

INDEPENDENT

# Inking

SUMMER | 2022

A publication of



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- PAGE 8





## WE ARE MORE THAN A THINK TANK.

### WE ARE AN ACTION TANK AND A PUBLIC RELATIONS FIRM FOR LIBERTY.

A central role of an effective think tank is to produce quality research and analysis. Since 1985, we have provided research resulting in changes in law and policy. But we have never been content with just research. We are more than a think tank. We are an “action tank.” We put our ideas into action through groundbreaking litigation, coalition building, work on ballot initiatives, new media and investigative reporting. We don’t just fight on paper. We fight for freedom on the streets, in the statehouse, in the media, on the ballot, and in the courts.

The mission of the Independence Institute is to empower individuals and to educate citizens, legislators and opinion makers about public policies that enhance personal and economic freedom.



# Our Team

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# Independence Institute is in this Fight for the Long Haul

By Jon Caldara, President

You and I have built Independence Institute for the long haul because you and I know the fight for freedom in Colorado does not end at the next election.

We always have one eye on the long-term, working to build the infrastructure needed to meet what is coming.

For instance, our Local Government Project endeavors to recruit freedom-minded people on to local, non-elected boards and commissions. Many of these folks then run for city council or school board, and then maybe the state legislature. You see, the left in Colorado has an incredible bench of future talent. Until our recruiting efforts, the right barely had a folding chair.

In years to come we never want to hear that common complaint, “How come we never have any good candidates?”

The same long-term thinking applies to everything we do, coalition building, investigative reporting, news media, policy research, legal action, and activism. Politicians come and go. Principles stay. And thanks to your partnership, we’re building the infrastructure to advance principles for today and tomorrow.

And at the core of it all, are the people and the relationships they make over the years in the battle.

Take our Pam Benigno, who for decades has been in the trenches of K-12 education fights. She is a known and highly trusted expert.

When the mother of a 12-year-old girl needed help, she made a lot of phone calls. But it was Pam who returned the call.

Erin Lee’s shy, sensitive, artistic daughter was new to school in the Poudre district. Imagine the delightful anticipation when her girl was asked by her trusted teacher to join Art Club.

Funny thing about Art Club, though: they didn’t pick up any pencils, paint brushes or clay. They didn’t even talk about art at all.

But by the end of her first meeting, Erin’s little girl was convinced by an adult in a position of authority that she was transgender.

And she was instructed not to tell her parents ANYTHING about what they did or talked about in “Art Club.”

Turns out both mom and daughter were lied to. “Art Club” was a bait and switch for a gender and sexuality awareness indoctrination session.

Erin connected with Pam who helped her channel and focus her understandable fury. Erin then became a star witness at the state legislature for the need for curriculum transparency so parents can see what their kids are being taught.

Our television interview with Erin has been streamed now over 33,000 times, please watch it at [youtu.be/CLjme7GhsHI](https://youtu.be/CLjme7GhsHI) or scan the QR code below. Erin became national news and a powerhouse for parental rights because we had the systems and people in place before she needed us.

You made that happen.

Think Freedom,



# The Fight for Curriculum Transparency and Parents' Rights

By Pam Benigno

*How does research for an issue paper turn into a nightmare for an uncooperative school district?*

As we worked on content for our education publication, *Curriculum Transparency: A Must for Effective Parent-Teacher Partnerships*, we spent time collecting parents' stories and initiated transparency legislation. In so doing, we found ourselves increasingly viewed as a resource and lifeline for parents concerned about transparency in their children's schools. Poudre School District parent Erin Lee reached out to me in January looking for help and shared with me the heartbreaking story of her daughter's after-school "art club."

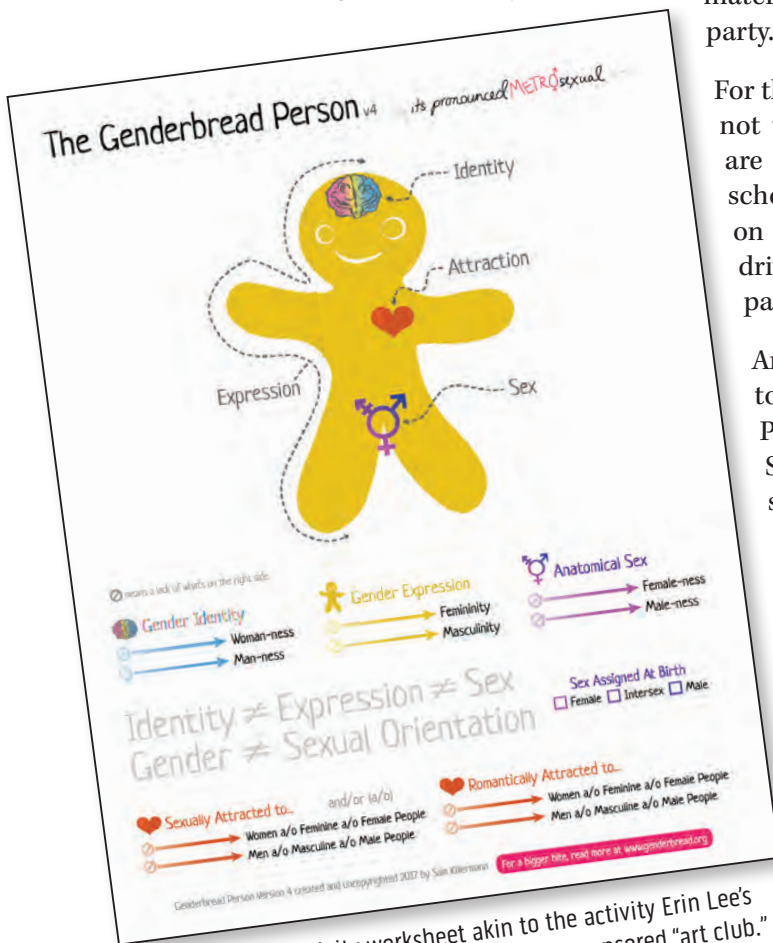
Erin explained to me that her 12-year-old daughter was invited by her homeroom/art teacher to attend "art club" after school, but unfortunately when she arrived, there was no art activity at all. Instead, a guest speaker led students through the "Genderbread" activity; an activity designed to assist students with exploration of their gender identity and

