

SUMMARY OF CONVERSATIONS WITH CURRENT AND FORMER
LEGISLATORS, LEGISLATIVE STAFF AND LOBBYISTS

Colorado's Policymaking Processes: State Legislature

FEBRUARY 2023



The Colorado Health Foundation™



“Good government should have intentional processes to look back at the impact of laws that are already on the books - not just thinking about what new things do we need to add.”

– Former legislator

Summary of Perspectives from Under the Dome

HOW STATE GOVERNMENT CAN OPERATE DIFFERENTLY TO MAKE PROCESSES AND PROCEDURES OF POLICYMAKING MORE INCLUSIVE, EQUITABLE AND JUST

The Colorado Health Foundation (CHF) is the state's largest private foundation and works across every corner of the state to bring good health and well-being in reach for everyone who calls Colorado home. So much of our health is based on our individual choices, our neighborhoods as well as the public policies that govern our lives. We believe all Coloradans should have the tools and opportunities to be healthy where they live and should have a voice in the decisions that impact them. Over the past few years, the COVID-19 pandemic has forced organizations, including institutions of Colorado government, to adapt and adjust operations. Our General Assembly made significant and meaningful changes to allow access to the legislative process even when work could not proceed in person at the capitol. In light of this innovation, CHF staff leaned into the opportunity to learn what these changes could teach us and where we can do more to ensure those impacted by public policy decisions are able to have their voices heard to inform and shape decisions that make leading a healthy life a reality.

In 2021, CHF policy staff began an exploration of not just *what* specific policies become law in Colorado, but also the underlying *how*. *How* do Colorado's state government institutions operate? *How* do the procedures of introducing, crafting, and implementing policy decisions affect who participates in the process? We wondered how these "rules of the game" have an impact on which voices tend to have the greatest influence on policy decisions in our state.

Because consideration of the policymaking process itself has been a relatively under-explored area of focus for CHF's policy engagement in the past, we first looked to other organizations engaging in advocacy in Colorado to help us deepen our perspective on how Colorado's state government could operate differently to make the policymaking process more inclusive, equitable, and racially just. The result of 25 conversations conducted during October and November 2021 were made publicly available in our February 2022 report, [Colorado's Policymaking Processes: Summary of Conversations with Advocacy Organizations](#).

The initial investigation delved into operations of Colorado's state legislature, administrative processes, statewide ballot measures and the judicial system. While a range of barriers and opportunities surfaced in each of these categories, following a series of conversations with advocacy partners and internal analyses, CHF decided to further investigate opportunities to improve state legislative and administrative rulemaking processes.

We recognized that in order to develop a robust, nuanced understanding of the strengths and challenges of how state government institutions make policy decisions, it was vital to also hear the perspectives of those on the "inside" of the system itself. To that end, between October and December 2022, CHF policy staff conducted a second round of interviews focusing on how Colorado's state legislature operates. We spoke with 19 current and former legislators, current and former legislative staff, and current and former lobbyists to listen to their experiences. CHF staff developed a targeted list of individuals who represented a wide range of issue expertise, political affiliations, and geographies. While this sample is by no means a comprehensive representation of all legislators, legislative staff, or lobbyists in our state, it represents a range

of perspectives on operations of the Colorado General Assembly that can be a starting point for further exploration and inquiry.

These respondents were invited to reflect on how Colorado's state legislature could operate differently to make the processes and procedures of policymaking more inclusive and equitable. These conversations generally covered three areas:

1. **Bill Development and Approval Process:** Operations of the state legislature including the citizen legislature model, bill development, methods of community engagement, and the bill lifecycle.
2. **State Budget Development and Approval Process:** Examining the Joint Budget Committee, [State Management for Accountable, Responsive, and Transparent Government \(SMART\) Act hearings](#), and additional procedures for creating and passing the annual budget.
3. **Handoff to Administrative Rulemaking:** Including both formal rulemaking processes from state boards and commissions as well as other actions taken by the Governor and/or state agencies to implement bills and budget items passed by the legislature.

