

2022 RMMCA End of Session Report

2022 SESSION OVERVIEW

The 73rd General Assembly convened on January 12th with some agreement across party lines on top issues to tackle during the legislative session --- allocation of federal ARPA dollars, affordable housing and public safety.

Deciding how to allocate substantial ARPA dollars took center stage beginning this summer with the convening of three task forces: affordable housing, behavioral health and economic relief to vet proposals that would address disproportional impacts of COVID and provide transformative solutions.

In all, \$2.5 billion was spent on various bills implementing the recommendations of these task forces. In addition to federal resources, Colorado's largest budget in history provided significant resources to tackle priorities and give lawmakers key election year wins.

Public safety issues proved to be far more challenging substantively and politically. Headlines reporting a significant rise in deaths due to fentanyl overdoses as well as an uptick in homeless encampments, health and safety issues drove the introduction of legislation to increase penalties for the possession of fentanyl and provide resources for harm reduction. Floor debate in both Houses consumed many hours of legislative work finally drawing to a conclusion with the passage of HB 1326 the Fentanyl Accountability and Prevention bill in the final days of the session.

Unions interests claimed center stage early in legislative process hoping to dominate much of the legislative conversation outside of the ARPA and state budgetary spending activities by announcing legislation to require all Colorado public entities the right to collectively bargain. However, when the gavel came down to end the legislative session SB 230 limited collective bargaining provisions to a small group of Colorado counties.

BUDGET

After two incredibly challenging years and an infusion of federal dollars, Colorado budget circumstances have changed dramatically. The state's budget has surpassed pre-pandemic levels with the general fund growing by about fifteen percent compared to the 2019-2020 budget. As a result, Colorado is expected to owe about \$1.6 billion in refunds to taxpayers due to TABOR.

In March, the Joint Budget Committee approved a \$37 billion dollar budget which marked the state's largest budget ever. As a committee, the JBC prioritized restoring the drastic cuts that were made in 2020 at the height of the pandemic. Notable investments included:

- \$2 billion dollar investment in the state's general fund reserve (equals about 15 percent of the budget)
- \$7.2 billion for K-12 which is an 11.7% increase over the prior fiscal year
- \$80 million for special education needs
- \$5.4 billion for higher education
- \$8 million for the creation of the Office of Early Childhood

- 3% pay increase for state employees and a 2% increase for state contracted health care workers
- \$157 million in fee relief for Colorado residents and businesses
- \$200 million for property tax relief
- \$700 million in one time dollars to be spent through the legislative process

Separate from the budget, the legislature had an additional \$2.8 billion in federal aid to spend this session. A majority of those dollars were prioritized for affordable housing, behavioral health, workforce, and economic recovery through interim task forces. The behavioral health task force began with \$450 million. The affordable housing task force began with \$399.8 million. The workforce task force began with \$95 million. The remaining \$1.8 billion was set aside for economic recovery and relief for Coloradans. Notable investments included:

- \$600 million to replenish the Unemployment Insurance Trust Fund
- \$342.8 million for state capital construction projects
- \$105 million to provide grants to non-profits and local entities to address homelessness
- \$150 million to provide grants to non-profits and local governments to increase housing supply
- \$150 million to create a revolving loan program for housing developers
- \$91 million for regional workforce grants
- \$90 million to support behavioral health providers statewide
- \$41.7 million to increase residential treatment beds for in-patient behavioral health care
- \$49.5 million to expand and support childcare
- \$61 million to support health care providers
- \$60 million to support groundwater compact compliance
- \$57 million to prepay the State's paid family and medical leave expenses
- \$20 million to support wildfire initiatives

2022 Bills of Interest

HB22-1026 Alternative Transportation Options Tax Credit: This bill came out of a summer interim committee charged to examine efficiency of various tax credits. By a unanimous vote the committee recommended an increase of tax credits of 50% for businesses who purchase transit passes for all employees. The bill passed third and final reading on May 11. ***The bill passed both chambers.***

