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Assessing Colorado's Economic Competitiveness:

Mounting Cost of Labor and Environmental Policy

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About the Mike A. Leprino Fellowship

The Mike A. Leprino Free Enterprise Fellowship was established by Laura Leprino and Matthew Leprino in honor of the late Mike A. Leprino, who was a pillar in the Denver community. The son of Italian immigrants, he was a banker, developer and community servant. Some of the greatest treasures and neighborhoods in our state were built and funded by Mike. He gave back relentlessly to his state and country, something that he also instilled in each of his children. A great defender of free enterprise and the American dream, Mike is someone who from humble beginnings built an enviable legacy in Colorado. Thanks to Mike A. Leprino's legacy, we can all take a lesson in hard work, the entrepreneurial spirit, and the power of free enterprise. The Mike A. Leprino Fellowship will focus on issues reflected in the values and accomplishments of this former pillar of the community.

ABOUT THE AUTHOR

Lang Sias is a former Colorado State legislator, attorney and Navy and Air National Guard fighter pilot. As a Colorado State Representative from 2015-2019, Lang represented House District 27 in Jefferson County. The ranking member on the business committee, Lang also served on the education, public health and health exchange oversight committees, and was a member of the legislative tax simplification task force and the JeffCo school safety task force. Over 85% of the bills Lang sponsored were bipartisan. He focused on solving problems in the areas of education, health care and small business, and on government transparency and accountability. He played major roles in passing legislation expanding public school choice, increasing healthcare transparency and reforming the public pension system to benefit retirees and taxpayers. Lang currently serves on the legislative subcommittee that oversees Colorado's state pension fund. He was the Republican candidate for Lieutenant Governor/in 2018 and State Treasurer in 2022.

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CSI is committed to independent, in-depth research that examines the impacts of policies, initiatives, and proposed laws so that Coloradans are educated and informed on issues impacting their lives. CSI's commitment to institutional independence is rooted in the individual independence of our researchers, economists, and fellows. At the core of CSI's mission is a belief in the power of the free enterprise system. Our work explores ideas that protect and promote jobs and the economy, and the CSI team and fellows take part in this pursuit with academic freedom. Our team's work is informed by data-driven research and evidence. The views and opinions of fellows do not reflect the institutional views of CSI. CSI operates independently of any political party and does not take positions.

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Introduction

For much of the last two decades, Colorado has ranked very high among U.S. states for being business friendly. This has been reflected in state-by-state rankings extolling Colorado's relatively low tax rates, highly educated workforce, and high quality of life. These positive factors produced migration patterns that increased the size and scope of Colorado's business community and workforce.

In 2023, however, the outlook has become more nuanced. On one hand, there are certainly reasons to be optimistic about Colorado's business environment as recent job and business formation data suggest that our economy has rebounded quickly from the pandemic and is weathering the storm amidst the battle to lower inflation.[i] CNBC recently ranked Colorado #4 on its list of Top States for Business in 2022. On the other hand, beneath these positive indications, there are signs that the direct and indirect costs of doing business in Colorado are beginning to threaten our state's competitive edge.

For example, a recent survey of business owners by the Colorado Chamber of Commerce found that respondents "are split on whether the state's economy is headed in the right direction (48%) or on the wrong track (52%)."[ii] Respondents to the Chamber survey cited "availability of workforce" and "excessive regulations" as their top two concerns. Among regulations, labor & employment regulations and environmental regulations were cited as the biggest problems. Similar sentiments are echoed in the Denver Metro EDC and Chamber of Commerce's latest "Toward a More Competitive Colorado" report.[iii] It states that more executives and site selectors express concerns about where policy is heading in Colorado, as 14 of the state's 36 competitiveness indicators declined relative to competitor states.

Although Colorado currently benefits from a strong competitive business environment, it is not inevitable that this will always be the case. The state legislature has the primary responsibility of ensuring that a rising tide of regulatory changes does not sweep away the state's competitiveness. In its efforts to address specific problems, it should employ more rigorous tools to assess recent policy responses in aggregate and not just in isolation to ensure that, as new rules are being written, existing ones are revisited.

