



Vol. 49, No. 10, May 19, 2023

# 

ADVOCACY

### New laws affect municipalities, require immediate attention

### By the CML Advocacy Team

The First Regular Session of the 74th Colorado General Assembly wrapped up shortly before midnight on May 8. Several new laws have an immediate impact on municipal interests; other bills await final action by Gov. Jared Polis and are not effective unless signed or become law without his signature. CML's advocacy team followed 288 bills this session, taking active positions on 108 bills. The list of CML's support and oppose bills can be found at *bit.ly/3Mrc77O*.

The following highlights key laws from the 2023 session that are in effect or will be soon. If you have any questions, contact the lobbyist indicated in the summary by email: Heather Stauffer (*hstauffer@cml.org*), Jaclyn Terwey (*jterwey@cml.org*),MeghanMacKillop(*mmackillop@cml.org*), or Mollie Steinemann (*msteinemann@cml.org*). This is not a complete list of all legislation effective immediately. A full summary of these bills and additional legislation of municipal interest will be available in June for free online at *cml.org*.

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### Empowered cities and towns, united for a strong Colorado

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## CML

COLORADO MUNICIPAL **NEWSLETTER** LEAGUE

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### RECOGNITION

### MAYOR GARY LEBSACK STEPS DOWN AFTER MANY YEARS OF SERVICE TO JOHNSTOWN

Gary Lebsack, who served the Johnstown community for 20 years in various roles on the town council, has resigned as mayor effective at the end of the May 1 town council meeting.

Mayor Lebsack admirably represented the town during his service on the council, and the community is grateful for his dedication and work in representing Johnstown.

Mayor Lebsack announced his resignation and retirement at the April 17 town council meeting, noting his upcoming plans to move into unincorporated Weld County as the reason behind the end of his tenure. According to Johnstown's home rule charter, mayors and councilmembers must reside in Johnstown.



With appreciation and recognition of the leadership that Mayor Lebsack has provided to the council and community, we wish the best for him in whatever venture comes next and all the happiness in his upcoming nuptials.

### IN MEMORIAM

### MARV KAY

Former Golden councilmember and mayor Marv Kay, the "greatest Oredigger ever," passed away April 19 at the age of 84. He was preceded in death by his wife of 55 years, Diane, who passed away March 15. He is survived by his children, Chandra Polk and Kendra Sund, both of Golden; three grandchildren; a great-grandson; and four siblings.

A former Colorado School of Mines player, coach, athletic director and fan, Kay was described by Mines Athletic Director David Hansburg as the "greatest Oredigger ever." He was beloved by all in Golden who knew him, and the City of Golden said on its Facebook page that "Marv Kay was Golden."

Kay, born in Golden in 1939, Kay grew up in western Colorado and graduated from high school in Grand Junction in 1956 before coming back to the Colorado School of Mines as an undergraduate. He lettered in football and wrestling and graduated in 1963. After three years in the U.S. Army Corps of Engineers, Kay was hired as an assistant coach in football and swimming and became Mines' head football coach in 1969. After



a successful 26-year coaching career, he served as athletic director at mines from 1994-2004. Mines named its stadium after Kay in 2015, and he was inducted into the Colorado Sports Hall of Fame four years ago.

Kay served on Golden City Council from 1986-1998, including as mayor from 1988-1996. He was instrumental in the approval of the city's capital improvement sales tax. He is credited for numerous civic improvements in Golden, including the Golden Community Center and many recreation amenities.

# MUNICIPAL GRANTS & FUNDING OPPORTUNITIES

### EPA INVESTS \$41 MILLION TO HELP COMMUNITIES ADDRESS WASTEWATER CHALLENGES

The U.S. Environmental Protection Agency is offering \$41 million in new technical assistance funding under America's Water Infrastructure Act to help communities address urgent wastewater challenges. The new funding, awarded to nine technical assistance providers across the country, will primarily help rural, small, and tribal communities assess water needs, identify solutions, and access funding from the Bipartisan Infrastructure Law and other federal programs.

Many rural, small, and tribal systems face unique financial and operational

challenges, including aging infrastructure, workforce shortages, increasing costs, and declining rate bases. EPA's grant funding will be used to assess communities' most pressing challenges, provide training on water infrastructure and management best practices, help communities navigate the federal funding application process, and strategically invest in reliable infrastructure solutions. Communities can request assistance on the agency's Water Technical Assistance webpage, *bit.ly/421SF6s*.

