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Colorado Legislative Preview

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Colorado lawmakers are convening their 2024 session under pressure from many sources.

- Homeowners, who had grown used to paying some of the country's lowest property taxes, rebelled when their tax bills rose dramatically.
- The state budget is growing, but just barely enough to meet demand for government services. And the windfall from federal pandemic funding is all but over.
- Pressing issues demand attention from policymakers, namely housing prices and the state's fragmented system of mental health care.
- Many legislators are already planning for their 2024 re-election bids.

Despite all this, the legislature has much work to do on health care costs, the health care workforce, mental health, and more.



Despite being an off-election year, the 2023 ballot sparked debates about the two measures that the legislature referred to the voters.

Coloradans overwhelmingly passed Proposition II, which allows the Colorado government to keep excess revenue from a new tax on nicotine sales. This additional revenue will help fund the universal pre-kindergarten program that began this school year.

On the other hand, voters solidly defeated Proposition HH, which aimed to provide relief from a dramatic rise in property taxes. Prop HH also would have increased funding for schools and provided some relief for renters.

In response, **Gov. Jared Polis** called a special session in late November, which essentially kicked off the 2024 session about two months early. Over a few days, legislators passed a modified version of Proposition HH that cuts property taxes for one year. They also set aside \$30 million in financial assistance to renters, expanded the earned income tax credit for this year, flattened TABOR refunds for all taxpayers, and created a program to provide food benefits to low-income students during the summer.

2024 Legislative Session Dynamics

Despite the hold Democrats have on both the House and Senate, the 2023 legislative session did not run smoothly. Lawmakers, particularly in the House, spent many late nights and weekends meeting, often due to filibustering by the House Republican caucus. A rush of late bills also meant that the last few weeks of session were particularly crowded. For example, Democrats introduced their signature property tax bill, Senate Bill 23-303, with just a week remaining in the session and floated its companion measure to change the formula for TABOR refunds, House Bill 23-1311, just three days before adjournment. Given this tight timeline, many progressive bills died on the calendar. This end-of-session dynamic led, as it often does, to calls for stricter limits on late bills and better time management. Whether these will lead to any tangible changes remains to be seen.

However, changes in transparency are certain. Democratic Reps. **Elisabeth Epps** and **Bob Marshall** sued the House over longtime practices of holding secret caucus meetings and using private phone apps to conduct public business. Under the settlement, House members will need to follow Colorado's open meeting law more strictly. In practice, this means that caucus meetings will be open to the public, with required meeting minutes, and that legislators can no longer use messaging apps with auto-delete functions.

A few new members are joining the Democratic caucuses this year. Reps. **Tim Hernández**, **Manny Rutinel**, and **Chad Clifford** were appointed to fill vacant seats in the House. When the session starts, one Democratic seat in the House will still be vacant, and a vacancy committee will meet in January. In total, eight legislators resigned their seats in 2023, with some citing the low pay, long hours, and vitriolic environment as reasons for their departure.^{1,2} These resignations speak to the tumult the legislature is currently experiencing.

The Senate has one new member. Former **Rep. Dafna Michaelson-Jenet** won a vacancy committee election to fill former **Sen. Dominick Moreno's** seat. With these changes, more than one in four current legislators have been appointed to their seats because of departures rather than elected in a popular vote.

Moreno had been Senate majority leader, so Democrats had to choose a new majority leader. Their pick: **Sen. Robert Rodriguez**. Rodriguez worked quickly to shuffle assignments on the Local Government and Housing Committee and expand the Appropriations Committee. In 2023, these committees weakened or killed housing legislation that split Democrats. The changes mean housing bills might stand a better chance this year.

Budget

Legislators are calling 2024 a back-to-normal year for the state budget. In Colorado, normal means having enough money to keep the lights on, but not much else.

The legislature received nearly \$4 billion from federal pandemic relief packages starting in 2020. Congress wanted the money to be temporary and spent on one-time, immediate needs. Colorado legislators played by these rules, and they spent almost all of this money in the past two sessions.

