

LEGISLATIVE LETTER[®]
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LL#8:81

THE NEW BUDGET

The **Long Appropriations Bill, SB 234 (Sen. Lambert; Rep. Hamner) (watch)** is the budget for 2015-16. The General Fund portion (GF), which is the revenues and expenditures over which the Legislature has authority, is \$10.9 billion, an increase of 6.9% over 2014-15.

Much has been written in the local news about the state's "\$25 billion dollar budget." It is critical to remember that almost \$15 billion of that is made up of funds managed by the state, but not coming from taxes paid in Colorado. These include Federal Funds for Medicaid, K-12 education, Public Health and Environment, Military and Veterans Affairs, and Transportation. They also include more than \$2 billion in tuition and fee payments by students attending state supported colleges and universities.

The monies from taxes collected in Colorado are subject to a spending limit, per Article X, section 20 (7) (d) of the state constitution. The amount that can be spent increases annually by the rate of inflation plus the rate of population growth. Some relief from the limit was granted by voters in 2005 (Referendum C). During Ref. C's "time out," revenues fell due to the severe recession. In 2014-2015, for the first time since the passage of Referendum C, General Fund revenues exceed the "growth plus inflation" limit, and there will be a refund, currently estimated to be \$69.7 million. For 2015-2016, that refund is estimated to be \$116.8 million.

Ironically, having this "excess cash" puts the budget makers and the General Assembly in the position of actively deciding to uphold one part of the state Constitution by violating another part. Amendment 23 required an increase in funding of education every year. During the economic downturns of the past 15 years, that was not always possible. Since a refund has been budgeted, rather than putting the money toward the "negative factor" in the School Finance Act, one could argue that making the refunds of excess revenue upholds Article X, section 20, by violating Amendment 23.

An important factor in the refund has to do with the Severance Tax. This tax is collected on the severing of minerals from the state, and is to be spent mostly to mitigate the negative impacts of the drilling and mining, to

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allow affected communities to build infrastructure for the increased population, and to allow the state to build an economic base that lasts longer than its minerals. However, Severance Tax (along with several other “cash funds”) is subject to the revenue and spending limits described above. In the 2014-15 year, it grew by 27.5%, or \$73 million. A bill to use \$20 million of the Severance taxes (out of \$373 million) as part of the refund has passed both houses (SB 255), with bipartisan support and strong bipartisan opposition, and is on its way to the Governor. This has garnered much objection, especially because severance tax receipts are projected to fall to about \$127 million in the 2015-16 budget year, while the impacts on communities will continue.

In a particularly cruel twist, the marijuana taxes approved overwhelmingly by voters in 2013 must be refunded 100%. According to Article X, section 20 (3)(c) of the state constitution, when tax revenues exceed the estimates of tax revenues that appeared in the Blue Book for the election, OR when total state spending exceeds the spending that was estimated to have occurred without the additional tax, the tax must be refunded. This applies only to the first year of those taxes. A measure can be proposed, and voters can approve, retaining the additional tax. Total state spending in 2014-15 (the General Fund plus some cash funds) exceeds the estimate in the 2013 Blue Book for the Marijuana tax proposal – ergo a refund of the entire \$58 million is triggered. This is money earmarked by Amendment 64 to support schools, and also to enforce the laws implementing legal recreational marijuana. Coming soon ... a ballot measure to retain the \$58 million?

These refunds must be paid from the same year’s revenues (2014-15), but are refunded as part of income tax payments or refunds for calendar year 2015 taxes. Under current statute, they will come through Earned Income Tax Credit (EITC), sales and income tax refunds. SB 1 (LL#1, p. 13), supported by League, proposes to refund through EITC and sales tax refunds because doing so relieves a regressive tax and is not subject to Federal Income Tax. We would prefer to see the dollars subject to refund used differently: to NOT raid the severance tax; to further reduce the K-12 negative factor; to increase support to higher education; and to protect children and provide services for those with behavioral health issues.

Otherwise, the budget for 2015-16 is ... about as “fair and balanced” as one might hope, all things considered. Total General Funds for education increased by more than \$200 million, to \$3.7 billion – or 34% of the entire General Fund! GF support to higher education will increase by more than 12% – welcome relief after years of cuts followed by small increases as other programs were rebuilt.

The budget for the Department of Human services includes substantial increases in funds for early intervention services for at-risk families and children. This comes at a time when criticism of protection of children is causing a fight over the autonomy of the Child Protection Ombudsman (see SB 204, page 87). Human services budget also includes over \$5.5 million for behavioral health services. Services for seniors include new spending of over \$3 million on a program to help seniors stay in their homes – usually a healthier and less expensive solution than nursing homes. Offices where undocumented immigrants can have interviews for driver’s licenses (per a bill passed in 2013) will increase to three from the single one operating since January.

The budget for 2015-16 includes \$19.8 million for bills coming through the legislative process. It is not enough to fund all of the bills that require money, but it is enough to fund high priorities, including some that the League supports.

The Joint Budget Committee (three Representatives and three Senators) work year-round to juggle current year’s spending and build the coming year’s budget. They do so with the support of an amazing staff of experts who exemplify public service. We commend their work and their attention to the budget as a moral document, even while dealing with the real world of politics.

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GOVERNMENT

GUN SAFETY

ELECTIONS

OVERSEAS VOTING IMPROVED

HB 1130 Overseas Citizens Municipal Election Voting Access (Reps. Nordberg and Ryden; Sens. Garcia and Hill) (support) This bill brought the deadlines for sending ballots to overseas voters for municipal elections in line with deadlines for federal, state and county elections. It sailed through House State Affairs and the House Committee of the Whole. Likewise it went through the Senate State Affairs unamended and on to the floor. At Third Reading in the Senate it was re-referred to Senate State Affairs, amended, and sent back to the Full Senate. During Second Reading, amendments were passed that specified the permissible methods of transmission and return of the ballots. On April 17th, the bill passed Third Reading in the Senate on a 34 – 0 vote with Scott excused. It now returns to the House for concurrence.

Previously reported: LL#2, p. 13; LL#5, p. 49; LL#6, p. 60.

