



## 2020 Legislation in Review

# Pandemic, Protests, Pause Define Session

## Acknowledgements

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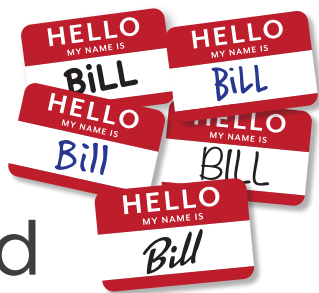
“This is the most  
challenging legislative  
environment I’ve ever  
been in. Sometimes  
we make history in this  
building and sometimes  
history makes us.”

— House Majority Leader Alec Garnett,  
(D-Denver)



# 2020 Session by the Numbers

**651**  
Bills  
Introduced

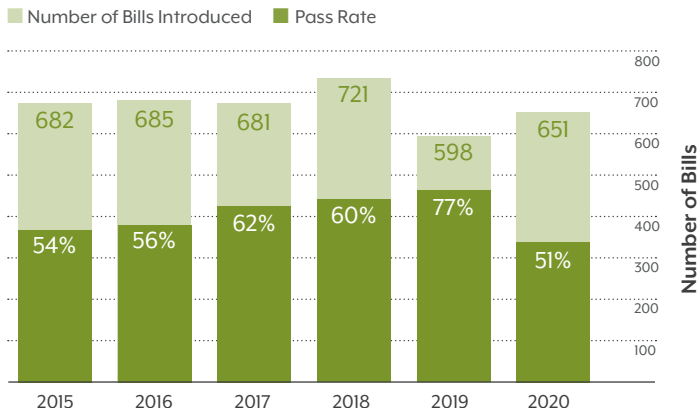


**329** Bills  
Signed Into Law



**3** Bills  
Vetoed

## Bills Introduced by Year



Session Featured **84 Working Days**. Normal Session is 120 Days.



Bills Impacted by a **\$3.3 Billion** General Fund Budget Shortfall.



Dates of recess  
for COVID-19

# *It was a Saturday in March when one era ended for the Colorado legislature and another began.*

Think of everything before that day as occurring in B.C.E. (Before Coronavirus Epidemic). On March 14, legislative leaders decided to adjourn — for two weeks, they thought — to guard against spreading the virus. And so began the days of C.E. (COVID-19 Era).

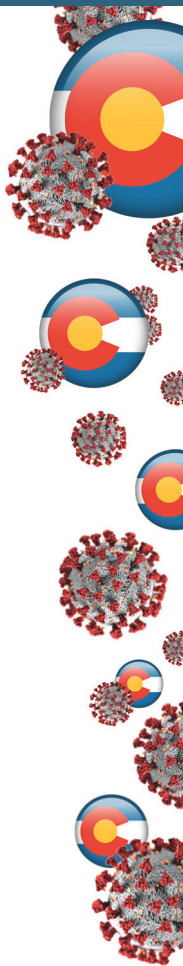
The pandemic did to legislation what a meteor did to the dinosaurs 66 million years ago. It wiped out the giants and left behind the creatures small and nimble enough to survive the cataclysm.

Legislators ended up staying away from the Capitol for more than two months, and when they returned, their biggest plans had been swept away. Democrats had been preparing to take on high hospital profits with a slate of bills, but they backed off when hospitals began losing money at the same time providers were risking their own health to care for the COVID-19 patients who crowded their wards. A push to create paid family leave — which riled the business lobby — had to be put on hold when many businesses were forced to shut their doors and lay people off.

When the C.E. part of the session began, legislators set to work on two grim tasks — filling a \$3.3 billion gulf in the state budget and systematically killing most bills that cost money or required extra time for debate or public hearings.

The pandemic didn't wipe out everything. House Democratic leaders pushed ahead with a bill to tighten the state's loose rules on vaccine exemptions for schoolchildren even as opponents packed a weekend hearing on the bill that lasted hours. Bipartisan majorities acted quickly to pass a bill to expand telehealth and a bill to increase police accountability.

From the vantage point of mid-summer 2020, it's clear that the COVID-19 Era will last more than a year. Economists predict that the state budget will be even tighter in 2021. The pandemic is still out of control in most of the United States, and a presidential election looms in November. There's no telling what the new era will bring.



# 2020 Timeline



## Legislative Session Milestones

- A January 8:** First day of session.
- B March 14:** Legislative recess begins for public health emergency.
- C April 1:** State Supreme Court rules that the 120 days in the legislature's session do not need to be consecutive.
- D May 12:** Updated revenue forecast predicts \$3.3B shortfall for FY 2020-21.
- E May 26:** Legislators return to Capitol, state budget introduced.
- F June 15:** Final day of session.



## Racial Justice Milestones

- A May 25:** George Floyd is killed by police in Minneapolis.
- B May 28:** Protests begin in downtown Denver. Police respond with tear gas and pepper spray.
- C June 3:** Senate Bill (SB) 217, a landmark police accountability measure, is introduced in state legislature.
- D June 5:** Federal judge restricts Denver Police from using rubber bullets, tear gas, and pepper spray against peaceful protesters.
- E June 19:** SB 217 signed into law by Gov. Jared Polis on Juneteenth.



# 2020 Timeline



## COVID-19 Milestones

- A January 30:** World Health Organization (WHO) declares a “public health emergency of international concern” for the sixth time in history.
- B March 5:** Colorado Department of Public Health and Environment (CDPHE) announces state’s first presumptive positive COVID-19 test result in Summit County.
- C March 11:** WHO characterizes COVID-19 as a pandemic and Polis declares a statewide disaster emergency.
- D March 18:** Schools close and social distancing order prohibiting gatherings of more than 10 people goes into effect.
- E March 25:** Colorado surpasses 1,000 cases and Polis issues stay-at-home order.
- F April 27:** State transitions to “Safer at Home” phase.
- G June 1:** State guidelines are loosened under the slogan “Safer at Home and in the Vast, Great Outdoors.”
- H June 30:** Colorado bars and nightclubs are ordered to close again as cases increase.



