would have disparate effects on different regions of the state.



**\$830 million
to \$1 billion**

estimated cost-shift to employer-
sponsored health care plans under
HB 1232

HEALTH CARE COUNCIL

HB 1198: Health-care Billing Requirements for Indigent Patients

Sponsors: Rep. Jodeh; Senators Buckner & Kolker

Position: **OPPOSE as introduced/ NUETRAL as passed**

Bill Status: Signed by the Governor on July 6, 2021

Chamber Analysis

- HB 1198 expands the hospital requirements for providing discounted care to indigent and uninsured patients in Colorado, by making a number of changes:
 - applying regulations to health care facilities, not just hospitals, except Federally Qualified Health Centers and Student Medical and Dental Clinics
 - requiring HCPF to develop a standard application for health care facilities to screen uninsured patients for eligibility for public health insurance programs, the Colorado Indigent Care Program (CICP), or discounted care;
 - creating an appeals process if a patient is found to be ineligible;
 - establishing a standard reimbursement rate annually, by HCPF, with rates no lower than one hundred percent of Medicare or one hundred percent of the Medicaid base rate, whichever is higher
 - limiting collection amounts to monthly payments of no more than 4.0 percent of the patient's monthly household income on a bill from a health care facility and not paying more than 2.0 percent of the patient's monthly household income on a bill from EACH licensed health care professional;
 - considering a patient's bill paid in full after 36 months of payments;
 - requiring health care facilities to post information on patient's rights under the discount program, as developed by HCPF;
 - requiring health care facilities to report certain information to HCPF to determine compliance across demographics;
 - requiring HCPF to periodically review health care facilities to ensure compliance; and
 - requiring HCPF to promulgate rules prohibiting hospitals from considering assets when determining if a patient's income eligibility and to ensure the method used to determine eligibility is uniform across hospitals.
- The second part of HB 1198 also made a number of changes on how medical debt may be collected, to align with Federal and other state laws.



HB 1232: Standardized Health Benefit Plan - Colorado Option

Sponsors: Reps. Roberts & Jodeh; Senator Donovan

Position: **Oppose**

Bill Status: Signed by the Governor on June 16, 2021

Chamber Analysis

- As introduced HB1232 would have established a standardized health benefit plan, offered by health insurance plans, in the individual and small group markets. Beginning January 1, 2023 the standardized plan must include: coverage at three levels (bronze, silver & gold), be offered on the Exchange, meet the criteria for the standardized plan created through the stakeholder process, and provide first-dollar coverage for certain high value services. In addition, each carrier shall “set a goal” of offering this plan premium at least 10% lower than the 2021 premium rate for 2023, 20% lower in 2024, and for 2025 (and on) carriers are “encouraged” to limit annual premium rate increases to no more than the consumer price index plus one percent, relative to the previous year. IF these premium rate decreases were not met, the Colorado Option Authority (run by DOI) was created to offer the standardized plan; benefits to be determined by a group of stakeholders under the Division of Insurance – also the enforcing entity. The authority would have had the ability to create a provider fee schedule, in consultation with HCPF, and all providers & facilities MUST accept the standardized plan.
- Through tireless work of opponents, including the Colorado Chamber, the following changes were made to the bill:
 - NO State run plan (Colorado Option Authority) – instead each health plan has to offer a standardized plan, as determined by the stakeholder group
 - Rate floors for hospitals – tiered based on specialty hospitals starting at 155% of Medicare
 - A rate floor for doctors at 135% of Medicare
 - Medicaid comparison tool added for rate floors if Medicare equivalent isn’t available – ie pediatrics
 - Inclusion of medical inflation in the targeted reductions based on 2021 rates
 - Removal of all enforcement for lack of participation by doctors – however the bill still states participation is mandatory for all providers
 - Removal of ability to revoke hospital licensure as enforcement
 - Lower target premium reduction to 15% by beginning of 2024 from 2021 rates (started at 20%, changed to 18% prior to this)



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“Unfortunately just because cost reduction is required, doesn’t mean that the cost goes away, it is simply redistributed. This cost shift will directly impact health care consumers who currently have insurance outside of the public option and those with employer sponsored coverage.”