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FISCAL POLICY

EVALUATION OF TAX EXPENDITURES MOVES ON

HB 1205 Creation Of Tax Expenditure Evaluation Committee (Rep. K. Becker and Saine; Sens. Hill & Johnston) (support) This bill creates a Tax Expenditure Evaluation Committee to review state tax expenditures and make recommendations to repeal, continue or modify reviewed expenditures in the following legislative session. Tax expenditures include tax credits, deductions, and exemptions that result in reduced tax revenue. After passing out of the House unanimously (with Sias excused), the Senate Business, Labor, and Technology committee referred the bill without amendment to the Legislative Council for prioritization. The vote in that committee was 5-4. (Voting Yes: Aguilar, Heath, Jahn, T. Neville, and Newell. Voting No: Baumgardner, Woods, Holbert, and Balmer.)

Previously reported: LL#5 p. 49; LL#6, p. 60; LL#7, p. 71.

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BAD DAY FOR GUN BILLS; GOOD DAY FOR GUN SAFETY

Six gun bills League opposed were heard on Monday, April 13 in the House Committee on State, Veterans, and Military Affairs. Testimony ran into the night until 12:55 A.M. the next day. Opponents of all bills included League of Women Voters, Colorado Faith Communities United to End Gun Violence, Hunters Against Gun Violence, Moms Demand Action, Everytown (formed after Sandy Hook School Shooting), Colorado Ceasefire, Ceasefire Youth, Colorado Coalition Against Domestic Violence, relatives of victims of the Aurora Theater Shooting and Sandy Hook, students from East High, and a number of concerned individuals. Bill supporters were represented by Rocky Mountain Gun Owners, NRA, Colorado Firearms Coalition, Colorado States Shooting Association, and individual gun owners. Opponents of all bills outnumbered supporters.

Committee member Representative Humphrey stated that owning a gun is a “God given right.” Rocky Mountain Gun Owners encouraged people to use their Facebook page to contact their legislators by offering a raffle of a \$2100 rifle.

SB 32 Lift Restrictions on Carrying of Firearms (Sen. Marble; Rep. Ransom) (oppose) SB 32 would have eliminated the requirement for a concealed carry permit (CCW) for a person to carry a handgun concealed. No permit and no training classes needed, just a simple background check. Motion to PI passed 7-4. Voting Yes to PI: Ryden, Salazar, Foote, Thurlow, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, and Willett.

Previously reported: LL#1, p. 8, LL#3, p. 27, LL#4, p. 39, LL#7, p. 71.

HB 1152 Concealed Carry No Permit (Reps. Nordberg & Van Winkle; Sen. Holbert & Sen. Cooke) (oppose) Identical, word for word, to the above. Motion to PI passed 7-4. Voting Yes to PI: Ryden, Salazar, Foote, Thurlow, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, Willett

Previously reported: LL#7, p. 71.

SB 175 Ammunition Magazines (Sens. Holbert & Cooke; Rep. Humphrey) (oppose) SB 175, passed by the Senate, was heard again at House State, Veterans, and Military Affairs. The major argument in favor of repealing the ban is that the law is unenforceable.

Incidents of mass shooters being stopped when changing magazines were listed. Motion to PI was passed 6-5. Voting Yes: Ryden, Salazar, Foote, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, Thurlow, and Willett.

This was not quite the end of SB 175, however. The committee report from the State Affairs Committee showing that SB 175 had been PI'd was included in the House Journal of April 14. When the time came to move adoption of the Journal (a standard part of the process), Rep. Ransom moved to amend the Journal to show that SB 175 had passed. The Speaker declared the motion out of order, and Rep. Everett moved to appeal the ruling of the Speaker. **That** motion needed a recorded vote. The purpose of the recorded vote was not really to overrule the Speaker, but to get recorded votes against the motion and thus against the repeal of the magazine limit from members who may have favored a gradual means of eliminating the magazine limit, rather than an outright repeal. The motion was defeated on a vote of 26 Yes, 39 No, and the postponement of SB 175 should now, indeed, be indefinite.

Previously reported: LL#6, p. 61; LL#7, p. 71.

SB 86 Repeal Gun Transfer Background Check Requirement and Fee (Sen. Lambert; Rep. Joshi) (oppose) would have repealed background checks on private transfer of firearms and the fee for background checks. CBI Director Ron Sloan presented statistics demonstrating overwhelming evidence that law abiding citizens are following the current law passed in 2013. In the first eighteen months under the new law, two-thirds of CBI background checks for private sales were conducted at sites other than gun shows. The total of all background checks in this period blocked 298 sales to criminals and other prohibited persons. Sloan stated it takes about 7 minutes for a background check and the fee has been reduced to \$7. Bill supporters stated they didn't trust CBI statistics. SB 86 was PI'd 7-4. Voting Yes to PI: Ryden, Salazar, Foote, Thurlow, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, and Willett.

Previously reported: LL#2, p. 13; LL#3, p. 27; LL#7, p. 74.

HB 1168 Concealed Handgun Carry In Public Schools (Rep. P. Neville; Sen. T. Neville) (oppose) would have allowed anyone with a CCW permit to carry hidden weapons on public school grounds or in K-12 school buildings. Supporters focused on the availability of having an armed person with a CCW permit to contain another armed person who is doing a mass shooting. Opponents provided a list of CCW

permit holders who became mass shooters. Three East High students from Colorado Ceasefire Youth testified they would not feel safe if teachers had guns or if someone could legally enter school with a gun. The students reported the results of their survey of 330 of students. 79% said they would not feel safe at school if CCW permittees could bring hidden guns to school. One student, an African American male, emphasized the high rate of young African American males who die from shootings. Parents, grandparents, retired teachers, school volunteers testified. Rep. Willett stated he was uncomfortable with the bill but still voted for it. Bill was PI'd by 7-4 vote. Voting Yes: Ryden, Salazar, Foote, Thurlow, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, and Willett.

Previously reported: LL#4, p. 38; LL#7, p. 71.

