AXIOM Politics
Tel: 303-860-1616
Fax: 303-850-0175

Legislative Newsletter

THE CHAMBER
AURORA • COLORADO

14305 E. Alameda Ave., Ste. 300
Aurora CO 80012
Tel: 303-344-1500
Fax: 303-344-1564
www.aurorachamber.org

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An up-to-date review of Colorado government and politics especially for the Aurora Chamber of Commerce. Compiled and edited by Axiom Strategies, Inc.

"I should just stay composed and run to the finish line."
Asafa Powell

The First Regular Session of the Seventy-second General Assembly convened on Jan. 4, 2019. As of today, there have been 328 bills in the House and 259 bills in the Senate introduced. Expect weekly newsletters from Axiom during the legislative session, and your Capitol Watch bill tracker URL will be sent every Friday.

-Team Axiom-

Colorado senators give first OK to allowing rent control — but consider bigger affordable-housing solutions

Denver Business Journal

In a legislative session that has seen Republicans and Democrats introduce a combined 10 bills so far dealing with the issue of affordable housing, Democrats made their most controversial move yet on Monday, advancing a bill that would allow cities and counties to institute rent control or other rent-stabilization measures should they so choose.

But while Senate Bill 225 advances to a still-uncertain future, it is just one piece in a much larger discussion about ways to attack a housing-cost crisis that is acknowledged across the aisle as a potential roadblock to Colorado's continuing prosperity. And with less than three weeks until the end of the 2019 session, it remains to be seen exactly what steps legislators will be willing to take to address workforce housing, given that only one measure so far has made it to Gov. Jared Polis' desk and that coalitions are beginning to promote groups of bills that represent the best opportunity for a show of bipartisan support on this crucial issue.

A number of the bills go directly to the opportunity to create more housing that is below market price by expanding the low-income affordable housing tax credit, creating a new $40 million annual pot of money for affordable housing or diverting money away from corporate tax breaks to generate housing stock for people making far less than the area median income. Others, though, seek to help people currently struggling to pay for housing by reducing application fees, seeding a legal fund for defense against evictions or tripling the amount of time that renters have to cure lease violations before landlords can begin eviction proceedings.

"There are going to be some bills that focus on creating affordable housing. And some will focus on 'How do you make sure folks can stay in their homes more easily?'" said House Speaker K.C. Becker, the Boulder Democrat who declared before the start of the session that affordable housing would be a priority of her caucus. "It is an affordability issue because each of these things should allow people to have a more level playing field."

Several statistics tell the current story. Apartment rents for a one-bedroom place in the Denver metro area rose 79 percent between 2010 and 2018 to an average of $1,432, leaving a quarter of all renters paying roughly half of their income just to have a place to stay, said Sen. Angela Williams, a Denver Democrat who is sponsoring several of the renters' protection proposals. Statewide, rents are up 22.4 percent since 2014, Williams added during debate on the Senate floor Monday — an increase twice that of the national average over that time.

To help those folks, Williams is sponsoring House Bill 1118, which would extend from three days to 10 days the amount of time that landlords must give tenants before beginning eviction proceedings on them. That bill passed the Senate Tuesday on a largely partisan 21-14 vote and needs only House re-approval to be sent to Polis.

She also cosponsored HB 1170, which creates a new set of standards that landlords must meet in order to maintain habitable properties for tenants, including the eradication of mold and the offering of working refrigerators and ovens. The bill, which received re-approval from the House Tuesday and soon will be on its way to Polis, requires that a landlord move a tenant to a reasonably comparable unit while making major repairs.

HB 1106, which is already on Polis' desk, limits application fees that landlords can charge prospective tenants to the amount required to do background checks on their potential renters. And Senate Bill 180, which is awaiting debate before the full Senate, would set up a $750,000 fund to pay for help in defending renters against eviction proceedings that occurred at a rate of 850 a week in 2017, according to Esther Turcios, a policy analyst for the Colorado Fiscal Institute.

Republicans overwhelmingly opposed each of those bills, arguing they will end up increasing rents because of the additional burdens that they place on property owners and hurt the people that they are meant to help. But the debates on each have seemed minor compared to the furor that has erupted over SB 225, sponsored by Democratic Sens. Julie Gonzales and Robert Rodriguez of Denver.

The bill would, if passed, repeal a 38-year-old prohibition against local governments enacting rent-stabilization policies that could include rent control. No local officials have said they definitely will seek to create limits on how much rents can rise on existing tenants. But Denver City Councilwoman Robin Kniech said city officials would like to adopt inclusionary rental housing laws like the ones they have requiring a percentage of units in new owner-occupied communities be set aside for below-market rates.

Opponents, particularly those who own rental properties, say the consequences of allowing such local actions could be far-reaching and devastating.

Teo Nicolais, a Denver-based instructor for the Harvard Extension School, said that San Francisco's rental housing stock has decline 15 percent since that city enacted rent control in 2010 because owners have sold off units to become owner-occupied housing and financiers have been unwilling to lend money for new units that can't get market rates. Mark Windhager, president of the Colorado Apartment Association, said that declines in the taxable value of rental properties could hurt not only the finances of those cities that enact rent control but multi-city school districts that could face declining property tax receipts.

"Government wants to house people with limited incomes by asking other people to limit their income flow," said Sen. Vicki Marble, R-Fort Collins, arguing that most landlords are not multi-state corporations but locals with a handful of properties who rely on market rates to pay their bills. "And I think that's a horrible mistake that government makes."

Frustrated Colorado renters seek more control from state, but would proposed regulations bring down housing prices?

Denver Post

Escalating housing costs have left more renters in the state desperate for relief, to the point that some are ready to resort to one the most controversial options available — rent control.

But to get that power in their hands, the Colorado legislature needs to take the first step. That's what Senate Bill 19-225 attempts to do by lifting a statewide prohibition against local governments implementing rent-control policies.

The ban, passed in 1981 with bipartisan support and approval from Democratic Gov. Dick Lamm, came after Boulder County residents petitioned to put a rent-related measure on the local ballot. It put Colorado firmly in the camp of 37 states that prohibit such policies.

"We are working with our local communities to explore what is possible, to understand what their needs are and what their best solutions would be," said Celesté Martinez, organizing director for United for a New Economy (UNE) in Adams County.

UNE worked with 9to5 Colorado and Colorado Homes for All to bring the bill forward. The groups see rising housing costs, along with low wages, as the two most pressing problems facing the struggling communities they work with.