KEY FINDINGS

- **Colorado's net migration shrank 80% over the past two years—76,700 fewer people came to Colorado compared to the 5-year average through 2019.** Though the Colorado economy has remained relatively strong since the pandemic and recent policy changes will still take years to produce their full impacts, this should be a concerning sign.
  - The 2021 and 2022 reduction in migration is estimated to have reduced employment by 14,000 jobs.
  - If the change in net migration is due to a permanent increase in the cost of doing business in Colorado, the impacts are likely to persist or even grow over time. A 1% increase in the cost of business would lead to a reduction in the labor force of 53,000 after 2 years and 123,000 after 10. The employment impacts are larger—130,000 after 2 years and 126,000 after 10.
- **Colorado had the fastest growth in the Homebuyer Misery Index, which represents the cost of purchasing a new home, among all states between 2008 and 2023**. However, the growth rate between 2020 and 2023 ranked 30th. This suggests that other factors beyond housing affordability were at play influencing migration over the past two years.
- Regulation in the policy areas of labor and employment and energy and environment has expanded significantly in recent years. Recent polling by the Colorado Chamber of Commerce confirms that business leaders now have concerns about both growing uncertainty and costs in these areas.
- **The combined long-term annual cost of just the recent laws and regulations included in this report totals at least $2 billion.** The full cost of these policies exceeds this estimate but is more difficult to quantify (the costs of mandatory sick leave payments and stricter statewide building energy codes, for example, are not yet known). Though these policies do provide benefits, those are often diffuse or accrue over long periods of time such that initial investment costs are infeasible. Tools exist for policymakers to better assess how policy changes will impact the state's economic competitiveness over the long run, but these are often underutilized and play limited roles in policy debates. Legislative process reforms are needed to ensure more robust analyses of policy prior to passage.

Sustained Low Domestic Migration Is a Threat to State Competitiveness

One of Colorado's historic competitive strengths has been the quality of its workforce, which the state has traditionally maintained by attracting skilled workers from elsewhere. In what has long been known as the "Colorado Paradox," our state boasts the second highest percentage of workers with a college degree, but its high school graduation rate ranks only 44th in the country.[iv] Migration remains extremely important to maintaining our educated workforce. As Figure 1 illustrates, between 2011 and 2019, Colorado was one of the most attractive states for migration. During that period, Colorado's combined rate of net domestic migration and natural population increase (births minus deaths) was strongly positive at an average of 1.3% of the state's population per year. This ranked 4th-best among all states over that period. Data from the last two years, however, indicate that this has abruptly changed. Colorado's rank fell to 18th in 2022, as annual net migration in 2021 and 2022 was 38,000 less than the 5-year annual average between 2015 and 2019. In Denver, the numbers are even more dramatic—its population decreased by over 5,500 in 2021, the latest year of available data. Previously, the city had not experienced a population decline since 2004.

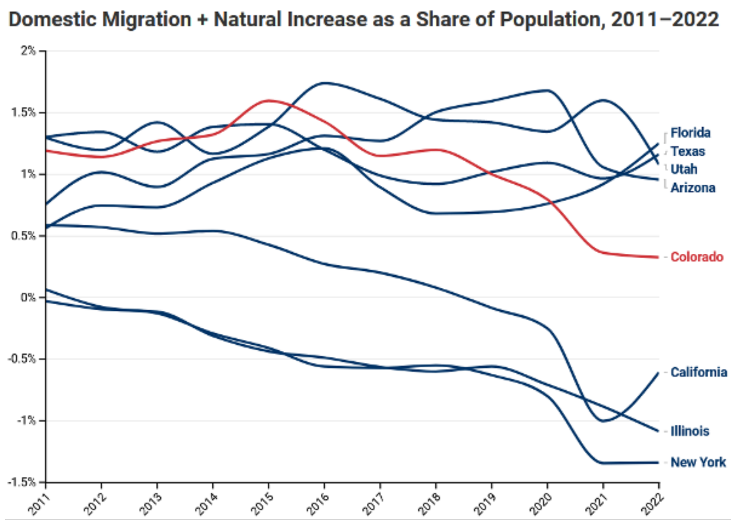

Figure 1

Two years do not make a trend, particularly in a period of economic turmoil following the pandemic. **It is notable, though, that migration to Colorado has slowed dramatically in a way that peer and competitor states have not experienced. During the same period that Colorado's net migration fell by 80% relative to its previous trend, net migration to Arizona and Utah increased—in 2021, Arizona's and Utah's net migration rates ranked 7th and 9th, respectively. Likewise, migration into Florida and Texas grew substantially while outflows accelerated in California, New York, and Illinois.**