Katie Wolf, Director of State Governmental Affairs
Testimony on HB 1232

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NO
Medical
Insurance

HB 1276: Prevention of Substance Use Disorders

Sponsors: Reps. Kennedy & Herod; Senators Pettersen & Priola

Position: **Oppose**

Bill Status: Signed by the Governor on June 28, 2021

Chamber Analysis

- HB 1276 makes several changes to state law concerning the prevention of opioid and other substance use disorders:
 - The bill places several restrictions and requirements on health plans beginning January 2023, including:
 - Prevents an insurance carrier that has a contract with a physical therapist, occupational therapist, chiropractor, or acupuncturist from prohibiting or penalizing these practitioners for providing a covered person with information on their financial responsibility for such services.
 - Requires an insurance carrier to provide coverage for an atypical opioid or non-opioid medication that is approved by the FDA and prohibits carriers from mandating a covered person undergo step therapy or requiring pre-authorization.
 - Requires each health benefit plan to provide a cost-sharing benefit for a minimum number of physical therapy visits, occupational therapy visits, chiropractic visits, and acupuncture visits, at a cost-sharing amount not to exceed the cost-sharing amount for a primary care visit for non-preventive services.
 - Under current law, an opioid prescriber is prevented from prescribing more than a seven-day supply of an opioid to a patient that has not had an opioid prescription in the last 12 months unless certain conditions apply. HB 1276 extends that rule to benzodiazepines also, as determined by the governing board. Additionally, the bill continues the prescribing limitation indefinitely, as opposed to the repeal set to happen in September 2021.
 - HB 1276 also extends the mandatory PDMP check to benzodiazepines and continues the requirement for a PDMP query on the second fill on a medication indefinitely.



HB 1307: Prescription Insulin Pricing and Access

Sponsors: Rep. Roberts; Senator Donovan

Position: **Oppose**

Bill Status: Signed by the Governor on July 6, 2021

Chamber Analysis

- HB 1307 does three things:
 - Clarifies that current law, establishing a \$100 cap on a person's 30-day supply of insulin, applies to the person's entire supply (more than one) of insulin and is not per prescription
 - Allows eligible patients to receive one emergency supply of insulin in a 12-month period, costs not to exceed \$35 for a 30-day supply
 - Creates the insulin affordability program that requires pharmacies to provide insulin for 12 months at a cost of no more than \$50 for a 30-day supply, to be reimbursed by the manufacturer in either equal monetary value or replacement of the product.

SB 61: Claims for Economic Damages Incurred by Minors

Sponsors: Senator Story

Position: **Oppose**

Bill Status: Died

Chamber Analysis

- The bill seeks to change common law that currently permits only parents or guardians from seeking pre-majority medical expenses for an injury to a minor. The bill changes current laws and provides that a minor can bring a cause of action for injuries caused by another and extends the statute of limitations. The bill also states that there is no double dipping, i.e., a parent or guardian cannot also try to recover for those injuries if the minor is seeking them or has obtained recoveries.



SB 85: Actuarial Review Health Insurance Mandate Legislation
Sponsors: Senators Ginal & Smallwood; Rep. Lontine
Position: **Oppose**
Bill Status: Died

Chamber Analysis

- SB 85 would have created a process for actuarial review of proposed legislation that may create a new health benefit mandate on health insurance plans. Each actuarial review must contain specified components of analysis related to cost, utilization, health benefits, and impact on premiums. The Division of Insurance in the Department of Regulatory Agencies (DORA) must hire a contractor to conduct the reviews for up to five such bills each legislative session at the request of a member of the General Assembly. If more than five requests are made, the Chairs of the House Health and Insurance and Senate Health and Human Services committees will select which bills will receive a review.
- Unfortunately, there were some unpalatable amendments added to the bill in the first committee, and the sponsors decided to request the bill be postponed indefinitely

SB 123: Drug Importation Expansion
Sponsors: Senators Ginal & Coram; Reps. McCormick & Lynch
Position: **Oppose**
Bill Status: Signed by the Governor on April 26, 2021

Chamber Analysis

- Senate Bill 19-005 created the Canadian Drug Importation Program. This bill authorizes the Department of Health Care Policy and Financing (HCPF) to expand the program to allow drug importation from nations other than Canada, conditional upon the enactment of federal legislation permitting states to do so.



