

# **2010**

## **LEGISLATIVE WRAP-UP**

### **Legislative Action Committee League of Women Voters of Colorado**

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## INTRODUCTION: STAFF LOBBYIST WRAP-UP

Christine Watson

### STAFF LOBBYIST WRAP UP

The Second Regular Session of the Sixty-Seventh General Assembly did something not seen for a few years: didn't end early. A slew of late bills, some very contentious, caused the legislature to use the full 120 days, less a couple of hours.

The Legislative Action Committee followed more than 110 bills this year, supporting about 80% and opposing about 20%. More than half of those we opposed were defeated. Only about 20% of those we supported were defeated.

Many of the bills we supported were aimed at the same thing: balancing the budget. They are the unpopular items you have read about – reducing business tax exemptions and credits. Several others enhanced efficiency in health care and health insurance areas. We were in the thick of some of the most controversial issues – like education. Thankfully, we were on the sidelines of other issues, like the Medical Marijuana regulations.

Where did League make a difference this year?

- Children's welfare, especially in creating an office of ombudsman for children in the care of child welfare agencies
- Easing, just a bit, the laws about charging juveniles as adults
- Revising and retaining some direction on redistricting, if that goes to the courts next year
- Bolstering campaign finance disclosure in the wake of the Supreme Court's decision in Citizens United
- Writing voter registration legislation ... that was ultimately delayed for a year
- Protecting volunteer lobbyists
- Modifications to the teacher and principle "effectiveness" bill, **SB 191**
- Slowing down some changes in education policy that were getting ahead of themselves
- Eliminating preferential tax refunds if and when TABOR refunds return
- As part of a large coalition, establishing a Pay Equity Commission.

Redistricting was on everyone's mind this year, as this was the session before the election that chooses the elected representatives who will redraw Congressional Districts. (Redrawing the statehouse districts is done by a non-partisan commission.) Redistricting will happen during a special session in the summer of 2011. If the courts become involved again, they will have some mild guidelines to direct their efforts. **HB 1408** (opposed initially) repealed language adopted in 2004 limiting the courts to "neutral" criteria. As originally proposed, the bill simply repealed all such language, leaving courts to rely on Voting Rights and Civil Rights Acts, and on precedent in choosing new district maps – IF the courts become involved. The language that passed, with substantial assistance from League, does not satisfy us, but is better than nothing. It directs that the courts MAY use criteria such as compactness, maintenance of political subdivisions, and maintenance of communities of interest in drawing new district lines. Although these track

closely with League positions, and with the criteria used by the Reapportionment Commission, the direction that they court “may” use these is not as strong as we would like to see.

Good government efforts had some mixed results. **HB 1119** puts into action some best practices in strategic management in government by requiring state agencies to establish robust strategic plans and to have legislative committees of reference review those plans with the departments annually. Besides simply being a good idea, this helps legislative committees of reference (which have oversight of the state departments and agencies) to give input into the budgeting process, without expanding the size of the Joint Budget Committee.

Another efficiency move was to remove some tax refund mechanisms that haven’t been used for about eight years. When TABOR refunds first became possible, there was much debate about how to do them. Several interest groups, from power industry to children’s advocates, succeeded in getting a small share of the refunds, if there were enough money. Even in TABOR refund years, there has never been enough money to fund more than about two of them. If TABOR refunds return in 2013-2014 (as forecast in the fiscal note for **SB 212**), it will have been more than 10 years since anyone received a TABOR refund, and, again, most of these never did. Time to eliminate them. **SB 212** eliminated all but the most broadly based and the Earned Income Tax Credit.

On the other hand, a late bill to require businesses to report on the gains to the state (like more jobs) resulting from tax credits and exemptions met defeat in the House, even though the bill was sponsored by the Majority Leader. Not to worry: the Governor has issued an Executive Order addressing the same purpose (D 2010-009).

A new senator, well known to League, thought volunteer lobbyists should be subject to the same registration and disclosure requirements as paid lobbyists. League worked with a wide variety of groups, including the Colorado Firearms Coalition, to defeat those proposals.

Out of 18 concurrent resolutions (proposals to change the constitution), only one received the necessary 2/3’s majority in each chamber to be placed on the ballot. It concerns the seat of government in case of emergencies. Some of the proposals that did not make it are addressed relevant sections of the wrap-ups that follow.

The reports that follow provide excellent insight in to how the devil is in the details of proposed legislation.

## **GOVERNMENT**

### **CAMPAIGN FINANCE**

**Shirley Frances-Frazer**

The Supreme Court’s decision in *Citizens United vs. Federal Election Committee* set in motion many changes to campaign finance laws in many states, including Colorado. At the request of the Governor, the Colorado Supreme Court reviewed Colorado’s constitutional provisions and

statutes regarding campaign finance and found the limitations on contributions to be in conflict with the US Supreme Court’s decision. **SB 203**, brought at the request of Secretary of State Bernie Buescher, clarifies in statute the rights and limits of political expression by Corporations and Labor Organizations in Colorado for independent expenditures to political campaigns.

This bill answers the question: “Who is financing this campaign?” in the following ways:

- Reaffirms right to require disclosure of contributions and expenditures that seek to influence the election of candidates for public office;
- Allows Domestic Labor Organizations and Corporations to contribute to Candidates via publicly disclosed Contributions
- Prohibits donations from Foreign Corporation and certain Limited Liability Corporations to political campaigns
- Extends to all contributors, as well as recipients, the obligation to disclose contributions of at least \$1000.