expression. As if that was not inappropriate enough, the presenter also told Erin's 12-year-old daughter that if she didn't feel 100% comfortable in her female body, it means she's transgender. This understandably confused Erin's daughter (how many 12-year-old girls are fully comfortable with their bodies?) into accepting the trans label and the presenter rewarded her right then and there with a transgender flag and other swag to help her celebrate. The children were told that their parents are not safe and to trust her instead. She then provided the kids with her personal contact information and reminded them not to tell anyone what was discussed during the meeting. Fortunately, Erin's daughter broke the rules and told her parents.

Erin contacted school staff and the school board, but they defended the program. She asked them to show her the materials used during the meeting but was denied, with the excuse that it was not possible because the materials were brought in by a third party.

For their safety, we teach our children not to be wary of strangers. Yet, we are expected to readily accept this school-sponsored stranger preying on our kids and actively trying to drive a wedge between kids and parents. Not on our watch.

Around the same time, I managed to get connected with another Poudre School District parent, Sherri Yockey. Sherri told me that she had asked to see the videos that would be used in her daughter's sex education program. On a separate occasion, she asked for the educational materials for a sexual assault training taught by high school students as part of a P.E. class. In both instances, staff denied her of access to the materials. In fact, one faculty member told her that they have a policy not to share the sexual assault curriculum with parents. Consequently, Sherri wisely opted her daughter out of both classes.



Genderbread activity worksheet akin to the activity Erin Lee's 12-year-old daughter was taught in school-sponsored "art club."



Erin Lee talks with *Devil's Advocate* host Jon Caldara

We walked alongside Erin and Sherri, providing strategy and guidance, and helping them amplify their stories. I invited both to testify and share their experiences before the House Education Committee during a legislative hearing on a curriculum transparency bill. The panel of six Democrats and three Republicans listened intently as each parent shared her experience and promoted the need for transparency. Chalkbeat, an education-focused news organization picked up their stories and quoted from both Erin's and Sherri's testimonies. These parents also began receiving invitations to speak in front of various community groups.

But there is much more. Independence Institute President Jon Caldara interviewed Sherri and Erin in separate segments for the May 6 episode of his PBS television show, *Devil's Advocate* (both interviews are now also available on our YouTube channel, IITV).

Erin's story quickly spread. She was invited to record a video with The New American that was subsequently picked up by the viral Twitter account, "Libs of TikTok." The next week, a national organization, Parents Defending Education, posted Jon's interview with Erin on its "IndoctriNation Map" and *The Epoch Times* published a feature story about the Lee family and also linked to our curriculum transparency publication. National media such as Fox News, Newsmax, and Glenn Beck began interviewing Erin and telling her story. With this media storm, the school district superintendent could no longer continue ignoring Erin and has been forced to respond to the scrutiny.

As for Sherri, I helped her file a Colorado Open Records Act (CORA) request. The district, now firmly in the public spotlight, quickly responded to the request to view all parts of the sexual assault curriculum. Sherri could now do what the district had inexplicably prevented her from doing: make an informed decision about what her daughter is exposed to at school.

Our education publication that started this all, *Curriculum Transparency: A Must for Effective Parent-Teacher Partnerships*, was mailed in May to all Colorado school board members and superintendents. In it, we suggest policy recommendations and encourage school districts to pass transparency policies.

On June 1, Poudre School District announced it is hosting two community meetings to discuss ideas about how the district can improve transparency. Would it have happened if it weren't for our paper? Would it have happened if we hadn't given voice to these parents? It's fair to say it's doubtful at best. But one thing is for sure: Poudre School District and others like it across Colorado and the country have now heard the "parents demand transparency" message loud and clear.



*Pam Benigno*

Pamela Benigno is Director of the Education Policy Center. A tireless advocate for both public and private school choice, she works with education organizations, policymakers, and community leaders to expand school choice opportunities.

# Take School Security Seriously

By Laura Carno

As more and more details come out regarding the school shooting at Robb Elementary School in Uvalde, Texas on May 24th, one thing is clear: not taking school security seriously has deadly consequences.

Once an attack is underway, the number one responsibility of law enforcement is to stop the threat. The priority is to enter the building and put an end to the slaughter. It is clear that the inaction of armed responders on the scene resulted in a much higher death toll. But you know who could have stopped that attack? Armed educators on the inside of the school.

Sadly, we know that school employees —teachers, coaches, janitors, counselors— run toward the sound of gunfire to save children. But unless they are in a school that doesn't disarm them, they have few tools at their disposal to stop an armed killer. What we see time and again, is that these heroes use their bodies to shield students, often giving their lives in the process. Don't they have the right to defend their own lives and save the children?

