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Independent Inking

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Letter from the President



The progressive onslaught continues at the state Capitol, thrilling social justice junkies while terrifying those of us who remember when Colorado kept government somewhat constrained.

A “red flag” bill which puts the burden of proof on the accused to get guns back that have been confiscated. Statewide oil and gas regulations that would make crazed Boulder City Council

members climax. Teaching kids how to have healthy transsexual relationships. Changing genders on birth certificates like changing your mailing address. National popular vote so Los Angeles can control our electors. Forfeiting our automobile regulations to the governor of California.

The next lurch towards the promise of “democratic socialism” is Senate Bill 188, warmly titled “FAMLI.” Get it? “Family.” If Focus on the Family titled a bill that, the left would be nauseated. But this “family” is a massive tax increase for a government-run family leave program.

We can talk about why this particular scheme is reckless later, but for the sake of argument let’s assume it’s just peachy. Then there’s only one teensy issue. It violates our state constitution.

It raises your payroll tax by about a billion dollars a year without first asking you as required by our Taxpayer’s Bill of Rights.

This bill will say much more about the Colorado Supreme Court than it will the legislature, which has already proven they’ll transform us into Venezuela when given half the chance.

Over the last 25 years our Court hasn’t missed an opportunity to weaken TABOR to the point where it is an emaciated weakling of what it once was.

Our Taxpayer’s Bill of Rights says a government can keep excess tax revenue, above the limit of population growth and inflation, without refunding it. All it has to do is ask for our consent. TABOR says it can do that for four years. Our Supreme Court ruled that “four years”

shall read as “forever,” I guess because it sounds kind of the same. Now 80 percent of all Colorado cities, since they asked just once, will never refund your excess taxes back to you, ever.

Our Taxpayer’s Bill of Rights says our elected representatives can raise all the debt they desire. All they have to do is ask our consent first. But our Supreme Court ruled that if they call debt a “Certificate of Participation” (COP) they need never ask. Instead of a debt package with say a 20-year term, a COP is 20 one-year loans in a row. In other words, the same thing.

Should SB 188 become law it will be challenged in court as a violation of our Taxpayer’s Bill of Rights. If history is any indication our Supreme Court should rule it’s dandy to call it a “fee.”

But unlike plastic bag “fees,” or the mill levy freeze, or the Faster “fee” on our car registrations, or the Hospital Provider “fee,” this payroll tax will be very public and understandable.

Every employed Coloradan will comprehend that their payroll tax just went up by 0.32 percent (for the first two years, and then who knows after that). And they’ll be reminded it’s a tax every payday. It will be right there on their pay stub next to their income tax withholding, Social Security tax, Medicare tax, etc.

There is little transparency in most of the tax increases the Supreme Court allowed to be called a “fee.” Your car registration tax happens only once a year. Bag taxes get lost in your grocery receipt. Your property taxes get mixed in with your house payment, and those who rent get mad at landlords for raising the rent, not the legislature for causing it. And, get this insult, the law prohibits the Hospital Tax from being listed on your hospital bill. Classy, huh?

If the court actually reads the constitution instead of rewriting it, they’ll declare FAMLI a tax, then great. If not, it might be the spark needed for voters to rebuild our Taxpayer’s Bill of Right back to what they voted for in the first place.

Why does asking voters for tax increases repulse so many inside government? They don’t want to risk being told “no.”

Think Freedom,

A handwritten signature in blue ink, appearing to read "Jon Collier".

Editor’s Note: Despite SB-188 being killed this session, make no mistake, it will be back next year.



Kopel Leads the Fight on “Red Flag” bills

By Staff

In late March, Research Director Dave Kopel testified before the U.S. Senate Judiciary Committee on “red flag” laws. The U.S. Senate Republican leadership has prioritized passing S. 8, a Marco Rubio bill to provide federal funding for states that adopt “red flag” laws.