The four-page bill, introduced at the start of the month, doesn't offer specific rules on what can and can't be done when it comes to rent control or rent stabilization. Rather, the bill gives counties and municipalities the discretion to come up with their own solutions.

Martinez said local politicians who have stepped forward in support include Adams County Commissioner Emma Pinter, Aurora Ward I council member Crystal Murillo, and Denver City Council members Robin Kniech and Paul López.

The Democratic sweep last November in Colorado has emboldened progressive groups to take on issues which were repeatedly blocked in the past or which they didn't even attempt. This is among them.

And it is more than symbolic that one of the bill's sponsors hails from Boulder County, where the initial effort that resulted in the ban got started. Sen. Mike Foote, D-Lafayette, also chairs the state Senate's State, Veterans & Military Affairs committee, which will take up the bill Monday.
Backers argue rent-control measures would limit rent increases as the market catches up with population growth. Tenants would be protected from budget-busting rent hikes, allowing them and landlords to plan better. And communities would be kept intact.

Opponents argue it would have the opposite effect, reducing supply and pushing up housing costs in the long run. Longtime renters might be protected, but only until they have to move. And young people entering the market would face much higher rents than would otherwise be the case.

"We do need more affordable housing," acknowledges Teo Nicolais, who represents the Apartment Association of Metro Denver in its charge against the measure. "There are different ways to accomplish it. Rent control is the worst approach."

Polis expresses concerns about funding of Colorado's proposed paid-family-leave program

Denver Business Journal

Gov. Jared Polis added his name Monday to the growing list of officials questioning the fiscal soundness of a paid-family-leave program that is facing an unexpectedly bumpy road during the final weeks of the 2019 Colorado legislative session, saying that he's expressed concerns about some aspects of the bill, including whether the funding for the program is enough to sustain it.

During a media briefing Monday, the first-year Democratic governor listed his priority bills he wants to see passed before the session adjourns on May 3 — including his effort to fund free statewide full-day kindergarten and a quintet of bills on reducing health-care costs that continue to move through the legislative process — but did not mention Senate Bill 188, which has been a months-long goal of House and Senate Democratic leaders. When asked about that paid-family-leave bill, which has come under criticism from Republicans and business groups in recent weeks for what they see as a potential shortfall in funding built into the program, he echoed some of those concerns, even as he said he would like to sign the bill if they can be addressed.

“From our perspective, any program would need to be actuarially sound and would need to be a win for the business community as well as families,” Polis said before reiterating the need for actuarial soundness in answering a follow-up question. “We have had conversations with sponsors about the language of the bill.”

The comments added fuel to questions about the outcome of the bill. Its debate on the Senate floor was delayed Monday for the third straight day, as Democrats were missing one member, meaning they could not lose even one vote from their caucus and still pass the bill if all Republicans vote against it, as expected. A full debate could happen as soon as Tuesday.

SB 188 would create a state-run insurance system into which employers and employees pay to create a roughly $1 billion pool of funds, which any private-sector worker in the state could dip into to take as much as 12 weeks of leave to care for a new baby, a family member or themselves and receive pay that could reach as high as 90% of their typical checks for the lowest-income workers. Proponents have said it’s necessary to ensure that workers don’t have to choose between leaving a job or caring for a loved one, but business leaders say it is an expensive one-size-fits-all program that slow expansions, particularly in small businesses.

Two reports in the past two weeks have raised a new line of questioning, however, about whether the state will collect enough money to be able to pay out all the benefits requested by workers, with both a Common Sense Policy Roundtable study and a nonpartisan staff memo discussing hypothetical usage situations with Republican legislative leaders implied that the state could fall short if more than the expected 3 to 3.5% of workers take advantage of their full benefits. And while the bill allows for a raising of fees on paychecks above the initial 0.64% level that it proscribes, it also caps the fees at 0.99% — meaning that if the usage levels are close to double what is projected, there would not be a way to cover those costs.

Sen. Angela Williams, the Denver Democrat who is co-sponsoring SB 188 with Democratic Sen. Faith Winter of Westminster, reiterated Monday when told of Polis’ remarks that she and Winter have added a number of guardrails in the past month to ensure the actuarial soundness of SB 188. Amendments put on during Senate committee hearings require an actuarial study before the program can go into effect, set up a board to oversee the program and delay collection of fees until 2023 and payment of benefits until 2024, she noted.

“I just don’t know what other measures we can put into place that would give everyone a secure blanket and what they need to make sure it’s actuarially sound,” Williams said. “We’ve looked at other states. We’ve done modeling based on other states ... Other states have done this successfully, and I believe Colorado can too.”

Polis did not elaborate on what exactly he would need to see to ensure himself of the actuarial soundness of the bill, nor did he expound on how much he wants business to sign off on SB 188. Most of the major business organizations in the state have come out against the bill and have not changed their positions even as Williams and Winter have worked to amend it.

Colorado lawmakers’ latest plan to slash health insurance prices could risk billions in federal funding

Colorado Sun

Colorado lawmakers’ latest plan to reduce health insurance prices has hit a major snag: If it passes, the state could potentially lose out on more than $2 billion annually that it currently receives, including more than $1 billion a year in Medicaid money from the federal government.

The problem has to do with how lawmakers plan to pay for their ambitious “reinsurance” program, which would lower insurance premiums for people in the individual market by helping insurance companies pay their highest-cost claims. As it’s currently structured, the money would come from hospitals, which would be required to put up $500 million over a five-year period.

If the state did that, though, it would almost certainly push the total taxes and fees specifically on hospitals in Colorado above 6% of their net patient revenues. Federal law forbids states from going above that threshold.

And if they do? The feds cut off all Medicaid dollars that the states receive related to those fees, according to an analysis prepared for the HealthONE hospital system, which shared it with state officials and the Colorado Hospital Association last week.

The analysis stopped the reinsurance bill in its tracks. If the analysis is correct, the bill would threaten the hospital provider fee — a vitally important mechanism through which the state pays for the Medicaid expansion and also keeps rural hospitals afloat.

The provider fee system allows the state to charge hospitals a fee — about $900 million last fiscal year — and then draw down extra Medicaid dollars from the federal government, about $1.3 billion last fiscal year.

If both of those go out the window and the state loses other dollars related to hospital-specific taxes and fees, Colorado stands to lose about $2.4 billion a year, said Katherine Mulready, the hospital association's chief strategy officer. That's about 8% of the entire state budget.