### TRANSFORMATIONAL HOMELESSNESS RESPONSE GRANT PROGRAM

The Colorado Division of Housing is accepting applications for the

Transformational Homelessness Response Grant Program. The aim of the program is to create a future where homelessness is rare and brief when it occurs, and no one gets left behind. The program will help communities implement proven solutions that reduce homelessness by connecting people to benefits and stable housing, and help them develop employable skills to become self-sufficient.

Grants will be between \$250,000 and \$5 million. Grant money can be used for street outreach, emergency shelter, transitional and bridge housing, data collection, and other projects aimed at preventing or ending homelessness. More information is available online, *bit.ly/42DQWV7*.

### WEBINARS

### LEGISLATIVE WRAP UP: A REVIEW OF THE 2023 SESSION

Monday, May 22, 2023, 12-1 p.m.

Learn more at this 2023 Colorado General Assembly wrap up webinar with the CML advocacy team. Get the latest news and ask questions about issues that could affect your city or town. Register at *bit.ly/435Zh4v*.

### COLORADO RETAIL TRENDS

### Tuesday, June 6, 12-1 p.m.

Join Aaron Farmer, president of The Retail Coach, and Julie Jacoby, economic development director with the City of Thornton, to find out what municipalities can do to build a strong retail recruitment strategy. Register at *bit.ly/3ADqC1r*.

### OUTREACH

### CML SPRING OUTREACH MEETINGS

The CML team is excited to get on the road for in-person Spring Outreach Meetings. Beginning May 15 and running through June 1, these are opportunities to meet with neighboring communities and get an update on the end of the recent legislative session and what it means for your community. As always, the Spring Outreach Meetings are free (and only for CML members). Attending elected officials will earn 1 MUNIversity credits. For registration and outreach meeting locations, visit *bit.ly/3Mcs8OK*.

### TRAINING

### LOCAL INFRASTRUCTURE HUB OPENS REGISTRATION

This spring, the Local Infrastructure Hub provided through a partnership of National League of Cities, Bloomberg Philanthropies, and others is continuing the "bootcamp" series designed to help small and mid-sized local governments take advantage of the grant opportunities available through the Bipartisan Infrastructure Law. The bootcamps are designed to guide staff through several steps that can help maximize their chances of receiving grant assistance. Applications close May 31. More information and registration information is available at *localinfrastructure.org*.

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Join CML's advocacy team for an in-depth look at the 2023 session at our legislative wrap-up webinar on May 22 from 12 to 1 p.m. where we will discuss major legislation from the session and what it means for municipalities going forward.

HB23-1032, Remedies persons with disabilities, removes the requirement to exhaust administrative remedies before suing for disability discrimination and expands the prohibition of excluding individuals with disabilities from services or programs to places of public accommodation, primarily affecting private businesses since public entities are already covered under Colorado law. Effective: Upon Signature. Lobbyist: Heather Stauffer

HB23-1045, Employee leave for Colorado National Guard service, modifies Colorado National Guard leave by increasing Annual Military Leave to three weeks based on the employee's regular work schedule instead of the previous requirement of 15 days, and additionally permits the use of unpaid leave for this purpose. Effective: March 10, 2023. Lobbyist: Jaclyn Terwey

HB23-1101, Ozone season transit grant program, updates the eligibility requirements for the Ozone Season Transit Grant Program by allowing transit agencies operating in regions with different peak ozone periods to designate an alternate "ozone season," expands grant funding to include marketing expenses, rider surveys, and expanding free services or routes, permits agencies to receive additional funding despite previous lower amounts, and mandates the Transportation Commission to study transportation planning agency boundaries by November 23, 2023. Effective: April 28, 2023. Lobbyist: Meghan MacKillop

HB23-1102, Alcohol and drug impaired driving enforcement, broadens high-visibility drunk driving enforcement programs to encompass both alcohol and drug-impaired driving, mandates the annual allocation of \$1.5 million from the State Highway Fund to the Office of Transportation Safety for distribution to local governments implementing such enforcement, imposes reporting and training obligations on funded law enforcement agencies, establishes guidelines for enforcement episodes, and stipulates that non-compliant agencies must return the funding to the state. **Effective: Upon Signature**. Lobbyist: Mollie Steinemann.

