



COLORADO
MUNICIPAL
LEAGUE

NEWSLETTER

Vol. 47, No. 12, June 4, 2021

U.S. Treasury releases additional American Rescue Plan guidance for non-entitlement municipalities



By Kevin Bommer, CML executive director

With the U.S. Treasury recently issuing additional American Rescue Plan (ARP) Act guidance for the Coronavirus State and Local Fiscal Recovery Funds (CSLFR) program, a clearer picture exists for both "metropolitan cities" that are receiving a direct allocation from Treasury, as well as non-entitlement units of local government (NEUs), which are local governments typically serving a population under 50,000. Combined with previous guidance and the interim final rule, guidance will assist states with their distribution of funds to NEUs and give more details to all municipalities on allowed use of funds.

In Colorado, the following municipalities are "metropolitan cities" receiving ARP funds

directly from Treasury – Arvada, Aurora, Broomfield, Boulder, Centennial, Colorado Springs, Commerce City, Denver, Fort Collins, Grand Junction, Greeley, Lakewood, Longmont, Loveland, Parker, Pueblo, Thornton, and Westminster. The remaining 254 municipalities in Colorado are the only local governments classified as NEUs and will receive their funds from the state.

While those receiving direct allocations will receive the first half of their funds shortly after requesting them, the wait will be a little longer for NEUs. The guidance sets forth a process for states to verify NEUs and step-by-step guidance for Colorado to calculate and distribute the \$265 million in funds for NEUs. This will be done by the Department of Local Affairs (DOLA).

In order to receive their allocations, NEU municipalities will be required to request them from DOLA, along with required information. The League anticipates that DOLA will handle the requests and distribution, and more information will be available soon at bit.ly/34yoFmU.

CML advises members to review Treasury's pre-submission checklist for NEU municipalities in preparation for requesting payment from DOLA. It can be found at bit.ly/3c4iL1b. Ensuring all the checklist items are completed will prevent delays in receipt of local funding allocations.

As a reminder, municipalities will receive half of their

allocation this year and the second half approximately one year later. While the municipalities above that are direct recipients will have to file quarterly reports with Treasury, non-entitlement municipalities will only be required to file an annual report that will also be directly with Treasury. All funds must be encumbered by the end of 2024 and exhausted by the end of 2026.

All of the information and guidance on the CSLFR for all municipalities, including allocation information and guidance on use of funds, can be found on Treasury's website at bit.ly/3wJDsYe. You may also contact Kevin Bommer, CML executive director, with questions at kbommer@cml.org.

Congratulations

CML congratulates Leslie Hough, who celebrates her work anniversary in June.



Leslie Hough
Publication & Design Specialist
1 year

Classified

The City of Dacono has surplus office furniture and accessories available **FREE** of charge in anticipation of an upcoming campus remodeling project. Since the remodeling will occur in multiple phases, some items are available now, and other items will be available in late July. The following list is not inclusive of everything available. Please contact Jennifer Krieger at jkrieger@cityofdacono.com or 303-833-2317 ext. 127 if interested.

- Conference table
- Assorted lateral file cabinets (faux wood)
- Assorted side/small computer tables
- Office side chairs (multiple)
- Assorted desks, credenzas, and returns
- Bulletin & whiteboards
- 55+ conference/banquet style chairs (available after Aug. 5)
- Eight high-back City Council chairs (blue), (available after Aug. 5)

State moves quickly to spend ARP funds, but will hold some for next year



By Kevin Bommer, CML executive director

While CML and our partner local government associations have advised respective members to take their time making plans

to expend local allocations of American Rescue Plan (ARP) Act allocations, the state is moving rapidly to appropriate over half of its \$3.8 billion allocation right away.

An agreement between Gov. Jared Polis and legislative leadership resulted in legislation announced on May 24 and introduced beginning the next day. \$1 billion will be appropriated to "fortify the state budget," using the revenue loss replacement provision – the most flexible of uses for states and local governments – for "future provision of government services...including K-12 education, housing, and employee compensation." An additional \$300 million is slated for continued support for the state's COVID-19 public health response. Finally, \$750 million is slated for several areas: affordable housing, homelessness, mental and behavioral health, workforce

development, business development, job creation, relief to domestic violence victims and the aging population, and shovel-ready transportation projects, among others.

