

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION
CLAUSE FOR INITIATIVE 2021-2022 #145

MOTION FOR REHEARING

On behalf of Colin Larson and John Brackney, registered electors of the State of Colorado and the designated representatives for Initiative 2021-2022 #145, the undersigned counsel hereby submits this Motion for Rehearing pursuant to C.R.S. § 1-40-107, and as grounds therefore states as follows:

I. INTRODUCTION

At the initial Title Board hearing on April 22, 2022, the Title Board, like it did for Initiative #75, followed the recommended staff draft of the title, which applied C.R.S. § 1-40-106(3)(f), and adopted a title that fundamentally misleads voters as the intent and effect of Initiative #145. The title, as currently drafted, states that the measure will cause a “reduction of \$1.2 billion in property tax revenue.” But that is not Initiative #145’s purpose, and C.R.S. § 1-40-106(3)(f) should not have been applied to the measure because it is not a “tax change” as defined in statute. The measure’s intent is to provide certainty as to the actual value of real property for purposes of property taxation to protect homeowners, businesses, and Colorado’s economic vitality. Separate and apart from this, a downstream effect of the measure may be the slowing of the rate of increase in revenues collected by some local districts. No district, however, would experience a true reduction in revenue in any year as a result of this measure. That language in the title therefore should not have been applied to Initiative #145. It fundamentally deceives voters about both the intent and the effect of the ballot measure, and must be removed.

II. ARGUMENT

a. The Title adopted by the Title Board improperly and unfairly uses the structure in C.R.S. § 1-40-106(3)(f).

1. The applicable statutory provisions.

Passed last year as part of House Bill 21-1321, C.R.S. § 1-40-106(3)(f) provides that specific language should be inserted at the beginning of the title for a particular type of measure:

(f) For measures that reduce local district property tax revenue through a tax change, the ballot title must begin “Shall funding available for counties, school districts, water districts, fire districts, and other districts funded, at least in part, by property taxes be impacted by a reduction of (projected dollar figure of property tax revenue reduction to all districts in the first full fiscal year that the measure reduces revenue) in property tax revenue...?”. The title board shall exclude any districts whose property tax revenue would not be reduced by the measure from the measure’s ballot title. The estimates reflected in the ballot title shall not be interpreted as restrictions of a local district’s budgeting process.

Thus, based on the plain language of the statute, the words beginning with “Shall funding . . .” should only be used in measure’s title if it would: (a) reduce local district property tax revenue; and (b) do so through a tax change.

A “tax change” is a critical element triggering the use of that language in a title. C.R.S. § 1-40-106(3)(i)(II) defines this term as follows:

(II) “Tax change” means any initiated ballot issue or initiated ballot question that has a primary purpose of lowering or increasing tax revenues collected by a district, including a reduction or increase of tax rates, mill levies, assessment ratios, or other measures, including matters pertaining to tax classification, definitions, credits, exemptions, monetary thresholds, qualifications for taxation, or any combination thereof, that reduce or increase a district’s tax collections. “Tax change” does not mean an initiated ballot issue or initiated ballot question that results in a decrease or increase in revenue to a district in which such decrease or increase is incidental to the primary purpose of the initiated ballot issue or initiated ballot question.

Therefore, if a measure does not fit within the definition of a “tax change,” then then language in C.R.S. § 1-40-106(3)(f) must not be used in the measure’s title.

2. Initiative #145 would not result in a “tax change.”

Initiative #145 is not a “tax change” because, under the plain language of C.R.S. § 1-40-106(3), it does not have a “primary purpose of lowering or increasing tax revenues collected by a district” and it does not fit within any of the examples of a “tax change” listed in C.R.S. § 1-40-106(3)(i)(II).

The measure’s primary purpose is creating predictability as to real property values for purposes of property taxation by establishing a predictable rate of growth. The measure does so by establishing that the actual value of real property

is equal to the 2023 property tax year at the current valuation or the most recent sale amount, and thereafter providing that the actual value be equal to the prior year's value adjusted for inflation up to 3% and allowing an additional increase if the annual inflation exceeds 5% and an increase is approved by the General Assembly. While it is certainly possible that the measure, by creating this predictability, could reduce property tax revenue for some local districts for certain years, lowering such revenue is not a primary purpose of the measure. Indeed, absent this measure, property values could increase in the future at a rate lower than 3%, which would mean that the measure may not have much impact on property tax revenue at all. In addition, the impact to local governments will vary and depend on several factors, including mill levies and the composition of properties in each jurisdiction. Local governments, school districts, and other districts with floating mill levies will adjust these levies as necessary to keep revenue constant. Finally, by establishing a predictable rate of growth for actual value of properties, the measure may actually increase revenue to at least some local districts by incentivizing new development. Thus, lowering tax revenues collected by a district is not a primary purpose of the measure, and any such lowering is merely incidental to the primary purpose of creating predictability as to the actual value of properties.

That Initiative #145 does not have lowering tax revenues as a primary purpose is further illustrated by the fact that it does not fall within *any* of the examples listed under the definition of “tax change” in C.R.S. § 1-40-106(3)(i)(II). The measure provides a predictable growth rate on the actual value of real properties. It does not increase or decrease tax rates, mill levies, or assessment ratios. It also has nothing to do with tax classifications, definitions, credits, exemptions, monetary thresholds, or any combination thereof. **None** of the examples in the statutory provision fit the measure.