HB23-1132, The court data sharing task force, establishes a task force in the judicial department, composed of various stakeholders, to explore the feasibility of sharing information between municipal courts and courts that use the statewide case management system, examining data sharing, access to court data systems, potential processes for expanding access, associated costs, and unintended consequences, with the task force required to meet up to six times and report recommendations to the General Assembly by January 8, 2024. Effective: Upon Signature. Lobbyist: Meghan MacKillop

HB23-1135, Penalty for indecent exposure in view of minors, upgrades the first offense of indecent exposure to a class 6 felony if committed by a person over 18 years of age, who is more than 4 years older than a child under 15 years of age, and with knowledge of the child's presence during the act. Effective: Upon Signature. Lobbyist: Mollie Steinemann.

HB23-1167, Reporting of emergency overdose events, expands "Good Samaritan" immunity to include aiding or seeking aid for a person who suffered a drug or alcohol overdose, extends immunity to unlawful possession and distribution of certain controlled substances under specific conditions, and reduces the severity of penalties for unlawful distribution, dispensing, transfer, or sale of certain controlled substances when reporting the overdose, remaining at the scene, and providing identification to emergency responders, downgrading it to a level 1 drug misdemeanor from a level 3 or 4 drug felony. Effective: May 1, 2023. Lobbyist: Mollie Steinemann.

HB23-1199, Forensic medical evidence process improvements, mandates a statewide system, established by the Department of Public Safety, for sexual assault victims to monitor evidence status from forensic examinations, involving relevant entities, tracking analysis stages based on consent, providing information on the justice system and resources. It aims to be operational by June 30, 2025, and allows law enforcement agencies to seek reimbursement for evidence collection costs through the sexual assault victim emergency payment program. **Effective: Upon Signature**. Lobbyist: Mollie Steinemann

HB23-1232, Extend housing tool kit time frame, allows funding for the Local Government Affordable Housing Development Incentives Grant Program and the Affordable Housing Guided Toolkit and Local Officials Guide Program to be used before July 1, 2025, without requiring additional appropriation from the General Assembly, and permits the Division of Housing in the Department of Local Affairs (DOLA) to award multiple grants to multiple recipients for multiple regional navigation campuses in the Denver metropolitan area to address and prevent homelessness. Effective: Upon Signature. Lobbyist: Meghan MacKillop

HB23-1233, Electric vehicle charging and parking requirements, regulates electric vehicle charging stations, covering code requirements, parking regulations, property taxes, rest areas, and prohibiting restrictions on installation or use by local governments, except for safety reasons. Effective: Upon Signature. Lobbyist: Meghan MacKillop

HB23-1240, Sales use tax exemption wildfire disaster construction, grants a state sales and use tax exemption for building materials used to rebuild or repair residential structures damaged by wildfires declared as disasters from 2020-2022. The Department of Revenue will issue Wildfire Rebuild Exemption certificates to eligible applicants, verified by municipalities and counties during building permit applications. Cities and counties will report the number of certificates issued annually to the Department of Revenue starting September 30, 2023. Effective: Upon Signature. Lobbyist: Heather Stauffer

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HB23-1259, Open meetings law executive session violations, prohibits a pro se plaintiff from being awarded attorney's fees if they bring an action under the Colorado Open Meetings Law, challenging a local public body for a violation of executive session requirements as they relate to C.R.S. § 24-6-402 (2)(d.5)(II) or (4), or for a violation of C.R.S. § 24-6-402 (2)(d) (II). Effective: Upon Signature. Lobbyist: Heather Stauffer

HB23-1270, Creation of Urgent Incident Response Fund, establishes the Urgent Incident Response Cash Fund within the Division of Homeland Security and Emergency Management, allowing the Department of Public Safety to utilize state appropriations, transfers, gifts, grants, or donations for reimbursing state agencies and local governments in responding to urgent incidents that fall below the threshold of defined disasters or emergencies, with forthcoming rulemaking to outline the reimbursement process for local governments. Effective: Upon Signature. Lobbyist: Mollie Steinemann.

