



COLORADO HEALTH INSTITUTE

Informing Strategy. Advancing Health.

# Big Budgets and Bold Moves

2022 Legislation in Review



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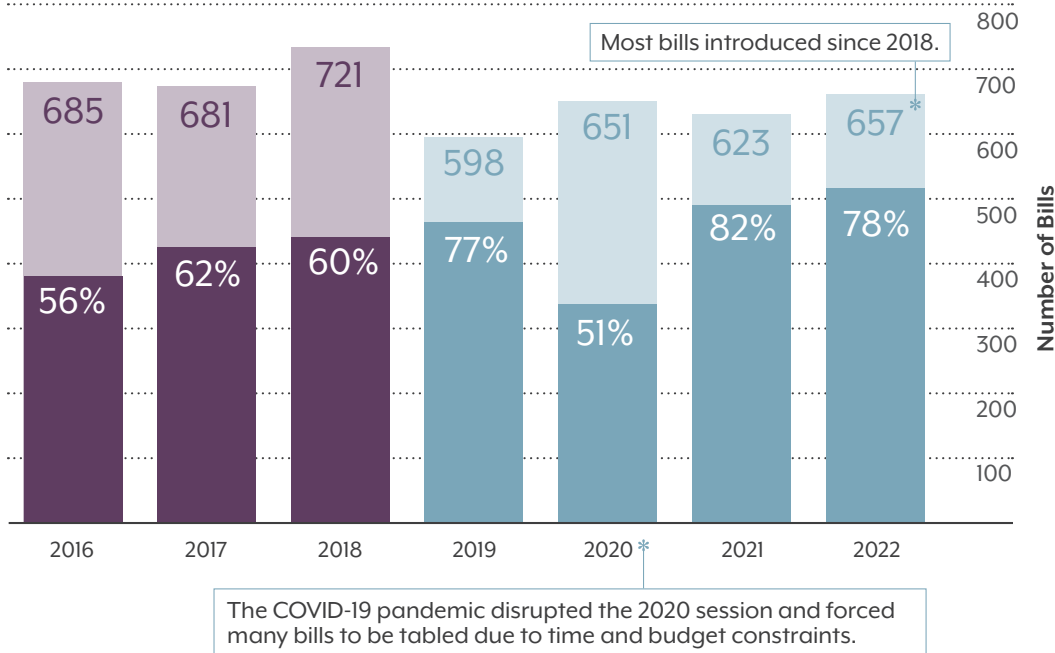
We extend our thanks to CHI's legislative monitors, Jennifer Miles, Katie Pachan Jacobson, and others at Frontline Public Affairs, for another session of helpful information and insights. We also thank the CHI staff members who contributed expertise to CHI's 2022 legislative portfolio.

# Session by the Numbers

## Introduced Bills and Pass Rate by Year

■ Split-Party Control ■ Single-Party Control

Lighter Shade = Number of Bills Introduced / Darker Shade = Pass Rate



**509**

Total bills that became law



**34%**

Health bills tracked by CHI with bipartisan sponsorship

**50%**

Introduced bills still pending with two weeks remaining in the session



**4**

Governor Vetoes

**\$2.7B** American Rescue Plan Act funds available for legislators to allocate in support of behavioral health, housing, and economic/infrastructure investment

## Six state legislators running for Congress in 2022



Brittany Pettersen (D)



Yadira Caraveo (D)



Barbara Kirkmeyer (R)



Ron Hanks (R)



Dave Williams (R)



Don Coram (R)

# 2022 The Recovery Session



From fentanyl use to vaping to abortion, health issues were in the spotlight during Colorado's 2022 legislative session. Legislators often debated these topics late into the night. In some cases, opinions didn't fall neatly along party lines, revealing the complex dynamics at play even during sessions with single-party control.

When the session began on January 12, many hoped that things would feel more normal than the prior two sessions, both of which were interrupted by COVID-19 surges. But it wasn't always easy to stick to the script. Another highly contagious wave of COVID led to more partisan disagreements over precautions, including whether to wear masks on the House and Senate floors. Election-year politics were further complicated by new legislative district boundaries that posed challenges for some incumbents. Yet work was able to go on for 120 uninterrupted days.

Legislators took advantage of the return to continuity to introduce the most bills since 2018. Nearly eight in 10 of those bills passed by May 11, the session's final day.