The staff of Sen. Judiciary Chairman Lindsey Graham (R-S.C.) asked Kopel to testify about due process issues in gun confiscation bills. Kopel’s testimony was covered by CBS, ABC, and the *Washington Times*, among others.

Kopel explained that he supports the concept of taking guns from people who pose an extreme and imminent risk, as long as there are strong due process protections. As he explained, most current state laws are too loose in allowing ex parte procedures, in which someone can petition for a gun confiscation order based on a low standard of proof; the gun owner has no notice, and thus no opportunity to tell his or her side of the story.

These ex parte procedures have a very high error rate: 32 percent in Connecticut and 29 percent in Indiana. Although states with newer laws do not have reported data on error rates, Kopel suggested that error rates in other states are probably even higher. Connecticut and Indiana allow confiscation petitions to be filed only by law enforcement officers or a state’s attorney. In contrast, newer laws allow a wide variety of persons to file petitions—including distant relatives and long-ago boyfriends or girlfriends.

Moreover, there are documented problems of government officials coercing gun-owners not to exercise their right to be represented by counsel. In this regard, Kopel praised Colorado’s HB 19-1177, which provides appointed counsel for all respondents to gun confiscation orders.

In response to questions from Senators Graham, Grassley, Cruz, and Hawley, Kopel outlined some key requirements for a “red flag” bill that would protect public safety and civil rights:

- Ex parte hearings should be allowed only when there is evidence of “extreme” and “imminent” danger, as in Vermont.
- The standard of proof at a confiscation hearing should be “clear and convincing evidence.”
- No-knock or no-notice gun confiscation by law enforcement should be allowed only when a court has made a specific finding of necessity. In other situations, gun owners should be allowed to peacefully surrender their arms to law enforcement, to a licensed firearms dealer, or to a responsible third party.
- Laws must not prevent respondents from being able to cross-examine their accusers. The elimination of cross-examination is one of the worst features of Colorado’s proposed bill.
- Victims of false and malicious confiscation petitions should have a civil remedy that provides for attorney’s fees and damages. This was included in

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Education Intern Shares Her School Choice Story

By Grace Atchison-Reynolds

In celebration of January's National School Choice Week, I participated in an event at the Colorado State Capitol as an intern for the Education Policy Center. At this event we teamed up with ACE Scholarships and the Colorado Catholic Conference to chaperone private school students on Capitol tours, watch the legislative process, and meet with legislators. Being able to celebrate this week was a notable opportunity, as I participated in school choice during my K-12 education.


My story starts in third grade when I received the *Harry Potter* series for Christmas. As a shock to my family, I was finished reading all six books by January 2nd. Being a shy child with the ability to read four years above my grade level, a large classroom setting was daunting and deterred me from participating in class discussions. Once my parents understood my ability and passion for reading, they investigated ways to enroll me into a different school that would provide more of a challenge. After some research, my mother learned about educational options, both private and public. For the rest of my grade school education, I attended innovative private

and charter public schools that were able to accommodate my high-level reading ability, offer small class sizes, and challenge me in STEM (science, technology, engineering, and math) subjects.

When it came time for high school, my parents and I made the collective decision that I would attend a private high school. We found a school that aligned with my family's values and offered a safe educational setting, small class sizes, more advanced courses, an academic challenge across the arts and sciences, and an emphasis on college preparation. The private school brought me out of my shell. I competed in varsity athletics and became captain of the varsity debate team while also taking advanced courses in a variety of subjects.

To add to my story, my freshman year I was awarded a school voucher by the Douglas County Choice Scholarship Pilot Program to begin my education at Valor Christian High School. Just days before the start of the school year, the scholarship program was swept into litigation and made it impossible for me to use the voucher. Without my parents' financial sacrifice, I would

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Pam Benigno and Grace Atchison-Reynolds at the Colorado State Capitol for a National School Choice Week event

Education Policy Center Releases Two New Publications

By Pamela Benigno

Colorado rural charter schools make up approximately 14 percent of all charter schools statewide. The challenges rural school districts face are frequent topics of discussion in education policy circles, such as: funding, facilities, and a shortage of teachers. Rural charter schools often face the same challenges as their authorizing public school district.

