



Economic expansion to generate annual inflation rate of 7.7%, higher state budget revenue, according to Legislative Council

By Jaclyn Terwey, CML
legislative and policy advocate

The Legislative Council recently released the June revenue forecast to the Joint Budget Committee. It forecast an average inflation rate of 7.7% in 2022, and 4.4% in 2023. According to the U.S. Bureau of Labor Statistics, the largest increases in prices have been seen in energy, transportation, and food. Inflation, seasonally adjusted through March 2022, is outpacing wage gains, and real wages are therefore declining in Colorado and across the United States.

In March 2022, the expectation was that the state budget's General Fund revenue would grow by 11.6%; however, based on additional collections throughout the spring, the updated expectation is a 21.8% increase. The individual income tax forecast has been revised upward to \$868 million between March and June 2022. An increase in income tax revenue is a trend being seen nationwide.

Because of the increases, the direct payments legislated by SB22-233 are now estimated to be \$750 for individuals and \$1,500 for joint filers.

There are a few differences between this forecast and the March forecast:

- \$1.467 billion increase in expectations for General Fund revenue
- \$1.560 billion increase in the TABOR refund obligation, reflecting increased expectations for both General Fund and cash fund revenue subject to TABOR
- \$406 million increase in net transfers from the General Fund, mostly attributable to legislation enacted after the March forecast



- \$162 million decrease in appropriations, attributable to midyear changes to appropriations in the 2022 Long Bill and other legislation enacted after the March forecast.

The Unemployment Insurance Trust Fund closed FY 20-21 with a deficit of \$1.01 billion. After borrowing from the federal government, and an injection of \$600 million in American Rescue Plan Act funds, the balance is expected to finish the current FY 21-22 at a deficit of \$133.1 million.

Colorado's economy continues to recover and expand as the pandemic recedes. Colorado's unemployment rate fell to 3.5%, lower than the national average of 3.6%. Further, Colorado has now exceeded the pre-pandemic number of jobs by 35,800.

Visit <https://bit.ly/3RmozX0> for the economic forecast details.

Staff anniversary



This month we celebrate Legislative and Policy Advocate Heather Stauffer's third anniversary with CML. Congratulations, Heather!



Workshop on brownfield redevelopment

Join Downtown Colorado, Inc. along with sponsors from Kansas State University's Technical Assistance to Brownfields program, partners from Adaapta, Colorado Brownfields Partnership, CDPHE, and Development Research

Partners for a discussion surrounding the best financing and funding practices and resources for redeveloping brownfield sites. Visit <https://bit.ly/3ONxZc5> to register for the virtual workshop to be held **July 21**.

Early bird deadline for CMCA scholarships

Early bird applications are being accepted through **July 31** for scholarship awards to attend the 2022 Colorado Municipal Clerks Association annual conference in Cañon City, **Oct. 18-21**.

There will be two full scholarships awarded to early bird applicants, and others will

be evaluated based on need.

Visit <https://bit.ly/3w55CiU> for application information. If you have questions, email Michelle Oeser at moeser@townofelizabeth.org.

Support for innovative water projects

WaterNow Alliance is accepting applications through **July 29** for its Project Accelerator program, which offers hands-on support for sustainable, innovative water programs. Selected projects will receive up to 250 hours of free technical and program assistance over a 6-9 month period.

Project Accelerator offers assistance with program design and implementation,

water policy and legal analysis, navigation of state and federal funding opportunities, community outreach, and data analysis.

Apply by visiting bit.ly/Project-Accelerator. Email questions to Victoria Arling at va@waternow.org or Amy Weinfurter at aw@waternow.org.



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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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.

Fall District Meetings set for September

Join the staff of the Colorado Municipal League at our annual Fall District Meetings. These are great opportunities to learn more about the League's legislative agenda and connect with other municipalities in your district.

Schedule

- **Burlington** — Tuesday, 9/6
- **Brush** — Wednesday, 9/7
- **Golden** — Thursday, 9/8
- **Cañon City and Meeker** — Wednesday, 9/14

9/14

- **Rocky Ford and Aspen** — Thursday, 9/15
- **Monte Vista** — Tuesday, 9/20
- **La Veta and Pagosa Springs** — Wednesday, 9/21
- **Ouray** — Thursday, 9/22
- **Woodland Park** — Wednesday, 9/28
- **Evans** — Thursday, 9/29



Emergency Rental Assistance Program enters wrap-up phase

For the past 15 months, the State of Colorado has provided emergency rental assistance to more than 30,000 households. The goal was to mitigate the economic impacts of the Covid-19 pandemic on people who were at an increased risk of losing their housing due to challenges with paying rent, as many people found their jobs eliminated or paused.