We supported this bill, based on our position that the methods of financing political campaigns should ensure the public’s right to know. Further the LWVUS *amicus* brief filed in Citizens states:

The idea that government can act to prevent improper corporate influence in elections is thus woven into the very fabric of our constitutional system and has been reflected in more than a century of campaign finance regulation..... Prevention of improper corporate influence in the electoral process—like the extension of the franchise, anti-discrimination mandates, and the bedrock equality principle of one-person, one-vote—is a pillar of our modern democracy.

## **FISCAL POLICY**

**Phyllis Horney**

**Chris Watson**

The Fiscal Policy area had 25 bills to monitor, plus the Long Bill. The Governor presented twelve bills to help balance the budget by eliminating Sales Tax Exemptions or credits. This is a good idea, and there are many more exemptions that could be cancelled or reduced. The bills the Governor presented are as follows:

### **GOVERNOR’S BILLS** supported by LWV

**HB 1189** Eliminate Sales Tax Exemption for Direct Mail (app. \$0.8 million)

**HB 1190** Suspend Industrial Fuel Sales & Use Tax Exemptions (app. \$38 million)

**HB 1191** Eliminate Candy & Soda Sales Tax Exemption (app. \$18 million)

**HB 1192** Sales & Use Tax on Standardized Software (app. \$24 million)

**HB 1193** Sales Tax Out-of-State Retailers (app. \$4 million)

**HB 1194** Eliminate Nonessential Articles from Sales & Use Tax Exemption (app. \$2 million)

**HB 1195** Suspend Ag Sales & Use Tax Exemption (app. \$4.6 million)

**HB 1196** Eliminated Certain Cars qualified for tax credit (app. \$2.7 million)

**HB 1197** Reduce Conservation Easement Cap (between \$18-37 million)

**HB 1198** Suspend Credit Alternative Minimum Tax (bill was P'd)  
**HB 1199** Net Operation Loss Deduction Temporary Limit (between \$8-16 million)  
**HB 1200** Enterprise Zone Investment Tax Credit Deferral (between \$11-24 million)

**VEHICLE REGISTRATION:** Six additional bills concerned Vehicle Registration and were opposed by LWV. Two (noted below) eventually passed. The impact may be to relieve some hardship from late registration penalties. However, anecdotal observation is that the late fees are motivating people to register on time.

**HB 1211** Reduce Late Vehicle Registration Penalty specifically provides for a \$10 fee for late registration of a non-motorized vehicle.

**HB 1212** Registration Rules for Late Vehicle Registration allows the Department of Revenue to write rules outlining circumstances when late registration fees might be reduced or waived.

**RAINY DAY FUND:** The legislature still looks for ways to create a rainy day fund without taking money from existing programs. All proposals this year failed.

**HCR 1003** Severance Tax Revenue for Rainy Day Fund

**HB 1072** Create Budget Stabilization Reserve fund (Rainy Day Fund)

**HB 1177** Create Colorado Economic Stability Fund

**“DO SOMETHING ABOUT THE GORDIAN KNOT” PROPOSALS:**

**SJR 02** A request for the Fiscal Study; the study is being conducted by the University of Denver. It is the first in 50 years. A report is due to the General Assembly in January.

**SCR 01** Request for a Fiscal Policy Constitutional Commission to deal with needed Constitutional Corrections. Colorado’s constitution does not provide a clear way to completely revise the constitution. One of the additions, single subject, makes it hard to deal with interlocking problems. This proposal would have asked the voters to allow a commission that proposed changes, require the General Assembly to approve the proposals, and then send them to the voters. For proposals coming from the Commission, single subject rule would be suspended. It did not get the required 2/3’s majority to move from Senate to House.

Fiscal Policy also reviewed **SCR 002** and **HCR 1002** (both the same) Enact Additional Education Funding without a vote of the public. These identical measures would have asked voters to approve allowing the General Assembly to raise taxes for funds specifically to supplement P-Higher Ed spending. These resolutions failed to pass. And as always, Fiscal Policy reviewed the State Budget. The budget was very hard to balance this year. For the first time, there were cuts in education, and higher ed is still in trouble. Seniors lost their property tax exemption for a couple of years, but the Legislators found some funds to repair the Capital Dome through “gifts, grants and donations” from the Historical Society and charitable contributions. Even though the economy has recovered a little, balancing the budget will again be hard next year when there will no longer be stimulus fund from the feds.

## **GUN CONTROL**

**Marilyn Shuey**

Gun rights activists persist in their drive to eliminate state and federal gun regulations. Early in the session, the League opposed two bills that were defeated. One would have exempted Colorado firearms from certain federal regulations, and the other would eliminate the Governor's authority "to suspend or limit the sale, dispensing or transportation of firearms during a state of disaster emergency."

The League supported **HB 1391** to preserve Colorado's current use of the Instacheck screening process that prohibits people arrested for felonies and violent crimes from purchasing firearms. People with restraining orders against them are also denied. (The law was due to sunset this year.) It passed, making Colorado's Instacheck screening process permanent for now. A companion bill passed requiring the CBI to investigate old felony arrests where disposition of the case is not found in a database.

Nationally, gun activists are making a statement for "open carry" by gathering in coffee shops (Starbucks), restaurants, malls with guns openly displayed. Without meaningful regulations on open carry in a majority of states, more Americans are faced with intimidation and danger of confronting guns in public.

Locally and nationally, they are challenging concealed carry prohibitions on college campuses. Twenty-six states ban concealed carry on any school property. Twenty-two allow individual campuses to decide. Colorado's colleges are repealing, or considering repealing, campus gun bans under threat of legal action by gun activists (supported by some county sheriffs).