And, because the state is currently hitting hospitals with taxes and fees that are about 5.5% of patient revenues, according to the analysis, it now appears that Colorado won't be able to count on any additional dollars from hospitals to pay for reinsurance.

"This memo basically says you can't strike that deal," Mulready said.

This is the second enormous setback for the reinsurance bill.

The idea behind reinsurance is not particularly controversial. States gather up a pool of money to help insurers pay their most expensive claims, thus allowing insurers to lower premiums for everybody. Lower premiums mean the federal government spends less in subsidies to help people buy insurance, and, with federal blessing, states are allowed to put those savings into their programs.

Seven states have implemented reinsurance programs, mostly by charging taxes or fees to insurers. But Colorado tried to do something different by restricting what hospitals could charge. When it became apparent that the Trump administration was unlikely to sign off on that plan, lawmakers pivoted to the plan that required hospitals to make the initial ante.

State Rep. Chris Kennedy, a Lakewood Democrat who is the House assistant majority leader and also a cosponsor on the bill, said lawmakers have asked the state attorney general's office to review the analysis. But he said the bill's sponsors are also looking for new funding sources in the waning days of the legislative session.

Other sponsors of the bill could not be reached for comment Monday.

Mulready said the analysis caught hospitals by surprise. Though supportive of the general goal of a reinsurance program, she said hospitals are now sitting back and waiting to see what lawmakers do next.

"This is entirely new information to all of us," she said. "…It was really kind of out of left field."

Marijuana tax money targeted for Colorado's full-day kindergarten rollout
Denver Post

Colorado lawmakers have hit on a funding source to help struggling school districts cover up to $25 million in startup costs as they expand full-day kindergarten this fall: marijuana taxes.

The money is expected to aid districts in rural areas, as well as others short on cash. It would help buy new desks and furniture, fixtures for bathrooms and classrooms, and other equipment schools need as they expand their full-day kindergarten offerings.

To assist with those one-time expenses, lawmakers hit on tapping the Building Excellent Schools Today (BEST) fund, which already draws from marijuana tax money to issue local grants for school construction projects. The proposal is part of a bipartisan bill that also would deliver a $125 million boost in direct school construction assistance across the state in the next two years.

The state recently has put $40 million a year from retail marijuana excise taxes into the BEST fund, fulfilling a requirement of Colorado's 2012 vote to legalize the sale and possession of recreational marijuana. The fund also includes revenue from other sources, including the lottery and state land leases and royalties.

The proposed increases fit with "the will of the voters when they voted for Amendment 64 — to put these dollars towards public education," said Rep. Shannon Bird, D-Westminster, during an Appropriations Committee hearing last week on House Bill 1055.

But public confusion has reigned over the use of the marijuana tax money, which has exceeded projections.

As The Denver Post reported in "State of Marijuana," a three-day series published in late December, the state collected upward of $740 million from marijuana-related taxes in the first five years of legal sales, putting it to a variety of uses — only some of which were related to education. Besides excise taxes on wholesale transactions, the state and local governments also have drawn big money from sales taxes.

So in recent sessions, lawmakers have discussed ways to shift more marijuana money into the BEST program. Bird's bill does that by requiring that all excise tax revenue go into BEST, not just the first $40 million — or even 90 percent of it, as new legislation stipulated a year ago.

Bird credited The Post's series with raising awareness of schools' unmet building needs and the varying ways the state has spent its marijuana tax revenue.

HB-1055 won House approval 56-8 on Friday and now awaits action by the Senate, where Sen. Rachel Zenzinger, D-Arvada, is the lead sponsor.

Full-day kindergarten costs

The proposed grant program for kindergarten expansion costs would require districts to apply, with a formula set for distribution.

The legislature separately is advancing Gov. Jared Polis' full-day kindergarten initiative, which carries its own $175 million cost in the next fiscal year for an increase in per-pupil funding to districts, according to the legislature's latest fiscal analysis. That annual expense could grow to $213 million if all eligible students enroll.

The rollout assistance grants, though, will come from the BEST fund's reserve, which amounted to $370 million at the end of the last fiscal year. Much of that money secures loans taken out for some of the larger BEST awards to districts as matching grants to build new schools and other large projects, but Bird says there is excess reserve money to tap.

"The $25 million, we know we had this money," Bird said in an interview. "We're excited about full-day kindergarten, but there will be some school districts that cannot afford the cost. We did not want this to be a burden on the schools that are in need of assistance."

Colorado sports gambling passes first legislative hearing
Colorado Politics

A Colorado House of Representatives committee approved a bill Monday that would let statewide voters decide in November whether to allow wagering on sporting events and let the state collect a 10 percent tax.

The bipartisan legislation, House Bill 1327, passed the House Finance Committee on a 9-1 vote Monday evening.

It still has to clear the House Appropriations Committee, two votes on the chamber's floor, then start over and do the same in the Senate. That's the normal route for a bill, but this expansion of the state's gambling laws has two weeks to do it before the May 3 adjournment. It was introduced last Friday.

The bill has powerful backing, with House Majority Leader Alec Garnett, D-Denver, and House Republican leader Patrick Neville, R-Castle Rock, as its sponsors.

Garnett said the proposal has two main purposes: To "eliminate the black market which we know exists, and to create a competitive marketplace, but one that's not too big that it can't be effectively regulated by the Department of Revenue."

Nine states have legalized sports betting and about 30 states are considering it, made possible when the U.S. Supreme Court struck down the 27-year-old federal ban last year.

If voters allow it, wagering would go through existing Colorado casinos. The state's lone horse-racing track, Arapahoe Park in Aurora, wouldn't be included.

Local elected leaders and residents who live near Arapahoe Park told the committee they didn't want the games at the track.

"We're not open to it," Garnett said of adding the racetrack. "But I think we've gotten to a place where everyone is in a pretty good place, including the owners of the track. We wanted to be respectful of the intent of the voters when it comes to where brick-and-mortar establishments already exist to allow betting to occur."

Arapahoe Park allows betting on its horse races, but in 2014 voters statewide handily rejected Amendment 68 that would have allowed for a casino at Arapahoe Park and two future horse tracks to raise money for education.

The tax proceeds from sports wagering, which Garnett estimated at up to $20 million a year, would help fund the state's water long-range state water plan, gambling addiction treatment and other yet-to-be-named projects.

