



Colorado General Assembly 2019 Legislative Preview

We are pleased to offer this Legislative Preview to provide readers a “30,000 foot” view of what to expect in the coming legislative session, offering access to the data and backup material used to develop the Outlook. We hope you find the preview to be informative, useful, and entertaining, and ask that you give appropriate attribution should you decide to share it with friends, family, and business colleagues.

Thanks and enjoy!

Happy New Year,
Ed, Jennifer, and Alaina

I. PREVIEW OF THE 2019 LEGISLATIVE SESSION

The First Regular Session of the 72nd General Assembly of Colorado convenes on *Friday, January 4, 2019, at 10:00 am*. Per the Colorado State Constitution, the legislature will meet for no more than 120 days, with adjournment *sine die* occurring no later than midnight on *Friday, May 3, 2019*. Additional information on the General Assembly, including contact information for legislators, information on bills that have been introduced, schedules for committee hearings, and links for listening to live audio broadcasts of legislative proceedings at the [Colorado General Assembly homepage](#). The [deadline schedule](#) for the House and Senate is also available online. The House of Representatives and the Senate will be televised, both on the [Internet](#) and on Comcast cable television channel 165.

Much of the 2019 session was determined on election day with Democrats winning the “trifecta” – the Governor’s Office as well as control of the House (41-24) and the Senate (19-16).

A. 2019 LEGISLATIVE LEADERSHIP

Shortly after the election, the House and Senate caucuses met to elect their leaders for the coming session:

- House Speaker K.C. Becker, D-Boulder
- House Majority Leader Alec Garnett, D-Denver
- House Minority Leader Patrick Neville, R-Castle Rock
- Senate President Leroy Garcia, D-Pueblo
- Senate Majority Leader Steve Fenberg, D-Boulder
- Senate Minority Leader Chris Holbert, R-Douglas County

As of this writing, at least 23 members of the House are new to the legislature and 13 Senators are new to the Senate in 2019 (8 of whom served in the House). Some vacancy committees have yet to determine new appointments to vacant seats, potentially increasing the number of new members.

B. KEY ISSUES IN THE 2019 LEGISLATIVE SESSION

Many high profile, key issues will reemerge in 2019: TABOR/Gallagher, transportation funding, affordable housing, and the state budget. This group of major policy issues is unchanged from prior years; pressure remains from local communities, governments, and special districts to find permanent solutions. Of course, many more issues will be debated this session as we expect to see upwards of 600 to 700 bills introduced in the 2019 session.

With Democrats controlling both chambers, we expect many bills that failed in past sessions to make more progress in the upcoming year.