Details on the state's framework for allocating ARP funding, as well as an overview of all of the allocations the state made to its own stimulus package can be found at bit.ly/3c7VYS1.

Over the interim, several discussions will occur on appropriating the remaining \$1.8 billion in the 2022 legislative session. CML expects to be heavily involved in those interim meetings, as there are numerous opportunities for state and local partnerships to boost the impact of state and local ARP allocations. CML will likely be most focused on the critical funding needs for water, wastewater, and broadband infrastructure, as well as affordable housing.

Recently, Colorado Counties, Inc. (CCI) and CML collaborated with the Department of Local Affairs (DOLA) and Gov. Polis's office to repurpose the Local Government Coronavirus Relief Fund Committee that assisted with CARES funding distribution logistics. Additional members have been added from local, state, and federal partners. The committee will serve more like a working group to advise and assist local governments in an effort to coordinate with each other and the state and federal governments to leverage and maximize the use of ARP funds.



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Get this newsletter by email. The *CML Newsletter* is available by email three days before it arrives in the mail! Sign up at bit.ly/CMLNewsletter.



Effective Governance Workshop

Friday, June 18, 9 a.m to 3:15 p.m.

New to local government or looking for a refresher? This annual training is a great introduction to your role as a newly elected official. Topics include managing effective relationships with the media, open meetings laws and standards, and more. Speakers include Bob Widner, CML executive board president; David Broadwell, CML general counsel; Tami Tanoue, CIRSA executive director; and more. Register at bit.ly/3onIDv3.

Building a Better Colorado invites mayors to participate in education conversation

By Reeves Brown, *Building a Better Colorado* project manager

In 2021, the non-partisan Building a Better Colorado (BBCO) project will host its third "Colorado Conversation" in 37 communities across the state to explore opportunities for improving the state's education system. In its two prior statewide conversations in 2015 and 2019, BBCO engaged over 10,000 Coloradans through 67 community meetings and online conversations, leading to six consensus recommendations on the state's ballot process, election system and fiscal policy. Five of the recommendations were ultimately implemented as state policy – four by voters and one by the state legislature through separate campaign efforts.

BBCO works very deliberately with established leaders to build a guest list of community members who are individually constructive and respected, and who collectively represent the diversity of the community. BBCO will be reaching out to the mayors in the following municipalities in the coming weeks to seek your assistance in hosting a community meeting.

- Alamosa
- Arvada
- Aurora
- Boulder
- Brighton
- Brush
- Castle Rock
- Colorado Springs

- Craig
- Denver
- Durango
- Fort Collins
- Frisco
- Glenwood Springs
- Golden
- Grand Junction
- Greeley
- Greenwood Village
- Lakewood
- Lamar
- Limon
- Littleton
- Longmont
- Loveland
- Montrose
- Monument
- Pueblo
- Salida
- Steamboat Springs
- Sterling
- Thornton
- Trinidad
- Vail and Eagle
- Westminster

While not a service directly provided by municipalities, a quality education system is critical to providing the future workforce to serve our society's needs. CML's Annual Policy Statement states CML "supports education as a community-wide value" because "effective early childhood and pre-kindergarten through adult education systems supply our municipalities with an educated community."

Funding K-12 education has historically been a partnership effort between both state and local governments through an increasingly complex series of fiscal formulas, state laws, and a constitutional spending mandate. Consuming 40% of the state's budget and 50% of local property tax revenues, K-12 education is the largest expenditure for both state and local governments. Despite that significant investment, by many metrics, we are failing to achieve our desired education outcomes.

BBCO will engage community thought-leaders across the state in a conversation to explore opportunities for improving our education system, with specific emphasis on addressing the challenges of current inequities in K-12 funding, the inadequate supply of teachers, and Colorado's challenges achieving our desired student outcomes.

The pathway to a better education system lies in engaging community thought-leaders in a constructive non-partisan conversation to that end. BBCO will be asking many Colorado mayors and other community leaders for help in hosting this important statewide conversation.

Those wishing to sign up for this year's statewide conversation, please visit betterco.org and sign-up on the "Participate" page and visit the "About" page to learn more about BBCO. For more information, contact Reeves Brown at reeves@betterco.org.

