



**2017 Legislative Session Summary
May 16, 2017**

This report provides an overview of the 2017 Colorado legislative session for clients of Frontline Public Affairs. It covers priority bills and other bills of interest for our clients, with an emphasis on legislative actions related to health care, public and environmental health, human services, education, public safety, and the state budget. It is provided as a service to clients of our firm and may not be shared in whole or in part without express permission from Frontline Public Affairs. The bill numbers below are clickable links to the latest bill text. If you want to find other bill information, such as bill history or fiscal note, go to www.leg.colorado.gov, click on “Find a Bill” and enter the bill number.

The 2017 Colorado regular legislative session began on January 11 and concluded 120 days later on May 10. Of the 681 bills introduced, 423 passed, or 62%. This compares to 2016 when 56% of 685 introduced bills passed and 2015 when 54% of 682 passed. The last time one party controlled both houses was 2014, when 72% of bills passed. Thus, the 2017 session has been called one of the more successful sessions of the “split” chamber era, with one party in control of each chamber since 2015.

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Budget and Fiscal Issues

The \$28 billion budget for FY17-18, called the Long Bill ([SB17-254](#)), included the following key elements when it was sent to the Governor for signature:

- Increase in per pupil spending for K-12 education of \$242 to a statewide average of \$6,546
- Transfer from severance tax funds to the General Fund of \$45.7 million, plus \$10 million General Fund to fund some programs previously supported by severance taxes
- \$87 million reduction in General Fund transfers to transportation
- Keeping the marijuana special sales tax rate at 10%, eliminating the scheduled drop to 8% on July 1, 2017. This would increase revenue by \$20.9 million in FY17-18, making it available for spending in FY18-19 (see SB17-267 below for an additional increase in the marijuana tax)
- A 1.75% across-the-board increase in state employee salaries and a 0.75% increase in merit pay. State patrol will receive a 7% increase
- An increase in community provider rates of 1.4% with some variation (see Medicaid below)
- \$16.3 million in marijuana taxes to provide various types of supportive housing through the Department of Local Affairs to those with mental health, substance use disorder, and co-occurring disorders, as well as for those recently released from incarceration
- A variety of other budget items are covered throughout this report

Hospital Budget Cuts and the Hospital Provider Fee

Part of the budget package proposed by the Joint Budget Committee included [SB17-256](#) that would have cut hospital payments under the Hospital Provider Fee (HPF) by \$264 million and reduced the total HPF budget by \$528 million with the loss of federal matching funds. [SB17-267](#) was introduced to eliminate these cuts by moving the HPF to an enterprise, which removes the payments from hospitals from the TABOR revenue cap calculations. The bill also included several other items, as follows:

- Lowers the state TABOR revenue cap by \$200 million
- Requires the Department of Health Care Policy and Financing to present a report on how they spend over \$45 million in HPF administration costs, and creates a 3% maximum administrative fee by HCPF to administer the funds
- Requires Medicaid reforms that include the Delivery System Reform Incentive Payment Program (DSRIP) and the ACE Kids Act
- Targeted copay increases for specified Medicaid patients for outpatient services and pharmacy
- Makes the Senior Homestead Property Tax Exemption the first funding priority if there is a tax refund
- Secures \$150 million to bond \$1.8 billion for transportation projects over four years, with 25% to be spent in counties with populations of 50,000 or less and 10% for transit
- Secures \$120 million for capital construction for controlled maintenance in state buildings
- Creates a Business Personal Property Tax Credit for small businesses, valued at \$21 million, by increasing the retail marijuana tax to 15%
- Provides \$30 million for rural schools and \$40 million to the State Education Fund
- Requires each state agency to submit a plan to the Governor's Office for a 2% budget reduction (except Transportation and Education)

The following additional bills related to budget and fiscal issues were postponed indefinitely:

Transportation: [HB17-1242](#) would have referred a measure to the November 2017 ballot asking Colorado voters to raise the state sales tax by 0.62 percent — 6 cents on a \$10 purchase. The increase would have generated roughly \$695 million annually to implement a comprehensive, statewide transportation plan. The bill would have reduced vehicle registration fees, resulting in roughly \$80

million in savings for motorists, and would have reallocated \$50 million in existing state revenue toward transportation projects. The first \$375 million in new revenue would have financed \$3.5 billion in bonds for prioritized transportation projects. Of the remainder, 70% would have gone to local governments to address their most urgent needs, and 30% would have gone toward flexible transportation.

TABOR: [HB17-1187](#) would have referred a proposition to voters at the 2017 statewide election to change the computation of the excess state revenues cap (Referendum C cap) for FY 2017-18 and all subsequent fiscal years from the current computation of changes in the state's population and the Denver-Boulder-Greeley consumer price index to the average rate of annual change in state personal income for the five previous calendar years.

Public Health Insurance Coverage (Medicaid and CHP+)

Items in the budget package related to Medicaid include the following:

- A 1.4% increase in Medicaid provider reimbursement. The increase will not apply to the primary care reimbursement bump providers. It also includes a higher increase for homemaker, personal care, home health, and private duty nursing rates
- The Medicaid primary care reimbursement "bump" was continued with General Funds
- Federal matching funds for Connect for Health Colorado's costs associated with Medicaid eligibility determination
- \$45,000 General Fund and associated federal match to authorize postpartum maternal depression screenings of more than one in the first year after birth. Currently, only one depression screening is provided
- Four Local Public Health Agency projects were approved to draw down federal Medicaid matching funds to improve Medicaid patient outcomes and lower costs.
- An increase in reimbursement for Medicaid emergency and non-emergency transportation of 7% (a total of \$3 million)

The following bills related to Medicaid were adopted:

[HB17-1126](#) requires administrative law judges to review the legal sufficiency of Medicaid notices of action when a client appeals a termination or reduction in benefits (adverse action). The legal review of notices will take place at the start of an appeal. If the administrative law judge determines that the notice is not legally sufficient, he or she shall inform the client that the adverse action may be set aside.