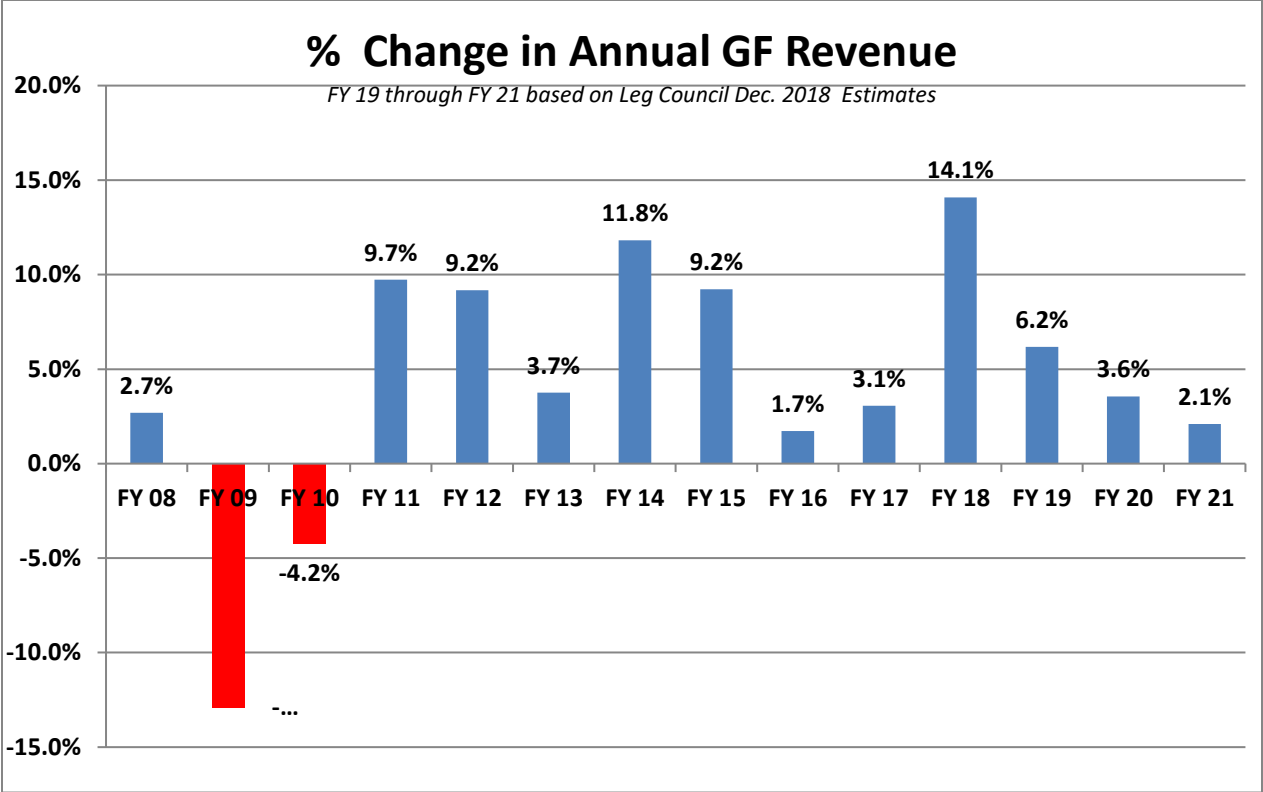
II. BUDGET OVERVIEW

A. COLORADO'S ECONOMY AND TAX REVENUE

Colorado's economy continues to be among the best in the nation. From the Legislative Council [December forecast](#):

Over the next two years, the U.S. and Colorado economies will continue to expand, albeit at a slower pace than in 2018. The slowdown in growth is consistent with a maturing U.S. economic expansion and will coincide with slower global economic activity. As the stimulative impacts of federal tax cuts wear off, growth in business investment and consumer activity are expected to moderate. Higher interest rates and an increasingly tight labor market will pose stronger headwinds to private sector growth. International trade policy uncertainty continues to cloud the outlook for businesses, and will contribute to upward pressure on prices for consumers and businesses alike until tensions ease.

Colorado's primary source of revenue is the state General Fund, made up of income taxes (two-thirds) and sales taxes (one-third). Given these sources of revenue, it is not surprising that the General Fund is extremely cyclical. The table below shows the "boom and bust" cycle of the General Fund revenues.



The graph above reflects the anticipated economic slowdown in FY 20 and 21 as noted by the state’s economists in the December 20 forecasts.

B. FY 2019-20 BUDGET REQUEST

Governor Hickenlooper submitted his [FY 2019-20 budget request](#) (for the fiscal year beginning on July 1, 2019) on November 1, 2018. This request was built off the September revenue estimates from the Governor’s Office. The key components of the request:

- **Education:** Full funding for K-12 education for inflation and enrollment, plus an additional \$77 million to buy down the Budget Stabilization Factor (formerly known as the Negative Factor). For higher education, the request includes a 12.1 percent increase in General Fund support for the governing boards and the state’s financial aid programs. This level of support will allow the governing boards to hold tuition flat for FY 2019-20 for resident students.
- **Health Care:** Full funding for Medicaid caseload increases, including [provider rate increases](#) and expanded long term care services for Colorado’s aging population and individuals with intellectual and developmental disabilities.
- **Human Services:** Adds funds for child welfare and youth services, early childhood readiness, and economic opportunity for individuals served by DHS through increases to direct care employee compensation, provider rates, and cost of living adjustments for benefits recipients.