# The Testing of a Governor

Gov. Jared Polis strode into his second year in office full of confidence. In his first year, he had accomplished several ambitious goals, including expanding full-day kindergarten statewide and creating a reinsurance program to curb health insurance premiums. He was ready to get to work and had Democratic leaders in both legislative chambers on his side.

Polis' priorities for 2020 focused heavily on cutting health care costs by taking on high-profit hospitals. His agenda included a public option for health insurance, prescription drug price transparency, continuing the reinsurance program, and enacting large-scale behavioral health reforms. He also vowed to build on full-day kindergarten expansion by increasing access to preschool for Colorado's kids. He included money for this priority in his budget request and also pushed for a ballot measure to allocate tobacco tax revenue to preschool.

Polis was a state legislator and a member of Congress before he became governor, and he continues to be a



hands-on participant in shaping and driving legislation. While some have praised the governor for his consistent involvement in policy conversations, others — including some Democrats — have

grumbled that he is too heavy-handed and that his demands complicate legislative efforts.

But the pandemic required Polis to fully embrace his executive style. He has served as the face of Colorado's response through the spring and into the summer, shaping policy decisions, holding regular briefings, and campaigning for mask-wearing and social distancing. He has received high marks from the public for his ability to steer the state through uncertain times, even though conservative critics, led by House Minority Leader Patrick Neville (R-Castle Rock), chafed against the stay-at-home order.

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**Note:** Throughout this report, bills that passed are highlighted in **green**. Bills that failed are highlighted in **red**.

Polis has sought to balance science-based guidelines with calls for economic recovery. He initially resisted issuing a statewide stay-at-home order, but he followed the advice of public health leaders and locked down the state for most of April. He was also one of the first Democratic governors to lift the stay-at-home order, transitioning to the less restrictive “Safer at Home” initiative, then to “Safer at Home and in the Vast, Great Outdoors,” and most recently to “Protect Our Neighbors.” (See the timeline on pages 6-7 for more.) He made difficult choices to shutter stores and restaurants, open them up again in waves, and then re-close bars and nightclubs after COVID-19 cases started increasing again.

When legislators returned to the Capitol in late May after the pandemic-induced hiatus, Polis was as hands-on as ever. When federal relief came in the form of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, he moved swiftly to allocate \$1.6 billion in funding — without consulting with the Joint Budget Committee (JBC) or other members of the legislature, who were finalizing details of the state budget. In response, Sen. Bob Rankin (R-Carbondale), a longtime JBC member, said, “To say that I’m disappointed would be putting it lightly. How do we build a budget around the whims of one man

with no deliberative process?” Polis left just \$70 million for legislators to disburse to new priorities through the General Fund.

In the session’s final weeks, Polis pushed for amendments and threatened vetoes on bills, such as **House Bill (HB) 1420**, a tax reform measure opposed by business interests. Polis vetoed three bills, down from five the year before. The most notable veto was **HB 1085**, which sought to redirect patients from opioids to alternate treatments, such as acupuncture and physical therapy, by requiring insurance companies to cover these other treatments. Polis rejected the bill, pointing to an April 1 letter to legislators saying that he would not sign any more insurance mandates in 2020 for fear of increasing insurers’ costs and consumers’ premiums.

The governor made his mark on the 2020 legislative session and on how Colorado’s 5.8 million residents have navigated the pandemic. What his third year will look like — and whether it will be less of a rollercoaster — is anyone’s guess. Even bigger budget constraints for the 2021-22 fiscal year (see page 11 for more) could hobble expensive priorities like preschool, but don’t expect that to deter him. It’s clear that this governor fights for what he wants, even if he has to ruffle some feathers.

*Even in January, it was clear that the good times were over for state finances. A decade-long stretch of expanding budgets was coming to a close as the economy began to slow, and legislators would have little money to launch new programs.*

*Then the pandemic hit.*

COVID-19 crashed the state's economy with startling speed. Within six weeks of the first reported cases in the state, more than 400,000 Coloradans had lost their jobs. When people can't work, tax revenue dries up and the budget falls apart.

Legislators adjourned on March 14, and when they returned two months later they faced a \$3 billion hole in the roughly \$13 billion General Fund — the part of the budget that is funded by state taxes and that pays for schools and colleges, public safety, human services, and much of the state's share of Medicaid. People who depend on those services braced for serious damage. One example: The budget committee's staff floated the idea of shutting down the entire Child Health Plan *Plus* (CHP+) insurance program, though it didn't happen.



By early June, legislators had seemingly done the impossible and passed a budget (**HB 1360**) that avoided massive cuts. They did it by draining state savings accounts and relying on an infusion of federal aid, including an increase in the Federal Medicaid Assistance Percentage. When federal aid is counted, many departments came out ahead compared to 2019 — which is the point of stimulus funding during a recession (see graph on page 13). They won't be able to count on these temporary measures for the 2021-22 budget, though.

