

Welcome to the election review and legislative forecast. This is a state-specific look at the election and the legislative issues that we expect to see next year.

We actually set the title of this session months ago, because we knew that in such a bitter, divisive political year, we'd be working to "pick up the pieces" and find common ground no matter what happened. We hope to help you make sense of some things today.

[JOE] – Before we get started, I want to share the best bit of political commentary I saw all year. It's from 9News (change slide)...



This is my kid. Ivy. She's 2. We live in Jefferson County, which is a swing county, so we get political canvassers all the time. Her mom answered the door one day when a young guy working for the Democrats knocked, and then Ivy toddled up with this toilet seat on her head. Her mom said, "Pretty good commentary on the election, isn't it?" The canvasser didn't think so, but her mom tweeted it, which caught the eye of a 9News reporter, which led to a little segment on the 6 o'clock news and — to me — the best headline of the election. "Potty seat toddler is all of us."

We're going to be talking a lot about the election today in many of our sessions, hopefully at a slightly more enlightened level. If it gets to be too much, then let this picture be your Happy Place.

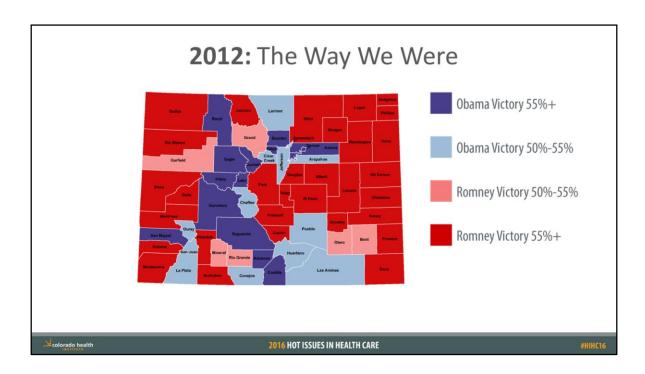


- Political coalitions are changing, with unpredictable results.
- 2017 will see its share of old and new business.
- Major changes from Washington could force the legislature to rethink Colorado's health care system.

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2016 HOT ISSUES IN HEALTH CARE

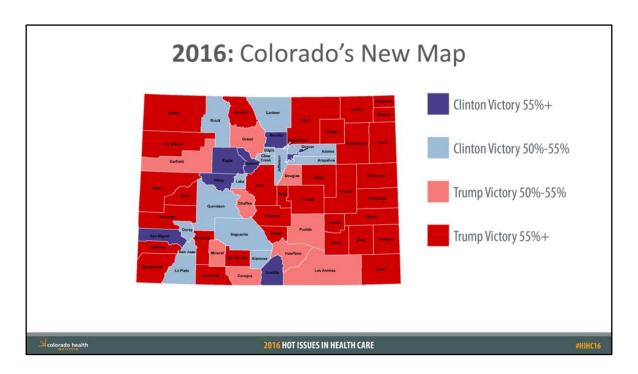
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Let's start with election results.

This is the "typical" Colorado election map. Democrats win in Denver, Boulder and Pueblo, plus the resort counties and the San Luis Valley. Republicans run up the score in El Paso and Douglas, plus the any rural county that does not have a ski lift in it. And they fight it out in Jefferson and Arapahoe — the suburban swing counties that determine the winner.

Trump scrambled this picture...

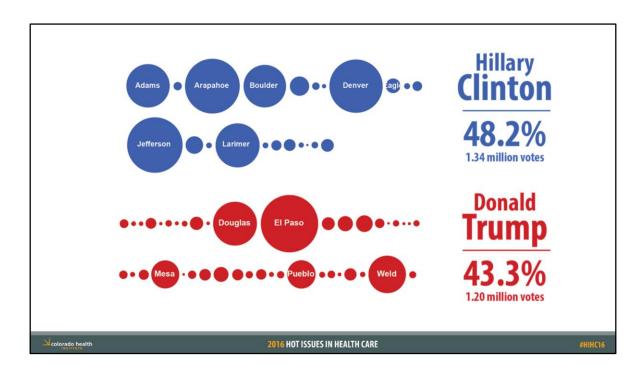


This is not an encouraging map for either party.

The headline is that Trump flipped Pueblo, winning by a handful of votes in the bedrock county for the Democrats in southern Colorado. He also ate into Democratic margins in the San Luis Valley and Adams County.

But this is not a winning map for Republicans. Trump lost the Denver suburbs, which led to a nearly 5-point loss in the state. Hardly any more Coloradans voted for Trump than for Mitt Romney, despite four years of fast population growth.

So it's not an encouraging map for either side, but it does say some interesting things about how Colorado's politics could change in the coming years.