- **Corrections:** Funding increases to address prison population trends and state bed capacity, as well as to conduct a targeted salary increase for correction officer positions with high turnover rates. The Legislative Council [December 20 prison population estimates](#) noted that the population of adult prisoners is expected to continue to increase “consistent with rapidly rising felony caseload”.
- **Reserve:** Increase the state’s reserve from 7.25 percent to 8.0 percent of General Fund appropriations, requiring \$139 million additional General Fund. Recently the Pew Charitable Trusts issued a [comparative analysis](#) of state reserves (or “Rainy Day Funds”) and noted that Colorado’s reserve would provide sufficient funds to operate the state for 21.5 days (up from 18 days a year ago).

• **TABOR Refunds:** Currently the state’s Senior Homestead Exemption can be considered part of the state’s TABOR refund obligation. Governor Hickenlooper proposed establishing four additional tax credits as TABOR refund mechanisms: expanding the current Child Care Tax Credit (moving the income cap of \$60,000 to \$150,000), establishing a child care provider tax credit, workforce and education tax credits, and earned income tax credits. Based on the Legislative Council December forecast, the state is projected to be above its TABOR limit. The table above shows the estimated TABOR refunds.

Legislative Council Estimated TABOR Refunds	
<i>Fiscal Year</i>	<i>TABOR Refund</i>
FY 2017-18	\$18.5
FY 2018-19	\$380.4
FY 2019-20	\$189.0
FY 2020-21	\$0

Being in a TABOR refund position means that any proposals that increase cash funds will have a more difficult time getting legislative approval. Cash fund increases result in increased TABOR refunds.

The November budget request serves as a starting point in the budget process. Once Governor-elect Polis takes office, he can modify any part of the budget request. The Joint Budget Committee will conduct figure setting for state agencies in February and March, and recommend a Long Bill to the Senate in late March.

C. FUTURE BUDGET CHALLENGES

Impact of the Gallagher Amendment

Ten years prior to the passage of TABOR, the voters approved the Gallagher Amendment, which requires an adjustment to the residential assessment rate to maintain a constant ratio between the statewide share of residential taxable value and nonresidential taxable value.

To understand the Gallagher Amendment and the impact of a decline in the residential assessment rate, we have listed the components of a homeowner’s property tax liability (courtesy of Legislative Council):

- Step 1: Determine Assessed Value:*
 $Home\ Value \times Residential\ Assessment\ Rate = Assessed\ Value$
- Step 2: Determine Local Property Tax Collections:*
 $Assessed\ Value \times Local\ Mill\ Levy = Local\ Property\ Tax$

Since the passage of Gallagher in 1982, the increasing value of residential real estate has periodically forced a *decrease in the residential assessment rate* to maintain the required balance in the formula.

After going unchanged since 2003, the legislature was required to **decrease the residential assessment rate from 7.96 to 7.2 percent** for 2017 and 2018. Legislative Council anticipates a **further decline in the residential assessment rate to as low as 6.78 percent in 2019**, with another decline to 6.41 percent in 2021.

What does this mean for Colorado? A decrease in the residential assessment rate will decrease the amount of local property taxes that are collected to support K-12 education, thus requiring more state aid as a result. This decrease in the residential assessment rate also impacts other local government services that are funded by property taxes. The legislature convened an [interim committee](#) in 2018 to consider modifications to the Gallagher Amendment; this committee considered a variety of possible changes, many of which need voter approval. These proposals are anticipated to emerge in 2019.

Medicaid

How much can the Medicaid caseload continue to grow? Colorado's Medicaid population has increased by 676,000 in the last seven years. Many of these individuals have been covered by federal funds, but Medicaid continues to consume an ever-greater portion of the state budget. Since FY 2010-11, Medicaid's share of the General Fund budget has increased from 18.7 percent to 25.4 percent.

TABOR

To its supporters, TABOR represents a necessary "check" on the growth of government; however, opponents argue that the state's infrastructure is deteriorating, and Colorado is the only state required to issue tax refunds. SB17-267 (establishing the Hospital Provider Fee enterprise) provided more revenue space under the TABOR cap through the creation of the Colorado Healthcare Affordability and Sustainability enterprise, but Colorado has already reached its TABOR revenue cap.

K-12 Budget Stabilization Factor

The K-12 budget continues to increase. However, the Budget Stabilization Factor (the amount below our funding target required by the provisions of Amendment 23) remains at approximately \$672 million. The state has been "carrying" the K-12 Budget Stabilization Factor since FY 2009-10; however, the legislature set a trend in recent years of dedicating funding each year to reducing the Budget Stabilization Factor.