We live in a broken world, where schools are targets for violent attacks. It is imperative that school security be a top priority, and that law enforcement response, when required, be immediate.

We wrote a letter to Congress, and got signers from both inside and outside of Colorado, urging Congress to repeal the federal Gun-Free School Zone Act, so that states have an easier path to allow armed staff to protect our school

children today. You can read that letter at [FASTERColorado.com](http://FASTERColorado.com).

As the Executive Director and founder of FASTER Colorado, an organization that trains armed school staff to respond to active shooter events, we know what the answer is. Immediate armed response to an active shooter can be the difference between life and death in an active shooter scenario. And that person must be there at the point of attack.

We are also working with LifeSpot, a company founded by a retired Denver Metro SWAT K9 officer. It's a simple-to-use app that notifies first responders in six seconds when a life-threatening event is unfolding on a campus. It also identifies the armed staff members to law enforcement.

When politicians and celebrities experience threats, they hire armed guards to protect their lives. The bigger the threat, the greater the presence of armed guards. Our public servants know this.

Shouldn't children be as well protected as congress, or Hollywood celebrities?

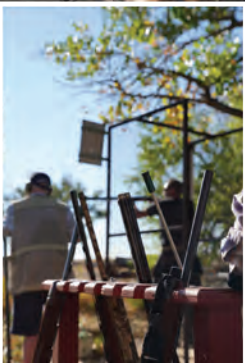


*Laura Carno*

Laura Carno is the Executive Director of FASTER Colorado, a project of Independence Institute, that trains school staff to provide armed defense and emergency medical aid.



# YOU ARE INVITED TO ATTEND THE MOST **POLITICALLY INCORRECT** EVENT OF THE YEAR



Join us for the 20th Anniversary of our Alcohol, Tobacco, and Firearms Party!

With special guest Mandy Connell, KOA 850 AM radio host.

Saturday, September 17th, 2022 at Kiowa Creek Sporting Club

While not everyone who attends actually shoots our PETA-friendly clay pigeons, drinks, or smokes, they value the individual right to do so; they value the freedom our Founding Fathers afforded us; and they value the mission of Independence Institute.



FOR MORE INFORMATION OR TO REGISTER  
[I2I.ORG/ATF](https://i2i.org/atf)

# Event Spaces and Production Studios Available for our Liberty-Loving Partners

By Tyler Massey

## OUR EVENT SPACES

Independence Institute has three meeting spaces—Liberty Hall, the War Room, and the Board Room—that we provide for free to like-minded organizations. Every space has various technical capabilities, such as displaying video with a surround-sound PA system, recording presentations, or streaming in-person or Zoom meetings. Guests are welcome to bring meals, snacks or catering, however all trash and food must be cleaned up, and trash bags replaced. Contact Hilleary Waters at [hilleary@i2i.org](mailto:hilleary@i2i.org) for more information or to reserve a space for your next event.

### LIBERTY HALL



Liberty Hall is our largest meeting/event space. It is equipped with a projector and a PA system with four microphones available. Both the projector and the PA system can be connected to personal devices for custom presentations. Liberty Hall is also capable of streaming your events to any remote meeting software (Zoom, Teams, etc.) or live streaming platform. In addition to all these A/V capabilities, there is an on-site kitchen area where food and beverages can be stored and prepared.

### THE WAR ROOM



The circular conference table in our War Room comfortably seats 26 and has individual microphones that work with our integrated computer system, equipped with Zoom and Microsoft Teams. The War Room is perfect for large board meetings and coalition strategy sessions.

### THE BOARDROOM



The Boardroom is our smallest meeting space. The 12-foot-long conference table comfortably seats ten and is equipped with a phone system designed for conference calls.

SPACE	CAPACITY	CAPABILITIES
Boardroom	15	Can support telephone conference calls and Zoom meetings
War Room	30	Can support Zoom calls, telephone conference calls, movies and PowerPoint presentations
Liberty Hall	172	Can support laptops, PA amplification, movies and PowerPoint presentations

## OUR STUDIOS AND PRODUCTION SERVICES

Independence Institute also offers extensive production capabilities for video and audio recording and broadcasting. Our three studios—Studio A, Studio B, and Videocast Studio—and support staff are available for like-minded organizations and can be reserved for a fee.

In addition to our studios, we offer video editing services such as normalizing audio, overlaying title screens and lower thirds, making transition cuts, and providing a limited selection of canned special effects. Please contact Tyler Massey at [tyler@i2i.org](mailto:tyler@i2i.org) for more information.

### STUDIO A



Studio A is a medium-sized studio, perfect for chest-up shots with one front facing camera, which you can use with our green screen or black background. Studio A rate includes green screen lights, three-point lights on talent, a DSLR camera, a teleprompter, a boom mic and digital audio recording.

### STUDIO B



Studio B is perfect for interviews; it features two over-the-shoulder shots of host and guest, and an establishing wide shot of host and guest with an automatic-slide dolly. Rental fee includes: a producer, three-point lighting on both parties, lavalier microphones, three cameras and a black background.

### VIDEOCAST STUDIO



Our easy-to-use Videocast Studio supports podcasts, videocasts and live radio broadcasting (via Comrex access). Our three-camera system provides adjustable and fixed shots of the host and guest and an establishing wide shot. Rental fee includes: three cameras, lighting, two microphones, and a professional broadcasting set.