Meanwhile, former Alaskan Gov. Sarah Palin warns NRA members that Pres. Obama wants to gut the 2<sup>nd</sup> Amendment, that given the chance, "would ban guns and ban ammunition..." Hardly the case, since Pres. Obama signed the legislation passed by Congress to allow for concealed carry in national parks.

The League position does not deny citizens the right to have firearms, but believes the proliferation of firearms in the US continues to be a threat to public safety. The League supports strong Federal laws to regulate accessibility to firearms. The need for federal regulation is evident in an ATF study of nearly 37,000 guns purchased in one state but used in crimes in other states. Colorado's per-capita ranking as a crime-gun exporter dropped from 17<sup>th</sup> to 27<sup>th</sup> after the gun show loophole was closed here. The top 15 crime-gun exporters were all states without background checks at gun shows. Only six other states have laws similar to Colorado's. None of our neighboring states do.

## **JUSTICE SYSTEM**

**Marilyn Shuey**

Three years ago, the Legislature established the Colorado Criminal and Justice Commission to research sentencing policies, alternatives to incarceration, and cost-effective crime prevention

programs. The Commission (to be repealed in 2013) reports its recommendations to the Legislature yearly.

The League supported **HB 1347** and **HB 1352**, two major revisions of sentencing policies recommended by the Commission. The impetus for the action is the ever-rising costs of incarcerating more people and building more prisons. These bills aim to reintegrate offenders back into their communities through rehabilitation/work programs, thus reducing recidivism and saving the state (taxpayers) money. Both bills were sent to the Governor for signature.

**HB 1347** defines new DUI sentences and probations with the intent of helping the offender change his/her behavior to reduce the risk of future violations. The somewhat complicated bill establishes uniformity across the state in DUI convictions and sentences, which had varied greatly county-to-county.

**HB 1352** is a major revision of laws regulating controlled substances. It covers some 23 sections of the law to reduce sentences for possession of drugs (where appropriate) and provide community-based substance-abuse treatment/education programs in conjunction with mental health treatment. These revisions apply to drug users, not sellers. Savings from reductions in incarceration are to be directed toward funding treatment.

## **JUVENILE JUSTICE**

**Carla Bennett**

The League supported two important bills regarding juveniles charged as adults. They both passed the legislature with little opposition, and it is expected that the governor will sign them.

**SB 54 Education Services for Juveniles Charged as Adults (Sen. Hudak; Rep. Levy)** requires school districts to provide educational services during the school year to juveniles who have been charged as adults and are being held in jail pending trial. Currently, juveniles held pending trial as adults are held in adult jails. There are no educational services provided to them. This bill ensures that those services will be offered. This is important because access to educational services will help these youth successfully transition back to school, if they are acquitted, and help them be successful in the educational programs in the Youthful Offender System if they are sentenced to YOS after being found guilty.

**HB 1413 Limitation on Juvenile Direct File (Sen. Levy and May; Rep. Newell and Lundberg)** raises the age at which a district attorney can direct file on a juvenile from age 14 to 16 except in the case of first degree murder, second degree murder, or certain serious sexual offenses. It makes the direct file process more thoughtful, open and accountable by requiring the DA to file the charges in juvenile court along with a notice of decision on direct file prior to filing the charges in district court. It requires the DA to consider certain criteria when considering whether to direct file and to submit a statement listing the criteria upon which the decision was based at the same time the case is filed in district court. It also allows a juvenile convicted in district court of a class-2 felony that is not a sexual offense to be sentenced to the Youthful Offender System. This bill is the result of cooperation and compromise between the

opponents of direct file and the district attorneys. No one got everything they wanted, but the result was a bill that everyone could accept.

## **REPRODUCTIVE CHOICE**

### **Carolyn Engelken**

A short list of three bills relating to women's reproductive choice issues came up in the 2010 session of the Colorado legislature. Two of them came up early and were quickly dismissed in committee meetings. The third bounced around throughout the session and did not come to closure until the curtain was near falling on May 4. The bills were:

**SB 113 First Degree Murder of a Fetus.** Although medical treatment of the mother to which she consented was exempt from the charge, the content of the bill was vague enough to question the right of a woman to use contraception, use morning after contraception, or choose to have an abortion. The bill was PI'd in Senate State Affairs Committee on a 3-2 party-line vote.

**HB 1261 Unborn Victim of Violence Act.** Again, the possible threat to legal use of birth control, abortion, morning after contraception, remind us that League has seen these bills come forward year after year and has always opposed them because we have a strong position for the health of women including reproductive health. In this case, the bill was PI'd in House Judiciary Committee on a 6-5 vote.

**HB 1021 Concerning Required Coverages for Reproductive Services for Health Insurance Policies.** Recommended by the Health Care task force, it was an attempt to bring small and individual health insurance policies into compliance with federal regulation for larger group policies, covering all forms of birth control as well as pregnancy, and childbirth care that most other larger insurance companies now offer.

It turned out to be a most contentious issue, mostly over how much more costly small group policies would have to be to cover maternity and delivery costs. At the end, the House Conference Committee agreed with the Senate version that these costs would be included in all policies with the exception of products sold to a woman who is pregnant at the time of the policy issuance—on the premise that it would be a preexisting condition not covered for pregnancy and delivery. However, all future pregnancies would be fully covered. All forms of birth control would be covered. No abortion costs would be covered in this bill.

