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Colorado General Assembly
2017 Legislative Session Outlook

We have been pleased to prepare this Legislative Session Outlook for a number of years. We try to provide the reader a "30,000 foot" view of what to expect in the coming legislative session while offering access to the data and backup material that we use in developing the Outlook. We hope that you find the Outlook to be informative, useful, and entertaining. We would ask that you give appropriate attribution should you decide to share it with friends, family, and business colleagues.

Thanks and enjoy!

Happy New Year,
Danny, Ed, and Jenn

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I. RECAP OF 2016 ELECTIONS

Though Donald Trump won the election nationwide, Colorado voted for Hillary Clinton by a margin 48 percent to 43 percent. The state will send its entire congressional delegation back to Washington – every incumbent won re-election. The incumbent Senator - Michael Bennet – won the US Senate race but he was held under 50 percent. The closest House race – the Aurora based seat held by Representative Mike Coffman – didn't turn out to be the close race that some anticipated. Representative Coffman beat State Senator Morgan Carroll by a margin of 51 percent to 43 percent. In Western Colorado, Scott Tipton easily won reelection over former State Senator Gail Schwartz by a margin of 55 percent to 40 percent. If anything, the 2016 election solidified that Colorado is still a purple state.

The "split chambers" Colorado has experienced in the last two years will continue – the Republicans maintained control of the Senate 18-17, and the Democrats maintained control of the House, gaining 3 seats for a 37-28 majority.

Ballot Measures

The following initiatives passed in November:

- Amendment 70 – increase in the minimum wage
- Amendment 71 – "raise the bar" for future constitutional changes
- Proposition 106 – medical aid in dying
- Proposition 107 – establishing an open presidential primary
- Proposition 108 – allowing unaffiliated voters to vote in primaries

The following initiatives and referenda failed in November:

- Amendment 69 - single payer health care system
- Amendment 72 – raising the state's tobacco tax
- Amendment T – eliminate references to involuntary servitude
- Amendment U – modify possessory interest

II. PREVIEW OF THE 2017 LEGISLATIVE SESSION

The First Regular Session of the 71st General Assembly of Colorado will convene on Wednesday, January 11, 2017 at 10:00 am. Per the State Constitution, the Legislature will meet for no more than 120 days, with adjournment *sine die* occurring no later than midnight on Wednesday, May 10, 2017. You can obtain additional information on the General Assembly, including contact information for legislators, information on bills that have been introduced, schedules for committee hearings, and links for listening to live audio broadcasts of legislative proceedings at the **Colorado General Assembly homepage.** The **deadline schedule for the 2017 legislative session** is also available. The House of Representatives and the Senate will be televised, both on the **Internet** and on Comcast cable television channel 165.

2017 Legislative Leadership

Shortly after the elections, legislators caucused to pick their leaders. The leadership teams in the chambers include:

- Senate President Kevin Grantham, R-Canon City
- Senate Majority Leader Chris Holbert, R-Parker
- Senate Minority Leader Lucia Guzman, D-Denver
- House Speaker Crisanta Duran, D-Denver
- House Majority Leader K.C. Becker, D-Boulder
- House Minority Leader Patrick Neville, R-Castle Rock

Of the six legislators mentioned above, only Senator Guzman was in her current position in 2016 – all of the other members are new to their leadership positions.

There are two new members of the legislative Joint Budget Committee – Senator-elect Dominick Moreno, (D-Commerce City) and Senator Kevin Lundberg, (R-Berthoud). The other previous members of the JBC – Reps. Millie Hamner, Dave Young, and Bob Rankin and Sen. Kent Lambert - return to the committee. Sen. Lambert will be the Chair of the committee, with Rep. Hamner serving as Vice Chair.

Changes at the Federal Level

Following eight years of the Obama administration, President-elect Trump and the Republicans will control the White House and Congress for at least the next two years. We have provided below a list of issues in Colorado that could be impacted by changes at the federal level:

1. Complete repeal, or replacement of, the Affordable Care Act.
2. Changing Medicaid to block grant funding.
3. Denying federal aid to "sanctuary cities", though the source of federal funds has not been specified nor has a definition of "sanctuary cities" been provided.
4. More stringent enforcement of existing federal laws or changes to federal laws on immigration.
5. Regulation of marijuana as a controlled substance.
6. Relaxing of environmental standards.
7. Emphasis on coal, oil, and natural gas as the primary means of energy production.
8. Increased emphasis on infrastructure improvements, though no funding mechanism has been specified.
9. Linking federal funding to greater choice in education, including more charter schools and/or voucher programs.
10. Changes to control of federal lands making them more accessible to energy development and recreational use.
11. Relaxed regulation of for-profit colleges.
12. Increased oversight/restrictions on public sector pensions.
13. Increased reciprocity of state concealed carry laws.
14. Relaxed standards for drought relief.
15. Other issues?

Key Issues in the 2017 Legislative Session

There are a number of high profile, key issues that will be discussed in 2017: transportation funding, Hospital Provider Fee, construction defects, and the budgetary impact of the Gallagher Amendment. Each of these is discussed in more detail below. Of course, many more issues will be debated and discussed this session.