[HB17-1139](#) requires a health care provider who improperly bills or seeks collection from a Medicaid client or his or her estate to refund any amount unlawfully received with interest, to pay a civil monetary penalty of \$100 for each violation, and makes the provider liable for all amounts submitted to a collection agency in the name of the Medicaid client.

[HB17-1143](#) requires the Office of the State Auditor (OSA) to conduct performance audits of client correspondence concerning eligibility for Medicaid programs in 2020 and 2023, with any future audits occurring at the discretion of the state auditor. The performance audits will determine whether client correspondence complies with state and federal requirements, and review the understandability, readability, and accuracy of client communications.

[HB17-1353](#) is a Joint Budget Committee (JBC) bill that provides a statutory framework and sets forth requirements for the existing Medicaid Accountable Care Collaborative (ACC) in the Department of Health Care Policy and Financing (HCPF) and authorizes performance payments to Medicaid providers. In addition, the bill requires HCPF to report to the legislature about the ACC by December 1, 2017, and

each December 1 thereafter. HCPF is authorized to provide performance payments to primary care providers, federally qualified health centers, providers of long-term services and supports, and behavioral health service providers. Prior to implementing performance payments, HCPF must submit evidence that performance-based payments are designed to achieve budget savings or a budget request for any associated costs. The [Request For Proposals for ACC Phase II](#) was released May 11, 2017.

[SB17-081](#) removes the requirement that home health services under Medicaid be provided in a client's place of residence. A recent change in federal regulations requires that home health services be provided to clients in any setting in which normal life activities take place, including in the community. Funding for this policy change was included in the HCPF budget for FY 2017-18.

[SB17-121](#) requires HCPF to engage in an ongoing process to improve Medicaid client correspondence after January 1, 2018 and specifies several criteria that must be included in such correspondence.

The following bills related to Medicaid were postponed indefinitely:

[HB17-1129](#) would have clarified that Medicaid benefits be automatically continued without requiring an affirmative request by a client who appealed a termination or reduction in benefits, and HCPF must send the client written confirmation of the continuing benefits.

[SB17-004](#) would have allowed a Medicaid client to seek care and pay for services from a provider not enrolled in Medicaid if certain conditions were met.

Private Health Insurance Coverage

The following private health insurance bills were adopted:

[HB17-1094](#) clarifies provisions regarding telehealth coverage by health insurance plans pertaining to co-pays, services covered, and network adequacy.

[HB17-1173](#) expands the required protections for health care providers in contracts with health insurance carriers by prohibiting a carrier from taking any adverse action against a provider for expressing his or her disagreement with a carrier's decision.

[HB17-1186](#) requires health insurance plans that are mandated to cover contraceptives to provide reimbursement to an in-network provider or dispensing entity for a 3-month supply of a covered prescription contraceptive the first time it is dispensed, and a 12-month supply any time the same prescription is subsequently redispensed, or until the plan coverage end, whichever is shorter.

[SB17-088](#) requires health insurers to develop and use standards for selecting and tiering participating providers. The insurer is required to make the standards available to the Commissioner of the Division of Insurance (DOI), participating healthcare providers, and the public.

[SB17-198](#) expands the public notice for the acquisition of either a domestic or foreign insurer that offers health plans in the state by requiring the Commissioner of DOI to make the entire preacquisition notification available for public inspection promptly after filing. For foreign insurers, the bill adds several new requirements for public notice and review of impact.

[SB17-300](#) directs the Commissioner of DOI to study coverage of high risk individuals, including the use of high risk pools and reinsurance. A report is due to the legislature by October 1, 2017.

The following bills related to private health insurance were postponed indefinitely:

[HB17-1235](#) would have established a financial assistance program for persons purchasing health insurance through Connect for Health Colorado paying more than 15% of their income toward premiums in the three most costly geographic insurance rating areas of the state.

[HB17-1237](#) would have allowed local governments (municipalities, counties, city and counties, special districts, school districts, and any other subdivision of the state) to provide health benefits to their employees through the state employee group benefit plans.

[HB17-1286](#) would have required health insurers that contract with the state to provide group benefit plans to state employees in order to participate in the individual market through Connect for Health Colorado and participate in Medicaid and CHP+ as specified in rule by HCPF, including in managed care programs, the Accountable Care Collaborative, and other programs.

[HB17-1318](#) would have required health insurers to submit various information to the DOI on the cost of pharmaceuticals covered under individual and group health insurance plans.

[SB17-003](#) would have repealed the Health Benefit Exchange (Connect for Health Colorado) on 1/1/18.

[SB17-084](#) would have prohibited a health insurer in the individual and small group markets from excluding or limiting coverage for a drug for an individual if the drug was covered at the time the individual enrolled in the health plan, a health care provider continued to prescribe the drug for the individual, and the drug was safe and effective.

[SB17-133](#) would have required the Commissioner of DOI to accept, investigate, and respond to provider complaints regarding improper handling of claims and denial of benefits. The bill was postponed indefinitely to perform a DOI pilot program based on these complaints instead.

[SB17-206](#) would have addressed out-of-network billing issues with consumer notification and specific payment requirements. It failed to pass the first committee as health insurers and providers were unable to come to agreement.

