



Colorado 2020 Colorado Nonprofit Association Legislative Summary

June 18, 2020

Colorado General Legislative Overview

While it may sound cliché, Colorado’s “Second Regular Session of the 72nd General Assembly,” or 2020 legislative session was truly one of kind. This was in part because work was starkly divided into two sessions - pre and the other post COVID pandemic – and because of the unprecedented nature of the numerous far-reaching actions passed by the body.

Most important, lawmakers managed to patch together a \$31.7 billion FY2020-21 state budget, but only by making significant cuts to K-12 and higher education. The legislature also set in motion four tax policy changes that could be significant in the future.

The legislature also passed an 11-bill COVID-19 relief package, financed with \$70 million in emergency federal funding. The bills are designed to provide aid to workers, small businesses, renters, and people who need help with utility bills.

Of the 651 bills brought during the entire session, 66 were introduced during the three week second half of the session, and they included the major policy debates: police accountability, tax reform, paid sick leave, referred measures to repeal the state’s Gallagher amendment and increase tax on tobacco and nicotine products.

When the legislature first convened in January of 2020, the main chatter was whether Governor Polis and the Democratic majority would succeed to complete 2019’s unfinished business on big dreams like paid family leave and public option health insurance. Business proceeded as usual and there was little sense of urgency – most of the heavy lifting tends to happen in the latter half of the session.

And then, in early March, the COVID-19 pandemic dominated the news and the state saw successive closures of events, activities, and places of work. By Saturday, March 14, legislative leaders had decided to recess because of the growing health threat. It was just over halfway point of the 120-day session.

This recess was taken with uncertainty as the law was not clear if the constitutionally limited 120 days session needed to be consecutive, as always has been the case, or if the clock could be stopped and resumed when they reconvened. In the end the Democratic majority opted to appeal to the Colorado Supreme Court for a ruling on the matter.

Later in March, the court ruled for non-consecutive days, giving lawmakers some breathing room beyond what would have been the scheduled adjournment date of May 6.

But lawmakers faced another, firmer deadline – the end of the fiscal year on June 30, the last date on which a new state budget could go into effect. In practical terms the budget needed to be adopted in early June so school districts could set their own budgets based on the amount of state aid. This necessitated the legislature reconvening in mid-May.

To prepare for this the legislature’s Joint Budget Committee went back to work on May 4, starting with the almost-finished budget it had left behind in March. This task proved incredibly daunting as updated revenue forecasts on May 12 revealed the depth of state revenue losses resulting in a at \$3.4 billion budget deficit. This was the largest in state history.

The JBC spent three weeks painstakingly going through every state agency’s budget to transfer, adjust, divert, and cut as much as possible to mitigate the impact of \$3.4 billion in needed reductions. This newly balanced budget was then presented to their colleagues as the legislature reconvened on May XX

With COVID protocols in place, the Capitol environment was very different. Temperatures were checked at the entrance, clear plastic panels separated legislator desks, some lawmakers sat in the galleries and a few participated remotely from home. Lobbyists and citizens were thin on the ground. Most everybody wore masks.

Once lawmakers got settled, the Democratic majority moved quickly. Of the 651 bills brought during the entire session, 66 were introduced during the brief second session, and they included the biggest bills of the session: police accountability, tax reform, paid sick leave, referred measures to repeal the Gallagher amendment and increase tax on tobacco and nicotine products.

The Republican minority objected to the speed and scope of these bills and used parliamentary delaying techniques a few times. This said, the Democratic juggernaut kept moving, although there were significant concessions on some bills.

Lawmakers’ other job during the second session was to kill bills. Legislative leaders jettisoned bills they deemed unimportant, unlikely to pass or too controversial or complicated to pass quickly or too expensive. The revenue situation made it impossible to fund most proposals with price tags. All in all, some 316 bills were swept off the agenda.

When the General Assembly adjourned for good on June 15, they had navigated a historic budget deficit and passed unprecedented policy changes – all within only 84 days of what is usually a 120-day session. Cliché or not – it was truly one of a kind.