Many measures came with new money attached. Funding provided by the federal American Rescue Plan Act (ARPA), supplemented by strong tax collections, gave lawmakers a rare opportunity to make multimillion-dollar infusions to a slate of programs that have never experienced such a windfall. Although impactful, these funds were unable to address every problem; many options were not on the table since federal rules require that all ARPA money be spent within the next few years. Still, state leaders applauded this once-in-a-generation opportunity to inject resources into important initiatives.

Hundreds of the introduced bills touched on health or health care issues. The Colorado Health Institute (CHI) identified six themes of note:

- **Reforming Behavioral Health.** Members of both parties took steps to address failures in the current system. New bills provided significant funding for behavioral health needs and created a new state department.
- **Prioritizing Family Planning and Care for Children.** Driven by the seemingly imminent Supreme Court decision to overturn *Roe v. Wade*, Democrats codified access to abortion and other reproductive health care. Legislators also focused on new supports for young children such as expanded public insurance coverage and setting up a new Department of Early Childhood.
- **Evolving Systems of Care.** From dedicating more resources to the health care workforce to creating new grant programs and incentivizing value over volume, legislators passed bills to improve systems that keep us healthy.
- **Reducing Health Costs.** Though there was no major headline related to health care prices — a departure from recent years — the legislature passed and sent to the governor notable bills focused on curbing costs and increasing consumer protections.
- **Choosing Public Health Battles.** Amid continuing debates over public health measures in response to the pandemic, legislators passed some bills championed by public health advocates while abandoning other efforts.
- **Bracing for Climate Change.** The state will develop a roadmap for mitigation, adaptation, and resiliency efforts as part of a strengthened commitment to climate preparedness after a year of devastating wildfires and dwindling water resources.

Big changes are ahead in 2023. Term limits and shifts due to redistricting mean that a quarter of the legislature's 100 seats will be held by different people when work begins again in January. But for now, the work accomplished this session will require plenty of time and energy to implement.



## Spotlight One

# Reforming Behavioral Health

Behavioral health has drawn strong bipartisan collaboration in recent legislative sessions in Colorado and across the country. That continued this year. Legislators agreed to prioritize and fund behavioral health initiatives in the wake of a pandemic that exacerbated substance use and mental health challenges.

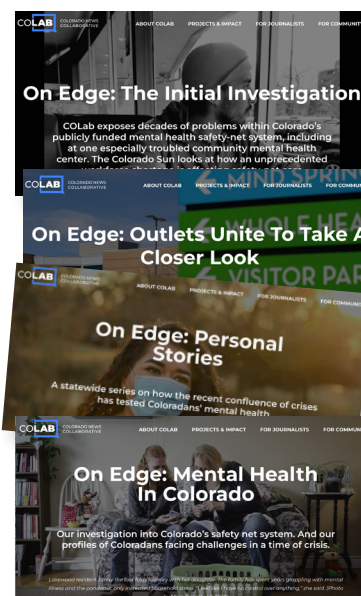
One of the year's most-watched bills, **House Bill 1326**, addressed the rapid rise in fentanyl overdoses. It had bipartisan sponsorship, though it also created rifts within parties and between members of the House and Senate.

The bill will increase the criminal penalty for possessing between one and four grams of a fentanyl compound to a class 4 felony. Proponents, led by Gov. Jared Polis, pushed for harsher penalties to crack down on the illicit substance. Opponents argued that criminal penalties do not deter addiction, citing the failed war on drugs and advocating for an approach known as harm reduction. Opponents also argued that criminal penalties are unfair to users who possessed a drug without knowing it was laced with fentanyl.

Lost in much of this back and forth were other aspects of the bill that are wins for public health. Those include almost \$40 million for prevention, education, and treatment efforts, including a grant program for the state health department to buy and distribute naloxone, which reverses overdoses.

**HB 1278** creates the new Behavioral Health Administration (BHA) within the Colorado Department of Human Services (CDHS). This bill, at nearly 300 pages long, directs the BHA to create “a coordinated, cohesive and effective behavioral health system in Colorado” — an attempt to bring order to a system that has long struggled with fragmentation. The BHA will assume oversight for most programs from the state's Office of

Behavioral Health, though responsibility for some issues, like community prevention, will move to the Colorado Department of Public Health & Environment (CDPHE). The bill passed the Senate unanimously, and the House approved it with more limited bipartisan support.