Health Care Costs, Access, and Workforce

The following bills related to health care costs, access, and workforce passed:

[HB17-1115](#) establishes definitions for “Direct Primary Care” agreements, services, and providers in state law, clarifies that it is not insurance, and sets parameters for this growing model of care where consumers pay a monthly membership fee for services from a primary care provider.

[SB17-065](#) requires certain health care professionals and health care facilities to make a single document available to the public that lists the direct pay prices for the most common health care services provided.

[SB17-137](#) continues the Colorado Health Service Corps Advisory Council indefinitely, rather than have it repeal on July 1, 2017. The Advisory Council assists with administration and review of applications for the Colorado Health Service Corps Program, which provides student loan repayment for health professionals who agree to provide care in underserved areas.

[SB17-146](#) increases health professionals' access to the Prescription Drug Monitoring Program (PDMP) database by: allowing a prescribing practitioner to query the PDMP about any current patient; allowing a veterinarian with prescribing authority to query the PDMP about a current client or patient if the veterinarian has a reasonable basis to suspect the client has committed drug abuse or has mistreated an animal to obtain drugs; and allowing a pharmacist to query the PDMP about a current patient.

The following bills related to health care costs, access, and workforce were postponed indefinitely:

[HB17-1121](#) would have required many licensed medical professionals to undergo a background check upon licensure or re-licensure (first time only). It also would have repealed the Nurse Compact Act and implemented the Enhanced Nurse Compact Act, and required that facilities report to the Nursing Board if the facility terminates a certified nurse aide or offers resignation in lieu of termination.

[HB17-1236](#) would have required the Department of Health Care Policy and Financing (HCPF) to prepare an annual report detailing the cost of uncompensated care provided by general hospitals in Colorado. The bill specified the information that hospitals would be required to submit.

[SB17-064](#) would have created a licensing structure for free standing emergency centers including requiring various reporting provisions to appropriate entities.

Behavioral Health (Mental Health and Substance Abuse)

The budget package included the following new or increased behavioral health items:

- 1.4% community provider rate increase
- \$400,000 General Fund increase for behavioral health crisis response hotline call volume
- \$661,947 marijuana taxes for certified addiction counselors to expand substance use disorder treatment at both Mental Health Institutes
- A continuation of \$6 million from marijuana taxes for SB16-202, plus an additional \$6 million. The funds support the full continuum of substance use disorder services statewide through the Managed Service Organization (MSO) network based on 2017 Community Action Plans
- Increase from \$7.2 million to \$9 million from marijuana taxes for grants to Local Public Health Agencies and other entities for community-based youth substance abuse prevention (CDPHE)
- Implementation of LEAD, a project to divert those with behavioral health issues from the criminal justice system into treatment
- Funding for local partnerships between law enforcement and behavioral health agencies and coordination between crisis response system and law enforcement agencies
- Continuation of \$750,000 for grants to provide training for health professionals related to screening, brief intervention, and referral to treatment for substance use (SBIRT)

The following bills related to behavioral health passed:

[HB17-1011](#) requires that any complaint against a mental health professional alleging a maintenance-of-records violation must be filed within 7 years after the alleged act or failure to act. Mental health professionals must give notice to clients regarding this 7-year statute of limitations.

[HB17-1032](#) removes the requirement that evidentiary privilege only applies to communications occurring in an *individual* peer support meeting to remove a barrier to *group* peer support meetings.

[HB17-1215](#) encourages sheriffs' offices and municipal police departments to adopt a policy where by mental health professionals provide on-scene response services to support officers' handling of persons with mental health disorders and counseling services to officers. The bill creates the Peace Officers Mental Health Support Grant Program funded by gifts, grants, and donations and any other moneys that

the General Assembly may appropriate or transfer to the Program. Grants may be used to help departments hire mental health professionals. No specific funds were allocated to the program.

[HB17-1229](#) adds definitions of “psychologically traumatic events” and “serious bodily injury” to the workers’ compensation statutes for the purposes of clarifying a workers’ right to compensation for claims of mental impairment for post-traumatic stress disorder (PTSD) in certain circumstances. The bill will allow for the submission of workers’ compensation claims by peace officers and other first responders diagnosed with PTSD resulting from job related experiences.

[HB17-1351](#) requires the Department of Health Care Policy and Financing (HCPF), in collaboration with the Department of Human Services (DHS), to prepare a written report for various committees in the General Assembly concerning the feasibility of providing residential and inpatient substance use disorder treatment as a part of the Medicaid program.

[SB17-019](#) requires the Office of Behavioral Health in the Department of Human Services (DHS) to promulgate rules, along with the Department of Corrections (DOC), to require providers under each agency's authority and allow public hospitals and licensed private hospitals to use an agreed-upon medication formulary by December 1, 2017. Additionally, on or before 2018, requires the Departments to develop a plan to share the information electronically.

[SB17-021](#) establishes a housing program for persons with mental illness transitioning from incarceration. The housing assistance program is to be managed by the Department of Local Affairs (DOLA) and is intended to provide vouchers and other support services to persons with a mental health disorder or co-occurring behavioral health disorder who are newly released from the Department of Corrections, the Division of Youth Corrections, or county jail.

[SB17-074](#) creates a pilot program to make grants available for organizations providing medication-assisted treatment to persons with opioid use disorders in Pueblo and Routt counties and trains Advanced Practice Nurses (APNs) and Physician Assistants (PAs) to provide these services.

[SB17-193](#) creates a Research Center for substance abuse and addiction prevention, intervention, treatment, and recovery strategies at the University of Colorado Health Sciences Center.

[SB17-207](#) strengthens Colorado’s behavioral health crisis system in a variety of ways, including eliminating the use of the criminal justice system to hold individuals who are experiencing a mental health crisis and committing resources for the use of mental health providers and hospitals in a statewide framework.