Migration remains extremely important to maintaining our educated workforce.

If the large reduction in migration is not driven by fundamental changes in Colorado's economic competitiveness, either through increased costs of doing business, increased costs of living, declines in real wages, or some decline in the quality of life, then migration should recover in the coming years due to the state's relatively tight labor market and good job opportunities.

Just a 1% increase in the cost of doing business in Colorado across all sectors reduces the labor force by 53,000 after two years.

If this slowdown is not an anomaly, however, and instead foreshadows a new trend, Colorado's population growth could stabilize at a much lower rate than was previously the norm. In the worst case, the state could start to consistently lose population as is occurring in New York, Illinois, and California. This would cause significant problems for Colorado's economy, especially its workforce and tax base.

CSI constructed economic modeling simulations using the REMI model to demonstrate this threat. The REMI model is a dynamic economic forecasting and simulation model that can produce economic projections given policy or economic inputs. A simulation in the Colorado REMI model wherein the state loses 76,706 domestic migrants over a two-year period estimates that, though over 14,000 jobs would be lost by the second year, the economy suffers limited long-term impacts as there is an increase in net domestic migrants in the following years driven by relatively higher job opportunity. If, instead, the change in migration is driven by a structural change in the cost of doing business in Colorado, the economic impacts are far greater and even grow over time. Just a 1% increase in the cost of doing business in Colorado across all sectors reduces the labor force by 53,000 after two years. The job loss is more than double the size of the labor force reduction—130,000 against the baseline.

More than Just the Cost of Living Is Impacting Migration

There are multiple factors that influence personal and business decisions of where to locate. The cost of living associated with housing and transportation weighs heavily on households and workers, but other factors are also at play.

Changes in the cost of business associated with housing are often cited as a driving force behind migration decisions and rightfully so. The Colorado Homebuyer Misery Index, developed by CSI, shows the history of the relative cost of purchasing a home given the combination of median home price and mortgage interest rates.[v] The index shows that the cost of a home in Colorado has doubled in the last seven years and half of that cost increase has occurred in the last two. From 2008 to 2023, Colorado's Homebuyer Misery Index growth, which represents a decline of housing affordability, ranked number #1 among all states. However, since 2018 Colorado's Misery Index growth ranks only 30th among states. This suggests that, though Colorado has suffered from a long-term trend of declining housing affordability, the very recent decline in migration can't be explained by housing prices alone. Other states with more severe recent declines in housing affordability did not experience similar declines in migration.

- Other factors driving business location and expansion decisions should be considered. CNBC, which gives the state's business climate a very strong overall rating, in large part due to the quality of its workforce, nonetheless ranks it 15th-worst nationally for its cost of doing business and 17th-worst for its cost of living.[vi]
- The Massachusetts High Technology Council (MHTC), which ranks states on a wide range of economic metrics, ranked Colorado 13th-worst nationally for its cost of doing business.[vii]
- Denver was recently ranked the 5th least affordable city in the country; Colorado Springs and Pueblo were ranked 9th.[viii]
- The 2023 update to the Rich State, Poor State economic competitiveness index rankings developed by ALEC rank Colorado 5th for economic performance and 25th for economic outlook. Colorado's economic outlook has declined in that ranking since being 2nd in 2010.[ix]

Since January 2020, prior to the start of the pandemic, total employment in Colorado has grown by 65,800 jobs. The Professional and Business Services sector, which consists of marketing, advertising, and legal services, has grown by 46,300 jobs, accounting for 70% of that job growth. Figure 2 shows that the growth in many service industries in Colorado has outpaced their respective US averages, resulting in increased shares of US employment. Industries highlighted in red are declining as shares of US employment in those sectors.