## **VOTING**

### **Carol Tone**

This was a very quiet year for legislation about voting and elections. **HB 1091** came at the subject of photo IDs for voting purposes from a slightly different angle. Instead of requiring a government-issued photo ID, this bill attempted to eliminate permissible forms of identification currently allowed such as bank statements, utility bills and other documents that show the name and address of the elector but do not contain a photograph. The bill was defeated in committee early in the session.



Reflecting on her experience in trying to change her party affiliation, Rep. Curry brought forward **HB 1271**, which addressed the requirement that a person be affiliated with a party or registered as unaffiliated at least twelve months preceding the date of assembly, filing of petition, or date of nomination. This bill, which passed but is not signed, would require the candidate to show affiliation no later than January 1 immediately preceding the election. The House rejected a Senate effort to make the bill retroactive, and Rep. Curry will have to run as a write-in candidate.

The League opposed **SB 104**, which would have placed onerous requirements on organizers of voter registration drives. The bill required that organizers must submit a list of circulators with a valid photo ID to the Secretary of State prior to commencing a registration drive. This would place a burden on organizers of volunteer groups like the League. In addition, if the requirements were not fully complied with, the registrations submitted would not be valid, thereby potentially disenfranchising the voter.

**HB 1045**, which has passed both houses, will allow a person visiting the official web site of either the Dept. of Revenue or the Secretary of State to follow a link to the other department for purposes of changing his or her address electronically. These links would allow an elector to change address information on file with the SOS for voter registration purposes.

Then there was the **Bill That Never Happened**. In response to concerns expressed by county clerks with regard to the most cost effective way of conducting elections and the uncertainty as to what equipment they will need in the future, a bill entitled “Modernization of Election” was drafted toward the very end of the session. With input from the Secretary of State’s office, representatives from the county clerks and the office of the Speaker of the House, the major components of the draft included:

- Allowing sixteen year olds to preregister so that they would automatically be registered upon reaching eighteen years of age.
- Commencing with the 2012 general election, electors could register to vote, update their address, or change their affiliation by appearing in person at the service center for the precinct in which they reside during early voting or on Election Day. This is often referred to as same-day registration (SDR) or election-day registration (EDR).
- Mail-in ballots would be mailed to every eligible elector marked “active” or “inactive – failed to vote.”
- A person or organization that filed a statement of intent to collect and deliver mail-in ballots must fulfill training requirements established by the SOS and meet certain other requirements.

During the discussions prior to the bill actually being introduced, several aspects of the proposed bill caused consternation. Some of those concerns surrounded:

- Accepting voter registrations up to the Friday immediately preceding the election instead of the twenty-nine days before an election, which is the current timeframe.
- The whole section about third party delivery and pick-up of ballots.
- Allowing an elector who has been issued a mail-in ballot to vote a regular ballot at a service center during early voting or on Election Day.

- The formula for the number of service centers that would be provided by county clerks and recorders in their district.
- The possibility of “opting out” for electors who do not want to be mailed a ballot.

Stay tuned. Secretary of State Buescher has indicated his hope that the newly formed Best Practices and Visions Commission will continue these discussions over the year. The three overarching goals for the Commission are to make it as easy as possible for every eligible citizen to vote, to make sure every vote is counted accurately, and to limit in every reasonable way the opportunity for fraud or abuse. League is represented on that Commission.

## **BALLOT ISSUES**

**Alice Ramsey**

With the passage of **HB 1370**, Issue Committees—those who circulate petitions for ballot initiatives—will have more clear reporting requirements than exist today. Any group that has 200 or more petition sections printed will need to register with the Secretary of State as an issue committee. An issue committee spending \$1000 or more on a communication to oppose or support a statewide ballot issue or question that is broadcast, printed, mailed, delivered or otherwise distributed is required to disclose in the communication the issue committee’s name. This is to be clearly printed and conspicuous or spoken at beginning or end of a radio broadcast, or spoken or written in a televised broadcast.

## **NATURAL RESOURCES**

### **ENERGY**

**Sigrid Hidgon**

Green was the magic word in this session. A green economy, green jobs and green energy became the buzzwords to sell all sorts of ideas. There were many energy bills considered, some that will change the energy future of the state.

We supported the five bills that seemed to have the greatest opportunity to make a positive change in Colorado's energy future and all of them passed. The most important by far was **HB 1001**, which requires investor owned utilities to obtain 30% of their electrical production from renewable resources by the year 2020. This means a dramatic shift in resource planning. Since the new law emphasizes distributed generation (meaning produced close to the point of use), we can expect to see a large expansion in both large utility sized projects and smaller projects sized to an individual home or business.

The State is also committing to a renewable energy future on its own lands. The Colorado Division of Parks and Outdoor Recreation will establish “Re-energize Colorado” with a goal of generating or offsetting 100% of the division’s electrical consumption with renewable resources by the year 2020. The generation will come from projects sited on lands owned or controlled by the division.

Another bill that makes a significant change will open the governance of Rural Electric Associations (REAs) to create more transparency in elections and Board decisions and to allow members to have a more active role and be able to influence REA decisions on resource acquisition and other issues important to members.

Looking to the future, the legislature passed a bill to set up a task force to recommend how smart grid technology could be adopted in Colorado. This technology can lead to more efficiency in the use of electricity and a more reliable electrical system.

The legislature also passed a bill that will work toward bringing Colorado into compliance with the Clean Air Act by encouraging the use of natural gas rather than coal in power plants.