State Support for Higher Education

Higher education is the largest discretionary portion of the budget, and the share of state funding for higher education has been declining for over 30 years. Consequently, institutional reliance on tuition has increased along with student debt. Can the state continue this trend? Governor Hickenlooper's budget request for FY 2019-20 includes a substantial General Fund increase to keep resident tuition flat.

Transportation

The state's transportation infrastructure continues to deteriorate. Two statewide proposals to fund transportation infrastructure were defeated by large margins in 2018: a sales tax increase with bonding (Proposition 110) and a bonding requirement with no new source of revenue (Proposition 109). Governor-elect Polis has indicated that transportation remains a top priority, and everything is on the table with the exception of those items explicitly rejected by the voters.

Demographic Changes

Colorado will experience a substantial demographic shift in the coming years as a higher percentage of our population becomes 65 years of age and older. According to the [initial Strategic Action Plan on Aging for Colorado](#), the number of Coloradans aged 65 and older is expected to increase by more than 508,000 in the next 12 years. This demographic change will be reflected in the state budget as retired individuals generally pay less in taxes and have different budgetary needs.

III. 2019 LEGISLATIVE ISSUE OVERVIEW

A. AGRICULTURE

Colorado remains a top producer of cattle, dairy, wheat, potatoes, millet, and corn. The agriculture industry contributes over \$7 billion annually to the state's economic output. To continue building economic opportunities for our agriculture producers, Governor Hickenlooper has requested an increase in international marketing efforts in hopes of boosting agriculture businesses and job creation.

Over the past several years, the [Colorado Proud](#) program, aimed at highlighting Colorado based products, has received a lot of attention as a useful promotion mechanism, and this year we expect more discussions around expanding the program.

The Colorado Department of Agriculture will undergo three important sunset reviews for 2019 – Seed Potato Act, Pet Animal Care Facilities Act, and Public Livestock Markets Act – all of which are expected to pass, maintaining the regulation and safety of agricultural products and markets. Other agricultural legislation expected this year will address water quality and quantity, soil health, land use, and workforce development.

B. ECONOMIC DEVELOPMENT

Colorado continues to have one of the best economies in the nation, and tops the rankings for best labor supply and job market. Yet, rural areas of the state continue to struggle with economic development and job creation, and the Governor and legislators are looking to expand Opportunity Zone investments and streamline the Job Growth Incentive Tax Credit program to provide aid and relief to these communities. Additional legislation expected this year will seek to address rural workforce shortages, particularly in the health, agriculture, and education sectors.

As a strong supporter of the film industry in the state, Governor Hickenlooper requested the restoration of \$1.25 million for the Office of Film, Television, and Media in his final budget request.

C. EDUCATION (K-12)

A significant tax funding proposal brought by K-12 advocates was rejected by the voters in November; Amendment 73 failed with 46 percent support, well below the required 55 percent threshold. Still, this result is a substantial improvement over the prior two measures (2011 and 2013), which only received approximately 35 percent each.

Educator Shortages, Salaries, and Recruitment

Colorado, similar to most states, will experience an educator shortage in the next few years. Indeed, the shortage is already impacting certain types of teachers (math, science, and special education) throughout the state, and all types of teaching positions in many sections of rural Colorado. Numerous national studies have documented the large number of teachers who will retire in the next decade. In 2017, the legislature directed the Departments of Education and Higher Education to develop a strategic plan to address the teacher shortage. This [report was released](#) in December 2017 and contains a variety of recommendations, including ensuring teachers have continual training and professional development. This can include focusing on teacher induction programs and alternative preparation programs, and better programs for preparing teachers to work in hard to serve areas. Currently, according to a [Colorado Department of Education Survey](#), average teacher salaries range from high-paying districts of Boulder (\$75,220) and Cherry Creek (\$71,711) to low-paying districts Agate (\$35,180) and Woodlin (\$29,356). Many districts have average teacher salaries below \$40,000/year.

