



Gold Leaf
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Colorado Association of Home Builders 2024 End of Session Report

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Summary

The Second Regular Session of the 74th General Assembly began Wednesday, January 10th. The session followed close on the heels of a four-day special session that occurred in November regarding property taxes.

In the House, two Democratic representatives announced surprise resignations in December. Representative Ruby Dickson (D-Centennial) and Representative Said Sharbini (D-Commerce City) announced they were resigning because of a toxic work environment, with Representative Sharbini also citing the financial hardship of being an elected official. They were replaced through vacancy committee by Chad Clifford (D-Centennial) and Julia Marvin (D-Thornton), respectively.

In addition to those two resignations, there were also three other vacancy committees during the interim for the House and Senate. Representative Dafna Michaelson Jenet (D-Commerce City) was elected in a Senate vacancy committee to fill Senator Dominick Moreno's seat, who resigned to take a job in the administration of Mayor Michael Johnson. That prompted a vacancy committee for that seat, who elected Manny Rutinel (D-Commerce City). Finally, Timothy Hernandez (D-Denver) was elected to fill the seat vacated by Representative Serena Gonzales-Gutierrez, who was elected to the Denver City Council.

Leadership changes also occurred in both chambers. As noted above, Senator Dominick Moreno's resignation resulted in a vacancy in leadership, since he held the position of majority leader. Senator Robert Rodriguez (D-Denver) was elected as the new majority leader and Senator Faith Winter (D-Westminster) was elected as the new assistant majority leader.

In late January, House Minority Leader Mike Lynch (R-Wellington) stepped down from his position as leader of the Republican caucus because of a DUI arrest that occurred two years earlier. Representative Rose Pugliese (R-Colorado Springs) was elected as the new Minority Leader and Representative Ty Winter (R-Trinidad), was elected as Assistant Minority Leader.

This legislative session saw one of the highest total bill count numbers in many years. There were 472 House bills and 233 Senate bills, for a total of 705 bills. This high number was because of the many interim committees that occurred with the large number of bills they forwarded, a larger than usual budget bill package, and many members being granted more than their five-bill limit.

The Legislature tackled bills dealing with a variety of topics including housing, firearm regulation, healthcare, education, tax relief, medical malpractice, and the environment.

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Housing

After the demise of the Governor’s priority housing bill in the prior session (SB23-213), the Governor spent much of the Fall hosting weekly meetings on their new housing bill package. Their package originally included three bills: a bill on accessory dwelling units (ADU’s), a bill on transit-oriented communities (TOC), and a bill on strategic growth. The strategic growth bill never got introduced, but the ADU (HB-1152) and TOC bills did (HB 1313).

The ADU bill was bipartisan, sponsored by Representatives Judy Amabile (D-Boulder) and Ron Weinberg (R-Loveland) and Senators Kyle Mullica (D-Northglenn) and Tony Exum (D-Colorado Springs). The bill requires certain local governments, defined in the bill with specific metrics, to allow ADUs and creates a certification and grant program in the Department of Local Affairs. The bill also prohibits a planned unit development from prohibiting ADUs and being more stringent than local laws. The bill passed, with amendments to address stakeholder concerns, and is awaiting action by the Governor.

HB 1313 was the main housing priority bill for the Governor. The bill is incredibly comprehensive and contained many policy changes including establishing a category of local governments that would meet the definition of a transit-oriented community, set requirements for housing opportunity goals and density, requires reporting requirements, limits an HOA's ability to restrict TOCs and neighborhood centers, and withheld Highway Users Tax Fund (HUTF) dollars from local governments if the housing density goals were not met. The bill faced pushback from local governments and was eventually amended in a variety of ways, including removing the HUTF portion of the bill. The bill is awaiting the Governor's signature.

SB 174 was brought by the local governments, to compete with the Governor's package. Sponsored by Senators Barbara Kirkmeyer (R-Brighton) and Rachel Zenzinger (D-Arvada) and Representatives Shannon Bird (D-Westminster) and Rose Pugliese (R-Colorado Springs), the bill required a housing needs assessment be conducted by the Department of Local Affairs, required local governments to create housing action plans, required a variety of reports, and provided technical assistance through a grant program. This bill passed on the final day of session and is awaiting the Governor's action.

Finally, one other bill worth mentioning is HB 1304, Minimum Parking Requirements. While not officially part of the Governor's package of bills, the prohibits local governments from enforcing minimum parking requirements. Heavily opposed by cities and counties and Republicans, the bill struggled to pass the Senate. Eventually it passed and is on the Governor's desk awaiting his action.