None of these bills will be costly to implement but with the severe financial problems facing Colorado, general funds even in small amounts were not available to launch new projects. The costs to the state for two of the bills will be paid from the Fixed Utility Fund, two will be funded with the American Recovery and Reinvestment Act funding and the fifth required no funding.

## **WATER**

### **Jeannette Hillery**

The 2010 legislative session saw continued steps in addressing water efficiency and water planning. There was legislation to continue a water-efficiency grant program (support) which was established a few years ago. Most communities in Colorado are addressing their water quality needs and looking at all the tools in the box to achieve needed water in the future. There was also legislation to address water quality and the impacts from uranium mill disposal on groundwater (support). With the continual mining operations in Colorado, a renewed emphasis on protecting all water sources is necessary. The legislature did not want to address the future of reuse water (support), which is another method of addressing shortage of water in a semi-arid climate.

There was, again, introduction of a bill for signage at the Rocky Flats site. The League likes signage but did not agree with changing the liability and responsibility from the federal government (DOE) to the state. Although this site has been closed, and over 3,000 acres are designated for a future wildlife refuge, the US Fish and Wildlife Service has received no funding for this project. There are a number of groups who are addressing the history and future signage for the site.

Although the League did not follow the legislation, there was a rafting bill, which would allow rafters to go along stretches of river, without interference from the landowners on the sides of the river. The landowners contend that their fishing and water rights are interrupted by the rafters. There is a potential for initiatives to be brought to the ballot on this issue in the future.

## **SOCIAL POLICY**

### **CHILDREN'S SUPPORT SYSTEMS**

**Carla Bennett**

**Robert Long-Twyman**

This was a good year for child welfare issues. The League supported several important child welfare bills this year. They all passed with bipartisan support, and all but two have been signed by the governor.

**SB 1106 Child Welfare Adoption Multiethnic Act (Rep. Casso; Sen. Sandoval)** brings Colorado into compliance with the child welfare part of the federal Adam Walsh Act by requiring that specialized group home parents and any person working in a residential child care facility have an FBI finger-print based criminal history check. It also brings us into compliance with the federal Multiethnic Placement Act of 1994 whose purpose is to decrease the length of time that children wait to be adopted by forbidding discrimination in foster and adoptive placements based on race, color or national origin and by requiring agencies that place children out of the home to recruit and retain foster and adoptive parents who reflect the racial, ethnic, cultural, and linguistic background of children who are in the care of county departments of human services. When MEPA was first passed, Colorado updated its Children's Code to comply with it; however, subsequent language changes brought us out of compliance. The governor is expected to sign this bill.

**Senate Bill 66 Reporting of Child Abuse or Neglect (Sen. Hudak; Rep. Levy)** provided for a change in the mandatory reporting provision of the child abuse and neglect law. The major provision of this law was to free reporters from the reporting mandate when the victim was an adult (over 18 years of age) unless the perpetrator continued to be a danger to young children. The bill was amended to clarify that if any child were still in danger the incident had to be reported.

The following bills have already been signed.

Following the creation of the Office of the Child's Representative, the quality and effectiveness of Colorado's Guardians Ad Litem who represent the best interest of dependent and neglected children in court has greatly improved. This year the law creating the OCR was up for repeal.

**SB 43 Extend Repeal Office Child Rep (Sen. White; Rep. Pommer)** continues the Office of the Child's Representative and eliminates a repeal date.

Three bills came out of the Governor's Child Welfare Action Committee that was created after 13 children who had come to the attention of the child welfare system died from child abuse in 2007. The committee came up with recommendations for improving the child welfare system.

**SB 171 Create Child Protection Ombudsman Program (Sen. Newell; Rep. Gagliardi)** was a significant, long-awaited victory for child advocates. This bill creates the Child Protection Ombudsman Program that will provide an accessible, independent, impartial process for concerned citizens and families involved in the child protection system to register their concerns

and complaints about the system. The program will be housed in the Department of Human Services but will operate independently. The state DHS will contract with a public agency or a private non-profit agency to operate the program. It will be funded by a combination of general fund money and private donations. The Rose Community Foundation has committed to funding it, and other foundations have expressed an interest. The idea of an ombudsman program has been in the works for a decade, but previous efforts to create such a program had failed. This year the bill had widespread support, and it passed both houses unanimously.

**HB 1226 Differential Response to Child Abuse (Rep. Kefalas; Sen. Spence)** creates the Differential Response Pilot Program that will allow 5 counties (Arapahoe, Jefferson, Larimer, Fremont, and Garfield) to use a less adversarial approach in response to reports of child abuse and neglect. In cases where the risk to the child is deemed to be low or moderate, the county department can offer voluntary services to the family to address their issues without the need to file a dependency and neglect petition in court. Some other states have tested this approach and have found that it has effectively kept children safe and reduced the number of repeat abuse reports.

**HB 1359 Change of Venue Dependency and Neglect (Rep. McCann; Sen. Steadman)** creates a consistent procedure for transferring venue from one court jurisdiction to another when a family who is the subject of a dependency and neglect case moves from one jurisdiction to another. This is important because when families move from place to place, as they often do, they can “fall through the cracks” leaving their children at risk. The bill outlines procedures for the change of venue and sets deadlines. It also creates a position in each county department to coordinate the transfer.