In each category, respondents were asked to reflect on their experiences interacting with the Colorado General Assembly to understand:

1. What currently works well and allows a broad range of voices and perspectives to be heard in policymaking processes?
2. What makes it difficult to engage in the process or potentially stacks the deck in favor of only certain perspectives or interests being heard?
3. What changes to the policymaking process could make it more inclusive, equitable, and just?

CHF staff analyzed what we heard in these conversations for key themes and potential opportunities for further exploration. Those themes are presented in the following sections in alphabetical order. The number of times each issue was mentioned is included in parentheses, though the quantity of mentions does not necessarily represent the level of importance. For themes where we heard split opinions, we have organized them into a third "Mixed Bag" category that lists both the number of positive and negative mentions we heard as well as additional details on what was seen as positive or negative about the topic.

I. BILL DEVELOPMENT AND APPROVAL PROCESS (N = 19):

WHAT WORKS WELL?

The individuals interviewed have worked within or alongside the state legislature as current or former legislators, current or former legislative staff, and/or current or former lobbyists. When asked about what works well in the state bill development and approval process, respondents highlighted the following:

- **Accessibility of some legislators/positive intent (7):** Many respondents underscored the goodwill, overall accessibility, and positive intent of legislators on both sides of the aisle. Colorado's citizen legislature was called out by one respondent as a structure that "broadly ensures that legislators are connected to community."
- **Colorado General Assembly Website (3):** Several respondents praised the transparency and access

provided by clear online systems that connected the broader public to bill hearings, public notices, constitutional rules, etc.

- **Gavel Amendment¹ (3):** Two positives were named concerning the Gavel Amendment: (1) the ability to testify as a citizen and (2) the requirement that every bill that is introduced will be heard. One respondent stated that this process "[t]akes time, but errs on the side of inclusion."
- **Robust caucuses (1):** Caucuses offer support to new legislators with trainings and opportunities for connection.

WHAT ARE THE BARRIERS?

When asked about barriers that make it difficult for people's voices to be included in the policymaking process, a range of issues was discussed. Respondents highlighted the following issues:

- **Citizen legislature (8):** Having a part-time citizen legislature introduces a dynamic that was named as "legislators being generalists," or that they are experts on only a single issue. Respondents remarked that this creates a situation where legislators rely on career lobbyists and other perceived experts to get their work done.
- **Elitist environment at the capitol (3):** "Many legislative processes are archaic and filled with jargon," one respondent remarked, something which comes across to several respondents as intimidating, confusing, and off-putting.
- **Inside game (12):** The majority of respondents highlighted that having "insider" relationships (particularly lobbyists who are at the capitol all the time) is vital to gaining access to a legislator. "It's all about power and access," reflected one respondent. Lobbyists themselves were not seen as "bad," but the difference between having or not having a lobbyist was seen as a significant indicator of how successful an individual, coalition, or community organization would be when trying to influence policy.
- **Lack of institutional knowledge (4):** One downside of term limits noted by respondents is that there exists a general lack of knowledge and institutional history within the legislature at any given time. This has transferred power from legislators to lobbyists, who are paid to represent their clients' perspectives.
- **Lack of meaningful community engagement during session (14):** Respondents emphasized that in their experience, public comment during committee hearings for bills was much less impactful than individuals or advocacy organizations might think; rather, "the cake is baked" by the time a bill enters a committee hearing. Instead of focusing on elevating Coloradans' voices in the middle of the legislative session, it is important to be engaged with bill creation and relationship development during the months outside of the legislative session, which is when the vast majority of work to influence policies for the coming session gets done behind the scenes.



"It's all about power and access." – Nonpartisan staff of the Colorado General Assembly

¹ [Art. V, Sec. 20: Consideration of bills in committee; calendaring for committee of the whole \("GAVEL Amendment"\)](#) Each introduced bill must be assigned to a committee of reference, and the committee must consider the bill on its merits and take a vote on the bill. A motion to report the bill favorably out of the committee, with or without amendments, is always in order within the appropriate deadlines. Each bill that is reported to the committee of the whole must be placed on the calendar in the order in which it was reported and within appropriate deadlines. This provision is commonly referred to as the GAVEL ("Give a Vote to Every Legislator") Amendment.