Other bills emerged after a [series of investigative stories](#) by the Colorado News Collaborative exposed problems with Colorado's community mental health centers, which play a crucial role in the mental health safety net. The journalists concluded that Colorado's 17 community mental health centers are failing many Coloradans

and operating without sufficient state oversight. Problems range from non-compete contracts with the state to a decade of falsifying patient records at one center.

The legislature responded with **Senate Bill 106**. It addressed conflicts of interest by increasing review and oversight of managed care organizations by the Department of Health Care Policy & Financing (HCPF) and CDHS. Another bill, **HB 1214**, requires mental health and substance use crisis services, including walk-in and mobile centers, to meet minimum regulatory standards to ensure they can provide the type of behavioral health care Coloradans need. The bill also allows these centers to provide services to youth without consent from a parent or guardian.

**Note:** Throughout this report, bills that passed are highlighted in **green**. Bills that failed are highlighted in **red**.

## Spotlight Two

# Prioritizing Family Planning and Care for Children

Legislators devoted a great deal of energy to policies addressing two critical periods of life: pregnancy and early childhood.

Democratic legislators introduced **HB 1279** in anticipation of the Supreme Court overturning its 1973 ruling that protected abortion rights. The bill codifies a person's right to make reproductive health care decisions, including those related to abortion and contraception, without government involvement. The bill passed on party-line votes in the House and Senate, making Colorado one of just a few states between the Mississippi River and West Coast with a legal guarantee of abortion rights. Abortion providers and advocacy groups are preparing for an influx of people coming from other states for the procedure. Republican lawmakers introduced bills to make it a crime to perform an abortion, but the bills failed in their first committee hearing.

**HB 1289**, known as Cover All Coloradans, extends health insurance coverage for pregnancy and child health to people without documentation. The bill

creates a state-funded program to offer benefits to those who are excluded from Medicaid or Child Health Plan *Plus* (CHP+) based on their immigration status. Few states have followed suit, so Colorado's decision to provide these services sends a message about the importance of access to health care for undocumented families. The bill also adds coverage for lactation support, including breast pumps, for those already covered by Medicaid and CHP+.

**HB 1295** sets up the powers and responsibilities of the new Department of Early Childhood. The department is charged with enacting one of Polis' signature efforts: free preschool for all Colorado children. Additionally, the department will oversee everything from child care licensing and family resource centers to the Colorado Shines quality rating system and the Nurse Home Visitor Program. In tandem with this legislation, bipartisan bills created a tax credit for early childhood educators and a tax exemption for child care centers, which have struggled with frequent closures and staff turnover during the pandemic.





## Spotlight Three

# Evolving Systems of Care

It's now widely accepted that the factors that influence health extend far beyond the doctor's office, but the systems Coloradans rely on for their well-being, from food access to other social supports, are often siloed and difficult to navigate. Payments for health care providers still tend to focus on treatment volume over value, and the pandemic-battered health care workforce needs major reinforcements.

The 2022 session saw efforts to support providers, incentivize quality, and coordinate data systems. The solutions tend to be pricey, but Colorado took advantage of ARPA dollars to fund improvements.

**HB 1302** creates a new grant program within HCPF, funded by more than \$30 million from ARPA, to support integration of physical and behavioral health care. Grants can be used for efforts like new outpatient health care infrastructure and early behavioral health interventions. The bill also funds the Regional Health Connector Workforce Program, operated by the University of Colorado School of Medicine.

**HB 1325** requires various state partners, such as the Division of Insurance (DOI) and the Primary Care Payment Reform Collaborative, to create and evaluate rules for value-based payments in private insurance for primary care. This includes establishing consistent quality measures for how public and private payers will judge the work of health care providers.

Other bills — with millions of additional ARPA dollars attached — will improve care coordination infrastructure (**SB 177**) and electronic benefit management systems for programs such as food and energy assistance (**HB 1380**).

Given the workforce challenges exposed and exacerbated by the pandemic, legislators poured big money into supports for health care workers. Funding was directed to assisting graduates of international medical programs (**HB 1050**),



increasing the number of higher education tracks for rural providers (**SB 172**), prioritizing nurses at hospitals through requiring a staffing committee and new standards (**HB 1401**), and easing the process for licensed professional counselors (**SB 77**).