Although it is true that the list of examples in C.R.S. § 1-40-106(3)(i)(II) may be non-exhaustive, Colorado courts would apply one of the most prominent canons of statutory construction—*ejusdem generis*—in ascertaining whether Initiative #145's amendment to the property tax provisions is a “tax change.” Under *ejusdem generis*, “where a general term follows a list of things in a statute . . . the general terms are applied only to those things of the same general kind or class as those specifically mentioned.” *Winter v. People*, 126 P.3d 192, 195 (Colo. 2006) (concluding that the phrase “other apparatus or equipment” applied only to those things that share the characteristics of the items listed in the statute); *Davidson v. Sandstrom*, 83 P.3d 648, 656 (Colo. 2004) (“[W]hen a general word or phrase follows a list of specific persons or things, the general word or phrase will be interpreted to include only persons or things of the same type as those listed.”) (quoting *Ejusdem Generis*, *Black's Law Dictionary* (7th ed. 1999)). Applying this canon, the phrase “that has a primary purpose of lowering or increasing tax revenues collected by a district,” as well as the term “other measures,” must fit within the general kind or

class of the specific types of “tax changes” listed in the statute. The establishment of a predictable growth rate on the actual value of real property does not do so. While this central feature of the measure impacts the base value (*i.e.*, the “actual value” of the real property) used in calculating property taxes, tax rates, mill levies, and assessment ratios pertain to the multiplier, which is expressed as a fraction or percentage. In other words, the predictable growth rate is not within the general kind or class that the General Assembly has deemed a “tax change.”

3. The legislative history behind House Bill 21-1321 confirms that measure such as this one should be excluded from the requirements of C.R.S. § 1-40-106(3).

Even if section 1-40-106(3) was ambiguous, the legislative history demonstrates that the section was not intended to apply to measures such as Initiative #145.

When introduced, House Bill 21-1321 used the term “tax policy change” rather than “tax change.” (Ex. 1, H.B. 21-1321 as Introduced.) “Tax policy change” is a term used in section 20 of article X of the Colorado Constitution, which is also known as the Taxpayer’s Bill of Rights (“TABOR”). *See* Colo. Const. art. X, § 20(4) (requiring that districts must have voter approval in advance for “any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district”). Although undefined in TABOR, this Court has construed “tax policy change” to mean something more than a legislative change causing only an incidental and de minimus revenue increase. *TABOR Found. v. Reg’l Transp. Dist.*, 416 P.3d 101, 106 (Colo. 2018) (noting that “tax policy change” is found “in a list of other governmental actions that all function primarily to raise tax revenue: raising a tax rate, raising a mill levy, raising the value-for-assessment property-tax ratio, and extending an expiring tax”).

The Final Act of House Bill 21-1321 substituted “tax change” for “tax policy change” and then defined “tax change.” (Ex. 2, H.B. 21-1321, Final Act.) This change was made in a Senate Floor Amendment at Third Reading. (Ex. 3, H.B. 21-1321, Senate Floor Amendment Third Reading.) There are no sources indicating what prompted the change. Nevertheless, while “tax policy change” may arguably include the changes proposed in Initiative #145, *see TABOR Foundation*, 416 P.3d at 106 (citing Webster’s New College Dictionary’s definition of “policy” “as principle, plan, or course of action”), “tax change” has a more narrowly defined definition.

Instead, the best evidence of intent can be found in Governor Jared Polis’s signing statement for House Bill 21-1321.¹ (Ex. 4, Signing Statement.) In that statement, Governor Polis specifically stated that “this legislation does not apply to measures that seek to slow the rate of increase of revenue because such measures do not necessarily result in a determinable increase or decrease in state or local revenue or funding for a particular program.” (*Id.*, at 2.) In other words, it would be improper to apply the language in C.R.S. § 1-40-106(3) to measures such as Initiative #145.²

Governor Polis is correct—such measures are fundamentally different. Initiative #145 provides a growth rate that provides predictability and may slow the rate of growth of the actual value of a property. It falls within the specific types of measure that are not tax changes and thus does not trigger C.R.S. § 1-40-106(3).

4. The first clause in the title set by Title Board must be removed because the measure is not a tax change.

Because Initiative #145 is not a “tax change” as defined in C.R.S. § 1-40-106(3)(i)(II), C.R.S. § 1-40-106(3)(f) is inapplicable. The first clause in the measure’s title—“Shall funding available for counties, school districts, water districts, fire districts, and other districts funded, at least in part, by property taxes shall be impacted by a reduction of \$1.2 billion in property tax revenue”—was therefore improperly added and must be removed. Otherwise, the title unfairly classifies the

¹ Although signing statements, such as this one, are not binding, they are one example of legislative intent. *Uncovering Legislative History in Colorado*, 32 COLO. LAW. 47, 50 (2003) (listing governor signing statements as a source of legislative history); *Gasperini v. Center for Humanities, Inc.*, 518 U.S. 415, 424 (1996) (citing a governor’s signing statement as evidence of legislative intent); *United States v. Cleveland*, 356 F.Supp.3d 1215 (D.N.M. 2018) (listing presidential signing statements as part of an act’s legislative history); Chad M. Eggspuehler, Note, *The S-Words Mightier than the Pen: Signing Statements as Express Advocacy of Unlawful Action*, 43:2 GONZ. L. REV. 461, 475 (2007-2008) (“No less than Justice Antonin Scalia, notorious as a justice who does not consider extrinsic legislative history materials at all, has suggested that presidential legislative history should at least be considered in parity with congressional legislative history materials.”).

² The proponents are aware of recent statements made by some of the legislative sponsors of House Bill 21-1321. See Jesse Paul, *Debate over wording of 2022 ballot measure could have multibillion-dollar consequences for Colorado schools*, COLO. SUN, Mar. 28, 2022, <https://coloradosun.com/2022/03/28/property-tax-ballot-measure-2022-colorado-wording/>. These statements were made after House Bill 21-1321 and therefore are not evidence of the legislative intent at the time of enactment.

measure as a “tax change,” which biases voters against voting for the measure due to the estimated reduction of \$1.2 billion in property tax revenue.³

5. The first clause in the title set by Title Board must be removed because it unfairly misleads voters and does not express the true meaning and intent of the measure.

