

Take A Look At What Is Happening In Colorado State Policy News

# Axiom Newsletter



April 16th, 2018

"In three words I can sum up everything I've learned about life: it goes on."

- Robert Frost

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## **A GOP battle in Boulder and Democratic front-runner questions in Broomfield**

Denver Post

The top-line candidates in the Colorado governor's race emerged Saturday from a Republican Party assembly marred by ruthless attacks and a docile Democratic contest that remains wide open.

Walker Stapleton, the two-term state treasurer and Bush family relative, and Greg Lopez, a former Parker mayor and longshot candidate, emerged from a seven-way Republican

assembly in Boulder that delivered an devastating defeat to Attorney General Cynthia Coffman, who managed only a fraction of the vote.

Cary Kennedy, the former state treasurer, won a convincing victory at the Democratic state assembly down the road in Broomfield, while five-term U.S. Rep. Jared Polis, the top spender and early favorite, also made the ballot, but by a narrow margin.

The top vote-getters secured the top line on the June 26 primary ballots and will join other candidates from each party who qualify through the petition process.

On the Democratic side, former state Sen. Mike Johnston made the ballot - and Lt. Gov. Donna Lynne is expected to do the same - by collecting voter signatures. And on the Republican side, businessman Doug Robinson, the nephew of Mitt Romney, and former state Rep. Victor Mitchell, anticipate making the race by petition as well.

The assembly will provide the winners with a quick jolt of momentum for the final sprint, but the assembly votes - decided by a few thousand party diehards - often are an unreliable indicator of who will win the party nominations.

Democrats are looking to retain control of the office after the departure of term-limited Gov. John Hickenlooper, while Republicans are hoping to elect just the second GOP governor since 1975.

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## **Colorado business groups endorse \$5 billion plan to fund roads. But are Democrats on board?**

**Denver Post**

A broad coalition of Colorado business groups has endorsed a \$5 billion transportation measure moving through the state legislature, boosting its chances of passage even as top Democrats continued to express "reservations" with the plan.

But while political hurdles remain, last Monday's announcement eliminated a key roadblock that stymied political negotiations at the divided legislature for much of the year.

"What you see is an incredible amount of unanimity," Mike Kopp said, the president and CEO of Colorado Concern at a morning press conference. "...Senate Bill 1 is historic. This is the largest transportation bill in 20 years."

Previously, business groups including Colorado Concern and the Denver Metro Chamber of Commerce had been pushing competing plans to raise taxes to pay for the state's infrastructure needs, creating an impasse that promised to clutter the November ballot with proposals. Meanwhile, Republican lawmakers for months have been pushing a plan of their own to borrow up to \$3.5 billion against existing state revenue, over the objections of Democrats who insist that the question of new taxes should be sent to voters.

In late March, the state Senate struck a bipartisan deal, voting unanimously to approve a bill that would set aside \$250 million annually for transportation over 20 years. If voters agree to bond against it, that amount would cover the \$5 billion needed to repay the proposed

borrowing costs. If not, the money would be transferred to the state highway fund for road maintenance. The compromise would also delay sending voters a referendum to issue the bonds until 2019, a concession from Republicans that effectively gives business groups the chance to go to the ballot for a potential tax hike this November.

"From the Chamber's point of view, I don't believe the state has enough revenue to solve everything we need to solve on transportation," Kelly Brough said, the Denver Metro Chamber president. But it's still not clear what tax hike - if any - voters will get the chance to consider. Brough's group has filed initiatives to raise sales taxes by varying amounts, while Colorado Concern and others prefer to raise vehicle ownership taxes to pay for road needs. Disagreements over the legislation remain. House Democrats want a large share of the money earmarked for local governments and mass transit - something Republicans have resisted. And on Monday, top Democrats and liberal groups outside the Capitol reiterated their concerns that a long-term commitment to borrowing without new taxes could force lawmakers to cut spending on schools and other public services the next time there's an economic downturn.

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## **Colorado's Amendment 71 - "Raise the Bar" - is temporarily back in effect after federal appeals court action**

**Denver Post**

A federal appeals court last Thursday reinstated Colorado's Amendment 71, which makes it more difficult to change the state constitution, weeks after a judge's order blocked parts of it from being enforced.

The stay issued by the 10th U.S. Circuit Court of Appeals puts the voter-approved measure, known as "Raise the Bar," temporarily back in effect for any constitutional initiatives proposed for the November 2018 ballot, the Colorado secretary of state's office confirmed.

A federal district court judge in March blocked key portions of Amendment 71, saying its new signature requirements violated the principle of one person, one vote.

The lawsuit challenging the amendment's constitutionality is still pending before the appeals court.