The two largest bills focused on the health care workforce together allocated more than \$130 million. **SB 181** includes funding for student loan repayment for behavioral health workers who practice in underserved areas. It also requires the BHA to create and implement a plan for improving the behavioral health workforce by September. **SB 226** addresses the rest of the health care workforce. It funds education, training, recruitment, and retention efforts for various types of health care providers, such as school nurses. The bill creates a new grant program for practice-based training and includes millions of dollars for initiatives aimed at getting professionals with expired licenses back into the field.

## Spotlight Four

# Reducing Health Care Costs

Colorado legislators have been trying to reduce health care costs for the past decade, and this year was no exception. However, the 2022 session did not feature headline-grabbing issues like those that surfaced in previous years, including the public health insurance option, reinsurance to help insurers pay expensive claims, and the Hospital Provider Fee that supports hospitals serving Medicaid and uninsured patients. Still, successful bills will have important impacts, especially in consumer protections.

**HB 1284** updates Colorado's surprise medical billing laws to align with the federal [No Surprises Act](#), which Congress passed after Colorado cracked down on out-of-network billing. Colorado's 2022 bill requires emergency services to be billed at the in-network rate, regardless of the facility, and adds other consumer protections to guard patients from unexpected — and often very costly — charges.

**HB 1285** prohibits a hospital from proceeding with debt collection against a patient if the hospital is out of compliance with federal price transparency laws. These laws require hospitals to publicly post their standard charges for different services.

There was some attention to the cost of prescription drugs. **HB 1370** was the most notable legislation. The bill requires insurance companies to offer at least a quarter of their plans with a copayment-only structure for prescription meds, which gives consumers more certainty about their drug costs. It also calls for more analysis of how prescription medication rebates are being passed on to consumers and prohibits insurers from raising medication costs or dropping coverage in the middle of a patient's plan year.

Legislators continue to grapple with the tension between holding the line on health insurance prices and adding benefits for consumers. Polis has made clear his goal of lowering prices, and he has battled with fellow Democrats who want expanded coverage. In 2020, Polis vetoed a bill that would have increased coverage for alternative opioid treatments because of concerns that it would increase private insurance costs. **SB 40** is an attempt to bring evidence to this debate. The bill creates an actuarial review process led by the DOI. Legislators can request an analysis of up to six bills in the fall before each session to assess the bills' impacts on insurance prices.





## Spotlight Five

# Choosing Public Health Battles

The pandemic brought an onslaught of challenges to the public health sector. These include public skepticism of COVID-related health policies and threats of violence against health officials.

Public health advocates managed to play some successful defense at the legislature. Legislators voted down bills to lessen the impact of public health orders and to ban employers from requiring their workers to be vaccinated against COVID. But there were notable setbacks.

For example, public health proponents were disappointed by the failure to prohibit flavored nicotine products. **HB 1064** would have banned the sale and marketing of all flavored nicotine and tobacco, which are popular among young people. It also would have done more to prioritize grant funding for groups that have been disproportionately targeted by tobacco marketing and distribution, including Black and

Latino communities. The bill passed the House, but it failed on the second-to-last day of the session in the Senate. Polis had publicly threatened to veto it, and with time running out in the session, Senate Democratic leaders risked losing momentum on other priorities if their chamber dedicated substantial time to debating this bill.

Perhaps the biggest gains for public health involved environmental health, especially air quality. One example: **SB 193** will create grant programs to fund voluntary efforts to reduce air pollution around the state. This includes grants for reducing emissions from industrial and manufacturing operations, supporting bike-share programs, and encouraging the conversion to electric-powered school buses. Next year's state budget increases support for more monitoring and action on air quality, including funding for dozens of new staff members in CDPHE.

## Spotlight Six

# Bracing for Climate Change

The changing climate's impact on human health has never been more apparent or more urgent. Rising temperatures, air pollution, drought, and destructive wildfires have raised the profile of climate preparedness and resiliency efforts in Colorado. During this legislative session, policymakers considered efforts focused on climate adaptation (responding to negative climate impacts that are already occurring) and mitigation (reducing future impacts). These included several air quality bills.

They also included **SB 206**, which establishes the Office of Climate Preparedness to develop and implement statewide strategies that address climate mitigation, adaptation, conservation, resiliency, and recovery from extreme events such as wildfires, drought, and floods.