These recent employment trends indicate that many of those who have migrated to Colorado in these last two years are employed in higher-paying sectors of the job market, such as financial and other professional services. Presumably, these workers are compensated at a level that enables them to afford Colorado's cost of living. Conversely, there was very little, if any, migration into Colorado's manufacturing sector or blue-collar workforce during this period. Should migration not recover, these sectors may struggle to find the workers they need.

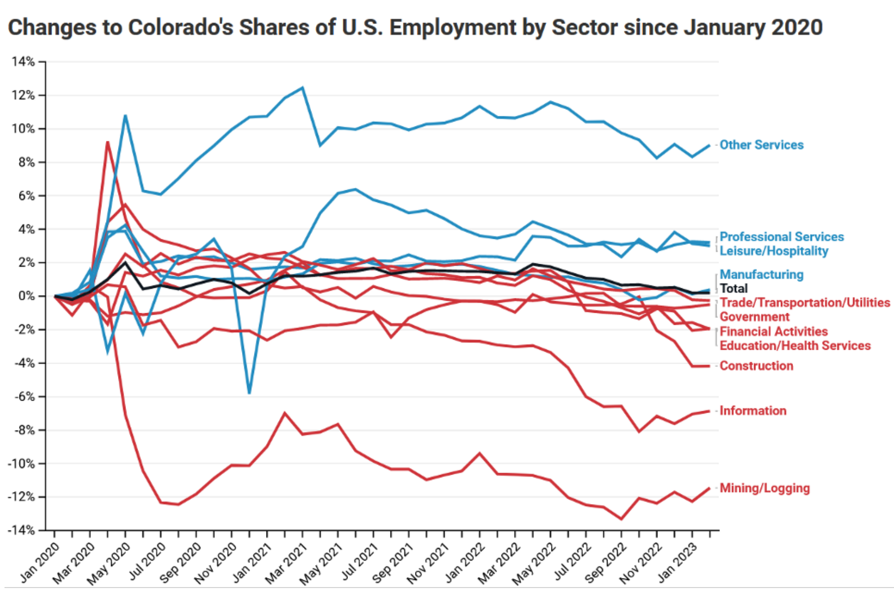

Figure 2

Shift in the Cost of Doing Business – At Least $2 Billion in Costs from Policy and Regulatory Impacts in Two Key Areas

Given Colorado's recent migration and employment trends, coupled with the growing costs of living and doing business, prudent policymakers would be wise to analyze how existing policy measures might be increasing costs in ways that weaken Colorado's competitiveness. The survey of Colorado CEOs by the Colorado Chamber of Commerce Survey identifies two areas as concerning cost-drivers: labor and employment regulations and environmental regulations. It is perhaps not a coincidence that these have been areas of significant state policy reform in recent years.

The following sections list and summarize recent legislation that will impact Colorado's economic competitiveness in the long term. Some of their costs are able to be quantified and others not. Policies that only temporarily reduce costs or prevent future cost increases are omitted.

LABOR & EMPLOYMENT REGULATIONS

Employers in Colorado have historically benefited from an exceptionally robust and highly skilled labor force. The state has, over the last few decades, convened one of the country's most well-educated populations with the promise of a high quality of life and abundant employment opportunities. Recently, though, tightening labor laws and the influence of the COVID-19 pandemic have left Colorado employers struggling to find new workers, retain existing ones, and adapt to economic changes. Though Colorado remains a relatively attractive place to work, the state's business-friendliness is declining and its costs are increasing. In both the short and long terms, this could drive out businesses and productivity and cost Colorado one of its greatest competitive advantages.

The 10 labor and employment laws and regulatory policy changes featured in the table below constitute a subset of state-level regulations which address interactions between employers and employees. These impact the cost of labor through wages, non-wage benefits, and employee hiring and retention.

- Not every such regulation is included; the focus of this report is on those with the most significant projected cost impacts.
- Where practicable, costs quantified; where not, the presumptive natures of the bills' associated costs are noted.