HB22-1098 Department of Regulatory Agencies Barriers to Practice Regulated Professions Reps. Bird and Bacon and Senators Liston and Coleman. The bill requires that DORA audit the occupations they regulate to determine barriers to entry for individuals with a criminal history, and specifies procedures for denying a professional license, certification, or registration. ***The bill passed both chambers.***

HB22-1138 Reduce Employee Single Occupancy Vehicle Trips sponsored by Reps. Gray and Herod and Senators Winter and Hansen. The bill would have created an income tax credit for employers that provide alternative transportation options to their employees; required large employers to provide alternative transportation options to their employees; and required the Transportation Commission to allocate funds to transportation management associations. ***The business community opposed this bill***

preferring the incentive approach in HB22-1026 over the mandates in this bill. The bill was postponed indefinitely in the House Finance Committee.

HB22-1152 Prohibit Employer Adverse Action Marijuana Use sponsored by Rep. Hooton. The bill would have prohibited employers from taking adverse actions against employees or applicants for employment who use medical marijuana during working hours. Additionally, the bill would have prohibited adverse action against employees who use medical or retail marijuana during non-working hours. Where a bona fide occupational requirement existed, the bill would have allowed for employer restrictions on use of medical or retail marijuana. The bill was converted to a regional and independent task force to evaluate what might be considered permissible use and what could be considered impairment. ***The bill was opposed by the business community primarily for being in direct conflict with Amendment 64 which legalized marijuana use but preserved an employer’s right to establish workplace rules around marijuana consumption. The bill was postponed indefinitely.***

HB22-1218 Resource Efficiency Buildings Electric Vehicles sponsored by Rep. Alex Valdez. The bill sets EV capable requirements for future commercial and multifamily residences. ***The bill passed both chambers.***

HB22-1244 Public Protections from Toxic Air Contaminants sponsored by Reps. Kennedy and Serena Gonzales Gutierrez and Senator Gonzales. The bill creates a new program in the Department of Public Health and Environment to regulate toxic air contaminants based on adverse health effects. It requires certain sources to submit annual toxic emissions reports and creates a toxic air contaminant monitoring program. It also requires the Air Quality Control Commission to identify up to five priority toxic air contaminants, establish health-based standards, and adopt emission control regulations. The final version of HB-1244 included an amendment proposed by Sen. Nick Hinrichsen, a Democrat from Pueblo, during a Senate floor debate on Tuesday. The amendment would require legislative approval of the ambient air quality standards proposed by state regulators for certain toxic pollutants. ***The bill passed both chambers.***

HB22-1355 Producer Responsibility Program for Recycling sponsored by Rep. Cutter and Senators Priola and Gonzales. The bill creates a producer responsibility program to provide recycling services to covered entities in the state. The program will be implemented by a nonprofit organization in consultation with a newly-created advisory board and overseen by the Department of Public Health and Environment. During the House debate the bill was amended to allow producers to submit an individual program plan as an alternative to joining the PRO. The individual plan must comply with the same requirements and describe how the producer will contribute to the “costs of the department in overseeing the program” and how it will “reimburse service providers that provide recycling services for the covered materials.” Senate amendments allow the PRO to use up to 5% of the dues it collects for administration but not for dues for employee bonuses; require that at least every three years, starting in 2028, the state will conduct a review of consumer-cost impacts resulting from the program; and clarify that a private service provider is not required to provide recycling services under the program. ***The bill passed both chambers.***

HB22-1362 Building Greenhouse Gas Emissions sponsored by Reps. Bernett and A. Valdez and Senators Winter and Hansen. As introduced the bill would have made municipalities adopt building codes with

high-energy efficiency and low carbon emissions standards by 2025. However strong opposition from local governments, homebuilders and the business community ensured the adoption of amendments to give more flexibility to cities to select the most appropriate codes and to allow more time to make that decision. The final version of the bill states that new building codes adopted by cities after mid-2023 will have high energy efficiency standards mirroring those in the 2021 IECC, plus standards for making new buildings EV and solar ready. ***The bill passed both chambers.***