**SB 7** creates a working group with representation from the Colorado Department of Public Safety, the U.S. Forest Service, and local, state, and federal partners to outline best practices for wildfire awareness and outreach campaigns. The legislation calls for guidance on how and where to best disseminate educational information to residents living in areas at risk of wildfire.

**SB 180** creates the Ozone Transit Grant Program, which provides money to support free public transit services for at least 30 days between June and August, when ozone levels are at their peak. The bill also creates a three-year pilot program to extend transit services throughout the state with goals of increasing ridership and reducing vehicle miles traveled.

# Following the Money

The COVID-19 pandemic changed the state's financial picture in some unusual ways. First, legislators had billions of dollars more in the budget than normal, thanks to a strong economy and cash infusions from ARPA. Second, the continuing public health emergency has resulted in major growth in the Medicaid budget. And unrelated to COVID-19, the state must refund money to taxpayers because the budget has grown more quickly than the state constitution allows.

## A Year of Plenty

Colorado's economic recovery brought rapid growth in tax revenues. The General Fund — the portion of the budget over which legislators have the most control — grew nearly 13% in the past year, to \$13.8 billion.

Separate from that pot of money, legislators decided how to use \$3.8 billion in ARPA funds. It was a complicated task, because the money was a one-time infusion that must be spent by 2026 at the latest, making it unwise to start new ongoing programs or hire many new people.

Table 1 lists the bills that use ARPA money. Big-ticket topics from the session include:

- **Business:** \$600 million to pay down a deficit in the unemployment insurance fund, which should lower costs for employers;
- **Behavioral health:** Nearly \$120 million to add treatment beds and \$90 million for grants to local governments to improve their services;

Table 1. 2022 ARPA-Supported Bills

	Bill No.	Funds (\$M)	Topic
Behavioral Health	HB22-1243	\$2	School behavioral health
	HB22-1283	\$55	Youth and family residential
	HB22-1303	\$65	Residential beds
	HB22-1281	\$90	Continuum of care grants
	SB22-148	\$5	Ute behavioral health center
	SB22-147	\$11	Pediatric behavioral health
	HB22-1302	\$35	Practice transformation
	SB22-177	\$12	Care coordination
	SB22-181	\$72	Behavioral health workforce
	HB22-1326	\$26	Fentanyl
	SB22-196	\$63	Criminal justice
	SB22-183	\$6	Crime victims' fund
	SB21-137	\$99	Care coordination, workforce, other
Discretionary	HB22-1340	\$350	Capital construction
	HB22-1335	\$24	Judicial information technology
	HB22-1395	\$8	School transportation grants
	SB22-234	\$600	Unemployment insurance fund
	SB21-260	\$380	Transportation
SB21-288	\$300	Governor's discretion	
Economy and Jobs	SB22-183	\$35	Crime victims fund
	SB22-182	\$4	Economic mobility
	HB22-1220	\$52	Educator recruitment
	HB22-1379	\$20	Wildfire and watersheds
	HB22-1380	\$14	Services for low-income households
	SB22-211	\$45	Ridgeview campus
	SB22-213	\$50	Child care support
	HB22-1356	\$35	Grants to nonprofits
	HB22-1369	\$2	Childrens' mental health contractor
	HB22-1377	\$105	Homelessness grants
	HB22-1378	\$50	Campus for the homeless
	SB22-200	\$10	Rural med providers grant program
	SB22-226	\$61	Support for health workforce
	HB22-1349	\$3	Student success data system
	HB22-1350	\$91	Regional talent development
	SB22-192	\$1	Credential attainment
	2021 bills	\$166	10 economic development bills
2021 bills	\$145	Six workforce bills	
Housing	HB22-1282	\$40	Manufactured housing
	SB22-146	\$25	Middle income housing
	HB22-1304	\$178	State grants to local governments
	SB22-159	\$150	Revolving loans
	SB22-160	\$35	Mobile home ownership program
HB21-1329	\$100	Affordable housing gap financing	



- **Economy:** \$200 million to address homelessness, plus more money for a variety of other programs, such as stipends for student teachers, reducing wildfire risks, and making grants to small nonprofits that were hurt financially during the pandemic;
- **Housing:** Half a billion dollars in loans for home buyers, grants to local governments, and seed money for innovations to address the housing crunch.