Not everything escaped in 2020-21, either. Some notable cuts in health programs:

- \$1.2 million from the All-Payer Claims Database



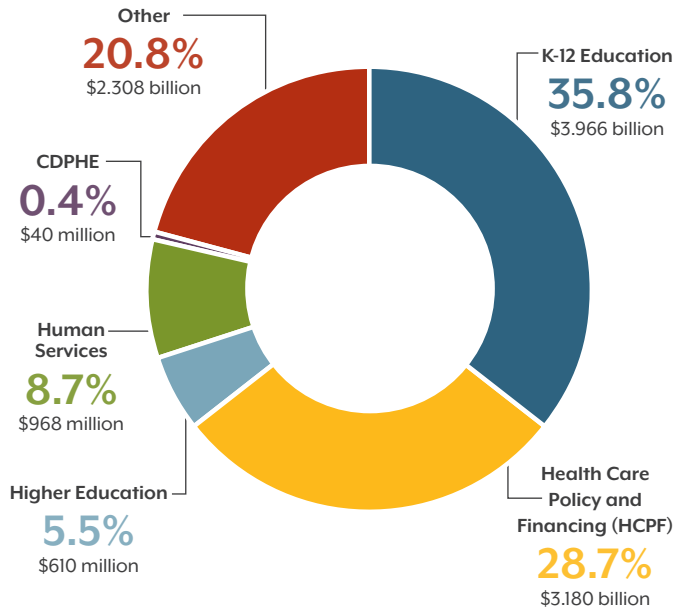
***Economists predict that the 2021-22 state budget will still be about \$1 billion less than it was in 2018-19.***

- \$161 million in payments to hospitals from the Hospital Provider Fee
- A 1% cut in reimbursement for community service providers, including substance use counselors and doctors who serve Medicaid patients
- A 2.37% cut for providers in the Program for All-Inclusive Care for the Elderly (PACE)
- A \$1 million cut to a program that trains health providers to assess patients for substance abuse risk
- More than \$10 million in cuts to several substance use disorder programs, including the Circle Program and medication-assisted treatment in jails

Economists for the legislature and governor's office predict a partial recovery by next year, but they predict that the 2021-22 state budget will still be about \$1 billion less than it was in 2018-19. The state's savings accounts are now nearly empty, and unless Congress changes course, federal coronavirus relief funds for states will cease at the end of the year.

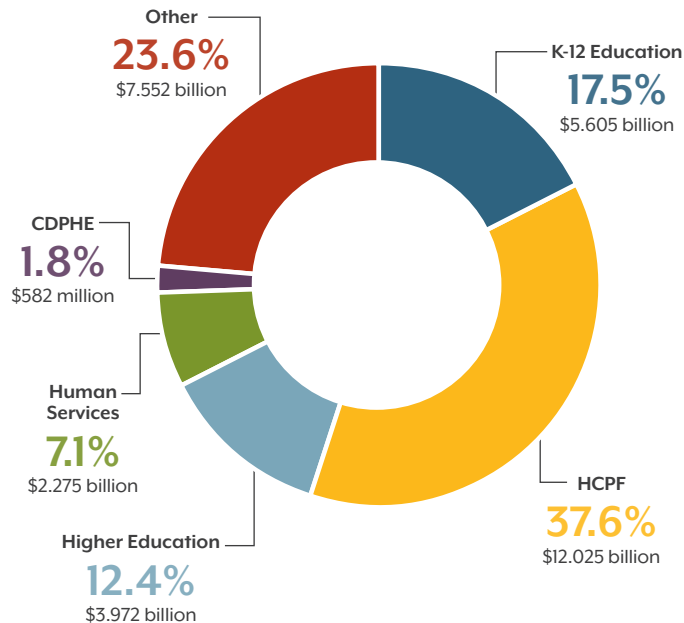
## FY 2020-21 General Funds

Total: \$11.072 billion



## FY 2020-21 Total Funds

Total: \$32.010 billion



Source: FY 2020-21 Long Bill (House Bill 1360), Long Bill Narrative, CHI analysis of federal coronavirus relief bills

# Federal Relief Covers Most State Cuts

■ FY19-20 Spending ■ State Cuts FY20-21 Compared to FY19-20 ■ Federal Aid FY19-20, 20-21

## K-12 Education



Revised Funding for FY 2020-21 After State Cuts and Addition of Federal Assistance:

■ - ■ + ■  
\$6.416B

## Higher Education



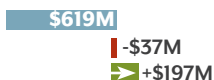
\$4.569B

## Human Services



\$2.401B

## CDPHE



\$779M

## Other



\$7.939B

**Note:** HCPF's budget from the state increased by \$1.202 billion, to \$12.025 billion, to cover an anticipated surge in Medicaid membership. HCPF also received \$395 million in federal relief funding.

An already tight budget, further squeezed by the pandemic, prompted cuts to programs seen as non-essential. These bills ended programs, returned them to previous levels, or delayed implementation of new initiatives:

**HB 1361 Reduce the Medicaid Adult Dental Benefit**

**HB 1384 Delay Wraparound Services for At-Risk Children**

**HB 1390 Discontinue Youth Services Trauma Pilot Programs**

**HB 1364 Repeal Opioid Awareness Program**

**HB 1371 Delay Substance Use and Mental Health Grant Program**

Other programs that were expected to be cut survived. For example, legislators' refusal to declare a fiscal emergency (**House Joint Resolution 1008**) prevented transfers of some tobacco tax revenues from existing CDPHE grant programs (**HB 1373**) — a move that had been recommended by the JBC and legislative staff to help balance the budget.