The following bills related to behavioral health were postponed indefinitely:

[HB17-1156](#) would have prohibited physicians specializing in psychiatry and licensed or registered mental health professionals from engaging in conversion therapy with patients under 18 years of age. The bill defines "conversion therapy" as practices that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attraction to individuals of the same sex.

[HB17-1320](#) would have lowered the age required for a minor to seek and obtain outpatient psychotherapy services without parental notification or consent from 15 years to 12 years old.

[HB17-1350](#) would have allowed a pharmacist filling a prescription for a schedule II opioid to dispense the drug in smaller increments when a “partial fill” was requested by the patient or prescribing

practitioner. A patient who received a partial opioid prescription would not have been subject to any cost sharing or coinsurance under his or her health plan for subsequent fills of the remaining portion of the prescription after paying for the initial portion.

[SB17-082](#) would have required the owner or CEO of an addiction program seeking a license to compound, administer, or dispense a controlled substance to have a Colorado and Federal fingerprint-based criminal history background check when applying for an initial license. In addition, the bill would have required applicants to disclose information about any regulatory action taken against the applicant for an addiction program that it operates that is licensed or regulated in another state.

Women's Health

The budget included funding for incarcerated women to receive tampons. Currently, tampons must be purchased in the commissary, which has led to lack of access and a black market in prisons. The Department of Corrections will use \$40,000 in savings to supply tampons free of charge.

The following women's health bills passed:

See HB17-1186 above regarding contraceptive coverage in the private health insurance section.

The following women's health bills were postponed indefinitely:

[HB17-1085](#) would have required all "abortion clinics" in the state to register with the Attorney General for \$7,000 per year, have on-site inspections and be subject to a variety of requirements, including a requirement to transport "born-alive" infants to the hospital. It would also have allowed women or infants injured by the actions of an abortion clinic to file a civil suit to recover damages.

[HB17-1086](#) would have required physicians to inform patients orally and in writing about abortion reversal at least 24 hours before prescribing or giving abortion-inducing drugs to a woman or beginning the abortion. The physician would have been required to provide a written copy of certain information, including the website address maintained by CDPHE on the topic. Physicians who failed to comply could have been subject to a civil action for damages, fines and penalties, and professional disciplinary action under Colorado's medical malpractice law.

[HB17-1108](#) would have prohibited licensed physicians from performing abortions except in certain rare circumstances. Offenses under the bill would have been punishable as a class 1 felony, and a conviction would constitute unprofessional conduct for the purposes of physician licensing.

[SB17-284](#) would have required that at least 24 hours prior to an abortion, the healthcare provider give the patient the opportunity to receive a current picture of the ultrasound portraying the entire body of the unborn child, along with an indication of an audible heartbeat and the "ability of the unborn child to feel pain." Monetary fines would have been established for persons and clinics that did not comply.

Public and Environmental Health

The budget package included the following public and environmental health items:

- The community provider rate increase of 1.4% will apply to Local Public Health Agencies (LPHAs), who will share a \$100,000 increase statewide
- Full funding for the Colorado Immunization Information System (CIIS), School Based Health Centers and the Healthy Colorado Kids Survey (HCKS), all of which were at risk of reductions or a complete cut at some point during the session
- As noted above, LPHA Medicaid partnerships with RCCOs were approved

- \$9 million for Youth Substance Use Prevention grants to Local Public Health Agencies and other entities to provide community-based youth substance abuse prevention programs
- See additional public health budget items covered in **Behavioral Health** section of this report

The following public and environmental health bills passed:

[HB17-1044](#) redefines “autocycles” as motorcycles that do not use handlebars and have passengers riding in a fully or partly enclosed seating area. It is estimated that there are between 100 to 200 autocycles currently registered in Colorado. The bill also clarifies that motorcycle license requirements and child restraint and safety belt laws apply to autocycles.

[HB17-1079](#) continues the Wholesale Food Manufacturing and Storage Protection Program at CDPHE that is currently set to expire on July 1, 2017, and restructures the program's fees. This statewide food safety program annually administers registration for over 1,800 facilities, 750 wholesale food inspections and compliance related activities, and 570 recalls.

[HB17-1306](#) authorizes CDPHE to establish a grant program to test for lead in drinking water in public schools that receive drinking water from public water systems with priority given to the oldest elementary schools. CDPHE is also required to provide an annual report to the public health committees of the General Assembly and apply its best efforts to complete all testing and analysis by June 30, 2020.

[SB17-244](#) amends [HB16-1401](#) by allowing a county or district board of health to establish retail food establishment license fees that are lower than those set in statute if the board of health is in compliance with the Colorado Food Protection Act. The bill allows a county to supplant funds used for the food safety program for other county programs after January 1, 2019 when the full fee increase is in effect.

[HB17-1102](#) was killed, but replaced with [SB17-278](#) that prohibits the nuisance exhibition of motor vehicle exhaust, which is the knowing release of soot, smoke, or other particulate emissions from a motor vehicle. If the exhaust obstructs or obscures another person's view of the roadway, other users of the roadway, a traffic control device, or otherwise creates a hazard to a driver, bicyclist, or pedestrian, it is a class A traffic infraction, punishable by a fine of \$100 and a surcharge of \$10.

The following bills related to public and environmental health were postponed indefinitely:

[HB17-1122](#) would have created the 2017 Birth Certificate Modernization Act, requiring the state registrar within the Colorado Department of Public Health and Environment (CDPHE) to issue new birth certificates to any person born in Colorado who has a gender different from the gender denoted on that person's birth certificate.