HB 1138 No Background Check Concealed Handgun Permittees (Rep. Ransom; Sen. Cooke) (oppose) would exempt anyone who currently holds a Colorado issued CCW permit from having a background check currently required for all gun purchase and transfers. Bill would also apply to Federal Background checks and specifies gun shows. Supporters claimed that the CCW permit requires such a thorough check another background check shouldn't be necessary for later purchases. Representative Salazar noted that there is no way of knowing if a CCW carrier has committed a crime because a Colorado law passed in early 2000 prohibited CBI from keeping a database of CCW carriers. Because there is no record, no one knows if the purchaser who has a CCW permit became a criminal in the 5 year period a permit is valid. Opponents gave numerous examples of CCW carriers who committed serious crimes. The bill was PI'd 6-5. Voting Yes to PI: Ryden, Salazar, Foote, Lontine, Primavera, Tyler. Voting No: Humphrey, P. Neville, Tate, Thurlow, and Willett.

Previously reported: LL#7, p. 71.

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JUSTICE SYSTEM

FELONY DUI BILL PASSES HOUSE

HB 1043 Felony Offense for Repeat DUI Offenders (Reps. Saine & McCann; Sens. Cooke & Johnston) (support) on April 15 passed Third Reading in the House 64-1, Everett voting No.

Under current law, a DUI (along with DUI per se and DWAI) is a misdemeanor offense. The bill makes a DUI a class 4 felony if the violation occurred after 3 or more prior convictions, a vehicular homicide/ assault, or combination thereof.

On April 10, the House Appropriations Committee had referred the bill amended to the House on a 12-1 vote. (Everett voting No.) Appropriations amended the amounts funding the bill which now stand at \$1,272,133 for the 2015-16 fiscal year. The bill also contains estimates of incarceration costs through 2020, which grow to \$9.3 million per year. This is in compliance with a statute passed in 1991, forbidding the legislature from increasing sentences without appropriating funds to pay for the increase in inmates and requiring the legislature to appropriate sufficient funds for the first five years the new sentences are in effect.

On April 17 the bill was introduced in the Senate and assigned to Judiciary and Appropriations.

Previously reported: LL#3, p. 28; LL#7, p. 72.

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EXPAND PROFILING BAN

HB 1288 Update to Profiling Prohibition (Rep. Williams; Sen. Carroll) (support) has undergone amendments in committee and on the floor, but without changing its principal purpose. The bill adds to the list of characteristics that peace officers are not to use in deciding who to investigate or in determining the duration of an investigation. It also extends the ban on profiling to pedestrian stops as well as traffic stops.

Under the bill, if evidence is obtained in violation of the ban on profiling, it shall not be admitted in court. One amendment added a mandatory training session for any law enforcement agency that has evidence dismissed for this reason.

Law enforcement witnesses were particularly concerned about a clause that said officers should not seek consent for a search unless they had reasonable and articulable suspicion. They felt that being able to ask people for consent to search their person or belongings was too

valuable a tool for them to give up, especially in cases where someone might be carrying a concealed weapon. A committee amendment removed the clause.

HB 1288 has passed the House on Third Reading by a vote of 36-28 and has been introduced in the Senate, assigned to the Judiciary committee.

Rep. Williams has also requested an interim committee to study methods for collecting and analyzing data on profiling. That will be addressed by Legislative Council.

Previously reported: LL#7, p. 72.

Julie Leonard 720.384.8421

House Vote

	YES	36	NO	28	EXCUSED	1	ABSENT	0
Arndt	Y		Fields	Y	Lundeen	N	Ryden	Y
Becker J.	N		Foote	Y	McCann	Y	Saine	N
Becker K.	Y		Garnett	Y	McLton	Y	Salazar	Y
Brown	Y		Ginal	E	Mitsch Bush	Y	Sias	N
Buck	N		Hammer	Y	Moreno	Y	Singer	Y
Buckner	Y		Humphrey	N	Navarro	N	Tate	N
Carver	N		Joshi	N	Neville P.	N	Thurlow	N
Conti	N		Kagan	Y	Nordberg	N	Tyler	Y
Coram	N		Keyser	N	Pabon	Y	Van Winkle	N
Court	Y		Klingenschmitt	N	Pettersen	Y	Vigil	Y
Danielson	Y		Kraft-Tharp	Y	Primavera	Y	Willet	N
DelGrosso	N		Landgraf	N	Priola	N	Williams	Y
Dore	N		Lawrence	N	Rankin	N	Wilson	N
Duran	Y		Lebsock	Y	Ransom	N	Windholz	Y
Esgar	Y		Lee	Y	Rosenthal	Y	Winter	Y
Everett	N		Lontine	Y	Roupe	Y	Young	Y
							Speaker	Y

PROTECT RECORDING OF POLICE

HB 1290 Stop Police Interference Cop Incident Recordings (Reps. Salazar & Esgar; Sen. Guzman) (Support) This bill would prohibit police seizing or destroying an auditory or video recording of an incident without receiving consent or obtaining a warrant, or from other interference or retaliation against the person making the recording. The person who recorded the incident is entitled to actual damages, a civil penalty of up to \$15,000, and attorney's fees and costs. This bill is supported by the LWVUS position on individual rights and the Fourth Amendment to the US Constitution. House Judiciary Committee took testimony on March 31, and, after a long discussion, passed the bill to the House floor on April 14. Several of the committee members from both parties stated that they might vote differently on the floor and were anticipating more changes from the sponsor. Rep. Salazar said that this was the first bill of its kind in the nation; so getting the wording just right was difficult. Voting Yes were Reps. Buckner, Court, Foote, Pettersen, Salazar, and Kagan. Voting No were Carver, Dore, Lawrence, Lundeen, Van Winkle, and Willet.

Previously reported: LL#7, p. 72.

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NATURAL RESOURCES

ENERGY

NEW WAYS TO SET RATES?

NEW **HB 1250 Explore Performance-based Utility Regulation (Rep. Tyler; Sen. Jones) (support in part)** proposes a proactive approach to the regulation of, and business model of, a regulated utility as technology develops that will reduce the “last mile natural monopoly” and make renewable energy increasingly feasible and cost competitive. This bill addresses only investor owned utilities (IOUs) regulated by the Public Utilities Commission. The bill directs the Public Utilities Commission (PUC) to study and recommend alternatives for improved utility business and revenue models to address long-term economic stability; efficiency of generation, delivery and consumption; environmental factors including water consumption and carbon emissions; and customer satisfaction. The report would include an evaluation of the extent to which the IOUs would achieve the specified outcomes, identify statutory or rule changes required to achieve the outcomes, and estimate the time and budgetary requirements to implement a new performance-based regulatory structure.