Legislators allocated federal relief funds over which they had control to food and housing assistance, small businesses, behavioral health services, and the 211 social services helpline through the following bills:

**HB 1422 Food Pantry Assistance Grant Program**

**HB 1197 211 Statewide Referral System Support**

**SB 222 CARES Act Money for Small Business Grants**

**HB 1410 COVID-19-Related Housing Assistance**

**HB 1411 COVID-19 Funds for Behavioral Health**

**HB 1412 COVID-19 Utility Bill Payment Assistance**

## *Three important tax-related measures passed in the final days of the session:*



### **HB 1427 Tobacco and Nicotine Products Tax**

Refers a statewide ballot measure to voters to increase cigarette and tobacco taxes and create a new tax on nicotine products, which are used in vaping. Tax increases on cigarettes and other tobacco products would ramp up through 2028, and the new nicotine tax would be phased in over the same period. Sales tax on a pack of cigarettes would increase from \$0.84 to \$2.64.



### **HB 1420 Adjust Tax Expenditures for State Education Fund**

Opts Colorado out of certain federal tax breaks included in the CARES Act and in previous federal legislation and sends some of the money to schools. The bill also expands the earned-income tax credit, which benefits low-income workers.



### **Senate Concurrent Resolution 1 Repeal Property Tax Assessment Rates**

A constitutional amendment that asks voters in November to repeal the 1982 Gallagher Amendment, which keeps residential property tax rates low, often at the expense of businesses and local governments. Repeal proponents say the amendment is outdated and that increased property tax revenue could help Colorado's COVID-gouged budget.

# Stories of the Session

The arc of the 2020 legislative session was unlike any other. The first two months featured a flurry of new bills, including legislation to repeal the death penalty, increase transparency and regulations for pharmaceutical companies, and strengthen the regulation of smoking and vaping. Conversations swirled around implementing a public insurance option and creating a family and medical leave insurance (FAMLI) program. Polis and legislative leaders were poised for another session of legislative victories. Some bills passed and were sent to the governor's desk while many others arrived at the Appropriations Committee in the House or Senate, where they sat until legislators had more clarity on the next year's budget.

But the COVID-19 pandemic changed all that. Legislators packed up on a Saturday in mid-March for a recess of unknown duration. They returned more than two months later to a reshuffled legislative landscape, partisan fights, and growing community unrest over police brutality and racial injustice.



The return started with lengthy arguments over a measure to allow remote participation for legislators with health concerns. Democrats believed the temporary relaxation of rules was important to avoid unnecessary risk of illness, but Republicans pushed back, saying in-person voting was a risk elected officials must be willing to take. “If you’re going to do the work of the people, you [must] be down here,” said Rep. Dave Williams (R-Colorado Springs). Rep. Leslie Herod (D-Denver) countered, “We need our members to live through this pandemic.” In fact, legislators learned that one of their own, Rep. Jovan Melton (D-Aurora), had almost not survived the virus. The measure passed on a party-line vote in both chambers.

Around the same time, protests over the killing of George Floyd by Minneapolis police officers spilled into Denver’s streets, with crowds marching day after day, calling for police reform and justice for Black Americans. Some days turned violent, with police firing tear gas, pepper spray, and rubber bullets into crowds of protesters and at reporters covering the events. Legislators took a short hiatus as the protests swelled, then returned to pass a landmark police



**Rep. Jovan Melton (D-Aurora) fought a difficult case of COVID-19.**

accountability bill with bipartisan support.

Despite expectations that legislative action in the final weeks would be focused on policies that were “fast, friendly, and free,” as Speaker of the House KC Becker put it, lawmakers tackled important and controversial subjects, passing measures on immunizations, tax reform, sick leave, telehealth,

and more. Perhaps the most surprising thing, aside from the pandemic itself, was how much legislators managed to accomplish. The year was light on work time but heavy on policy changes.

Some successful bills were introduced in response to COVID-19, such as measures for sick leave and telehealth. Others were in the works before the pandemic hit and managed to reach the governor’s desk after legislators reconvened. Many other priorities, such as the public health insurance option, fell by the wayside — no match for the pandemic and the economic destruction that followed.

# 10 Health Policy Bills From 2020

## **SB 163 School Entry Immunization**

Colorado has loose requirements for exemptions from vaccines, and this bill tightens them only slightly. But it is notable for surviving the outrage of anti-vaccine parents who feel exemptions are an unequivocal right. SB 163 sets an immunization goal of 95% for every school, mandates more reporting from schools, and requires parents who opt their children out of vaccines to obtain a prescriber's signature or complete a short online class about the science of immunizations. It also creates a new requirement for all providers to submit exemption data to CDPHE's Colorado Immunization Information System (CIIS).

## **SB 205 Sick Leave for Employees**

Though a much-anticipated family and medical leave measure was never introduced, legislators did pass a bill requiring all employers to provide paid sick leave. The Healthy Families and Workplace Act was spurred by the COVID-19 pandemic. It mandates that employers provide one hour of paid leave for every 30 hours

worked, up to 48 hours per year. As for the question of broader family and medical leave? It will likely be on the ballot in November.

## **SB 212 Reimbursement for Telehealth Services**

State and federal regulators made temporary rule changes during the pandemic to promote telehealth. SB 212 makes some state changes permanent. It requires Medicaid to reimburse Federally Qualified Health Centers, Indian Health Service, and Rural Health Clinics for telehealth services; makes more types of care eligible for telehealth reimbursement; and mandates regular reporting on telehealth utilization from the Department of Health Care Policy and Financing (HCPF).

## **HB 1001 Nicotine and Tobacco Regulation**

The bill creates statewide licensing and regulation of cigarettes, tobacco products, and nicotine products, including e-cigarettes, beginning in July 2021. For the first time, Colorado retailers will need a license to sell these products. It also puts advertising and

shipping restrictions on retailers and clarifies that local regulations must be at least as strict as the state law. In addition, HB 1001 matches a recent change at the federal level by raising the minimum age for purchasing these products from 18 to 21. A bill to ban the sale of flavored nicotine products used in vaping (**HB 1319**) failed.