- **Lack of paid staff (5):** Inadequate compensation, benefits, resources, and support for legislative aides and staff creates "pipelines of privilege," favoring candidates who can afford to take a part-time, lower-paying role that does not cover the full cost of living in our state. "[The legislature] does work around labor rights and yet we don't pay our own staff appropriately," observed one respondent.
- **Lack of training for legislators (1):** One respondent noted that although activists play an important role in community organizing and highlighting important issues, when activists are elected into office, they often struggle when "learning to govern" on issues that affect the entire state, rather than their specific area of expertise.
- **Increased political polarization (7):** Respondents stated that power has become centralized in party leadership, which has led to fewer legislators holding views or voting in ways that diverge from their party. This is reinforced by unintended consequences of campaign finance reform: now that candidates often depend on their parties for financing, it makes them more likely to fall in line with party philosophy rather than the needs of constituents. "On the surface, campaign financing sounds great, but it has taken the accountability out of politics," one respondent reflected.
- **Power of lobbyists (11):** One downside of term limits noted by respondents is that there exists a general lack of knowledge and institutional history within the legislature at any given time. This has transferred power from legislators to lobbyists.
- **Unpredictability of the legislative schedule (3):** Following the legislative calendar was called out as a very unintuitive process. Committee hearings in particular occur "upon adjournment" and are difficult to track, predict, and attend.

“MIXED BAG” ISSUES

The following issues were mentioned both as positives as well as barriers by different respondents:

120-day Constitutional Provision

- **Positive (1):** It was noted that this schedule ensures legislators are required to pass legislation in a timely fashion every year.
- **Negative (3):** It is a "fallacy" that legislators are only working during the 120-day period, several respondents pointed out. Many are giving much more time throughout the year that is unrecognized and unsupported.

Remote Testimony

- **Positive (7):** Strengths highlighted were that remote testimony allows for greater and more diverse representation and flexibility.
- **Negative (4):** Several of the downsides noted were that it has reduced testimony time, allowed the process to become more informal, and has less impact than perceived since so many votes have already been decided before a bill enters a committee hearing.

Legislator Term Limits

- **Positive (5):** Respondents noted that term limits make space for fresh perspectives, prevent a

handful of legislators from controlling the whole building, and have diversified the people serving in the legislature. One respondent noted, "For the first time in Colorado history, women make up more than 50% of the legislature, in part thanks to term limits."

- **Negative (9):** Prior to term limits passing in mid-1990s, there were career legislators who used to have a great deal of power and were true experts in the legislative process and issues. After term limits were adopted, there is a perception that there has been a "gradual degradation of acumen, diplomacy, and bipartisanship" in the legislature. "Elections are organic term limits in themselves," one respondent argued. Another stated: "Term limits put power into the hands of the lobbyists, and lobbyists don't get elected."

WHAT WOULD MAKE THE BILL DEVELOPMENT AND APPROVAL PROCESS MORE EQUITABLE?

Respondents were given a "magic wand" and asked what they would change about the state legislative processes to make it more inclusive, equitable, and just. The following ideas were offered:

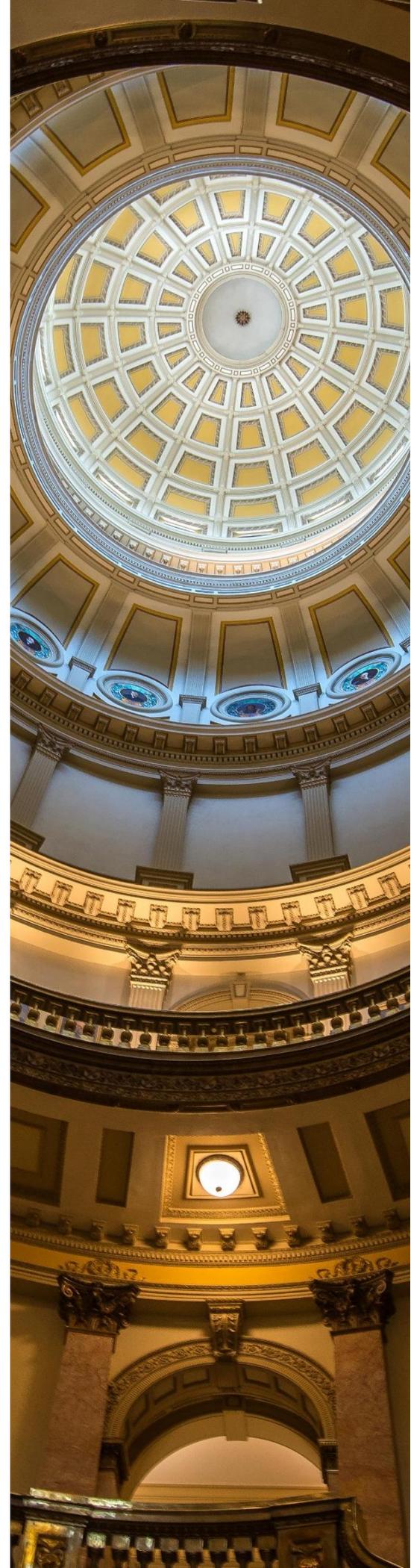
- **Address the legislative calendar (9):** Modifications, as well as outright restructuring, of the legislative calendar were top of mind for many respondents. A few proposed solutions:
 - a. Every other year, alternate a General Session and a Budget Session. This would allow more time to vet the bills, more predictability, and meaningful legislator and stakeholder engagement. This would solve for the crunch of time and diminishing level of thoughtfulness that invariably happens at the end of each legislative session.
 - b. Do away with the 120-day requirement and move to an annual cycle where there would be more time to do the work (and pay legislators an annual salary). Hold live committee time during what we currently considered our interim. These changes could allow legislators to have time to work on bills, engage with constituents and make better policy.
 - c. Start the legislative session in March rather than January. Spend the first months of the year on budget development rather than bills so there is a better sense of funding available for new bills.
 - d. Align the state budget calendar with the federal budget calendar.
 - e. Hold a 60-day winter session for the budget and a 60-day fall session for bills.
- **Capacity building and technical assistance for advocacy organizations (2):** Several respondents suggested that training focused on how to connect with local policymakers, how to be more effective advocates, and how to build coalitions and engage during non-session months would be extremely beneficial.
- **Enforce a five-bill limit for legislators (3):** It was recognized that the time constraints of the 120 legislative calendar could cause challenges throughout session. If modification of the legislative calendar isn't feasible, then enforcing the five-bill limit was suggested as a possible way to promote efficiency, utilize time more effectively and allow for more meaningful stakeholder engagement.
- **Improve scheduling (1):** It is very difficult for the general public to engage in committee hearings due



"If more legislators treated each other as humans, we would have better policy." – Lobbyist

to the unpredictable calendar. Coming up with modern, interactive written comment system for the public to engage with could help in this area.