HB23-1285, Store use of carryout bags and sustainable products, amends current law by advancing the start of remitting carryout bag fees to local governments from 2024 to 2023, and permits stores to retain fees and utilize the revenue for purchasing recycled paper carryout bags, recycled cups, or compostable food containers if the respective municipality or county has not established a fee collection process. Effective: Upon Signature. Lobbyist: Meghan MacKillop

HB23-1296, Create task force study rights persons disabilities, establishes the Task Force on the Rights of Coloradans with Disabilities, comprised of at least 15 members, to address disability-related issues and make policy recommendations, with subcommittees focusing on revising disability laws, improving access in government, and studying housing and outdoor access. The task force will submit a final report with recommendations to the governor and general assembly by January 30, 2025. **Effective: Upon Signature**. Lobbyist: Heather Stauffer

HB23-1304, Prop 123 Affordable Housing Programs, amends Prop 123, a voter-approved measure for affordable housing funding access, by allowing tribal governments to participate, transferring administration to the division of local government, permitting OEDIT to use financing funds for administrative expenses, clarifying income and rent calculations, specifying unit counting for the 3% growth obligation, establishing a process for rural resort communities to adjust income percentages, exempting federal coronavirus funds from maintenance of effort requirements, and requiring annual reports on the programs. Effective: Upon Signature. Lobbyist: Meghan MacKillop

HB23-1306, Public use of elected officials' social media, establishes a standard allowing state and local elected officials to restrict or ban individuals from their private social media accounts for bullying, harassment, or intimidation at their discretion, while suggesting it does not violate constitutional rights. However, given the pending Supreme Court cases on this matter, compliance with local social media policies and legal consultation is recommended to mitigate liability. **Effective: Upon Signature**. Lobbyist: Heather Stauffer

SB23-028, Penalty for commercial vehicle offenses, amends Senate Bill 21-271 to reclassify certain offenses related to the operation of commercial vehicles from a class A traffic infraction to a class 1 misdemeanor traffic offense, resolving conflicting language in the statute. Additionally, it introduces a new offense that penalizes employers or their representatives who knowingly allow employees under 21 years old or without a commercial driver's license to operate commercial motor vehicles on Colorado roads, with a violation classified as a class 1 misdemeanor or class 5 felony for subsequent offenses. Effective: Upon Signature. Lobbyist: Meghan MacKillop

SB23-097, Motor vehicle theft and unauthorized use, revises the classification of motor vehicle theft crimes based on specific circumstances rather than the value of the vehicle, creating three degrees of offenses. It also introduces the offense of unauthorized use of a motor vehicle as a misdemeanor when certain conditions are met, with the vehicle being returned or recovered within 24 hours without damage. **Effective: July 1, 2023**. Lobbyist: Mollie Steinemann.

SB23-143, Retail delivery fees, exempts businesses that have \$500,000 or less in retail sales in the prior year from having to pay the Retail Delivery Fee (\$0.27/delivery). The seller may choose to pay this fee on behalf of the purchaser, in which case the Retail Delivery Fee does not need to be itemized on a receipt or bill of sale. Effective: May 4, 2023. Lobbyist: Jaclyn Terwey

SB23-166, Establishment of a Wildfire Resiliency Code Board, establishes the Wildfire Resiliency Code Board to define Wildland Urban Interface (WUI) areas, adopt statewide building codes for preventing wildfire damage, and require local governments within the WUI to adopt or exceed these codes. The board will have six members representing local governments, appointed by September 30, 2023. Effective: Upon Signature. Lobbyist: Heather Stauffer

SB23-170, Extreme risk protection order petitions, broadens the eligibility to petition for an Extreme Risk Protection Order (ERPO) by including licensed medical care providers, licensed mental health-care providers, licensed educators, and district attorneys, while maintaining existing ERPO procedures. Effective: April 28, 2023. Lobbyist: Mollie Steinemann.

SB23-183, Local government provision of communication services, eliminates the need for local government elections to authorize spending public funds on broadband infrastructure, allowing municipalities to provide middle mile services and access federal resources without the voting requirement. Starting May 1, municipalities can apply for grants. Effective: May 1, 2023. Lobbyist: Jaclyn Terwey

SB23-188, Protections for accessing reproductive health care, safeguards

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healthcare providers and facilities offering reproductive and gender-affirming services by prohibiting use of government resources for out-of-state investigations into legally protected healthcare activities. It also prohibits arrests, search warrants, summonses, and ex parte orders for wiretapping involving a protected health-care activity. Local governments must also recognize reproductive health facilities as outpatient healthcare and allow them as a permitted use in any area zoned for outpatient healthcare services. **Effective: April 14, 2023**. Lobbyist: Mollie Steinemann.