SERVICE	DESCRIPTION	CAPABILITIES
Studio A	Medium studio perfect for chest-up shots with green screen or black background. One camera angle.	Recording only
Studio B	Large studio perfect for interviewing guests. Black background. Three camera angles. Includes one producer.	Live streaming and recording
Videocast Studio	Videocast, podcast, and broadcast in a radio studio set.	Recording and radio broadcasting
Talent	Hosting/Co-Hosting	Live/recorded
Producer	AV Tech/Producer	Live/recorded
Video Editing	Basic video editing	Recorded footage
Digital Media	Raw footage/audio provided on your USB or SD storage device	Recorded
Captioning	Captioning in lower thirds	Recorded
Training	Studio training your personnel	Recording only

# Become Engaged Locally for a Freer Colorado

By Jack Briggs

As a Colorado inside-outsider, my family and I have a long connection with Colorado. I lived here multiple times in my life as a child, a cadet at USAFA, military assignments, and today. In my final assignment in the military, I was a Major General and Director of Operations for US NORTHERN Command at Peterson AFB, in Colorado Springs. While in that position, I was also a member of the Board of Directors at Springs Rescue Mission (SRM). SRM is southern Colorado's largest homeless, addiction, and poverty service center. After retiring from the military in 2017, I stepped off the SRM Board and my family moved to New York. There, I worked for New York University in Public Safety. While in New York in 2020, the previous CEO of SRM indicated he wished to retire. The Board reached out and asked if I would consider the CEO position and I accepted. Coming home to Colorado was one of the best decisions our family made. Colorado is a place and an idea based on freedom. I saw the stark contrast between the collective lock-down mentality of New York and the freedom of Colorado. The choice was easy.

After a year as SRM CEO, a close friend of mine suggested I apply for the Leadership Program of the Rockies (LPR). Fortunately, I was selected and started in October of 2021. One purpose of LPR is to create engagement opportunities in local leadership and government. In that effort, the Independence Institute has a gem of a representative who assists LPR, Kathleen Chandler. Through LPR I was introduced to Kathleen and her Local Government class. I had a desire to learn how to get involved locally and her program fit perfectly.

Kathleen's class was the right primer to understand the importance of boards and advisory commissions in local government and leadership. In a clear and concise format, Kathleen walks the class through the value of individual citizens getting involved with the local boards and commissions. The class gives you the tools to apply for positions of influence in the community. These influential roles are crucial to protecting freedom in Colorado from the slide towards collectivism, loss of individual rights, and a lower quality of life for all Coloradans.



Major General Jack Briggs, Retired

Personally, I was motivated to look for opportunities to get involved with decisions about health and planning in my community. Springs Rescue Mission is directly involved in health issues for homeless and addicted neighbors. SRM is indirectly affected by decisions on planning for housing, law enforcement, and community engagement. My appointment to the El Paso County Board of Health is a path to participate in a major element of community life, public health. Having direct

influence over public health issues and decisions in the county will enable me to focus on individual rights, a limited role of government, and active citizenship. We know people make their best decisions when given good information and the freedom to choose for themselves and their families.

I'd like to thank Independence Institute for their continuing mission to support the citizens of Colorado seeking their best lives for themselves and our community. Kathleen's Local Government class is just one example of that focus and mission, and I for one, am ready to actively engage for a freer Colorado.



## ONLINE AND IN-PERSON CLASSES WITH KATHLEEN CHANDLER

### Local Government Training

Learn the skills needed to apply for local positions and to serve as an effective leader.

### Speaking Up / Speaking Out

Learn how to sharpen your communications skills to stand up for your beliefs.

FOR DATES, TIMES, AND LOCATIONS: [I2I.ORG/LOCAL-GOV](https://i2i.org/local-gov)



Glue

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Yes, you may use my name with these new subscribers  No, please do not use my name

Glue

Always read  
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of it.

- PJ O'Rourke



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## SHARE YOUR THOUGHTS

1. How do you hear from Independence Institute?

Email  TV  Radio  Social Media

2. What would you like to see addressed in the next issue of Independent Inking?:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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# A State Constitution Textbook for Everyone

By Dave Kopel

Colorado has a wonderful state Constitution. But too often, the courts, the executive branch, and the general assembly ignore it. One reason they get away with it is that Coloradans have little knowledge of our Colorado Constitution. To start fixing the problem, I wrote the book *Colorado Constitutional Law and History*.

The book grew out of the course on Colorado constitutional law that I teach at the University of Denver's law school. The book is written not only for law students, but also for active citizens, and is readily comprehensible by non-lawyers. The book provides the historical background, case precedents, and practical implementation of all sections of Colorado's lengthy Constitution.

When settlement from "the States" began with the 1858 gold rush, there was no effective government, and so Coloradans created their own, without any legal authorization, other than the inherent right of self-government. Having become confident in their "sole and exclusive right of governing themselves," Coloradans made their 1876 Constitution the strongest declaration of state's rights in the U.S. The independent spirit has continued to the present, such as in Colorado's defiance of federal marijuana prohibition.

The constitutional rights of initiative and referendum have profoundly shaped the Colorado Constitution, as citizens have attempted—sometimes wisely and sometimes not—to reform perceived abuses of government power, or government lethargy.