[HB17-1192](#) would have repealed the Farm-to-School Coordination Task Force in the Department of Agriculture and combined certain duties of this task force with the Colorado Food Systems Advisory Council. The duties of the Council would have been expanded to include additional collaboration, coordination, and outreach with schools, farmers, food producers, state and federal agencies, consumers; research and data collection on food systems and food access, and other tasks to provide advice and assistance to those involved in the food system.

Two bills would have decreased tobacco taxes and lowered the price of some tobacco products.

[SB17-273](#) would have reduced tobacco tax collections by \$4.4 million annually by reducing the product price on which the tax rate would have been applied for non-cigarette tobacco products (including cigars, chewing tobacco, and loose tobacco used for roll-your-own cigarettes) [SB17-139](#) would have indefinitely extended the excise tax credit for sales of non-cigarette tobacco products to out-of-state

consumers. The tax credit is set to repeal effective September 1, 2018. SB17-273 failed to pass the Senate and SB17-139 was vetoed by the Governor, who issued [this veto letter](#).

[SB17-250](#) would have allowed a parent or guardian to submit any form for exemption of immunizations based on personal or medical reasons rather than the state standardized form.

Climate and Energy

The following climate and energy bills passed:

[HB17-1018](#) extends the statutory authority of regional transportation authorities (RTAs) to impose a property tax of five mills until January 1, 2029, if approved by voters within the RTA boundary. Under current law, RTAs are permitted to seek voter approval to levy this property tax until January 1, 2019.

[HB17-1227](#) extends demand-side management programs for investor owned utilities to 2028. The bill also requires the Public Utilities Commission (PUC) to set new goals for demand-side management programs implemented between 2019 and 2028 of a 5 percent reduction in peak demand and energy sales relative to 2018 levels. The PUC has the discretion to establish interim goals or revise goals.

[SB17-105](#) requires investor-owned electric utilities to provide comprehensive billing statements to their customers. Beginning January 1, 2018, utilities must submit a new billing statement format for review by the PUC, and again whenever a change is made. The PUC must review a filing within 30 days and, if it determines the filing does not meet the criteria set forth in the bill, it may require a utility to resubmit a filing within 60 days. The PUC may extend this deadline upon request.

The following climate and energy bills were postponed indefinitely:

[HB17-1225](#) would have directed the Transportation Legislation Review Committee to study the effects that participation in a regional transmission organization (RTO) by Colorado retail electric service providers would have on retail or wholesale electric service providers that participate in the RTO, any providers that do not participate in the RTO, and Colorado's electricity markets.

[HB17-1232](#) would have allowed public utilities to provide motor vehicle charging or alternative fueling facilities as regulated or unregulated services following standards outlined in the bill. The investment costs for these facilities would have been recovered from the utility's ratepayers.

[HB17-1299](#) would have directed the Transportation Legislation Review Committee (TLRC) to study the potential benefits and costs of energy storage systems during the 2017 interim.

[HB17-1323](#) would have made several requirements of the PUC in the Department of Regulatory Agencies (DORA) related to ethics. Additionally, the bill would have required the PUC to adopt rules that set forth PUC policy on conflicts of interest, incompatible activities, and limitations on ex parte communications, and required the meetings, conferences, and programs that commissioners and staff may attend to be consistent with these rules.

[HB17-1339](#) would have allowed an investor-owned utility to apply to the PUC for a financing order authorizing it to issue securitized utility ratepayer-backed bonds when closing a power plant.

[HB17-1366](#) would have required the state's climate change staff person to include measurable goals based on the best available science that are at least as ambitious as the goals established by the Governor's Executive Order with deadlines to achieve those goals that would either reduce Colorado's greenhouse gas emissions or increase Colorado's adaptive capability to respond to climate change.

[SB17-089](#) was related to energy storage and would have required the PUC to adopt rules governing the installation and use of electricity storage systems by residential and small commercial customers of utilities regulated by the PUC.

[SB17-145](#) would have required investor-owned utilities and cooperative electric associations to create distributed energy resources plans.

[SB17-188](#) would have referred a ballot measure to voters at the November 2017 election to repeal state income tax credits for purchases of innovative motor vehicles and trucks earlier than these credits would be repealed under current law.

[SB17-301](#) would have annually transferred \$2.1M to the Colorado Energy Office (CEO) in the Office of the Governor from the General Fund for four years from FY 2017-18 through FY 2020-21. It would have:

- Increased annual registration fees for plug-in electric vehicles by \$35 per vehicle, to be deposited into the Highway Users Tax Fund (HUTF)
- Required the PUC to adopt rules related to investor-owned utility interests in Colorado-based natural gas reserves
- Required the CEO and the Department of Natural Resources (DNR) to form a stakeholder group to address funding shortfalls related to abandoned oil and gas wells
- Repealed several defunct energy-related statutes in the CEO
- Changed the Property Assessed Clean Energy program
- Promoted nuclear and hydroelectric power as clean energy sources; and
- Included the energy industry and executive departments when developing and encouraging increased utilization of energy curricula

[HB17-1373](#) would have restored \$3.1M of funding that repeals in FY 2016-17 to both the Clean and Renewable Energy Fund and the Innovative Energy Fund in the Colorado Energy Office in the Office of the Governor for FY 2017-18 only.

The House and Senate could not come to agreement on the continuation of the Colorado Energy Office and both SB17-301 and HB17-1373 failed in the final hours on the last day of session.

Recreational and Medical Marijuana

Budget items related to the use of marijuana taxes are covered in the Behavioral Health section above.