The report from the PUC to the General Assembly and the Governor’s Office would be due by October 1, 2016.

The LWV “support in part” position reflects our concern with at least one objective of the study: to “explore and recommend options for customer earnings sharing.” This is beyond the scope of determining long term stability of the utility. The proposal for studying “customer earnings sharing” implies a desire to investigate how current owners (shareholders) might be required to give up some of their ownership rights. This could amount to a “taking” and is not appropriate to this study of how an electric utility and its regulator might adapt to new technology that changes the nature of the business.

Note: Regulatory taking is a situation in which a government regulation limits the uses of private property to such a degree that the regulation effectively deprives the property owners of economically reasonable use or value of their property to such an extent that it deprives them of utility or value of that property, even though the regulation does not formally divest them of title to it.

The bill passed the House Transportation & Energy Committee on March 25 on a 7-6 vote. (Voting Yes:

Esgar, Kraft-Tharp, Melton, Moreno, Winter, Mitsch Bush, Tyler. Voting No: J Becker, Buck, Carver, Coram, P. Neville, and Nordberg.)

On April 15, it passed House Finance on a 6-5 vote. (Voting Yes: K. Becker, Garnett, Kagan, Ryden, Foote, Court. Voting No: Conti, Priola, Roupe, Van Winkle, Wilson).

The next step will be a hearing before the House Appropriations Committee.

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SOCIAL POLICY

BEHAVIORAL HEALTH

BEHAVIORAL HEALTH BILLS ADVANCE (MOSTLY)

HB 1087 Alcohol And Substance Abuse Medical Detox Centers (Rep. Vigil; Sens. Steadman & Jahn) (support) sought to create the Alcohol and Substance Abuse Medical Detox Centers Pilot Program in the Department of Human Services (DHS). The purpose of the pilot program was to provide limited medical services currently unavailable through standard social detox programs to individuals addicted to alcohol or other substances. House Public Health Care & Human Services Committee approved it by a vote of 8-5 on March 10 and sent it to Appropriations (Voting Yes: Conti, Danielson, Ginal, Melton, Moreno, Tyler, Singer, and Primavera. Voting No: Everett, Joshi, Landgraf, Sias, and Windholz). However, Appropriations Committee was not able to stretch limited funds, and PI’d the bill unanimously on April 17.

Previously reported: LL#7, p. 78.

HB 1269 Transfer Persons To And From Correctional Facility (Rep. McCann & Ginal; Sen. Grantham) (watch) This bill clarifies procedures concerning the transfer of inmates between the Department of Corrections (DOC) and the Department of Human Services (DHS) and applies to people who are in custody of DOC and need to be safely transferred for treatment in a mental health facility. League believes that this bill will provide more appropriate treatment for inmates at DOC and prevent transfers of patients who have not been sentenced to DOC for a crime.

The bill passed the House Health, Insurance, and Environment Committee unanimously and the full

House on March 31 unanimously with Rep. Priola excused. It passed the full Senate on 3rd reading on April 14 by a vote of 34-0, with Holbert excused.

The bill will now be sent to the Governor.

Previously reported: LL#7, p. 76.

SB 15 Mental Health Parity for Autism Spectrum Disorders (Sen. Kefalas; Rep. Primavera) (support)

This bill classifies autism as a mental illness and improves services available for its treatment. The Governor signed the bill into law April 16.

Previously reported: LL#7, p. 76.

SB 214 Interim Committee Safe Schools Youth Mental Health (Sens. Scheffel and Cadman; Reps. Duran and Hullinghorst) (watch)

The bill creates the school safety and youth mental health committee to study issues relating to school safety and the prevention of threats to the safety of students, teachers, administrators, employees, and volunteers.

On March 13, Judiciary approved the bill unanimously, as did Senate Appropriations, on April 17. It now awaits Second Reading in the Senate.

Previously reported: LL#7, p. 76.

All reported by Linda Rinehart 720.989.8944

CHILDREN'S ISSUES

OMBUDSMAN BILL AMENDED IN SENATE

SB 204 Autonomy of Child Protection Ombudsman (Sens. Newell and Lundberg; Rep. Singer) (support) was significantly amended on 2nd and 3rd Reading in the Senate and then passed 3rd Reading on April 8 by a vote of 33 to 2. Sens. Crowder and Jones voted No, although Sen. Crowder is still listed as a co-sponsor, which usually indicates a commitment to vote for the bill.

As amended, the bill moves the Ombudsman's Office into the legislative branch and puts it in the Office of the State Auditor. The auditor would hire and fire the Ombudsman, provide fiscal oversight of the budget of the office, assist as needed with training, and ensure that the Ombudsman and the office operate in compliance with state and federal laws. The auditor would also assist with the memorandum of understanding between the Ombudsman and the state Department of Human Services and the county departments. The bill also requires the ombudsman to submit an annual report to the General Assembly as well as to the governor.

Before the bill was heard on 3rd Reading, Governor Hickenlooper indicated that he did not support moving the office to the legislative branch, but that he would support leaving it in the Colorado Department of Human Services (CDHS) as a "Type 1" transfer agency. An amendment to do that was offered by Sen. Crowder and supported by Sen. Jones, but it was defeated. The sponsors and supporters of the bill did not believe that that would provide adequate independence for the office. Given the definition of a Type 1 transfer agency, League tends to agree with the sponsors. The Type 1 transfer appears to leave many management and budgeting functions under the department director (possibly including hiring) which could be used to interfere with the independence of the Ombudsman.

In an interview with John Ferrugia on April 10 on Channel 7 News, the Governor agreed that the Ombudsman's Office should be independent but opposed moving it to the state auditor's office in the legislative branch. He still wanted to keep it in the executive branch. He supported moving the Ombudsman's Office to the Colorado State Department of Public Health and Environment as a Type 1 agency and allowing the office to request funding directly from the Joint Budget Committee.