SB 175: Prescription Drug Affordability Review Board - PDAB
Sponsors: Sens. Gonzales & Jaquez Lewis; Reps. Kennedy & Caraveo
Position: **Oppose**
Bill Status: Signed by the Governor on June 16, 2021

Chamber Analysis

- SB 175 creates the Colorado prescription drug affordability review board (board) as an independent unit of state government and requires the board to perform affordability reviews of prescription drugs and establish upper payment limits for prescription drugs the board determines are unaffordable for Colorado consumers. The board is also required to promulgate rules as necessary for its purposes.
- The board shall determine by rule the methodology for establishing an upper payment limit for an eligible prescription drug, for up to 12 drugs annually. An upper payment limit applies to all purchases of and payer reimbursements for the prescription drug dispensed or administered to individuals in the state in person, by mail, or by other means. Any savings generated for a health benefit plan as a result of an upper payment limit established by the board must be used by the carrier that issued the health benefit plan to reduce costs to consumers.
- On and after January 1, 2022, the bill prohibits, with certain exceptions, any purchase or payer reimbursement for a prescription drug from exceeding an upper payment limit established by the board for that prescription drug.
- Any drug manufacturer that intends to withdraw a prescription drug for which the board has established an upper payment limit from sale or distribution within the state must notify, at least 180 days before the withdrawal: the commissioner, the attorney general; and each entity in the state with which the manufacturer has contracted for the sale or distribution of the prescription drug.
 - A manufacturer who fails to comply with the notice may pay a penalty of up to \$500,000.
 - The bill creates the Colorado prescription drug affordability advisory council.
 - The board must submit an annual report to the governor and to subject matter committees of the general assembly summarizing the activities of the board during the preceding calendar year.



LABOR & EMPLOYMENT COUNCIL

SB 176: Workplace Harassment

Sponsors: Sens. Winter & Petterson; Reps. Gray & Lontine

Position: **Oppose**

Bill Status: Died

Chamber Analysis

- SB 176 would have expanded legal remedies to workers to file lawsuits against employers for discrimination and workplace harassment. Colorado Chamber staff created a large coalition of over 80 private and public sector employers across the State to try to address concerns with the bill which included:
 - Allowing an IC to make a workplace harassment or discrimination claim against an employer under the CO Anti Discrimination Act. This has traditionally been a legal remedy for an employee since employers can't exercise direct control or supervision over an independent contractor;
 - Changing the elements for determining whether harassment exists and explicitly rejecting the long-established legal standard of "severe or pervasive" within the legislation;
 - Creating a new class of protection under the CO Anti-Discrimination Act for "caregivers" or "care recipients" which were broadly defined in SB 176;
 - Creating punitive penalties and fees against employers who violate any of the provisions in the bill mandating an anti-harassment training program;
- The Chamber recommended applying the same standard as what the Legislature adopted for themselves in 2018 when several harassment claims were alleged which includes a "severe or pervasive" standard. It also recommended removing the broad language applying to independent contractors and caregivers or care recipients. It also recommended eliminating or reducing the egregious fines and penalties in the bill;
- The bill stalled in the Senate Judiciary Committee for a month while the sponsors scrambled to find language that would appease the committee members. It finally passed in the Senate but was killed in the House Judiciary Committee on a 9-2 vote the day before Session ended based on significant concerns on the bill by those committee members.



SB 197: Regarding Physician Choice in Workers Comp Cases

Sponsors: Senator Rodriguez; Representative Woodrow

Position: **Oppose**

Bill Status: Died

Chamber Analysis

- SB 197 as introduced would have eliminated the provisions in current law regarding workers compensation negotiated between the CO Chamber and AFL-CIO & WCEA in 2013 and 2014;
- SB 197 allowed a change of doctor up until Major Medical Injury, therefore, a treating physician could determine that a worker is ready to go back to work while a worker's attorney could recommend additional physicians which prolongs the process and increases workers compensation costs for employers. It also expanded choice to any Level I or II physician;
- Pinnacol Assurance provided an actuarial analysis of the bill and determined it would increase workers compensation premiums for employers by 14.9% annually. The Department of Labor & Employment, Division of Workers Compensation, also raised concerns with SB 197.

HB 1207: Overpayment Of Workers' Compensation Benefits

Sponsors: Reps. Daugherty & Benavidez; Sens. Lee & Fields

Position: **Oppose**

Bill Status: Signed by the Governor on May 27, 2021

Chamber Analysis

- HB 1207 as introduced limited the definition of overpayments of workers' compensation benefits to include only those paid as a result of fraud, certain errors, or duplicate benefits. Under current law, insurance carriers and employers are allowed to recoup these overpayments against future benefits and from the employees directly. By removing other types of overpayments, the bill allows employees to keep those payments;
- The bill was amended in the House and Senate to expand on situations beyond fraud as well as other changes. Those amendments improved the legislation prior to final passage.