At issue is whether the state can require interest groups to collect signatures from 2 percent of registered voters in all 35 state Senate districts in order to put constitutional changes on the ballot.

Proponents argue the higher signature threshold is necessary, because it should be harder to change the state's constitution, which is among the longest and most convoluted in the country, critics say.

They also argue that rural areas should have more of a voice in ballot access.

Today, groups attempting to access the ballot typically only collect signatures in the state's major population centers along the Front Range.

"This is a victory that restores the will of Colorado voters who approved Amendment 71 by a wide margin," Lee White, co-chair of the Raise The Bar campaign, said in a statement. "We look forward to the full arguments in this case and feel very confident Amendment 71 will be permanently upheld in full."

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## **Colorado teachers plan to walk off the job Monday and descend on the legislature**

**Denver Post**

Hundreds of Colorado teachers are expected to descend on the state Capitol on Monday to demand changes in school funding and to lobby for higher teacher pay, mirroring similar efforts in Oklahoma and West Virginia.

All classes in Englewood have been canceled Monday as more than 150 teachers in that district plan to walk out of classes and take their concerns about school funding to the Capitol in support of the Colorado Education Association's Lobby Day.

The Englewood teachers are all taking personal time off to support the CEA.

"But the district didn't have enough substitutes to cover that many teachers being out so they made the decision to close," CEA spokesman Mike Wetzel said Friday.

There were no indication how many other teachers from other districts will join in on Monday. CEA members are expected to meet with legislators in the morning and then appear before the House Finance Committee at 1:30 p.m. for a hearing discussing efforts to pay down the Public Employee's Retirement Association's unfunded liability.

Earlier this year, 100 CEA members told lawmakers about a survey of more than 2,200 CEA members that showed the average educator spent about \$656 a year out of their own pockets for student needs. Many CEA members presented invoices to the General Assembly for the past due amount.

The CEA said educators in Colorado have had their pay cut by more than 17 percent when adjusting for inflation. A recent study from the Education Law Center, a group that advocates for more school funding, ranked Colorado dead last in the competitiveness of its teacher salaries.

The typical 25-year-old teacher at the beginning of his or her career in Colorado makes just 69 percent of what a peer with a similar education level who works similar hours earns, the Education Law Center said.

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## **Gardner says Trump vows to protect marijuana industry**

**Colorado Politics**

President Trump has promised a top Senate Republican that he will support congressional efforts to protect states that have legalized marijuana - defusing a months-long standoff between Sen. Cory Gardner and the administration over Justice Department nominees.

In January, the Colorado Republican said he would block all DOJ nominations after Attorney General Jeff Sessions issued a memo that heightened the prospect of a federal marijuana crackdown in states that had legalized the substance. Gardner's home state made recreational marijuana legal in 2014.

In a phone call late Wednesday, Trump told Gardner that despite the DOJ memo, the marijuana industry in Colorado will not be targeted, the senator said in a statement Friday. Satisfied, the first-term senator is now backing down from his nominee blockade.

"Since the campaign, President Trump has consistently supported states' rights to decide for themselves how best to approach marijuana," Gardner said Friday. "Late Wednesday, I received a commitment from the President that the Department of Justice's rescission of the Cole memo will not impact Colorado's legal marijuana industry."

He added: "Furthermore, President Trump has assured me that he will support a federalism-based legislative solution to fix this states' rights issue once and for all. Because of these commitments, I have informed the Administration that I will be lifting my remaining holds on Department of Justice nominees."

Gardner, who heads the campaign operation charged with hanging on to the Republicans' Senate majority, was irate in January when Sessions revoked guidance from the Obama administration, known as the Cole memo, that had discouraged prosecutors from enforcing federal marijuana laws in states that had legalized the drug.

Especially infuriating, from Gardner's perspective, was that Sessions had pledged during his confirmation process for attorney general he would leave states that had legalized marijuana alone, according to the senator.

The January memo from Sessions stated prosecutors should use their discretion in weighing whether charges were warranted, rather than abiding by the Obama-era guidance.

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## **Anti-squatters bill wins unanimous vote from crucial House committee**

### **Colorado Politics**

For five months, Ryan Parsell watched a neighbor's house in eastern El Paso County become a haven for drugs, prostitution and theft. The neighbor had passed away and squatters moved in, Parsell told the Colorado House State, Veterans and Military Affairs Committee in a hearing last month.

Parsell's story is unfortunately not unusual, and Senate Bill 15, approved unanimously by that House committee Thursday, hopes to help homeowners who find themselves the victim of "squattling" - people who illegally move into a home, often unbeknownst to the homeowner.

It often takes months to get the attention of law enforcement and even longer to get the illegal tenants evicted, according to the bill sponsors and those with first-hand experience.