## **EDUCATION**

**Sally Augden, Catherine Felknor, Barb Whinery, Angie Layton**

It was, indeed, a strange year for education legislation. Some bills took a long, long time, and others moved through much more quickly than would be recommended for the breadth of their impact. Several bills overlapped and sometimes duplicated or contradicted other bills with regard to details of how something would be implemented. Some bills dramatically changed prior legislation and/or the approach that had been followed in previous years. Other bills rehashed arguments that were still festering from prior years. The budget constraints presented a cloud that hung over the entire session and the possibility of obtaining federal dollars threaded much of the discussion.

A bill introduced on the first day of session, January 13, was signed by the Governor on January 15 in order to be part of a proposal for “Race to the Top” funding (not this time). Two bills that were introduced very late caused the most controversy (Teacher Effectiveness and New K-12 Assessment Plan). Concerns about Higher Education were warranted since a large portion of last year's state allocation came from federal stimulus funds not available to resolve this year's budget crisis. The cuts to education spending, and the “teacher effectiveness” bill at the end of the session overwhelmed other issues.

## HIGHER EDUCATION

Barb Whinery

### No Resolution to Funding Problems

The financial doldrums will continue for Colorado institutions of higher education. The state still ranks 48<sup>th</sup> in support for higher education (per student) and few solutions to this problem were forthcoming from the 2010 state legislature. There is little hope for any increase in state funding in the near future. Early on in the session, **SB 003 Flexibility in Higher Education (Support)** showed promise as it attempted to address some of the on-going problems encountered by state higher education institutions. This bill was a result of discussions held during the summer of 2009 by the Long-Term Fiscal Stability Commission in an effort to confront the budgetary issues. Some of the provisions included increasing articulation agreements, changing in-state and out-state formulas, and removing a requirement for institutions that are “enterprises” that a certain percentage of revenue go to need-based financial aid if tuition is increased. However, this proposal would sit on the docket of the Senate Education Committee for the remainder of the session because in the words of one of its sponsor’s, Senator Morse, “SB 003 is still being negotiated. It will be a bill to add flexibility to our higher education system, but we are still trying to determine what that means.”

As finally passed on May 11, the next to the last day of session, **SB 3** allows public institutions to raise tuition by 9%. If an institution finds it necessary to raise tuition more than this, a plan must be prepared that shows how low- and middle-income students will be protected. This provision is contained in the bill to help ensure access to the public institutions. The plan must be presented to the Colorado Commission of Higher Education (CCHE) for its approval.

Also contained in the legislation is a provision stating that on or before November, 2010, all governing boards of public institutions shall submit to the CCHE and to the Joint Budget Committee of the legislature a report describing the “plans to fund the institution in the following fiscal year if the General Assembly reduces overall state funding for higher education by fifty percent.”

Higher education is faced with the potential reduction of state funding of \$300 million for Fiscal Year 2011-2012, when federal funding dries up. Appropriations for higher education could fall from a high of approximately \$652.9 million in General Fund support in Fiscal Year 2008 (\$706 million in Fiscal Year 2009, combined General Fund and federal funds) to \$255.3 million General Fund support for Fiscal Year 2012 if the \$300 million cut needs to be made. Higher education is in serious trouble; the hope is the Higher Education Strategic Planning Committee will be able to develop a solution. However, it may not be in time to affect the Fiscal Year 2012 budget.

One of the bills we specifically followed and supported was **HB 1208 Statewide Transfer Agreements** that would establish up to 14 transfer agreements between two-year degrees and four-year institutions of higher education in Colorado. This proposal was sponsored by a total of 46 senators and representatives and made its way quickly through both chambers of the legislature and to the governor’s desk. Other bills that dealt with transfer agreements that we did

not follow were **SB 108 Implementation of Core Courses** that would allow students to transfer general education core courses between nonpublic and public institutions of higher education. Also, **SB 088 Two-Year Degrees with Academic Designation** that would allow a student to choose a major while pursuing a degree, easing the transfer between community colleges and four-year state institutions. Both **HB 1208** and **SB 88** have been signed, and **SB 108** awaits the Governor's signature. All of these bills allowed students to save both time and money while pursuing common degree programs.

Late in the session, Sen. Romer introduced one bill and one constitutional amendment to increase gambling and the lottery, with proceeds going to higher education. Wisely, the Senate State Affairs Committee rejected both.

Until there is a viable solution or solutions, programs and faculty will continue to be cut and tuition will rise.

## **P-12 EDUCATION FINANCING**

Ongoing implementation of CAP4K (Colorado Achievement Plan for Kids, SB 08-212) was mentioned in several bills. Even though scheduled activities are generally on track, it was felt that some deadlines needed to be extended in light of limited financial resources.

In this year of unprecedented constraints on the state budget, no area of state activity has survived without serious reductions from what would have been expected levels of funding for 2010-11. K-12 Education, however, was dealt two severe blows within three months. In January, 2010, the state rescinded approximately \$110M of the funds that had been allocated for the 2009-10 school year. Then in March, following even more limited revenue predictions, **HB 1369** severely cut state funding to K-12 Education for the first time. Another first occurred when LAC chose to oppose this School Finance bill. The severity of the cut depends on which of three possible descriptions is being used:

- \$150M less than what schools actually received for 2009-10 (i.e., after returning \$110M in Jan)
- \$260M less than what was allocated by legislation in spring of 2009
- \$365M less than would have been expected based on prior interpretation of current statute (this reduction amount is what appears in the fiscal note prepared by legislative council)

How could such a sizable reduction be compatible with Amendment 23 (which requires education funding to increase by rate of inflation plus 1% through 2010-11)? Although hard to believe, the inflation rate for 2009 was calculated at -0.6%. Adding the additional 1% yields an increase in state funding of 0.4% – not a very large increase but much greater than any of the reductions described above. However, in another first, state government chose to interpret Amendment 23 as applying only to categorical programs and to setting the base per pupil allotment (not including the additional factors that adjust the allocation for each district, e.g., variations in cost of living, number of at risk students, etc.). These factors account for between \$1.3 and \$1.5 billion in K-12 funding and, if not subject to Amendment 23 increases, provide opportunity for considerable cost savings even to the point of actual decreases in state spending.