Here's a conceptual way of looking at that map, with the size of the bubbles tied to the number of votes cast in each county. As you can see, Clinton won fewer counties but bigger ones. Trump won a bunch of small counties, mostly. This explains why the previous map looks so red, even though Trump lost the state.

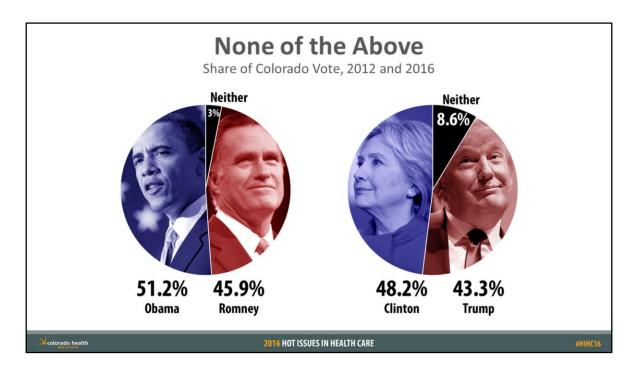


These maps show us some distinct political patterns. Here's a quick way to tell if you're driving through a Colorado county that voted Democrat or Republican.

Look out the windshield. What do you see? If it's a scene on the left side of the page, a ski slope or a skyline, then you're in Clinton Country.

Center pivot irrigation systems or an industrial zone? It's a pretty good bet you're in Trump Town. Or at least in the case of that industrial picture, it's a place that's moving from reliably Democratic to Trump's side.

This is maybe too simplistic a way of looking at Colorado's political geography. And that geography is changing a lot.

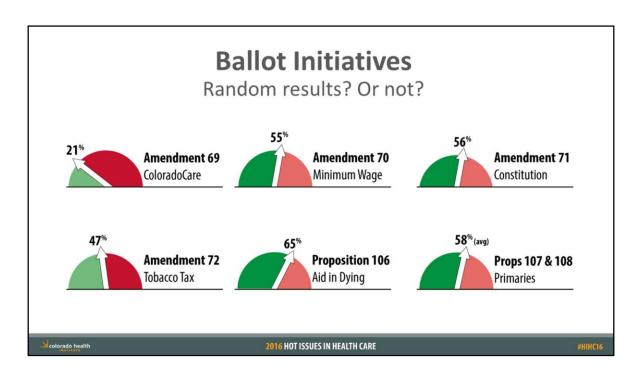


Here's maybe the most important thing we've learned from studying the election data in detail:

Both parties underperformed their 2012 results in Colorado. Dissatisfaction with Trump did not lead to votes for Clinton. Instead, people either voted for a third party or left their choice for president blank. Libertarian Gary Johnson got 140,000 votes. That's 100,000 more than he got in 2012.

Despite higher turnout from an all-mail election and four years of population growth, the absolute number of Coloradans who voted for Clinton was hardly more than Obama, and the same for Trump compared to Romney.

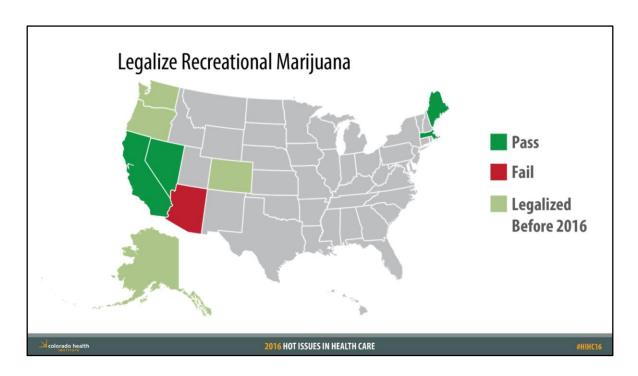
The takeaway here: Nearly a quarter million Colorado voters did not support either of the major parties' nominees. That's a large chunk, and it's enough to swing an election if the right candidate with the right message comes along.



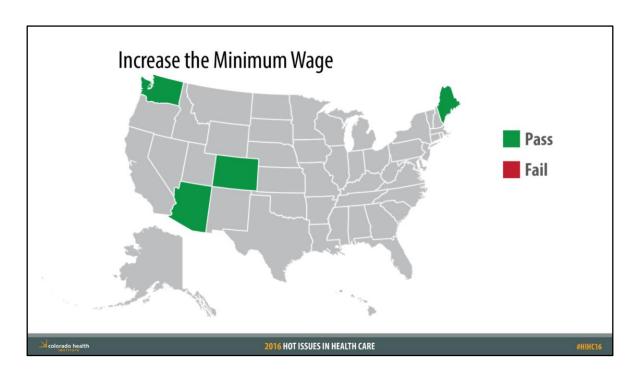
The two ballot initiatives on the left (with the dark red) failed while the four on the right (with dark green) passed.

