

It's stock show time

CEO Andrews says new master plan won't deter 2015 event.

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Who's in command at the Capitol?

As the Colorado Legislature gets back to business, we look at what issues they will face — and which special interests have the most clout. **COVER STORY, A4**

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COVER STORY

Lawmakers get back to business



The Colorado Legislature begins its 2015 session Jan. 7 on the heels of the most-expensive election campaign season in Colorado history – a season driven by special interests wanting to put favored candidates into office.

As lawmakers prepare to consider bills on construction-defects reform, drilling regulations and other issues important to business, we look at who is giving the most to influence members of the Legislature.



PHOTOS: KATHLEEN LAVIE, BUSINESS JOURNAL

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As supporters of construction-defects reform legislation in Colorado plot how they are going to pass a proposed law in the upcoming session of the state Legislature, they are considering several important numbers.

Forty-one Denver-area mayors have

vowed to lobby for the effort. Thirty-three votes are needed to pass the bill through what will be a contentious House of Representatives.

And then there's a bigger number: the \$65,000 in donations that the Colorado Trial Lawyers Association gave over the past two years to campaign-winning legislative Democrats who the group hopes will kill any reform effort.

To many observers, that's the figure that matters most.

"I don't think there's any argument that trial lawyers really run the show here," said Tony Gagliardi, state director for the National Federation of Independent Business, which gave a comparatively paltry \$5,000 in donations to winning candidates last year. "There are Republicans out there who will not go head-to-head with the trial lawyers. And there's business groups out there that feel the same way."

Defining power in the Legislature is difficult. One can measure it by the

number of lobbyists a given interest group employs, the success interest groups have in passing or defeating bills or even observations on who can generate followers or supporters for their causes.

But money is clearly a big factor when it comes to politics. And so, the Denver Business Journal pored through the campaign-finance records of all 83 candidates – 65 House members and 18 senators – who won their races in November.

MORE ONLINE

This report continues in coming days at DenverBusinessJournal.com. For all online elements of the report, visit bizj.us/198hct.

ONLINE NOW

Story: Legal issues beyond just construction-defects lawsuits are likely

to make tort reform one of the biggest battles of the 2015 session.

Story: Site selectors who gathered in Denver last fall offered suggestions about economic incentives that could make the state more competitive for new jobs.

Video: Ed Sealover talks about this week's cover story.

COMING MONDAY, JAN. 5

Story: Coverage of the legislative leaders' breakfast sponsored by the Colorado Competitive Council, Denver Metro Chamber of Commerce and Denver Business Journal.

COMING TUESDAY, JAN. 6

Story: A look at the two vastly different sides to the debate over construction-defects reform.

COMING WEDNESDAY, JAN. 7

Story: Live coverage of legislative leaders' opening-day speeches and the first round of bills to be filed.

COVER STORY



“I don’t think there’s any argument that trial lawyers really run the show here,” said Tony Gagliardi, state director for the National Federation of Independent Business.

And it broke down the leading contributors to these 42 Republicans and 41 Democrats in an effort to determine the associations, business groups and unions who helped to pay for their victories.

This analysis alone can’t capture the magnitude of the funding and influence in an election that was the most costly in state history. Money given to nonprofit 527 and 501c4 groups and put directly to campaigns run by issue groups, unions and corporations isn’t accounted for here.

But in many ways, the money donated directly to candidates may suggest the closest link between legislators and donors – groups that gives very openly to that official, suggesting that the donation signals an effort on the part of the giver to persuade the receiver to agree with them on issues that may come up as bills over the next two years.

This much is obvious: Interest groups are giving much more generously to Democrats than Republicans, and often exclusively to Democrats or mostly to Democrats and perhaps a token GOP representative.

Six of the 10 biggest donor organizations are unions that gave only to Democrats, and a seventh, the aforementioned CTLA, gave only a minimal amount of money to Senate Republicans who either ran without Democratic opposition, or were considered locks to win their races in safely red legislative districts.

Unions give more generously than business political action committees, and many of the biggest-spending business groups – including Realtors, auto dealers and cable-television companies – parse out their donations almost equally between Democrats and Republicans.

Some of those business groups especially say they don’t have a particular agenda they want their candidates to back as they are hoping to keep the status quo. Or, they contribute to build relationships with candidates in case a major issue arises in the future.