### **HB 1349 Colorado Affordable Health Care Option**

The push for a public option plan to be offered by private insurers was expected to be one of 2020's top headlines. It was, for a time. Facing fierce opposition from hospitals and insurers, HB 1349 passed its first hearing on March 11, just days before the recess. It was derailed when legislators and hospitals had to focus on COVID-19. The bill's sponsors said they were withdrawing it on May 4.

### **SB 215 Reinsurance and Premium Subsidies**

Hospitals and insurers were not able to deflect this late-session bill to fund the reinsurance program for five years through taxes on insurance plans. The bill also expands subsidies for people who buy insurance on the individual market. And for the first time, it offers insurance subsidies to people who are immigrants without documentation and those excluded due to the

“family glitch,” a coverage gap in the Patient Protection and Affordable Care Act (ACA).

### **SB 217 Law Enforcement Accountability**

Protests over police brutality spurred the legislature to pass this bill with bipartisan support in both chambers — a stunning shift on a historically partisan issue. (Eighty-four out of 100 legislators voted for it.) SB 217 requires police and state patrol officers to wear body cameras and release recordings to the public, mandates more public data reporting, restricts firing pepper spray and tear gas in response to public demonstrations, requires officers to report excessive use of force, and removes immunity for police who were determined to have acted in bad faith.

### **SB 100 Death Penalty Repeal**

SB 100 is the culmination of years of legislative efforts to abolish the death penalty. Advocates say ending capital punishment, although it is seldom used in Colorado, shows a commitment to justice. The contentious bill had to overcome a schism in the Democratic party, with Sen. Rhonda Fields (D-Aurora) — whose son and his fiancée were murdered by men later sentenced to death — serving as the most vocal opponent.

## **HB 1236 Health Insurance Easy Enrollment Program**

The bipartisan bill uses the tax filing process to ease enrollment in Medicaid, CHP+, and individual market plans. Information provided through the program will be confidential. It also creates a new special enrollment period for those deemed eligible to sign up at tax time, which is outside of Colorado's open enrollment window.

## **HB 1086 Mental Health Wellness Examinations**

HB 1086 sought to require full insurance coverage by state-regulated plans for annual mental health examinations. An annual physical wellness exam is already covered at no cost. Colorado requires coverage for mental health and substance use disorder services, but insurers do not have to cover the full cost. The bill made it most of the way through the process before falling victim to the pandemic and anticipation that it would increase health insurance premiums.

# Other Bills of Note

## **PHARMACEUTICAL COSTS**

The pandemic squashed the hopes of legislators who wanted to increase the transparency and regulation of prescription drug prices. Most bills were shelved after the recess, while others never appeared. For example, a much-anticipated House bill to stand up a prescription drug affordability board was drafted, but never introduced.

## **HB 1160 Drug Price Transparency Premium Reductions**

One of two measures seeking to increase drug price transparency. HB 1160 aimed to require health insurance companies and drug manufacturers to report price information to the Colorado Division of Insurance (DOI) for analysis. A similar version of the bill was introduced in the 2018 and 2019 legislative sessions but has yet to gain traction.



### **SB 107 Drug Production Costs Transparency Analysis**

Sought data on costs incurred by drug manufacturers in an effort to understand the effects on the Medicaid program. Data would have been collected and analyzed for the 20 highest-cost prescription drugs per course of therapy and the 20 highest-cost prescription drugs by volume.

### **SB 119 Expand Canadian Prescription Drug Importation Program**

Sought to expand a policy from the 2019 legislative session that allowed the state, with federal government approval, to pursue importing wholesale prescription drugs from Canada. (The federal application has stalled during the pandemic.) SB 119 would have allowed the state to import drugs from additional countries, pending federal approval.

### **HB 1078 Pharmacy Benefit Manager (PBM) Payments**

The lone major pharmacy bill that survived the session. HB 1078 regulates PBMs and prohibits them from charging retroactive fees to pharmacies. It was passed with bipartisan support and was signed into law before legislators paused the session.

### **HB 1198 Pharmacy Benefits Carrier and PBM Requirements**

A second bill focused on PBMs that would have explored how they work with health insurers and administer drugs. The state insurance commissioner would have reviewed how PBMs compensate pharmacies and pharmacists to ensure their practices were fair and reasonable.

## **CONSUMER PROTECTION AND COST CONTROL**

Legislators began the session with a continued focus on a priority from the 2019 session: making the health care system less complex and protecting consumers from fraud and high prices. Sponsors introduced a variety of bills that were later abandoned after the mid-session recess as legislators dealt with more urgent issues. However, legislators did take a step to protect workers through a new whistleblower protection law.

### **SB 5 Cost-Sharing Collected by Carriers**

One of the first bills introduced into the 2020 session didn't reach the finish line. It would have required health insurance companies, rather than health

care providers, to outline and collect any copayment, deductible, and other cost-sharing amounts owed in a single bill to patients. Supporters said it was an attempt to simplify charges for both patients and hospitals. Insurers opposed the major change in health care billing.

### **SB 188 Plain Language in Hospital Bills**

Would have required health care providers to issue easier-to-understand bills, without procedure codes and with a clear breakdown of charges that patients are responsible for paying.

### **HB 1008 Cost-Sharing Consumer Protections**

Would have required health care sharing ministries to report information to the insurance commissioner and increase transparency about what they do and don't offer. HB 1008 followed earlier steps by the DOI to protect consumers from confusion and fraudulent practices, as these ministries have not been subject to regulation.