Senate Bill 15 would allow law enforcement to evict squatters within 24 hours after the homeowner makes a declaration that someone is trespassing. The bill would make squatting when the property is altered or damaged a class one misdemeanor, the most serious misdemeanor under state law.

A conviction would carry a fine of up to \$5,000 and 18 months in jail. A squatter who returns to the property could also be charged with criminal trespass.

The family of the homeowner in Parcell's neighborhood hired a lawyer and private investigator in an effort to get the illegal tenants out, Parsell said. But law enforcement told him it was a civil matter and they could do nothing.

Parsell estimated 35 different people lived in that house in a five-month period, selling drugs, operating a prostitution and theft ring and vandalizing cars in the neighborhood. "Every sound was a reminder that squatter laws don't work."

After five months, the first eviction notice showed up on the door. That night, Parsell said, there was a sort of community garage sale, with appliances, copper wire and furniture stripped out of the house and sold.

The process for evicting a squatter is daunting, according to witnesses. Because squatters don't have a lease, that can extend the amount of time they can illegally possess the residence for months or even a year. Then there's the damage, and there's almost always damage in these situations.

Another witness from the Pikes Peak Association of Realtors testified that it took 85 days to evict a squatter from an area home, and that left the 85-year-old homeowner with \$7,000 in damages.

The bill did run into objections from the Colorado Bar Association, which raised concerns about the misdemeanor charge and pointed out it conflicts with current law.

Democratic Rep. Mike Weissman of Aurora worked with the sponsors - El Paso Republican Reps. Larry Liston and Dave Williams - on an amendment to add a definition of an unauthorized person, and how notice must be given. The amendment also directs county courts to act on these complaints as soon as possible.

The bill won a 9-0 vote (rare for a Republican bill in House State Affairs) and now moves to the full House for debate.

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**Colo. isn't only state with big public-pension funding gaps**  
Colorado Politics

A public employee pension crisis for Colorado and other state's governments has deepened to a record level even after nearly nine years of economic recovery for the nation, according to a study released Thursday, leaving many states vulnerable if the economy hits a downturn.

The massive unfunded pension liabilities are becoming a real problem not just for public-sector retirees and workers concerned about their future but also for everyone else. As states try to prop up their pension funds, it means less money is available for core government services such as education, public safety and parks.

The annual report from the Pew Charitable Trusts finds that public worker pension funds with heavy state government involvement owed retirees and current workers \$4 trillion as of 2016. They had about \$2.6 trillion in assets, creating a gap of about one-third, or a record \$1.4 trillion.

According to the report, Colorado has \$94.2 billion in public pension liabilities versus \$43.4 billion in assets to meet those obligations, a funded ration of 46 percent.

While the study looks only at pension funds with major state-government involvement, systems run by cities, counties, school districts and other local entities have had similar problems. Just this week, the Chicago suburb of Harvey, a city with a history of underpaying its pension obligations, announced deep layoffs in its police and fire departments. Officials blamed their rising pension obligations.

Larger cities and school districts across the country also have had service cuts or freezes over the years to pay for rising costs for their retirees.

Pew says that pension funds were well-funded until about 2000. Around that time, many states increased pension benefits without a way to pay for them. In some states, such as California and Illinois, courts usually find that the government must honor those commitments.

Also in the early 2000s, the tech stock bubble burst, spiraling investment returns downward. Some states, such as New Jersey, made things worse by skimping on their contributions.

Many pension funds had not recovered from the dot-com bust by the time the Great Recession hit less than a decade later. And many haven't recovered from that, either.

"When the next downturn comes, there will be additional pressures," David Draine, a senior officer at Pew, told The Associated Press.

Colorado as well as Connecticut, Illinois, Kentucky and New Jersey had less than half the assets they needed to meet their pension obligations, according to the report. Kentucky and New Jersey have the largest gaps, with just 31 percent of the needed funding.

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**Online sales tax at stake in Supreme Court case**  
Denver Business Journal

The U.S. Supreme Court will hear arguments Tuesday on whether states can charge sales taxes to online purchases from retailers that have no physical presence in their state.

As online shopping has grown, replacing brick-and-mortar stores, states and traditional retailers have argued that sellers that operate strictly online have an unfair advantage and should still have to charge sales tax in the locations where their goods are delivered.

In the South Dakota v. Wayfair case, more than 40 states say they're losing billions of dollars in tax revenue each year from tax-free online shopping, causing them to cut critical government programs.

South Dakota v. Wayfair challenges the 1992 decision in Quill Corp. v. North Dakota, which prohibited states from collecting sales tax from vendors lacking an in-state physical presence.

The Supreme court is reviewing South Dakota's argument that the Quill ruling, which decided that the state could not interfere with the interstate commerce conducted by a mail-order company, is obsolete in the e-commerce era and should be overturned, per Accounting Today.