The Charter School Act was passed with bipartisan support in 1993. The Independence Institute's co-founder, David D'Evelyn, was key in the passage of the legislation. Charter schools have filled unique gaps within public school districts with the presence of specialized programs or in the case of some rural districts, the only public school to serve students in a geographic area.

In February, the Education Policy Center released a new publication, *Paradox Valley Charter School: Twenty Years On, Choice Survives*, that offers a glimpse into the inner workings of a rural charter school and how it has become a beacon of connectivity for the community. In this inspiring publication, author Peter Huidekoper Jr. paints a picture of how the school serves as a successful place of learning for Pre K-12 students. The pride surrounding this small town school and the significant ties to the specific region are demonstrated through numerous interviews of Paradox Valley Charter School staff and community members.

In March, the Education Policy Center released an additional publication on federal programs and pri-

vate schools. A common misconception is that private schools cannot legally receive taxpayer-funded support. Yet, the federal government has long supported non-public school students and teachers. Federal law requires that these schools have access to a number of federally funded "equitable services" through their local public school districts.

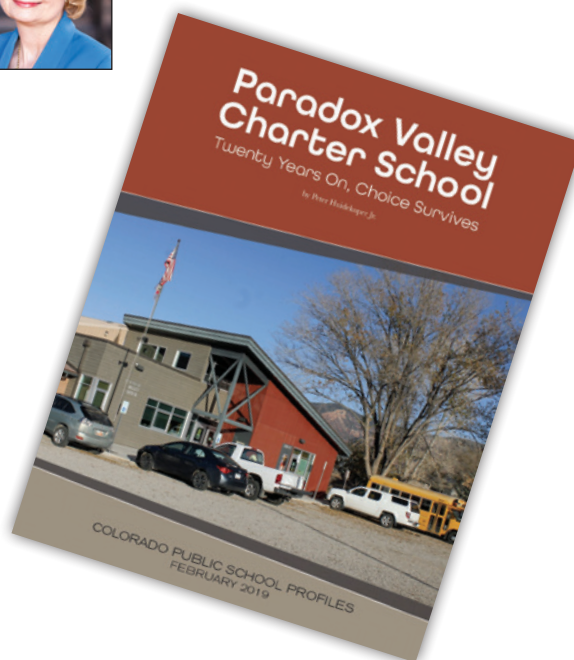
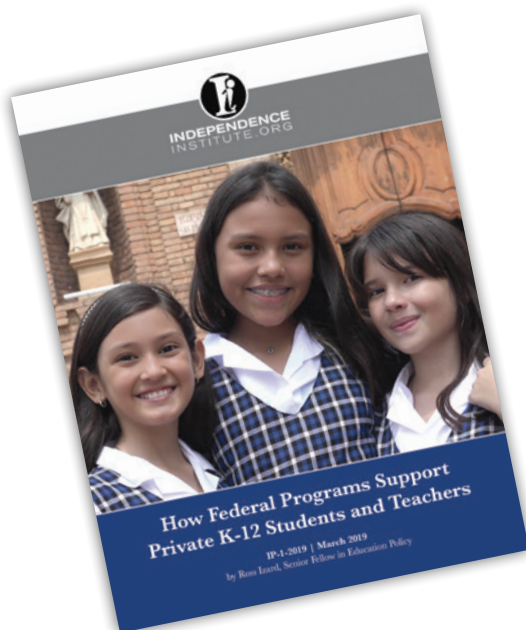
There are also several other federal programs that support nonpublic school children. Currently, over 100 Colorado K-12 non-profit private schools are receiving services or funds by means of federal programs.

In *How Federal Programs Support Private K-12 Students and Teachers*, Senior Fellow in Education Policy Ross Izard outlines the various services and funds available to benefit private school children and teachers. Additionally, Ross provides real Colorado examples of how private schools are participating in federal programs this current school year.