Labor and Employment Policies			
Title	**Description**	**Status**	**Approximate Cost**
2020 Proposition 118	Enacts a statewide family and medical leave program	In effect (2023)	$876,706,515 annually (plus a $418,198,741 employee portion)[x]
SB20-207	Incrementally raises the unemployment insurance base wage from $13,600 to $30,600 by 2026	In effect	$120,000,000 annually[xi]
SB23-098	Imposes regulatory requirements, such as pay transparency and protection against frivolous termination, upon delivery network companies and transportation network companies	Under consideration	$4,000,000 annually plus some indirect costs[xii]
HB23-1118	Imposes several highly restrictive shift-scheduling laws	Failed	Between $2,200 and $5,800 per covered shift employee per year[xiii]
SB20-205	Requires employers to offer 48h of accrued sick leave per year	In effect (2021)	Increased labor costs
SB21-039	Requires employers to eliminate sub–minimum-wage employment (tipped employees)	Pending (2025)	Increased labor costs
SB21-087	Grants a host of labor rights, including collective bargaining rights, to agriculture workers	In effect (2022)	Increased labor costs
SB23-105	Requires employers to disclose compensation and advancement information to prospective employees	Under consideration	Increased administrative costs
SB19-085	Requires employers to disclose compensation information to prospective employees and forbids them from offering disparate wages based upon demographics, salary history, or location	In effect	Increased administrative costs, decreased likelihood of attracting remote workers

KEY TAKEAWAYS

- The total annual cost of the three listed labor and employment policies that can be easily quantified is $996,706,515.
- Colorado is already experiencing high costs and yet the impacts of several of the above policies are only just beginning to be felt. This includes paid family leave, sick leave, and the unemployment insurance base wage hike.
- Though large transfers to the Unemployment Insurance Trust Fund reduced employer premiums significantly relative to what they otherwise would have been, the total FY23 UI premium is nonetheless 59% more than what it was in FY19.[xiv]
- The fair workweek (HB23-1118) and unlawful termination (SB23-098) bills indicate that the practice of proposing increasingly strict employment provisions is becoming more prevalent.

ENVIRONMENTAL REGULATIONS

Since the passage of HB19-1261, lawmakers and regulators in Colorado have prioritized developing policies that reduce the emissions, energy usage, and environmental impacts of the state's commercial and industrial sectors. Regrettably, they have largely endeavored to that end with little regard for the costs that their efforts impose upon the private sector. As a result, even though the state is not on track to reach the emissions-reduction goals outlined in HB19-1261, Colorado employers cite the billions of dollars of costs associated with novel energy and environmental policy as one of their two most pressing concerns. If existing trends persist, these costs, which impact both businesses and individuals, could grow beyond sustainable levels and threaten Colorado's competitive standing.

In total, CSI has identified fifty-five energy/environment bills or regulations that have been enacted since 2019. [xv]

- This section analyzes the 12 policies from that group that are projected to drive costs most significantly.
- As in the previous section, where practicable, costs are quantified and, where not, potential costs are described qualitatively.

Energy and Environment Policies

Title	Description	Status	Approximate Cost
HB21-1286	Requires building owners to benchmark the energy usage of their buildings of over 50,000 square feet with the state and meet new energy-usage requirements	In effect (2022)	$3,100,000,000 over 27 years[xvi]
SB21-260	Adds many new fee enterprises on transportation activities such as vehicle registration, ride-sharing, and retail deliveries, many of which are set to grow considerably over time	In effect (2022)	$380,000,000 annual average over 10 years (including some costs to individuals)[xvii]
SB20-204	Adds an air quality fee enterprise which collects fees from polluters	In effect (2021)	$3,444,659 annually[xviii]
SB19-181	Imposes many new regulations upon the oil-and-gas industry	In effect (2020)	$489,500,000 annually[xix]
HB23-1216	Establishes some regulations regarding natural gas distribution	Under consideration	Increased production costs
HB23-1161	Establishes environmental standards for newly sold electrical appliances	Under consideration	Increases prices and potential for energy savings in the long run
HB22-1249	Requires the state to develop a microgrid "roadmap" whereby the construction of microgrids is encouraged	Pending (2025)	Increased generation costs and electricity prices