Takeaway from these results as a group, which may seem random or even counterintuitive at first: They fit with a Libertarian philosophy. Individual pocketbook and power won. This also shows us that you can't take Colorado voters for granted – they're not always aligning with their party's platform.

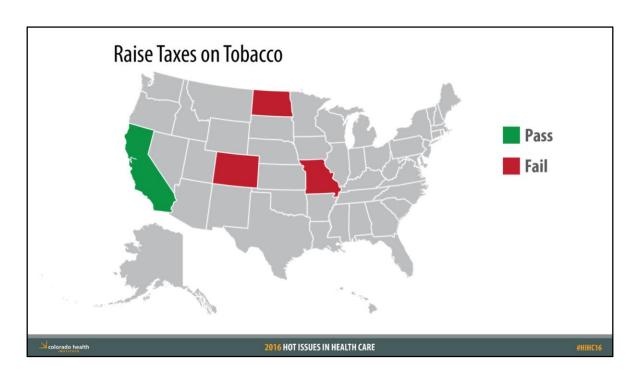
Let's look at the state's decisions on a national level.



The list of states with legal recreational marijuana continues to grow, with the addition this year of Maine, Massachusetts, Nevada and, most significantly, California, the country's most populous state.



The minimum wage vote increase certainly supports the "Colorado as a Blue State" thesis.



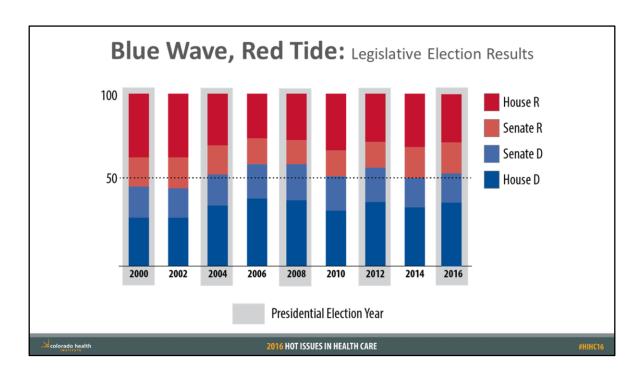
But raising the tobacco tax was also a liberal issue, and it failed here.

There were two ballot measures we didn't map, because Colorado was the only one that had them: Proposition 106 (Medical Aid in Dying), which passed by a wide margin, and Amendment 69 (ColoradoCare), which failed in every county.

The takeaway from these maps: Colorado remains a distinctly purple state, aligning sometimes with more traditionally liberal states and other times with traditionally conservative ones.



So that's the view from way up high. Now let's zoom in on Colorado and talk about the 2017 session.



The result of all the unusual down-ballot shuffling of the electorate that we saw in Colorado? Pretty much more of the same.

No changes in the congressional delegation or control of the statehouse. Neither side won a clear victory.

Colorado's legislature has been remarkably balanced for nearly two decades.

Democrats tend to do well in presidential election years. Exceptions to the rule: 2006, which was Year 6 of the Bush administration and around the height of the Iraq insurgency. And this year, when Democrats made only marginal gains.

## The Brown-McLachlan Effect

**HOUSE DISTRICT 59 - Southwestern Colorado** 



J. Paul Brown Elected 2010 Republican



Mike McLachlan Elected 2012 Democrat



J. Paul Brown Elected 2014 Republican



Barbara McLachlan Elected 2016 Democrat

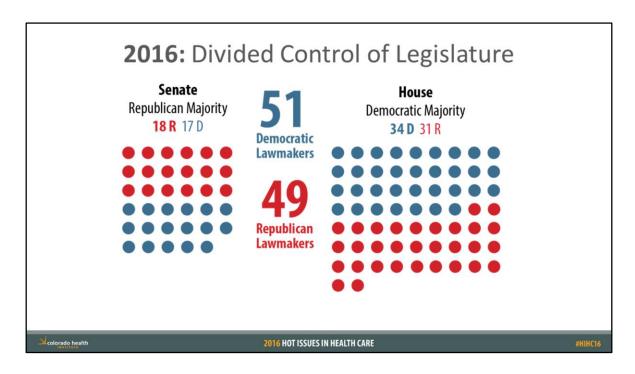
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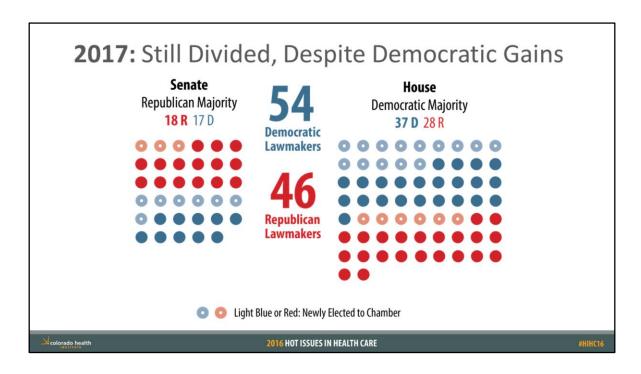
Here's a concrete example illustrating this trend.