The South Dakota Supreme Court sided with Wayfair, but legal experts expect the federal Supreme Court to overturn the precedent, allowing states to collect the taxes, the Wall Street Journal reported.

Large retailers that have a physical presence in multiple states with brick-and-mortar stores are required to collect sales tax when they sell online, but strictly e-commerce sellers can often avoid charging taxes. Amazon collects sales taxes on its own products but not on goods from other retailers' products sold through their site.

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## **U.S. Treasury certifies Colorado Opportunity Zones**

**Office of Gov. John Hickenlooper**

DENVER - Wednesday, April 11, 2018 - The 126 Colorado Opportunity Zones nominated last month have been certified by the U.S. Department of the Treasury and are now eligible for a new federal tax incentive. The designation is meant to promote economic vitality across the state, specifically in qualified low income areas.

Established by last December's massive tax bill, Opportunity Zones encourage economic growth via private capital investment by providing a tax incentive for investors to reinvest in disadvantaged communities. This program will bolster new business starts and business growth and development of real property and infrastructure in locations that are well positioned for investment.

"Colorado's Opportunity Zones can help create momentum in communities that need a little boost in their economic recovery efforts," said Governor John Hickenlooper. "We owe it to these areas of the state to take advantage of every potential incentive. Hopefully we will see significant dividends in the future."

Under the Tax Cuts and Jobs Act of 2017, Colorado was able to designate 25 percent of its

eligible, low-income census tracts as Opportunity Zones. The Colorado Office of Economic Development and International Trade (OEDIT) and the Department of Local Affairs (DOLA) collaborated with a broad group of stakeholders, including economic developers, community partners, local governments, state legislators and investors in order to select Colorado's Opportunity Zones.

"The Department of Local Affairs was eager to be a part of the Opportunity Zone program promoting economic development and assistance in distressed communities," said Irv Halter, executive director of DOLA. "The ability to provide affordable housing and economic growth to underserved populations, allows us to strengthen Colorado communities."

A majority of the areas selected as Opportunity Zones are located outside of the Front Range. The areas nominated provide a diverse portfolio for investors including a mix of urban, small town, suburban and rural areas and investment opportunities ranging from business starts to real estate development to key infrastructure to support existing and new businesses. Zones were also located in places where other existing economic development initiatives can be leveraged for catalytic effect.

"By working closely with local communities and investors and balancing need along with potential opportunity, we've selected areas of the state that are ripe for meaningful investment," said Jeff Kraft, director of Business Funding and Incentives at OEDIT.

Colorado was among the first 15 states and three territories to have its zones certified by the U.S. Treasury and the Internal Revenue Service. All 126 Colorado zones submitted by Gov. Hickenlooper were certified. The state also is considering other initiatives to support and complement the federal Opportunity Zone effort.

Colorado's designated Opportunity Zones can be found at [choosecolorado.com/oz](http://choosecolorado.com/oz) in both a list format and on an interactive map. Investors are encouraged to watch for IRS regulations for Opportunity Funds to structure their investments. The webpage offers links to additional resources and information outlets for the pending Opportunity Fund and Opportunity Investment requirements.

## **Gov. Hickenlooper Announces Boards and Commission Appointments**

**Office of the Governor**

**Wednesday, April 11, 2018** - Gov. Hickenlooper today announced Boards and Commissions appointments to the Colorado Tourism Office Board of Directors and the Colorado Water Conservation Board.

The Colorado Tourism Office Board of Directors sets and administers policies regarding expenditures from the Colorado Travel and Tourism Fund and for promoting travel, tourism and related activities that benefit the state.

For a term expiring June 1, 2020:

- Peter Jon Piccolo of Denver, to serve as a representative of tourism-related retail industry, small community, and small business, and occasioned by the resignation of Daniel R. Grunig of Denver, appointed.

The Colorado Water Conservation Board (CWCB) helps protect and develop waters of the state. The agency is responsible for water project planning and finance, stream and lake protection, flood hazard identification and mitigation, weather modification, river restoration, water conservation and drought planning, water information, and water supply protection.

For terms expiring Feb. 12, 2021:

- Steven A. Anderson of Olathe, to serve as a representative of the North Platte drainage basin and as a Republican, appointed;
- Curran A. Trick of Cowdrey, to serve as a representative of the South Platte drainage basin and as a Republican, appointed;
- James Thomas Yahn of Sterling, to serve as a representative of the South Platte drainage basin and as a Republican, reappointed.

## Calculator

Days Left to Sine Die: 23  
House Bills Introduced: 392  
Senate Bills Introduced: 242  
Dead Bills: 131  
Governor Signed: 149

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