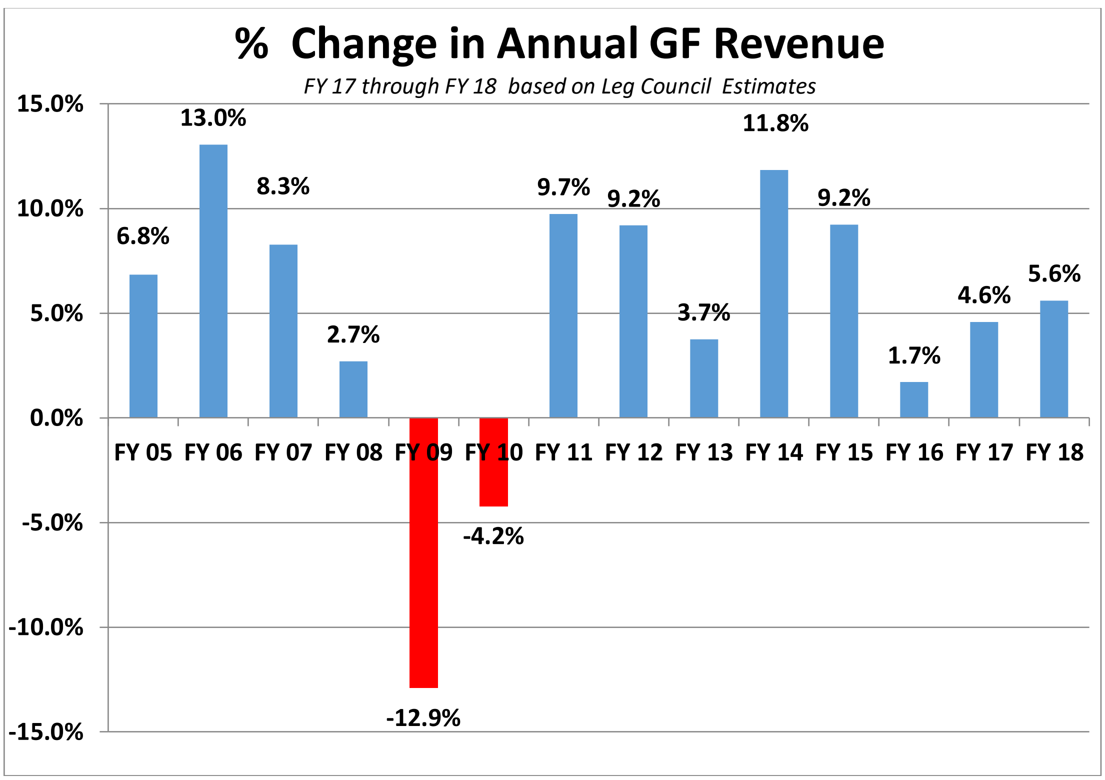
III. BUDGET OVERVIEW

A. COLORADO'S ECONOMY AND TAX REVENUE

The good news – revenues are up, the economy continues to grow, and many of the reductions in General Fund appropriations we saw beginning in 2008 have been or will be restored. The bad news – demands are up (caseload, enrollment, infrastructure), and the interaction of Gallagher, TABOR, and Amendment 23 creates a Gordian knot, sometimes called a "fiscal thicket," that the General Assembly will find increasingly difficult to manage in coming years.

Colorado's economy continues to be among the best in the nation. Strong job growth in the Denver metro area and northern Front Range has helped Colorado rebound from the 2008 recession. Still, the recovery is uneven. Parts of the state, notably Western Colorado, Colorado Springs, and Pueblo have not experienced the same degree of economic recovery. Also, the strong economy has been recently tempered by low agricultural commodity prices as well as low energy prices.

On the strength of income and sales taxes, Colorado's tax revenues continue to accrue. The chart below shows the percent change in General Fund revenues for the past few years and projected (by Legislative Council in the December 2016 revenue estimates) for the next few years.



The table above shows the fluctuations of General Fund revenues from year to year. Colorado's General Fund is made up of income tax (two-thirds) and sales tax (one-third), and, as such, is highly dependent on the state's economic condition.

B. FY 2017-18 BUDGET REQUEST

Governor Hickenlooper submitted his FY 2017-18 budget request (for the fiscal year beginning on July 1, 2017) on November 1, 2016. This request was built off the September revenue estimates from the Governor's Office. The Governor's request was constrained by the major budgetary pressures outlined below. In order to submit a balanced budget, the Governor proposed capping the Hospital Provider Fee and limiting transfers to transportation.

The key components of the Governor's Budget request:

- $241 million to address increased Medicaid costs.
- $218 million for K-12 inflation and enrollment, though this would not provide full funding per Amendment 23. Under the Governor's proposal, the Negative Factor would increase from $830 million to $876 million.
- $20.5 million to higher education, to address inflation and mandated costs at the state's colleges and universities, and to mitigate tuition increases.
- Reduce the state's General Fund transfer to transportation by half – from $140 million to $70 million.

The November budget request serves as a starting point in the budget process. The budget request can be modified based on revenue or policy changes.

C. FY 2017-18 BUDGET CHALLENGES

The combination of required TABOR refunds, a shortfall in the current required 6.5 percent statutory reserve, required transfers to capital construction and transportation, and now a drop in the residential assessment rate will severely restrict legislative budget decisions.

Realistically, the state does have a few options to address the aforementioned shortfall:

- **Restrict Hospital Provider Fee**. In the 2016 session, in order to balance this year's budget, the state restricted the revenues the hospitals give the state through the Provider Fee – which has the effect of reducing or possibly eliminating the TABOR refunds. While the General Assembly has not approved a change in the TABOR status of the Hospital Provider Fee, the General Assembly did restrict the revenues from the hospitals as part of the budget package for FY 2016-17.
- **Refill Statutory Reserve**. The state's reserve is established at 6.5 percent of General Fund appropriations. The legislature could lower the reserve amount or refill the reserve by using some cash fund revenues.
- **Transfers to Capital Construction or Transportation**. These are contained in a statutory formula, and the legislature could modify the statute and reduce or eliminate the transfers.