While deeply mistrustful of self-dealing by persons who wield government power, Coloradans did not want a "do nothing" government. They therefore wrote the longest constitution in the United States as of 1876, specifying in detail how government must operate, what it must do and what it may not do. Many amendments since 1876 had added further detail.

However, over two dozen sections of the Colorado Constitution have been nullified by the Colorado supreme court or other branches

of state government. The majority of nullified sections are the Constitution's many rules against special government aid to politically powerful businesses, and the rules allowing taxation and debt only by consent. A full chapter details how the supreme court and the legislature have devastated our Taxpayer's Bill of Rights.

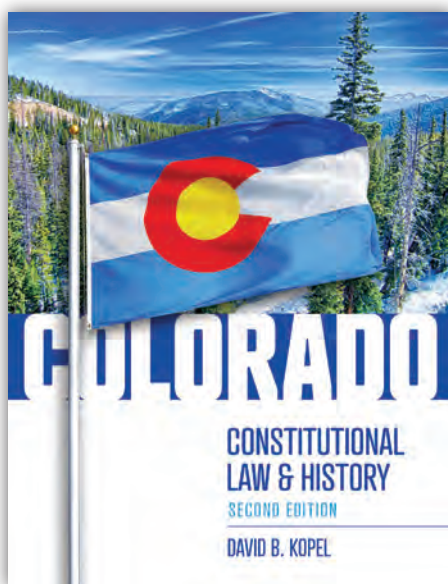
Similarly, although Colorado's constitutional right to keep and bear arms is written in very clear and comprehensive language, that right too has been nullified by the state supreme court.

The natural law ideals and strong rules of Colorado's Constitution have often been thwarted by state and governments' efforts to exempt themselves from the state's highest law. *Colorado Constitutional Law and History* tells the story of the conflicts, past and present.

The book is 706 pages, and covers the entire Constitution, section by section. A thorough index, detailed table of contents, and tables of sources,

make it a handy reference manual. You can buy it from Amazon, Barnes and Noble, Books-A-Million, IndieBound (to arrange pickup at a local bookstore), or from Vandeplas Publishing. Any of these vendors will sell you the printed book. If you want the ebook, you must buy from Vandeplas and must have an academic email account to install the reader software.

The first step in reclaiming our constitutional rights is public understanding of what those rights are. A free copy of the book has been given to every state legislator. If you buy a copy and learn your rights, you'll be ready to help start the process of making the Colorado's state and local governments obey the Colorado Constitution.



*Dave Kopel*

Dave Kopel is Director of our Second Amendment Project and our Research Director. He is also an adjunct scholar with the Cato Institute in Washington; and adjunct professor of advanced constitutional law at University of Denver's Sturm College of Law.

# Our Summer 2022 Interns

Our Future Leaders Program is an opportunity to learn from our experts by working side-by-side on timely and relevant public policy research or projects. We match our Future Leaders with a staff member as their mentor to learn how to effect change using a variety of different tools and strategies including

in-depth research, policy analysis, academic writing, commentary, and navigating the political landscape, all through a free-market lens. Interns participate in II events for no fee and have a series of lunch meetings with VIPs, such as newspaper editors, radio personalities, key local leaders and elected officials.



My name is **Madison Russell** and I'm a senior at Black Hills State University in Spearfish, SD studying History and Political Science. This summer, I'm interning under Kathleen Chandler, working on the Local Government Project!



My name is **Julia Bickley**, and I'm from the great (and sometimes on fire) city of Boulder, Colorado. I like anime, firearms, and video games, but oddly I don't like first person shooter games.



Hi, I'm **Piper Caldara**, a sophomore business major at the University of Dallas. I'm excited to learn from and work with the Development team this summer as I apply new skills to what I am learning in school.



I am **Jeremy Sallee**. I'm a rising 2L at Liberty University School of Law. I am excited to apply what I will learn this summer through my Future Leaders Internship to my future legal career!



My name is **Jordan Ready**. I'm from Cincinnati, Ohio and I am working on my second year of law school at University of Denver. I'm excited to work with Independence Institute, as I have a passion for public interest work, and they share a lot of my values.



I'm **Stepan Mysko** and am a recent University of California Davis graduate who majored in Economics. I'm delighted to be at Independence Institute and kick off my work within the Libertarian movement.



Hello, I'm **Benjamin Kohav**, an incoming sophomore studying Computer Science at the University of Colorado at Boulder. I'm so excited to take part in this opportunity at Independence Institute to think and promote freedom in the state of Colorado.



I'm **Connor Cheadle**, a graduate of CSU and soon-to-be law student at William and Mary Law, the oldest law school in the nation. I'm interning with Dave Kopel and working on anything to do with the Second Amendment.



Hi, I'm **Franny Shih**, a rising sophomore at UC Berkeley, studying Environmental Economics and Policy. As an energy policy intern at II, I help research new energy regulations and innovations in Colorado.



I'm **Sai Sagireddy**, a junior at Baylor University and I'm really excited to be a part of Independence Institute this summer. I love working with the Fiscal Policy Center and all the other interns.

# If Colorado is Serious About Its Energy Goals, Consider Nuclear

By Jake Fogleman

Americans have enjoyed carbon-free electricity from nuclear fission since 1951, when the first nuclear power plant went online. As it stands today, 20 percent of the country's total electricity and 52 percent of its clean electricity is supplied by 93 operational nuclear reactors.