Initiative #145’s title, as set, is also fundamentally misleading for at least two other reasons. First, the use of the word “shall” suggests that the measure is requiring “a reduction of \$1.2 billion in property tax revenue,” when that number is, per statute, only “a preliminary estimate of any change in state and local government revenues, expenditures, taxes, or fiscal liabilities.” See C.R.S. § 1-40-105(1.5)(a)(I). After reading the title as drafted, a voter would be confused to learn that the \$1.2 billion number is only a preliminary estimate of what could transpire, and not an actual requirement of the measure.

Second, nowhere in Initiative #145’s title is there an explanation that the \$1.2 billion number is a “projected dollar figure of property tax revenue reduction to all districts in the first full fiscal year that the measure reduces revenue.” See C.R.S. § 1-40-106(3)(f). Indeed, Initiative #145’s title provides no indication whatsoever as to which months or years the \$1.2 billion reduction in property tax revenue refers to. Voters are left in the dark and again would be surprised to learn that the \$1.2 billion number is a preliminary estimate that is limited to the first full fiscal year that the measure is projected to reduce revenue. This language therefore fails to express the true meaning and intent of Initiative #145.

b. Applying C.R.S. § 1-40-106(3) to Initiative #145 is unconstitutional.

Even if Initiative #145 is a tax change, which it is not, applying C.R.S. § 1-40-106(3) to the measure nevertheless violates the Colorado Constitution. As the Title Board knows, Article V, section 1 of the Colorado Constitution reserves to registered electors the right to initiate constitutional amendments. This right to petition is broad. Indeed, the statutory provisions governing ballot initiatives are to be “liberally construed” so as “to preserve and protect the right of initiative and referendum.” C.R.S. § 1-40-106.5(2).

By imposing the language at issue in the title, C.R.S. § 1-40-106(3) misleads voters about the intent and plain meaning of measures such as Initiative #145. It would cause voters to be biased against such measures by indicating that, if passed,

³ Indeed, the challenged language is particularly misleading because of the prevalence of districts with floating mill levies. For those districts, a decrease in assessed value could trigger an increase in mills to stabilize revenue. This would mean that the measure would not pose a change in revenue for as many as 25% of districts, making the challenged language inaccurate for a large percentage of Coloradans.

they would, for example, cause a “reduction of \$1.2 billion in property tax revenue.” As described above, Initiative #145 does not reduce revenue but rather slows the rate of increase in revenue collected by some local districts. Thus, by misleading voters and biasing them against measures such as Initiative #145, C.R.S. § 1-40-106(3) usurps the right to initiative. The Title Board must therefore remove the language at issue for this additional reason.

CONCLUSION

For the foregoing reasons, a rehearing is necessary to remove this language from the title that is unfair and does not fairly express the true meaning and intent of Initiative #145. Accordingly, the Proponents respectfully request that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 27th day of April, 2022.

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**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0922.02 Pierce Lively x2059

HOUSE BILL 21-1321

HOUSE SPONSORSHIP

Kennedy and Weissman,

SENATE SPONSORSHIP

Moreno and Pettersen,

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING VOTER TRANSPARENCY REQUIREMENTS TO INCREASE**
102 **INFORMATION ABOUT THE FISCAL IMPACT OF STATEWIDE**
103 **BALLOT MEASURES THAT WOULD RESULT IN A CHANGE IN**
104 **DISTRICT REVENUE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires that certain language appear at the beginning of a ballot title for an initiated measure that would either increase or decrease tax revenue through a tax policy change. In the case of a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

EXHIBIT 1

measure that would reduce state tax revenue through a tax policy change, the ballot title must begin "Shall funding available for state services that include but are not limited to (the three largest areas of program expenditures) be impacted by a reduction of (projected dollar figure of revenue reduction to the state in the first full fiscal year that the measure reduces revenue) in tax revenue...?". In the case of a measure that would reduce local district property tax revenue through a tax policy change, the ballot title must begin "Shall funding available for public services offered by counties, school districts, water districts, fire districts, and other districts funded, at least in part, by property taxes be impacted by a reduction of (projected dollar figure of revenue reduction to all districts in the first full fiscal year that the measure reduces revenue) in property tax revenue...?". In the case of a measure that would increase tax revenue for any district through a tax policy change, after the language required by section 20 (3)(c) of article X of the state constitution, the ballot title must state either "in order to increase or improve levels of public services", or, if applicable, "in order to increase or improve levels of public services, including, but not limited to (the program expenditure that the measure states will receive increased funding)".

The bill also creates additional requirements for the fiscal summary of an initiated measure that would increase or decrease the individual income tax rate or state sales tax rate. The bill requires the fiscal summary for such a measure to include a table that shows the average tax burden change for a filer in different income categories.

The bill changes the requirements for the ballot information booklet entry for certain measures. The bill requires the ballot information booklet entry for an initiated measure that would increase or decrease income tax revenue or state sales tax revenue to include a table that shows the number of tax filers in designated income categories, the total tax burden change for each of those income categories, and the average tax burden change for a filer within each of those income categories. If an initiated measure includes a tax policy change that reduces state tax revenue, the bill requires the ballot information booklet to include a description of the 3 largest areas of program expenditure funded by the affected revenue stream.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the "Ballot
3 Measure Fiscal Transparency Act of 2021".

4 **SECTION 2.** In Colorado Revised Statutes, 1-5-407, **amend** (7)
5 as follows:

1 **1-5-407. Form of ballots.** (7) No printing or distinguishing
2 marks shall be on the ballot except as specifically provided in this code
3 OR IN SECTION 1-40-106 (3)(e) TO (3)(h).

4 **SECTION 3.** In Colorado Revised Statutes, 1-40-105.5, **amend**
5 (1) and (1.5)(a)(IV); and **add** (1.5)(a)(V) as follows:

6 **1-40-105.5. Initial fiscal impact statement - definitions.** (1) As
7 used in this section, unless the context otherwise requires:

8 (a) "AREAS OF PROGRAM EXPENDITURE" MEANS CATEGORIES OF
9 SPENDING BY ISSUE AREA. FOR STATE EXPENDITURES, PROGRAM
10 EXPENDITURE REFERS TO TOTAL EXPENDITURES BY PROGRAM, AS LISTED
11 IN THE "BUDGET IN BRIEF" PREPARED BY THE JOINT BUDGET COMMITTEE
12 FOR THE MOST RECENT FISCAL YEAR.