Key Legislative Issues

While the COVID-19 health and economic crisis tabled many of the big proposals, the General Assembly was able to pass several high-profile bills and a COVID-19 relief package.

Lawmakers passed a wide-ranging and bi-partisan police accountability bill in [SB20-217](#).

[SB20-163](#) will look to boost Colorado’s nearly last-in-the-nation vaccination rates by setting up more uniform procedures for school enrollment immunization requirements.

Colorado became the 21st state to abolish the death penalty with [SB20-100](#).

After many years of debate, Democrats replaced Columbus Day, changing it to an observance of Mother Cabrini ([HB20-1031](#)).

[HB20-1048](#) makes Colorado the fourth state to ban workplace discrimination based on hair styles.

Democrats passed [HB20-1153](#) to give state employees collective bargaining rights after a multi-year push.

Coloradans will soon have a state-run retirement plan with the passage of [SB20-200](#).

The legislature passed [SB20-215](#) to restructure and refinance the state's reinsurance program, with the goal of reducing health insurance costs for more Coloradans.

Tax Policy

The legislature also set in motion four tax policy changes that could be significant in the future, including:

- [HB 20-1420](#) that exempts Colorado's tax code from recent federal tax cuts, thereby raising revenue needed to balance the budget
- [SCR 20-001](#) that asks voters to repeal of the Gallagher Amendment; doing so would ease the distortions in the current property tax system between business and residential rates
- [HB 20-1427](#) that asks voters to raise taxes on nicotine products
- [HB 20-1218](#) that changes school finance law, giving future legislatures the ability to raise property taxes

COVID-19 Relief Package

House and Senate Democrats created a package of legislation to help Coloradans recover from the pandemic and safely get back to work. Several of the bills channeled federal CARES Act funding directly to vulnerable Coloradans and small businesses. Below see bill numbers and legislation details.

- [SB20-205](#) requires employers to provide paid sick leave to employees under various circumstances.
- [SB20-207](#) expands unemployment insurance (UI) benefits and increases the benefits workers can receive. Some of these increased benefits include the amount a worker can earn while remaining eligible for UI, as well as an expanded definition of "good cause" for a worker to quit and still receive the benefit.
- [HB20-1415](#) protects workers who raise health and safety concerns during the COVID-19 pandemic from retaliation and requires employers to allow their workers to wear personal protective equipment, such as masks.
- [SB20-212](#) allows patients to continue to receive and providers to offer certain medical services through telehealth.
- [HB20-1410](#) provides \$20 million indirect rental and mortgage assistance to Coloradans experiencing a financial need during the public health emergency.

- [HB20-1412](#) provides an additional \$10 million to the Low-Income Energy Assistance Fund for Coloradans who are at risk of having their service shut off.
- [SB20-222](#) and [HB20-1413](#) will provide grants and loans to small businesses affected by the pandemic.
- [HB20-1411](#) will allocate \$15.2 million to state programs for behavioral health and substance abuse treatment.
- [HB20-1197](#) provides additional funding 2-1-1 Statewide Human Services Referral System to provide necessary human services referrals related to the pandemic, including information on COVID test sites, emergency assistance, housing support, and information related to worker protections and health care discrimination.
- [HB20-1414](#) prohibits price gouging and deceptive trade practices on necessary goods and services.
- [HB20-1422](#) creates a food pantry assistance grant program.
- [SB20-211](#) Limitations on Extraordinary Collection Actions allows the Attorney General to limit what debt collection actions an entity can take.

The box scores

There were 651 bills introduced this session, up from 598 the previous year.

All in all, some 316 bills either were postponed indefinitely (which requires individual votes) or just allowed to die in committee or on the floor calendar after lawmakers went home.

FY 19-20 Budget Overview

The COVID-19 economic downturn left the state in a \$3 billion hole.