The items above are just three examples of options available to the legislature. However, while these options look simple on a budgetary spreadsheet, the political reality can be more difficult.

The legislative Joint Budget Committee (JBC) has almost completed its briefing and hearing schedule, through which the Committee reviews each department's budget request and meets with each department's leadership. In January, the JBC will consider modifications to this year's budget; in February and March, the JBC will begin to make funding recommendations for FY 2017-18 for state agencies, culminating with the introduction of the Long Bill on Monday, March 27.

Impact of Gallagher Amendment

Ten years prior to TABOR, the voters approved the Gallagher Amendment, which requires an adjustment to the residential assessment rate to maintain a constant ratio between the statewide share of *residential* taxable value and *nonresidential* taxable value. Since the passage of Gallagher in 1982, the increasing value of residential real estate has periodically forced a decrease in the residential assessment rate to maintain the formula. Unchanged since 2003, Legislative Council economists predict that recent strong growth in residential real estate values will result in a **decrease in the residential assessment rate from 7.96 to 6.85 percent** in FY 2017-18.

To understand the Gallagher Amendment, and the impact of a decline in the residential assessment rate, we have listed the components of a homeowner's property tax liability (courtesy of Legislative Council):

Step 1: Determine Assessed Value:
Home Value x Residential Assessment Rate = Assessed Value

Step 2: Determine Local Property Tax Collections:
Assessed Value x Local Mill Levy = Local Property Tax

What does this mean for Colorado? A decrease in the residential assessment rate will decrease the amount of local property taxes that are collected to support K-12 education. This decrease is expected to be approximately $170 million in FY 2017-18 (the specific amount is not yet determined). In order to fully fund K-12, the state would have to backfill this shortfall.

Finally, Legislative Council anticipates a further decline in the residential assessment rate in 2019.

The Table – Dashboard Indicators of the State Budget

Much of the state's budget is caseload driven – to illustrate this, we have prepared a table of Colorado data over the last fifteen years. This is a dashboard of key indicators.

“The Table”: A Dashboard of Colorado Indicators Since 2000-01

	FY 00-01	FY 15-16	Change	% Change
Colorado Population	4,456,000	5,540,545	1,000,574	24.3%
Colorado General Fund (in millions)	$6,553	$9,968	$3,249	52.1%
K-12 Enrollment	724,508	898,545	164,498	24.1%
Higher Ed Resident Enrollment (FTE)	123,256	151,858	28,784	23.2%
Prison Population	16,833	19,619	3,790	16.6%
Medicaid Recipients	275,399	1,330,977	966,035	**383.3%**
Medicaid Share of State GF Budget	18.8%	26.3%	N/A	7.5%
CU-System General Fund (in millions)	$206.6	$184.6	($40)	-10.6%
CU-Boulder Resident Tuition	$2,514	$9,312	$6,534	270.4%
Local Share of School Finance Act	42.2%	36.2%	N/A	-6.0%

A number of figures jump out from the table above. Enrollment in Colorado’s Medicaid program has exploded over the last 15 years, with a 383 percent increase in that time. Largely as a result of increased state support for Medicaid, Colorado’s state support for public higher education has dramatically decreased. This in turn has led to tuition increases in higher education. Finally, we have included the share of school finance paid through local revenues (property tax and specific ownership tax.) This share has substantially declined by 6.0 percent over 15 years – and as K-12 is the largest portion of the state budget, any decline in the local share will significantly impact the state budget. Increasing State Medicaid enrollment combined with declining local funds for schools is not a sustainable budget model.

Longer Term Budget Issues

In addition to the annual budgetary changes, one can ask a series of policy questions regarding the state budget.

1. **Medicaid.** How much can the Medicaid caseload continue to grow? Medicaid continues to consume an ever-greater portion of the state budget.
2. **TABOR**. The state is again projected to reach its TABOR cap in FY 2017-18 – the revenue ceiling imposed by the Taxpayers Bill of Rights. The TABOR refunds projected by the state’s economists are shown in the table below (based on the December 2016 revenue estimates).

Estimated TABOR Refunds

	FY 2016-17	FY 2017-18	FY 2018-19
Legislative Council	$0	$256.5	$287.2
OSPB (Governor’s Office)	$0	$247.7	$247.9

Dollars in millions. These estimates are from the December 2016 revenue estimates.

As the TABOR refunds grow, the debate over the appropriateness of the refunds will intensify. To its supporters, TABOR represents a necessary "check" on the growth of government. Opponents argue that the state's infrastructure is falling apart and Colorado is the **only state** required to issue refunds.

3. **K-12 Negative Factor.** The K-12 budget continues to increase. However, the Negative Factor – the amount below our funding target required by the provisions of Amendment 23 - remains at approximately $830 million. The state has been "carrying" a K-12 Negative Factor since FY 2009-10, and it has hovered between $800 million and $1.0 billion most of that time. At this point, it is fair to ask whether the Negative Factor will ever be eliminated.
4. **Transportation.** The state's transportation infrastructure continues to deteriorate: outside of a proposal to borrow additional dollars without a dedicated method of repayment (TransBonds as used to finance TREX), there is no plan to address this deterioration in any significant way.