The plan to stretch out the water supply in this fast-growing state is expected to cost $100 million a year for the next 30 years.

Jon Goldin-Dubois, president of the Boulder-based conservation think tank Western Resource Advocates, called the sports-gambling proceeds "an important down payment" on the water plan.
"Funds from this bill would have an immediate impact on our state," he said, estimating the water plan could receive $10 million.

But several of Colorado's professional sports teams -- the Denver Broncos, Colorado Rockies, Denver Nuggets, Colorado Avalanche, Colorado Mammoth and Colorado Rapids -- sent a letter to the committee raising their concerns.

They included suggestions to protect the integrity of their sports and to give the leagues the opportunity to opt out of being bet on.

Not all businesses are raving about Colorado's proposed sports-betting bill

Denver Business Journal

A bill to allow legalized sports gambling to be run through licensed casinos may be getting bipartisan support in the Colorado Legislature, but like many gaming issues before it, it is splitting established casinos from the state's only horse track and related off-track betting locations that want to spread the state's legalized gambling revenue among a much bigger pool of businesses.

House Bill 1327 — sponsored by House Majority Leader Alec Garnett, D-Denver, and Minority Leader Patrick Neville, R-Castle Rock — would decriminalize sports betting beginning in May 2020 and allow people to place bets through licensed outlets, which must be existing owners of casinos in Black Hawk, Central City or Cripple Creek. This would only happen if statewide voters approve the practice in an election in November that also would establish a 10 percent tax on the net proceeds from sports gambling and fund implementation of the Colorado Water Plan, as well as a smattering of other programs. Local governments also must approve of the practice to allow local businesses to engage in it.

Garnett told the House Finance Committee, which gave the bill a 9-1 approval during its first hearing Monday and sent it onto the House Appropriations Committee, that he hopes to eliminate the existing black market for sports betting in the state — a market that the chief legal officer for DraftKings estimated to be $2.5 billion — while creating a competitive legal marketplace and following 29 years of voters' intent in limiting the spread of legalized gaming.

Colorado would join nine other states in legalizing the practice, adding to a national push that began last year when the U.S. Supreme Court overturned a 1992 federal law that previously had confined sports betting to Nevada.

Garnett said before the hearing that he has watched statewide voters repeatedly block proposed expansions of gambling beyond the three former mining towns that now can have it, but he also wanted to work with Twin River Worldwide Holdings, the owner of Arapahoe Park Racetrack, to get it to a place where it doesn't oppose the proposal. He said that amendments are coming to address this, including one mentioned by Neville that would set aside 6 percent of the proceeds for organizations that could be harmed by the legalization of this new form of gambling — including horse tracks and groups like History Colorado and the Colorado Community College System that receive gaming tax revenues now and are worried that sports betting could take customers and money away from casinos.

And while Twin River officials did not speak at Monday's hearing, other businesspeople associated with horse racing and off-track betting expressed concerns with the bill, including Dan Kelliher, who owns the off-track betting parlor in the Mirage Sports Bar and Grill in Littleton. Kelliher said that he is worried that people hanging out in the bar will be placing bets online while watching the games and asked that the bill and ballot question be expanded to give companies like his a chance to make money from the measure in a place where customer already are placing bets.

"Is the 10 percent or 15 percent of the market we are asking for so detrimental to their business?" Kelliher asked of existing casinos, estimating how much of the sports betting will not be done online. "We are saying this is a new opportunity available to the entire state. Why not actually make it available to the entire state?"

David Farahi, chief operating officer for the Monarch Casino & ResortInc. (Nasdaq: MCRI), said, however, that one of the reasons his company and the Colorado Gaming Association like the bill so much is because it limits this new type of gambling to places that now are licensed to offer other kinds of gambling. That protection, he believes, will help pass the new initiative with voters who've rejected the spread of gambling in Colorado eight times in the past 25 years.

"Casinos understand that strong regulation is important for public confidence," Farahi said.

Colorado legislators steer clear of PERA changes one year after passing reform plan

Denver Business Journal

Colorado legislators spent a significant portion of the 2018 session fighting over proposed changes to ensure the solvency of the state's public-pension system, which began last year with a $32 billion liability. Only in the final hour of the final day of the session did they pass a bill — and even then, many Democrats opposed it, leading to speculation that the new General Assembly would attempt to reform the reform bill.

But with less than three weeks left in the 2019 legislative session, a clear message has emerged even from those who said last year that members of the Public Employees Retirement Association were shouldering too much of the burden: The changes we made were for the long term, and they should not be touched. Only one measure to honor a deal with local governments that was left out of the final draft of the 2018 bill has gone through, and House Democrats went as far as to pillory a bill that would have required PERA to pay for an assessment of the climate impacts of its investments, despite the fact that the party is working on a handful of other climate-change measures.

PERA officials, including Executive Director Ron Baker, repeatedly have asked the Legislature to let them press forward on the plan they developed that has them on the path now to solvency within 30 years — as opposed to the 78-year window that the school division faced last year as ratings agencies warned they would cut the state's bond rating without some significant action. Both returning legislators and the new batch of elected officials, who make up roughly one-quarter of the 100-member General Assembly, have heeded that call, saying that, despite turnover in House and Senate members, the plan must be allowed to work for fear that ratings may crater and force up the cost of capital projects dealing with transportation and education.

"We just went through the process of being on the razor's edge of how we needed to set benefits," Rep. Matt Gray, D-Broomfield, said during debate of the PERA climate-assessment mandate. "I'm really hesitant to do things that would take money out of that pot."

The 2018 legislation put plans in place to reduce the unfunded liability, at the behest of supporters that included leading business groups, by raising the minimum retirement age for new hires, reducing cost-of-living increases, requiring employers and employees to pay more into the system, recalculating retirees' level of pay and adding $225 million per year from the general fund into the pot. It also required most divisions of the program to offer defined-benefit plans in place of defined-contribution plans to employees who wanted them.

The local-government division, which includes 27 cities and one county and accounts for just 46,000 of the roughly 600,000 PERA members, was in the best shape before the 2018 reforms, having just a 27-year window at the time to solvency. It sought and received a deal that its members would not have to contribute more each year because of that, but the sponsors of Senate Bill 200 forgot to add in that language in the confusion of the last-minute scramble last May.