Legislators patched Colorado's 2020-21 state budget together with regular tax revenues, money from the state reserve, a bit of emergency but short-term federal support, money swept from special-purpose funds and even tax revenues that hadn't been approved when the Joint Budget Committee "closed" the long appropriations bill in late May.

The JBC and its staff had just about finished by budget in mid-March as the pandemic gathered momentum. Revenue forecasts issued on March 16, the last time the committee met formally until May 4, indicated the committee would have to keep the 2020-21 budget flat at 2019-20 levels.

But new forecasts given to the committee on May showed that revenues were cratering, and the legislature faced a gap of more than \$3 billion.

Estimates of state revenues for 2020-21 dropped by more the 21 percent from projections issued in September 2019 to the forecast made in May, on which the JBC based its final recommendations.

Media reports and legislator speeches often over-simplify the budget situation, describing everything in terms of cuts. In fact, shifting the sources of funds for certain programs, finding additional revenues, and foregoing or delaying some expenses were important elements of balancing next year's budget.

The budget also was balanced by cutting back on “investments” like the annual lump sum payment to the Public Employees’ Retirement Association and the flows of revenue into the state school lands permanent fund.

The JBC started balancing by reversing earlier decisions to increase state employee pay and the rates paid to outside service providers, ranging from doctors who treat Medicaid patients to companies that run private prisons.

Beyond all the shuffling, there are real cuts. In one of the most important, the committee approved an across-the-board 5 percent cut to state agency personnel budgets. This does not mean pay cuts next year or furloughs for now. Executive branch managers will have the flexibility to manage those reductions themselves through steps like not filling vacant jobs. But furloughs could be a consequence later for some agencies.

The budget makes scores of cuts throughout state government, some of only a few thousand dollars. Cuts do fall heavier on agencies supported mostly by General Fund, while cash-funded agencies suffered less.

Many cuts will have downstream effects on local governments and other entities that receive state grants or subsidies from programs that have been trimmed for 2020-21.

Here is what the budget looked like when the dust settled after the long bill, HB 20-1360, finally passed on June 12.

- Grand total (all funds): \$31.7 billion, down 4 percent from FY2019-20.
- General Fund: \$10.9 billion, down 9.3 percent from FY2019-20.
- Reserve: To balance the budget at session’s end, as the state constitution requires, the legislature lowered the reserve to 2.86 percent of General Fund spending. The reserve has been 7.25 percent in recent years.

Budget dynamics and snapshots

Below is a snapshot of how the General Assembly balanced the state budget when they returned from the COVID-19 recess.

K-12 Education – School funding is set by both the long bill and a separate School Finance Act (HB20-1418). Projected Total Program Funding for FY2020-21 is \$7.24 billion, down from \$7.60 in FY2019-20. Average per-pupil funding drops from \$8,489 to \$8,078.

The Budget Stabilization Factor is about \$572.4 million, meaning school funding is about 7 percent lower than it would be if the full Amendment 23 funding formula were used. In FY21-22, the BS Factor doubles to \$1.17 billion, a 14 percent cut for schools.

Higher education – Higher education institutions were cut \$493.2 million from current funding. These cuts are somewhat offset by \$450 million in federal COVID-19 relief funds to higher education institutions.

Tax adjustments – At the very end of the session lawmakers came up with a bit more education funding through HB 20-1420. This de-couples state tax law from federal business tax breaks enacted as part of a

COVID-19 relief law. This bill is expected to raise \$113 million for the State Education Fund (SEF) in the second half of 2020-21 and \$23 million in 2021-22.

PERA direct distribution – The legislature suspended the \$225 million annual lump sum payment from the GF to PERA.

Hospitals – The budget cuts \$161 million in hospital payments from the Healthcare Affordability and Sustainability fee. The JBC also cut payments to Children’s Hospital Colorado for pediatric specialty care by 20 percent.

Marijuana – The legislature used \$136.9 million from the Marijuana Tax Cash Fund to balance the budget.

State Employee salaries and personal services cuts – The 5 percent cut in “personal services” line items saves about \$60 million.