The following bills related to marijuana passed:

[HB17-1220](#) limits the total number of medical or recreational use marijuana plants that can be possessed or grown on a residential property to 16 plants. Unless authorized by local law, a medical marijuana patient or primary caregiver is prohibited from possessing or cultivating more than 16 plants on a residential property and must locate his or her cultivation operation on a property other than a residential property and comply with any applicable local law requiring disclosure of the cultivation operation. Cultivation operations are subject to any county and municipal building and public health inspection required by local law. In addition, medical marijuana patients and caregivers who cultivate marijuana plants are required to comply with all local laws, regulation, and zoning and use restrictions.

[HB17-1221](#) creates the Gray and Black Market Marijuana Enforcement Grant Program in the Department of Local Affairs (DOLA). The bill also creates an offense for a person who is not a primary caregiver for possessing a marijuana plant that the person is growing on behalf of another person.

[SB17-025](#) requires the Colorado Department of Education (CDE), with assistance from the Colorado Department of Public Health and Environment (CDPHE) to create and maintain a resource bank of materials and curricula related to marijuana that will be free to school districts, charter schools, and Boards of Cooperative Educational Services (BOCES) for use with students, teachers, and staff.

The following bills related to marijuana were postponed indefinitely:

[SB17-063](#) was killed, then replaced with [SB17-184](#) which would have addressed private marijuana social clubs and the definition of “open and public use” of recreational marijuana. Since these bills failed, existing or new local laws and regulations would continue to govern such clubs.

Child Welfare, Child Care and Youth Corrections

The budget package includes the following:

- \$4 million in additional funding for 58 child welfare caseworkers for counties
- \$1 million increase from marijuana taxes to Tony Grampsas Youth Services, resulting in a total appropriation of \$9.9 million for the program
- \$4.7 million and 60 new FTE for Youth Corrections to address safety and security concerns

The following bills passed:

[HB17-1135](#) allows a child care worker in a licensed child care facility to undergo a single records check of the state child abuse and neglect database if he or she works at multiple facilities or is transferred between facilities that are wholly owned, operated, and controlled by a common ownership group or school district. Currently, child care workers must undergo a check for each facility where they work.

[HB17-1185](#) adds officials and employees of county departments of health, human services, or social services to the list of mandatory reporters of child abuse.

[HB17-1283](#) creates a task force to identify and develop models for programs to promote child welfare caseworker resiliency. The task force must be convened on or before August 1, 2017 by a chairperson of the Metropolitan State University Department of Social Work. The task force must submit a written report of its findings and recommendations to the Joint Budget Committee and the Joint Health and Human Services Committee by December 31, 2017, and is repealed on September 1, 2018.

[HB17-1292](#) establishes guidelines and new processes relating to the establishment of provider rates for licensed out-of-home placement providers that are paid by counties using child welfare block grant funding. The bill specifies various factors that the Department of Human Services (DHS) must include in the ongoing development of the rate setting methodology, including cost-of-living adjustments and provider rate increases approved by the General Assembly.

Aging and Persons with Disabilities

The following bills related to aging and persons with disabilities passed:

[HB17-1087](#) creates a pilot program in the Judicial Department to provide legal guardianship services for incapacitated and indigent adults in the 2nd, 7th, and 16th judicial districts. The office depends on sufficient gifts, grants, and donations.

[HB17-1222](#) creates a tax check off benefitting the Family Caregiver Support Fund, which is used to provide support to Easter Seals Colorado with programs to address all disabilities across the lifespan.

[HB17-1253](#) requires certain financial professionals to report to the Securities Commissioner if they believe an at-risk person is being financially exploited. For mandatory reporters, making such a report does not satisfy the current law requirement to report directly to local law enforcement.

[HB17-1264](#) adds a local Program of All-Inclusive Care for the Elderly (PACE) ombudsmen to the State Ombudsman's office, and outlines the training and authority of the local PACE ombudsmen.

[HB17-1284](#) requires certain employers to conduct a records check of the Colorado adult protective services (CAPS) data system for prospective employees to determine if a that employee who will work directly with at-risk adults is the subject of a substantiated report of adult abuse or neglect.

[SB17-011](#) creates a forum within the Colorado Department of Labor and Employment (CDLE) to review transportation needs for people with disabilities and study how advanced technologies can improve access statewide. The forum may recommend that CDLE enter into a contract with a technology developer, transportation network company (e.g. Uber or Lyft), taxicab service, or other provider to conduct a pilot program in El Paso and/or Teller County to be completed prior to December 1, 2017.

Poverty Reduction, Economic Opportunity, and Workforce Development

The following bills passed:

[HB17-1002](#) extends the existing tax credit for child care expenses made by low-income taxpayers for tax years 2017, 2018, and 2019. The tax credit is limited to qualifying taxpayers with a federal adjusted gross income of less than \$25,000.

[HB17-1021](#) requires the Division of Labor in the CDLE to treat certain information pertaining to a wage law violation as public record available on request pursuant to the Colorado Open Records Act.

[HB17-1116](#) extends authorization for up to \$13 million of severance taxes for low-income energy-assistance programs through FY2023-24. Under current law, funding for these programs expires after FY2018-19. The programs provide direct energy bill assistance to low-income households and energy-efficiency improvements for low-income homeowners.

[HB17-1269](#) provides wage transparency protections to all employees in the state by removing certain exemptions under current law.

[SB17-292](#) creates the Employment Opportunities with Wages Program in the DHS. The purpose of the program is to assist individuals receiving public assistance through the state's implementation of the federal Temporary Assistance for Needy Families (TANF) program, known as Colorado Works, in attaining permanent jobs paying a living wage.

The following bills were postponed indefinitely:

[HB17-1001](#) would have allowed employees of covered employers to take up to 6 hours of leave in any one-month period to attend a child's academic activities.