So, House Speaker K.C. Becker, D-Boulder, this year brought House Bill 1217, which simply said the state would honor that deal and remove the requirement that local-government PERA participants increase contributions by 2% — a requirement being implemented gradually over the next three years — from the program. While a number of Republicans and Democratic Rep. Adrienne Benavidez of Commerce City opposed the change as an unneeded adjustment to a hard-fought deal, Becker still managed to pass the deal through both chambers, and HB 1217 now is sitting on Gov. Jared Polis' desk for signature.

"The core issue is an error was made in an agreement that was struck," said Colorado Municipal League Executive Director Kevin Bommer, noting that the deal merely extends the current amortization period for that division from 15 to 19 years. "This bill puts it back, period."

HB 1270, sponsored by Democratic Reps. Emily Sirota and Chris Hansen of Denver, wouldn't have changed the terms agreed upon last year, but it would have required PERA officials to pay $200,000 to hire an independent organization to analyze whether PERA's investments in fossil-fuel companies, which PERA chief investment officer Amy McGarrity estimated at 14% of its portfolio, would pose a risk to PERA's total assets. Supporters of the bill noted on April 8 at a House Finance Committee hearing that some 140 other pension plans globally have divested from such companies or taken other actions to mitigate the risk, and they predicted the loss of value in such companies and eventual closing of fossil-fuel processing plants could leave stranded investments for investment portfolios of more than $304 billion by 2035.

“(HB) 1270 is an insurance policy and sanity check on PERA,” argued Dragan Megic a PERA member from University of Colorado-Boulder who argued that PERA has done little to examine and re-think the greenhouse gas emissions produced by companies in which it investments.

Baker, however, noted that SB 200 set up a mechanism already to deal with concerns by creating an outside advisory board to take a look at where its money is going. And Democrats like Rep. Sue Bird of Westminster said that PERA’s examination of companies’ stewardship should look at social and financial contributions of those firms rather than just their carbon footprint.

“It was a year ago when this Legislature was working so hard to honor the interests of PERA employees and retirees,” Bird said in joining all Republicans and most Democrats on the committee to vote down the bill by a 10-1 margin.

Effort to develop Colorado-run health insurance option heads to Gov. Polis’ desk

The Associated Press

Colorado’s House has sent to Gov. Jared Polis a bill to develop a state-run health insurance option.

The bill directs state agencies to recommend a plan to compete with private insurance plans and those offered on Colorado’s health care exchange.

The House approved the legislation, House Bill 1004, by a 45-19 vote late Monday.

The public option legislation directs the Department of Health Care Policy and Financing and the Department of Regulatory Agencies to deliver a proposal in November. The plan would assess costs, funding sources, necessary federal permissions and funding, consumer eligibility and who in government would run the program.

Enrollment could begin in 2020 and a plan, if approved by the federal government, could operate in 2021. Sponsors include Democratic Rep. Dylan Roberts and Sen. Kerry Donovan and Republican Rep. Marc Catlin.

“With this bill, Colorado can chart its own innovative path to ensure market stability and to increase access to affordable coverage options all across the state, from Durango to Denver to Deer Trail,” Adam Fox, director of strategic engagement for the Colorado Consumer Health Initiative, said in a written statement. “Colorado families shouldn’t have to choose between paying for good health insurance and being able to afford housing, child care, or putting food on the table.”

Democrats' climate plan advances in Colorado Senate

Colorado Politics

Democrats Climate Action Plan to reduce Colorado carbon emissions moved a step closer to reality Monday when a Senate committee gave it another win.

House Bill 1261 passed the State, Veterans and Military Affairs Committee on a 3-2 party-line vote, putting only the toothless Appropriations Committee in its way from moving to the House floor.

The bill sets up a series of goals and potential new rules to help the state meet its aim of reducing carbon emissions by 26 percent by 2025, a 50 percent cut by 2030 and a 90 percent reduction by 2050, based on 2005 emission levels.

Gov. Jared Polis is eager to see the bill before the May 3 adjournment, so he can sign it into law and add the notch to his list of campaign promises.

"We're in support of goals, not mandates," Polis said Monday morning. "We're working with the sponsors to move toward that goal articulation language, and we believe we all have a joint responsibility to work together to help achieve those goals."

He said that might take future legislation or the work of the regulatory Public Utilities Commission, the governor's office or other state agencies.

"We look forward to achieving goals that really show Colorado's leadership in producing cleaner air and reducing our carbon emissions," Polis said.

The state Air Quality Control Commission would be vested with making rules that help the state get there.

The bill is sponsored in the upper chamber by Sens. Angela Williams of Denver and Faith Winter of Westminster.

“This bill is a Colorado solution to address the increased harm we are experiencing due to climate change, " Winter said in a statement. "Colorado has already been, and will continue to be, a national leader on this issue.”

Stated Williams: “This bill sets bold goals to reduce pollution while giving the Air Quality Control Commission the flexibility they need to work with stakeholders, industry leaders, and experts to find the best way to get there.

"We do not have to sacrifice our health and our future in order to uphold the strength of our business community. My plan to reduce pollution ensures that we will have an environment for businesses and their patrons to thrive in, both figuratively and literally.”

Colorado lawmakers take first step toward banning polystyrene takeout containers
Denver Post

Two Democratic lawmakers are hoping that two weeks is enough time to pass a bill banning polystyrene food containers starting in 2024.

“The dangers of (polystyrene) for the environment, for wildlife are well known,” Sen. Mike Foote, D-Longmont, told a Senate committee Monday night during his bill’s first hearing. “It’s well past time as a state that we move on to something else.”

Senate Bill 243 doesn’t specify what kinds of takeout containers Colorado restaurants should use if the state bans polystyrene containers — commonly known by the brand name Styrofoam. It just eliminates that kind of container in 4.5 years.

It’s a different way of getting to the goal Foote and Sen. Dominick Moreno, D-Commerce City, share to transition Colorado toward more recyclable and compostable takeout containers. Their first attempt of the 2019 legislative session failed. They withdrew a bill that would have removed a state rule that prohibits cities and counties from setting their own standards for takeout containers.

“What we heard most from opponents of that bill is they would prefer a standard, uniform approach — a statewide approach,” Moreno said.

The change and long timeline for implementation moved the Colorado Restaurant Association from opposed to neutral on this bill, but the American Chemistry Council and food container manufacturers like Dart Container oppose it.