## Medicaid and the General Fund

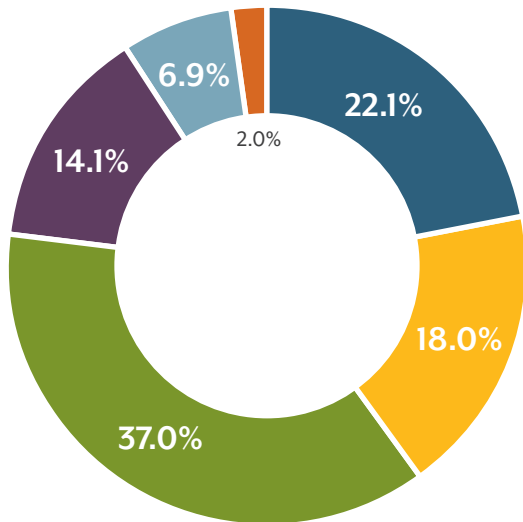
The General Fund for 2022-23 grew by nearly \$1.5 billion from the previous year. Some \$1 billion of that growth was in Medicaid. That's because a federal rule requires states to keep their Medicaid members enrolled during the public health emergency, which is still in effect as of June 2022, even if their eligibility for the program has since changed. Colorado's Medicaid membership in March was about 1.6 million people, almost a third more than the pre-pandemic membership.

## TABOR vs. Schools

The Taxpayer's Bill of Rights (TABOR) requires tax refunds when state revenue grows faster than a formula keyed to inflation and population growth. TABOR refunds have not been a major factor most of the past decade, but they are back in a big way. Legislative economists predict the state will have to refund \$2 billion from the current year's budget, which ends June 30.

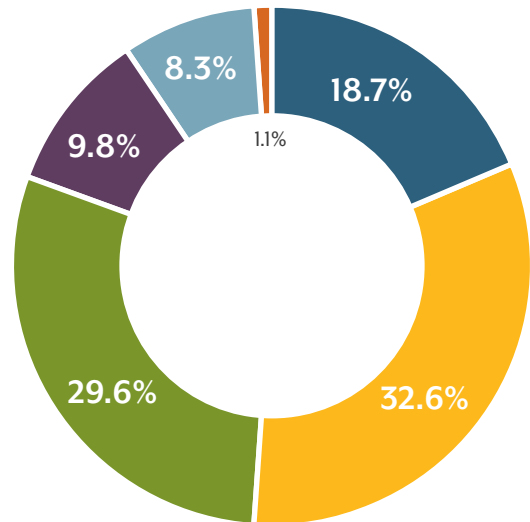
However, school funding in 2022-23 will be \$320 million below the target that Colorado voters have set for education. As of June 2021, nearly two-thirds of Colorado school districts (114) were on a [four-day week](#) to save money. The combination of TABOR refunds and ongoing school deficits will likely reignite the debate that Colorado has been having about the amendment on and off since it passed in 1992.

### FY 2022-23 Total Funds Total: \$38.4 billion



**K-12 Education:** \$6.9 billion  
**Health Care Policy and Financing:** \$14.2 billion  
**Higher Education:** \$5.4 billion  
**Human Services:** \$2.6 billion  
**Public Health and Environment:** \$756 million  
**Other:** \$8.5 billion

### FY 2022-23 General Funds Total: \$13.8 billion



**K-12 Education:** \$4.5 billion  
**Health Care Policy and Financing:** \$4.0 billion  
**Higher Education:** \$1.4 billion  
**Human Services:** \$1.1 billion  
**Public Health and Environment:** \$157 million  
**Other:** \$2.6 billion

# Conclusion

Colorado's 2022 legislative session was unique in many ways. Legislators usually don't have enough money on hand to fund many of their priorities even in the best of years. But this year, they were flush with cash because of a strong economy and federal stimulus funding.

It was the first session in three years that didn't have an extended interruption from a COVID-19 surge. And it saw Democrats — who have more political power in Colorado than they have enjoyed since the 1930s — working to prepare for an important election in November, with the governorship and control of the legislature on the line.

Nationally, polls show that Democrats can expect to take losses in the election. This is typical for a president's party in the first election after inauguration. If Colorado Democrats can hold onto their majorities, it will cement the state's conversion from a purple state to a solidly blue outpost in the Mountain West.



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