13 (b) "Director" means the director of research of the legislative
14 council of the general assembly.

15 (1.5)(a) For every initiated measure properly submitted to the title
16 board, the director shall prepare a fiscal summary that consists of the
17 following information:

18 (IV) The following statement: "This fiscal summary, prepared by
19 the nonpartisan Director of Research of the Legislative Council, contains
20 a preliminary assessment of the measure's fiscal impact. A full fiscal
21 impact statement for this initiative is or will be available at
22 www.ColoradoBlueBook.com."; AND

23 (V) IF THE MEASURE WOULD EITHER INCREASE OR DECREASE THE
24 INDIVIDUAL INCOME TAX RATE OR STATE SALES TAX RATE, A TABLE THAT
25 SHOWS THE ESTIMATED EFFECT OF THE CHANGE TO THE INDIVIDUAL
26 INCOME TAX RATE OR STATE SALES TAX RATE ON THE TAX BURDEN OF
27 DIFFERENT INCOME CATEGORIES. IN DETERMINING THIS EFFECT, THE

1 DIRECTOR MAY USE THE SAME METHODOLOGY THAT THE DEPARTMENT OF
2 REVENUE USES WHILE PREPARING A TAX PROFILE AND EXPENDITURE
3 REPORT TO MEASURE THE DISTRIBUTION OF STATE AND LOCAL TAXES
4 AMONG HOUSEHOLDS PURSUANT TO SECTION 39-21-303 (2)(d)(I)(C). THE
5 TABLE PREPARED BY THE DIRECTOR MUST SHOW THE AVERAGE TAX
6 BURDEN CHANGE FOR FILERS WITHIN EACH INCOME CATEGORY. IF THE
7 CHANGE IN A TAX BURDEN SHOWN IN THE TABLE IS AN INCREASE, THE
8 CHANGE MUST BE EXPRESSED AS A DOLLAR AMOUNT PRECEDED BY A PLUS
9 SIGN. IF THE CHANGE IN A TAX BURDEN SHOWN IN THE TABLE IS A
10 DECREASE, THE CHANGE MUST BE EXPRESSED AS A DOLLAR AMOUNT
11 PRECEDED BY A NEGATIVE SIGN. THE DIRECTOR SHALL USE THE
12 FOLLOWING INCOME CATEGORIES IN CREATING THE TABLE:

13 (A) FEDERAL ADJUSTED GROSS INCOME OF FOURTEEN THOUSAND
14 NINE HUNDRED NINETY-NINE DOLLARS OR LESS;

15 (B) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
16 TO FIFTEEN THOUSAND DOLLARS AND LESS THAN THIRTY THOUSAND
17 DOLLARS;

18 (C) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
19 TO THIRTY THOUSAND DOLLARS AND LESS THAN FORTY THOUSAND
20 DOLLARS;

21 (D) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
22 TO FORTY THOUSAND DOLLARS AND LESS THAN FIFTY THOUSAND
23 DOLLARS;

24 (E) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
25 TO FIFTY THOUSAND DOLLARS AND LESS THAN SEVENTY THOUSAND
26 DOLLARS;

27 (F) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL

1 TO SEVENTY THOUSAND DOLLARS AND LESS THAN ONE HUNDRED
2 THOUSAND DOLLARS;

3 (G) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
4 TO ONE HUNDRED THOUSAND DOLLARS AND LESS THAN ONE HUNDRED
5 FIFTY THOUSAND DOLLARS;

6 (H) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
7 TO ONE HUNDRED FIFTY THOUSAND DOLLARS AND LESS THAN TWO
8 HUNDRED THOUSAND DOLLARS;

9 (I) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
10 TO TWO HUNDRED THOUSAND DOLLARS AND LESS THAN TWO HUNDRED
11 FIFTY THOUSAND DOLLARS;

12 (J) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
13 TO TWO HUNDRED FIFTY THOUSAND DOLLARS AND LESS THAN FIVE
14 HUNDRED THOUSAND DOLLARS;

15 (K) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
16 TO FIVE HUNDRED THOUSAND DOLLARS AND LESS THAN ONE MILLION
17 DOLLARS; AND

18 (L) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL
19 TO ONE MILLION DOLLARS.

20 **SECTION 4.** In Colorado Revised Statutes, 1-40-106, **add** (3)(e),
21 (3)(f), (3)(g), (3)(h), and (3)(i) as follows:

22 **1-40-106. Title board - meetings - ballot title - initiative and**
23 **referendum.** (3) (e) FOR MEASURES THAT REDUCE STATE TAX REVENUE
24 THROUGH A TAX POLICY CHANGE, THE BALLOT TITLE MUST BEGIN "SHALL
25 FUNDING AVAILABLE FOR STATE SERVICES THAT INCLUDE BUT ARE NOT
26 LIMITED TO (THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE) BE
27 IMPACTED BY A REDUCTION OF (PROJECTED DOLLAR FIGURE OF REVENUE

1 REDUCTION TO THE STATE IN THE FIRST FULL FISCAL YEAR THAT THE
2 MEASURE REDUCES REVENUE) IN TAX REVENUE...?". THE ESTIMATES
3 REFLECTED IN THE BALLOT TITLE SHALL NOT BE INTERPRETED AS
4 RESTRICTIONS OF THE STATE'S BUDGETING PROCESS.