HB22-1363 Accountability to Taxpayers Special Districts sponsored by Reps. Weissman and Boesenecker and Senators Gonzales and Story. The bill would have modified statutory provisions governing the issuance of debt by metropolitan districts. The bill would have prohibited a local government from approving a service plan for a proposed metropolitan district that permits the purchase of district debt by any entity with which a director has disclosed a conflict of interest. The bill would have also prohibited metropolitan district board members that approved the issuance of any debt while serving on the board from acquiring any interest in the debt, except if the debt is acquired indirectly through an investment fund if the member has no input into or control over the individual securities that the fund purchases. ***The bill was postponed indefinitely in the Senate State Veterans and Military Affairs Committee.***

HB22-1367 Updates to Employment Discrimination Laws sponsored by Reps. Lontine and Gray and Senators Winter and Pettersen. After negotiations failed to reach a compromise on the standard of severe and pervasion in sexual harassment cases, proponents elected to move forward with smaller changes to Colorado's anti-discrimination statutes. The bill amends the Colorado Anti-Discrimination Act to include individuals in domestic service in the definition of employee but allows for the consideration of gender when hiring an employee engaged in child-care-related domestic service. HB 1367 extends the time to file a charge with the Civil Rights Commission from six months to 300 days after the occurrence. The bill also extends the time for the Commission to notice a hearing without losing jurisdiction from 270 days to 450 days. Lastly, the legislation repeals the prohibition against the relief and recovery of certain damages in age discrimination cases. ***The bill passed both chambers.***

SB22-161 Wage Theft Employee Misclassification Enforcement sponsored by Senators Danielson and Jaquez Lewis, and Reps. Duran and Froelich. The bill updates laws and enforcement procedures related to wage theft and misclassification of employees. The bill adds accountability measures for employers by establishing procedures to repay unpaid wages to an employee upon termination of their employment. Additionally, the bill establishes the Worker and Employee Unit to further investigate wage theft, unemployment insurance, and employee misclassification. ***The bill passed both chambers.***

SB22-230 Collective Bargaining for Counties sponsored by President Fenberg and Majority Leader Moreno and Majority Leader Esgar. Early drafts of the bill authorized collective bargaining for all public sector employees. The introduced version limited the legislation to only apply to certain county workers. The bill identifies which employees in a county would become eligible to be in a bargaining unit and specifically excludes employees in mass transit operated by a county; schools-including charters; special districts; public hospitals and home rule municipalities. The bill also sets the minimum number of employees for each bargaining unit at 50. The counties must acknowledge and negotiate in good faith with those bargaining units. If negotiations are not agreed to, the county and the union would have to go through mediation and a fact finder could recommend a deal. The county

governments are not required to accept the results of a mediation process and workers are not allowed to strike. ***During the last few days of the legislative session the sponsors agreed to an amendment to exclude workers in the state's smallest 14 counties from the bill. The bill passed both chambers.***

SB22-234 Unemployment Compensation sponsored by Senators Hansen and Rankin, and Reps. Ortiz and Snyder. The bill creates the Title XII Repayment Fund and makes a one time transfer of \$600 million from the American Rescue Plan Act funds to replenish the Unemployment Insurance Trust Fund. The bill permanently increases partial unemployment benefits, delays the solvency surcharge on employers until 2024, repeals the requirement for an individual to wait one week before becoming eligible for unemployment compensation, and provides for payment of benefits to undocumented workers whose employers had been paying into the fund on their behalf. Lastly, the bill clarifies eligibility requirements for an individual to receive recovery benefits. ***The bill passed both chambers.***

SB22-238 2023 & 2024 Property Tax sponsored by Senators Hansen and Rankin and Reps. Weissman and Neville. The bill temporarily reduces property tax assessments, requires that a portion of the resulting revenue reduction be reimbursed to local governments, and makes a transfer of \$200 million to the State Education Fund. Backfills of local government and governmental entity's revenue are based on population and percentage growth in property tax assessment values. ***The bill passed both chambers.***

Looking Ahead

STATE RACES

The 2022 election year will include all statewide offices along with a key US Senate race. Given national polling which shows a bit of a head wind for democrats, mainstream GOP candidates are hopeful that upon the conclusion of the June 28 primary election, a slate of candidates can run effectively and possibly win a few of the state-wide elected offices. Only two settled general election races are set, the State Treasurer where incumbent Dave Young will face former Lt. Gov candidate and state legislator Lang Sias and incumbent Democrat Phil Weiser will face Republican John Kellner for the office of Attorney General.