Energy and Environment Policies			
Title	**Description**	**Status**	**Approximate Cost**
HB22-1244	Requires some businesses to submit emissions reports to the state and directs the AQCC to regulate some pollutants more stringently than does the Clean Air Act	In effect (2023)	Increased production costs
HB22-1362	Requires the state to develop new building energy codes	Pending (various)	Increased construction costs and utility prices
SB21-246	Requires private utilities to create electrification plans	In effect (2022)	New construction costs and increased generation costs
SB21-246	Requires gas utilities to develop plans to reduce their emissions in accordance with a reduction schedule	In effect (2023)	New construction costs and increased generation costs
HB21-1162	Allows local governments to ban plastics	In effect (2023)	Increased material costs

KEY TAKEAWAYS

- The total annual cost of the four listed energy and environment policies that can be easily quantified is $987,759,474.
- Colorado is already experiencing high costs and the impacts of several of the above policies, many of which can't yet be quantified, are only just beginning to be felt. This includes building benchmarking, new energy codes, and utility electrification plans.
- Some recent environmental policies, like tax credits for purchasing energy-efficient equipment, could save Coloradans and their businesses money, but these savings are dwarfed by the costs of other laws.
- The benchmarking bill (HB21-1286) is an instructive example of a process that appears to be backwards; the bill was passed prior to conducting a cost-benefit analysis. When debated in 2021, it had zero projected direct costs and was presumed by its supporters to generate savings. Now, two years later, there is immense uncertainty: one study estimates that 8,000 buildings will incur an aggregate expense of more than $3 billion over 27 years and that the regulation will also generate $6 billion in savings. The questions of who will bear the costs and receive the benefits, on what timeline, and with what level of certainty, remain open. If costs are immediate, certain, and borne by a small subset of businesses, while benefits are long-term, speculative, and diffuse, this should provoke serious discussion about the wisdom and fairness of the regulation. At the very least, analysis should allow for this to be discerned.

State-by-state Regulatory Comparisons

In order to develop a sense of where Colorado fits in the national competitive landscape regarding labor & employment regulations and environmental regulations, the table below compares selected Colorado policies and outcomes with those in several other states. These states include geographic and peer competitors (Arizona and Utah), states that have recently experienced significant net migration inflows (Texas and Florida), and some that have lost population (New York, Illinois, and California).

Comparison of Selected State Policies and Outcomes

	Colorado	Arizona	Utah	Texas
Paid Family/Medical Leave	**Yes; both family and medical leave under one of the country's most generous programs (launching in 2024)**	No	No	No
Sick Leave	**Yes; up to 48 accrued hours per year for all businesses.** Colorado's 48-hour requirement is the largest of any surveyed state for businesses with 100 or fewer employees.	Yes; up to 40 accrued hours per year for firms of at fewest 15 employees, up to 24 hours for firms of fewer than 15 employees	No	No
Unemployment Insurance Maximum Premium	**6.28% (projected) of yearly wages up to $30,600 in 2026 (insolvent during the pandemic at a lower wage base)**	18.78% of yearly wages up to $8,000	7.3% of yearly wages up to $44,800	6.23% of yearly wages up to $9,000
Fair Workweek Laws	**Proposed statewide shift-scheduling/ pay penalty law for large food and retail establishments failed during the 2023 legislative session**	No	No	No
Building Benchmarking/ Electrification Laws	**Statewide benchmarking and emissions-reduction targets for buildings of over 50,000 square feet (estimated to cost $3.1 billion in building upgrades)**	Benchmarking laws are prohibited statewide	Benchmarking (no performance mandates) of buildings of over 25,000 square feet in Salt Lake City	Voluntary benchmarking in Houston and Fort Worth and mandatory benchmarking of buildings of over 10,000 square feet in Austin (no performance mandates)
Statewide Emissions-reduction Targets	**Statewide 90% emissions reduction by 2050**	No	No	Net zero emissions in Austin by 2040
January Electricity Price Growth since 2019	**12.2%**	3.6%	4.0%	5.7%