Property Tax

After the defeat of Proposition HH that came out of last year's session, the Legislature called a special session in November on property taxes, where fourteen bills were introduced. Seven of those bills passed and addressed policy topics including emergency rental assistance, the earned income tax credit, the creation of a property tax task force to make more permanent recommendations, a temporary reduction of residential property taxes, school summer electronic benefits program, and TABOR refunds.

The special session was always intended to provide temporary property tax relief and allow for the legislature to have more time to work through permanent solutions during the interim and session and to bring more expert voices to the conversation through the Task Force.

In the meantime, conservative groups worked to gather signatures and place on the ballot a measure that would create a four percent cap on property tax increases per year. The measure could be devastating to local government budgets and force massive backfill requirements from the state.

To make matters even more complicated, those same conservative groups began working with business groups on a property tax measure for the session. This was an ongoing conversation and end of session negotiation with local governments and legislators. Finally, after many conversations, SB 233 was introduced on the Monday prior to Sine Die, the absolute last day a bill could be introduced and

still pass during the session. The bill was sponsored by Senator Chris Hansen (D-Denver), Senator Barbara Kirkmeyer (R-Brighton), Representative Chris deGruy Kennedy (D-Lakewood), and Representative Lisa Frizell (R-Castle Rock).

The bill has strong bipartisan support and would hold residential and commercial property tax rates steady this year. Given rates are rising under current law, this move would cost schools \$380 million, money that would be reimbursed out of the state education fund. An additional payment of \$20 million would come out of the state reserve to local governments.

Beginning in 2025, schools and all other local governments would have different property assessment rates to prevent higher losses in revenue to schools, and therefore prevent state backfill. In addition, there will be a new cap on local government property tax collections of 5.5 percent growth per year. The cap would not apply to school districts and could be overridden by local referendum. The measure lays out different assessment rates for different years. In 2025, the rate for local governments will be 6.4 percent and the rate for schools will be 7.15 percent, and the commercial rate will be 27 percent.

In 2026, the local government rate will be 6.95 percent and the school rate will remain at 7.15 percent and the commercial rate would drop to 25 percent. Homeowners would also receive a 10 percent exemption on property value, up to \$70,000.

This measure did not earn the support of the conservative groups working on property tax and they intend to still run their ballot initiatives. SB 233 raced through the Legislature and is awaiting the Governor's signature.

State Budget

The March revenue forecast is critical as the Joint Budget Committee (JBC) finalizes their Long Bill. This year's forecast demonstrated still steady growth in the state and slightly more revenue. However, because the Legislature spent much of the prior year's excess during the supplemental process, and because cash fund balances were relatively high, the JBC found themselves overspent on their budget decisions as of the forecast date.

This resulted in the JBC needing to revisit many of their decisions to balance the budget. A careful negotiation with the Governor's Office took some time, before the Long Bill, HB 1430, and the many orbital bills finally got introduced. Per usual, the House and Senate ran dozens of amendments to put their own mark on the budget, but only a handful were adopted. The JBC met via conference committee and finalized the Long Bill. It passed and has been signed by the Governor.

The budget also only allocated about \$24 million to fund bills waiting in appropriations. The bills waiting in appropriations committee for their appropriation added up to about \$300 million, so we saw many bills die in that committee for lack of funding.

While this budget was not too constrained, the Legislature will be in a much tighter budgetary environment next year with the loss of federal ARPA dollars and an expected TABOR surplus.

In addition, after the Long Bill was passed, the JBC was informed that an accounting error related to the Health Insurance Affordability Enterprise has resulted in a \$67 million hole in the budget. The Legislature had been treating these dollars as TABOR exempt, but a report from the State Auditor indicated those dollars were not exempt. The state sought the Attorney General's opinion on if the State Auditor was correct and the Attorney General confirmed the Auditor's report. Instead of filling this shortfall through a late bill, the JBC chose not to act, and it will need to be addressed next session through supplementals.

Environment and Energy

The environmental lobby and democratic legislators brought forward a package of bills this session to address air quality and ozone-reduction. Oil and gas stakeholders immediately pushed back, arguing the bills would completely shut down the industry in Colorado, creating a negative economic impact on the entire state.

There were several bills in the package, including SB 165, which strengthened state and local enforcement of air quality regulations, required CDOT to assess the total vehicle miles traveled in personal cars and bring a plan to reduce those miles, required a ratcheting down of pollution from indirect sources such as warehouses, shopping centers, and office buildings, required construction vehicles to transition to emissions controls or electric models, allowed for citizen enforcement through legal action of air pollution permit violations, and most controversially, required a pause of oil and gas operations during the months of May through October.