There are GOP primary battles for Secretary of State with indicted Mesa County Clerk Tina Peters challenging former Jefferson County Clerk Pam Anderson. Republican Gubernatorial candidate Heidi Ganahl also faces primary challenger, Greg Lopez and the winner of this contest will face the very well-funded current Democrat Governor Jared Polis.

US SENATE

Republicans have a crowded US Senate field where the winner of the Republican Primary between Ron Hanks, Daniel Hendricks or Joe O'Dea will face off against incumbent Democrat US Senator Michael Bennett.

US CONGRESS

As a result of redistricting, Colorado has now gained a congressional seat. Democrat and current State Representative Yadira Caraveo secured her party's nomination and will face the winner of a crowded Republican primary between Tyler Allcorn, Barbara Kirkmeyer, Jan Kulmann and Lori Saine.

With the retirement of Congressman Perlmutter, the competitively drawn 7th congressional district will see a nationally watched and funded race between Democrat current State Senator Brittany Pettersen facing the winner of another crowded Republican field featuring Erik Aadland, Laurel Imer and Tim Reichert.

Congressman Doug Lamborn will face state representative Dave Williams in a Republican primary in CD 5 and Congresswomen Lauren Boebert will face a primary challenge from State Senator Don Coram. Congresswoman DeGette and Congressman Buck (CD1 and CD4) remain virtually unchallenged.

STATE LEGISLATURE

The 2022 State legislative election year will bring significant changes to the makeup of the General Assembly as voters will consider candidates for all 65 seats in the House and a third of the seats in the Colorado Senate.

The Senate is currently controlled by Democrats who have a 20-15 majority. There are 4 members of the Colorado Senate who are term limited and given newly formed redistricting maps, the Republicans see a path towards regaining control of the State Senate. If the Democrats maintain majority control, we expect to see the same leadership makeup with President Fenberg and Majority Leader Moreno maintaining their roles under the dome. If Republicans win a majority and Senator Lundeen survives a primary challenge in June it is widely expected that he will move into a leadership role.

Key Senate races to watch include the following:

- Senate District 20 (Pettersen/running for CD6 open seat) between Democrat Rep. Lisa Cutter vs. Republican Tim Walsh
- Senate District 8 (open seat Donovan/term limited) Democrat Rep. Dylan Roberts vs. Republican primary winner in Matt Solomon vs Richard Cimino race
- Senate District 9 Republican primary incumbent Senator Paul Lundeen vs Lynda Wilson. The winner of GOP primary will face Democrat Nancy Werle
- Senate District 3 incumbent Democrat Nick Hinrichsen vs. Democrat Jason Munoz and a 3 way Republican race between Judy Reyher, Ron Parker, Stephen Varela
- Senate District 11 (open seat) Democrat Rep. Tony Exum vs. Democrat Yolanda Avila winner will face Republican Senator Dennis Hisey
- Senate District 27 (open seat) Democrat Rep. Tom Sullivan vs Republican Julie Marie Shepherd.
- Senate District 15 Republican Senator Rob Woodward vs. Democrat Janice Marchman
- Senate District 35 (open seat) Republican Primary Rod Pelton vs. Kevin Conrad

The House is currently controlled by Democrats who have 41 seats compared to Republicans 24. Given the large Democratic majority, there is little chance of change in Democratic control but given the amount of turnover due to term limits huge shifts in leadership are likely to occur. Both the current

Speaker and Majority Leader will not be returning and the jockeying for House leadership will be fierce. House Republicans find themselves losing incumbents to early retirement and their minority leader fending off a GOP primary. Control of the minority party will be dependent on which races they can maintain or pick up.