Coloradans can expect bills to be introduced aimed at mitigating the teacher shortages in rural communities as well as hard to serve urban districts. Governor Hickenlooper recommended a \$6 million teacher financial aid program to support such efforts. Meanwhile, Governor-elect Polis discussed the importance of free, full-day kindergarten frequently on the campaign trail. Currently, many districts offer free full-day kindergarten, but the state only reimburses each full-time kindergarten student as 0.58 FTE. The cost to the state of implementing free, full day kindergarten is approximately \$225 million. Other likely legislation will address expanding the free and reduced-price lunch program, the uses for the BEST program, and creating the Early Childhood Educator Tax Credit.

K-12 Funding

There are two groups currently examining the state's education system. In 2017, the legislature established a two-year [Interim Committee on School Finance](#). The committee will sponsor a bill in 2019 to extend their authority for one additional year. Also, the Governor's Office reestablished [the Education Leadership Council](#) to review coordination between K-12 and higher education.

Outside of the ongoing discussions in the interim committees, the School Finance Act continues to be a critical discussion, particularly the amount of funds to be allocated and the allocation of those funds between districts. To many, the 1994 School Finance Act is outdated; however, modifying or updating the Act is difficult without creating "winners and losers" among the districts. The Governor's budget request will fully fund inflation plus enrollment and "buy down" the Budget Stabilization Factor by an additional \$77 million. The average change in funding for districts is 5.0 percent, though this will vary widely based on enrollment changes. Most of the large metro districts are projected to receive an increase of greater than 5.0 percent, and many of the smaller rural districts are well below the 5.0 percent level.

The Joint Budget Committee [staff briefing presentation](#) contains information on the taxpayer inequities of local support for school finance (see page 26). The combination of TABOR and Gallagher has resulted in varying levels of local taxpayer effort for the "Total Program" component of the School Finance Act.

D. HIGHER EDUCATION

The most important issues in higher education are financial – the amount of state funding and institutional tuition rates. For the last few years, the Department of Higher Education and the Colorado Commission on Higher Education have submitted budget requests that emphasize the relationship between state support for higher education and tuition rates. In his budget request for FY 2019-20, Governor Hickenlooper requested a 12.1 percent increase in state General Fund support for the governing boards. With this level of state support, the Governor’s Office requests that no governing boards increase tuition for resident students.

E. ENVIRONMENT AND ENERGY

With Governor-elect Polis’ campaign emphasis on clean energy and environmental protections, the Colorado Energy Office and the Department of Public Health and Environment (CDPHE) may see key policy changes. Additional funding and FTEs may be allocated to increase state inspections for air pollution, water quality, and hazardous and solid waste management. Meanwhile, the Colorado Energy Office will see much discussion regarding changes in its programs and funding, including re-authorization of previously repealed green energy incentives and modifications to the types of energies the office should promote. In addition, Governor-elect Polis campaigned on the goal to make Colorado 100 percent renewable by 2040, placing additional pressure on the energy industry to evolve with the incoming administration.

The debate around fracking and setbacks for oil and gas development is also expected to dominate conversations as housing and energy development on the Front Range continue to collide.

F. HEALTH CARE AND HUMAN SERVICES

Coloradans will continue to see changes to the pricing, transparency, and coverage of healthcare options, as well as new and expanded programs to serve Colorado families and children. Additionally, the high cost of health care in mountain communities and on the Western Slope could lead to the creation of health care districts or a public health care option.

With Governor-elect Polis’ campaign promise of universal health care, the Department of Health Care Policy and Financing can expect to see major changes over the next few years, particularly as the estimated number of uninsured Coloradans continues to exceed 350,000 individuals. Many healthcare proposals seen in the past will resurface, including hospital pricing and data disclosures, creation of a reinsurance program, increased consumer safeguards, pharmaceutical access and pricing controls, and expanded coverage for mental health and substance use disorders.

Human services will also face big issues this session. One of the top priorities and biggest challenges being undertaken is to pass paid family and medical leave to guarantee employees a portion of wages for family illness or the birth or adoption of a child. Stakeholders are also working to strengthen the Maternal Mortality Review Committee to ensure its ability to continue its work, and working to modify criteria for mandatory reporting of child abuse in instances where a child is born with symptoms of neonatal abstinence syndrome. Other legislation in the works includes expanding Medicaid coverage for a

variety of needs, expanding coverage for mental health and substance use disorder treatment, expanding funding for aging services, and expanding access to the Child Care tax credit.