Stories about how public policy impacts students, teachers, and communities reminds us how important it is to be involved with the policy making process. Both publications can be found at <https://i2i.org/education/>.



Pam Benigno is the Director of the Independence Institute's Education Policy Center.



E2P: Your Voice of Reason and Hope in Such Crazy Times

By E2P Staff

From microgrid technology to energy legislation, it's been a busy and productive four months.

Last fall, the Energy and Environmental Policy Center published a mini-series about microgrids, a technology capable of circumventing and disrupting Colorado's regulated energy market and undermining its most powerful players. Microgrids improve grid resiliency and give ratepayers the ability to choose their electric generation source – whether it be a natural gas generator or solar panels coupled with storage capacity.

We admit broad implementation of microgrid technology is still a way off, but “Uber for Energy” (what we named the microgrid business model) is the option for the individual, where people choose their generation source and neighbors can trade excess capacity between one another. It's the power sector's peer-to-peer business platform.

After publishing the series, experts familiar with the technology reached out to discuss where it is already being utilized and strategies regarding how to implement more of them. It's no secret the United States' electric grid is aging. It's up to us to decide what comes next, and our writing about microgrids now ensures we'll be active in helping shape (i.e., eliminate) future regulations pertaining to the technology.

In addition, E2P has been busy dealing with former Governor Hickenlooper and Governor Polis's executive orders and legislation from the General Assembly. Thus far:

- We've opposed adopting California's vehicle emission standard, while testifying in support of SB 53, which had it passed, would have barred the Colorado Air Quality Control Commission from adopting the California standard.

- We've documented repeatedly the problems with Governor Polis's zero emission vehicle mandate, have written numerous opinion editorial pieces and blog posts about it, and appeared on and in various news outlets.
- We testified against SB 19-077, which will allow electric utilities to pass the construction costs of electric vehicle charging stations on to captive customers whether they have an EV or not.
- We opposed Colorado's electric vehicle tax credits, which statistics indicate disproportionately go to six figure earning households and those purchasing a second or third vehicle. We have written against the bill and local news stations have asked for our comments.
- Most importantly, we've been relentless in our opposition to SB 119-181 the Boulder Mafia's way of circumventing the will of voters and legislatively force a de facto moratorium on new drilling. We've called it a man-made recession because it's sure to cost jobs and revenue.

Be sure to check our Web page for our take on a spate of anticipated bills that will be Colorado's version of the Green New Deal regulating everything from carbon emissions to dishwashers.



Opponents of the Taxpayer's Bill of Rights Prove Why We Need It

By Joshua Sharf

Look at the list of organizations supporting House Bill 19-1257, the bill to ask Colorado voters to permanently repeal Colorado's Taxpayer's Bill of Rights (TABOR) spending limits. No fewer than 60 groups hired lobbyists to push for the measure, which will appear on November's state-wide ballot.

Everyone is represented – governments, non-profits, business groups, unions, school districts, government employees.

Everyone is represented. Well, everyone except the taxpayer.

Which is why we need a constitutional amendment protecting the taxpayer in the first place.

While TABOR has a number of provisions designed to limit government, there are three main ones. The first requires a citizen vote on all general tax increases – income tax, payroll tax, sales & property tax, etc. Fees directly related to delivering a specific government service are exempt. So-called enterprises, which do not receive general tax revenue, are also allowed to raise their fees and charges without a vote, and what's more, their revenue doesn't count towards the overall cap the way than regular fees do.

The second limits annual government revenue growth to inflation plus population growth unless overridden by a vote of the people. The third prevents a government entity from issuing multi-year financial obligations without a vote.

It is the second provision that HB 1257 asks taxpayers to repeal – forever – at the state level. And it's backed by the cities of Denver, Boulder, and Westminster; the Colorado Hospital Association, the Colorado Children's Campaign, and the Colorado Nonprofit Association; Chambers of Commerce; the teachers unions; the public schools of Denver, Adams County, Poudre Valley, St. Vrain, and the Pikes Peak region.

