



2014 Legislative Session Summary May 15, 2014

Overview

This report provides an overview of the 2014 legislative session for clients of Miles Consulting, Inc. It covers priority bills and other bills of interest for our clients, with an emphasis on legislative actions related to health care, human services, and education. 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 Miles Consulting.

The 2014 Colorado regular legislative session began on January 8, 2014 and concluded 120 days later on May 7, 2014. Of the 661 bills introduced, 425 passed. Major topics included K-12 and higher education, child care, marijuana, tax credits, flood recovery, and economic development.

Budget Issues

The state's economy continues a slow but steady recovery, resulting in increased state revenues. The reserve was increased to 6.5% of the General Fund (GF), spending was increased for multiple budget items, and several new bills were adopted with fiscal notes. The Colorado state budget for Fiscal Year 2014-15 ([HB1339](#)) totals almost \$24B, with \$8.7B from state General Funds and the remainder from Cash and Federal Funds. See specific budget items noted in the sections below.

Public and Private Health Insurance Coverage

While the session was much quieter than recent sessions on health insurance coverage issues, there were a few notable bills related to Medicaid, CHP+, and private insurance.

Items in the **budget** related to Medicaid and CHP+ include the following:

- Funding to cover certain legal immigrant pregnant women and children in Medicaid and CHP+, effective July 1, 2014. Previously, a 5 year bar on eligibility applied to these groups.
- A 2% across the board increase in all Medicaid reimbursement rates with a few exceptions
- Targeted Medicaid provider reimbursement increases above the 2%, including the following:
 - \$1M increase in surgeon and facility reimbursement for Ambulatory Surgery Centers
 - Continuation of the enhanced primary care physician reimbursement included in the Affordable Care Act (ACA), with expanded reimbursement to Advanced Practice Nurses (APNs) and elimination of administration burdens associated with the federal law
 - An increase in Medicaid reimbursement to return all Federally Qualified Health Centers (FQHCs) to their reimbursement methodology and rates cut in 2009
 - An increase in family planning fee for service reimbursement for specific codes

- Funds for Health Care Policy and Financing (HCPF) to develop a plan for addressing disparities in Medicaid rates that limit client access to cost-effective care
- Health Information Exchange (HIE) funding to help Medicaid providers adopt electronic health record (EHR) systems and connect to the HIE and to increase the data capacity of the HIE
- Continued and enhanced Medicaid eligibility determination activities
- Project for primary care providers and specialists to acquire and utilize technology that allows remote specialty care consultation
- Increase of \$1.6M for The Children’s Hospital pediatric specialty hospital line item

The following health insurance coverage bills were adopted:

[HB1045](#) continues the Medicaid Breast and Cervical Cancer Treatment (BCCT) program, which was scheduled to sunset (expire) on July 1, 2014. Without this program, women who find themselves uninsured at the time of a breast or cervical cancer diagnosis and without adequate financial resources would not be able to receive needed health care services.

[SB67](#) aligns the state’s Medicaid eligibility categories with eligibility categories in federal law.

Health Care Costs, Access, and Workforce

The budget included the following items:

- \$500,000 to provide scholarships for nonprofit and governmental entities to defray the costs of access to the All-Payer Claims Database (APCD) to conduct research
- Increase of \$1M to Denver Health for residency training costs
- Increase of \$2M to Commission on Family Medicine for family practice residency training costs

The following bills passed:

[SB187](#) is perhaps the most important health care bill of the session. It creates the Colorado Commission on Affordable Health Care, a bipartisan group of twelve appointed Commissioners who will meet over a three-year period, analyze data on health care costs, convene advisory groups on a variety of topics, and develop recommendations for the Governor and the Legislature regarding health care costs.

Current law requires hospitals to make information regarding financial assistance available to each patient. [SB050](#) specifies the information that must be included. In addition, it requires the Department of Public Health and Environment (CDPHE) to promulgate rules and to evaluate each hospital for compliance with all aspects of the law, including patient notification, rates charged to uninsured patients, and payment plans before collections proceedings.