There now appears to be agreement that the Office of the Child Protection Ombudsman should be placed outside of the CDHS. However, where the Office should be located is still an area of disagreement. Conversation continues, and other options are being explored. LWVCO believes that wherever the Office is placed, it should be completely independent of the entities that it investigates and as free as possible from political pressure. Leaving it in the executive branch could leave it vulnerable to political pressure depending on whether or not the administration supports having an ombudsman. The advantage of the Auditor's office is that it is recognized as being independent even though it is in the legislative branch.

SB 204 was a late bill, and time is running out for the legislative session. If a compromise is not reached and the bill fails to pass, we may well not have a Child Protection Ombudsman. The organization that has the contract, which is up for renewal, has stated that it will not reapply for the contract if the change is not made. It doesn't believe it can do its job effectively if the Office remains within CDHS. There is concern that there may not be another agency willing to apply if the Office remains in CDHS. No one responded to the first Request for Proposal (RFP), and only one or two applicants responded to the second RFP. The loss of the Office would result in the loss of needed oversight of our

child welfare system and a crucial voice for improving services for our vulnerable children and families.

Previously reported: LL#5, p. 52; LL#6, p. 63.

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EDUCATION

IT IS NOT ENOUGH!

NEW The school finance act is usually a tome. Last year, in fact, there were two: the school finance act and then the “school success” act that essentially defined how additional funds were to be used. This year, the act for financing public schools is 2½ pages long. **SB 267 School Finance (Sen. Hill; Rep. Hamner) (watch)** passed out of Senate Education on April 16 with a unanimous though reluctant vote (for the many committee members concerned about the continuing limited resources). It passed out of Senate Appropriations unanimously the following day.

The bill adds slightly over \$300 million in program funding over the 2014-15 school year, raising the per pupil funding base to \$6,292. It adds \$25 million from the State Education Fund as a reduction to the negative factor. The State Education Fund was established by Amendment 23 to support a variety of educational improvements, such as more teachers to enable smaller classes, expanding pre-school and kindergarten access, and accountability reporting. It is added to each year by a fraction of a fraction of income tax receipts. It was intended to be a “trust fund” and to have interest used before principle (effectively allowing for an education rainy day fund). It was not to be used as a substitute for General Fund dollars to increase per pupil spending according to the various categories of need described in amendment 23. During the economic downturns since it was passed, the Fund has been used as a rainy day fund.

Added to last year’s approximately \$96 million reduction of the “negative factor,” the \$25 million is a permanent reduction because SB 267 states that negative factor cannot exceed the FY 2015-16 level. This means that in future years, the State Education Fund will be tapped for an additional \$25 million (in addition the 2014-15 \$96 million) for program support. This is doable in good economic times. The amount is purposefully modest because of the threat to the “rainy day” role of the Fund in the event of poor economic times.

While it is a good thing that funding is increasing, few believe that the state is fulfilling its requirement to

adequately fund our schools. Given the strength of the Colorado economy, the increase in funding is a minimal effort. The often mentioned one billion dollar debt (well, now about \$890 million) we owe our students is a YEARLY underfunding of the Constitutional requirement voted on by citizens of Colorado in Amendment 23. This has been accumulating since the “negative factor” was devised in 2009 to get around the inability to fund schools in accordance with Amendment 23 requirements because revenues fell so much during the recession.

Three people testified on the bill during the Senate Education hearing, another record for brevity. The first was Pamela Swanson, Westminster District 50 superintendent of schools. She represented most of the 178 school superintendents in Colorado. Their request is that more funding be found to help restore the cuts that have been made over the last 5-10 years when resources dwindled, and that funding be targeted with 25% going to at-risk populations, 75% to everyone else. Jane Urschel, representing Colorado Association of School Boards, simply stated that the funding is not enough. A parent from Ft. Collins expressed concern with local TIF (Tax Increment Finance) agreements with companies that have reduced property tax revenues and thus impacted school funding.

The education committee rejected two amendments from Sen. Johnston. One would have restored the \$200 drawdown of the negative factor proposed by the Governor, diverted \$20 million to rural districts as requested earlier by the superintendents and would have also honored their request for a 75/25% split with the remaining \$180,000. The problem here is that the amount would have become a permanent withdrawal, potentially endangering the State Education Fund balance. The second lost amendment would have simply honored the current superintendent request of a 75/25% split. Both lost on 5-4 votes: (No: Hill, Marble, Holbert, Neville, Woods; Yes: Johnston, Kerr, Merrifield, Todd).

In Senate Appropriations, Sen. Steadman offered an amendment that the Joint Budget Committee had intended to work into the school finance act, but missed the opportunity due to the rapid movement of the bill from Education to Appropriations. The amendment would eliminate the state aid provision (this year \$600,000) that would go to the eight districts that do not receive state funding for schools because their property tax values are exceptionally high (resort districts for the most part), student populations low, and revenues meet the per pupil funding standard without help from the state. These districts are not affected by the negative factor; thus the Joint Budget Committee felt that it equitable to eliminate the minimal aid. The amendment

failed on a vote of 3 to 4: Yes: Heath, Hodge, Steadman;
No: Sonnenberg, Grantham, Lambert, and Woods.

SB 267 now moves to a vote in the full Senate.

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A TESTING BILL MOVES FORWARD

SB 257 Assessments and Flexibility Pilot Program (Sens. Hill and Merrifield; Reps. Becker J. and Singer) (watch) will be heard for Second Reading in the Senate on Tuesday, April 21. The bill reduces testing and provides additional flexibility for districts. It establishes a pilot program for districts to establish local tests, provides a paper and pencil option, and extends district waivers on teacher evaluation. Senate Education Committee amended the original bill to address testing for students with Individual Education Plans (IEPs), students desiring to take writing portions of standard tests, and funding for the development of local assessments and sent it to Senate Appropriations by a vote of 8-1. Voting Yes to send to Appropriations: Holbert, Kerr, Merrifield, T. Neville, Todd, Woods, Marble, and Hill. Voting No: Johnston.