But, the federal funds windfall is over. Still, Colorado's economy is strong and unemployment is low, which brings the state more tax revenue. The state general fund will grow 5.7%, but about two-thirds of that growth will be needed to pay for higher costs in existing programs, such as Medicaid.³

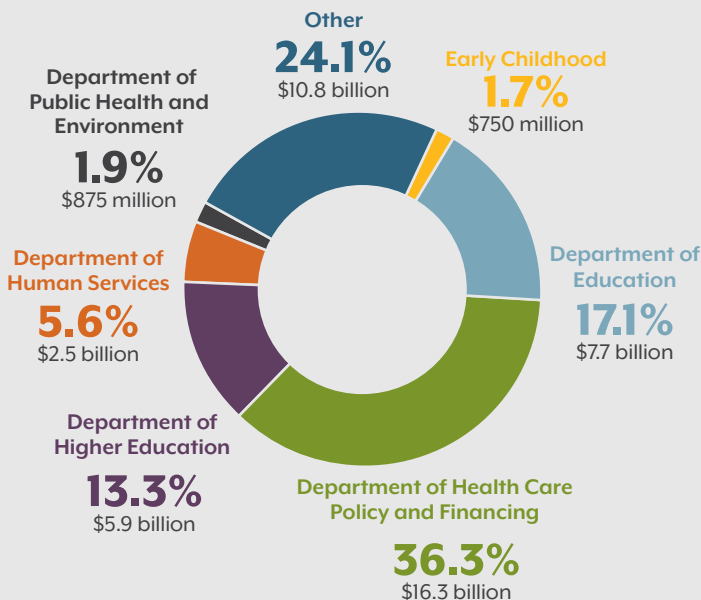
Members of the Joint Budget Committee have been considering Polis' budget request since early November. In March or April, the full legislature will vote on the Joint Budget Committee's choices.

Here are some notable health and social items in the governor's budget request:³

- An extra \$560 million for K-12 schools, including \$141 million to end the Budget Stabilization Factor, which is an annual cut to school funding that has been in place since the Great Recession. It has taken the state budget 15 years to recover.
- A 1% increase in reimbursement to providers who serve Medicaid patients, with larger increases for providers who need an extra boost.
- A \$53.8 million increase to pay for raises for direct care workers.
- About \$26 million more for pediatric behavioral health and autism care. Part of this money would pay for autism care for families in the low-cost Child Health Plan *Plus* program.
- \$11.0 million for social health information exchange, which allows health care providers to understand patients' non-medical needs and make referrals for social services.
- \$8.5 million for school-based behavioral health. This includes money to continue I Matter, which offers free online mental health visits for all Colorado children.

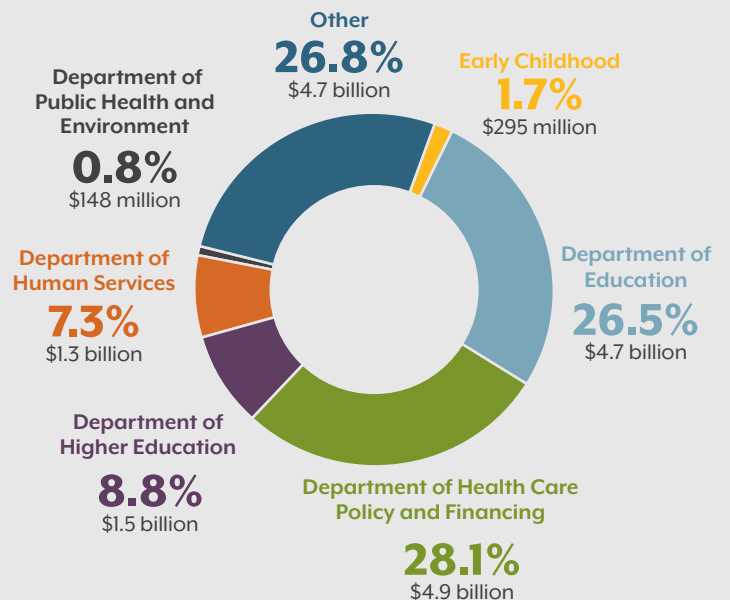
FY 2024-25 Total Funds:

Total: \$ \$45.1 billion



FY 2024-25 General Funds:

Total: \$17.7 billion



Topics to Watch

In 2023, Democrats used their expanded majority to pass high-profile bills on reproductive health and gun violence prevention. While Democrats united behind these bills, the 2023 session was also marked by intraparty disagreements. Bills touching on substance use, housing, the criminal justice system, and assault weapons all failed due to policy disputes within the Democratic Party, while several health care bills were either pared back or voted down because of a lack of money.

During the 2024 session, legislators are likely to revisit many of the same issues that failed last year, with housing and substance use remaining top of mind for many of them. Legislators and advocates will be looking for new allies and new arguments to promote these bills.