[HB1181](#) continues the Nurse Physician Advisory Task for Colorado Health Care (NPATCH). This group was scheduled to sunset (expire), but it was determined they should continue to meet to discuss and make recommendations regarding the relationships between Advanced Practice Nurses (APNs) and physicians.

[SB144](#) extends the Commission on Family Medicine's support of the development of family medicine residency programs in rural and other underserved areas of the state. The bill requires the Commission to make an evaluation and recommendations concerning the use of Medicaid graduate medical education funding to support family medicine training.

[HB1252](#) provides \$4.5M toward addressing the waiting list for persons with intellectual and developmental disabilities (IDD). HCPF is required to develop a plan to address system capacity issues, and report to the legislature on progress.

[HB1051](#) requires HCPF to develop a strategic plan to eliminate the waiting list for persons with intellectual and developmental disabilities for home- and community-based programs, services, and supports by November 1, 2014. HCPF is required to submit the plan to the legislature by December 1, 2014 and report annually on progress thereafter.

The following bills were postponed indefinitely:

[SB016](#) would have created standards by which independently owned freestanding emergency centers must operate, including accepting all patients regardless of payer source and remaining open 24 hours.

[SB032](#) would have repealed the current restrictions on the ability of alternative health care providers to treat children of any age. Current law prohibits complementary and alternative health care practitioners and registered naturopathic doctors from treating children less than 2 years of age and requires those providers to obtain parental consent and make specified disclosures to parents before treating a child between 2 and 8 years of age.

[HB1126](#) would have required those providers delivering a mammography report to note in the report that the patient has dense breast tissue, which can be associated with an increased risk of breast cancer.

Oral Health

For the third year in a row, the legislature made major investments in oral health. In addition to the oral health bills below, the **budget** included significant oral health items, as follows:

- Addition of coverage for full dentures as part of the new, limited Medicaid adult dental benefit
- An enhanced CHP+ dental benefit for kids to comply with federal law, adding certain services and increasing the annual cap from \$600 to \$1000
- A total of \$5M to provide financial incentives and support to dentist and dental hygienists who participate in the Medicaid program

The following bills passed:

[HB1053](#) ensures consistency of pediatric dental insurance purchased through the health benefits exchange (Connect for Health Colorado) with requirements for coverage purchased outside of the exchange.

[SB180](#) transfers the current Old Age Pension Dental Program from CDPHE to HCPF and makes changes to the program, including a new name: Colorado Dental Health Care Program for Low-Income Seniors. The program will become a grants program for qualified entities that can provide and/or arrange for dental services for eligible seniors, provide outreach to seniors, and meet other requirements. The Dental Advisory Committee for the current program will be transferred to HCPF. Bill language ensures that patients in the middle of a care plan at the time the program transfers would continue care with their current provider. The transfer and program changes take effect March 1, 2015.

[HB1227](#) continues and modifies the laws regulating the practices of dentistry and dental hygiene. Of note, the bill: authorizes rulemaking regarding the use of lasers; specifies that licensed dentists may

prescribe orders electronically; allows an unsupervised dental hygienist to prescribe, administer, or dispense fluoride, fluoride varnish, and antimicrobial solutions in collaboration with a licensed dentist; requires dentists and dental hygienists to obtain at least 30 hours of continuing education every 2 years; and adds minimum training, experience, and equipment requirements for the administration of anesthesia and sedation.

Behavioral Health (Mental Health and Substance Abuse)

The total funds for behavioral health increased by 36.2% from \$404M to \$550M. The increase stems from adult Medicaid expansion and the addition of the substance use disorder benefit. However, the increases are primarily in Federal Funds, with General Funds increasing only 12.4% or \$19M total. In addition, an increase of \$750,000 for enhanced/expanded Mental Health First Aid was approved, with funds to the Colorado Behavioral Healthcare Council to administer the program.