SB23-200, Automated vehicle identification systems, expands the use of Automated Vehicle Identification Systems (AVIS) and allows municipalities to designate AVIS corridors. It also modifies the service process, reduces notice deadlines, establishes penalty notice standards, and sets requirements for the implementation and use of new AVIS systems while placing restrictions on the retention of photographs and videos from AVIS. Effective: Upon Signature. Lobbyist: Meghan MacKillop

SB23-244, Technology accessibility cleanup, amends the digital accessibility bill (HB21-1110) by requiring formal rulemaking for accessibility standards, treating violations as a single incident, and specifying that digital content must "reasonably" enable access to information, interactions, and services. Effective: April 20, 2023. Lobbyist: Heather Stauffer

**SB23-249, False reporting of emergency**, classifies falsely reporting a mass shooting or an active shooter as a class 6 felony, expands false reporting of an emergency to include shelter-in-place orders or standard response protocol initiation, and includes false reporting of a bias-motivated emergency under the Victim's Rights Acts. **Effective: Upon Signature**. Lobbyist: Mollie Steinemann.

**SB23-254, Search Warrant Procedures**, imposes limitations on search warrants, requiring no-knock warrants to be issued only in credible life-threatening situations, and establishing requirements for executing search warrants, including time restrictions, identification, bodyworn camera use, knocking and announcing presence, allowing occupants to respond, and delaying entry if an occupant is approaching the door. It also extends these requirements to warrantless entries of dwellings, with exceptions for undercover operations, life-threatening emergencies, or hot pursuit situations. **Effective: Upon Signature**. Lobbyist: Mollie Steinemann.

SB23-257, Auto theft prevention cash fund, broadens the eligibility for auto theft prevention grants to include victim support and technology enhancement programs. It also mandates a \$5 million transfer from the General Fund to the Auto Theft Prevention Cash Fund for various purposes, such as statewide education, victim support, law enforcement overtime, prosecution programs, and auto theft tracking enhancements. Effective: Upon Signature. Lobbyist: Mollie Steinemann.

SB23-264, Alcohol beverage festival participation, modifies the festival permit for certain liquor licensees by extending the application deadline, increasing the state permit fee, clarifying the timeframe for holding nine festivals in a calendar year, and allowing licensees to participate in a total of 52 festivals per year, including those held under their own permit. Effective: Upon Signature. Lobbyist: Mollie Steinemann.

**SB23-277, Public safety programs extended uses**, amends several grant programs in the Department of Public Safety, extending the spending period for the Crime Prevention Through Safer Streets Grant Program, the Law Enforcement Workforce Recruitment and Retention Grant, and the State's Mission for Assistance in Recruiting and Training Policing Grant Program until July 1, 2027. Additionally, it allows the Behavioral Information and Data-Sharing Program to utilize the program appropriation in the fiscal year 2023-2024. **Effective: Upon Signature**. Lobbyist: Mollie Steinemann

SB23-279. Unserialized firearms and firearm components, introduces the offense of unlawful conduct involving unserialized firearms, frames, or receivers. It prohibits the possession, sale, transfer, or manufacture of unfinished or finished firearms without proper serial numbers. Exceptions are provided for federal firearm licensees, who must serialize items and conduct background checks. The act requires owners to serialize unserialized firearms by a specified date and adds unserialized firearm offenses to the list of misdemeanor and felony convictions related to firearms. Effective: Upon Signature. Lobbyist: Mollie Steinemann.

SB23-290, Natural medicine regulation and legalization, implements Proposition 122, which decriminalizes and regulates certain natural psychedelics. It establishes licensing requirements for facilities and individuals involved in the administration, cultivation, manufacturing, testing, and distribution of regulated natural psychedelics. The act preempts conflicting local laws and allows local governments to regulate the time, place, and manner of operation of licensed entities. It immediately decriminalizes personal cultivation and use of certain natural psychedelics for individuals aged 21 and older within specified contexts. The act introduces fines and penalties for unlicensed facilitation, open consumption, illegal cultivation, and unlicensed manufacturing. Peace officers are authorized to enforce the provisions of the act. Effective: July 1. 2023. Lobbvist: Mollie Steinemann.