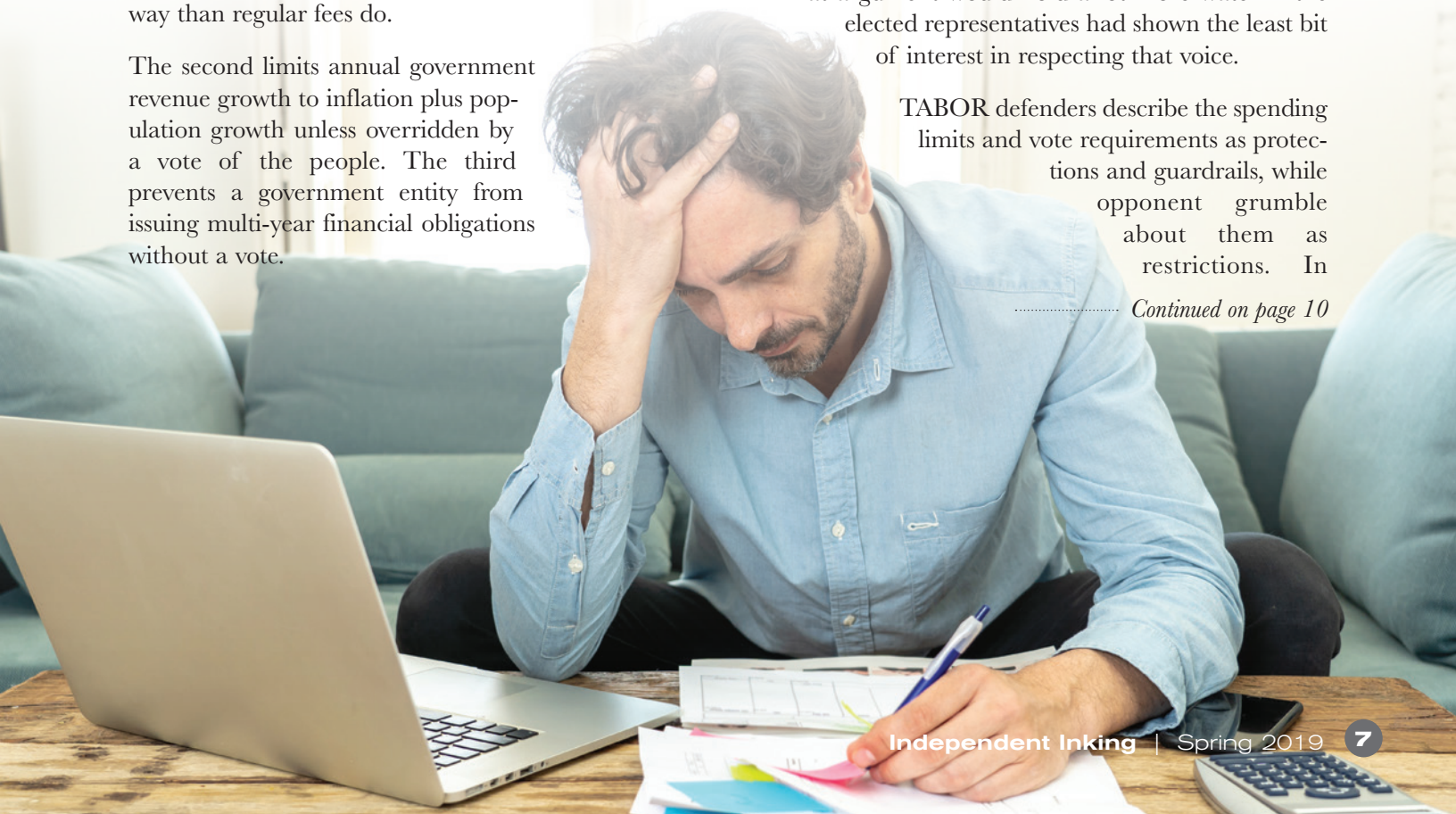
Why? Because they all have their hands in your pockets. Governments would obviously like to acquire and keep every last dime they possibly can. Public employee unions see pay raises, job security, and retirement benefits in those dollars. School districts see a chance to get more money without having to ask their own citizens for property tax raises. Non-profits, seeking to do well by doing good, see Christmas in November. And more revenue means the potential for more special tax breaks for favored industries and businesses.