“Simply banning polystyrene food service products does not automatically result in” more containers being recycled, said Tim Shestek, the first of state affairs for the American Chemistry Council. “There’s a big difference between what’s technically recyclable and what’s actually being recycled.”

He told the committee that cities that banned polystyrene have found it created a “litter substitution situation.” He’d prefer to see a bill that requires compostable and recyclable containers.

Dart representative Rob Gunther said his company collects and recycles its polystyrene containers.

“It’s just completely fictitious to say that polystyrene can’t be recycled,” Gunther said. “It’s amazing what’s happening to polystyrene products and the opportunities to reuse it.”

But Boulder Mayor Suzanne Jones, who is also the executive director of Eco-Cycle, disputed Gunther’s assertions. She said polystyrene is one of the hardest plastics to recycle because of its toxicity and low value on the recycling market.

“There’s a reason we don’t take them in Boulder County,” Jones said.

Another concern Gunther raised is one that’s likely to keep coming up as the legislature reaches the constitutionally mandated end of its 120-day session next week. He told the committee that the public in general — and restaurant owners in particular — didn’t know this bill had been introduced or was set for a hearing Monday.

“I urge you to table this measure, so these people can have their voice and not feel like they are being blindsided,” Gunther said.

The committee voted 3-2 to send the bill to the full Senate.

New car-sharing regulations OK'd by Colorado legislators
Denver Business Journal

A bill to regulate the budding car-sharing sector in Colorado will soon be on its way to Gov. Jared Polis with a number of provisions requiring participating auto owners to meet safety and insurance standards — but not with the fee-equity requirements that rental-car companies sought over two months of debate on the legislation.

Senate Bill 90, sponsored by Sen. Ray Scott, R-Grand Junction, puts Colorado into the first tier of states to set up extensive rules around platforms like San Francisco-based Turo and Getaround where people can offer to rent their cars to others who need them for a fee, much like homeowners do through sites like Airbnb. Doing so brings both regulation and legitimacy to the platforms, which now have about 800,000 members across the country, according to figures from the sector.

Few legislators disagreed with the state setting rules on the minimum amount of insurance the vehicles must carry; SB 90 requires it to be commercial-level insurance when the car is in use by someone other than its owner, an amount that the platforms typically provide. Similarly, there was little disagreement over the cars having to meet certain safety standards, particularly in abiding with recall notices, as rental companies must.

But rental companies, led by Enterprise Holdings, asked that the platforms, which cumulatively would have a fleet large enough to make them the fourth-largest rental-car agency in America, be required to pay the same fees they do — whether to the state through sales taxes and FASTER daily vehicle-rental fees or to airports through concession fees and customer-facility charges when the cars are picked up at or near those sites. Steve Topalian, general manager for Enterprise in Colorado, said existing fees put rental-car agencies at a financial disadvantage, even as some participants in the car-sharing platforms are automobile sellers who will list dozens of vehicles on the sites at once.

Sponsoring Rep. Matt Gray, D-Broomfield, added a provision to the bill that requires car-sharing platforms that allow for pick-up at or near airports to enter into agreements with those facilities to offer their services. He also amended the bill to require that the cars on platforms must be used at least some of the time by their owners, eliminating individuals or companies from setting up de-facto rental companies through Turo, Getaround or their competitors.

But Gray was not able to find the language that he'd sought in order to differentiate between individuals who list their cars on the sites to make an average of $330 per month in Colorado and businesses that put fleets of cars up for sharing — a group that Gray originally thought should have a different tax status than the users with single vehicles.

And the third-year representative declined to address the bigger picture of fees that are paid by rental-car agencies but not paid by sharing platforms, saying that while he plans to continue discussing that situation over the interim, he ultimately decided that the bill was not going to be able to address the most divisive issue between traditional rental agencies and the disruptive new sector.

"I wanted the stakeholders to agree. I didn't want to choose one side or the other," Gray said in an interview. "I think there's some possible users of these that look like rental cars and some that definitely don't. But I didn't want to force an agreement on these agencies."

Enterprise officials did not offer immediate comment following a unanimous vote by a conference committee Thursday to approve the final wording of the bill and send it back to the House and the Senate for each chamber to sign off on it. While final votes in both chambers are needed still, it's extremely doubtful the bill won't pass, particularly considering the Senate initially approved it 25-10 and the House OK'd it by a 50-14 vote.

Turo legal counsel and government-relations manager Ethan Wilsonsaid after the committee meeting that he was very pleased with the final shape of SB 90, believing it sets up an appropriate regulatory framework, much like Colorado has done in recent years with ride-hailing services like Uber and Lyft and with pet-watching sites like Rover.com.

Because Turo already adheres to the safety and insurance requirements laid out in the bill, he doesn't expect local vehicle-owners or users will see much change on the platform, But he was glad that the arguments around taxes and fees that have derailed similar efforts in other states did not seem to stop Colorado legislators from wanting to set up rules that both support this new sector and offer it some oversight.

"I think the process in Colorado was very refreshing," Wilson said. "Though many issues were ultimately hashed out, the legislators involved in this bill viewed peer-to-peer car-sharing as a benefit to Coloradans."

Gray added that the debate, which in some ways sets a framework for how the Legislature should consider regulating other industries that may emerge through the new sharing economy, did not let Turo and its compatriots get off scot-free. Without SB 90, car-sharing platforms would continue to operate as they do now, but without any oversight from the state — and without continuing conversations about the fees around them.

"Right now, there is no regulation whatsoever for peer-to-peer companies," Gray said. "This provides some more legitimacy to the peer-to-peer people — but only by additional regulations and rules."

TABOR exemption question to be on fall ballot
Grand Junction Sentinel

Voters would be asked this fall if the state should be able to retain surplus revenue over what the Taxpayer's Bill of Rights allows under a bill that won final approval in the Colorado House on Tuesday.

Under House Bill 1257 and a companion measure, HB1258, all of the taxes and fees the state collects over the revenue cap under TABOR would be evenly divided between transportation, public schools and higher education.

TABOR limits growth in revenue collections year over year based on inflation and population growth.

"In the last 27 years since TABOR was voted into the Constitution, our state population has increased by 50 percent," said House Speaker KC Becker, D-Boulder, who introduced the bill with Rep. Julie McCluskie, a Democrat whose district includes the eastern half of Delta County.

