

The First Session of the Seventy-Second Colorado General Assembly convened on January 4, 2019 with more than 30 new members, a new administration and several vacancies to fill. With control of all three branches resting with the Democrats, many ambitious measures were introduced ranging from an overhaul of the oil and gas industry, paid family and medical leave, funding for full day kindergarten, equal pay, landlord tenant and affordable housing bills, ambitious environmental goals, and efforts to address rising health care costs.

By the end of the 120 day session on May 3, 2019, SB19-181 - oil and gas reform was the only bill to move through the process without significant changes. As the session wore on, Republicans forced some contentious measures to be abandoned or modified such as sex education, personal exemptions from immunizations and increased funding for transportation.

HB19-1257 and HB19-1258 were adopted by the legislature, signed by Governor Polis and will put forward to the voters in 2019 a permanent De-Brucing option for the state. Should the measure pass any additional revenue above the TABOR cap will be kept in the General Fund and will be required to be allocated one third to higher education, transportation and K-12 funding.

BUDGET HIGHLIGHTS

The General Assembly passed a \$30.5 billion state budget which includes \$300 million for road projects, \$175 million for full-day kindergarten, \$120 million for higher education, \$10 million for the state water plan and a 3% pay hike for all state employees.

Energy Highlights

HB19-1261 Climate Action Plan to Reduce Pollution sponsored by Reps Becker and Jackson and Senators Winter and Williams. This bill states Colorado shall have statewide goals to reduce 2005 greenhouse gas emissions by at least 26% by 2025, 30% by 2030, and 50% by 2050. The bill requires the Colorado Air Quality Control Commission (AQCC) to implement policies and rules to reduce greenhouse gas pollution. The bill requires the AQCC, in its policy and rulemaking process, to consult with the Colorado Public Utilities Commission (CPUC) with regard to rules that affect the providers of retail electricity in Colorado. The AQCC rulemaking process will have economy wide effects in Colorado. Advocates of the bill have stated that in order to achieve the reductions goals the electric utility sector, including cooperatives, will be required to reduce emissions above the requirements in the bill to average the aggregated emissions. The rulemaking will likely start in early 2020.

HB19-1314 Just Transition From Coal-Based Electrical Energy Economy sponsored by Reps Becker and Galindo and Senators Winter and Donovan. This bill aims to create a “just transition office” in the division of employment and training under the Department of Labor and Employment (DOLE). The just transition office will administer grants to eligible entities in coal transition communities seeking diversified economic futures and benefits to displaced coal workers such as education and job

training. Finally, the bill requires a coal-fueled electric generating facility to submit a workforce transition plan at least 90 days before the retirement of the facility.

SB19-077 Electric Motor Vehicles Public Utility Services sponsored by Senators Priola and Williams and Rep. Hansen. This bill authorizes public utilities to apply to the CPUC to provide electric vehicle (EV) charging systems and allows for cost recovery. Utilities must submit applications to the CPUC no later than May 15, 2020 and by that date every three years thereafter. The bill specifies application requirements for utilities and CPUC considerations to be made during application review. Utilities may recover costs of the electric vehicle charging system investments. It is likely plans submitted by Xcel will include incentives for purchasing EVs.

SB19-096 Collect Long-Term Climate Change Data sponsored by Senator Donovan and Rep. Hansen. This bill aims to require the air quality control commission to collect and report greenhouse gas emissions data. Data reports will include forecasts of future emissions and proposed draft rules to address the emissions by July 2020. The bill also requires the recalculation of 2005 emissions data. This baseline will be the starting point for the HB19-1261 rulemaking.

SB19-181 Protect Public Welfare Oil and Gas Operations sponsored by Senator Fenberg and Rep. Becker. This bill modifies the composition and the regulatory charge of the Colorado Oil and Gas Conservation Commission (COGCC) in the Department of Natural Resources (DNR), expands the regulatory charge of the Colorado Department of Public Health and Environment (CDPHE), imposes new requirements on oil and gas operators, and provides additional regulatory authority over oil and gas operations to local governments.

SB19-236 Sunset Public Utilities Commission sponsored by Senators Garcia and Fenberg and Reps Hansen and Becker. This bill aims to continue the CPUC with recommended changes by the department of regulatory agencies. The bill also directs the CPUC create rules which require investor-owned utilities to file with the CPUC. When an investor owned utility submits a filing including a proposed retirement of an electric generating facility, the bill requires the plan to include an estimated workforce transition plan. The bill directs the CPUC to evaluate the cost of carbon dioxide emissions and require this cost to be reflected in submissions to the CPUC. The bill establishes clear authority by the CPUC over Tri-States resource planning. Going forward, Tri-State will be required to submit a plan for approval by the CPUC instead of going through the internal process with public hearings conducted by Tri-State as been the practice for over 10 years.