When presented with the results of this analysis, different groups have very different opinions.

Democrats say GOP backers hide their money better through “soft-money” donations that don’t go to the candidates directly. They also say much of the support they receive reflects an ideological agreement with their donors rather than a desire for legislators to vote one way or another on particular issues.

“There’s not a lot of evidence in the state of Colorado that we’re even close to being corrupt in that regard,” said state Rep. Dickey Lee Hullinghorst, a Gunbarrel Democrat and the incoming House Speaker, who worked as an intergovernmental lobbyist for Boulder County for many years before being elected.

“I think you tend to get support from those folks who understand your values and not the other way around.

You don’t support their efforts just because you got a contribution from them,” she said.

But business groups say that when they go up against unions or trial lawyers, they often feel like they are fighting more than just an ideological battle over which side has the better idea for Colorado.

Dave Davia – CEO of the Colorado Association of Mechanical and Plumbing Contractors, which gave nearly twice as much of its \$10,600 in contributions to winning Democrats this past year as it did to victorious Republicans – said that groups that give heavily to candidates just seem to have more access to them on key matters.

“They benefit from the way the current system is crafted,” Davia said. “They have power through influence. Influence is given to them by giving money.”

The No. 1 issue for 2015?

Construction-defects reform legislation – considered by many organizations to be the top business issue of the upcoming session – may provide a window into just how much organizations on both sides of the ideological divide wield influence.

State Sen. Jessie Ulibarri, a Westminster Democrat, introduced a bill a week before the scheduled end of the 2014 session that would have made it harder for small numbers of condominium residents to file class-action lawsuits against the property builders.

Opponents argued that Ulibarri’s bill took away the legal rights of homeowners to sue builders of defective dwellings. Backers said then, and continue to believe, that language like Ulibarri proposed is necessary to end a freeze in the industry on the construction of affordable condos – a situation that has made it harder for lower-income metro-area residents to buy property.

Fear of lawsuits has essentially halted construction of owner-occupied multi-family developments in the Denver metro area, which are especially needed near new transit lines. Instead, developers are building apartment buildings, which don’t carry as big a threat of lawsuits because of the concentration of ownership. There

BIGGEST DONORS

Here is a look at what organizations and businesses gave the most to winning candidates in Colorado legislative races this year, as well as how much they gave to each party’s victors.



Source: Colorado Secretary of State’s Office

typically is a single apartment building owner, whereas condominium units are individually owned.

Supporters of changing the current law include a diverse coalition of builders, economic-development leaders, affordable-housing advocates and every member of the Metro Mayors Caucus. But after passing it out of its first Senate committee last year, Ulibarri watched the bill die on a procedural move as the session wound down.

Former Senate President Morgan Carroll, D-Aurora, and former House Speaker Mark Ferrandino, D-Denver, vowed to kill the measure. They said the lack of condominium construction was more of a function of a market recovering from a recession than a symptom of the state’s legal statutes.

Hullinghorst, largely agrees, saying lawmakers should look at the big-

LOTS OF LOBBYISTS

Money can’t buy success in passing a bill through the Colorado Legislature. But it can buy you lobbyists. Here is a look at the organizations that had the most lobbyists registered to work for them, according to mid-November records.

<div>9 each</div> <div>Colorado Hospital Association</div> <div>Comcast</div> <div>8 each</div> <div>Colorado Center on Law and Policy</div> <div>Corrections Corp. of America</div>	<div>7 each</div> <div>Altria (parent company of Philip Morris USA)</div> <div>CenturyLink</div> <div>Denver Health</div>	<div>6 each</div> <div>American Bail Coalition</div> <div>Anheuser-Busch</div> <div>AT&T</div> <div>Colorado Farm Bureau</div> <div>Colorado Fiscal Institute</div> <div>Colorado Nonprofit Association</div> <div>Colorado Petroleum Association</div> <div>Denver city government</div> <div>Douglas County</div> <div>Eli Lilly and Company</div> <div>Planned Parenthood</div> <div>Uber</div> <div>Xcel Energy</div> <div>Source: Colorado Secretary of State’s office</div>
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COVER STORY

CONTINUED FROM PAGE A5

picture issue of middle-class housing affordability rather than dwelling on whether or not to crimp condo owners' right to sue over defects.