Back in 2010, J. Paul Brown was elected to the state House as a Republican. In 2012, he lost his seat to Democrat Mike McLachlan. But Brown took it back in 2014...before losing it again this year to Barbara McLachlan – Mike's wife.



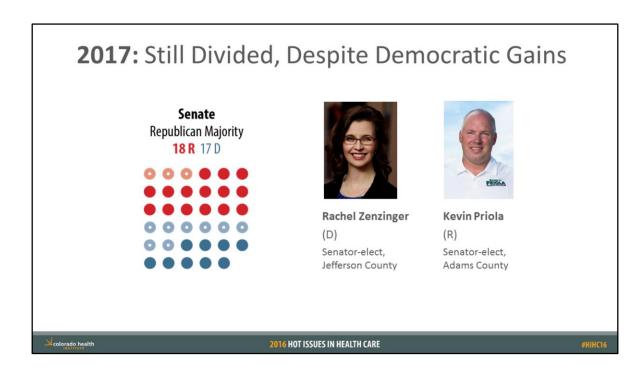
Over the long term, it all adds up to a highly competitive legislature.

Here's where we were in the previous legislative session, which ended back in May. You can't get much closer than this.



And here's the result of last month's elections. All those white dots represent legislators who will be new to their chamber next year.

Democrats added three seats in the House to pad their majority slightly. But Senate Republicans saved their one-seat majority, possibly with an assist from Trump.



Party control of the Senate essentially came down to two races:

Democrat Rachel Zenzinger beat incumbent Republican Laura Woods in JeffCo, in a race that had been at the top of the state's watch list for months.

But Republicans picked up a seat when Kevin Priola beat out Jenise May in Adams County — one of the former Democratic strongholds, which had been represented by Democrat Mary Hodge, and a county where Trump made gains this year.



Mostly thanks to term limits, we have a new set of leaders at the Capitol.

Of the six senior legislators, only two were in leadership last year – Senate Minority Leader Lucia Guzman and Speaker of the House Crisanta Duran, who was majority leader last year.

Kevin Grantham of Canon City is your new Senate president.



And here are your state budget writers. Once again, there are three Republicans and three Democrats. Republican Senator Kent Lambert is the JBC Chair.

Four of the six are returning, while two are new to the committee – Senators Moreno and Lundberg. Watch for discussions on Medicaid costs and other hot-button issues as this reconfigured group tackles the difficult task of drafting a balanced budget in a another tight year.

## 2017's Old and New Business

- 2016 Legislative Recap
- The Budget
- Bills to Watch

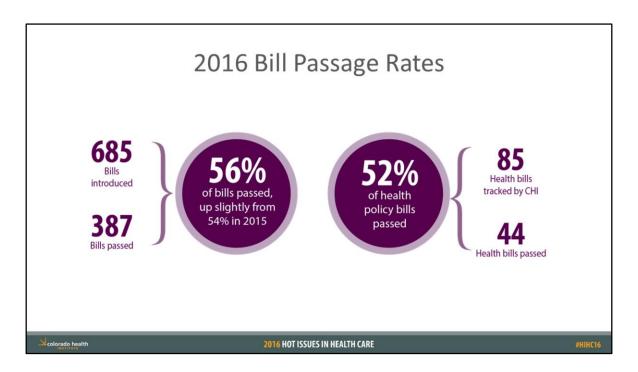
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[ALLIE] – We're shifting gears to talk about how this year's politics and election results will translate into policy when our state legislature gets back to work next month.

When thinking about the coming year, we've found that in many ways, the best guide is to look back at what rose to the surface in the previous session, so I'll start there. I'll also walk through the budget and bills to watch for next year, including the return of some issues from 2016.



56 percent, or just over half of introduced bills, passed last session. This was to be expected because of the split-party control of the legislature with D's holding the House and R's the Senate. You can see that the success rate was very similar for the health-related bills that we tracked, so they were representative of the larger set of proposals.