This temporary emergency program kept people housed and allowed property owners to catch up on their mortgages. Colorado's strong recovery, including a 3.5% unemployment rate, makes it possible to begin phasing out the emergency response. The Department of Local Affairs (DOLA) has committed or spent 65% of the Emergency Rental Assistance (ERA) funding allocated to the state. The ERA program was created with federal funds as an emergency response to the pandemic and will now move into the wrap-up and stabilization phases, with a focus on assisting Coloradans with pivoting to long-term solutions.

Eligible households may now only receive up to one additional round of assistance, so long as funds are available and households have not already reached their 18-month maximum. This is to ensure every eligible Coloradan who applies while funding is available can receive some assistance. For this reason, DOLA is encouraging emergency rental assistance recipients to plan for the end of this temporary assistance

Wrapping Up

While funds are available, DOLA is still reviewing and processing both returning and new applications and will prioritize households that:

- Have received eviction notices (and these notices have been provided)
- Are at or below 50% Area Median Income, or where one or more household members were unemployed for at least 90 days leading up to the date of application (and adequate documentation has been provided).

The application portal remains open at this time. DOLA encourages Coloradans who have not yet applied for emergency rental assistance or received it to do so as soon as possible. As long as the household has not yet reached its 18-month maximum, households can be eligible for one more recertification (i.e., up to another three months of rental assistance).

From today on, each household will be eligible for only one additional recertification. As the program begins to wind down, the application portal will be closed. At this time, DOLA anticipates the portal will close in late summer or early fall, depending upon funding availability and the volume of applications. Therefore, it is advised that households apply as soon as possible.

It is important to note that the larger counties or cities of Colorado (e.g., with a population of at least 200,000) received their own emergency rental assistance allocations from the U.S. Treasury. Each locality, however, allocated its funds at

different rates. If the application portal for a jurisdiction/county is open, applications are still being accepted. Tenants and landlords will not be able to receive funds if their area is not listed or if it is a “closed” jurisdiction.

Stabilization

DOLA has the goal of sustainable, focused response when it comes to recovery and housing stability across Colorado. In the stabilization phase of the program, DOLA will work to identify at-risk households, assisting one-on-one with Colorado households whose needs exceed what the Emergency Rental Assistance program can provide. It is important to keep in mind, however, that once Colorado and local counties have exhausted their federal funds, tenants will not have access to these rental assistance resources.

As funding for this federal program is phasing out nationwide, DOLA will continue with eviction diversion efforts, including prioritizing imminent eviction cases and connecting tenants to legal services. Additionally, tenants will be able to receive one-on-one support through an enhanced Customer Care Center that is under development. DOLA’s network of Housing Stability Specialists will work with households to identify wrap-around resources, plan for self-reliance, and provide warm connections to safety-net hubs within their communities.

Long-Term Recovery

The economic and social impacts of the pandemic have exacerbated housing insecurity for many Coloradans throughout the state and shined a light on the shortage of affordable housing. With the goal of best serving Coloradans, DOLA plans to work closely with its nonprofit and national contractor partners. DOLA’s primary concern is to keep people housed and ensure any experience of homelessness is rare and brief when it occurs, and no one gets left behind.

The Department of Local Affairs Division of Housing (DOH) places a high priority on housing stability. In less than a year, DOH has provided project funding of more than \$160 million, leveraging more than \$825 million in other private resources for housing. These investments not only create new homes for Coloradans but are also economic drivers in communities generating revenue through construction and commerce.

For more information about the wrap-up and stabilization phases of Colorado’s Emergency Rental Assistance program, visit <https://bit.ly/3apNesW>.

State requires energy performance reporting

By Jaclyn Terwey, CML legislative and policy advocate

If your municipality owns a building larger than 50,000 square feet, you are required to begin reporting energy-use data to the Colorado Energy Office this year.