### **HB 1264 Hospital Contracts with Insurance Carriers**

Aimed to make health systems less restrictive in their rules for contracting with insurance carriers. Insurers would have been able to contract with select hospitals

in a health system (rather than be forced to work with all facilities in a system, as is currently the case) and negotiate different reimbursement rates for hospitals within a given system. Sponsors had hoped to lower premiums by allowing insurers to negotiate fewer and more favorable contracts.

### **HB 1415 Whistleblower Protections During Public Health Emergencies**

Protects workers who raise public health concerns or voluntarily wear personal protective equipment at work. But Democrats fell short of securing workers' compensation for essential workers who contract COVID-19 (**SB 216**).

## **EXPANDING ACCESS TO CARE**

A suite of bills to expand access to care for lower-income Coloradans saw mixed results. Bills that sought to expand services for broad groups of Medicaid patients failed — likely because of the budget shortfall and daunting predictions of Medicaid enrollment increases — while measures to open up programs to targeted populations passed with bipartisan support.

### **SB 22 Increase Providers for Senior Citizens**

Would have expanded eligibility for student loan repayment to providers of geriatric care in shortage areas for at least two years. SB 22 would have cost the General Fund nearly \$225,000 in FY 2020-21 and over \$400,000 in FY 22-23, which spelled its demise.

### **HB 1331 Transportation for Medicaid Waiver Recipients**

Would have required HCPF, with the support of stakeholders, to identify barriers to and potential solutions for nonmedical transportation for Medicaid clients participating in home- and community-based services waivers.

### **HB 1232 Equity in Access to Clinical Trials in Medicaid**

Allows Medicaid enrollees to have their routine, medically necessary services covered by Medicaid if they participate in approved clinical trials. This bill, which codified current HCPF policy, passed both chambers unanimously.

### **SB 33 Allow Medicaid Buy-In Program After Age 65**

Enables working Coloradans with disabilities to continue buying in to Colorado's Medicaid program after they turn 65 years old. Previously, this population lost its eligibility

at age 65, and proponents of SB 33 said that Medicare coverage was insufficient.

### **HB 1140 Direct Primary Care Services for Medicaid Recipients**

Would have allowed Medicaid enrollees to purchase direct primary care services without losing their Medicaid coverage. Patients who participate in direct primary care pay a flat fee that covers basic health care services and access to a primary care provider.

## **EXPANDING INSURANCE BENEFITS**

Four bills were introduced to expand insurance coverage for select services, and two of them passed before the pandemic hit. A related proposal, to create a more detailed fiscal review of these kinds of bills, failed.

### **HB 1061 HIV Prevention Medications**

Allows Coloradans to get HIV-prevention medication from pharmacies without a prescription and removes barriers to insurance coverage for the drug.

### **HB 1158 Coverage for Infertility Diagnosis and Treatment**

Mandates insurance coverage for infertility treatments

for Coloradans beginning in 2022, with exemptions for religious employers. Such treatments can be extremely expensive. After signing this bill, Polis warned legislators not to pass any more legislation that might increase insurance costs for consumers unless the measures were related to COVID-19.

### **SB 156 Protecting Preventive Health Care Coverage**

Would have codified several preventive health services required to be covered under the ACA and allowed health care providers to prescribe medication for sexually transmitted infections at little or no cost to patients.

### **HB 1103 Colorectal Cancer Screening Coverage**

Sought to lower the age to receive no-cost colorectal cancer screenings from 50 years to 45 years. The prevalence of this cancer in younger people has increased in recent years.

### **SB 127 Committee to Review Health Care Plan Legislation**

Would have required an actuarial analysis and review by a DOI committee of future legislation that proposed new health insurance requirements. SB 127 was introduced with bipartisan support but would have cost nearly \$150,000 in each of the next two years.

## **BEHAVIORAL HEALTH**

Behavioral health champions entered the 2020 session with hopes of building on 2019's legislative victories. Top issues included services for children, youth, and the adults who work with them and for substance use programs, including prevention, harm reduction, treatment, and recovery. Many bills that held promise of passing died as legislators wrestled with budget constraints. Others had to be scaled down before they passed. Some previously approved behavioral health programs were even put on hold to recoup dollars. But despite tens of millions of dollars in cuts to behavioral health — and a veto from the governor (see **HB 1085** on page 9) — behavioral health advocates emerged with some victories.

### **HB 1017 Substance Use Disorder Treatment in Criminal Justice System**

Supports people with substance use disorders who come in contact with the criminal justice system. The bill requires the Department of Corrections and county jails to ensure continuity of care following an individual's release by providing

inmates a list of resources prior to release and enrolling people who enter county jails in Medicaid. It also allows people to dispose of controlled substances and request treatment at police stations and fire stations without fear of arrest or prosecution, among other measures.

### **HB 1113 Mental Health Educational Resources**

Promotes routing calls to a behavioral health tip line to crisis services, rather than police, except in situations involving school safety. The bill initially would have created a website listing behavioral health professionals, but after the protests against police brutality broke out in late May, legislators pivoted to ensure that youth seeking mental health services are connected with behavioral health professionals, not police.

### **SB 28 Substance Use Disorder Recovery**

Passage was an important victory for behavioral health advocates, although the original proposal was heavily reworked. (The bill's two-year price tag went from \$15.6 million to \$200,000.) Previously, the state considered newborns who tested positive for drug or alcohol exposure to be abused or neglected. This bill supports parents who use substances by ensuring a substance exposure is not the only criterion used when

determining whether a case constitutes child abuse or neglect.