In part to address this future fiscal issue, the Governor recommended that the **Hospital Provider Fee** be designated as a TABOR enterprise. Under the Governor's proposal, the revenues provided by the hospitals to the state would not be counted as TABOR revenues. Similar to the institutions of higher education, the State Lottery, and the Division of Parks and Wildlife, the Hospital Provider Fee would be designated as an enterprise. Moving this "off budget" would create space under the state's TABOR limit and would eliminate the TABOR refunds for the next few years – allowing the state to retain those revenues for budgeting purposes.

IV. LEGISLATIVE ISSUE OVERVIEW

A. AGRICULTURE

Agriculture in the state has been struggling due to drought conditions and a decline in commodity prices since 2015. The stronger global economy has indicated slighting higher prices recently, but uncertainty in the global market could shift prices and export demands.

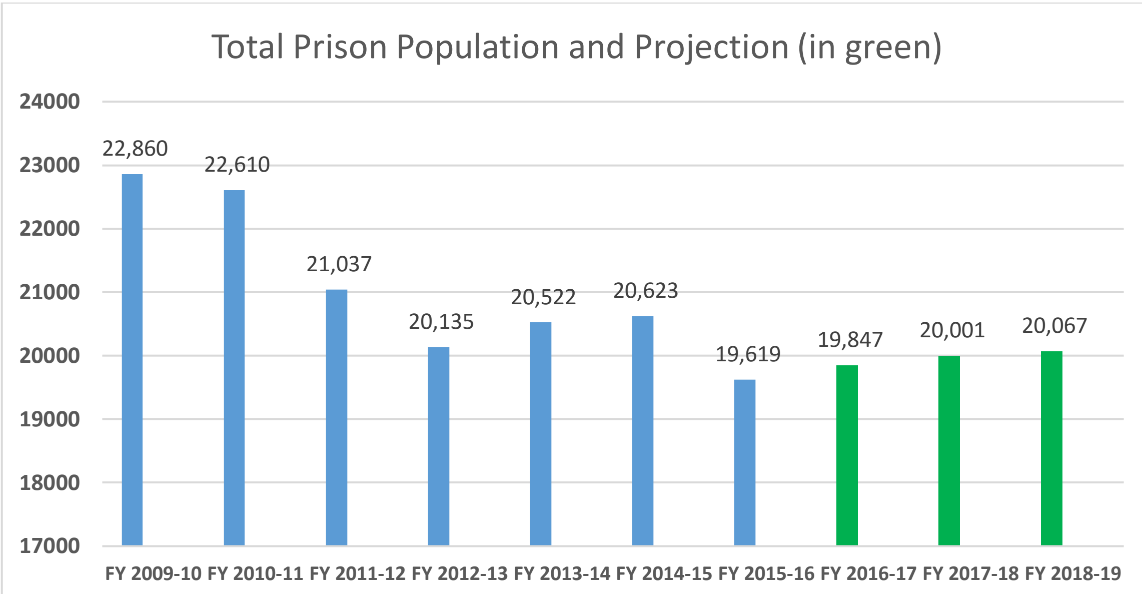
In 2016, the Colorado Department of Agriculture (CDA) introduced the first program in the country to develop an industrial hemp seed certification program as a way to bring industrial hemp into mainstream agriculture. The Department recently announced three industrial hemp seed varieties that are eligible to be grown as "certified seed". This will have a significant impact on the future of hemp production in the state. In partnership with Farm Flavor, CDA released the first edition of "**Cultivating Colorado**", a publication highlighting agriculture, agribusiness, livestock, and food products in Colorado.

CDA will have a legislative agenda this year to address issues with methods to test THC content in hemp, to impose a time restriction on re-registering for hemp farmers who do not follow program guidelines, to exclude marijuana producers from licensing and bonding regulations in the Farm Products Act, and to expand term limits for the Colorado Wine Industry Development Board.

As far as additional legislation affecting agriculture in the state, we may see a third attempt to assist Colorado ranchers, farmers, and agriculture producers in developing and increasing opportunities for market expansion and promotion through an agricultural innovation grant program. We also could see an attempt to create additional Livestock Brands to promote agriculture and heritage programs.

B. CORRECTIONS AND PUBLIC SAFETY

The state's prison population changes based on a number of factors: sentencing laws, overall population, population demographics, and the types of crimes committed. The table below shows total prison population for Colorado in recent years, and includes projections for the next few years based on **data** made available by the Legislative Council staff.



Source: Legislative Council, December 2016.

Changes in prison population and parole caseload are impacted by decisions of the State Legislature. The aggressive implementation of SB 15-124, requiring the Department of Corrections' Division of Adult Parole to exhaust intermediate sanctions before revoking parole status was chiefly responsible for the decline of 4.9 percent in prison population during FY 2015-16. From HB 15-1043, allowing district attorneys to pursue felony cases against defendants charged with driving under the influence with a minimum of three prior convictions, it is expected that prison populations will increase prison admissions during the forecast window. During the 2016 legislative session, the legislature passed eight bills which are expected to significantly impact prison population and parole caseload, including SB 16-102, which removes mandatory minimums for certain types of second degree offenses. Considering these factors in aggregate, the adult prison population is expected to increase by an average of 1.2 percent over FY 2016-17, and slow to 0.8 percent through FY 2017-18.