The basic per pupil allotment increased by \$22.03 (.4%) to \$5,530, but combining all factors yielded an overall reduction of 6.35% in K-12 funding (\$365M).

## **TEACHER “TENURE”**

**SB 191 Principal and Teacher Effectiveness (EQuITEE)** introduced in the Senate on April 12 and passed by the House and concurred with by the Senate on May 12, must hold some kind of record for speed of action on a 44 page bill with over 200 proposed amendments (around half were adopted). League opposed this bill. The amendments (described below) make it more palatable from the standpoint of due process for teachers. We remain strongly concerned about funding this huge effort. We are also concerned that it is a step not only in ceding control over education to the state, but also from there to the federal government.

A version of a bill being floated throughout the country, Colorado’s bill appears to involve the greatest change to teacher and principal evaluation of any considered in the U.S. Supporters throughout the country are touting victory. Florida’s version was vetoed by Governor Charlie Christ. Testimony in the Senate and House hearings was long and often emotional. Four superintendents told the House Education Committee that the evaluation process would cost the districts nothing. Teachers disagreed, worrying that the costs would be substantial and would deplete their already threadbare classroom resources.

Amendments to the original bill extended the time for developing and implementing the new standards. Instead of one year to complete all, the Governor’s Council for Educator Effectiveness will work on a series of yearly milestones, spreading the process over five years. These include recommendations on teacher and principal quality standards, the involvement and support of parents, performance standards for each category of licensed personnel, definitions of teacher and principal effectiveness, guidelines for adequate implementation of the high-quality educator evaluation system; a rubric for identifying multiple additional quality standards, in addition to student academic growth; policy changes in use of evaluation data; and policy changes relative to teacher and principal licensure. The Council is also required to report on March 1, 2011 a cost analysis of implementing the Council’s recommendations. Teacher evaluation based on the quality standards will begin during the 2013-14 school year. Other amendments provided an appeal process for non-probationary teachers receiving an ineffective rating (includes binding arbitration) and the addition of two teachers as well as the principal in making hiring decisions. Teachers who have received “non-probationary” status in one district will be able to carry it to other districts.

The House passed the bill on second reading on May 11 on a voice vote shortly before it would have been dead at midnight. On the last day of the session, the bill passed in third reading on a vote of 36/29. The Senate accepted the House version. The governor has stated that he will sign the bill.

## **STUDENT ASSESSMENT**

Student assessment issues have been an area of controversy and legislation over the last 12 to 14 years. Frustration with CSAP tests is palpable, and some education policy makers are impatient to wait for the results of pilot tests of replacement assessments that were authorized last year.



Introduced at the end of April, **HB 1430** proposed to eliminate all CSAP tests at 9<sup>th</sup> grade for the 2010-11 year and replace them with one of the post-secondary and workforce assessments currently being piloted as part of the CAP4K implementation plan. Similar replacements were planned for 10<sup>th</sup> grade and then 11<sup>th</sup> grade in the following two years. The CSAP writing assessment would have been dropped at all grade levels (3 through 10) in 2010-11, but school districts and charter schools would be required to assess student writing. All statutes related to CSAP would have been repealed effective July, 2013. **HB 1430** proposed changes to the new statewide assessment system currently being development by the State Board of Education and required that the whole system be in place no later than the 2013-14 academic year. The bill proposed different levels of assessment to be included in the new statewide system.

LWVCO was opposed to this bill for a variety of reasons:

- current piloting of assessments to be considered for post secondary and workforce readiness should be completed and reported before decisions are made and tests are ordered
- some provisions contradicted or duplicated other bills or the CAP4K plan that is in process
- to make changes in the assessment plan for 2010-11 would require CDE to submit a new application to USDE by the end of June (a very time consuming task, at best a diversion from other deadlines)
- major changes re: CSAP are expected for the 2011-12 school year (CAP4K implementation process, No Child Left Behind requirements are likely to change due to re-authorization, any savings from reduction in cost of assessments might be needed for basic funding of PreK-12 education in 2011 legislation)

The House and Senate could not agree on what should be preserved and struck, and the bill died, to our relief. The assessment pilots should be completed before changing course.

## **EQUALITY OF OPPORTUNITY**

**Alice Ramsey**  
**Chris Watson**

A broad coalition of organizations banded together to pass a bill creating the Pay Equity Commission. The purpose of the commission is to undertake research, education and outreach so that Colorado might be a model of how to achieve pay equity. The eleven-member commission would include representatives of large and small business enterprises, women's national associations, labor organization, higher education, academia, attorney's organizations, organizations serving people of color, and from relevant government agencies. In addition to outreach and education in the community, the commission could recommend policy changes, such as changes in rules or statutes.

The road to equal pay for equal work is a long one. Some miles are earned through laws, and some through moral suasion. This commission falls under the latter. Recent studies have shown that even in executive ranks, where many of the explanations for pay differences for women are irrelevant, women earn about 77% of what men earn.

While we are glad this measure passed, we are sorry to report the votes followed party lines.