CML welcomes new law clerk Megan Decker



CML is excited to welcome Megan Decker as this year's law clerk. Decker will be a 2L at the University of Colorado Law School this fall. As a Colorado native, Decker

has a deep love for the mountains and loves hiking with her dog and her husband, when she's not studying.

Before attending law school, Decker worked as a contract specialist for Denver Water where she found a love for working with people and negotiating contracts.

Decker loves municipal law because she feels like she is on the front lines helping real people solve real and immediate problems and she is looking forward to an exciting and educational year as CML's law clerk.

While at CML, Decker will be assisting with questions from members, editing *amicus curiae* briefs to be filed before Colorado and federal appellate courts, helping draft articles including the Legal Corner for the *CML Newsletter*, and will be assisting in putting together updates to publications such as the forthcoming update to Municipal Taxes and Fees. Welcome, Megan!

SAVE THE DATE



Legislative wrap up: An in-depth look at the 2021 session and look ahead to November ballot issues, July 15, noon to 2 p.m.

Want to learn more about the bills from 2021 Colorado Legislative Assembly that are vital to municipalities? Join CML on **July 15** at noon for this two-hour webinar as David Broadwell, CML general counsel, and Laurel Witt, CML associate counsel, thoroughly review bills and legislative themes related to municipalities, and deliver an overview of what to expect on ballots this November. This webinar will also include the annual business meeting for the attorney's section. CLE credits have been applied for. Register at bit.ly/34zfltP.

CDPHE seeking input on Employee Traffic Reduction Program

The Employee Traffic Reduction Program (ETRP) is currently being considered by the Air Pollution Control Division as a potential greenhouse gas reduction strategy for employers within Colorado's Ozone Nonattainment Area (bit.ly/3pigxkl) with 100 or more employees at one worksite.

Affected employers would be required to develop and implement a plan to reduce single-occupancy vehicle employee commuting to and from a worksite, and measure progress against that plan.

Requirements of ETRP-affected employers in the Ozone Nonattainment Area:

- Identify an employee transportation coordinator and complete initial employee survey to assess commuting modes/practices (by early-mid 2022).
- Develop and implement an ETRP plan to achieve employee single occupancy vehicle commute rate reduction goal (by mid-2022).
- Submit annual reporting (by mid-2022).

Employer plans would be tailored to each business's unique needs and opportunities and could include options for employees such as:

- Telecommuting/working from home.
- Flexible work schedules (4 10-hour days, for example).
- Public transit.
- Ridesharing (carpool, vanpool).
- Employee shuttles.
- Micromobility (bikes, e-bikes, scooters, walking).
- Installing electric vehicle charging infrastructure.

The Air Pollution Control Division will hold a rulemaking hearing before the Air Quality Control Commission on **Aug. 19-20, 2021**. The division is currently evaluating strategies and listening to stakeholder feedback. Written comments may be submitted at: GHG Transportation Comment Form bit.ly/3fmtxkk (please select "Employee Traffic Reduction Program" for your comment topic).

2022 state revolving fund eligibility survey open, June 1 - June 30, 2021

Visit the Water Quality Control Division's website for program details, instructions, and other useful information regarding this annual process at bit.ly/3ygYiQ8. If you have questions or require assistance, contact Erick Worker at 303-692-3594 or by email at erick.worker@state.co.us.

Colorado and the Census of Governments, June 17, noon to 1 p.m.

The Census of Governments is the only comprehensive source of uniform statistics on economic activity of state and local governments. During this webinar, Census Bureau experts will provide an overview of the Census of Governments and its components. Additionally, it will help you understand the importance and the practical uses of these data and help you learn about the available resources and data tools. Register at bit.ly/2Qroqqz.

What's Your Community Plan for Electric Vehicles?, June 22, noon to 1 p.m.

The number of electric cars and trucks in our communities grows every day as prices fall and model options increase. Many cities celebrate this transition. But to fully realize the potential of electric vehicles, communities need careful planning to ensure equity across socioeconomic groups. Smartly managing this transition starts with a plan. Join us and learn how to get started and why it's important to start developing your EV preparedness plan. Register at bit.ly/3hCqozp.



ASSOCIATE MEMBER NEWS

Smart Topics Webinar Finding the Balance | Data Privacy, June 17, 9 a.m.