Transportation funding shifts – The legislature delayed allocating the statutorily required \$50 million for transportation needs for two years.

State Employee Reserve Fund – The legislature took \$32.6 million from this fund to balance the budget, along with money from other smaller cash funds.

Unclaimed property fund – The Joint Budget Committee took \$73 million from this fund to balance the budget.

Community provider rates – The across-the-board cut of 1 percent was made in the rates paid to businesses and agencies that provide health care and other services, mostly in HCPF but also in some other agencies. This saves about \$25 million.

Capital Construction – JBC cancelled previously approved \$450 million in state funds for capital construction projects.

A JBC proposal to suspend the \$163.5 million for the senior citizen and disabled veterans homestead exemption crossed a line in the sand for legislative Republicans, and the idea was dropped. The committee was also unable to enact a proposal to use \$17 million from tobacco revenues raised by Amendment 35 to balance the budget.

Selected large agency impacts:

Corrections – Some \$2.5 million will be saved by closing the small Skyline minimum-security prison in Canon City and reducing beds at the La Vista women’s prison in Pueblo. Noticeable cuts also were made in Community Corrections, part of the Department of Public Safety.

Department of Health Care Policy & Finance (HCPF) – Here are some items of note:

- Some targeted provider rate cuts
- Eliminate automatic rate increases for nursing and assisted living facilities
- Cuts to the All Payer Claims Database
- An Increase in copays for Medicaid clients

- A reduction in funding for the Commission on Family Medicine
- A 20 percent cut to Children’s Hospital Colorado for pediatric specialty care.
- Cuts to Denver Health and UC Hospital teaching subsidies

DHS – There are roughly \$40-\$50 million in assorted cuts to county welfare staffing and the provider rate increase, the TANF subsidized work program, child care quality initiatives, aid to the needy disabled and early intervention services, Family First implementation, SUDs benefits, various prevention programs and various DYS requests.

Judicial – This branch is taking about a \$10 million cut from its current budget of about \$835 million.

These four agencies, along with the departments of Education, Higher Education and Transportation, account for 86.2 percent of all state spending.

Looking Ahead

Interim Committees - There will be no interim committees meeting this summer. The legislature made this decision due to concerns about public safety and revenue shortages. [SB20-214](#) codified this decision.

2020 Ballot Issues - This November, Coloradans will vote on several impactful ballot issues. Below is a list of ballot measures of interest, along with a link to a broader range of issues and analyses by Legislative Council.

Aponte & Busam intends to send a follow-up brief on the 2020 Ballot after the official ballot is determined. This analysis will include summary of initiatives and polling data. Below we have highlighted a few key initiatives already in the process.

Referred Measures

[SCR20-001 Repeal Property Tax Assessment Rates](#)

The concurrent resolution asks voters to approve repealing several constitutional provisions regarding property taxes, commonly referred to as the Gallagher Amendment. Specifically, it repeals the 29 percent assessment rate in the constitution for most nonresidential property, the calculation of the target percentage, and the requirement that the General Assembly adjust the residential assessment rate to maintain the target percentage.

- Gallagher, named for former state Sen. Dennis Gallagher, was initially approved by voters in 1982, with a goal of limiting residential property taxation and forcing business to pay a higher tax share. Through a required balance between residential and commercial tax rates, one of its effects has been to bring down residential property taxes to near the lowest in the nation. Property taxes help fuel local districts of all kinds, and if the Gallagher Amendment is not repealed, legislative analysts predict K-12 education alone will lose half a billion dollars next year.
- If approved by voters, the Gallagher repeal would keep residential property tax rates from dropping in future years, saving schools, local governments, and the state from taking huge financial hits because of the coronavirus-induced recession.
 - Current Residential Assessment Rate 7.15%

- Current Nonresidential Assessment Rate 29%

HB20-1427 Cigarette Tobacco and Nicotine Products Tax

Reps. Yadira Caraveo, Julie McCluskie and Sens. Rhonda Fields, Dominick Moreno

This bill was introduced and passed in the final three days of the legislative session. The measure refers a question to Colorado voters for the November 2020 ballot to raise taxes on cigarettes and start taxing other products that contain nicotine, including vaping products. If passed, it will bring in \$83 million in the next fiscal year and \$168 million the following year. See the fiscal analysis [Here](#).