Key House races to watch including the following:

- House District 6 (open seat) Democrat primary between Katie March and Elisabeth Epps
- House District 14 (open seat) Republican primary between Rose Pugliese vs. Joe Woyte
- House District 16 (open seat) Republican Dave Donelson vs. Democrat Stephanie Vigil
- House District 17 (open seat) Democrat primary between Regina English vs. Misha Smith
- House District 18 Democrat Marc Snyder (incumbent) vs. winner of Republican primary Shana Black vs Summer Groubert
- House District 25 Winner of Republican primary incumbent Colin Larson vs Mary Lynn “Dede” Wagner vs. Democrat Tammy Story
- House District 26 (open seat) Winner of Republican primary Savannah Wolfson vs Glenn Lowe vs. Democrat Meghan Lukens
- House District 34 (open seat) Winner of Democrat primary Sam Nizam vs Jenny Willford vs. Republican Kevin Allen
- House District 42 (open seat) Winner of Democrat primary Mandy Lindsay vs Gail Pough vs. Republican Cory Parella.
- House District 43 (open seat) Republican Primary Kurt Huffman vs. Robin Webb
- House District 44 (open seat) Republican Primary Anthony Hartsook vs. Terry Dodd
- House District 45 (open seat) Republican Primary Lisa Frizell and Bill Jack vs. Democrat Ruby Martinez
- House District 48 (open seat) Republican Primary Gabe Evans vs. Terry DeGroot
- House District 51 Republican Primary Hugh McKean vs. Austin Hein
- House District 55 Republican Primary Rick Taggart and Patricia Weber vs. Democrat Damon Davis
- House District 57 Democrat Primary Cole Buerger vs. Elizabeth Velasco and Republican Perry Will
- House District 61 (open seat) Republican Primary Caroline Cornell and David Woolever vs. Democrat Eliza Hamrick
- House District 62 Democrat Primary Donald Valdez and Robert Dimick vs. Republican Ryan Williams and Carol Riggerbach
- House District 63 Republican Primary Richard Holtorf vs. Democrat Jessie Vance

BALLOT INITIATIVES

The 2022 General Election will see a plethora of ballot Initiatives alongside the state legislative races. As 2022 is an even year, ballot initiatives are not limited to having a fiscal or tax impact. As of May 6th, only one ballot initiative has qualified for the 2022 ballot—Initiative 31 “State Income Tax Rate Reduction”—while 7 other initiatives have been approved for circulation. These 7 initiatives are:

- Initiative 54 Petitions. The measure would change requirements and deadlines for a qualifying initiative for the ballot, change the process for legal challenges to initiative and require voter approval for new legislation that was previously rejected by referendum.
- Initiative 56 Unlawful Murder of a Child would ban abortion in Colorado except when necessary to save the life of the mother, to remove/relocate an ectopic pregnancy, or to remove a fetus that is no longer alive.
- Initiative 58 Access to Natural Medicine would create a natural medicine services program for the supervised administration of dimethyltryptamine, ibogaine, mescaline (excluding peyote), psilocybin, and psilocyn. Additionally, the initiative would create a framework for regulating the growth, distribution, and sale of these substances to permitted entities and a Natural Medicine Advisory Board.
- Initiative 61 Legal Possession and Use of Entheogenic Plants and Fungi would decriminalize the personal use of certain entheogenic plants and fungi (including psilocybin, psilocin, ibogaine, mescaline, or dimethyltryptamine) for adults age 21 and older.
- Initiative 63 Additional Dedicated Revenue to the State Education Fund would direct the state legislature to allocate one-third of one percent of all revenue received from individual, corporation, estate, and trust federal taxable income to the state education fund. The initiative would also allow the state to spend the money as a voter-approved revenue change.
- Initiative 80 Campaign Expenditure Limits would limit committee expenditures to 150% of contributions received by an individual with a voter registration number who is eligible to vote for the candidate or issue the committee supports or opposes.
- Initiative 82 Minimum Reimbursement Fee for Dental Procedures Performed by Medicaid Providers would establish a minimum reimbursement fee for covered Medicaid dental procedures.

The deadline for ballot initiative signatures to be turned in and the ballot initiative to be placed on the November 2022 ballot is August 8th.