Join the Colorado Smart Cities Alliance on **June 17** at 9 a.m. for a conversation about balancing data privacy with smart city

technology. The Internet of Things is providing new data sources that can help inform everything from transportation, air and water quality, and economic recovery, but with new data comes new responsibility for maintaining privacy. Learn about the pitfalls and best practices from people in the field.

Kelsey Finch, Senior Counsel at the Future of Privacy Forum (FPF), will kick off this event with a keynote followed by a panel discussion featuring representatives from the private and public sectors. Register at bit.ly/3yRc1NV.

SUMMIT FOR RECYCLING

June 15 & 16, 2021 | Virtual Event



RECYCLECOLORADO.ORG

Elevating the Value Proposition

The benefits of recycling go beyond the basics of conserving natural resources. They include increasing economic security, mitigating climate change, and supporting local supply chains. The 32nd annual Summit, June 15-16, will bring together experts to share why and how to effectively invest in and further commit to recycling and circularity in Colorado.

Education

Topics

- Innovation, Adaptation and Emerging Trends
- Fighting Climate Change in Colorado
- How Can Disposal Bans Help Develop End-Markets in Colorado
- Different Ways to Manage C&D Waste
- Effective Models for Modern Collection Systems
- Filling in the Gaps in Our Compost Infrastructure
- Compost End-Market Development
- Updates from Colorado Dept. of Public Health and Environment

Special Guest

Suzanne Shelton of the Shelton Group
Economic Recovery After the Pandemic: Opportunity to Reimagine the Way We Do Things

Shelton Grp

Meet & Greet Rooms

These virtual events provide attendees the option of meeting and interacting with additional recycling industry experts.

Business Partner Showcase

The Business Partner Showcase highlights the latest products, services, technology and recycling resources. Yes, you'll still get to meet our business partners in our virtual format.

Bonus

Policy Committee Retreat

June 17 | 12 PM - 4 PM

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arc Thrift Stores
Colorado Industrial Recycling
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City of Fort Collins
PaintCare | Republic Services

Registration

Includes access to two days of programming and recordings of sessions after the conference.

Member	Non-Member
\$199	\$225

Additional rates are available for groups. Contact Recycle Colorado Executive Director Kristin Kim for more information 720-839-9531.

Conference hosted on Zoom. No account required.



PO Box 901
Fort Collins, CO
info@recyclecolorado.org
720-839-9531
www.recyclecolorado.org

CML LEGAL CORNER



How the Colorado General Assembly sometimes dictates local zoning policies



By David W. Broadwell, CML
general counsel

State laws regulating the licensing of child care facilities have traditionally provided that the issuance of a state license is

dependent on compliance by the facility with local zoning laws. That partially changed with the adoption of HB21-1222, a new law which is designed to require local authorities to treat residential child care homes no differently than any other residential use of property.

Fifty years ago, the Colorado Supreme Court held that local zoning ordinances in home rule municipalities supersede conflicting state statutes. But that ruling has not stopped the state legislature from occasionally overriding local zoning.

Family child care homes

Municipal zoning codes vary in terms of how they treat licensed child care facilities, including "family child care homes" that, by definition, are operated inside a residence and serve up to 12 children. Some municipalities exclude them entirely from residential zoning districts; others allow them but with special permitting requirements and conditions; others may treat them as a kind of "home occupation," and the rest may not address them at all.

HB21-1222 provides, "local governing authorities shall treat family child care homes as a residential property use" and "shall not impose any additional regulations governing family child care homes that do not apply to other residential property." As the bill made its way through the process, however, exceptions were added allowing local authorities to address family child care homes on immediately adjacent properties, including parking and traffic concerns.

The bill was designed to promote greater statewide access to child care and to attack zoning practices that the sponsors saw as impediments to licensing.

HB21-1222 passed with overwhelming bipartisan support; indeed not a single no vote was cast against the bill in the state senate.

Group homes

HB21-1222 has a couple of notable antecedents in Colorado. For example, beginning in 1975, the General Assembly adopted a series of laws stating municipalities "shall not enact an ordinance prohibiting the use of a state licensed group home (with up to eight residents)... as a residential use of property for zoning purposes." The law was originally designed to promote group homes for persons with mental and developmental disabilities, but was later expanded to include homes for the aged as well as homes for persons with behavioral or mental health disorders. In sharp contrast to HB21-1222, however, the group home statutes still preserved a great deal of local regulatory authority, including the authority to impose special permits and conditions on group homes, as long as the local regulations are not tantamount to an outright prohibition.