Other topics from previous years remain relevant in 2024, such as the health care workforce, health care costs, behavioral health, and climate adaptation and mitigation.

The new session is expected to address what Children's Hospital Colorado declared a "state of emergency" for youth mental health.⁴ Many proposals are in the works, and most will probably gain bipartisan support. Funding constraints could limit the scope of these bills, though.

Finally, this session may see legislators taking on new highly partisan topics, namely gender-affirming care and the rights of transgender youth.

Unfinished Business from the 2023 Session

Legislators will continue discussing many of the bills and topics that remained unsolved at the end of the 2023 legislative session.



The housing debate in 2023 centered on Polis' land use bill. Local governments objected, saying it would have given the state power over local zoning. Polis has already vowed to bring back a modified version of the measure this year in an attempt to increase the amount of available housing.

Another major bill aimed at increasing housing supply would limit condo owners' ability to sue construction companies for any construction defects. Builders say the threat of lawsuits discourages them from building more owner-occupied housing. This bill may divide the legislature, with members torn between increasing affordable housing and preserving homeowner protections. Several construction defects bills have failed since 2016.

Beyond these two bills, legislators from both parties are likely to introduce other proposed solutions to Colorado's statewide lack of affordable housing.



The Democratic caucus in 2023 found itself split on how to handle substance use disorder, with some legislators favoring criminal justice approaches and others pushing for harm reduction solutions. A controversial proposal that ultimately failed would have allowed cities to open supervised use sites, where people could use drugs while staff watched for overdoses.

An interim committee on substance use disorder has already considered and rejected another proposed bill on supervised use sites, which Polis had threatened to veto if it reached his desk. With two failed proposals within the past year, it is unclear whether any legislators will try a third time this session.

The interim committee, however, did advance four other substance use bills, on prevention, treatment, harm reduction, and recovery, which will all be considered in the 2024 session. Collectively, these four bills do not take on any of the most contested harm reduction or criminal justice questions, such as supervised use sites or so-called drug-induced homicide, which are homicide charges for selling or sharing drugs that cause a fatal overdose. Instead, they attempt to solve some of the challenges associated with lack of behavioral health treatment, inadequate reimbursement rates for treatment and recovery services, and expanding services for drugs beyond opioids.



CRIMINAL JUSTICE AND PUBLIC SAFETY

A proposed ban on assault weapons, which was defeated last year, may return in 2024. Legislators also will consider purging the term “excited delirium” as a reason for police violence. The term does not have a medically accepted definition, but police have used it to explain deaths of people in their custody, including Elijah McClain in Aurora.

Beyond these topics, the legislature will likely wrestle again with appropriate penalties for things like car thefts and drug distribution. It will also consider juvenile justice, including juvenile diversion programs and whether to charge children with crimes. Republicans and Democrats gutted a notable juvenile justice and diversion measure last year. On top of that, the legislature voted last year to disband the Colorado Commission on Criminal and Juvenile Justice, after Democrats disagreed on its utility, and this year they may consider whether to create a successor commission to recommend policies to the legislature.

Perpetual Concerns

Several long-running topics will be back on the agenda in 2024, including expanding the health care workforce, cutting health care costs, improving behavioral health treatment options, and dealing with climate change.



HEALTH CARE WORKFORCE

The COVID-19 pandemic underscored the impact of shortages in the health care workforce. Over the past few years, legislators have discussed ways to encourage more young people to become health care workers, increase reimbursement rates for providers, and build cultural sensitivity among the health care workforce.

This year, legislators will likely consider interstate compacts to allow more types of providers with out-of-state licenses to practice in Colorado. They may also discuss ways to ensure greater safety for health care workers, who have sometimes faced intimidation or worse while doing their jobs.

Legislators also may consider bills aimed at increasing the reimbursement rates for certain types of providers and think about other ways to incentivize more people to become providers. One interim committee has already moved forward a bill about loan repayment assistance for school mental health professionals.



HEALTH CARE COSTS

Polis has made health care costs a top agenda item since he became governor. Similarly, many legislators made health care costs a priority, particularly during the election cycle.

This year, this conversation will address discounted hospital care for people who cannot afford to pay their bills. Currently, all hospitals are required to offer a discounted care program,

and some hospitals also participate in the voluntary Colorado Indigent Care Program. Legislators could wind down the CICP program and focus on enhancing discounted hospital care programs.