5 (f) FOR MEASURES THAT REDUCE LOCAL DISTRICT PROPERTY TAX
6 REVENUE THROUGH A TAX POLICY CHANGE, THE BALLOT TITLE MUST
7 BEGIN "SHALL FUNDING AVAILABLE FOR PUBLIC SERVICES OFFERED BY
8 COUNTIES, SCHOOL DISTRICTS, WATER DISTRICTS, FIRE DISTRICTS, AND
9 OTHER DISTRICTS FUNDED, AT LEAST IN PART, BY PROPERTY TAXES BE
10 IMPACTED BY A REDUCTION OF (PROJECTED DOLLAR FIGURE OF PROPERTY
11 TAX REVENUE REDUCTION TO ALL DISTRICTS IN THE FIRST FULL FISCAL
12 YEAR THAT THE MEASURE REDUCES REVENUE) IN PROPERTY TAX
13 REVENUE...?". THE TITLE BOARD SHALL EXCLUDE ANY DISTRICTS WHOSE
14 PROPERTY TAX REVENUE WOULD NOT BE REDUCED BY THE MEASURE FROM
15 THE MEASURE'S BALLOT TITLE. THE ESTIMATES REFLECTED IN THE BALLOT
16 TITLE SHALL NOT BE INTERPRETED AS RESTRICTIONS OF A LOCAL
17 DISTRICT'S BUDGETING PROCESS.

18 (g) FOR MEASURES THAT INCREASE TAX REVENUE FOR ANY
19 DISTRICT THROUGH A TAX POLICY CHANGE AND SPECIFY THE PUBLIC
20 SERVICES TO BE FUNDED BY THE INCREASED REVENUE, AFTER THE
21 LANGUAGE REQUIRED BY SECTION 20 (3)(c) OF ARTICLE X OF THE STATE
22 CONSTITUTION, THE BALLOT TITLE SHALL STATE "IN ORDER TO INCREASE
23 OR IMPROVE LEVELS OF PUBLIC SERVICES, INCLUDING, BUT NOT LIMITED TO
24 (THE PUBLIC SERVICE SPECIFIED IN THE MEASURE)...". FOR MEASURES
25 THAT INCREASE TAX REVENUE FOR ANY DISTRICT THROUGH A TAX POLICY
26 CHANGE AND DO NOT SPECIFY THE PUBLIC SERVICES TO BE FUNDED BY THE
27 INCREASED REVENUE, AFTER THE LANGUAGE REQUIRED BY SECTION 20

1 (3)(c) OF ARTICLE X OF THE STATE CONSTITUTION, THE BALLOT TITLE
2 SHALL STATE "IN ORDER TO INCREASE OR IMPROVE LEVELS OF PUBLIC
3 SERVICES...". THE ESTIMATES REFLECTED IN THE BALLOT TITLE SHALL NOT
4 BE INTERPRETED AS RESTRICTIONS OF A DISTRICT'S BUDGETING PROCESS.

5 (h) A BALLOT TITLE FOR A MEASURE THAT EITHER INCREASES OR
6 DECREASES THE INDIVIDUAL INCOME TAX RATE OR STATE SALES TAX RATE
7 MUST, IF APPLICABLE, INCLUDE THE TABLE CREATED FOR THE FISCAL
8 SUMMARY PURSUANT TO SECTION 1-40-105.5 (1.5)(a)(V).

9 (i) IN DETERMINING WHETHER A BALLOT TITLE QUALIFIES AS BRIEF
10 FOR PURPOSES OF SECTIONS 1-40-102 (10) AND 1-40-106 (3)(b), THE
11 LANGUAGE REQUIRED BY SUBSECTION (3)(e), (3)(f), (3)(g), OR (3)(h) OF
12 THIS SECTION MAY NOT BE CONSIDERED.

13 **SECTION 5.** In Colorado Revised Statutes, 1-40-124.5, **amend**
14 (1)(b) introductory portion, (1)(b)(II), and (1)(b)(III); and **add** (1)(b)(IV)
15 as follows:

16 **1-40-124.5. Ballot information booklet.** (1) (b) The director of
17 research of the legislative council of the general assembly shall prepare
18 a fiscal impact statement for every initiated or referred measure, taking
19 into consideration fiscal impact information submitted by the office of
20 state planning and budgeting, the department of local affairs or any other
21 state agency, and any proponent or other interested person. The fiscal
22 impact statement prepared for every measure shall be substantially similar
23 in form and content to the fiscal notes provided by the legislative council
24 of the general assembly for legislative measures pursuant to section
25 2-2-322. ~~C.R.S.~~ A complete copy of the fiscal impact statement for such
26 measure shall be available through the legislative council of the general
27 assembly. The ballot information booklet shall indicate whether there is

1 a fiscal impact for each initiated or referred measure and shall abstract the
2 fiscal impact statement for such measure. The abstract for every measure
3 shall appear after the arguments for and against such measure in the
4 analysis section of the ballot information booklet, and shall include, but
5 shall not be limited to:

6 (II) An estimate of the amount of any state and local government
7 recurring expenditures or fiscal liabilities if such measure is enacted; ~~and~~

8 (III) For any initiated or referred measure that modifies the state
9 tax laws, ~~an estimate of the impact to the average taxpayer, if feasible, if~~
10 ~~such measure is enacted~~ IF THE MEASURE WOULD EITHER INCREASE OR
11 DECREASE INDIVIDUAL INCOME TAX REVENUE OR STATE SALES TAX
12 REVENUE, A TABLE THAT SHOWS THE NUMBER OF TAX FILERS IN EACH
13 INCOME CATEGORY, THE TOTAL TAX BURDEN CHANGE FOR EACH INCOME
14 CATEGORY, AND THE AVERAGE TAX BURDEN CHANGE FOR EACH FILER
15 WITHIN EACH INCOME CATEGORY. IF THE CHANGE IN A TAX BURDEN
16 SHOWN IN THE TABLE IS AN INCREASE, THE CHANGE MUST BE EXPRESSED
17 AS A DOLLAR AMOUNT PRECEDED BY A PLUS SIGN. IF THE CHANGE IN A TAX
18 BURDEN SHOWN IN THE TABLE IS A DECREASE, THE CHANGE MUST BE
19 EXPRESSED AS A DOLLAR AMOUNT PRECEDED BY A NEGATIVE SIGN. THE
20 TABLE MUST HAVE THE SAME INCOME CATEGORIES AS THE TABLE
21 CONSTRUCTED PURSUANT TO SECTION 1-4-105.5 (1.5)(a)(V); AND

22 (IV) IF THE MEASURE CONTAINS A PROPOSED TAX POLICY CHANGE
23 THAT REDUCES STATE TAX REVENUE, A DESCRIPTION OF THE THREE
24 LARGEST AREAS OF PROGRAM EXPENDITURE, AS DEFINED IN SECTION
25 1-40-105.5 (1)(a).