In 2021, Colorado passed HB21-1286, Energy Performance for Buildings, requiring owners of large commercial, multifamily, and public buildings 50,000 square feet or larger to report their annual energy use to the Colorado Energy Office through Energy Star Portfolio Manager. This applies even if your municipality rents the building to tenants and the municipality is not the electric or gas utility account holder. The goal is for building owners and tenants to better understand how their building’s energy performance compares to similar buildings and identify opportunities to cut energy waste. The first benchmarking reporting deadline is **Dec. 1**.

Larger utilities are required to create an easily navigable web portal or online request form to provide energy-use data

to a building owner within 90 days of the request in 2022 and within 30 days of the request in subsequent years. You may have to make a written request for data if your utility does not meet the threshold of 5,000 commercial or industrial accounts. Many utilities have set request deadlines of 90 days to gather this data for this first year. If your municipality owns a building over 50,000 square feet, please request your energy-use data soon to ensure compliance with this law.

The Colorado Energy Office has created a webpage (<https://bit.ly/3P9fped>) with more information about Building Benchmarking Reporting and provides information on programs already in place in Boulder, Denver, and Fort Collins. The webpage includes a search tool to see if your building is covered by this legislation (<https://bit.ly/3lq8DP9>). A word of caution shared by the Energy Office: the database of buildings is not an exhaustive list, so if your building is 50,000 square feet or larger, they recommend requesting and submitting the data as required by the law.

Draft of Colorado water plan released for public comment period

The Colorado Water Conservation Board—the state agency that works to conserve, develop, and protect Colorado’s water for present and future generations—released a draft of the 2023 Colorado Water Plan for a 90-day public comment period.

The plan, which will be finalized in January, focuses on four interconnected areas: vibrant communities, robust agriculture, thriving watersheds, and resilient planning.

This updated plan is the state’s second edition and builds on a legacy of integrated statewide planning for water. The first Water Plan, released in 2015, highlighted the importance of finding collaborative solutions to our water challenges. The updated plan continues to focus on collaboration between the state and the water community on-the-ground. It incorporates state-of-the-art tools and data that take into account climate change, population growth, scenario planning, drought resilience, and funding opportunities for the water community to

take action. It addresses the importance of embracing equity, diversity, and inclusion as we partner to be more resilient.

COMMENT. COMMIT. SHARE.

There are three ways for Coloradans to get involved with the Colorado Water Plan during the public comment period from **June 30-Sept. 30**.

- Comment on the Water Plan draft by identifying requested changes or improvements to a specific chapter, page, or action
- Commit to taking action by taking the Water ’22 Pledge or getting involved with local water issues
- Share your water success story, such as something you have done to help make Colorado more drought resilient by taking action in your municipality, on your farm, or in your watershed.

The 2023 Colorado Water Plan draft is online at <https://bit.ly/3ACISg>.

Elected officials receive MUNiversity leadership training awards

During CML's 100th Annual Conference in Breckenridge, the League recognized municipal elected officials statewide who reached milestone levels in its MUNiversity program — a leadership program for Colorado's municipal elected officials. The League's Executive Board started the program in January 1991 to recognize the efforts of officials who go the extra mile to increase their knowledge of municipal government and their capacity to lead.

Graduate level

To reach the Graduate level of the program, officials must complete 100 credit hours. Officials who reached this elite level were:

- Lone Tree: Mayor Pro Tem Wynne Shaw
- Pueblo: Councilmember Larry Atencio
- Rocky Ford: Mayor Susan Jung

Leadership level

- Castle Pines: Councilmember Deborah Mulvey
- Centennial: Councilmember Marlo Alston
- Centennial: Councilmember Candace Moon
- Cherry Hills Village: Mayor Russell Stewart
- Dacono: Mayor Pro Tem Kathryn Wittman
- Golden: Mayor Laura Weinberg
- Grand Lake: Mayor Steve Kudron
- Greenwood Village: Mayor George Lantz
- La Jara: Mayor Pro Tem Austin Valdez
- Montrose: City Councilor Doug Glaspell
- Steamboat Springs: Council President Robin Crossan

Fundamental level

- Akron: Trustee Derek Glosson
- Alamosa: Councilmember Michael Carson
- Aspen: Councilmember Rachel Richards
- Broomfield: Mayor Guyleen Castriotta
- Cañon City: Mayor Pro Tem John S. Hamrick
- Castle Pines: Mayor Tracy Engerman
- Castle Rock: Mayor Jason Gray
- Centennial: Councilmember Richard Holt
- Commerce City: Councilmember Sean Ford
- Estes Park: Mayor Wendy Koenig
- Fountain: Councilmember Tamara Estes
- Fountain: Councilmember Detra Duncan
- Granby: Mayor Josh Hardy
- Grand Junction: Council President/Mayor Anna Stout
- Greenwood Village: Mayor Pro Tem David Kerber
- Kersey: Mayor Gary J. Lagrimanta



Photos by CML staff

CML Executive Director Kevin Bommer, second from left, congratulates Graduate level MUNiversity award recipients Susan Jung, Larry Atencio, and Wynne Shaw.