[HB17-1191](#) would have required Legislative Council Staff to prepare demographic notes for legislation that outlined the potential disparate effects of a bill on various populations within the state by race, gender, disability, age, geography, income, or other relevant characteristics for which data was available.

[HB17-1307](#) would have created the Division of Family and Medical Leave Insurance (FAMLI division) as an enterprise in the CDLE. The purpose of the FAMLI division was to provide wage-replacement benefits

for up to 12 weeks per year to eligible employees who take time off of work to care for a new child or a family member with a serious health condition.

Public Safety and Criminal Justice

The following public safety and criminal justice bills passed:

[HB17-1039](#) allows district attorneys to agree, in plea discussions with an offender, to consent to an assessment for suitability for participation in restorative justice practices. It also requires probation officers to indicate in presentence investigation reports whether the offender meets the minimum eligibility requirements for participation in restorative justice practices.

[HB17-1040](#) allows a judge to issue an ex parte order authorizing the interception of certain communications when probable cause exists to believe that evidence of human trafficking crimes will be obtained.

[HB17-1072](#) adds to the definition of human trafficking for sexual servitude the act of purchasing another person to coerce him or her to engage in commercial sexual activity. It also adds this element to the definition of human trafficking of a minor. The bill adds human trafficking for sexual servitude to the definition of "unlawful sexual behavior." Under current law, only human trafficking of a minor is included in that definition.

[HB17-1150](#) prohibits a court from granting bail to individuals awaiting sentencing or appeal if they have been convicted of stalking or a felony for which an act of domestic violence was the underlying factual basis.

[HB17-1172](#) requires that any person convicted of human trafficking of a minor for sexual servitude be sentenced to the Department of Corrections (DOC) for at least the minimum of the presumptive range for a class 2 felony, which is 8 years.

[HB17-1179](#) provides immunity from civil and criminal liability for a person who renders emergency assistance to an at-risk person, dog, or cat in a locked vehicle under certain circumstances.

[HB17-1188](#) adds physical or mental disability and sexual orientation to the categories described in the harassment statute to make the statute consistent with Colorado's law concerning bias-motivated crimes.

[HB17-1224](#) amends the pharmacy practice law to make unlawful the possession, sale, dispensing, giving, receiving, or administering of a drug or device that is adulterated or misbranded as defined by the Colorado Food and Drug Act.

[HB17-1277](#) authorizes the state Division of Motor Vehicles (DMV) to suspend a driver license if it has been found, by a preponderance of the evidence, that the driver involved in an accident causing serious bodily injury or death to any person failed to stop at, as close as possible to, or immediately return to the scene of the accident. A driver license may also be suspended if the driver did not meet the requirements in law to remain at the scene of the accident until he or she gave all necessary information and rendered assistance or, if no police officer is present, immediately reporting the accident to law enforcement and after rendering assistance.

[HB17-1313](#) requires law enforcement agencies to submit biannual reports to DOLA containing specified information on civil asset seizures through which the seizing agencies received proceeds from a forfeiture and the use of the proceeds. Seizing agencies are required to pay civil penalties for failure to file or late filing of the reports. The bill prohibits seizing agencies from receiving forfeiture proceeds

from the federal government unless the aggregate net equity value of the property and currency seized in the case is in excess of \$50,000 and the federal government commences a forfeiture proceeding that relates to a filed criminal case.

[SB17-027](#) increases the penalty for texting and driving to a class 2 misdemeanor traffic offense, which carries a fine of \$300, a jail sentence of 10 to 90 days, or both. Additionally, if a person causes bodily injury or death to another person, the punishment increases to a class 1 misdemeanor. This carries a fine of \$300 to \$1,000, a sentence of 10 days or 1 year in prison, or both. A law enforcement officer must see a driver texting in a manner that caused the driver to drive in a careless and imprudent manner.

[SB17-048](#) requires a certified peace officer or community parole officer to immediately seek a warrant for the arrest or conduct an arrest of an offender participating in an intensive supervision program (ISP) if there is probable cause to believe that the offender has committed an escape by knowingly removing or tampering with an electronic monitoring device that he or she is required to wear as a condition of parole.

[SB17-115](#) creates an exception from prosecution for the crime of sexual exploitation of a child for certain law enforcement and defense counsel personnel who possess sexually exploitative material in the performance of their official duties. The bill defines law enforcement personnel.

The following public safety and criminal justice bills were postponed indefinitely:

[HB17-1036](#) would have allowed a person with a concealed carry permit to carry a concealed handgun on the property of a public elementary, middle, junior high, or high school.

[HB17-1037](#) would have extended the right to use deadly force against an intruder under certain conditions to include owners, managers, and employees of businesses.

[HB17-1123](#) would have allowed a local government to extend the hours during which alcoholic beverages for on-premises consumption could be sold at licensed establishments within its jurisdiction.

[HB17-1134](#) would have outlined procedures relating to sanctuary jurisdictions. The bill would have prohibited any jurisdiction from limiting or prohibiting an elected official, employee, or law enforcement officer from cooperating with federal officials concerning the immigration status of any individual in Colorado. The bill would have allowed an individual to sue a sanctuary jurisdiction, as well as the elected officials within that jurisdiction, if an undocumented immigrant residing there committed a crime that caused the individual a personal injury or that damaged the individual's real or personal property. The bill would also have specified that an elected official commits the crime of rendering assistance to an illegal alien if he or she was responsible for creating a sanctuary jurisdiction in which an illegal alien has been convicted of a crime that caused injury to a person or to property.