To give you an idea of how that changes when one party controls both chambers: The last time that was the case (in 2013 and 2014), about 70% of introduced bills were signed into law.

Next year, we'll expect more of the same – around 50% success rate or a little higher.

## **Last Session's Health Policy Themes**

- Statement bills sent a message
- · Regulation drew reinforcement
- Transparency became murky
- Health costs moved to the forefront



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**2016 HOT ISSUES IN HEALTH CARE** 

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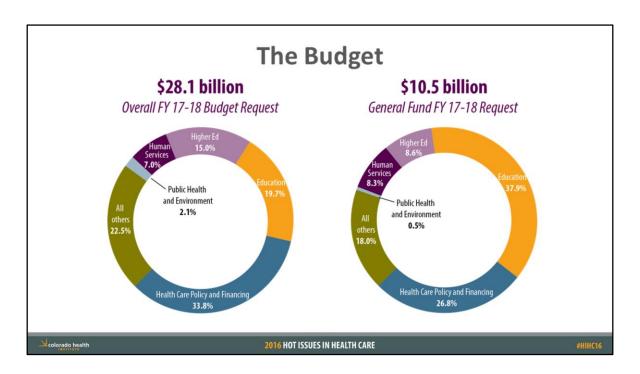
Every year after the session wraps up, we write a report called "Legislation in Review" (shameless plug). In it, we identify some high-level themes for what worked and didn't in the health arena. With the makeup of the legislature largely the same, these can offer clues to 2017.

We are sure to see many "statement bills" again next year. These proposals are controversial in nature (dealing with issues like abortion) and are introduced largely to "send a message" about the priorities of the sponsor or their party. Split-party control of the legislature lends itself to lots of these.

Regulation of health care professionals and industries was popular with legislators from both parties last year, and we expect to see at least a couple of bills in 2017 that deal further with this issue. I'll mention one.

The issue of increasing transparency in the health care system, while popular with legislators, ran into quite a few roadblocks last session. Many of the high-profile bills that tackled this topic didn't make it through, and we're guessing quite a few of them will be back in different forms in 2017.

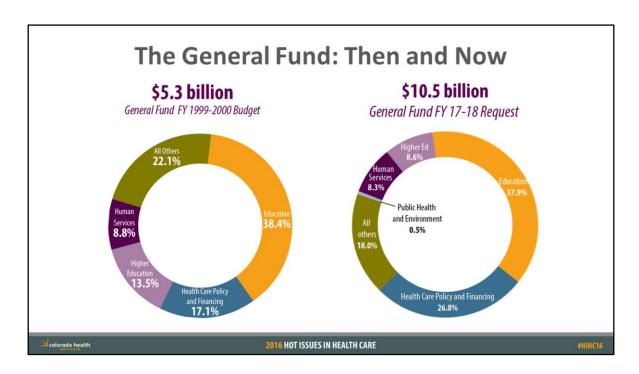
And the issue of health care costs, especially involving the state's Medicaid program, really came to the forefront last year, with many bills and extensive debate about how to reign in spending. We expect this conversation to be even more important.



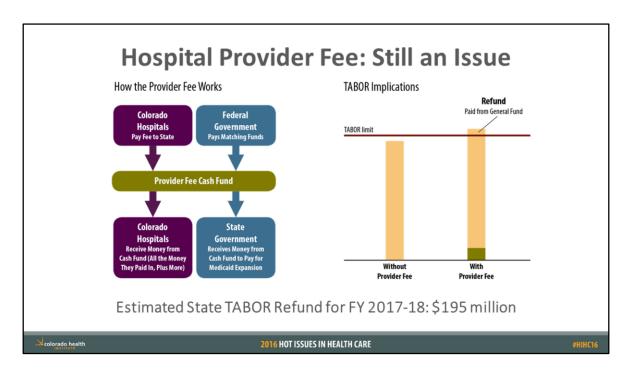
Here's where we stand according to the Governor's budget request, which was released on November 1. It acts as a recommendation to the Joint Budget Committee as they work to craft the official state budget. Total funds are on the left, and the General Fund – which is a subset – is on the right. The General Fund is the part of the budget that is financed by taxes, controlled by the legislature and tends to get squeezed the most. Most of the big state policy debates involving the budget are focused on money in the General Fund so that's why we call it out.

As usual, a big focus here is the blue slice at the bottom. That's the Dept. of Health Care Policy and Financing, which administers Medicaid. HCPF makes up about 1/3 of the total budget, and a little over 1/4 of the General Fund. In short, you can't talk about the state budget without talking about Medicaid.

The big tension concerning its growth has been with state funding for education...