After a summer of opioid discussions relating to treatment, recovery, harm reduction, prevention, and criminal justice, the [Opioid and Other Substance Use Disorders Interim Committee](#) will recommend two bills to the full legislature. The first will limit opioid supply by limiting opioid prescriptions to a seven-day supply with one seven-day refill. The second addresses a variety of opioid issues relating to the criminal justice system including alternatives to incarceration of individuals with substance use disorders, access to medication-assisted treatment to individuals in custody, and a process for sealing drug offenses.

G. HOUSING

Affordable housing remains a constant concern to legislators around the state as it affects rural, urban, and resort communities. A large stakeholder group convened twice during the interim to discuss possible policy options to address the growing issue. While no single solution emerged, there were many takeaways:

- 1). The state should allow local communities to decide what is best for the local community,
- 2). The state should assist local communities in providing resources,
- 3). The state needs a clear assessment plan to identify the needs of communities and costs for the state, and
- 4). Additional state funding is required, particularly in the form of a dedicated, sustainable funding source.

We will see multiple bills develop on this issue to find creative and cost-effective ways to fund and develop more attainable housing units.

H. LOCAL GOVERNMENT

The [Sales and Use Tax Simplification Task Force](#) met numerous times over the interim to discuss ways to simplify the collection of sales and use taxes by local governments, as well as the impact of the *South Dakota v. Wayfair* decision on tax collection practices relating to remote and out of state retailers. The committee will sponsor one bill authorizing the Department of Revenue to issue a request for information to solicit bids for the development of an electronic sales and use tax simplification system. The bill will also create a 5-member evaluation committee to determine the appropriate bidding process. While the state seeks to simplify the tax collection process, local municipalities support policies that urge voluntary compliance by remote sellers in order to avoid an unintended fiscal burden on municipalities to enforce compliance.

Maintaining local control is always an issue for municipalities and counties. This year, we will see local control issues around oil and gas development, establishing a minimum wage, prohibiting plastic products, and electronic scooter usage.

I. MARIJUANA

The marijuana market in the state has matured and stabilized as the industry learns best practices, and the federal government poses a limited threat to legalization. With this predictability, the marijuana industry continues to evolve, developing new products and practices while attracting new customers. Colorado will again see the pursuit of legislation to allow marijuana delivery and to create social clubs, among other things.

J. PERA

Colorado's Public Employee Retirement Association (PERA) provides a defined benefit retirement program for state employees, teachers, and certain local governments and special districts. PERA members are not covered by Social Security. We expect a quiet year for PERA, as the major PERA legislation passed the last night of the 2018 session. The PERA website has a [summary of the components of SB 18-200](#).

K. TRANSPORTATION

The voters clearly indicated in November that they do not support bonding without a funding source, or an increase in sales tax to address our transportation needs. This poses a challenge for lawmakers and the Governor on how to address congestion and fix crumbling roads and bridges. Various options have been proposed – increase in the gas tax, specific ownership tax, and FASTER fees. The real question will be whether or not the legislature will repeal or amend SB18-001, which currently sends another bonding question to the voters for the 2019 ballot. Certainly discussions will continue on identifying the top priorities in the state – expanding our interstates and highways, enhancing multi-modal options, and dedicating monies for local communities. Governor Polis has indicated that all options are on the table (except those already rejected by the voters), so we can expect robust discussions on transportation this session.

IV. 2019 and 2020 ELECTIONS AND BALLOT MEASURES

The 2019 elections will be restricted to fiscal measures, but any topic can be on the ballot for 2020. Questions remain – will there be initiatives on transportation bonding and funding, education funding, and oil and gas measures? In 2020, all eyes will be on the U.S. Senate seat race currently held by Cory Gardner. Democratic candidates are already lining up hoping that the 'blue wave' from 2018 will improve their chances of gaining the seat. All 65 House seats will be up, and half of the 35 Senate seats, with only a handful being competitive.

Much of the data for this report is from Legislative Council, Joint Budget Committee staff, and various other offices of state government. Any errors or omissions are ours alone.