- **Increase media presence (3):** Several respondents felt strongly that Colorado no longer has the quality journalism and media coverage that sheds light on what happens at the capitol for the general public. Increased funding to pay quality journalists to cover these topics could be an approach that would help.
- **Increase transparency (2):** Respondents suggested the need for systems that clearly reveal who both writes and funds bills so that everyone understands who is behind bill creation.
- **Interim Committees (5):** There is a great deal of potential to use the interim time/committees more fully. Ideas proposed included using the time to connect with community members and other stakeholders and conduct research around proposed policy topics. More standardization of expectations around interim committees was also encouraged.
- **Increase legislator pay (10):** Many respondents suggested that the best way to attract high quality legislators was to pay them competitively.
- **Increase staff pay (8):** Increase staff for each legislator to at least one assigned analyst and aide. This would also would allow better tracking of rulemaking and policy implementation. Respondents suggested this would be an impactful increase in the General Assembly line item for General Fund dollars. Others noted imbalances within the different branches of Colorado's government in this regard: "There exists a power disparity between legislative staff and the executive branch/departments due to differences in pay and tenure."
- **Make remote testimony permanent (7):** While a few respondents mentioned some downsides to remote testimony (e.g., less formality), this flexibility introduced during the pandemic is seen as a positive change that should be made permanent. It has allowed greater geographic representation in the legislative process and has allowed easier participation, especially given the unpredictability of scheduling for committee hearings.
- **Promote bipartisanship (5):** Respondents from all political affiliations emphasized that better policy is made when there is the opportunity to compromise and work to find policy solutions that are not partisan in nature. There was a desire to create more opportunities for bipartisan connection between legislators to deepen understanding and collaboration.
- **Promote bipartisanship (by repealing Amendment 41) (3):** "If more legislators treated each other as humans, we would have better policy," one respondent said. Repealing Amendment 41 (the "gift ban") is one



way to pave the way for legislators to spend more time together at shared events.

- **Provide training and resources for new legislators (14):** A majority of respondents indicated a desire for better training, resourcing, and onboarding for all new legislators, with particular focus on supporting incoming Black, Hispanic/Latino, Asian, Native American, and/or multi-racial legislators. Other respondents recommended streamlining the coordination of training and educational opportunities for legislators, as well as creating internships specifically aimed at diversifying the pool of lobbyists, aides, and legislators.
 - a. Training/onboarding for Black, Hispanic/Latino, Asian, Native American, and/or multi-racial Legislators (in addition to the supports listed above)
 - b. Better coordination of legislative training
 - c. Create/offer training, internship, and supports to diversify the pool of contract lobbyists and legislative aides
- **Repeal or modify term limits (10):** Although a majority of respondents agreed that they would like to see term limits repealed or altered, there were many different ideas on how that could look. Some recommended doubling current term limits to 16-year term limits in the House and Senate; others recommended keeping the current 8-year limit, but moving House terms to two 4-year terms so that members can focus on policy rather than the next election; others suggested 12-year terms might be better.
- **Require community outreach (4):** Separate stakeholders into focus groups to allow for more candid conversations; utilize interim time to connect with community members; and require legislators to talk to the opposition before bringing a bill forward.
- **Require in-person attendance for legislators (6):** Ensure legislators don't vote remotely and attend all hearings in person. "Don't hide in your office," one respondent said.
- **Revise campaign finance laws (3):** This would likely be a constitutional change that would need to go to voters; the goal would be to address the inadvertent side effects of campaign finance reform, i.e., "dark money" on both sides of the aisle.
- **Strengthen and enforce existing bill processes (3):** Enforcing the Gavel Amendment, strengthening stakeholder engagement in bill development process, and setting an end date for when bills can be introduced during the course of the legislative session were all proposed as ways to improve existing processes.

II. STATE BUDGET DEVELOPMENT AND APPROVAL PROCESS (N = 19):

WHAT WORKS WELL?

When asked about what works well in state budget processes, respondents highlighted the following items:

- **Open, accessible meetings (3):** Joint Budget Committee (JBC) meetings/hearings are very open and accessible to the public.

- **Process works well (3):** Several respondents felt that the budget process works well as it is.
- **Strong JBC staffing structure (3):** Some respondents pointed out that JBC staff are better paid than most legislative aide positions and this is reflected in the quality of their work.

WHAT ARE THE BARRIERS?