SB 166 raised fines and increased enforcement on pollution emitters.

HB 1330 attempted to reform the permitting process at the Colorado Department of Public Health and Environment. The department has been severely backlogged in their Clean Air Act permits and approvals.

All of these bills faced significant opposition from a variety of stakeholders. Near the end of session, the Governor navigated a compromise with each side. The "grand compromise" tightened the state's air quality regulations and allocated additional dollars to transit projects in exchange for all sides pausing their pursuit of ballot measures and legislation for the next several years. In exchange for those three bills dying, two new bills were introduced, SB 229 and SB 230. These bills funded efforts to cap abandoned and low-producing wells, set new emissions targets, created new enforcement mechanisms, required modeling of emissions affects on disproportionately impacted communities, and increased fees on oil produced in the state to fund transit projects such as Front Range passenger rail and public land renewal.

SB 165, SB 166, and HB 1330 did fail and SB 229 and SB 230 passed in the final days of session.

Firearm Regulation

The Democratic majority introduced multiple bills attempting to regulate the use and ownership of firearms. As expected, the Republicans aggressively opposed all these bills.

HB 1174 increased training requirements for concealed carry permit applications and required instructors to be certified by the Colorado Bureau of Investigation. The bill passed and is awaiting the Governor's signature.

HB 1270 requires gun owners to obtain liability insurance that covers losses or damages to a person who is injured as a result of accidental or unintended discharge. Failure to maintain insurance is considered a civil infraction. Infractions are punishable by fines. The bill languished in the Senate and died on the calendar.

HB 1348 requires firearms that are in vehicles to be stored in locked, hard-sided containers and kept out of view or within the trunk of the vehicle. The bill passed and is awaiting the Governor's signature.

HB 1349 creates a 9 percent excise tax on all firearms, firearm accessories, and ammunition sold in Colorado. The tax will be placed on the ballot this Fall. The monies collected will be directed to the crime victim services fund, the school security disbursement program cash fund, and the behavioral and mental health cash fund. The bill passed and is awaiting the Governor's signature.

HB 1353 requires a firearm dealer to obtain a state firearms dealer permit to deal in firearms. If a dealer fails to obtain a permit they could be charged with an unclassified felony and face a \$250,000 fine. The bill also requires the dealer to undergo a training course developed by the department. The bill passed and is awaiting Governor's action.

SB 66 creates a firearms merchant category code for firearms and ammunition and requires a processor to assign the code to each firearms merchant. The Attorney General is granted exclusive authority to enforce the provisions of the bill and violators are subject to fines. The bill passed and is awaiting Governor's action. He is expected to sign the bill.

SB 131, in its final form, prohibits a person from knowingly carrying a firearm in state legislative buildings, a building of a local government's governing body, a courthouse, a preschool, an elementary school, a middle/junior high school, high school, vocational school, or institutions of higher education. The bill has some exceptions for military, law enforcement, security personnel, or persons who hold a concealed carry permit. The bill passed and is awaiting the Governor's signature.

HB 1292 prohibits assault weapons to be manufactured, imported, purchased, sold, or transferred in the state. The term assault weapon was very broadly defined, encompassing most guns with automatic triggers and magazines. The bill did not have the votes to pass in the Senate and was postponed indefinitely at the request of the sponsor.

Healthcare

Unlike prior years, the 2024 session was relatively quiet in the healthcare space. The Governor's administration has worked during prior years to pass many hallmark pieces of legislation on health insurance. The bills this year generally fell in the categories of benefit mandates and provider-friendly policies.

HB 1149 was the signature bill from the provider community. Spearheaded by the Academy of Family Physicians and the Colorado Medical Society, the bill limited the ability of health insurers to use prior authorization, a form of utilization management, to only certain circumstances. The health insurance industry aggressively opposed the bill. But the wave of support was too much to overcome their opposition and the bill passed and is awaiting the Governor's signature.

Regarding mandated benefits, several bills were introduced that would have required insurance coverage for certain procedures and drugs. Those included HB 1382, which mandated coverage for pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorder associated with streptococcal infections (bill passed and is awaiting action); SB 054, which mandated coverage of treatments for chronic disease of obesity and pre-diabetes, including lifestyle therapy, bariatric surgery, and highly expensive anti-obesity medication (died on the Appropriations calendar); SB 124, which mandated coverage for biomarker testing (passed and awaiting Governor's action); and SB 175, which requires coverage for doula services (passed and awaiting Governor's action).