Transportation Highlights

HB19-1158 Modify Innovative Motor Vehicle Income Tax Credits sponsored by Reps. Jaquez Lewis and Gray and Senator Danielson. This bill extends and modifies the income tax credit for innovative motor vehicles. The income tax credit is used primarily for electric vehicles but natural gas and fuel cell vehicles are eligible as well. For passenger cars, the credit was scheduled to phase out beginning January 2020. This bill extends the current credit to 2021 then lowers the maximum

reimbursement from \$4,000 to \$2,500 from January 1, 2021 to January 1, 2023. The credit is then lowered to \$2,000 until January 1, 2026. The bill also modifies and extends the tax credit for light duty, medium duty and heavy-duty trucks.

HB19-1207 Winter Conditions and Traction Control Requirements sponsored by Rep. Roberts and Senators Donovan and Rankin. The bill defines new traction-control regulations and requires certain traction control restrictions on I-70 during inclement weather. Cooperatives serving this area should already be in compliance with these requirements. However, cooperative members responding to requests for assistance should make sure vehicles have adequate snow tires or chains.

SB19-239 Address Impacts of Transportation Changes sponsored by Senators Winter and Bridges and Reps. Gray and Hansen. The bill would authorize the Colorado Department of Transportation (CDOT) to promulgate rules to impose fees on motor vehicle uses for commercial purposes. Before engaging in rulemaking to impose the fees, CDOT would be required to convene and engage in robust consultation with a broad stakeholder group of affected parties. CDOT must ensure that fees are reasonably calculated to offset motor vehicle fuel tax revenue losses resulting from the adoption of electric vehicles for use in commercial vehicle fleets and for other commercial purposes. During the 2020 legislative interim, CDOT must present a final written report regarding the work of the stakeholder group and the rulemaking process and the rules promulgated to the Transportation Legislative Review Committee (TLRC).

SB19-262 General Fund Transfers to Highway Users Tax Fund sponsored by Senators Rankin and Zenzinger and Reps. Esgar and Ransom. The bill makes a one-time transfer of one hundred million dollars from the General Fund to the Highway Users Tax Fund (HUTF). The distribution is 60% to the State, 22% to the counties and 18% to the cities.

Health Care Highlights

HB19-1004 Proposal For Affordable Health Coverage Option sponsored by Reps. Robert and Catlin and Senator Donovan. This bill requires the Department of Health Care Policy and Financing (HCPF) and the Division of Insurance (DOI) in the Department of Regulatory Agencies (DORA) to develop and submit a proposal for a state option for health care coverage that leverages existing state health care infrastructure. The proposal must consider affordability to consumers at different income levels, the administrative and financial burden to the state, and any statutory or rule changes necessary to implement the proposed state option. This proposal must be submitted to the General Assembly by November 15, 2019.

HB19-1168 State Innovation Waiver Reinsurance Program sponsored by Reps. McCluskie and Rich and Senators Donovan and Rankin. The bill will establish a reinsurance program starting in 2020 for the individual health insurance market. Colorado's model will look to create three tiers of cost savings for different regions of the state. The Denver, Boulder and Colorado Springs areas are targeted for 10 - 15 percent reductions in premiums (tier 1); the Fort Collins, Greeley, Pueblo,

Eastern Plains and central Southern areas of the State for premium reductions of 15 -20 percent (tier 2); and the mountain, Western Slope and Grand Junction areas for 25 - 30 percent reductions in premiums (tier 3). The tier 3 areas were targeted for the highest reductions as they typically have the highest health care costs in Colorado and thus the highest insurance premiums. A portion of the funding for the reinsurance program will come from what is known as pass-through funding from the federal government assuming a federal waiver is approved. The funding in the current bill comes from a variety of sources including the vendor fee changes in HB19-1245 and \$40 million from the hospitals

HB19-1233 Investments in Primary Care to Reduce Health Care Costs sponsored by Reps. Froelich and Caraveo and Senators Ginal and Moreno. The bill creates a primary care payment reform collaborative in the DORA to make recommendations on primary care payment reform and requires health insurance carriers to establish targets for investments in primary care.

SB19-004 Address High Cost Health Insurance Pilot Program sponsored by Senator Donovan and Reps. Robert and McCluskie. The bill modernizes laws authorizing health care cooperatives in the state to incorporate consumer protections such as coverage for preexisting conditions and to encourage consumers to help control health care costs by negotiating rates on a collective basis directly with providers.

Employment Highlights

HB19-1025 Limit on Job Application Criminal History Inquiries sponsored by Reps. Melton and Herod and Senators Foote and Rodriguez. This bill prohibits an employer from placing in an advertisement for a position that a person with a criminal history may not apply. A potential employer may not ask on any application, or require disclosure of a criminal history unless federal, state or local laws or regulations prohibits employing a person for that specific position from having a criminal history. The DOLE is charged with enforcing the provisions of this statute and may assess civil penalties of up to \$2,500 for violations.

This bill does not prevent a potential employer from independently obtaining a criminal history background check from publicly available resources.