CTLA executive director John Sadwith said that homebuilders and backers of the reform appear more concerned with taking away residents' rights to a jury trial than with striving for quality construction.

"In Colorado, 'buyer beware' should not become the new standard in condo construction," Sadwith said.

Kelly Brough, president/CEO of the Denver Metro Chamber of Commerce, said she initially questioned the role money played in killing Ulibarri's bill, but she ultimately came to the conclusion that it was introduced too late in the session to succeed.

But backers say they have a strong majority of both chambers willing to vote for the bill if it can get to a full floor vote this year – a showdown that is likely under the control of new Senate President Bill Cadman, R-Colorado Springs, but will be more difficult in the House.

And they say that it is the power of the CTLA – which gave money as an organization to 34 of the 41 victorious Democrats this year and had members give in large sums to those candidates as well – that stops many Democrats from considering breaking ranks and backing the bill. Gagliardi, in fact, said the behind-the-scenes power wielded by the CTLA even makes some Republicans and business groups reluctant to cross it, for fear that it will push more plaintiff-rights legislation that, if passed, could make operating other types of businesses more expensive.

If they are right, this year's efforts at construction-defects reform could take a hit once again.

"I don't think it's going to be an issue in the Senate. We know what the dynamics are going to look like there. If there are any anti-business bills introduced, they're going to have a hard time getting through," said Loren Furman, senior vice president of state and federal relations for the Colorado Association of Commerce and Indus-

A construction-defects reform bill reaching the floor of the Senate would likely get a vote under new president Bill Cadman, but would be a more difficult proposition in the House.



TOM TORGOVE, SPECIAL TO THE BUSINESS JOURNAL

try, which donated \$21,925 to winning candidates – about 70 percent of that to Republicans. "But in the House, it's going to matter. I think there's going to be a lot of leverage applied. Money talks, right?"

COPIC, med society are big donors

Maybe an even better indicator of influence, however, can be seen in bills that very likely are not going to be introduced in 2015.

In 2014, California residents rejected a ballot initiative to raise the caps on medical-malpractice lawsuit damages, but not until after opponents of the measure spent about \$60 million on a campaign to defeat it. It's not likely that the same fight will be repeated in the Colorado Legislature.

One major reason: The two biggest donor organizations to legislative candidates are COPIC – the state's doctor-founded medical-malpractice insurance company – and the Colorado Medical Society, both of whom say the stability of the current tort system

is their top legislative priority for 2015.

The two groups spent a combined \$288,520 on winning candidates in 2014 and doled out their money almost evenly – \$145,700 to Democrats and \$142,820 to Republicans.

Both organizations say their success can be tied to the fact that it's not just money that they give to candidates.

COPIC, for example, brings in both incumbents and newly elected legislators after the elections to give them what public affairs director Beverly Razon refers to as "COPIC 101" sessions where officials explain how the company was created 30 years ago to battle insurance rates that were going through the roof. COPIC also promotes how it also works with doctors to improve patient safety and risk management.

The Colorado Medical Society, which also advocates for issues like improved Medicaid access and increased allowance of telehealth practices, believes its primary goal with legislators is education, president Tamaan Osbourne-Roberts said.

In addition to the candidate's position on medical issues, its endorsements – which came this year with donations as large as \$4,900 from the main political action committee and small donor committee combined – are based also on the candidate's ability to win a race.

The strategy appears to be working. It's been six years since any attempt was made to raise medical malpractice caps and about 10 years since even small changes were made to medical tort law in the state. And doctors have maintained their control over their scopes of practice, despite groups like nurses seeking to be able to perform more tasks on their own that traditionally have been left to physicians.

"The Colorado General Assembly has made some very positive decisions in the past few years in both policy and funding that CMS has strongly supported," Osbourne-Roberts said. "We don't always get what we want and no group does or should, but we feel good that our voice is heard and given fair consideration."

The Colorado Automobile Dealers

PICKING WINNERS

While most donors in the 2014 legislative elections gave to both parties or at least to multiple candidates, a few picked just one winning candidate to fund. Here's some examples.