The other healthcare issue that sucked the oxygen out of the room was a fight with the trial bar and medical providers and medical insurance carriers. The trial bar has been working on multiple ballot measures to remove all liability caps and remove statutory protections for confidentiality in peer review processes. This move would have cost the healthcare industry millions and put at risk the ability of professionals to do their jobs effectively. As a counter measure, COPIC introduced SB 130, which increased the caps from \$300,000 to \$500,000 incrementally for five years. After weeks of negotiations, both sides made an agreement and introduced HB 1472.

The bill increases, over five years, the non-economic damages cap from \$300,000 to \$875,000 and establishes a new wrongful death award which is capped at \$1.575 million. In 2030, the caps will be adjusted for inflation every two years. For general liability, the bill increases the non-economic damages cap from \$729,000 to \$1.5 million and the wrongful death cap from \$642,000 to \$2.125 million, and an inflation adjustment in 2028. In exchange, the trial bar will withdraw their proposed ballot initiatives and SB 130 would be killed. HB 1472 passed and is awaiting the Governor's signature.

Education

Education is a consistent focus in every General Assembly. There were a variety of bills that impacted education, including grant programs that were targeted at specific policy topics to focus dollars in more deliberate ways, and bills to mandate certain policies in school districts. But the big education headlines

were the full buy-down of the budget stabilization factor (BS factor) and a new rewrite of the school finance funding formula.

Since the passage of Amendment 23 in Colorado, which mandated a certain amount of state spending for education, the state share of K12 funding has steadily increased. The required spending, while good for education, functionally places a strain on the state budget. When revenues decrease, the JBC must balance the budget from other areas to maintain K12 funding. After the Great Recession, the legislature created the BS factor to help balance the budget. The factor was the difference of what the state was constitutionally required to provide school districts per Amendment 23 and the amount of actual funding appropriated. It was akin to an "IOU" for schools.

Over the years, about \$10 billion was diverted from schools through the factor. Last year, the General Assembly cut the BS factor in half and promised to pay the remaining balance off in 2024. SB 188 kept that promise and eliminated the BS factor, finally fully funding Colorado schools. In addition to the BS factor pay-off, SB 188 included a rural factor into the formula, recognizing the need for rural schools to account for economies of scale with an additional allocation. Prior to this, rural schools had been receiving a one-time allocation for the past seven years.

In addition to the BS factor elimination, the General Assembly also passed HB 1448, which was a new rewrite of the school funding formula. The current formula has not been touched for 30 years. Advocacy groups such as Ready Colorado, Colorado Succeeds, Democrats for Education Reform, and Stand for Children spearheaded the effort with the Colorado Rural Schools Alliance and multiple individual districts also supporting the bill. The new formula focuses on student-centered funding, allocating more dollars to districts that serve higher numbers of at-risk, English-language learners, and special education students. The formula also includes a remoteness factor, to address the inequities that rural districts face. Finally, the bill included additional capacity for facility funding through the BEST program and increased certificate of participation capacity and more flexibility for mill levy overrides.

The bill as introduced faced significant opposition from larger school districts and the Colorado Education Association (CEA). Many amendments were made through the process to address the concerns. Eventually, some of the school districts that opposed moved to monitor positions as changes were made and CEA also dropped their opposition. The bill passed in the final days and is awaiting the Governor's signature.

Bills Impacting Colorado Association of Home Builders

In addition to the bills mentioned in the Housing section of this report, the Colorado Association of Home Builders had a high-level priority bill on construction litigation reform. CAHB spent the fall and winter working with a broad coalition to craft legislation addressing the issue of high insurance costs for

condo construction because of certain risk of litigation. Early in the session, SB 106 was introduced with Senators Rachel Zenzinger (D-Arvada) and James Coleman (D-Denver) and Representative Shannon Bird (D-Westminster) as prime sponsors. The bill as introduced included provisions around right to remedy, informed consent, and negligence per se. Extensive amendments happened in the Senate to get the bill through its first committee hearing. The bill did pass the Senate Local Government & Housing committee on a vote of 4-3. Prior to its reading on the Senate floor we spent many hours attempting to craft a deal with the trial bar and drop their opposition.

However, an agreement proved elusive. Nevertheless, the bill moved forward and passed the Senate floor after a five-hour debate, with two-thirds support of chamber and a majority of Democrats supporting it. SB 106 hit another roadblock in the House. The Speaker asked Representative Bird to try again to reach a deal with the opposition before introduction. Once again, we met with the trial bar to come to an agreement, and once again those discussions broke down. It became clear that we had run out of road to craft a bill that could survive the more progressive House in the time left in session. The bill was postponed indefinitely in the House Transportation, Housing & Local Government committee at the sponsor's request. Representative Bird has committed to addressing the issue again in the 2025 session.