In the past year, the US Department of Justice issued a **report** on the value and role of private prisons and announced plans to phase them out entirely for federal prisons. This policy is not expected to impact Colorado, which presently has three privately run detention facilities, though none has an affiliation with the federal government. Still, the federal decision raises the question of the future of private prisons in Colorado. This question is also prompted by the July closure of the Kit Carson Correctional Facility, located in Burlington. Prior to its closing, this facility housed 580 inmates and employed 142 local jobs.

C. ECONOMIC DEVELOPMENT

Over the past few years, Colorado has seen robust economic growth albeit at a slower pace in the past year. The state has a lower unemployment rate than the national rate, and is almost at full employment.

The big legislative discussion this year will be whether or not to extend the Economic Development Commission - this nine-person commission is the decision maker for some of the state's most important incentives to attract and retain businesses. The Commission oversees such programs as the Strategic Fund, Job Growth Incentive Tax Credit, Rural Jump Start Zone program, film incentive and rebate program, Advanced Industry Accelerator grants, Regional Tourism Act, and Enterprise Zones. The commission will sunset in 2017, and the Governor's Office of Economic Development and International Trade (OEDIT) is asking for the Commission to be extended for five years at $5 million per year.

OEDIT has one other request - to fund a deputy director for the Outdoor Recreation Industry Office to focus on assisting rural communities drive economic development through recreational opportunities. In addition, we saw the departure of Fiona Arnold from OEDIT in November and Stephanie Copeland was appointed to hold the position.

D. EDUCATION

K-12 EDUCATION

This will be a busy year in education, with a focus on politics, policies, legislation, and funding.

Politics
For the first time in nearly 50 years, the Democrats have a majority on the State Board of Education. The Board is working on implementation of the federal Every Student Succeeds Act, how to address the state's lowest performing schools, and a review of the state's academic standards. The new majority-Democratic Board could have an impact on all of these areas. Finally, Katy Anthes has been appointed Commissioner. After the prior Commissioner stayed only a few months, this appointment should provide stability.

Policies
The state is in the process of implementing the federal Every Student Succeeds Act (ESSA). The State Board of Education and the Colorado Department of Education (CDE) are leading a stakeholder process to implement the new Act. Some of the ESSA policies are still being finalized at the federal level, and some legislators want more flexibility in testing requirements. However, it is likely that the State Board of Education may want to finalize the review of the state's academic standards and then consider modifications to the state's testing requirements.

Colorado created its current accountability system in 2009, and for the first time five districts and selected individual schools may be required to take action to boost student achievement. The accountability system rates schools and districts on test scores in English and math, as well as other factors such as graduation rates. Five districts – Westminster, Adams 14, Aguilar, Montezuma Cortez, and Julesburg – face the prospect of state sanctions because they have failed to improve student learning over the last six years. In addition, other individual schools could also face sanctions. The State

Board of Education can consider sanctions including closing a school, turning schools over to charter authorizers, or directing the district to reorganize.

Legislation

Late in the 2016 session, the charter school advocates brought two pieces of legislation to benefit charter schools – their stated intent was to "equalize" funding between charter schools and district schools. The bills also had additional provisions – requiring districts to notify charters of available properties, accounting changes, and audits of charter school networks. At the end of the 2016 session, some of these provisions had been included in the School Finance Act. But we can expect many of these issues will be raised again in 2017.

Teacher Shortages

Colorado – similar to most states – will experience a teacher shortage in the next few years. Numerous national studies have documented the large number of teachers who will retire in the next decade. In Colorado, the pipeline for new teachers indicates shortages as well. According to a **recent report** from the Department of Higher Education, enrollment in Colorado teacher preparation programs has *declined by 18 percent over the past five years*. This teacher shortage will be particularly exacerbated in certain academic fields (math, science, and special education), as well as teachers for rural areas. We will likely see legislation this year to provide additional incentives to teach in rural areas.

Funding

And, of course, the School Finance Act – both the allocation of funds between districts and the amount of funds to be allocated – will be a critical discussion. To many the 1994 School Finance Act is outdated; however, how to modify or update the Act is difficult without making "winners and losers" among the districts.

Schools are funded through two primary sources – the state General Fund and local property taxes. For the total program funding component, each district has a base mill levy. In addition, districts are allowed to go to their voters and receive mill levy overrides – which are completely outside of the formula. Each of these types of mill levies - base and override - is discussed below.

Base Mill Levy – and a Statewide Uniform Mill Levy

Colorado previously had a statewide mill levy – all districts had a mill levy of about 40 mills to support school finance in 1988. This created equity in local taxpayer effort, as all taxpayers were assessed the mills to support K-12 education. However, due to a combination of TABOR and Gallagher, our mill levies vary across the state. Generally, resort areas have low mill levies, but many of these still receive state equalization funding. Some low-income districts have lower mill levies, and some low-income areas have high mill levies. In short, there is no consistency across the state.

We encourage readers to review the JBC staff report on "**Statewide Mill Levies**" (see page 27). Due to a combination of TABOR and Gallagher, Colorado's once consistent statewide mill levy has been radically changed since 1992. One of the key conclusions of the report:

> *Wide variation in the mill levies results in unequal levels of local "effort" to support total program, with some taxpayers (in high property value districts) paying a much lower rate of property taxes. Because the state backfills revenue reductions resulting from the reduced mill*

levies, taxpayers in the rest of the state (that are also paying higher property tax rates) are subsidizing the reduced mill levies through state taxes. (JBC Staff Report, 12/7/2016, page 27)

The decline in local mill levies has decreased local financial support for education. More importantly, it has created inequities among the taxpayers in different districts. Some taxpayers are paying much more than others, in effect subsidizing districts across the state. According to the report, there are many districts serving lower income populations with higher mill levies than districts serving higher income populations. This is not so much a school finance question, but a tax equity question. Put simply: **why should the citizens of Westminster, Alamosa, Greeley and Pueblo (each of which has a 27 mill assessment for school finance) subsidize Aspen, Durango, and Telluride, each of which assesses less than 7 mills?** Please note – it is **not** the fault of the districts that these tax equity disparities have occurred. It due to the interaction of TABOR and Gallagher, and would require a statewide vote to correct this inequity.