The bill is effective September 1, 2019 for employers with 11 or more employees. Effective September 1, 2021 the restrictions apply to all Colorado private employers. Federal, state and local government entities are exempt from the provisions of this bill.

HB19-1210 Local Government Minimum Wage sponsored by Reps Melton and Galindo and Senators Danielson and Moreno. This bill aims to repeal the prohibition on local governments establishing minimum wage laws within their jurisdictions. The bill establishes the process of increasing minimum wage and clarifies to whom the minimum wage can apply. In order to increase the minimum wage in a given jurisdiction, the jurisdiction must meet with stakeholders. Then the jurisdiction must establish a

minimum wage no more than a 15% increase or \$1.75 per year from the established minimum wage. This wage will apply to all adults which work a minimum of 4 hours in the jurisdiction. Cooperatives with minimum wage employees should be aware of this 4 hour rule if there are jurisdictions with a different minimum wage within the cooperative service territory. Finally, the bill requires the DOLE to report which jurisdictions have increased their minimum wages.

SB19-085 Equal Pay for Equal Work Act sponsored by Senators Danielson and Petterson and Reps. Buckner and Gonzales-Gutierrez. The bill would modify existing sex-based wage discrimination law and create new provisions regarding transparency in wages and promotions. The bill will achieve this goal by allowing employees to seek a civil action law suit against employers for wage discrimination on the basis of sex; prohibiting an employer from seeking payment history of an employee and/or retaliating against employees who do not disclose payment history; and, requires employers to present all employees advancement opportunities and job openings and the pay range for the openings. The bill allows exemptions to this bill if the employer can prove wage differential is based on a seniority system, a merit system, or a system which measures earnings by quantity or quality of employee output. The bill grants enforcement authority to the Director of the Division of Labor Standards and Statistics to charge fines between \$500-\$10,000 for actions against an employer concerning transparency in pay and employment opportunities.

SB19-188 FAMLI Family Medical Leave Insurance Program sponsored by Senators Winter and Williams and Reps. Gray and Duran. The bill creates a task force, appointed by the governor and general assembly, to study options for a third party to run a family medical leave program. The bill also requires an actuarial analysis of a family medical leave program. The task force will present their findings to the general assembly and the governor for action in next year's legislative session.

Tax Highlights

SB19-006 Electronic Sales and Use Tax Simplification System sponsored by Senator Williams and Reps. Kraft Tharp and Van Winkle. The bill requires the office of information technology (OIT) to solicit bids for an electronic sales and use tax simplification system. The OIT and the Department of Revenue (DOR) must work with stakeholders to determine the scope of work for the system before soliciting bids for the creation of the system. The bill requires DOR to encourage home rule cities to join a simplified process. With over 650 separate sales tax jurisdictions in Colorado, all entities including CREA members will benefit from a simplified system.

HB19-1240 Sales and Use Tax Administration sponsored by Reps. Kraft Tharp and Van Winkle and Senators Court and Tate. The bill addresses issues related to the DOR rulemaking conducted on the *Wayfair* decision. This decision requires retailers to collect the sales tax that applies at the destination of the transfer of goods rather than the point of origin. The intent was to address concerns regarding out of state mail order businesses unfairly competing with in-state brick and mortar stores. The bill creates a de minimis exemption for remittance to jurisdictions outside of a taxpayers' local jurisdiction. For Colorado Country Life, this could require calculating the applicable

sales tax for all 230,000 subscriptions. The DOR has identified almost 650 tax jurisdictions in Colorado. All CREA members should review how sales tax is collected on those accounts with a sales tax obligation.

HB19-1256 Electronic Filing of Certain Taxes sponsored by Reps. Gray and Snyder and Senator Todd. This bill requires the DOR to promulgate rules to implement mandatory electronic filing of certain tax returns and payment of certain taxes and fees via electronic funds transfer. For many cooperatives this will change how sales tax is remitted to the state.

Vetoed

Governor Polis vetoed a total of five bills after the end of the session. By waiting until the session ended, he eliminated the possibility of a legislative override of the veto. A common theme in the first three vetoes were statements that occupational licensing is not always the best option to protect the public. Citing his libertarian streak, the governor stated that certification by private entities such as trade organizations, guilds and unions, in some cases, better serve the public.

HB19-1212 Recreate the Homeowners Association Community Manager License

SB19-099 Revised Uniform Athlete Agents Act

SB19-133 Require License to Practice Genetic Counseling

SB19-169: Project Management Competencies for Certain Contracts

The governor vetoed this bill because he believed it interfered with the ability of the executive branch to carry out its responsibilities.

HB19-1305: Tribal Entity Emergency Child Welfare Criminal History Check

The governor's veto letter stated that he agreed with the goals of the legislation. However, the language inadvertently impinged upon the sovereignty of the tribes it was supposed to help. He issued an executive order to require state agencies to work with the tribes to achieve the same goals.

More Information

For more detailed information regarding legislation tracked by CREA access the legislative link on the CREA website. There is also a link for the General Assembly homepage for information about all bills introduced during the 2019 session.