## **HOUSING**

Housing was top of mind for legislators this session, even before the pandemic prompted widespread job loss and increased housing instability. Democrats introduced a series of bills to enhance rights for tenants and mobile home owners and establish housing programs for people experiencing homelessness. While most proposed programs were ultimately deemed too costly, many tenants' rights bills made the cut.

Funding ebbed and flowed out of housing programs as the pandemic unfolded: Legislators cut some \$90 million over three years from affordable housing programs in an effort to balance the budget. Federal relief dollars for rental and mortgage assistance (**HB 1410**) helped soften the blow, but only to an extent.

And in the final days of the session, legislators added affordable housing and eviction legal defense to the list of programs that would receive revenue from the tobacco and nicotine product tax, if the ballot measure passes this fall (see **HB 1427** on page 14). As the session

came to a close, progressives also pushed for an extension of the temporary eviction moratorium, but they failed to get the support they needed. The decision fell to Polis, who issued a more limited order.

### **SB 224 Immigrant Tenant Protection Act**

Prohibits landlords from requesting or disclosing information about a tenant's citizenship or immigration status or discriminating against a tenant based on that information. A version of the bill was introduced in January but failed after the legislative recess. Two weeks later, sponsors reintroduced the bill, and it passed in the final days of the session with legislators voting along party lines.

### **HB 1332 Prohibit Source of Income Discrimination**

Establishes that discrimination based on source of income is a type of unfair housing practice. Landlords are prohibited from refusing to rent to someone based on whether they receive public housing assistance.

### **HB 1035 Programs for Housing Support Services**

Would have established and expanded supportive housing services to people experiencing homelessness or at risk of homelessness, including those in rural areas, those with behavioral health disorders, and

those who have had contact with the criminal or juvenile justice systems. The \$3.6 million appropriation proved too costly.

## **HEALTH AND THE ENVIRONMENT**

Legislators from both sides of the aisle introduced dozens of bills pertaining to the environment — some granular, some sweeping. Topics included wildfire mitigation, water management, oil and gas regulation, wildlife conservation, and waste reduction. Most notable was legislation on air quality, which passed as COVID-19 made the connections among air pollution, health, and inequality abundantly clear. But for every environment-related bill that passed this session, another two failed.

### **SB 204 Additional Resources to Protect Air Quality**

Establishes fees that “stationary sources” of pollution, such as refineries and factories, must pay based on their emissions. The revenues will be used to monitor and conduct research on air quality. The fees are estimated to generate \$5 million over two years.

### **HB 1143 Increase Environmental Fines**

Imposes higher fines for air and water quality

violations and increases criminal penalties for water pollution. Revenue from air quality violations will go to the General Fund, while water quality violations will fund water quality improvements. The measure is estimated to generate \$5 million over three years.

### **HB 1265 Increase Protection from Air Toxins**

Requires stationary-source polluters to alert residents in their area if they emit more air pollutants than the amount allowable by law. The bill originally established a program to regulate air pollution, but was stripped of all regulatory elements before being passed into law. The measure comes in the wake of several instances of Colorado refineries and factories violating air pollution standards.

### **HB 1057 Wildfire Risk Mitigation Grant Program**

Modifies a wildfire mitigation grant program to provide more funding to areas with fewer economic resources, expands the list of eligible recipients of the grant, and extends the grant program from 2022 to 2029.

## **LAW ENFORCEMENT AND THE JUSTICE SYSTEM**

In addition to the repeal of the death penalty and the historic police accountability bill (**SB 217** and **SB 100**, described on page 19), legislators worked on more than a dozen other bills related to law enforcement and criminal justice. Advocates and legislators alike have worked to expose the connections among criminal justice, health, and equity.

### **SB 83 Prohibit Courthouse Civil Arrest**

Prohibits the arrest of a person who is on courthouse property or going to or from a court proceeding. The bill comes after multiple instances of U.S. Immigration and Customs Enforcement officers arresting people in or near courthouses. Advocates say the bill will alleviate fear of such arrests, which has deterred immigrants — including witnesses, defendants, and victims of crime — from participating fully in the judicial process.

### **SB 161 Pretrial Release**

Would have reduced the use of cash bail, required more timely proceedings for people who have been arrested, and developed pretrial release programs for people awaiting trial. The bill was introduced in early February, several months before national protests amplified calls for bail reform. Despite bipartisan sponsorship in both chambers, the bill, which would have cost \$6.9 million over two years, didn't make the cut.

*The first half of 2020 took a heavy toll on the nation's morale. In November, voters across the restless country will have a chance to vote on issues and offices at all levels — including the president of the United States.*

President Trump faces a triple threat of social upheavals: the COVID-19 pandemic raging across the country, the highest jobless rates in nearly a century, and widespread demonstrations for social justice and policing reform. Polling shows Democrat Joe Biden with a sizable lead over President Trump in early summer, but the election is four months away and polls have been wrong before.

Democrats have the chance to make both of Colorado's U.S. Senate seats blue this fall. Former Gov. John Hickenlooper secured the Democratic nomination on June 30 and will challenge incumbent Sen. Cory Gardner. Hickenlooper also has a commanding lead in the polls as of early summer.

All of Colorado's U.S. House of Representatives seats are up for reelection, with one notable upset already achieved: Lauren Boebert beat incumbent Scott Tipton



to secure the Republican nomination for the state's Third Congressional District. She will face off against Democrat Diane Mitsch Bush, a former state legislator and Routt County Commissioner.

And in the state legislature, all 65 House seats and 18 Senate seats are up for grabs. At least 22 current legislators won't be representing their districts next year due to term limits or other reasons, including plans to campaign for a different seat. November's ballot will be packed with choices for voters to consider.