But while those numbers are impressive, America's nuclear fleet is rapidly aging. Making matters worse, excessive licensing and regulation costs have substantially driven up the cost of constructing new light water reactors (traditional nuclear plants).

However, innovative companies such as NuScale, Oklo, TerraPower, and Rolls Royce are adapting to that reality, and have found new ways to drive down the costs and scale up the production of nuclear power plants through small-modular reactor technology.

Small modular reactors (SMRs) are advanced nuclear reactors that generally have a power capacity of less than 300 MW(e) per unit. They can be factory-assembled and transported as a unit for onsite installation, offering time and cost savings on construction.

According to the U.S. Department of Energy, SMRs require substantially less initial investment than traditional large scale nuclear plants due to their size and pre-fabrication potential, are more efficient because they can be bundled with multiple units or coupled with other energy sources, are safer to operate, and theoretically produce less waste due to reduced fuel requirements.

SMRs are the only greenhouse-gas-free energy source that is both scalable and reliable for around-the-clock electricity production. This fact alone should make it appealing for advocates of grid decarbonization and electrification.

Asking Coloradans to transition from gas heating and cooling systems and internal combustion engine vehicles is already an enormous undertaking. Doing so when the electrified equivalents are reliant on inconsistent generating capacity is a disaster waiting to happen.

Only nuclear power has the capacity factor—how often a plant is running at maximum power—to reliably accommodate a fully electrified population.

According to the US Department of Energy, “Nuclear has the highest capacity factor of any other energy source—producing reliable, carbon-free power more than 92% of the time in 2016. That's nearly twice as reliable as a coal (48%) or natural gas (57%) plant and almost 3 times more often than wind (35%) and solar (25%) plants.”

Additionally, levelized cost of energy (LCOE) analyses routinely show traditional nuclear plants to be cost competitive with renewable resources despite the massive disparity in federal subsidies devoted to the latter.

And while commodity cost inflation, supply chain disruption, and high-profile tariff probes stand to boost costs and threaten the competitiveness of renewable projects in the near future, a successful showing by SMR producers would drive down the upfront capital costs of nuclear energy, reducing its LCOE comparatively.

That would mean advanced nuclear could not only reliably provide the power necessary for an increasingly electrified state, but that it would do so with increasing affordability as well.

Communities in Idaho, Tennessee, and Wyoming are all currently pursuing SMR projects over the next decade. Governments in China, Russia, Argentina, Poland, France, and the UK have all committed to pursuing SMR technology in the coming years as well.

With such ambitious decarbonization goals, combined with a growing state population reliant on greater energy needs, Colorado would be foolish not to join in on the development of the world's largest source of carbon-free base-load power.

If energy policy interests you, be sure to stay tuned at <https://i2i.org/energy> where I post regularly about developments in energy markets, technology, and policy.



*Jake Fogleman*

Jake Fogleman is a research associate with the Energy and Environmental Policy Center. He

is a cum laude graduate of Metropolitan State University of Denver where he studied political science and economics. Jake is a Colorado native.

# Thank TABOR for Your Tax Refund This Year

By Ben Murrey

The last two-and-a-half years have been a whirlwind in Colorado fiscal policy. In 2020, lawmakers anticipated a multi-billion-dollar budget shortfall. Now, they expect budget surpluses for at least four straight years, from 2020 through 2023. With the 2022 legislative session not far in the rearview mirror and the state's latest economic and revenue forecast recently released by Legislative Council Staff, now's a good time to pause and survey Colorado's fiscal landscape.

In 2020, bracing for a crushing recession and revenue shortfalls, the General Assembly slashed the state budget and raided state cash funds to finance government activities. But doom and gloom never manifested for the state budget. In fact, the two fiscal years spanning over the worst part of the COVID-19 pandemic—from July 1, 2019 through June 30, 2021—the state collected \$920 million more in tax revenue than they anticipated one year prior to the start of the pandemic.

Think about that. In the throes of a global pandemic, state revenues beat pre-pandemic expectations by nearly a billion dollars.

With the pandemic largely behind us, the state government stands to fare ever better this year. While the revenue figures for the most recent fiscal year, which ended June 30, 2022, have not yet come in, the state estimates record revenues of nearly \$20 billion, or 20% greater than state economists forecasted before they knew about a coming pandemic. None of these figures include the \$8 billion in direct pandemic aid to the Colorado state government from the feds.

Put simply, the state is flush with cash. But that won't help ordinary taxpayers as much as it ought.

Thanks to TABOR, these record tax revenues and massive government surpluses mean taxpayers will receive handsome tax refunds. According to the latest state estimates from June, TABOR will require the state to refund over \$8.7 billion to taxpayers over the course of four years. As exciting as that sounds, legislators shrank the size of those refunds significantly. It's important to understand how that played out.

This year, the state expects to receive \$19.6 billion in "TABOR revenue," or the state revenue subject to the so-called "TABOR cap." Remember, TABOR requires that any revenue

exceeding that cap, now at just over \$16 billion, gets refunded to taxpayers. That means the state must refund nearly \$3.6 billion to taxpayers this year alone. Taxpayers can expect another \$4.5 billion in refunds when they file in 2024 and 2025, assuming forecasts remain accurate. Several factors, however, have cut taxpayers significantly short on their refunds.