26 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 21-1321

BY REPRESENTATIVE(S) Kennedy and Weissman, Bernett, Bird, Boesenecker, Caraveo, Cutter, Esgar, Exum, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Kipp, Lontine, Michaelson Jenet, Mullica, Ortiz, Roberts, Sirota, Snyder, Valdez A., Garnett, Amabile, Bacon, Daugherty, Duran, Froelich, Gray, Jackson, McCluskie, Ricks, Sullivan, Titone, Woodrow; also SENATOR(S) Moreno and Pettersen, Bridges, Buckner, Danielson, Donovan, Fenberg, Ginal, Gonzales, Kolker, Lee, Story, Winter.

CONCERNING VOTER TRANSPARENCY REQUIREMENTS TO INCREASE INFORMATION ABOUT THE FISCAL IMPACT OF STATEWIDE BALLOT MEASURES THAT WOULD RESULT IN A CHANGE IN DISTRICT REVENUE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Ballot Measure Fiscal Transparency Act of 2021".

SECTION 2. In Colorado Revised Statutes, 1-5-407, **amend** (7) as follows:

1-5-407. Form of ballots. (7) No printing or distinguishing marks

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

shall be on the ballot except as specifically provided in this code OR IN SECTION 1-40-106 (3)(e) TO (3)(g).

SECTION 3. In Colorado Revised Statutes, 1-40-106, **add** (3)(e), (3)(f), (3)(g), (3)(h), and (3)(i) as follows:

1-40-106. Title board - meetings - ballot title - initiative and referendum - definitions. (3) (e) FOR MEASURES THAT REDUCE STATE TAX REVENUE THROUGH A TAX CHANGE, THE BALLOT TITLE MUST BEGIN "SHALL THERE BE A REDUCTION TO THE (DESCRIPTION OF TAX) BY (THE PERCENTAGE BY WHICH THE TAX IS REDUCED IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) THEREBY REDUCING STATE REVENUE, WHICH WILL REDUCE FUNDING FOR STATE EXPENDITURES THAT INCLUDE BUT ARE NOT LIMITED TO (THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE) BY AN ESTIMATED (PROJECTED DOLLAR FIGURE OF REVENUE REDUCTION TO THE STATE IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) IN TAX REVENUE...?". IF THE BALLOT MEASURE SPECIFIES THE PUBLIC SERVICES OR PROGRAMS THAT ARE TO BE REDUCED BY THE TAX CHANGE, THOSE PUBLIC SERVICES OR PROGRAMS MUST BE STATED IN THE BALLOT TITLE. IF THE PUBLIC SERVICES OR PROGRAMS IDENTIFIED IN THE MEASURE ARE INSUFFICIENT TO ACCOUNT FOR THE FULL DOLLAR VALUE OF THE TAX CHANGE IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE, THEN THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE MUST BE STATED IN THE BILL TITLE ALONG WITH THE PUBLIC SERVICES OR PROGRAMS IDENTIFIED IN THE MEASURE. THE ESTIMATES REFLECTED IN THE BALLOT TITLE SHALL NOT BE INTERPRETED AS RESTRICTIONS OF THE STATE'S BUDGETING PROCESS.

(f) FOR MEASURES THAT REDUCE LOCAL DISTRICT PROPERTY TAX REVENUE THROUGH A TAX CHANGE, THE BALLOT TITLE MUST BEGIN "SHALL FUNDING AVAILABLE FOR COUNTIES, SCHOOL DISTRICTS, WATER DISTRICTS, FIRE DISTRICTS, AND OTHER DISTRICTS FUNDED, AT LEAST IN PART, BY PROPERTY TAXES BE IMPACTED BY A REDUCTION OF (PROJECTED DOLLAR FIGURE OF PROPERTY TAX REVENUE REDUCTION TO ALL DISTRICTS IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) IN PROPERTY TAX REVENUE...?". THE TITLE BOARD SHALL EXCLUDE ANY DISTRICTS WHOSE PROPERTY TAX REVENUE WOULD NOT BE REDUCED BY THE MEASURE FROM THE MEASURE'S BALLOT TITLE. THE ESTIMATES REFLECTED IN THE BALLOT TITLE SHALL NOT BE INTERPRETED AS RESTRICTIONS OF A LOCAL DISTRICT'S BUDGETING PROCESS.

(g) FOR MEASURES THAT INCREASE TAX REVENUE FOR ANY DISTRICT THROUGH A TAX CHANGE AND SPECIFY THE PUBLIC SERVICES TO BE FUNDED BY THE INCREASED REVENUE, AFTER THE LANGUAGE REQUIRED BY SECTION 20 (3)(c) OF ARTICLE X OF THE STATE CONSTITUTION, THE BALLOT TITLE SHALL STATE "IN ORDER TO INCREASE OR IMPROVE LEVELS OF PUBLIC SERVICES, INCLUDING, BUT NOT LIMITED TO (THE PUBLIC SERVICE SPECIFIED IN THE MEASURE)...". FOR MEASURES THAT INCREASE TAX REVENUE FOR ANY DISTRICT THROUGH A TAX CHANGE AND DO NOT SPECIFY THE PUBLIC SERVICES TO BE FUNDED BY THE INCREASED REVENUE, AFTER THE LANGUAGE REQUIRED BY SECTION 20 (3)(c) OF ARTICLE X OF THE STATE CONSTITUTION, THE BALLOT TITLE SHALL STATE "IN ORDER TO INCREASE OR IMPROVE LEVELS OF PUBLIC SERVICES...". THE ESTIMATES REFLECTED IN THE BALLOT TITLE SHALL NOT BE INTERPRETED AS RESTRICTIONS OF A DISTRICT'S BUDGETING PROCESS.