Kevin Bommer, center, congratulates Leadership Level MUNiversity award recipients.

- Littleton: Councilmember Jerry Valdes
- Loveland: Councilmember John Fogle
- Montrose: City Councilor Ed Ulibarri
- Mountain View: Councilmember Mladenka Boehr
- Mt. Crested Butte: Councilmember Dwayne D. Lehnertz
- Northglenn: Mayor Pro Tem Jenny Willford
- Palisade: Trustee Bill Carlson
- Pueblo: Councilmember Dennis Flores
- Salida: Councilmember Justin M. Critelli
- Telluride: Mayor DeLanie Young
- Woodland Park: Mayor Hilary LaBarre

More information about the MUNiversity program is available at www.cml.org/muniversity.

CML LEGAL CORNER



Supreme Court develops new view on religion in local government

By Rachel Bender, CML associate counsel

On June 27, 2022, the United States Supreme Court issued its decision in *Kennedy v. Bremerton School District*, holding that the First Amendment protected a public-school football coach from discipline for privately praying at midfield after games—an action his employer felt could have been viewed as unlawful government endorsement of religion. The Court reached this decision based on a new understanding of the First Amendment.

First Amendment framework

With respect to religion, the First Amendment contains the Establishment Clause and the Free Exercise Clause. The Establishment Clause prohibits government from coercing anyone to support or participate in religion or its exercise, or otherwise acting in a way that establishes an official religion. The Free Exercise Clause protects a citizen's right to practice their religion as they wish, so long as it does not run afoul of a compelling governmental interest.

In 1971, the Supreme Court established a three-part test in *Lemon v. Kurtzman*, 403 U.S. 602, to evaluate Establishment Clause claims. Under the *Lemon* test, government can assist religion only for secular purposes, without promoting or inhibiting religion, and without excessive church-state entanglement. Courts also analyzed whether a “reasonable observer” would consider the government action an “endorsement” of religion. In *Kennedy*, the school district suspended the coach based on its concern that a “reasonable observer” would find the district to be endorsing religion.

Kennedy v. Bremerton School District

The *Kennedy* opinion will be difficult to implement for many reasons, including a basic disagreement over the facts of the case and a new method of interpreting the

First Amendment. First, the six-justice majority saw the coach as being disciplined for three instances of solitary, personal prayer in public. The majority believed that no players were coerced into prayer and that the coach was praying during his own time, as a private citizen, because the game was over. The three dissenting justices noted that the coach had previously solicited players and opposing teams, and still had work-related tasks to complete. Further, the dissent considered that high school students might feel compelled to join in against their beliefs.

Second, the opinion says the Court abandoned the *Lemon* test years ago, to the surprise of many, and instead endorses a historical analysis test that seems to have less concern for government endorsement of religion. The Court deems there to be no conflict between the two clauses but, in its attempt to harmonize the competing parts of the First Amendment, appears to elevate the Free Exercise Clause over the Establishment Clause despite the role of government in this case. Not only were there no concerns about the endorsement of religion by a public employee, the Court also found that the school district violated *Kennedy*'s free exercise and free speech rights. In this decision as well as two other recent decisions—*Carson v. Makin*, involving private school vouchers, and *Shurtleff v. Boston*, involving a religious flag on public property—the Court appears to be cautioning against violating the individual religious liberties of those using government assistance or a government platform by creating more separation between church and state.

Impact on local government

Kennedy will likely create challenges for municipalities attempting to navigate the First Amendment. The Establishment Clause analysis endorsed by *Lemon*

allowed governments to apply facts to a relatively straightforward legal test. In its place, the Court created an amorphous, highly fact-dependent standard that makes it much harder to determine what is permissible under the First Amendment. Actions by the government, including its employees or those receiving government aid, that might previously have been viewed as violating the Establishment Clause might now be considered proper.