"More than 2.3 million more live in our state today than in 1992, and it's projected between now and 2040 another 2 million people are estimated to move to our state," Becker added. "That's people moving to our state with a fixed gas tax, so we lose money on that every year, our roads are going to be even more crowded than they are today, our schools are going to be even older and more crowded than they are today. How are we going to adequately prepare for the future when we're not even keeping up with the current demands of growth?"

House Republicans, who all voted against the bill, argued that while TABOR allows for such ballot questions, the Legislature shouldn't ask for a blanket exception to its revenue cap provision. Instead, they should ask each year why that money should be retained.

"If we have that surplus and we have the ability to send tax refunds back to the taxpayers, under our Taxpayer's Bill of Rights, we should absolutely get their consent to do it, explain specifically what we are doing that year, and not run a bill that takes away their consent for all future years," said House Minority Leader Patrick Neville, R-Castle Rock.

McCluskie argued that TABOR itself was a one-time vote of the people just like this proposed ballot measure.

Becker said TABOR refunds aren't generated every year, and when they are they don't amount to much per taxpayer.

Legislative budget forecasters, however, are predicting the state will exceed its TABOR caps by about $39.8 million this year and $64.8 million next year.

None of it, however, will be refunded to taxpayers, at least not directly. That's because of a bipartisan bill approved in 2017 that directs the first TABOR refunds to counties to reimburse them for lost property tax revenues from the homestead exemption, which this year was about $150 million. That's the tax credit that older Colorado homeowners receive for staying in their homes for more than a decade.

The measure heads to the Colorado Senate, where at least one Republican supports it. That's Sen. Kevin Priola, R-Henderson, whose introducing it with Sen. Lois Court, D-Denver.

Colorado Legislature eyes study of retirement-savings program for private-sector workers
Denver Business Journal

Supporters of an often-killed proposal to launch a state-run retirement-savings system for private-sector workers that don’t have access to one will see another legislative session end without a plan in place to launch such an effort. But it’s very likely after a vote Monday that they will get a significant consolation prize this year — a comprehensive study on whether the state should launch the long-discussed Secure Savings Plan.

Senate Bill 173, sponsored by Democratic Sens. Kerry Donovan of Vail and Brittany Pettersen of Lakewood, passed the Senate Monday on a fully partisan, Democratic-led 18-16 vote, sending the measure to the House to consider with just 11 days left in the 2019 session. The bill would allow the state government to spend $800,000 on four analyses to determine, among other things, the feasibility and effectiveness of a creating a statewide program that would deduct money from employee paychecks to put aside for their retirement.

The idea, first floated in 2015 by the Bell Policy Center, is that Colorado workers are not putting aside enough for retirement and could end up on public benefits in their old age if they do not pick that up — a cost that would be borne by all taxpayers. Several past iterations of the bill would have moved ahead immediately with creating such a system, but they were defeated under a hail of opposition from Republicans and business groups. This year’s iteration, coming in a year with a competitive budgeting process, just seeks to study how and if the state could do that and then to have a newly appointed board recommend to the Legislature and Gov. Jared Polis a plan to implement those findings.

Democratic supporters gave myriad reasons why they believe saving rates are so low, including Sen. Rhonda Fields of Aurora asserting before the final Senate vote Monday that it's because corporations are choosing to pad their profits rather than raising worker salaries. But they all came to the conclusion that the cost of this issue eventually will come back on the state if the state doesn't consider ways to boost personal savings.

"We were asked to work on big problems. And this is a big problem," Donovan said during debate on the Senate floor late Thursday. "When you look at the status of retirement savings in this state, it is mediocre in some areas, dismal in others and nonexistent in others."

Republicans objected, however, to the cost of the studies, noting that previous studies in some of these areas already exist and could be compiled for far less than $200,000 each. In addition to an analysis on the cost and benefits of creating a retirement savings plan in the form of an automatic enrollment payroll deduction IRA, the bill would fund an analysis of the effects that greater financial education among Coloradans would have on increasing their retirement savings, an analysis of the effects that not increasing Coloradans' retirement savings would have on current and future state and local government expenditures, and an analysis to determine the financial feasibility and effectiveness of a small-business marketplace that would be voluntary for both employers and employees to use.

But a number of Republicans also took issue with the general ideology of the bill — a belief, as Sen. Paul Lundeen of Monument put it, that is the responsibility of the state rather than of the individual to save enough for their later years. Sen. Vicki Marble of Fort Collins asserted that SB 173 will put the state into direct competition with financial firms that look to serve workers without IRAs, and several opponents said that while this bill just funds a study, there is no doubt of the outcome it will recommend.

"It took me a year or two down here to figure out what studies really mean," said Sen. John Cooke, R-Greeley. "I just realized that's an excuse to expand the function of government even more."

Colorado lawmakers' sexual harassment bill finally surfaces at statehouse
Denver Post

A bill that would change the handling of workplace harassment claims made against state lawmakers is finally moving through the Capitol with two weeks left in the session.

"At the end of last session, the Investigations Law Group gave us a really thick report that just — we didn't have time at the end of session to say, 'Oh OK, here are the changes that need to be made from these recommendations,'" House Speaker KC Becker, D-Boulder, said during a meeting Monday with reporters.

That 232-page report was sought amid allegations of sexual harassment against five lawmakers in 2018. It included a survey that found almost 30 percent of those who worked in Colorado's Capitol had seen or experienced sexual harassment, but only a fraction reported it. One of the reasons given for not making complaints — especially when they involved an elected official — was the process.

Lobbyists, paid staff and interns currently file private complaints about state senators or representatives with the leader of that chamber, and the rules leave it up to leadership to decide what, if any, punishment is warranted.

Senate Bill 19-244 would change that process in two ways. First, it would create an office of legislative workplace relations and require the office to release annual reports that list the number of complaints and their resolutions.

"This was an important transparency thing that we dealt with this summer," Sen. Bob Gardner, R-Colorado Springs, said as he presented the bill to the committee. "Then we get to the more difficult and tougher discussions."

The more difficult discussions center around how and when to release the details of investigations into harassment claims. The bill proposes that reports on claims where lawmakers were found to have violated the harassment policy be released unless a committee votes against it.

Who exactly would be responsible for taking those votes isn’t outlined in the Senate bill that passed out of committee Monday night. Instead, that detail is included in resolutions that would change the rules for each chamber. The Senate would have a four-person committee made up of two Republicans and two Democrats. The House would have a six-member bipartisan committee.

“I think one of those central things is that there won’t be a single person in charge of complaints anymore,” Becker told reporters.

