



SINE DIE: Historic Session Ends

Last minute policy moves good and bad for business

The 2021 legislative session is done. And none too soon.

In the final hours of the 2021 Legislative Session, a number of big moves and developments unfolded affecting Colorado businesses – and setting off unprecedented reach of regulatory processes and authority.

Veto-Threatened SB 200 Gets Repackaged into HB 1266 in the 24 Hours Before Session Ends; Industry Regulation Coming

Despite the veto threat by Governor Polis of SB 200 regarding the “Reduction of Greenhouse Gases Increase Environmental Justice” that set off a drama-filled internal Democrat Leadership and Governor squabble on whether and how the Governor is meeting previously “aspirational” climate change goals, the environmental community and progressive Democrat leadership prevailed in the battle with the inclusion of nearly every aspect of SB 200 into House Bill 21-1266 regarding “Environmental Justice Disproportionate Impacted Community. The Governor backed off his veto threat even though the major provisions of SB 200 are included and, for many industry sectors, the resulting amendment could be even worse than that in SB 200.

With transportation elements of SB 200 previously moving to the big transportation funding/spending measure, SB 260, the remaining elements of SB 200 in the HB1266 amendment included:

- Codifies the electric, industrial and manufacturing sectors aspects of the GHG Reduction Roadmap giving previously unsecured authority to extend significant regulatory control over the sectors. But the inclusion goes further to
 - Accelerates the target reductions for the industrial and manufacturing sectors substantially – including moving the baseline of 2005 emission rates to 2015 emission rates, excluding oil and gas, with the same reduction goal of 20% by 2030.
 - Additionally, accelerates the reduction targets for oil and gas to 36% by 2025 and 60% by 2030 – a substantial increase from the GHG Roadmap
- GHG emissions as a “regulated pollutant” for the first time, and included in APEN fees as determined by the AQCC’s rulemaking, at a 4,000 ton cap
- Requires all utilities, including rural cooperatives, to file a Clean Energy plan, and provide an annual update on the progress made – following the first two years, if progress is not being made the AQCC has the authority to rewrite the plan and enforce it accordingly
- New section establishes accounting standards for a trading program to allow for regulated sources to meet their compliance obligations through the purchase, acquisition, or exchange of a GHG credits. While this section does not require participation in a trading program, we do have concerns it would accelerate the ability to mandate this in the future.

Workplace Harassment

In better news, SB 176 the [Protecting Opportunities and Worker's Rights Act](#), that was actively opposed by the NCLA was defeated. One of the more positive outcomes of the 2021 Legislative Session. NCLA Board member and labor attorney David Zwisler contributed testimony at every step of the process as we worked closely with our statewide business partners in opposing the measure. What seemed an impossible feat at the beginning of the session given the sponsors and momentum, bill was killed in committee on Monday. Proponents promise to be back in 2022.

Health Care Public Option

The House accepted and passed Senate amendments on HB 1232, the [Health Care Public Option](#) before the close of the session. The final bill mandates that health care providers and hospitals will have until 2023 to reduce premiums by 15%, or the commissioner of insurance will create a standardized healthcare plan for the individual and small group market that insurance companies will be mandated to offer and doctors and hospitals mandated to accept.

Agricultural Worker's Rights

The ag industry came out in full force opposed to SB 87, the Agricultural Worker's Rights, when it emerged as one of the early introduced bills of the session. The NCLA stood with and supported the industry, one of the region's critical and legacy industry sectors. After a very long session and negotiations throughout, SB 87 was amended to the sufficient satisfaction of the agricultural industry. The Ag community, knowing the threat legal action awaited them without the bill's passage, maneuvered the bill through committee and a house floor filibuster. The bill heads to the Governor.

Income, Insurance Premium, Property, Sales and Severance Taxes

HB 1312 [Insurance Premium Property Sales Severance Tax](#) and HB 1311- [Income Tax](#) saw several amendments on the Senate side this week. HB 1312 amendments included increasing the type of plans that qualify for exemptions, enhancements to tangible personal property definitions, and direct cost clarifications for depreciation. HB 1311 amendments made improvements to the CollegenInvest language and incorporating risk-based reporting requirements. Also modifying caps for senior's income tax calculations and made appropriations to the Department of Revenue to implement this legislation.

General Assembly Defines Structure to Spend Federal Stimulus

The structures and goals have been created to allocate the \$3.8 billion of the American Jobs Plan with Senate Bills [291](#), [289](#), and [288](#). These bipartisan measures have minimal amendments and moved quickly through the process this week. Doing so ensures there will be no need for lawmakers to return for a special session.

[The American Jobs Plan](#) and the [American Rescue Plan](#) allow for the replenishment of the Unemployment Insurance Trust fund. NCLA will continue to encourage the legislators to make this a priority when the spending takes place. By backfilling the Unemployment Insurance Trust Fund, it would benefit business by minimizing the imposition of the UI Premium Tax Surcharge. Because of the rampant unemployment fraud, the burden should not be placed on the back of businesses trying to recover from the pandemic.

Transportation

The Senate concurred with the House amendments to SB 260 - "[Sustainability of the Transportation System](#)" this week. Another round of thanks to NCLA members Carl Maxey and Johnny Olson (Move Colorado) for their time testifying in the House Finance Committee. The Colorado and Grand Junction chambers joined the NCLA Amend position with hopes to affect the environmental aspects of the bill that intends to slow down road building. Unfortunately, with Speaker Garnett's unreceptive to additional grandfather language, we could not expand other northern Colorado roadways exemptions to the additional environmental requirements.

Priority Legislation

In our last Board meeting before the end of the session, the NCLA Board took “Monitor” positions on the following Federal Stimulus Funding bills:

- [HB21-1330](#). Higher Education Student Success
- [HB21-1329](#). American Rescue Plan Act Money to Invest Affordable Housing
- [SB21-291](#). Economic Recovery and Relief Cash Fund
- [SB21-289](#) Revenue Loss Restoration Cash Fund
- [SB21-288](#). American Rescue Plan Act of 2021 Cash Fund

[HB21-1327](#). State And Local Tax Parity Act for Businesses – Support
Loveland Senator Rob Woodward's bill to allow a pass-through business entity (S-Corp, Partnerships) to elect to pay state income taxes at the entity level.

[SB21-282](#). Continue Small Business Destination Sourcing Exception – Support
Another Senator Woodward bipartisan tax-related measure. Sourcing rule for state sales and use tax collection allowing small retailers to source their sales to the business' location regardless of where the purchaser receives the tangible personal property.

NCLA Tracking Report

On a bi-weekly basis, the NCLA Board reviews and considers its position on pending legislation. See the [NCLA 2021 Legislative Tracking Report](#) list the measures thus far introduced that the NCLA is monitoring and upon which the NCLA will or has taken a position.