88%

employers are concerned
about future unemployment
insurance premium increases
due to the pandemic.

Colorado Chamber Survey, May 2021

NO 21

SB 87: Agricultural Workers Rights

Sponsors: Senator Danielson; Reps McCormick & Rep. Caraveo

Position: **Oppose**

Bill Status: Signed by the Governor on June 26, 2021

Chamber Analysis

- Prior to the passage of SB 87, the Colorado Labor Peace Act exempted agricultural workers and their employers from certain rights and obligations. SB 87 removes that exemption and grants agricultural workers the right to organize, engage in collective bargaining and strike;
- It also includes legal remedies and enforcement provisions and requires that wages be adjusted annually for cost of living, and include overtime pay;
- The agriculture industry strongly opposed the bill as introduced and worked tirelessly on amendments to improve the bill. The Republicans in both chambers also debated the bill at length in opposition. Some amendments were adopted to improve the bill including the complaint filing and investigative process.

SB 190: Protect Personal Data Privacy

Sponsors: Senators Rodriguez & Lundeen; Reps Carver & Duran

Position: **Amend**

Bill Status: Signed by the Governor on July 7, 2021

Chamber Analysis

- SB 190 was originally drafted during the 2020 Session but was not introduced due to the COVID-19 pandemic. The bill sponsors started redrafting the legislation in early 2021 and it eventually passed in the final days of the 2021 Session;
- The bill creates the Colorado Privacy Act within the Colorado Consumer Protection Act and addresses consumers' rights to privacy, companies' responsibility to protect personal data, and allows the Attorney General and DA's to address any violations;
- The bill applies to companies (referenced as controllers in the bill), that conduct business in Colorado or produce a product or service focused on personal data of CO residents and applies to companies that: 1) control or process personal data of 100,000 or more consumers annually; derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of 25,000 consumers or more.
- The bill also includes certain rights to data for consumers such as the right to opt out; right to correct any inaccurate data about the consumer and right to delete certain data about the consumer and how that data is transferred.



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"If you think that the workplace harassment policy our legislators created for themselves would closely resemble the policy they want to impose on the private and public sectors through SB 176, you would be mistaken."

Loren Furman, Colorado Politics Op-Ed
May 28, 2021

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SB 233: Creating Unemployment Assistance for Left Behind Workers

Sponsors: Sens. Rodriguez & Hansen; Reps. Benavidez & Gonzales-Gutierrez

Position: **Oppose**

Bill Status: Signed by the Governor on July 2, 2021

Chamber Analysis

- SB 233 as introduced would have created a “Left-behind Workers Program” within the Department of Labor and Employment (CDLE) to give unemployment payments to individuals regardless of their immigration status and require CDLE to contract with a third-party administrator;
- Based on concerns by the CO Chamber and the Governor’s Office that passage of the bill would create risks to the State’s current UI program, the bill was re-written to create a study by CDLE on the feasibility of administering a wage replacement program for those ineligible for UI benefits due to their immigration status.

HB 1213: Conversion of Pinnacol Assurance

Sponsors: Rep. Soper

Position: **Support**

Bill Status: Died

Chamber Analysis

- This bill as introduced would have required Pinnacol Assurance Company to convert to a stock insurance company. Pinnacol supported the legislation and similar bills have been attempted during prior legislative sessions. The Colorado Chamber Board of Directors took a “support” position on the bill. The bill died in the first committee of reference.



\$50,000

New exemption cap for the business
personal property tax, up from
\$7,900.

TAX COUNCIL

HB 1077: Creating a Tax Expenditure Review Committee Reps.

Sponsors: Benavidez & Bird; Senators Gonzales & Moreno

Position: **Amend**

Bill Status: Signed by the Governor on July 7, 2021

Chamber Analysis

- HB 1077 Creates a six-member Legislative Oversight Committee Concerning Tax Policy to meet at least 4x a year to consider tax policy recommendations by the Office of the State Auditor;
- The bill also creates a Task Force Concerning Tax Policy to meet at least 6x a year to develop and propose to the committee any modifications to the current tax system;
- By October 1 annually, the task force must submit a report to the Committee to include: issues studied; legislative/policy proposals; summary of activities; and evidence-based feedback;
- The Committee must submit a report to the General Assembly summarizing the issues studied, recommendations considered, and actions taken by the committee and the task force;
- During the review of the bill, the Colorado Chamber Tax Council requested a few amendments which the sponsors agreed to do including specifying that task force members include a representative from a small and large business and that the work of the task force did not include ballot initiatives.