(h) IN DETERMINING WHETHER A BALLOT TITLE QUALIFIES AS BRIEF FOR PURPOSES OF SECTIONS 1-40-102 (10) AND 1-40-106 (3)(b), THE LANGUAGE REQUIRED BY SUBSECTION (3)(e), (3)(f), OR (3)(g) OF THIS SECTION MAY NOT BE CONSIDERED.

(i) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "AREAS OF PROGRAM EXPENDITURE" MEANS CATEGORIES OF SPENDING BY ISSUE AREA. FOR STATE EXPENDITURES, "THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE" REFERS TO THE THREE PROGRAM TYPES LISTED AS RECEIVING THE LARGEST GENERAL FUND OPERATING APPROPRIATIONS IN THE JOINT BUDGET COMMITTEE'S ANNUAL APPROPRIATIONS REPORT FOR THE MOST RECENT FISCAL YEAR.

(II) "TAX CHANGE" MEANS ANY INITIATED BALLOT ISSUE OR INITIATED BALLOT QUESTION THAT HAS A PRIMARY PURPOSE OF LOWERING OR INCREASING TAX REVENUES COLLECTED BY A DISTRICT, INCLUDING A REDUCTION OR INCREASE OF TAX RATES, MILL LEVIES, ASSESSMENT RATIOS, OR OTHER MEASURES, INCLUDING MATTERS PERTAINING TO TAX CLASSIFICATION, DEFINITIONS, CREDITS, EXEMPTIONS, MONETARY THRESHOLDS, QUALIFICATIONS FOR TAXATION, OR ANY COMBINATION THEREOF, THAT REDUCE OR INCREASE A DISTRICT'S TAX COLLECTIONS. "TAX CHANGE" DOES NOT MEAN AN INITIATED BALLOT ISSUE OR INITIATED BALLOT QUESTION THAT RESULTS IN A DECREASE OR INCREASE IN REVENUE TO A

DISTRICT IN WHICH SUCH DECREASE OR INCREASE IS INCIDENTAL TO THE PRIMARY PURPOSE OF THE INITIATED BALLOT ISSUE OR INITIATED BALLOT QUESTION.

SECTION 4. In Colorado Revised Statutes, 1-40-124.5, **amend** (1)(b) introductory portion, (1)(b)(II), and (1)(b)(III); and **add** (1)(b)(IV) as follows:

1-40-124.5. Ballot information booklet. (1) (b) The director of research of the legislative council of the general assembly shall prepare a fiscal impact statement for every initiated or referred measure, taking into consideration fiscal impact information submitted by the office of state planning and budgeting, the department of local affairs or any other state agency, and any proponent or other interested person. The fiscal impact statement prepared for every measure shall be substantially similar in form and content to the fiscal notes provided by the legislative council of the general assembly for legislative measures pursuant to section 2-2-322. C.R.S. A complete copy of the fiscal impact statement for such measure shall be available through the legislative council of the general assembly. The ballot information booklet shall indicate whether there is a fiscal impact for each initiated or referred measure and shall abstract the fiscal impact statement for such measure. The abstract for every measure shall appear after the arguments for and against such measure in the analysis section of the ballot information booklet, and shall include, but shall not be limited to:

(II) An estimate of the amount of any state and local government recurring expenditures or fiscal liabilities if such measure is enacted; ~~and~~

(III) For any initiated or referred measure that modifies the state tax laws, ~~an estimate of the impact to the average taxpayer, if feasible, if such measure is enacted~~ IF THE MEASURE WOULD EITHER INCREASE OR DECREASE INDIVIDUAL INCOME TAX REVENUE OR STATE SALES TAX REVENUE, A TABLE THAT SHOWS THE NUMBER OF TAX FILERS IN EACH INCOME CATEGORY, THE TOTAL TAX BURDEN CHANGE FOR EACH INCOME CATEGORY, AND THE AVERAGE TAX BURDEN CHANGE FOR EACH FILER WITHIN EACH INCOME CATEGORY. IF THE CHANGE IN A TAX BURDEN SHOWN IN THE TABLE IS AN INCREASE, THE CHANGE MUST BE EXPRESSED AS A DOLLAR AMOUNT PRECEDED BY A PLUS SIGN. IF THE CHANGE IN A TAX BURDEN SHOWN IN THE TABLE IS A DECREASE, THE CHANGE MUST BE EXPRESSED AS A DOLLAR AMOUNT PRECEDED BY A NEGATIVE SIGN. THE TABLE MUST USE THE

FOLLOWING INCOME CATEGORIES:

(A) FEDERAL ADJUSTED GROSS INCOME OF FOURTEEN THOUSAND NINE HUNDRED NINETY-NINE DOLLARS OR LESS;

(B) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO FIFTEEN THOUSAND DOLLARS AND LESS THAN THIRTY THOUSAND DOLLARS;

(C) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO THIRTY THOUSAND DOLLARS AND LESS THAN FORTY THOUSAND DOLLARS;

(D) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO FORTY THOUSAND DOLLARS AND LESS THAN FIFTY THOUSAND DOLLARS;

(E) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO FIFTY THOUSAND DOLLARS AND LESS THAN SEVENTY THOUSAND DOLLARS;

(F) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO SEVENTY THOUSAND DOLLARS AND LESS THAN ONE HUNDRED THOUSAND DOLLARS;

(G) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS AND LESS THAN ONE HUNDRED FIFTY THOUSAND DOLLARS;

(H) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS AND LESS THAN TWO HUNDRED THOUSAND DOLLARS;

(I) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO TWO HUNDRED THOUSAND DOLLARS AND LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS;

(J) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS AND LESS THAN FIVE HUNDRED THOUSAND DOLLARS;

(K) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS AND LESS THAN ONE MILLION DOLLARS;
AND

(L) FEDERAL ADJUSTED GROSS INCOME GREATER THAN OR EQUAL TO ONE MILLION DOLLARS; AND

(IV) IF THE MEASURE CONTAINS A PROPOSED TAX CHANGE, AS DEFINED IN SECTION 1-40-106 (3)(i)(II), THAT REDUCES STATE TAX REVENUE, A DESCRIPTION OF THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE, AS DEFINED IN SECTION 1-40-106 (3)(i)(I).