Overrides

When the School Finance Act of 1994 was passed, the Act allowed districts to go to their voters for additional funds known as overrides. Currently, districts can receive override amounts up to 25 percent of their total program budget, though small, rural districts can collect up to 30 percent. Overrides for building needs and technology are exempt from this percentage cap.

In recent years, however, the disparity has grown between those districts receiving overrides and those that don't. Currently, according to CDE, 119 districts have mill levy overrides and 59 do not. Of the districts with overrides, 62 have overrides that exceed their negative factor amounts. The Liberty School District (Yuma County) collects the highest per student amount (approximately $4,231). Some districts have collected more in mill levy overrides than they lose through the Negative Factor. Many other districts – either for political or economic reasons – cannot or have not received voter approval for an override.

The scattered nature of the overrides, and the varying amount of the overrides, leads to the question of how the existing overrides comply with the "thorough and uniform" provision of education in the Colorado Constitution.

School Finance

Although the Governor's budget proposal increases overall funding for K-12 education by $218 million, it does not fully fund inflation and enrollment – therefore the Negative Factor is scheduled to increase by $45 million. The $218 million total program increase is also allocated on an uneven basis across the state. Denver Public Schools will receive an increase of $26 million, yet nine districts (Calhan, Plainview, Yuma, Prairie, Kiowa, Genoa-Hugo, Florence, Clear Creek and Byers) will lose money, according to CDE.

Questions on School Finance

Does the School Finance Act still work? The Colorado School Finance Act was established in the early 1990s – first implemented in 1994. The Act continues to use the same factors – size, cost of living (which is linked to a district's cost of living in 1994), and the number of at risk students. Since its enactment in 1994, many districts have gone to their voters for mill levy overrides that are outside of the Act. In 2015, Representatives Millie Hamner and Bob Rankin sponsored a bill to create a school finance task force. That bill was unsuccessful, though they are still working on school finance issues.

HIGHER EDUCATION

While there are some policy issues associated with the state's system of public higher education, the most important issue is state support – and the related issue of tuition policy. For the last few years, the Department of Higher Education and the Colorado Commission on Higher Education have submitted a budget request that emphasizes the relationship between state support for higher education and tuition rates. For example, the Department (with institutional input) estimates that the institutions need a $74 million increase for inflation, salary increases, utilities, etc. This cost increase can be addressed by a combination of state support or tuition increases – and the more state support, the less tuition has to be increased. The Governor's budget proposal requests an increase of $20 million for higher education and the remainder of the inflationary increase would be addressed through tuition increases.

Tuition Rates

Public institutions of higher education generally have access to two types of unrestricted funds – tuition and state support. In Colorado (as in many states), the level of state support varies based on economic conditions, though Colorado's state support has declined in both real and inflation adjusted levels over the past ten years.

Current Tuition Rates

The table below shows the current year (FY 2016-17) resident tuition rates for full time students.

Institution	**FY 2016-17 Resident Tuition and Fees**
Colorado School of Mines	$17,868
University of Colorado Boulder	$11,531
Colorado State University	$11,052
University of Colorado Denver	$10,741
Univ. of Colo. Colorado Springs	$9,860
Colorado State University Pueblo	$9,519
Adams State University	$9,153
University of Northern Colorado	$8,888
Western State Colorado University	$8,420
Colorado Mesa University	$8,395
Fort Lewis College	$8,105
Metro State University of Denver	$6,929

The issues of tuition and student debt have become national issues and raise a number of related policy questions: What is the role of the legislature versus the governing boards at setting tuition rates? Can the legislature establish a consistent policy that recognizes all the unique attributes of Colorado's state system of higher education – from rural community colleges, to rural four-year schools, to major research institutions? What is the relationship between tuition rates and student debt? Do tuition rates impact the types of students who participate in postsecondary education? Should any tuition caps be linked to percentage increases or dollar caps?

E. ENVIRONMENT AND ENERGY

Given the current political makeup, any substantive legislation on fracking or modifications to environmental policy is unlikely to be adopted. Still, both Senate caucuses have designated individual legislators to help coordinate policy in the areas of energy and the environment. Senator Ray Scott (R-Grand Junction) will chair the new Senate Select Committee on Energy and Environment; that Committee can hold hearings and monitor energy policy changes at the federal level.

The Senate Democrats announced that Senator Matt Jones (D-Louisville) will be the Deputy Minority Leader for Conservation, Clean Energy, and Climate Change. In this position, he will focus on addressing job creation and economic benefits of clean energy, work to find bipartisan solutions to energy issues, and recommend legislation that will combat climate change

This year, the legislature will be reviewing the mission and programs of the Colorado Energy Office, which is scheduled to sunset in 2017. The office was created under Governor Bill Ritter to improve efficient use and consumption of Colorado's energy. With a focus on energy policy this year, this issue will be heavily discussed this session.