The amount and structure of the tax was negotiated with Altria, a prominent company within the tobacco and vaping industry before introduction and as such was not opposed. The industry is committed to standing down to oppose the measure on the ballot and to ensure a competing citizens' initiative, is removed from the ballot.

The revenue earned from the new tax will go to a variety of different needs over a period of several years. The allocation of funding is not the same each year, but general fund backfills, and tobacco cash fund allocations remain constant. This funding allocations include K12 education, affordable housing, tobacco and nicotine prevention, education and cessation programs and preschool programs, and back fill for state. But importantly in the first few years the revenue will be available to support K12 education needs.

Citizen Initiatives

Tobacco - [Initiative 292](#) - Proponents of this initiative will withdraw the title with the passage of **HB 20-1427** through the legislature as a referred measure. See above notes for detail.

Paid Family Leave - [Initiative 247](#) creates a statewide paid family and medical leave insurance program and division as an enterprise in the Department of Labor and Employment (CDLE). The purpose of the Family and Medical Leave Insurance (FAMLI) program and division is to provide partial wage-replacement benefits for up to 16 weeks per year to eligible employees, and employment protections for employees that take that leave. Premium payments for the program are split between employers and employees.

[Initiative 248](#) creates a statewide paid family and medical leave insurance program and division as an enterprise in the Department of Labor and Employment (CDLE). The purpose of the Family and Medical Leave Insurance (FAMLI) program and division is to provide partial wage-replacement benefits for up to 12 weeks per year to eligible employees, and employment protections for employees that take that leave. Premium payments for the program are split between employers and employees.

Income Taxes - [Initiative 271](#), repeals the constitutional requirement that all taxable net income be taxed at one rate.

Beginning in tax year 2021, the measure replaces the current 4.63 percent tax on income earned by individuals and fiduciaries with a graduated income tax, whereby Colorado taxable income earned above certain thresholds is taxed at higher rates. For tax year 2021, the rates in the measure are:

- for taxable income up to \$250,000, 4.58 percent.
- for taxable income from \$250,000 up to \$500,000, 7.00 percent.
- for taxable income from \$500,000 up to \$1,000,000, 7.75 percent; and

- for taxable income from \$1,000,000 and up, 8.90 percent.

The income tax brackets in the measure are adjusted for 2022 and subsequent years according to growth in Colorado personal income as measured by the Bureau of Economic Analysis in the U.S. Department of Commerce. Revenue collected from the increased individual income tax is exempt from the state TABOR limit as a voter-approved revenue change.

Abortion - [Initiative 120](#) would ban late term abortions occurring from 22 weeks to the time of birth.

Additional Citizen Initiatives

In preparation for the 2020 ballot information booklet Legislative Council Staff has begun to prepare their analysis summary of each measure. This includes the major arguments both for and against the measure, and a brief fiscal assessment of the measure. Please see below for links to other measures.

- [Initiative 107 Reintroduction and Management of Gray Wolves](#)
- [Initiative 200 Expungement of Eligible Criminal Records](#)
- [Initiative 257 Local Voter Approval of Gaming Limits in Black Hawk, Central City, and Cripple Creek](#)
- [Initiative 271 Policy Changes Pertaining to State Income Taxes](#)
- [Initiative 284 Prohibit Restrictions on the Utilization of Natural Gas](#)
- [Initiative 295 Voter Approval Requirement for Creation of Certain Fee-Based Enterprises](#)
- [Initiative 304 Economic Impact Statement Requirement Pertaining to Ballot Titles](#)
- [Initiative 306 State Income Tax Rate Reduction](#)