When asked about barriers that make it difficult for engagement in the state budget process, the following issues emerged:

- **Complexity of the budget process (9):** "Even for experienced staff, [the budget process] is very difficult to understand," stated one respondent. The complexity of this process also often leads to last-minute finalizations and changes that get done in the last days of the legislative session - making it nearly impossible for legislators or others to truly follow and understand what the final budget will be.
- **Inside game (6):** Respondents acknowledged that in order for items to be included in the budget, it was imperative to have relationships within the Governor's office. Without this and concerted early engagement, it is very difficult to engage with the state budgeting process. Several respondents also felt that the six-member JBC holds too much power in the current system, and would like to see committees more involved in the budget creation process.
- **Lack of transparency in figure setting (2):** Respondents pointed to "back door work" done on the budget as an example of poor transparency.
- **Political dynamics at play (7):** It was noted by several respondents that it is necessary to have a lobbyist to advance any kind of request with money attached. Respondents additionally mentioned that the Governor's office holds a lot of power in the budget creation space.

"MIXED BAG" ISSUES

The following issues were mentioned both as positives as well as barriers by different respondents:

Fiscal notes

- **Positive (1):** One respondent stated that "Fiscal notes are more valuable than the legislation itself."
- **Negative (5):** Known costs have been downplayed as political maneuvers, increasing lack of transparency and opening the system up to manipulation by executive branch.

Demographic notes

- **Positive (4):** Respondents see demographic notes as a helpful additional point of analysis on bills; however, they wish that it was used across all bills, rather than just a few each year.
- **Negative (1):** One respondent reflected that demographic note information could be weaponized against opposing parties, which has contributed to legislators' hesitation in utilizing them.

WHAT WOULD MAKE THE STATE BUDGET DEVELOPMENT AND APPROVAL PROCESS MORE EQUITABLE?

Respondents were given a “magic wand” and asked what they would change about the state legislative processes to make it more inclusive, equitable, and just. The following ideas were offered:

- **Encourage community engagement in budget process (1):** Create spaces for citizens to meet JBC members.
- **Engage more legislators in budget process (2):** Create a stronger role for committees of reference to influence JBC decisions. "Legislators who understand the budget are better policymakers," said one respondent, who additionally suggested that legislators should attend all JBC meetings.
- **Improve fiscal note process (4):** Respondents proposed investigating whether there is existing infrastructure in the executive branch to implement the new law - not just FTE, but also taking into account technical expertise and other factors that can influence the timeline and what is realistic for implementation. Others suggested that legislators need more training on fiscal notes.
- **Increase staffing of JBC (1):** Increase the size of JBC staff to better address the volume of work.
- **Make budget more accessible (2):** Create less jargon-filled budget documents that are easier for citizens and legislators alike to use. One respondent described the budget process as "cumbersome, difficult, hurry up and wait."
- **Modify budget cycle (6):** Ideas proposed included:
 - a. Move to a two-year budget that alternates bill and budget years.
 - b. Split the legislative calendar to work on the budget separate from bills.
 - c. Align the state budget with the federal government’s budget cycle.
 - d. Start the legislative session in March when more detail is known about the amount of money that will be available for the budget in a given year.
- **Process improvements and transparency (2):** Formalize amendment process and possibly limit the number of budget amendments.
- **Require demographic notes for all bills (2)**
- **Restructure SMART Act hearings (3):** SMART Act hearings are seen as an important source of information for legislators; however, there is an appetite for considering how these hearings could be restructured to promote greater accountability and transparency. Suggestions include using this time to update the legislature on the implementation of bills passed in previous sessions, and/or utilizing the hearings for meaningful engagement with community members concerning budgetary decisions.

III. HANDOFF TO ADMINISTRATIVE RULEMAKING PROCESSES (N = 19):

WHAT WORKS WELL?

Respondents were asked their perceptions around the handoff from the bill and budget item approval to the

administrative rulemaking and implementation process. The following positive aspects were highlighted:

- **More deliberate community connections (2):** The current administration has been more hands-on with connecting to community during the rule-making processes.
- **Strong partnerships possible (2):** The advocacy community is involved in the rule-making process.
- **Strengths of different boards (1):** Some departments do rulemaking well; it was observed this is usually dependent on the staff in charge of the department or relevant board or commission.