[HB17-1206](#) would have made changes to the Colorado Road and Community Safety Act (Senate Bill 13-251) that authorizes the state Division of Motor Vehicles (DMV) to issue a driver license, identification card, or instruction permit to an individual who is either temporarily lawfully present in the U.S. or a Colorado resident who is neither a U.S. citizen nor has a permanent residency status. The bill attempted to make it easier to renew a driver license or other identification card for those eligible.

[HB17-1230](#) would have prohibited a state or political subdivision from providing certain information about a Colorado resident to the federal government without determining it was for a legal and constitutional purpose, aiding or assisting the federal government with the maintenance of a registry of Colorado residents' personal information, marking or identifying a person based on his or her personal

information, holding or imprisoning a person without probable cause or due process for longer than 48 hours based on his or her personal information, or arresting or detaining individuals for noncriminal offenses based on their personal information.

[SB17-095](#) would have repealed the death penalty in Colorado.

[SB17-136](#) would have required law enforcement agencies to submit reports to the Department of Public Safety (DPS) containing specified information on civil asset seizures through which the seizing agencies received proceeds from a forfeiture and the use of the proceeds. Seizing agencies would have been required to pay civil penalties in the amount of \$10,000 for failure to file or late filing of the reports. The bill prohibited seizing agencies from receiving forfeiture proceeds from the federal government unless the property seized included currency in excess of \$100,000.

[SB17-281](#) would have prohibited sanctuary jurisdiction policies. It would also have prohibited jurisdictions from restricting the maintenance or exchange of such information and from encouraging the physical harboring of an alien in violation of federal law. The bill would have removed immunity from civil liability for public entities if an undocumented immigrant who established residency in a sanctuary jurisdiction was convicted of a crime that caused a plaintiff injury.

Education

The following education bills and budget items passed:

In a budget year that many thought would lead to cuts for K-12 classrooms, the annual School Finance Act ([SB17-296](#)) raises per pupil funding by \$242 to a statewide average of \$6,546, totaling more than \$6.5 billion. The bill also holds the negative factor at the FY2016-17 level of \$828.3 million (the negative factor is the amount that K-12 support falls short of full funding under state law).

The budget included an \$11.9 million increase in marijuana taxes to the School Health Professional Grant Program for school nurses, social workers, psychologists, and mental health counselors. [SB17-068](#) expands eligibility for the School Health Professional Grant Program and the School Counselor Corps Grant program beyond middle and high schools to include elementary schools.

[HB17-1184](#) requires that the Board of Education incorporate into the standards for each subject skills relating to the use of information and communications technologies to find, evaluate, create, and communicate information. Through HB17-1184, the CDE will create and maintain a resource bank of sample materials pertaining to computer science courses and programs for the optional use by school districts and charter schools.

[HB17-1201](#) allows for a local education provider (LEP) to grant a diploma endorsement in Science, Technology, Engineering and Math (STEM) to a graduating high school student who demonstrates mastery in the STEM disciplines. The bill identifies the minimum requirements a student must satisfy to be eligible to receive the endorsement.

[HB17-1211](#) bill creates the Discipline Strategies Pilot Grant Program in the Colorado Department of Education (CDE). The program will provide funding for professional development for teachers and principals concerning culturally responsive methods of student discipline, and developmentally appropriate responses to the behavioral issues of students in early elementary grades. The pilot program is not eligible to receive state appropriations and must be funded exclusively through gifts, grants, and private donations. If less than \$300,000 is received, the program will not be implemented.

[HB16-1063](#) authorized mental health professionals to disclose to school and school district personnel and law enforcement agencies if a client communicates a threat against a school or its occupants. The authorization would have been repealed if the state was denied a federal Health Insurance Portability and Accountability Act (HIPAA) exception. [HB17-1183](#) removes the HIPAA reference following direction from the federal government that no federal approval is required.

[HB17-1375](#) requires school districts to develop a plan by the 2019-20 school year to equitably share voter-approved tax increases — called mill levy overrides — with charter schools.

[SB17-033](#) authorizes school nurses and school personnel to give over the counter medications with a parent's permission.

[SB17-272](#) requires that the State Board of Education set achievement standards for the demonstration required of students for high school graduation, and a higher achievement level of student preparedness for higher education without remediation.

The following bills related to education were postponed indefinitely:

[HB17-1042](#) would have added funding for full-day kindergarten by increasing the supplemental kindergarten enrollment starting in the 2017-18 budget year from .08 to .16 of a full-day pupil.

[HB17-1146](#) would have allowed child care providers and school personnel to dispense over the counter medications with parental permission and would have allowed parents of a student enrolled by a local education provider to opt out of the collection and storage of any type of data related to his or her child.

[HB17-1210](#) aimed to reduce the number of preschool and elementary school student suspensions.

[HB17-1324](#) would have altered the existing income tax deduction for contributions to qualifying college savings accounts and interest earnings on or withdrawals from these savings accounts.

[SB17-118](#) would have expanded the requirement that private occupational schools annually collect information for each campus or location, and provide it to prospective students and the Department of Higher Education (DHE). Information would have included topics such as student completion rates, average loans taken out by students, and legal barriers to entry of occupation for which the school offers a training program.

2017 Interim Committees

The Legislative Council Committee voted to approve four of eleven requested Interim Study Committees. Their members will be named and their schedules will be established in mid to late summer. The following Committees were approved (with a clickable link to the official request letter):

- [Opioid and Other Substance Use Disorders](#)
- [Support for Young and Beginning Farmers](#)
- [Comprehensive Sentencing Reform in the Criminal Justice System](#)
- [County Courthouse and County Jail Funding and Overcrowding Solutions](#) (also was referred to as State and Local Public Safety Solutions)

Conclusion

If you have any questions or comments, please contact Frontline Public Affairs.