HB 1230 was the antithesis of SB 106 and if passed would have reduced the supply of all housing, not just condos. This bill permitted prejudgment interest, extended timelines for the statute of repose and statute of limitations, prohibited provisions of contracts and HOA declarations that require pre-claim procedures, and finally would have allowed single-family homeowners to join as a class against their builder. The bill advanced through the House and through Senate committee, where it languished on the Senate floor and died on the calendar.

HB 1379 and SB 127 were two bills that addressed the Waters of the US and the "gap waters" that exist in light of the *Sackett v. EPA* US Supreme Court decision. The House Bill was backed by the Colorado Department of Public Health and Environment and sponsored by the Speaker and Senator Dylan Roberts (D-Frasier). SB 127 was backed by most stakeholders and sponsored by Senator Barbara Kirkmeyer. CAHB worked to garner amendments to HB 1379 as it moved through the process. Senator Kirkmeyer was able to negotiate a deal and include many provisions from her bill into HB 1379. The bill passed in the final days of sessions and SB 127 was killed.

HB 1175 was a return of the right of first refusal/right of first offer policy from Representative Andrew Boesenecker (D-Fort Collins). The bill delineated the procedures that certain property owners must follow to allow a local government the first right of refusal and first right of offer for certain properties, with the goal of the legislation to create and retain affordable housing. Representative Boesenecker worked diligently with stakeholders and the Governor's Office accepting many amendments. In order for a property to be subject to Right of First Refusal, the property must be multi-family, have five or more units, and is subject to a restricted use covenant or similar recorded agreement on or after June 1, 2024. Right of First Offer properties applies to properties that are multi-family, not subject to right of

first refusal, is 30 years or older, and has between 15 and 100 units. The bill passed in the final days of session. It is expected that the Governor will sign the bill.

SB 194 was introduced late in session and allowed fire districts to impose impact fees without asking the local governments permission to do so. CAHB worked with the proponents and sponsors to achieve amendments to clarify the intent of the bill and ensure the guardrails that currently exist in statute were retained. The bill passed and has been sent to the Governor for signature.

Looking Ahead

There are several interim committees that will meet over the summer and fall months, but the number is less than last year. This is an election year so campaign activity will take a lot of legislators' time. The Colorado primary is on June 25th and many sitting legislators will be facing tough races. Several House members are attempting to move to the Senate chamber as well.

There are several primaries to watch on both sides of the aisle. It will be interesting to see how these play out as it will give an indication of where the parties reside on the spectrum and if they go for the more moderate or extreme candidates in each race. Those primaries to watch include the following:

1. HD 4 in North Denver. Appointed Representative Tim Hernandez is facing a challenge from Cecelia Espenoza in a Democratic primary.
2. HD 6 in central Denver. Representative Elisabeth Epps is facing a challenge from moderate Sean Camacho in a Democrat safe seat.
3. HD 8 in Denver. This is an open seat which is currently held by Representative Leslie Herod. Lindsay Gilchrist and Victor Bencomo are hoping to be the new representative in this safe Democrat seat.
4. HD 10 in Boulder. Representative Junie Joseph is facing a challenge from Tina Mueh in a Democratic primary.
5. HD 20 in Colorado Springs. Representative Don Wilson is not running again leaving Jarvis Caldwell and Zachary Young fighting it out in this safe Republican seat.
6. HD 30 in Lakewood. This is an open seat currently held by Representative deGruy Kennedy. His wife, Kara deGruy Kennedy is facing Rebekah Stewart in this safe Democrat seat.
7. HD 52 in Fort Collins. Representative Cathy Kipp is running for the Senate, leaving this seat open to Ethnie Treick or Yara Zokaie.
8. HD 63 on the eastern plains. Representative Richard Holtorf is running for Congress. Dusty Johnson and Brian Urdiales are hoping to replace him.
9. SD 19 in Arvada. Senator Rachel Zenzinger is term-limited. Current Representative Lindsey Daugherty is facing Obi Ezeadi in the Democratic primary.
10. SD 28 in Aurora. Senator Rhonda Fields is term-limited. Current Representative Mike Weissman is running against Idris Keith in this safe Democrat seat.

The results of both the primary election and general election will strongly influence the direction of the 2025 General Assembly. Priorities of both chambers and both parties will become clear as the fuzzy political landscape comes into focus through the year.