HB 1311 & Regarding Income Tax &
HB 1312: Insurance Premium Property Sales Severance Tax
Sponsors: Reps. Weissman & Sirota; Senators Hansen & Moreno
Position: **Oppose**
Bill Status: Signed by the Governor on June 23, 2021

Chamber Analysis

These two tax policy bills introduced this Session were the result of coordination between the Governor's staff and the bill sponsors as a follow-up to the tax policy legislation that passed during the 2020 Session (House Bill 20-1420). The goal of these two bills by those individuals was to expand the Earned Income Tax Credit and the Child Care Tax Credit as well as "expand the current Colorado tax base" by removing certain tax credits and exemptions allowed to businesses operating in Colorado. The bills as introduced included the following provisions:

HB 1311:

- Increase Social Security income tax exemption to 100%;
- Cap Section 529 plans;
- Expand Earned Income Tax Credit program;
- Increase Child Care Tax Credit;
- Cap taxpayers' itemized deductions
- Continue reduction of the pass-through deduction for S corporations (Section 199a Qualified Business Income Deduction);
- Replace the combined reporting rules adopted in CO in 1985 with the MTC rules;
- Expand combined group to include C Corp member of affiliated group that is part of a "foreign jurisdiction";
- Revert the business meals deduction to original deduction of 50%;
- Create new tax credit for conversion costs for establishing an Employee Stock Ownership Plan.
- Creates new subtractions from federal taxable income for section 78 dividends:
 - Including the one-time transition tax under § 951(a)
 - The amount of any Global Intangible Low-taxed income minus any § 250(a)(1)(B) deductions from the GILTI.

HB 1312:

- Require a Regional Home Office have at least 2.5% of the company's total domestic workforce in CO to receive current regional home office tax credit;
- Narrow exemption for taxes paid on premiums earned on annuities purchased in connection w/a qualified retirement plan or Roth 401K;



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"Loren Furman, senior vice president of the Colorado Chamber of Commerce, said a provision changing the definition of what constitutes taxable property in regard to software — a clause that would clarify that streaming services like Spotify or Netflix can be taxed even as Netflix is suing the state over its current practice of doing so — would scare away software companies considering locating here."

Denver Business Journal article on HB 1311 and HB 1312
June 3, 2021

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Chamber Analysis

- Raise limit on BPPT exemption from \$7,700 to \$50,000 for FY 2020/21 & adjusts for inflation;
- Allow tax assessors to value property at the “highest and best use”;
- Include “digital goods” in definition of tangible personal property;
- Eliminate vendor fee allowance for companies with sales above \$10 million;
- Modifies severance tax credit for coal.

Improvements to the bills were achieved through the amendment process that included:

- The reinstatement of the 3 of 6 combined reporting rule;
- Slowing the restrictions on the regional home office exemptions;
- Eliminating the “highest and best use” language for commercial or residential property assessments;
- Providing more clarity and defining terms in the bill, including “mainframe computer access,” “photocopying,” and “packing and crating”;
- Allowing agriculturally zoned land to continue to be eligible for Colorado capital gains tax breaks;
- Increasing the cap on 529 educational tax deductions in the bill;
- Adjusting certain provisions of the bill for inflation.



COLORADO CHAMBER OF COMMERCE

"Colorado's vibrant business community is the backbone of our state. There's no better example of this than the response of local businesses to the global pandemic that has wreaked havoc on our lives and the state economy. Colorado Chamber members stepped up in extraordinary ways, putting the health and safety of their employees, customers and communities first.

The 2021 legislative session presented major challenges to Colorado businesses that are already struggling to get by as we work towards economic recovery.

That's why the Colorado Chamber's work is more important than ever during these difficult times, a healthy business climate starts with good policy at the state level. The Chamber remains committed to strongly advocating for Colorado's businesses again in next year's legislative session and the for years to come.

Chuck Berry, President, Colorado Chamber of Commerce