WHAT ARE THE BARRIERS?

Respondents highlighted the following challenges:

- **High volume of rulemaking activity (7):** Multiple respondents reflected that the legislature passes too many laws without thinking through the implementation. This results in a logjam of rulemaking requests that do not receive adequate time and attention due to departmental staff being overwhelmed.
- **Inconsistencies across boards (4):** Several respondents wondered if creating new offices was duplicative and if there could be better systems to assess if existing boards/departments were already addressing issues raised in new bills. Additionally, the lack of standardization of processes across boards makes engagement even harder.
- **Inside game (3):** Administrative rulemaking was described as heavy-handed, authoritarian, bureaucratic, lobbyist-dependent, and deeply politicized. The process for appointing individuals to boards and commissions was also seen as being politically directed and lacking transparency.
- **Lack of accountability (8):** Lack of accountability between branches of government - particularly legislative and executive - was highlighted as a serious issue in Colorado. "There is no avenue for the legislature to question implementation of a law," one respondent stated. Several suggested altering the format of SMART Act hearings to make space for greater accountability between these branches of government in the future.
- **Lack of transparency (11):** A majority of respondents called attention to the overall lack of transparency and access in rulemaking processes. "It can be a black hole of information that is difficult to follow, yet these decisions have a real effect over people's lives - good and bad." The lack of data, visibility, and access makes it impossible to empower advocates to engage effectively. As one respondent put it, "If we had better data, we could be having more meaningful policy discussions and get more diverse perspectives into the mix."



"There is no avenue for the legislature to question implementation of a law."
– Former legislator

WHAT WOULD MAKE THE HANDOFF TO ADMINISTRATIVE RULEMAKING PROCESSES MORE EQUITABLE?

Respondents were given a "magic wand" and asked what they would change about the handoff to administrative rulemaking to make the processes more inclusive, equitable, and just.

- **Create a singular access point for advocacy partners to access regulatory expertise (1):** It was acknowledged that advocacy around rulemaking is critical; however, many organizations do not

have the resources to do this effectively. Creating a "one stop shop" clearinghouse for regulatory expertise and advocacy that nonprofits or other actors could utilize was suggested as a possible solution.

- **Increase accountability between branches of government (8):** Possible ideas included:
 - a. Incorporate some legislative oversight and evidence-based notice and comment during the rulemaking process.
 - b. Create a robust reminder system that tracks the bills that have passed and the rulemaking associated with them that has taken place.
 - c. Engage legislative aides in performing substantive rule review.
 - d. Educate legislators about the impact of not having some oversight over rulemaking processes.
 - e. Change SMART Act hearings to make them a space for policy implementation and accountability discussions.
 - f. Include more specificity in statutes to direct rulemaking.
 - g. Create a full-time legislature to follow implementation of bills (rather than relying on lobbyists to do so).
 - h. Run a bill that mandates annual bill audits.
- **Increase transparency (1):** Find a way to make data more readily available to the public.
- **Increase transparency of Boards and Commissions appointments (1):** Publish a list of every board and commission position in the state and detail the process for joining boards and commissions.²
- **Reduce bureaucracy (2):** Engage the Governor to discuss reform of departmental bureaucracy.
- **Standardize formats and procedures across boards (3):** Standardize platforms and notification of rulemaking processes.

Conclusion

The issues and suggestions raised in this report range from more immediately implementable process and procedural alterations, to longer-term structural and/or Constitutional changes – such as changes to the legislative calendar, term limits, and legislator and staff pay scales. Advocates from around the state and CHF staff are ready to work with members of the Colorado General Assembly to advance meaningful reforms in service of all Coloradans.

² As a note, this information is publicly available online (verified on February 6, 2023). The Boards and Commissions Directory is located at <https://www.colorado.gov/governor/boards-and-commissions-directory> and can be used to see a list of current boards and commissions requiring gubernatorial appointment; to apply to a board or commission; and to look for upcoming boards and commissions openings.



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About the Colorado Health Foundation:

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