<div>ADOPTEEES IN SEARCH \$400</div> <div></div> <div>Rep. Lori Saine, R-Firestone</div> <div>Saine sponsored two bills in 2014 allowing easier access to adoption records by involved parties. This group that brings together adoptees and parents clearly appreciated that.</div>	<div>CANNABIS CONSUMERS UNION \$100</div> <div></div> <div>Rep. Jonathan Singer, D-Longmont</div> <div>Singer sponsored last year's bill allowing the creation of cannabis credit co-ops. That netted him a donation less than the cost of one high-quality ounce of weed.</div>	<div>COLORADO CHILD CARE ASSOCIATION \$450</div> <div></div> <div>Rep. Crisanta Duran, D-Denver</div> <div>Duran was the only one of three sponsors of a 2014 bill increasing child-care assistance to stand for and win election last year.</div>	<div>OSTEOPATHIC PHYSICIANS PAC \$100</div> <div></div> <div>Sen. Cheri Jahn, D-Wheat Ridge</div> <div>Chiropractors and osteopaths both treat disorders of the musculoskeletal system. The Colorado Chiropractic Association gave a combined \$21,600 to 44 different winning candidates; this group gave to just one victor.</div>	<div>WALGREEN PAC \$50</div> <div></div> <div>Clarice Navarro, R-Pueblo</div> <div>Something about this small businesswoman caught the eye of the large pharmacy chain, despite the fact that she hasn't sponsored a pharmacy-related bill in the past two years</div>
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COVER STORY

EIGHT BUSINESS ISSUES TO WATCH IN 2015

Construction Defects Reform

1 Senate President Morgan Carroll, D-Aurora, used a procedural move to kill a bill late in the 2014 session that would have made it harder for small numbers of condominium residents to file multi-million-dollar defects lawsuits — a provision of existing law that business leaders say has stopped builders from putting up any affordable condos. A similar bill is coming back this year now that Republicans are in charge of the Senate, and the ultimate battleground may shift to the House.

Oil and gas regulations

2 A task force appointed by Gov. John Hickenlooper is expected to issue recommendations around mid-session on whether local governments should have more authority over oil and gas wells. When it does, a number of business groups have said they are poised make sure that whatever the Legislature considers does not hurt the industry. House Republicans even are hoping to penalize any communities that try to ban fracking.

Family Medical Leave Act

3 Another late-session bill last year unsuccessfully sought to create a state-run, worker-funded system that would have allowed employees at private companies throughout Colorado access to paid medical leave. Business groups opposed the cost of administering the program and the way it creates a de facto statewide sick-leave policy, and many plan to fight the effort vigorously again.

House Bill 1136 reform

4 A divisive 2013 law allowed plaintiffs in anti-discrimination lawsuits to recover compensatory and punitive damages and attorney's fees for the first time against businesses with less than 15 workers. House Republicans will try to eliminate the punitive-damage awards, and a number of business groups say they'll support the effort.

Regulatory reform

5 For years, business leaders have said they want regulatory rollbacks, even if they've rarely identified specific laws they want to tamp down. It appears more groups are starting to rally behind what will be the third incarnation of GOP Rep. Libby Szabo's Regulatory Reform Act, which would mandate the state warn small businesses that are first-time offenders of non-public-safety rules rather than fine them for paperwork violations.

Data centers tax break

6 In an effort to increase the state's competitiveness in attracting data centers and the heavy capital investment that goes along with them, economic-development leaders are pushing for a bill that offers sales- and use-tax exemptions for equipment used in the facilities. A similar bill died in a Senate committee last year.

Business personal property tax cuts

7 Most business groups hailed as a good start a 2014 bill that increased from \$7,000 to \$15,000 the amount of equipment a business could own without owing the state any personal property tax. Rumblings suggest both Republicans and Democrats may look to increase that cap this year.

Vocational aid education

8 A number of industries lack medium-skilled workers trained to do the jobs they need. Though no one has put forth a specific proposal to address this yet, House Democrats say it's an important issue to address and groups like the Colorado Association of Mechanical and Plumbing Contractors say they'd be interested in proposed legislative solutions.

Association employs some similar strategies – and has achieved similar results. Though it ranked just 14th in terms of overall campaign giving to winners in 2014 with \$27,000 in donations, it ranked second behind only the Colorado Medical Society for the number of successful candidates it donated to in this last election cycle – 64 of the 83 who won their races.