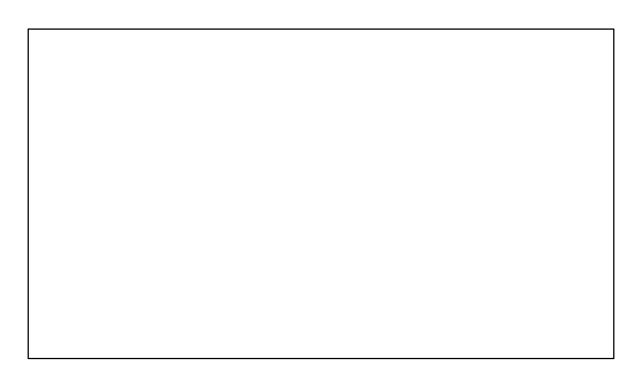


We've shown a version of this slide for the past couple years, but it's as important as ever, and the takeaway hasn't changed. Medicaid costs have grown to take up a much larger share of the general fund since 1999, from about 17 percent then to almost 27 percent now. This growth has come at the expense of other departments, especially Higher Education, which has declined from 13.5 percent to less than 9 percent of the budget. K-12 education has also seen its share decrease slightly. Many legislators will point to Medicaid as the reason for the state's struggle to fund schools and other important departments, like transportation, which will be a huge legislative focus in 2017.



And the Hospital Provider Fee is still an issue.

Last year, at Hot Issues in Health Care, Joe presented a two-minute overview — complete with video — of how this Fee works. So here's just a quick summary — state hospitals pay a fee in the neighborhood of \$700 million to attract federal matching funds. The hospitals get everything back that they paid in, plus more. (That's like us charging all of you \$10 to come to this presentation, but then giving you \$15 at the end.) The state gets some of that federal money to pay for Medicaid expansion, but most of it effectively "passes through" the state budget and back to hospitals — but in doing so, the money counts toward Colorado's revenue limit set by TABOR, or the Taxpayer's Bill of Rights. This has started to trigger refunds to people because the Provider Fee — the green chunk of the bar — pushes our state above the limit of how much money it can legally collect. The estimated amount of the TABOR refund next year? Almost \$200M.



Many will remember the dramatic legislative attempt to reclassify HPF revenue last year so it would no longer count toward the limit. HB 1420 was introduced by House Speaker Dickey Lee Hullinghorst (on left), and 6 Republicans joined with Democrats to support it – including Republican Senator Larry Crowder, who sponsored the bill in the Senate.

The bill ultimately died in front of a big audience when Senate President Bill Cadman (on right) sent it to the Senate Finance Committee, where it did not have any Republican supporters.

So, last year, the JBC balanced the budget and avoided TABOR refunds by cutting the Hospital Provider Fee by about \$70 million, which was just enough to get the state under that revenue cap. Hospitals weren't happy about this. While they pay less money up front when the fee is reduced, they lose a lot more money that they would have gotten back from the federal match. This year, the Governor's budget team is suggesting the same budget move to avoid TABOR refunds, but the fee will need to be cut by a lot more – again, \$195 million. We believe that hospitals will fight this.

# 2017 Bills to Expect

- Zombie Bills
- Insurance Costs
- Health Policy Grab Bag

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That brings us to our 2017 bills.

I'll walk through some high-profile "zombie bills" that we're expecting. These are bills that died last year but are likely to come back to life this session, in identical or reworked forms. Some of them will have a better chance of passing than others.

Proposals to mitigate rising costs of health insurance and health care will also feature prominently in 2017, and I'll mention other important health care topics – what we're calling our "grab bag."



Last year, these bills were dead and buried. But – they're coming back. We've spotlighted the HPF and regulation of Freestanding Emergency Depts. as issues to watch in this category.

As soon as the Provider Fee bill failed last session, Democrats vowed to bring it back. But their chances would have been much better if they'd gained control of the Senate. For the second year in a row, a proposal to reclassify revenue from the fee will be in the hands of the Senate President, Senator Kevin Grantham, who has already said that he has "very little interest" in reviving the proposal, so while we expect it to attract a lot of attention again, at this point, its chances don't look great.

Another issue is freestanding EDs. These have been popping up around Colorado, especially in higher-income areas. The issue is that some Coloradans visit these facilities for treatment thinking that they'll be charged as if they were at an urgent care facility – but when they get the bill, they find that's not the case. A 2016 bill to educate consumers about FSEDs underwent a ton of revisions but ultimately failed. Sen. John Kefalas has been leading a stakeholder group in the interim and we know that a bill will come out of it.