First, over the past several legislative sessions, the General Assembly has sheltered new fee revenues from the TABOR cap by putting them into state-run enterprises. Legislative Council explains in their June Economic and Revenue Forecast, "Revenue paid to enterprises is not state revenue for the purpose of the state's constitutional spending limit (TABOR)." Last year's transportation bill created around \$100 million in new TABOR-exempt fee revenue annually. That's money out of taxpayers' pockets they would have otherwise seen in their refunds. Last year alone, the legislature created over \$200 million per year in this kind of sheltered fee revenue, and they did so without voter consent.

Then there's the question about the proper application of Article X, Section 20(7)(a) of the state constitution. The clause explains how much revenue the state may keep and thus how large refunds will be when revenues exceed the TABOR cap. It reads, "The maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters." Each year, the amount the state may keep is adjusted up or down based on the change in population and inflation. If the population grows, for example, the state may keep more money. If it shrinks, the state keeps less. But the state seems to have ignored the bit following the final comma.

According to the constitution, the state must adjust for "revenue changes approved by voters" when determining the TABOR limit each year. But when voters lowered the income tax rate from 4.63% to 4.55% with Proposition 116 in 2020, the state never adjusted the TABOR limit to account for the change. Based on the latest revenue forecasts, the measure reduced FY2021-22 income tax revenues by about \$230 million. Had the state reduced the TABOR cap by that amount, as the constitution dictates, refunds this year would be that much higher.

*Continued on page 18*

# Complete Colorado is on the Local Gun Rights Beat

By Mike Krause

It was supposed to be easy-breezy. The Edgewater City Council was going to quietly move on a big batch of local gun rights restrictions, as part of a broader coordinated effort by progressive-dominated local governments, until *Complete Colorado* shined a light on the scheme and politicians started backpedaling. It's amazing sometimes what a dose of sunshine can do.

In April, local activist Natalie Menten sent along a notice of an Edgewater City Council work session that included a laundry list of over a dozen local gun control ordinances, including bans on both open and concealed carry, bans of certain kinds of guns and ammunition, as well as strict regulations for gun dealers, among other things. While Edgewater wouldn't be the first municipality to act on gun regulation, the sheer scope of potential ordinances to be considered was unprecedented.

Edgewater is a home rule municipality of around 5,000 people in Jefferson County, bordered by Denver to the east, Lakewood to the south and west, and Wheat Ridge to the north.

Such local restrictions on gun rights is allowed under Senate Bill 21-256, passed during last year's legislative session and signed into law by Governor Polis, which unwound decades of state preemption and allows local governments to manage their own gun laws, but only so long as they are more restrictive than those at the state level, a condition that has been referred to by Independence Institute senior fellow Joshua Sharf as a "bastardization of the concept of local control."

*Complete Colorado* reporter Sherrie Peif jumped on the issue, both breaking the story and following up with a what became a multi-part series of articles. *Complete Colorado* is the only news outlet that covered this major local government story, and our initial coverage of the matter resulted in a packed house, both in-person and online, for the April 19 work session, where obviously ill-prepared councilmembers got an earful from a steady stream of upset residents. In fact, in emails later obtained by *Complete Colorado*, the public interest generated by our article was the subject of griping between one city council member and a representative of Colorado Ceasefire, an extremist gun control group that was "advising" on the gun control measures.



Dave Kopel speaks at the Edgewater City Council meeting

By the end of the work session, the long initial list of gun rights restrictions was scaled back dramatically, and council members promised to bring in 'diverse' voices to further discuss the ordinances at the next meeting, which ended up including Independence Institute's own 2nd Amendment scholar, David Kopel. That subsequent meeting resulted in the further scaling back of the proposed ordinances to just one; a ban on the open carry of firearms within city limits. A pretty dramatic turnabout, and one that we were pleased to again report on.

Information gleaned from one councilmember's emails then led us to an open records act request on the City of Boulder. And as it turns out, Edgewater was but one of over a dozen local governments involved in a coordinated effort, with Boulder as the ringleader, to all try and pass similar gun rights restrictions, which were developed by Everytown for Gun Safety and the Giffords Center, both out-of-state groups with extremist anti-gun agendas. In addition to Boulder and Edgewater, other governments involved include: Fort Collins, Lafayette, Louisville, Lyons, Superior, Broomfield, Boulder County, University of Colorado, Denver, Westminster, Lakewood, Arvada, Wheat Ridge, and Larimer County. This was the topic of yet another *Complete Colorado* article.

But this wasn't our first local government gun grab rodeo. In mid-2021, when the ink was barely dry from Governor Polis unwinding state preemption, the Foothills Parks and Recreation District, a massive taxing district in

*Continued on page 18*

*Complete Colorado cont.*

Jefferson County, began pursuing a complete ban on concealed carry within its facilities and property, which includes three recreation centers, one ice arena, four indoor and four outdoor swimming pools and two indoor sports facilities, along with 68 park sites with some 18 miles of trails.

Again, it was *Complete Colorado* that broke that story, and the only news outlet to cover it, generating another multi-part series of reports. In fact, the Jefferson County Sheriff, who issues concealed carry permits and enforces the law in unincorporated Jeffco, only found out about the proposed ban after a phone call from our reporter. In August, the elected Foothills board dropped the ban, citing ‘numerous comments from the public’. But of course, the public

*TABOR cont.*

Lastly, legislators robbed taxpayers of around \$400 million in TABOR refunds over the next two years with legislation adopted and signed by Governor Polis this year. The 2022 legislative session commenced with record levels of inflation and Colorado household budgets increasingly squeezed by the rising cost of living in the Centennial State. Keenly aware of the political risk this presents during an election year, the majority party came out of the gate early this year promising to remain “laser focused on saving you money” this session. Rather than reducing spending so the people could keep more of their hard-earned cash, legislators found the money to fulfill their promise by raiding TABOR refunds.