The following bills passed:

[HB1173](#) reauthorizes the Controlled Substances Abuse Act, which addresses the record keeping and licensing functions of the Department of Human Services related to addiction programs where controlled substances are compounded, administered, or dispensed.

Two bills addressed designer drugs. [HB1037](#) makes it unlawful to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell any product that contains any amount of any synthetic cannabinoid or cathinone; and provides \$350,000 for enforcement and lab equipment to test products. [HB1296](#) empowers the Division of Liquor Enforcement within the Department of Revenue to enforce the criminal provisions regarding synthetic cannabinoid or cathinone.

[HB1283](#) makes several modifications to the electronic Prescription Drug Monitoring Program, some of which include the following:

- Authorizes the state board of pharmacy to develop criteria for indicators of controlled substance misuse, abuse, and diversion
- Allows CDPHE and HCPF to access the electronic database for public health purposes and Medicaid patient care coordination
- Authorizes the Department of Regulatory Agencies (DORA) to develop a plan to reduce prescription drug abuse, to study the Program, and make recommendations on ways to ensure that the Program is effective at reducing prescription drug abuse and misuse

[HB1207](#) creates liability protections for those entities that choose to host a medication drop box where consumers may drop off their unused prescription drugs for safe disposal. The drop boxes cannot accept schedule II controlled substances.

[HB1271](#) extends immunity liability and duty to warn of potential harm to include persons or persons identifiable by their association with a specific location or entity.

The following bills were postponed indefinitely:

[HB1253](#) would have consolidated the drug, alcohol, and mental health civil commitment statutes and revised definitions for “danger to self or others” and “gravely disabled”. [HB1386](#) was introduced after HB1253 died and would have only revised the definitions for “danger to self or others” and “gravely disabled.”

Recreational and Medical Marijuana

Since Colorado voters approved the sale of recreational marijuana, the legislature has been faced with a flurry of bills from regulation and use of revenues, to creating a bank for dispensaries to utilize. This year was no different. Following is a brief overview of the most pertinent bills:

[SB215](#) was perhaps the most substantive marijuana bill this session, as it addressed how to spend the sales tax dollars from recreational marijuana sales. The Legislature voted to spend just half of what the state is projected to bring in - \$24.5M. The appropriations largely focused on prevention, treatment, and law enforcement as follows:

- \$5.5M for a marijuana public awareness/advertising campaign
- \$2M for School Based Prevention and Early Intervention (through Behavioral Health Organizations/BHOs); eligible for federal Medicaid matching funds to total over \$4M
- \$2M to for Community Grants for Prevention and Intervention through HCPF
- \$2.5M to Colorado Department of Education (CDE) to hire school health professionals (nurses, social workers, psychologists) for substance abuse prevention and early intervention
- \$2M for county jail and post release substance use disorder services for adults
- \$1.5 for residential substance abuse treatment for adolescents and pregnant women
- \$2M for Tony Grampas Youth Services Grants to focus on substance use prevention
- \$900,000 to enhance the Healthy Kids Survey to assess youth attitudes and behaviors
- \$190,000 to the Governor's Office of Marijuana Policy for coordination
- \$1.5M for law enforcement training and assistance regarding the new law
- \$2M for youth diversion services to keep kids out of jail or prison

[HB1361](#) requires the Colorado Department of Revenue to address how much marijuana concentrate can be sold by a licensed business. Current law does not address how much concentrate can be sold.

[HB1386](#) requires the Marijuana Enforcement Division under the Department of Revenue to promulgate rules that require edible retail marijuana products be clearly identifiable with a standard symbol indicating that the product contains marijuana and is not for consumption by children.

[SB129](#) adds consumption and possession of marijuana and possession of marijuana paraphernalia to the crime of underage possession or consumption of alcohol.

[SB155](#) creates a \$10M medical marijuana research grant program at CDPHE to ascertain the general medical efficacy and appropriate administration of marijuana, its component parts, and hemp.