# Three Senate Races to Watch:

*Democrats under Colorado's Gold Dome will work to defend the unified control they secured in the 2018 election. The House is safely theirs, while Republicans' option for defense lies in the Senate.*



## SENATE DISTRICT 19 — JEFFERSON COUNTY

**29.8% Democrat | 25.0% Republican | 43.4% Unaffiliated**

Incumbent Sen. Rachel Zenzinger (D), a member of the JBC, will face off against Lynn Gerber (R) in what is likely to be a tight contest. Republicans held this northwestern suburban district before Zenzinger's victory in 2016.



## SENATE DISTRICT 25 — ADAMS COUNTY

**31.3% Democrat | 23.8% Republican | 43.1% Unaffiliated**

Sen. Kevin Priola (R) won this seat from Democrats in 2016, and now he must defend it. He will face off against Paula Dickerson (D), an early childhood specialist with over 20 years of teaching experience. Expect a close race, as Priola is among the Republican senators most willing to work with Democrats on legislation.



## SENATE DISTRICT 35 — SOUTHEASTERN COLORADO AND SAN LUIS VALLEY

**34.1% Republican | 30.3% Democrat | 34.1% Unaffiliated**

This district encompasses a vast area from the San Luis Valley to Colorado's eastern border. Sen. Larry Crowder (R) is term limited, leaving Cleave Simpson (R) and Carlos Lopez (D) to fight to fill the seat. Simpson is a rancher and water rights advocate; Lopez serves on the Trinidad City Council.

## Statewide Voter Registration

**Democrat  
29.5%**

**Republican  
27.2%**

**Unaffiliated  
41.5%**

**Other  
1.8%**

**Nearly 1.6 million voters** participated in the June 30 primary, up from 1.2 million in 2018 (the first time unaffiliated voters could participate).

## Health-Related Ballot Initiatives

Polis signed an executive order in mid-May to allow electronic voter signature gathering for ballot initiatives, which has been greatly hindered by COVID-19, but the order was subsequently overturned by the state Supreme Court. The prohibition on remote signature collection may limit the number of additional initiatives on the November ballot.

Among the issues confirmed for the ballot:

- **National Popular Vote:**  
Voters will determine whether Colorado will remain part of the National Popular Vote Interstate Compact (NPVIC). Last year, legislators entered the state into the compact with the passage of SB 19-042. States in the NPVIC pledge their electoral votes for the presidential candidate who earns the most votes nationwide. Opponents of the popular vote say it would turn all but the highest-population states into flyover country not worth candidates' time.
- **Prohibition of Late-Term Abortions:**  
If passed, this measure would prohibit abortions in Colorado after 22 week's gestational age. A district court judge allowed the group sponsoring

the measure an additional two weeks to collect signatures after the group sued the state, citing coronavirus concerns. Anti-abortion measures have been common on the state's ballot in recent years and have been consistently defeated.

- **Cigarette, Tobacco, and Nicotine Products Tax:**  
If approved, this measure (described on page 14) would generate almost \$170 million in FY 2021-22, the first full year it would be in place, with higher amounts in future years as tax rates increase. The tax revenue would be used to support the General Fund, affordable housing, rural schools, preschool, and tobacco education and prevention efforts.
- **Repeal of Property Tax Assessment Rates:**  
Legislators sent this measure to repeal Colorado's Gallagher Amendment (described on page 14) to the ballot with bipartisan support.

Efforts to create a paid medical and family leave program, increase the distance of oil and gas operations from buildings, and change the state's income tax structure from flat to tiered could also be on the ballot if backers can gather enough signatures by the August 3 deadline.



# Looking Ahead to 2021

*Whatever happens between now and the end of the year, we know the world will continue to be quite different than it was on January 1. Where does Colorado go from here?*

*Questions abound, but these three top the list.*

## **Did the late-spring dip in COVID-19 cases create a false sense of comfort?**

Colorado was slowly reducing social distancing measures and returning to a new normal when positive COVID-19 cases began to rise again. Polis was lauded for his policy choices to “bend the curve,” but what happens if the curve bends back in the form of a second (or third) wave? Rapid increases in confirmed COVID-19 diagnoses could spell more distancing measures and economic hardship, at least until a safe, effective vaccine is developed and deployed.

## **When will the budget recover?**

The full impact of COVID-19 on the economy has yet to be determined. The state added jobs in June, but not nearly enough to make up for massive layoffs in previous months. It is unclear when the state budget will fully recover. Legislators on the JBC used several one-time maneuvers to spare many departments and

programs from funding cuts stemming from COVID-19 for the immediate future, but they don’t have that option for next year.

## **What policy changes can we expect following the 2020 election?**

Will Donald Trump or Joe Biden win the presidential election? The Trump administration has tried to dismantle the ACA; a Biden administration would work to bolster Barack Obama’s legacy and enact a host of social programs. Beyond the White House, will more moderate politicians lose races across the country as the parties becomes increasingly polarized? Or will a return to establishment politics win out, on one or both sides of the aisle? Here in Colorado, will Democrats maintain unified control of the state legislature, or could Republicans take back the Senate? The 2020 legislative session was highly consequential for public health; the election will be more so.



The Colorado Health Institute is a trusted source of independent and objective health information, data, and analysis for the state's health care leaders. CHI's work is made possible by generous supporters who see the value of independent, evidence-based analysis. Through its Legislative Services program, CHI provides a variety of resources to lawmakers and their staffs and to members of the executive branch. Services include one-on-one briefings, responses to information and research requests, publications on pressing health policy topics, a legislative blog, presentations at the Capitol and for constituent groups, and the Hot Issues in Health conference.

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