One Education Committee amendment called for an \$18 million transfer from the State Education Fund to CDE (Colorado Department of Education) to fund district testing pilot programs. The amendment passed without objection. The transfer of funds was reversed, however, in the Appropriations Committee April 17 on a 4-3 vote: For Removal: Heath, Hodge, Steadman, and Woods; Against: Grantham, Lambert, Sonnenberg. Senator Merrifield noted that rural districts, in particular, objected to this funding. Appropriations sent the bill on to the floor by a vote of 6-1. Voting Yes: Heath, Hodge, Sonnenberg, Steadman, Woods, and Lambert. Voting No: Grantham.

Previously reported: LL#7, p. 77.

Sally Augden 303.455.5800

WILL THREAT OF LAWSUITS HELP PROTECT OUR KIDS?

After listening to testimony in Senate Judiciary on **SB 213 Waive Gov Immunity for Acts of School Violence (Sens. Cadman & Scheffel; Reps. Hullinghorst & Duran) (oppose)**, it is clear that the concerns of school districts, school boards, and teachers mirror our own. Children should be safe in schools, and we should use information from tragedies to improve safety. To hold

schools and teachers, in particular, to a higher standard of “duty to protect” than police officers, as stated by Mark Hillman of the Colorado Civil Justice League, is unreasonable. It is for these reasons that the League has changed its watch position to oppose.

This is a tough vote for lawmakers who always want to appear sensitive to tragedy. However, the costs to school districts would, as more than one hearing witness mentioned, come directly out of the classroom. No funding source is offered to provide the counselors, psychologists, social workers, and smaller class sizes that might make identification of dangerous students easier. In addition, concerns were raised about the potential mountain of suspensions and expulsions in schools terrified of allowing “possible” offenders to remain in school. A teacher who was on staff at Columbine worried that teachers might be less likely to make an effort to get to know students for fear of knowing too much.

One of four amendments, all of which passed without objection, retracted the section of the bill that made the law retroactive to January 1, 2013. The bill passed out of committee on a vote of 4-1. Senator Merrifield was the one No vote. After being laid over daily twice in the Senate, the bill is scheduled for Second Reading Monday, April 20.

Previously reported: LL#6, p. 64.

Sally Augden 303.455.5800

TWO MORE EDUCATION BILLS DROPPED

Two education bills were PI'd at the request of their sponsor, Senator Merrifield. **SB 3 Ed Evaluations 50 Percent Academic Growth (Sen. Merrifield; none) (support)** would have eliminated the requirement in SB 191 that required that 50% of a teacher's evaluation be based on student growth scores. In his PI request, he reviewed research that shows the ineffectiveness of VAMs (Value Added Measures) in evaluating teacher instruction and basically restated the reasons the League opposed 191 originally (reiterated in LL#2, p. 18) as his reasons to continue working to eliminate this mandate. **SB 73 Restrict Statewide Tests to Federal Requirements (Sen. Merrifield; none) (watch)** was just one of many bills addressing testing this session. Other bills with similar focus have moved forward. Both bills were PI'd unanimously.

SB 73 previously reported: LL#3, p. 24.

Sally Augden 303.455.5800

INCOME ASSISTANCE

MORE FUNDING FOR IN-HOME CARE

HB 1100 Sales Tax Revenue to Older Coloradans Cash Fund (Reps. Lebsock and Roupe; Sens. Crowder and Ulibarri) (support) Currently, \$10 million/year is distributed through the Area Agencies on Aging to provide support services to seniors that enable them to stay in their own homes. Among other advantages, this reduces Medicaid spending for nursing home care. Under the amended bill, annual funding will increase to \$14 million for each of the next three years.

The Appropriations committee added an appropriations clause and sent the bill to the full House, where it passed Third Reading on a vote of 49-16. It has been assigned to the Senate Finance and Appropriations Committees.

Previously reported: LL#1, p. 20; LL#4, p. 44.

Julie Leonard 720.384.8421

House Vote

	YES	49	NO	16	EXCUSED	0	ABSENT	0
Arndt	Y		Fields	Y	Lundeen	N	Ryden	Y
Becker J.	Y		Foote	Y	McCann	Y	Saine	N
Becker K.	Y		Garnett	Y	Melton	Y	Salazar	Y
Brown	Y		Ginal	Y	Mitsch Bush	Y	Sias	N
Buck	N		Hammer	Y	Moreno	Y	Singer	Y
Buckner	Y		Humphrey	N	Navarro	N	Tate	N
Carver	N		Joshi	Y	Neville P.	N	Thurlow	Y
Conti	Y		Kagan	Y	Nordberg	N	Tyler	Y
Coram	Y		Keyser	Y	Pabon	Y	Van Winkle	N
Court	Y		Klingenschmitt	N	Pettersen	Y	Vigil	Y
Danielson	Y		Kraft-Tharp	Y	Primavera	Y	Willett	Y
DelGrosso	Y		Landgraf	N	Priola	Y	Williams	Y
Dore	N		Lawrence	N	Rankin	Y	Wilson	Y
Duran	Y		Lebsock	Y	Ransom	N	Windholz	Y
Esgar	Y		Lee	Y	Rosenthal	Y	Winter	Y
Everett	N		Lontine	Y	Roupe	Y	Young	Y
							Speaker	Y

PLANNING GROUP ON AGING ADVANCES

HB 1033 Strategic Planning Group on Aging (Rep. Primavera; Sen. Crowder) (support) is designed to analyze data about the economic, workforce and social effects of Colorado's rapidly growing population of people over 65 and make recommendations about how public and private entities can best meet the challenges and opportunities it brings.

The Appropriations Committee added an appropriations clause and sent the bill to the House floor, where it has passed Third Reading on a vote of 44-21. It has been assigned to the Senate State Affairs Committee.

Previously reported: LL#1, p. 9; LL#4, p. 44.