Municipalities will need to exercise care in making decisions that implicate religion such as those that could arise in the context of public meetings, employment, public benefits, or citizen engagement. Attempts to respect the Establishment Clause may be considered infringement on the free exercise rights of individuals. When establishing boundaries for government programs or employee policies, municipalities should, at a minimum, avoid including solely religious criteria and instead focus entirely on nonsectarian concepts.

Municipalities should consider revisiting their employee policies, standards for the use of public facilities, and other practices that might involve sectarian criteria. Disciplinary actions that involve potentially protected religious practices or speech must be predicated on a record firmly supporting the government's decision. Because the law on this matter is sure to evolve as courts wrestle with the *Kennedy* decision, please consult with your municipal attorney to ensure that your municipality strikes the right balance between the limits on government establishment of religion and individual rights under the First Amendment.

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: PARKS AND RECREATION

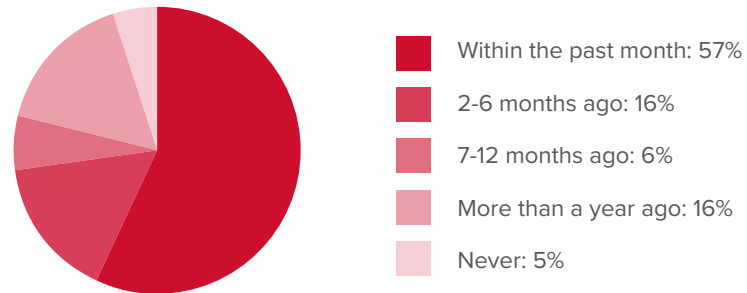
The National Recreation and Park Association (NRPA) is the leading not-for-profit organization dedicated to building strong, vibrant, and resilient communities through the power of parks and recreation. NRPA champions and supports the field of parks and recreation through professional development, advocacy, grants and programs, research, and publications.

This month, NRPA is celebrating the 10,000+ park and recreation agencies and the 160,000+ full-time park and recreation professionals across the United States by declaring July Park and Recreation Month.

Explore ways to celebrate at <https://bit.ly/2HYHOB1>

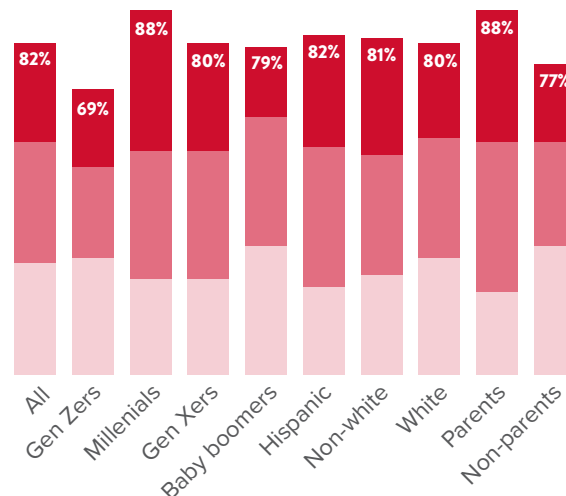
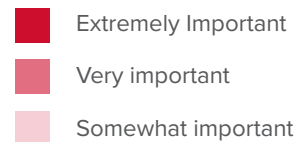
1 | PEOPLE LOVE PARKS

260 million Americans visited a local park or recreation facility at least once in the previous year. The percentage of survey respondents visiting ...



2 | LOCATION, LOCATION, LOCATION

Almost 90% percent of people agree that parks and recreation is an important service provided by their local government, and 80% of U.S. adults seek high-quality parks and recreation when choosing a place to live.



3 | TOP REASONS WHY PEOPLE VISIT PARKS

To be with family and friends: 47%

To be closer to nature: 47%

For a break from day-to-day stress: 45%

For exercise or physical fitness: 43%

4 | HOW PEOPLE GET TO PARKS



Drive: 60%



Bike: 19%



Public transit: 7%



Walk: 47%



Jog: 16%



Rideshare or taxi: 6%



Rollerblade, skateboard, or scooter: 5%



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Featured in this issue:

- Job growth, inflation analyzed in Legislative Council revenue forecast
- Emergency Rental Assistance program enters new phase
- Elected officials graduate from CML's MUNICIPAL program
- Legal Corner: Supreme Court charts new course on religion in local government
- Research Corner: People of all demographics want access to public parks

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NEWSLETTER

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