SJR23-004, Uniform sales and use tax on construction materials, urges CML to bring a group together to discuss ways to simplify the construction materials sales and use tax remittance process. The resolution requests that CML update the Sales and Use Tax Simplification Task Force on its coordination efforts by August 2023. Effective: Upon Signature. Lobbyist: Jaclyn Terwey

### **Register early & save big for CML's 101<sup>st</sup> Annual Conference**

Time is running out to register at a discount for the Colorado Municipal League's 101<sup>st</sup> Annual Conference, held **June 25-28** at the Gaylord of the Rockies in Aurora. The Early Bird registration deadline is Thursday, **May 25**, at 11:59 p.m.

This conference is CML's signature event of the year and brings together municipal officials from across the state to network and exchange ideas. Year after year, attendees rave about the experience and how inspired they are to get back to work and put their newfound knowledge to use.

With more than 45 sessions covering topics such as affordable housing, accessibility, civility, homelessness, law enforcement, sustainability, and water, there's



SAM GLENN

MERIDITH POWELL

something for everyone. You can attend the 2023 Legislative Update, explore an expanded exhibit hall with two exhibitor showcases, attend morning yoga classes, compete in the 5k Fun Run, and hear from two great keynote speakers—Sam Glenn and Meredith Elliot Powell. Glenn's keynote address, Attitude Changes Everything, will help us explore how our attitudes work, how to change them, and how to harness your attitude to create positive experiences. Powell's keynote address, Thrive: Turning Uncertainty to Your Competitive Advantage, will delve into the problem of uncertainty and offer practical strategies for transforming it into your greatest asset to thrive, grow, and turn disruption into opportunity.

More information and registration are available on CML's conference website, *www.cml.org/conference*. We look forward to seeing you in Aurora!

### **Conference sponsor spotlight: CIRSA**

CIRSA is a public entity self-insurance pool dedicated to providing Colorado municipalities and affiliated entities with proactive risk management guidance and the best possible coverage and service. Unlike commercial carriers, CIRSA is not driven by profit. When you join CIRSA, you are an owner in the organization. CIRSA currently provides coverage to 88% of Colorado municipalities.

Our members know that managing risk is the way municipal leaders strive not only to foresee and mitigate the potential challenges facing their communities but



also to manage and recover from them as they arise. At a deeper level, managing risk is the means by which municipal leaders balance the freedom, drivers, and desires of their citizens with the needs of a community and its greater common good. CIRSA is here to partner with you in your risk management needs! We look forward to catching up with you at this year's CML conference! Be sure to attend the CIRSA-sponsored opening general session: Attitude Changes Everything, featuring Sam Glenn. And don't miss CIRSA Deputy Executive Director/General Counsel Sam Light's presentation, Electronic Communications and the Laws of Transparency, on June 27. We will be in the exhibition area throughout the conference, so please stop by and say hello.

### RECOGNITION

### **CCCMA AWARD WINNERS**

The Colorado Municipal League congratulates the public servants and municipalities that received awards at the 2023 Colorado City & County Management Association Annual Conference.

- Manager of the year: Clint Kinney and Scott Trainor
- Assistant of the Year: Megan Davis
- Trailblazer: Taylor Reimann
- Program Excellence: City of Brighton and City of Wheat Ridge

### TRAINING

### OPIOID ABATEMENT CONFERENCE IN MONTROSE

Colorado Attorney General Phil Weiser and the Colorado Opioid Abatement Council are excited to invite leaders and stakeholders from across the state to the second Opioid Abatement Conference, in Montrose, **Aug. 16-18**.

This interactive, three-day conference will include collaborative break-out rooms and networking sessions, presentations on best practices for addressing the opioid crisis, the nuts and bolts of opioid settlement funds, and how to leverage state and national resources. This year, the conference includes some engaging local tours and more time for networking.

The conference is for all members of the Regional Opioid Abatement Councils, providers, subject matter experts, and community stakeholders engaged in opioid abatement in Colorado.

There is no cost to attend. More information is available at *bit.ly/42MAuCm*.



NEMSCETTER

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### Featured in this issue:

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