Julie Leonard 720.384.8421

House Vote

	YES	44	NO	21	EXCUSED	0	ABSENT	0
Arndt	Y		Fields	Y	Lundeen	N	Ryden	Y
Becker J.	Y		Foote	Y	McCann	Y	Saine	N
Becker K.	Y		Garnett	Y	Melton	Y	Salazar	Y
Brown	Y		Ginal	Y	Mitsch Bush	Y	Sias	N
Buck	N		Hammer	Y	Moreno	Y	Singer	Y
Buckner	Y		Humphrey	N	Navarro	N	Tate	N
Carver	N		Joshi	N	Neville P.	N	Thurlow	N
Conti	Y		Kagan	Y	Nordberg	N	Tyler	Y
Coram	Y		Keyser	N	Pabon	Y	Van Winkle	N
Court	Y		Klingenschmitt	N	Pettersen	Y	Vigil	Y
Danielson	Y		Kraft-Tharp	Y	Primavera	Y	Willett	Y
DelGrosso	N		Landgraf	N	Priola	N	Williams	Y
Dore	Y		Lawrence	N	Rankin	Y	Wilson	Y
Duran	Y		Lebsock	Y	Ransom	N	Windholz	Y
Esgar	Y		Lee	Y	Rosenthal	Y	Winter	Y
Everett	N		Lontine	Y	Roupe	Y	Young	Y
							Speaker	Y

STATUS SHEET

The Status Sheet is a constantly updated list of bills being followed by Legislative Action Committee members.

New bills are in **boldface**.

S=Support O=Oppose SIP=Support in Part OIP=Oppose in Part W=Watch PI'd=Postponed Indefinitely

POLICY AREA	S/H	BILL #	BILL TITLE	S/O	PAGE	STATUS
Administration	SB	88	Independent Ethics Commission	W	12,25	PI'd
Behavioral Health	SB	15	Mental Health Parity For Autism Spectrum Disorders	S	76,87	Signed
Behavioral Health	SB	214	Interim Committee Safe Schools Youth Mental Health	W	76,87	S-2nd Rdg
Behavioral Health	HB	1032	Licensed Mental Health Professionals Treat Minors	S	8,31,51,63,75	Signed
Behavioral Health	HB	1067	Continuing Professional Development Psychologists	FYI	76	Signed
Behavioral Health	HB	1087	Alcohol And Substance Abuse Medical Detox Centers	S	75,86	PI'd
Behavioral Health	HB	1269	Transfer Persons To And From Correctional Facility	W	75,86	To Gov
Children's Issues	SB	87	Foster Care & Kin Care Placement Background Checks	S	31,41,52,64	H-2nd Rdg
Children's Issues	SB	131	Fostering Success Collaborative for Foster Youth	S	41	PI'd
Children's Issues	SB	204	Autonomy Of Child Protection Ombudsman	S	52,63,87	H-PHCHS

Children's Issues	SB	242	Child Welfare Staff Funding Allocation	S	76	To Gov
Children's Issues	HB	1248	Child Welfare Check Potential Foster Parents	S	63	S-HHS
Education	SB	3	Ed Evaluations Fifty Percent Academic Growth	S	18,89	PI'd
Education	SB	33	Increasing Funding For Public Pre-K-12 Education	W	24	PI'd
Education	SB	45	Tax Credits For Nonpublic Education	O	8,32,41,77	H-Ed
Education	SB	56	Frequency Of Statewide Social Studies Testing	W	23	S-App
Education	SB	73	Restrict Statewide Tests To Federal Requirements	W	23,89	PI'd
Education	SB	213	Waive Gov Immunity For Acts Of School Violence	W	64,89	S-2nd Rdg
Education	SB	215	Changes To Assessments In Public Schools	W	65	S-Ed
Education	SB	267	School Finance	W	88	S-2nd Rdg
Education	HB	257	Ed Stds & Assessments & Flexibility Pilot Program	W	77,89	S-2nd Rdg
Education	HB	1020	Funding For Full-day Kindergarten	W	17,24,77	PI'd
Education	HB	1024	Increasing Number Of CO Preschool Program Students	S	17,24,77	PI'd
Education	HB	1123	Fed Test Reqmnts Option For Local Ed Providers	W	23	H-Ed
Education	HB	1170	Increasing Postsecondary And Workforce Readiness	S	23,52	H-3rd Rdg
Elections	SB	60	Preventing Multiple Voter Registrations	W	12,26	To Gov
Elections	SB	61	Disclosure Requirement Small Issue Committees	W	25,49,60	PI'd
Elections	HB	1057	The Statewide Initiative Process	S	7	H-SA
Elections	HB	1084	Collection Of Mail Ballots	O	13,26	PI'd
Elections	HB	1130	Overseas Citizens Municipal Election Voting Access	S	13,49,60,83	H-Concur
Elections	HB	1193	Rights Of Watchers In Elections	O	26,59	PI'd
Energy	SB	44	Electric Renewable Energy Standard Reduction	O	30,50	PI'd
Energy	SB	46	Renewable Energy Std Adjust REAs Distributed Gen	S	30,50,74	To Gov
Energy	HB	1118	Hydroelectric Power	O	30,51	PI'd
Energy	HB	1250	Explore Performance-based Utility Regulation	SIP	86	H-App
Equal Opportunity	SB	69	Repeal Job Protection Civil Rights Enforcement Act	O	18,42	PI'd
Equal Opportunity	HB	1133	Continue Colorado Pay Equity Commission	S	32,66	PI'd
Equal Opportunity	HB	1161	Public Accommodation First Amendment Rights	O	42,65	PI'd
Equal Opportunity	HB	1171	State Freedom of Conscience Protection Act	O	42,65	PI'd
Equal Opportunity	HB	1172	Repeal Punitive Damages Employment Discrimination	O	42	PI'd
Equal Opportunity	HB	1264	Homeless Persons' Bill Of Rights	S	53	H-SA
Fiscal Policy	SB	1	Excess Revenues Refund Mechanism	S	13,82	S-Fin
Fiscal Policy	SB	234	Long Appropriations Bill	W	81	To Gov
Fiscal Policy	HB	1205	Creation Of Tax Expenditure Evaluation Committee	S	49,60,71,83	LC
Gun Safety	SB	32	Lift Restrictions On Carrying Of Firearms	O	8,27,39,71,83	PI'd
Gun Safety	SB	86	Repeal Gun Transfer Background Check Rqmnt & Fee	O	13,27,71,84	PI'd
Gun Safety	SB	175	Ammunition Magazines	O	61,71,83	PI'd
Gun Safety	HB	1009	Repeal Large Ammo Magazine Ban	O	7,38	PI'd
Gun Safety	HB	1049	Deadly Force Against Intruders In Businesses	O	7,27	PI'd
Gun Safety	HB	1050	Repeal Gun Transfer Background Check Rqmnt & Fee	O	7,27	PI'd
Gun Safety	HB	1086	CBI Produce Certificates For Gun Transferees	O	13,27	PI'd
Gun Safety	HB	1127	No Liability For Permitting Concealed Carry	O	14,27	PI'd
Gun Safety	HB	1138	No Background Check Concealed Handgun Permittees	O	71,84	PI'd
Gun Safety	HB	1152	Concealed Handgun Carry No Permit	O	71,83	PI'd
Gun Safety	HB	1168	Concealed Handgun Carry In Public Schools	O	38,71,84	PI'd
Health Care	SB	19	Health Exchange Audit	S	9,19,59	Signed
Health Care	SB	57	Clean Claims Task Force Reporting Requirements	S	34,57	Signed
Health Care	SB	74	Transparency in Direct Pay Health Care Prices	W	54,59	PI'd
Health Care	SB	123	Patient Choose Pharmacy To Fill Prescriptions	W	33,43	Lost
Health Care	HB	1015	Interstate Compact EMS Providers	S	33,58	S-2nd Rdg
Health Care	HB	1029	Health Care Delivery Via Telemedicine Statewide	S	9,19,43,53,57	Signed
Health Care	HB	1039	Prescription Give-back For Institutions	S	33,57	Signed
Health Care	HB	1066	Repeal Health Benefit Exchange	O	34	PI'd