Public Health

The **budget** for the Department of Public Health and Environment included the following key items:

- \$8.55M in total funds for Local Public Health Agencies (LPHAs). A slight increase in total tobacco settlement funds received by the state resulted in an increase of \$39,000.
- \$3.27M for LPHA electronic health records (EHRs) and connectivity to the Health Information Exchange (HIE)

The following bills passed:

[SB18](#) clarifies that nicotine products and devices designed to deliver nicotine to the body are illegal to sell to minors under the age of 18, along with cigarettes and other tobacco products. Signs posted by retailers will be required to specifically include the word “nicotine”. The bill was proposed in response to a recent rise in the availability of nicotine products being marketed to youth.

[HB1288](#) directs CDPHE to create an online, evidence-based education module about the benefits and risks of vaccines that will be publicly available; directs the Board of Health to promulgate rules regarding the frequency that child care centers and schools must collect vaccine exemption forms; requires schools and child care centers to make information on their immunization and exemption rates publicly available upon request; directs CDPHE to work with other state agencies to establish a policy on immunization data collection; and directs CDPHE to provide technical assistance to schools and child care centers regarding how to analyze and interpret immunization data.

[SB088](#) creates the Suicide Prevention Commission to provide public and private leadership and make recommendations regarding suicide prevention in Colorado.

The following bills were postponed indefinitely:

[HB1263](#) would have increased the age for purchase of cigarettes, tobacco, and nicotine from 18 to 21 years of age in Colorado, while [HB1054](#) would have prohibited minors, 18 years of age and younger, from using a tanning bed or device. Finally, [HB1117](#) would have created a Colorado Premature Birth Commission to study premature birth and make recommendations for improvements.

Healthy Eating Active Living (HEAL)

This topic covered a variety of bills that passed, including the following:

[HB1156](#) provides free lunches to grade 3-5 students who now are eligible for reduced-price meals, effective fall of 2014. The original bill would have covered all students through 12th grade, but was scaled down. Students in grades K-2 already are covered.

[HB1301](#) provides \$700,000 in state General Funds for the Safe Routes to School program that allows schools, non-profits, and local governments to apply for grants for projects to upgrade infrastructure and increase pedestrian and bicyclist safety in school areas.

[HB1119](#) incentivizes farmers and food producers to donate a portion of their fresh excess produce to charitable organizations by providing them with a tax credit of up to \$5,000. The intent is to provide food banks in Colorado with a supply of fresh food to help needy families.

[HB1276](#) creates a grant program to train high school students in CPR and the use of defibrillators.

Environmental Health

Flood recovery, natural resources, and animal health were hot topics, including the following bills:

[HB1002](#) creates a natural disaster grant fund and directs CDPHE to award \$17M in grants from the fund to local governments. These grants will be used for domestic wastewater treatment works and public drinking water systems that have been impacted by a natural disaster.

[SB025](#) clarifies that severance tax dollars credited to the Small Communities Water and Wastewater grant fund may be used for domestic wastewater treatment works.

[HB1270](#) continues the licensure of pet animal facilities by the commissioner of agriculture for 5 years and allows the commissioner to specify, by rule, written disclosures that must be given concerning rabies vaccinations and the origin and medical history of a dog, cat, ferret, or bird.

[HB1313](#) expands the requirement that a county is currently prohibited from issuing a dog permit or license unless the dog owner provides a valid rabies vaccination certificate to include cats and ferrets.

The following bills were postponed indefinitely:

[HB1297](#) would have directed CDPHE to conduct a scientific analysis of human health and quality of life within the counties of Larimer, Weld, Boulder, Arapahoe, Adams, and Broomfield with the intent of understanding any possible effects of oil and gas operations.

Child Welfare

The budget includes the following child welfare related items:

- An additional increase of \$125,000 to the Child Protection Ombudsman's Office due to a larger than expected increase in grievances
- \$8.1M for development and operation of the Child Abuse and Neglect 24 hour hotline.
- \$1.8M for a Public Awareness Campaign for Child Welfare to educate mandatory reporters and the public about identifying and reporting abuse and neglect
- Requirement that the Child Abuse and Neglect Hotline Steering Committee provide quarterly presentations to update the JBC on their progress and outcomes

The following bills passed:

[SB203](#) establishes the office of the Respondent Parents' Counsel in the state judicial department to provide legal representation to parents involved in dependency and neglect proceedings and who lack the financial means to obtain legal representation.