But advocacy organizations like Colorado 50/50, which encourages women to run for office, said on Twitter that involving more lawmakers in the process would mean “fewer victims will report.” The group is advocating for an investigative committee made up of people from outside the legislature as recommended by the Investigations Law Group report.

The House and Senate resolutions to change the rules have yet to be debated.

Polis signs major oil and gas reform bill
Colorado Politics

Colorado Gov. Jared Polis today signed one of the legislative session's biggest and most controversial bills: A measure that remakes the way the state regulates oil and gas, giving local governments more control.

At the afternoon signing ceremony, Polis said the measure will "end the oil and gas wars in Colorado."

Supporters says the legislation will improve Coloradans' health and safety. Opponents say it will harm an industry that employs tens of thousands in the state and pumps billions into the economy.

Senate Bill 181 changes the makeup of the Colorado Oil and Gas Conservation Commission (COGCC), taking away two experts from the industry and adding in an expert on the environment and on public health.

But its biggest change to the commission is in the body's mission, to one that puts public health and safety as priorities ahead of oil and gas development.

The law allows local governments to weigh in on new oil and gas activity in their communities, which has led opponents to claim the law will dramatically cut oil and gas activity and the tax revenues that come with it and which support rural schools.

The Colorado Oil & Gas Association, a trade group, estimated last month that the industry and its workers pay almost $1 billion in annual state taxes.

The industry says it contributes $32 billion annually to the Colorado economy, including 89,000 direct and indirect jobs.

Polis told a room packed with supporters of the measure on Tuesday that the signing of the bill should end the back-and-forth ballot measures -- some of which he has supported in the past -- as well as "great uncertainty and political risk" for the industry.

There will be "skirmishes" going forward, the governor said, but that will be around particular projects in particular areas. He said that and decision makers closest to the ground, such as local city councils, mayors and county commissioners, will be "deeply involved" as they would be for any other land use issue.

Residents will have their voices heard, he said, adding that under the bill, it will be clear that health and safety comes first, and that workers will have additional safety around the workplace.
Front and center for the signing: Erin Martinez, formerly of Firestone, her two children and other family members. Martinez' husband and brother died in a home explosion in 2017, an explosion caused by methane from a cut gas line that had leaked into the home's basement. Martinez had never spoken about her family's tragedy until SB 181's first committee hearing last March.

The Colorado Petroleum Council issued a statement after the signing that criticized what it called a "threat to one of the foundations of Colorado's economy."

While the council said it appreciated Democrats' efforts to amend the bill, it said the state's energy future "is too important to be wielded as a partisan weapon, and all Coloradans deserve to know the consequences of this bill, both intended and unintended.

"While Senate Bill 181 remains deeply flawed, Governor Polis and state officials have pledged to work with industry to create a reasonable regulatory framework that works for all Coloradans, and we are committed to that process," the statement said.

Dan Haley, president and CEO of another industry group, the Colorado Oil & Gas Association, issued a statement saying that while COGA still opposes the legislation signed by Polis, "I am encouraged by the governor's comments about coming together as Coloradans and moving forward. To achieve that objective, it means removing politics from the technical process of providing energy to Coloradans."

Colorado Rising -- which backed last year's failed Proposition 112, a measure that would have pushed oil and gas operations farther away from homes and buildings -- said in a statement Tuesday that while the law "does not address all of the concerns and threats associated with industrial fracking activity, it is a desperately needed tipping back of enormously unbalanced scales in favor of people and environment. SB-181 is the most substantial shift we have seen in decades and puts communities on much better footing when confronted with industrial oil and gas in their backyards."

Anne Lee Foster of Colorado Rising told Colorado Politics that despite Polis' assertion that the oil and gas wars are over, they aren't, in her group's opinion.

"Considering that oil and gas-friendly folks have already introduced a ballot measure to repeal Senate Bill 181, I think the oil and gas wars are far from over," she said.

In addition, Foster said, SB 181 "leaves a lot to be desired in terms of protections and is a very broad bill that doesn't get into the nitty gritty of regulations. That will be where we see the rubber meet the road -- to get the health and safety first that we need."

The bill traveled through six committee hearings, garnering more than 40 hours of committee hearings and public testimony and 33 amendments.

During those hearings, opponents swarmed the Capitol, wearing T-shirts with "I am Colorado Oil and Gas" blazed across the front.

Opinion: Facts, not conjecture, should drive decisions about regulating Colorado's oil and gas industry
Colorado Sun by Dan Haley

Joel Minor's storytelling about the history of Colorado's oil and natural gas regulatory framework flirts with reality.

However, he neglects to say that laws and regulations for our oil and natural gas industry have been made, remade, adjusted, overhauled and tweaked countless times over the past several decades.

The state's regulatory body underwent a massive overhaul, by law, during Gov. Bill Ritter's tenure, and SB 181 takes on that task yet again.

Laws regarding fines and fees, air quality, resource pooling, local authority and many others have all seen significant changes over time, and while there is a lengthy history of regulatory, legal, and legislative updates in those areas, SB 181 does indeed revisit all of it.

Looking back, Colorado's oversight of the oil and natural gas industry includes many first-of-their-kind regulations, including fracturing fluid disclosures, pre- and post-drilling water monitoring, flowline and pipeline requirements, school setbacks and nation-leading air rules.

In fact, we have had 15 major oversight rulemakings conducted by the Colorado Department of Health and Environment (CDPHE) and the Colorado Oil and Gas Conservation Commission (COGCC) in the past nine years alone.

To make his point, Mr. Minor passes along health studies that have been debunked, called "misleading"by the Colorado Department of Public Health and Environment, or have otherwise led to inconclusive results.

In large part, the laws, regulations, and everyday industry practices have made our oil and natural gas industry one of the safest in the country, ranking 7thsafest out of 86 measurable sectors of our economy when it comes to injuries, according to the Bureau of Labor Statistics.
We've also seen VOC emissions, including methane, drop by half in the past handful of years while production has gone up.

Colorado had the toughest regulations in the country before 181 was signed into law, and certainly that will remain the case as the bill directs over a dozen new regulatory rulemakings that will take years to complete.

On that point, I will agree with Joel, a significant amount of work lies ahead. And we all need to ensure that work is predicated on facts, not conjecture.

Dan Haley is president and CEO of the Colorado Oil & Gas Association.

Important Dates
Sine Die: May 3, 2019