Health Care	HB	1151	Floor for Medicaid Provider Rates	S	54,58	Pl'd
Health Care	HB	1163	Contingent Repeal Hlth Ins Laws Aligning with ACA	O	43	Pl'd
Health Care	HB	1194	Authorize General Fund Dollars For LARC Services	S	43	H-3rd Rdg
Health Care	HB	1233	Respite Care Study Task Force	S	43,58	H-3rd Rdg
Health Care	HB	1238	Tax Credit Preceptors Health Prof Shortage Areas	S	58	H-App
Health Care	HB	1242	Patient Caregiver Designation Hospital Requirement	S	54,58	H-Concur
Health Care	HB	1258	FAMLI Insurance Program Wage Replacement	S	58	H-Fin
Higher Education	HB	1027	In-state Tuition American Indian Tribes Ties to CO	S	19,34	H-App
Income Assistance	SB	12	Colorado Works Pass-through Child Support Payment	S	20,44	H-PHCHS
Income Assistance	HB	1033	Strategic Planning Group On Aging	S	9,44,90	S-SA
Income Assistance	HB	1100	Sales Tax Revenue To Older Coloradans Cash Fund	S	20,44,58,90	S-Fin
Justice System	SB	30	Prostitution Defense For Human Trafficking Victim	S	14,38,61	Signed
Justice System	SB	37	Youthful Offenders in Corrections	OIP	15,28	Pl'd
Justice System	SB	182	DOC Transfer Offenders To Youthful Offender System	W	39,50,73	To Gov
Justice System	HB	1019	Victims Of Human Trafficking And Prostitution	S	14,37,73	S-Jud
Justice System	HB	1043	Felony Offense For Repeat DUI Offenders	S	28,72,85	S-Jud
Justice System	HB	1174	Information Protections Domestic Violence Victims	S	39	Signed
Justice System	HB	1287	Police Officer Training Improvements	FYI	72	S-Jud
Justice System	HB	1288	Updates To Profiling Prohibition	S	72,85	S-Jud
Justice System	HB	1289	Criminal Charges Based On Unlawful Order	S	73	Pl'd
Justice System	HB	1290	Stop Police Interference Cop Incident Recordings	S	72,85	H-2nd Rdg
Justice System	HB	1292	Resentence Juveniles Life Sentence No Parole	S	61,74	Pl'd
Juvenile Justice	SB	184	No Detention For Failure To Attend School	S	40	H-Ed
Juvenile Justice	HB	1022	Juvenile Petty Offense Contracts	S	8,28,50	Signed
Juvenile Justice	HB	1025	Competency to Proceed for Juveniles	S	15,28	Pl'd
Juvenile Justice	HB	1091	Policies On Juvenile Shackling In Court	S	15,39,50,74	Pl'd
Reproductive Freedom	HB	1041	Protect Human Life At Conception	O	21,47,54	Pl'd
Reproductive Freedom	HB	1112	Born-alive Infant Protection Act	O	21,48,54	Pl'd
Reproductive Freedom	HB	1128	Women's Health Protection Act	O	21,44,48	Pl'd
Reproductive Freedom	HB	1162	Prenatal Sex Nondiscrimination Act	O	47,66	Pl'd
Voting Rights	HB	1011	Restrict Revealing How Person Votes	W	16	Pl'd
Voting Rights	HB	1140	Same Day Voter Registration With Photo ID	O	29,40	Pl'd
Voting Rights	HB	1169	Photo ID For Same Day Voter Registration	O	29,40	Pl'd
Water	SB	8	Promote Water Conservation In Land Use Planning	S	16,40,62,74	To Gov
Water	HB	1006	Invasive Phreatophyte Grant Program	W	25	Signed
Water	HB	1038	Flexible Water Markets	S	17,30,41,51	Pl'd
Water	HB	1093	Exceptions Efficient Plumbing Fixture Requirements	O	17,30	Pl'd
Water	HB	1210	GA Review Envntl Rules Required In Lieu Fed Law	O	31	Pl'd
Water	HB	1259	Residential Precipitation Collection Rain Barrels	S	62,75	S-Ag

The Legislative Letter is written by the members of the Legislative Action Committee, edited by Frank Bennett and Chris Watson, and published by the Colorado League of Women Voters every two weeks during the Legislative Session. To subscribe, please contact the League Office at info@lwvcolorado.org or 303-863-0437 for information about rates and delivery. Each issue of the Legislative Letter is distributed to every member of the Legislature.