[SB062](#) creates a process for reinstatement of the parent-child legal relationship in limited circumstances for a child whose parent's rights have previously been terminated voluntarily or involuntarily.

The following bills were postponed indefinitely:

[SB177](#) would have established a definition for a "drug-endangered child" for purposes of cases of child abuse or neglect in the Children's Code, while [SB178](#) would have established a definition for a "drug-endangered child" in the Criminal Code.

Child Care

The budget includes the following child care related items:

- \$1.3M for increased staffing for child care licensing and inspection. Colorado's ratio of inspectors to child care facilities is one of the highest in the nation
- \$2.1M to develop a quality rating system for all licensed child care providers

The following bills passed:

[HB1317](#) creates tiered reimbursement programs that incentivize and reward successful, high-quality child care programs and ensure that families with lower incomes receive more state dollars to help parents remain in the workforce. The bill also lowers copayments for the Colorado Child Care Assistance Program (CCCAP) for families with incomes below the federal poverty level and implements policies that support parents' efforts to find and keep a job.

[SB003](#) makes several changes to the statute that created a pilot program to address the cliff effect that occurs when working parents in the Colorado Child Care Assistance Program (CCCAP) receive a minor increase in their income that makes them ineligible for child care assistance and the increase in wages is not enough to cover the costs for child care without the child care assistance.

[HB1072](#) creates a state income tax credit for child care costs that applies to Colorado families that make less than \$25,000 a year and do not already qualify for federal tax credits. These families currently do not qualify for the state tax credit for childcare costs because those tax credits are tied to federal income taxes and couples making \$25,000 or less generally do not pay federal taxes.

Other Human Services Topics

The **budget** includes the following additional items:

- A 2.5% reimbursement rate increase for all community providers
- Additional funding of \$40M for the next phase of the CBMS Modernization Project and to keep up with new federal and state mandates, including Medicaid expansion.

The following bills passed:

[HB1023](#) requires the State Office of the Public Defender to hire eight social workers to assist in alternative placement planning for youth facing detention or jail.

[HB1032](#) mandates that juveniles have the right to representation at the first pre-trial hearing, and that information be shared in clear language that is understandable and appropriate to a juvenile.

[SB064](#) requires the Department of Corrections to review the status of all offenders held in long-term isolated confinement within 90 days. If an offender is seriously mentally ill, the department shall move the offender to a mental health step-down unit, a prison mental hospital, or other appropriate housing that does not include long-term isolated confinement.

The following bills were postponed indefinitely:

[HB1370](#) would have required any disciplinary proceeding against a mental health professional to be commenced within 3 years after the alleged act or failure to act giving rise to the proceeding, while [HB1131](#) would have created the crime of cyberbullying of a minor to address the growing use of social media for bullying purposes.

Poverty Reduction and Economic Opportunity

A number of bills emerged from the Interim Committee on Poverty Reduction and Economic Opportunity had success in the 2014 session, along with other similar bills. In addition to the Child Care bills noted above, the following bills in this category passed:

The Wage Protection Act ([SB5](#)) sets a \$50 minimum fine per day of wage nonpayment and allows the state to assess a penalty, payable to the employee, of 125% of unpaid wages under \$7,500 and 50% of unpaid wages over \$7,500. Proof of an employer's willful nonpayment would incur an additional 50% penalty. This bill is intended to protect employees from "wage theft" by employers.

[HB1017](#) creates additional sources of revenue for the Housing Investment Trust Fund, and expands the tax credit for developers who build low-income housing to address affordable housing shortages.

[HB1085](#) creates a grant program for adult education and literacy training to help under- and unemployed Coloradans gain skills they need to find a job.