Manufactured housing

In 1983, the state prohibited municipalities from adopting any zoning law that "excludes or would have the effect of excluding manufactured homes from the municipality." Again, however, this statute still left municipalities with a lot of regulatory discretion to determine exactly where and how manufactured housing may be installed. In 1997, a federal judge upheld zoning ordinances in Salida, Silt, Fountain, and Frederick that made various distinctions between manufactured

housing and site-built housing for zoning purposes, but stopped short of totally excluding manufactured housing from the community. In light of the ongoing affordability crisis in Colorado today, it is likely that some municipalities will be welcoming more modular, factory-built units into their communities, not less.

Other examples

Even when a state statute does not expressly preempt local zoning laws, a court may interpret the statute to do so anyway. One prominent example was reflected in the 2003 case of *City of Northglenn v. Ibarra*. The city's zoning code prevented more than one registered sex offender from occupying the same residence. But a 4-3 majority of the Colorado Supreme Court held that the ordinance could not be enforced against juvenile sex offenders who were being placed in foster care homes. The state's overall interest in administering the foster care system uniformly throughout Colorado overrode Northglenn's local interest in regulating residential land use. The case illustrates how a municipality is not always guaranteed a win in court when a zoning ordinance is challenged as being preempted by state law, notwithstanding the tradition of the courts treating zoning as a matter of local concern.

Conclusion

In light of the adoption of HB21-1222, municipal officials should review their local ordinances regulating child care facilities in residential neighborhoods, in consultation with their own attorneys and professional staff.

Note: This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorneys

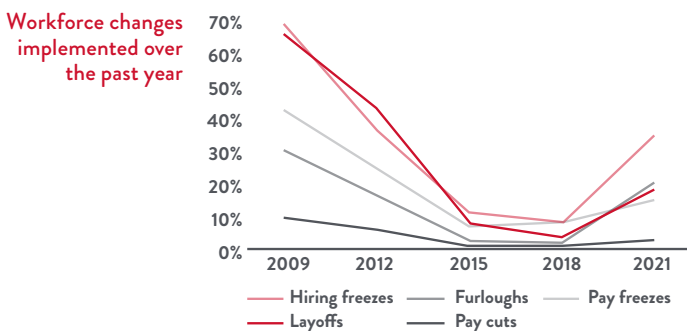
Research Corner: Center for State and Local Government Excellence releases 2021 workforce survey findings

New research from the Center for State and Local Government Excellence (SLGE) at ICMA-RC finds that state and local governments are facing challenges in employee recruitment and retention. Public safety, skilled trade, and engineering positions are among the most difficult to fill. Adding to the challenge is the finding that the COVID-19 pandemic has led to a higher rate of retirement among the state and local workforce. Over half of respondents expect this trend to continue with 52% reporting that they anticipate the largest share of potential retirements in the next few years.

SLGE has been partnering with the International Public Management Association for Human Resources (IPMA-HR) and the National Association of State Personnel Executives (NASPE) to conduct an annual workforce survey since 2009. To view the 2021 report, visit bit.ly/3uZajM.

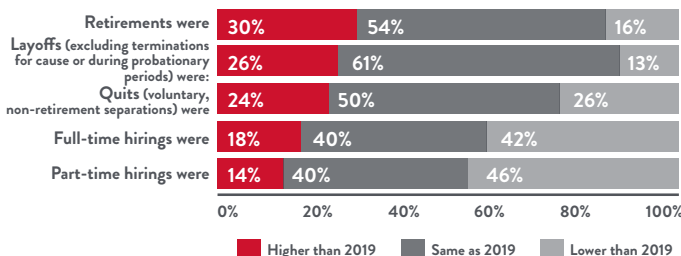
Workforce changes

The most common cost-saving workforce change reported in the 2021 survey was implementing travel or training restrictions, with **67%** of respondents doing so. While jurisdictions reported implementing hiring and pay freezes, furloughs, and layoffs at higher rates than in recent years, they did not reach the levels seen in response to the Great Recession.