F. HEALTH CARE AND HUMAN SERVICES

The State Department of Health Care Policy and Financing continues to implement the Accountable Care Collaborative (ACC) and is currently in the process of designing Phase II (known as ACC 2.0). The ACC is a program designed to boost health outcomes among Medicaid populations through developing a network of providers and ensuring clients receive coordinated care. One of its primary goals is to encourage follow up visits to primary care physicians and reduce ER usage for non-ER needs. The ACC has been credited with saving money on health care, though these cost savings are really cost avoidance in the overall Medicaid program.

Also, the Department of Health Care Policy and Financing has renamed Colorado's Medicaid program Health First Colorado.

In addition, we continue to hear from the Governor and Lt. Governor that health care costs are too high in Colorado, especially in the mountain areas. A bi-partisan cost commission has been reviewing ways to provide relief and to cut costs, and we expect this could become a priority for the Hickenlooper administration.

We have also seen questions arise over the proliferation of freestanding emergency centers opening in the state, which have gained popularity in Colorado as an alternative option to traditional hospital emergency rooms. We have seen attempts to place regulations on these centers, and we expect the same for this year.

Strategic Plan for Seniors

In 2015, in response to Colorado's changing demographics, the General Assembly established a strategic working group on aging through **HB 15-1033**. This working group was appointed by the Governor and has been working for over a year. The group is directed to develop a comprehensive strategic action plan on aging and issued its first **report** in late November.

Among the recommendations:

1. The State should create a permanent office or position to coordinate and oversee Colorado's work on aging issues.
2. The State should track all expenditures on aging – to help policy makers plan and prioritize programs at the state level.
3. The State should commit to protecting older Coloradans from elder abuse, fraud, neglect, and exploitation.

Senior and Disabled Veterans Property Tax Exemption
Since 2000, Colorado has offered qualifying seniors and disabled veterans a property tax exemption. In recent years, however, the number of people qualifying for this exemption has expanded significantly. This tax benefit doesn't account for any other type of income or wealth and is not available to the most needy seniors who don't own homes or have been forced to downsize because of economics. Towards the end of the 2016 session, the JBC held three discussions on possible reforms to the program. Most of the discussion at the time centered on making the program more focused on needy senior citizens and giving the state greater control on the amount of the tax exemption. We expect these discussions to continue in 2017, with possible legislation. The program is estimated to cost an additional $13 million General Fund in 2017-18, moving from $143 million to $156 million.

Legislative Council staff recently issued a **background history** of the Senior and Disabled Veterans Property Tax Exemption program.

Finally, there is a growing national consensus about the severity of the opioid crisis. On January 8, the *New York Times* reported that the opioid epidemic is the "worst drug crisis in American history", with 33,000 people overdosing in 2015. The day before, the *Wall Street Journal* headline announced that the "Opioid Related Fatalities Reach New Peaks", with no sign of receding. While Colorado is not as impacted as some other states, this is a national problem that will certainly impact policy discussions in Colorado in 2017 and beyond.

G. INSURANCE

For the past few sessions, we have seen legislation introduced (but not passed) to provide workers compensation coverage for post-traumatic stress disorder for peace officers. Opponents and proponents of the legislation have been engaged in discussions on a compromise piece of legislation. We will also see legislation from the Division of Workers Compensation to provide flexibility to the Colorado Department of Labor and Employment (CDLE) in how they administer fines for second time violators of workers compensation insurance requirements. This flexibility will allow CDLE to assess lower fines so employers can pay them rather than go out of business, and then the monies collected from the fines will go into a fund for uninsured workers.

Colorado continues to see auto insurance rates rise, and in response to this, insurance companies want to introduce a package of bills around tort reform and bad faith lawsuits. Split chambers could prevent any legislation from passing on this subject, but if auto rates continue to rise this could be an issue the legislature needs to consider in the future.

The Division of Insurance is set to sunset in 2017, and this will be a prime agenda bill for the Department of Regulatory Affairs (DORA). The Division may have two bills – one for the extension of the DOI, and the other with more substantial changes for market conduct and financial exams.

Over the summer, Pinnacol, labor entities, and business/employer groups engaged in a process to study the workers compensation system in Colorado. Reforming the workers compensation system in Colorado would be a substantial undertaking, and, in late summer, labor and business groups withdrew from discussions because they could not agree on the scope of the study.

A coalition of insurance companies will be pushing forward legislation to require rental car companies to prove a loss of use for a vehicle when damaged in an accident. We will see another attempt again from the Colorado Independent Automobile Dealers Association to create a 'total loss' brand by insurance companies.

H. LOCAL GOVERNMENT

In 2015, Colorado Counties Inc. (CCI) was successful in passing legislation to reform tax increment financing for Urban Renewal Authorities, and municipalities are still addressing the ramifications of this legislation. The Governor's working group on this issue is having conversations to sift through some complications (in particular the "applicability" clause); however, a compromise is unlikely to occur during this session. We will see an effort from the City of Firestone to bring legislation to exempt oil and gas from the taxing base. Also, CCI will move forward this session to reform Downtown Development Authorities by applying the same restrictions on DDA's as applied to Urban Renewal Authorities in 2015. This effort could certainly spark another battle between counties, municipalities, and special districts.

Construction defects will still be an issue for the 2017 legislative session, and stakeholders are actively working on policy solutions that will aid in the building of more attainable units while also protecting consumer safety. After the breakdown of negotiations late last session, many feel that 2017 may be the year we see a legislative fix at the state level.