### Back from the Dead?

Bill to shine spotlight on skyrocketing drug prices killed in Colorado House committee

POLITICS > COLORADO LEGISLATURE

Gov. Hickenlooper vetoes bill on mental health holds

INDUSTRY NEWS > HEALTH CARE

Colorado Legislature declines to limit patient billing by out-of-network doctors

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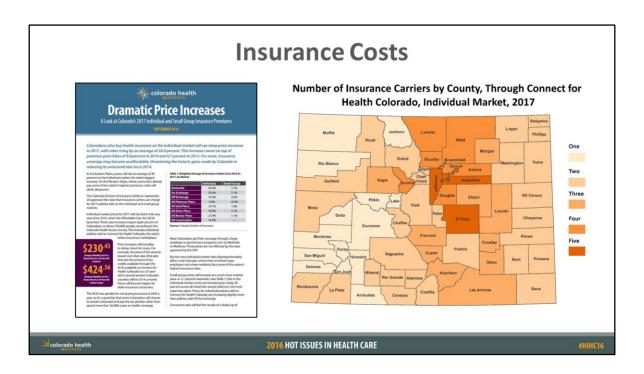
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#### Other zombie bills you may see:

Greater transparency in pharmaceutical pricing is an issue that's been championed by Representative Joann Ginal. A bill to tackle this failed last session, but we think we'll see another attempt.

Behavioral health has been an increasing focus in Colorado. Last year, Gov. Hickenlooper vetoed a bill to reform state requirements around 72-hour holds for people experiencing a mental health crisis. Legislators and others have vowed to keep working on that proposal.

And we don't think we've heard the end of conversations about out-of-network charges, especially as they relate to "surprise" medical bills.



Another topic that we're expecting to hear a lot about in 2017: Insurance costs, and rising price of health care in general. Back in September, CHI published the report on the left when new premiums were announced by the Division of Insurance. While small group premiums are rising an average of just 2%, plans on the individual market are increasing more than 20%. The Eastern Plains and the Western Slope (where consumers already pay some of the nation's highest premiums) will be hit especially hard.

The map on the right shows that many of Colorado's counties are down to a single insurance carrier offering plans. It's hard to shop for the best plan when there aren't many available.

Many Coloradans, especially those in the mountain resort communities, are at their breaking point – and they're giving their elected officials an earful about it.



#### Alexandre

· Aspen, family of four

2015 premium: \$680/month

2017 premium: \$1,600/month

"How much do you squeeze people in the middle? What is the breaking point?"

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This is the human face of skyrocketing premiums. Alexandre contacted Joe soon after CHI's insurance rates report was released, saying he was desperate as the premium for his family of four has climbed to \$1,600 a month. He captured it perfectly when he said: "How much do you squeeze people in the middle? What is the breaking point?"

To think through ways to tackle health costs and help families like Alexandre's, the Lieutenant Governor, Donna Lynne convened a stakeholder group that met several times this fall. The group discussed lots of ideas, from offering subsidies to people with higher incomes than is currently allowed to considering geographic "rate banding," which limits how much more insurers can charge people who live in different regions.

But at this point, uncertainty over changes at the federal level makes it difficult to predict which options might be viable, and many ideas may be sidelined as legislators take a "wait and see" approach.

## **Grab Bag: Watch for Bills on These Subjects**

- Curbing hospital expansion
- Medicaid communications
- Background checks for providers
- Marijuana "gray market"

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A few other issues to have on your radar:

- When Gov. Hickenlooper presented his budget proposal, he said he was thinking through ways to curb the growth of hospitals around the state, through a Certificate of Need law or by other means. This could end up just applying to FSEDs or may not happen at all but the governor piqued a lot of people's interest.
- A committee chaired by term-limited Rep. Dianne Primavera met over the interim to discuss the issue of confusing letters and other communication to Medicaid enrollees. That committee will introduce several bills recommending changes like performance audits.
- Last year, legislators showed strong support for increasing background checks and regulations for surgical technicians, after one was caught swapping syringes out for dirty needles at Swedish Medical Center. We expect to see a bill to broaden checks for any health care providers seeking to renew their license.
- And the governor emphasized the so-called "gray market" for marijuana in his budget request. Unlike the "black market," this refers to legally grown plants that are sold/redistributed illegally. The governor wants to create an enforcement program focused on gray market activity. You can bet we'll see plenty marijuana proposals.
   In short: We'll see a mix of zombie bills and new proposals, with many tackling issues

that have been building for some time, like rising costs.



On to the last section.

I'd be remiss not to mention the major changes coming from Washington and the new Trump Administration. We have limited information to go on, but we're taking cues from wherever we can – including social media – and it's clear that the president-elect is targeting the Affordable Care Act.