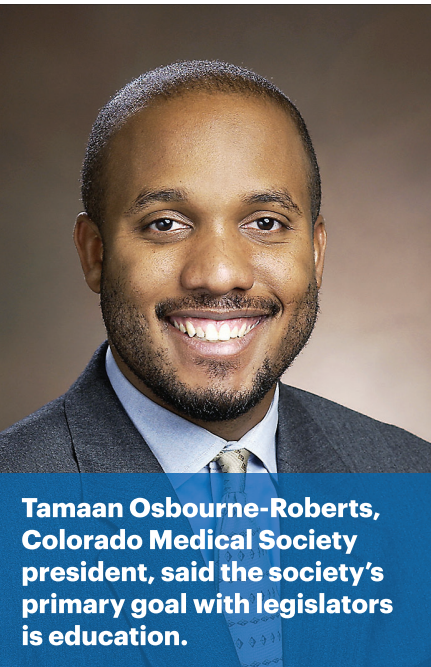
GOP GIVERS

While many of the biggest donors to 2014 legislative election winners gave solely to Democrats, a few organizations went the opposite way and contributed only to Republicans. Here are the biggest donors whose winning candidates came only from the GOP.

Rocky Mountain Gun Owners	\$18,500
Associated Builders and Contractors	\$6,500
National Federation of Independent Business	\$5,000
Coloradans for Common Sense	\$3,250
Colorado Springs Automobile Dealers Association	\$2,800

Source: Colorado Secretary of State's Office

CADA President Tim Jackson acknowledged that a candidate's views on particular issues related to auto sales usually are less important than their willingness to meet with local auto dealers and their ability to win. He noted that while the organization sometimes contributed to both candidates in a legislative race, it largely picked one and had an 87 percent success rate in 2014 choosing the winner. Once the election ends, CADA works to schedule a coffee or meal sit-down in the legislator's district with local auto dealers in order for them to explain issues that are important to them. These meetings rarely involve specific bills; Jackson noted there are no bills that the organization is asking legislators to run for it this year. But when auto dealers are the focus of a piece of legislation, they are effective. Four times since 2010, lawmakers have passed bills to give local dealers more rights in negotiations with national car companies, including the right to refuse some requests for dealership upgrades. The Legislative Audit Committee took the rare step in February of denying a legislator's request to audit the division of state government that oversees auto dealers. And the 63-year-old dealer-backed prohibition on Sunday car sales remains in place, even after the General Assembly voted seven years ago to overturn a similar blue law on Sunday liquor-store sales. "The old adage is that the most you



PROVIDED BY THE COLORADO MEDICAL SOCIETY

can hope for from a contribution is access; you can't really affect the vote," Jackson said. "Most of my legislative efforts are done outside the Capitol, as opposed to inside the Capitol."

It's not all about the money Hullinghorst cautions, however, that relying on donor records to determine which groups have power at the Legislature can be misleading. While builders may not have put as much money into legislative campaigns as trial lawyers – the political action committee for the Colorado Association of Home Builders contributed \$15,400 to winners this last cycle – they and other

business groups contributed indirectly through advocacy campaigns that were just as significant in the elections, she said. "We suffer from over-representation of corporate interests in this state over the average middle-class person and small business," she said. For all the talk of whether trial lawyers or unions or big business or doctors hold the most sway over the 65 House members and 35 senators at the Capitol, a year like 2015 could prove to be a good arbiter in that debate. Democrats hold a narrow 34-31 seat lead in the House, and Republicans a razor-thin 18-17 edge in the Senate. When one to three members of a party flipping their vote and siding with the minority could make all the difference in a bill's fate, there could be a record amount of lobbying from the same sources that donate to campaigns. Or this could be the year that proves that no matter how much money is given to candidates and professional lobbyists, it can't buy passage of many bills when there is divided control of the Legislature. Furman, for one, believes that after all the spending, campaigning and constituent meetings, this is the most likely scenario for this year. "Honestly, I see anything that is going to be anti-business or anti-one-industry-or-interest-group-or-another having a hard time getting to the governor's desk," she predicted. "I don't see a lot going to him – anything controversial, at least."