In the 2022 legislative session, Governor Polis and company waived or delayed certain government fees and increased tax benefits in the name of making life in the state more affordable. It was a slight of hand. Yes, fees went down, but so did your refund. And in most cases, the same politicians previously promulgated the very fees they delayed this year.

Take, for example, the fee on gasoline. Last year the legislature created a new fee on gasoline. State economists estimated the fee would cost Coloradans about \$60 million in FY2022-23, increasing each year thereafter. This year, the same legislative body—with all the same members and the same party in charge under the same governor—passed HB 22-1351, which delayed that fee until shortly after this year’s election. The delay reduced fee revenue for FY22-23 by about \$60 million. But, since that revenue was subject to TABOR, refunds also went down by the same amount. The fee will continue in full force after the

wouldn’t have known about it but for *Complete Colorado*.

The fight for gun rights has gone local in Colorado, and *Complete* is on the beat. All of our coverage is available under the ‘Local Gun Rights’ tab on the website. We couldn’t do it without the generous support of Independence Institute donors. As always, thanks for being a *Complete Colorado* reader, we hope you keep coming back.



*Mike Krause*

Mike Krause is Editor-in-Chief of *Complete Colorado*. A former ski instructor and construction carpenter, Mike was a Senior Fellow and editorial writer at II before heading up *Complete Colorado*.

delay. Democrats claimed this as a \$60 million savings to taxpayers.

In addition, twelve bills enacted this session created or increased tax credits or deductions. These bills reduce state revenue subject to TABOR, thus reducing TABOR refunds. Such changes effectively redistribute money from refund recipients (in other words, all taxpayers) to special interests chosen by politicians to receive tax benefits. Your elected officials then told you these tax policy changes saved you money. In fact, the legislature used part of your refund to award tax benefits and buy votes from special interest groups and then claimed to have saved you money by doing so. In total, legislative meddling reduced TABOR refunds by about \$400 million over the next two years, all in the name of saving you money.

The state of Colorado has seen record tax receipts. They just passed the largest budget in state history. Thanks to TABOR, such massive surpluses require political leaders to send out refunds to voters. But rest assured. They used every trick in the book to reduce the amount of that refund and ensure they won’t be sending you a single penny they don’t have to. As for the tax savings you will still receive despite their best efforts to keep it from you, they’re taking full credit for that to bolster their chances of staying in charge after November.



*Ben Murrey*

Ben Murrey serves as Director of Fiscal Policy, working to promote fiscal responsibility in Colorado government and to defend the Taxpayer’s Bill of Rights.

# The latest on *Devil's Advocate*



**Dave Kopel**, Director of the Second Amendment Project and Research Director at Independence Institute, sits down with Jon Caldara to discuss his newly finished textbook about the Colorado Constitution. They discuss how Colorado courts are ignoring much of our state constitution.



**Derek Friedman**, owner of a sports apparel store in downtown Denver, discusses his experience with Denver's rising crime, his recent 1% "Denver Crime Spike Fee" and how he is trying to make a living while Denver's politicians allow the city to fall into decay.



**Paul Scudo**, Executive Director of Step Denver, has an in-depth discussion about Denver's homeless population and his organization's approach to the problem.



**Sherri Yockey** discusses how she was prevented from viewing videos that are part of her daughter's human development and growth school curriculum.



**Quinn Cunningham**, Lead Instructor for FASTER Colorado, has a heart-wrenching conversation with Jon Caldara about the shooting in Uvalde, Texas and his work training school staff—who are authorized to carry concealed weapons—to protect students during active shooter situations.



Jon Caldara shares time with his hero and mentor **Peter Boyles**, who recently retired from a 50-year-long career in talk radio. Peter reminisces about his first job in radio, how talk radio has evolved over the years and he discusses some of his favorite interviews, including his sit-down with author Norman Mailer.





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# The Pets of Independence Institute

By Tracy Kimball Smith



**FONZIE:** Irish Wolfhound mix. Belongs to Tracy Kimball Smith, Creative Labs. Fonzie is obsessed with chasing bunnies and squirrels. She is terrified of flies.



**GARY:** Mutt. Belongs to Jon Caldara, President. Gary's favorite thing is his toy goose. His superpower is he can jump several feet in the air.



**LUCAS:** Australian Shepherd. Belongs to Tyler Massey, Media Production Manager. Lucas' favorite activity is chewing on things he's not supposed to. He absolutely hates it when people sneeze.



**GOOD BOI AND MR. CUDDLES:** Belong to Shayne Madsen, Director of the Political Law Center. They love playing in the snow, hunting, and cuddling. Mr. Cuddles is a regular pig pen, he does not clean himself. Good Boi is an assassin.



**SPUD (THEY/THEM):** Belongs to Mary Goodley, Development Outreach Manager. Spud is an intersex kitty who likes to climb trees, and hang out in the yard as a squirrel deterrent.



**BRUDER, CLOUD, AND MYKO:** Huskies. Belong to Sherrie Peif, Investigative Reporter. These guys like to wrestle, cuddle, and make lots of noise. These well-loved and spoiled pups are referred to as "Peif's Pack".