[SB012](#) provides an 8% increase in the monthly Aid to the Needy Disabled (AND) Program cash benefit and creates a pilot program designed to improve AND efficiency.

[HB1015](#) extends the ReHire Colorado program created last year to 2017. ReHire provides subsidized transitional jobs for unemployed workers.

[SB014](#) raises the income limit for qualifying for the Property Tax/Rent/Heat Rebate program to nearly \$13,000 for an individual and more than \$17,000 for a couple, and increases the amount of the benefit.

Education (K-12 and Higher Education)

The Student Success Act ([HB1292](#)) and annual School Finance Act ([HB1298](#)) provided a package of funding for K-12 education that includes:

- K-12 Total Program Funding of \$5.91B in 2014-15 (up from \$5.76B)
- Increase in statewide average per pupil spending to about \$7,020 (compared to \$6,839)
- A reduction in the negative factor of \$110 million. The "negative factor" refers to the \$1 billion shortfall in K-12 funding that built up during the recession when state revenues declined and legislators narrowed the definition of how much school funding was subject to the state constitution's requirements for annual increases
- \$27 million for English Language Learner programs
- \$18 million increase for early literacy programs (READ Act)
- \$17 million for 5,000 additional slots for at-risk preschool and kindergarten students
- Increased funding for public and charter school construction

The following bills passed:

[SB150](#) provides an increase of \$3M on top of \$5M in current funding for The Colorado Counselor Corps, which provides funding for districts to train and hire extra counselors.

[SB002](#) provides funding for the Safe2Tell program, an anonymous tip line teens can use to report threats of school violence and suicide, bullying and similar problems.

[SB001](#) invests an extra \$101.3 million in higher education and caps tuition increases at six percent for in-state undergraduate students.

[HB1384](#) allocates \$30 million within the Colorado Department of Higher Education to create the Colorado Opportunity Scholarship Initiative Fund. A small portion of the funds may be used by nonprofits and government agencies that prepare high school students for college and offer support services to students to help them stay in school and graduate with a degree.

See also SB215 under Marijuana regarding school health professionals.

Other

[HB1303](#) vests the executive committee of the legislative council with the power and duty to consider, recommend, and establish policies regarding **legislative committees taking public testimony** from remote locations around the state. Such testimony may be via telephone and/or video conference, will likely take place at colleges and universities around the state and may be available by 2015.

Interim Activities

Interim Committees that will meet in the summer and early fall include the following:

- Recreational marijuana sales tax revenue committee
- Committee to study mental illness in the criminal justice system
- Police officers' and firefighters' pension reform commission
- Transportation legislation review committee
- Water resources review committee
- Early childhood and school readiness legislative commission
- September 2013 flood committee

The SB187 Commission on Affordable Health Care will begin meeting in the summer once Commissioners are appointed. In addition, the joint committees of reference will meet during November and December to get reports from the executive branch agencies they oversee, and the Joint Budget Committee will be holding hearings to prepare the FY2015-16 budget beginning in November.

Term Limits and Elections

As 2014 is an election year, several legislators are term limited, running for a different office, or voluntarily leaving the legislature. The following legislators will not be returning: Senators Brophy, Harvey, King, Renfroe, Schwartz, and Tochtrop, along with Representatives Ferrandino, Fischer, Gardner, Gerou, Holbert, Labuda, McNulty, Murray, Peniston, Schafer, Sonnenberg, Stephens, Swalm, Waller, and Wright. In addition, Representatives Garcia, Scott and Sonnenberg are running for Senate seats. All House seats and approximately half of the Senate seats are up for reelection. In addition to the open Senate seats listed above from term limits or other departures, the following sitting Senators have a reelection campaign this year: Aguilar, Grantham, Guzman, Herpin, Jahn, Kerr, Lambert, Lundberg, Nicholson, and Roberts. Miles Consulting will prepare and distribute a complete candidate list.

Conclusion

This report will be updated as the Governor makes decisions on bills by June 6.