Comparison of Selected State Policies and Outcomes (Cont.)				
	Florida	**California**	**New York**	**Illinois**
Paid Family/Medical Leave	No	Yes; both family and medical leave (through State Disability Insurance) since 2004	Yes; both family and medical leave (excluding personal medical leave) since 2018	No
Sick Leave	No	Yes; up to 24 hours per year	Yes; 56 hours per year for firms of at fewest 100 employees, 40 hours for firms of fewer than 100 employees	Yes; up to 40 accrued hours per year (2024 start)
Unemployment Insurance Maximum Premium	5.4% of yearly wages up to $7,000	6.2% of yearly wages up to $7,000 (worst insolvency during the pandemic; still $18.6 billion in debt)	9.9% of yearly wages up to $12,300 (insolvent during the pandemic; still $8.1 billion in debt)	8.65% of yearly wages up to $13,271 (insolvent during the pandemic)
Fair Workweek Laws	No	No statewide law; 10-day advance shift scheduling law with pay penalties in Los Angeles	No statewide law; 72-hour advance shift scheduling law with pay penalties in New York	No statewide law; 14-day advance shift scheduling law with pay penalties in Chicago
Building Benchmarking/ Electrification Laws	Statewide voluntary benchmarking, performance requirements for some state-owned buildings, and a benchmarking and performance mandate for most large buildings in Miami	Statewide benchmarking program and several local benchmarking and performance mandates	Mandatory benchmarking of buildings of over 50,000 square feet in New York City	Mandatory benchmarking of large buildings in Chicago and Evanston
Statewide Emissions-reduction Targets	No	Statewide 85% emissions reduction by 2045	Statewide emissions reduction to 15% of 1990 levels by 2050	Emissions reduction to 20% of 1990 levels by 2050 in Chicago
January Electricity Price Growth (2019–2022)	14.7%	27.9%	26.0%	10.1%

KEY TAKEAWAYS

- **Colorado's recent labor and employment and environmental policies more closely resemble policies in states experiencing negative net migration than those in states experiencing growth.**
- **Colorado also appears to be moving in a policy direction that is out of sync with at least two of our geographic peer competitors.**

Recommendations

Data from the Department of Regulatory Agencies indicate that an average of 444 rulemaking filings occurred annually over the past decade. That is 1.2 new state regulatory filings per day and more than 4,430 over the last ten years. Because filings can contain either a single or multiple rule changes, the actual number of new regulations is even higher.

In 2021, through efforts by the business community, HB21-1230 passed and established a publicly accessible website with information about regulations across topics and agencies. Through iterations to this platform, it could serve as a critical analytical tool for assessing the full body of recent reforms in particular policy areas prior to developing new rules.

- Because work is becoming more mobile and competition for businesses and workers is intensifying, prudent policymakers would be wise to consider developing a process for assessing the aggregate costs of regulations and their impacts on Colorado's competitive position.

The current process for conducting cost-benefit analyses of individual bills and rules needs reform in order to accurately forecast the impact of legislation and rulemaking prior to enactment. Most glaringly, the current system of fiscal notes studies only what each proposed bill costs the state government, not what it costs employers and how those employer costs cascade through the economy.

- More significantly, there should be a process for analyzing the aggregate costs of regulations and how they impact Colorado's competitive position relative to other states.

Conclusions

- Colorado remains a very attractive place to live and work for well-documented reasons including its skilled workforce, technology and innovation, moderate tax policies, and natural beauty.
- A recent decline in net migration coupled with persistently high costs of living and doing business could foreshadow a decline of the state's competitiveness. This could have significant impacts on our economy and quality of life.
- Recently enacted and currently proposed labor & employment and environmental policies, particularly when considered as an aggregate, are increasing costs for businesses and the workforce, relative to our peer competitors.
- We do not impugn the motives behind these regulations or assert that they produce no benefits. They do, however, generate costs which percolate throughout Colorado's economy and potentially undermine our competitiveness.

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