All of this comes at the expense of taxpayers, of course; the broadest-based and least-organized group of citizens in the state. Nobody speaks for taxpayers, because it's assumed they speak for themselves at the ballot box.

That argument would hold a lot more water if the elected representatives had shown the least bit of interest in respecting that voice.

TABOR defenders describe the spending limits and vote requirements as protections and guardrails, while opponent grumble about them as restrictions. In

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Founders' Night 2019

By Josh Williams

Are you bilingual? If not, Independence Institute trumped you (pun intended)! This year, for our 34th annual Founders' Night Dinner, we harnessed the power of both analog and digital technologies to bring over 250 of Colorado's Liberty Coalition one of the biggest stars of the Intellectual Dark Web (IDW), Dave Rubin.

Rubin started his career as a commentator for The Young Turks, a progressive left-wing news program on YouTube, but eventually left because he began to see through the ideology of his colleagues. Disenfranchised by the radical progressive left, he started his own YouTube political talk show and podcast, The Rubin Report, and has become a leading figure of the free thought movement, hosting such figures as Dr. Jordan Peterson, Ben Shapiro, Larry Elder, Christina Hoff Sommers, and so many others.

In the conversations he has on his show, Rubin jumps into issues of free expression, speech, government intervention, and political philosophy all while engaging in a long form discussion with his guests.

At Founders' Night, the tables were turned and our very own Jon Caldara talked with Dave about pressing issues of speech and free thought in society today.

We were also honored to present two prestigious awards to two very deserving people.

The 2019 Vern Bickel Award for Grassroots Leadership went to Kathleen Chandler, who, in the words of John Andrews, shows time and time again that if you need a job done you can get half a dozen men or one Kathleen.

The 2019 David S. D'Evelyn Award was awarded to Weld County's own Steve Wells for his dedication to Colorado's oil and gas community and for his integral role in defeating Proposition 112 in November.

We had a blast this year. We look forward to seeing you next year at Independence Institute's 35th Founders' Night Dinner!



Josh Williams is the Manager of Donor Relations at Independence Institute.





“Red Flag” Bills continued from page 3

the House version of Colorado’s HB 19-1177, but was stripped in Senate committee at the behest of the gun ban lobby.

- Bills that are titled “extreme risk protection orders” should be about “extreme” risks, and not lesser risks. For example, a bill by Sen. Dianne Feinstein would allow confiscation based on merely “a danger”—and we know that the gun ban lobby considers all gun ownership to be a danger.

Kopel told the Judiciary Committee about his experience serving on a Uniform Law Commission study committee to draft a model “red flag” law. The Uniform Law

Education Intern continued from page 4

not have received the education that gave me the environment I needed to flourish.

In June I will graduate from the University of Denver. During my internship with the Education Policy Center I am gaining knowledge that will benefit me in my future career as a Teach for America 2019 Denver Corps Member. My work with the Center includes tracking education legislation, writing op-eds and blog posts, research, and appearing in Spanish and English videos. Each of these tasks

TABOR continued from page 7

reality, opponents treat them not as rules to be obeyed but as obstacles to be overcome, bypassed, flanked, or in extremis, ignored.

As such, over the years they have aggressively redefined taxes as “fees,” and expanded the Enterprise Exemption to the point where you could drive an ambulance through it. They have set up pass-through entities to issue bonds actually backed by the district, as an evasion around the third restriction.

And all of these evasions and perversions have been implemented to the loud cheering of the groups lined up to back HB 1257, and all have been allowed by

Commission had taken up the project at the request of the Conference of Chief Justices.