We do expect to see legislation introduced to aid in the availability of affordable and attainable housing. The Department of Local Affairs (DOLA) has asked for a $2 million increase in state funding for affordable housing programs. We also anticipate legislation again to assess a $1 document recording fee for any document filed with a county clerk, with the proceeds going into an affordable housing fund for such things as rental assistance and homeownership grants.

The Colorado Municipal League (CML) is working with the Governors' Office to help implement HB 16-1309, which requires defense counsel for defendants in courts. They have requested $1 million to fund this initiative. CML is also working to allow municipalities to collect a fee to cover the cost of municipal record sealing. Finally, municipal judges are seeking a way to help fund restorative justice programs.

CML has worked on a standard definition for sales taxes for cities to adopt in 2019 for the purposes of streamlining state sales tax collection. This may or may not turn into legislation, but any legislation put forth will have to be mindful of home rule municipalities.

I. MARIJUANA

In December, Legislative Council released two issue briefs on marijuana in Colorado. One issue brief on **Marijuana Regulation** in Colorado outlines the current structure of state regulations for medical and recreational marijuana. The brief outlines that since the legalization of marijuana, Colorado now has 454 retail marijuana stores and 613 retail marijuana cultivation centers. The second issue brief, **Distribution of Marijuana Tax Revenue**, states that Colorado received over $115 million in FY 2015-16 and $100 million in FY 2016-17 from marijuana revenues. Most of the revenues go towards marijuana enforcement, prevention, and education, but additional monies go to the State Education Fund, school construction, youth mentoring services, and 4-H programs at the State Fair. This is an important point – many people inside and outside of Colorado assume that Colorado is "making millions" from the sale of legal marijuana – but in fact the vast majority of the revenues goes towards enforcement.

In November, the City of Denver was successful in passing a ballot initiative to create a pilot program for businesses to operate marijuana consumption areas. This issue may spark debate this session.

Additionally, the Governor's Office is introducing a signature piece of legislation aimed at closing a loophole in the marijuana market to limit the number of plants grown per household to 12, which the counties would be responsible to enforce.

Further, we will see legislation to create a license for marijuana research, as well as legislation to allow hemp in animal feed and human food.

J. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA)

Colorado's Public Employee Retirement Association (PERA) provides a defined benefit retirement program for state employees, teachers, and certain local governments and special districts. PERA employees are not covered by Social Security.

The contribution rates for each category (state, school, local government) may differ slightly, but in CY 2016 state employees contributed 8.0 percent of their salaries to PERA. Their employers contributed a base contribution of 10.15 percent. Two other employer contributions were authorized in recent years: the Amortization Equalization Disbursement (AED) and Supplemental Amortization Equalization Disbursement (SAED) are additional employer contributions of 4.6 and 4.5 percent, bringing the total employer contribution to 19.25 percent. The SAED is intended to be in lieu of salary increases.

Changes to the state's Public Employees Retirement Association are introduced each year; however, broad bipartisan support is necessary for any substantive bill to pass impacting PERA.

Status of PERA Funding
The State Division of PERA is now 62 percent funded, with an amortization period of 42 years. Much of its annual changes will be subject to the stock market and investment returns.

Questions about PERA

1. Even with PERA lowering the 30-year rate of return from 7.5 to 7.25 percent, is this realistic?

2. What if PERA continues to earn less than 7.25 percent rate of return in each of the next few years? At what point should the state make policy changes to PERA to recognize the "new normal"?
3. Does the PERA Board have the right expertise – and level of independence – to manage this large entity?
4. What is the role of the legislature in providing PERA oversight?

The last major bill impacting PERA was SB 10-001, which modified benefits, contribution rates, and retirement eligibility in what has been called the "shared sacrifice." Since that bill passed, the time required for full PERA amortization has been extended, due to the reduction in the assumed rate of return to 7.25 percent and less robust employment growth. PERA recently released a **report** on the reforms enacted by SB 10-001.

K. TRANSPORTATION

After the lack of action during the 2015 and 2016 sessions, transportation funding will be a key topic of the session. We will likely see the introduction of TRANs III to allow the state to borrow up to $3.5 billion for specific transportation projects through the issuance of bonds. The bill was proposed as a Transportation Legislative Review Committee bill in the 2016 interim, but was not approved by the Legislative Council Committee. Regardless of the particulars in TRANs III, the question remains: how will the state pay for these bonds? A bipartisan group of legislators have been looking at this question and are exploring various funding options.

The Colorado Department of Transportation will run two agenda bills. The first will make not wearing a seatbelt a primary offense to be stopped by law enforcement. And the second bill will increase the penalties for aggressive driving around snowplows.

V. LOOKING FORWARD TO 2017 AND 2018

The 2018 Governor's race will be the next area of political focus. For the first time in decades, Colorado will see open, contested primaries in both parties. Already, the Denver Post is **previewing** likely or possible candidates. Although there will be no US Senate race in Colorado in 2018, all other statewide races will be contested – Attorney General, Treasurer, and Secretary of State. Certainly, control of both legislative chambers will be highly contested in 2018. According to **Legislative Council**, six House members and eight Senate members will be term limited in 2018.

Ballot Measures

With the passage of the Raise the Bar ballot measure (Amendment 71), and its geographic signature requirements, Coloradans should see shorter ballots in the future. Realistically, only issues with broad-based support throughout the state can reach the ballot – we would put education and transportation in this category, but little else.

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Much of the data for this report is from Legislative Council, Joint Budget Committee staff, and various other offices of state government. Any errors or omissions are ours alone.