President Obama is handing off control of the White House and his signature health care law. What's coming down from the new Trump administration may be the biggest theme of next session. Many policymakers are keen to know how Donald Trump's priorities will affect health care in Colorado and at a national level. Once we know more, our legislature may need to take action in response.

A comprehensive ACA replacement plan will likely take time to develop, but the idea of a repeal raises lots of questions. For example, what would happen to Coloradans who've gained Medicaid coverage through the ACA? And what would it mean for our state insurance exchange, Connect for Health Colorado?

The point: It seems like just about everything could be on the table.



We don't have a written health care plan from President-elect Trump – but we do have one from U.S. Speaker of the House Paul Ryan, which he released this past summer. Some highlights:

- Repealing the individual and employer mandates, which require everyone to purchase insurance or provide it for their employees if they want to avoid a penalty;
- Continuing to offer tax credits to purchase insurance, but making them more flexible and "portable";
- An emphasis on increasing personal responsibility through mechanisms like costsharing;
- Allowing carriers to sell insurance across state lines, which Republicans believe will lower costs by increasing competition;
- And a variety of Medicare reforms, moving more it toward privatization and even creating a Medicare Exchange to shop for plans.

Finally – and of major interest for many right now – are Medicaid reforms, especially block grants. These lump sums of money would come with extensive flexibility for state spending. Lt. Gov. Lynne said last month that "the likelihood of a block grant approach on Medicaid is so high that it's going to force us to think very differently" about our planning for next year.

## The "So What" for Medicaid in Colorado

• Current Medicaid enrollment: More than 1.3 million



• 466,000 people in expansion population

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Why all the attention on Medicaid? Well, Colorado has added a LOT of people to its Medicaid rolls in the past few years. Today, the total enrollment stands at more than 1.3 million, or more than one of five Coloradans. Nearly half a million of them are in the "eligibility expansion population."

These numbers have played a huge part in bringing Colorado's uninsurance rate to a historic low. But changes at the federal level could put the state on the hook for much more money than it's been planning to spend. If an ACA replacement plan involves lowering payment from the feds for covering that expansion group — or phasing the federal share out altogether — that will lead to some difficult conversations at our state Capitol and elsewhere.

But remember – we're not working off any legislation. We don't know yet if any of this is what we'll see from the Trump Administration, or when – and frankly, it'd be premature to speculate too much at this point.



In Back to the Future 2, the newspapers morph as Marty McFly looks ahead. That's kind of the point we're at now.

Perhaps, in a show of cooperation, this won't be a typical year of split-party control at the statehouse, and we'll see the bill passage rate rise above where it stood last year. Or, we'll see more of the same.

Maybe conversations about reclassifying the Hospital Provider Fee will be revived as new coalitions pressure leadership, or more compromises are put on the table. Or, Hickenlooper and the Democrats will be frustrated again.



- Political coalitions are changing, with unpredictable results.
- 2017 will see its share of old and new business.
- Major changes from Washington could force the legislature to rethink Colorado's health care system.

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As is clear to you by now, we're still waiting on a lot of specifics. Here's what we do know:

- 1. Political coalitions are changing. This year revealed fragmented voting groups and constituencies who often broke with tradition and their party platform.
- 2. While there will be quite a few new faces at the Capitol, the party balance will be almost identical to last year so we'll see many bills and budget debates resurface in 2017, in addition to new topics of interest.
- 3. And anyone wanting clues about health care priorities in Colorado will want to keep an eye on the Trump Administration, and we should know a lot more at this conference next year.



# **UP NEXT:** Markets that Matter

Sessions with Colorado Health Analysts and Community Partners 11:30 a.m. - 12:30 p.m.

#### **CHOOSE ONE OF THREE**

#### 1. The Colorado Health Insurance Exchange: On Life Support or a Healthy Prognosis?

CHI Analyst: Jeff Bontrager,
Director of Research on Coverage and Access

Community Partner: Amy Stephens, Principal, Public Policy and Regulation Practice, Dentons; former Colorado House Majority Leader

Location: Arkansas/Platte

# The Middle on the Edge: Health Insurance, Affordability and the Middle Class – Before and After the Election

CHI Analyst: Edmond Toy, Director

Community Partner: Tamara Drangstveit, Executive Director, Family & Intercultural Resource Center, Summit County

Location: Grande/Gunnison

#### 3. Medicaid Mainstream: The Impact of Expansion So Far and a Look at Options for the Future

CHI Analyst: Emily Johnson, Senior Policy and Statistical Analyst

Community Partner: Ross Brooks, CEO, Mountain Family Health Centers, Glenwood Springs, Basalt, Edwards and Rifle

**Location: White River**