While the committee members had very diverse views on gun control, they were nearly unanimous in supporting the drafting of a model law. Unfortunately, the commission’s work was shut down by lobbying from the Giffords gun control organization, which opposed any competitor to its own extreme and dangerous model.

After the hearing, Sen. Graham shook Kopel’s hand and said, “You were excellent.” The Senators’ staff later told Kopel that Sen Graham has stated that the issues raised by Kopel must be “part of the conversation” regarding S. 8.

allow me to learn more and more each day about Colorado education policy and will be a benefit as I step into a secondary English teaching position this upcoming school year.

I was given the chance to pursue my dreams and push for educational excellence for all students. Each student deserves the freedom to choose the best school, public or private, that would allow them to reach their full potential, just like I did.

the courts, to whom the idea of limited government may as well be expressed in Mandarin, for all they understand it.

There’s a reason the voters of Colorado passed TABOR in 1992, and a reason that governments and their clients hate it with the white-hot passion of a million suns.

It limits what they can do, and it protects the earnings, futures, and freedoms of taxpayers.

And it is utterly and completely necessary.

Joshua Sharf is a fiscal policy analyst at the Independence Institute, a free market think tank in Denver.

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Our Wish List

We asked Independence Institute staff if there are any specific items that would help them advance their mission, here are some of their requests:

Creative Labs



II Creative Labs is always striving to promote the ideas of limited government to new audiences. We do this through graphic design, social media, videos, podcasts, on our independenceinstitute.org website and other II websites such as Complete Colorado. We find ourselves using the same stock images over and over again, so **our wish list items are subscriptions to stock image and stock video websites** where we can download high resolution images and videos for use in our projects.

\$360 for stock images | \$1,300 for video subscription | \$1,660 for both

PLEASE BE SURE to mark the specific item when you donate so we will know where to apply the money. THANK YOU FOR YOUR SUPPORT!

Ed Policy Center



The Education Policy Center would like to send center director, Pam Benigno and new education policy analyst, Wojciech Owczarek to the nation's premier education conference, the National Summit on Education Reform, held this fall in San Diego.

\$1,750 to send Pam

\$3,500 to send both Pam and Wojciech

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Complete Colorado Looking to Grow its Impact

By Mike Krause

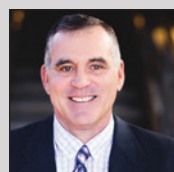
Complete Colorado ended 2018 with about 1.5 million unique visitors between the main page aggregator and the original reporting and commentary on Page Two, and we're on track to break 2 million this year. We saw that and thought, "Holy cow, maybe we ought to take this thing seriously."

Actually, editing Complete's Page Two content had already been a significant part of my job for several years, and Justin Longo (one of the co-founders of Complete Colorado, along with Todd Shepherd) has been doing dual duty updating the main page for a long time, so we've made some changes to focus in and grow Complete, and we do mean to grow it.

in Sherrie Peif, who covers northern Colorado, and Scott Weiser, who has the southern Colorado beat. The two are also covering the state capitol. We also have a social media guru (aka a millennial) in Tyler Massey and several regular columnists, including Mike Rosen. In addition, we have access to Independence Institute editorial content, and a growing list of guest writers. We like to think Complete Colorado's commentary content is among the best political opinion writing in the state.

Part of Complete's mission has always been to shape the narrative of what the important news of the day is in Colorado, and to give voice to interesting sources of information that don't necessarily fall into the traditional definition of news, or that lack a statewide audience.

We want people to start and end their day with Complete Colorado, so we update the site morning and afternoon during the week, and once a day on weekends. We envision Complete as the go-to source for breaking news, investigations, important reporting, and the day's best commentary, and we never block or paywall any of our content. While other newsrooms are cutting staff, we're actually looking to grow our staff.



Mike Krause is Editor-in-Chief of Complete Colorado

Moving into 2019, I'm now editor-in-chief, and Justin the deputy editor. Complete also has two full-time reporters