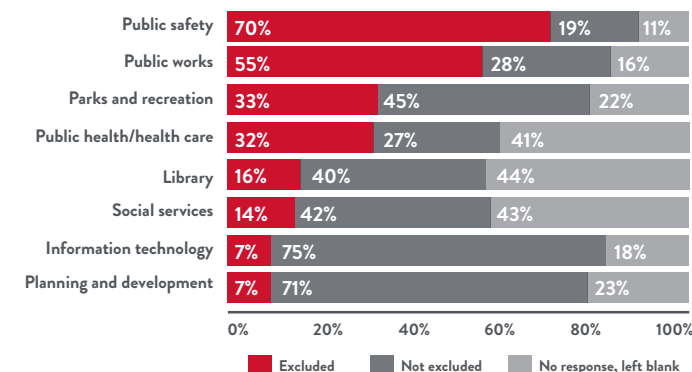
28% of respondents reported a decline in their full-time workforce in 2020, **22%** reported an increase, and **47%** indicated no change.

Changes in the size of your government workforce in 2020



75% of respondents reported an increase in the number of those eligible to participate in flexible work practices in 2020, and **72%** reported increasing the range of flexible work practices offered, with flexible schedules (**54%**) and teleworking (**53%**) being the most common.

What, if any, job classifications or departments are excluded from flexible workplace policies?



Recruitment

While governments of all sizes reported difficulty in filling health care, police and corrections, skilled trades, engineering, and building permitting and inspections positions, there were some differences between which jobs were most challenging to fill between smaller and larger jurisdictions.

Respondents reporting hard-to-fill positions

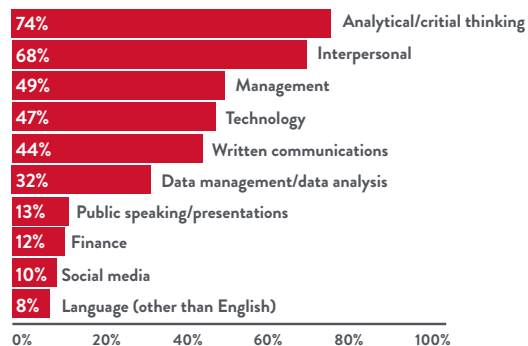
Smaller jurisdictions (FTE <500)

78% Policing **67%** Interpretation and translation
76% Building permitting and inspections **58%** Firefighting/emergency medical

Large jurisdictions (FTE 500 and above)

54% Policing **36%** Building permitting and inspections
44% IT: Network administration **34%** IT: Support

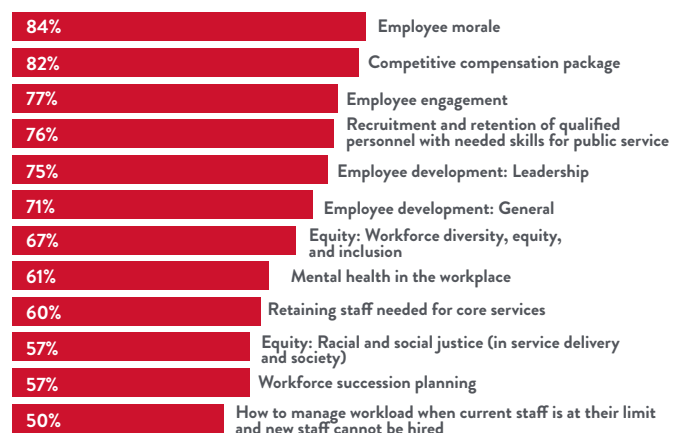
Looking broadly at your workforce, what general skill sets are needed?



Future priorities

In the past five years of the survey, respondents indicating concerns about turnover decreased by over half (**58%** in 2016 to **20%** in 2021) even as employee morale, engagement, and recruitment and retention remain high priorities.

Looking ahead, how important are the following issue to your organization? (percentage indicating "important")





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- U.S. Treasury releases additional American Rescue Plan guidance for non-entitlement municipalities
- State moves quickly to spend ARP funds, but will hold some for next year
- Building a Better Colorado invites mayors to participate in education conversation
- Legal corner: How the Colorado General Assembly sometimes dictates local zoning policies
- Research corner: Center for State and Local Government Excellence releases 2021 workforce survey findings

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