At the same time, federal law is requiring the state to disenroll Medicaid members who make too much money to be eligible for the program. The state has estimated that over 300,000 Coloradans may be dropped from Medicaid now that the federal law that kept people in the Medicaid program during the pandemic has expired.⁵ Legislators and state agencies want to find solutions for Coloradans who are disenrolled. They will likely think about ways to help Coloradans enroll in insurance on the individual market. Progressive legislators may push for a feasibility study on a single-payer health care system in Colorado.



As wildfires increase and water becomes scarcer in Colorado, legislators have spent several years looking for ways to deal with the effects of climate change. They have also been working to cut emissions, particularly because the Front Range is still violating federal ozone caps.⁶ In summer and fall 2023, legislators convened three separate committees focused on wildfire adaptation, water shortages, and ozone standards.

Legislators plan to introduce bills on a broad range of climate adaptation topics, including grants to respond to wildfires, a study on a charcoal-like substance called biochar, bans on new ornamental grasses that use lots of water, and limits on future emissions.

Behavioral Health

Behavioral health is another perpetual concern for legislators. In 2022, they revamped the behavioral health system by creating the Behavioral Health Administration, which aims to be the lead agency for coordinating behavioral health services across all state agencies. In 2024, work on the issue will continue, including conversations on suicide prevention, criminal justice involvement, youth mental health, and gender-affirming care.

Colorado's suicide rate hit a peak in 2021.⁷ Several legislators plan to introduce bills focused on preventing suicide. Among them is a measure that would criminalize encouraging suicide or providing advice on dying by suicide. Another possible bill would ban the sale of pure sodium nitrate, a drug that is increasingly used in suicides.

Across the country, over one in three people in prisons and jails have a mental illness and over half have a substance use disorder.⁸ Legislators are looking for ways to reduce unnecessary criminal justice involvement for those with behavioral health challenges, including by forbidding involuntary mental health holds in jails. Legislators are also likely to discuss alternatives to incarceration for those with severe mental illnesses.



Youth mental health has become a crisis in recent years. According to the 2023 Colorado Health Access Survey, one in five teenagers reported poor mental health in the past year.

Young people with mental health challenges often do not have treatment options. Many teenagers and families have shared

stories of waiting indefinitely in emergency departments during a mental health crisis, because they had nowhere else to get care.^{9,10} Legislators remain focused on ways to improve treatment availability, particularly in crisis situations. The Child Welfare System Interim Study Committee referred a bill to the legislature that would overhaul the entire system of care for youth behavioral health. This bill could require a \$1.1 billion appropriation beginning in 2026 to pay for all behavioral health services covered under this system of care. The panel also approved a narrower bill to expand programs and the system of care for youth with serious behavioral health needs.

A separate interim committee referred a bill that would expand crisis resolution services for youth experiencing high-acuity behavioral health crises.

Legislators also are likely to discuss ways to prevent mental health problems. One major concern is the impact of social media on youth mental health.



Transgender rights and health — particularly access to gender-affirming care — have become highly partisan health topics nationally.

The Colorado Youth Advisory Council, which votes on bills that teenage members of the council have helped to write, has already moved forward two bills aimed at supporting transgender youth, particularly their mental health. One requires schools to use students' preferred names, and the other creates a study on access to gender-affirming care in Colorado.



Preview: 2024 Election

Elections in the state legislature could be consequential for health policy. Democrats are eyeing the historic possibility of a supermajority in both the House and the Senate, if they can flip one Senate seat. A supermajority would let Democrats refer constitutional amendments to the ballot without any Republican support, including on partisan issues like reproductive health. In total, 18 Senate seats will be up for election, and seven of those 18 senators are term-limited.

Finally, some high-profile measures have already been proposed for the 2024 ballot. A conservative ballot measure would limit any property tax increases above 4% without voter approval, and a progressive ballot measure would enshrine the right to abortion in the state constitution and remove the current ban on using state funds for abortions.

Between these high-profile ballot measures and the upcoming presidential election, Colorado is likely to see high turnout in 2024.

Conclusion

By law, the legislature must adjourn for the year by May 8. Colorado lawmakers have a lot of work to do over the next 120 days.

Housing is unaffordable for many Coloradans, and the growing number of people with behavioral health needs cannot easily find help.

We will not know until the final days of the session how legislators decide to address these problems, if the pattern from past sessions holds this year. Until then, advocates, citizens, and legislators are in for some busy days.

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Alyssa Sloane contributed to this report

Endnotes

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