**HEALTH CARE**  
**Marion Colliander**  
**Lois Schafer**

**EFFICIENCY WINS**

Over 50 Health Care bills were introduced this session. The majority of the bills worked to strengthen the state's health care system by focusing on efficiencies and cost saving measures. Bills addressed improvements in both public and private insurance programs as well as better care for women.

We supported four bills to standardize and increase the efficiency of going through the health insurance claims process. **HB 1004** requires health insurance companies to adopt standard formats for policy forms and explanation of benefits for consumers. **HB 1166** requires that all insurance policies including health benefit plans, long-term care plans, dental plans and automobile insurance policies issued after July 1, 2011 be written at or below the tenth grade reading level. **HB 1242** requires the Commissioner of Insurance to implement a uniform application for individual sickness and accident health benefit plans. **HB 1332** would require insurers to follow a standard set of payment rules and claim edits in processing insurance claims. **HB 1008, HB 1166, and HB 1242** have been signed by the Governor

**SB 56** puts in-place regulations for school districts to provide parents with up to date information on their children's immunization requirements and status. Making sure parents have this information will ultimately improve efficiency in health care delivery. The bill has been signed by the Governor.

**SB 167** addresses Medicaid efficiencies and false Medicaid claims. It requires that an internal audit determine if benefits are being paid by other states to clients enrolled in Colorado Medicaid. The bill also includes a provision for automatic pre-payment system to reduce medical services coding errors in Medicaid claims.

Two bills addressed women's health care issues. **HB 1008** prohibits carriers from using gender as a basis for varying premium rates for individual sickness, accident or health insurance policies. **HB 1252** requires that breast cancer screening with mammography be individualized for each patient. The bill requires payment for more frequent cancer screening than the US preventative service task force guidelines. Other bills bolstered medical care to Colorado's vulnerable populations, including more support for CoverColorado and enhanced tuition benefits for physicians practicing in underserved areas.

A bill to set standards for limited service medical clinics in retail outlets was defeated. We had concerns that onerous regulations might discourage setting up these clinics, which provide convenient and quality care for many Coloradans, particularly the uninsured and under insured, often at an economical price. The bill was PI'd early in the session.

Overall, these gains may save money for both the state and health care consumers.

## **BEHAVIORAL HEALTH**

**Barbara Mattison**

*When there is no money, plan and study* summarizes the outcome for behavioral health legislation in Colorado's 2010 session. League's Legislative Action Committee (LAC) followed four behavioral health bills, all of which passed - one with major amendments to avoid fiscal impact.

LAC supported **SB 014** which expands the system of family advocates—supporters of families within the often complex behavioral health and other related systems—to allow *family systems navigators*, who are not family members, to provide the same services as family advocates within three demonstration programs. It requires both to have training but does not delineate such training, other than that it must be a system of care approach. The bill came from the Legislative Oversight Committee for the Continuing Examination of persons with Mental Illness Who Are Involved in the Criminal and Juvenile Justice Systems. There is no fiscal impact. It was signed into law by Gov. Ritter on 3/31/10.

LAC also supported **HB 1010, which** authorizes agencies of the state to enter into public/private initiative agreements with nonprofit entities. The bill, which garnered strong support from the Colorado Behavioral Healthcare Council, has two sections. Section 1 authorizes state agencies to enter into public-private initiative agreements with nonprofit entities and specifies evaluative criteria to be used and procedures to be followed by these agencies in considering, evaluating and accepting or rejecting unsolicited proposals for public-private initiatives. Section 2 provides an incentive for state agencies to enter into these initiatives through amending an existing statutory definition of “cost savings” in order to allow an agency to retain a portion of any cost savings realized from a personal services contract entered into within these agreements. There is no fiscal impact. This bill was signed by Gov. Ritter on 4/15/10.

The biggest change to a behavioral health bill this session came when **HB 1032 Concerning Behavioral Health Crisis Response Services** was significantly amended to avoid fiscal notes of over \$500,000 for each of two years. The bill is modeled after the national concept of a triage unit developed specifically for persons with behavioral health emergencies, i.e. not a standard hospital or community emergency room. Persons with mental illness and other behavioral health challenges repeatedly have described the indignity of being tied down, etc. in hospital emergency rooms and then being taken to jail, often to be held and/or incarcerated with others who taunt them and sometimes physically threaten them. Persons with mental illness who have escalating episodes and are in emergency situations advocate for a different type of care—one that treats their illnesses and emotional states rather than treating them as criminals.

Rather than funding direct crisis response services, the amended bill presents *rationale* for coordinated expert crisis-response teams to provide emergency intervention and stabilization statewide and requires the State Department of Human Services to review the current behavioral health crisis response in Colorado and formulate a plan to address the lack of coordinated crisis response services. *The department will provide its review within existing appropriations*, and must present its plan to a joint meeting of the Health and Human Services Committees on or

before January 30, 2013. This legislation is supported by the LAC and awaits the Governor's signature.

LAC also supported **SB 153, which** authorizes the Governor to create a Behavioral Health Transformation Council as an advisory council to the Governor and his cabinet. By August 1, 2010, the Governor must designate one department to act as the lead agency to facilitate the Council's work. The lead agency and the Governor are to determine the membership, tenure and operations of the Council. Council membership will include representatives from executive agencies, the judicial branch, behavioral health providers, consumers and other stakeholders. The bill sets forth the duties of the Council for strategic planning, development of outcome measures, alignment of services, annual reporting, and other tasks. The Department of Human Services agreed to complete this work using existing resources. The bill is awaiting the Governor's signature.