SECTION 5. Appropriation. (1) For the 2021-22 state fiscal year, \$7,865 is appropriated to the legislative department for use by the legislative council. This appropriation is from the general fund and is based on an assumption that the legislative council will require an additional 0.1 FTE. The legislative council may use this appropriation to implement this act.

(2) For the 2021-22 state fiscal year, \$36,000 is appropriated to the department of state for use by the information technology division. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the division may use this appropriation for personal services.

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

SENATE FLOOR AMENDMENT

Third Reading

BY SENATOR Moreno

- 1 Amend revised bill, page 3, line 3, strike "(3)(h)." and substitute "(3)(g).".
- 2 Page 5, line 14, strike "(3)(i), and (3)(j)" and substitute "and (3)(i)".
- 3 Page 5, line 17, strike "POLICY".
- 4 Page 5, strike lines 18 through 22 and substitute "BEGIN "SHALL THERE BE
5 A REDUCTION TO THE (DESCRIPTION OF TAX) BY (THE PERCENTAGE BY
6 WHICH THE TAX IS REDUCED IN THE FIRST FULL FISCAL YEAR THAT THE
7 MEASURE REDUCES REVENUE) THEREBY REDUCING STATE REVENUE,
8 WHICH WILL REDUCE FUNDING FOR STATE EXPENDITURES THAT INCLUDE
9 BUT ARE NOT LIMITED TO (THE THREE LARGEST AREAS OF PROGRAM
10 EXPENDITURE) BY AN ESTIMATED (PROJECTED DOLLAR FIGURE OF
11 REVENUE REDUCTION TO THE STATE IN THE FIRST FULL FISCAL YEAR THAT
12 THE MEASURE REDUCES REVENUE) IN TAX REVENUE...?". IF THE BALLOT
13 MEASURE SPECIFIES THE PUBLIC SERVICES OR PROGRAMS THAT ARE TO BE
14 REDUCED BY THE TAX CHANGE, THOSE PUBLIC SERVICES OR PROGRAMS
15 MUST BE STATED IN THE BALLOT TITLE. IF THE PUBLIC SERVICES OR
16 PROGRAMS IDENTIFIED IN THE MEASURE ARE INSUFFICIENT TO ACCOUNT
17 FOR THE FULL DOLLAR VALUE OF THE TAX CHANGE IN THE FIRST FULL
18 FISCAL YEAR THAT THE MEASURE REDUCES REVENUE, THEN THE THREE
19 LARGEST AREAS OF PROGRAM EXPENDITURE MUST BE STATED IN THE BILL
20 TITLE ALONG WITH THE PUBLIC SERVICES OR PROGRAMS IDENTIFIED IN THE
21 MEASURE. THE".
- 22 Page 5, line 26, strike "POLICY".
- 23 Page 5, strike line 27, and substitute "BEGIN "SHALL FUNDING AVAILABLE FOR".
- 24 Page 6, line 12, strike "POLICY".
- 25 Page 6, line 18, strike "POLICY".
- 26 Page 6, strike lines 25 through 27.
- 27 Page 7, strike line 1.
- 28 Reletter succeeding paragraphs accordingly.
- 29 Page 7, line 4, strike "(3)(g), OR (3)(h)" and substitute "OR (3)(g)".

1 Page 7, line 7, strike "REQUIRES, "AREAS" and insert "REQUIRES:
2 (I) "AREAS".

3 Page 7, line 9, strike ""PROGRAM EXPENDITURE"" and substitute ""THE
4 THREE LARGEST AREAS OF PROGRAM EXPENDITURE"".

5 Page 7, after line 12 insert:

6 "(II) "TAX CHANGE" MEANS ANY INITIATED BALLOT ISSUE OR
7 INITIATED BALLOT QUESTION THAT HAS A PRIMARY PURPOSE OF LOWERING
8 OR INCREASING TAX REVENUES COLLECTED BY A DISTRICT, INCLUDING A
9 REDUCTION OR INCREASE OF TAX RATES, MILL LEVIES, ASSESSMENT
10 RATIOS, OR OTHER MEASURES, INCLUDING MATTERS PERTAINING TO TAX
11 CLASSIFICATION, DEFINITIONS, CREDITS, EXEMPTIONS, MONETARY
12 THRESHOLDS, QUALIFICATIONS FOR TAXATION, OR ANY COMBINATION
13 THEREOF, THAT REDUCE OR INCREASE A DISTRICT'S TAX COLLECTIONS.
14 "TAX CHANGE" DOES NOT MEAN AN INITIATED BALLOT ISSUE OR INITIATED
15 BALLOT QUESTION THAT RESULTS IN A DECREASE OR INCREASE IN
16 REVENUE TO A DISTRICT IN WHICH SUCH DECREASE OR INCREASE IS
17 INCIDENTAL TO THE PRIMARY PURPOSE OF THE INITIATED BALLOT ISSUE OR
18 INITIATED BALLOT QUESTION."

19 Page 8, line 22, strike "TAX POLICY CHANGE" and substitute "TAX
20 CHANGE, AS DEFINED IN SECTION 1-40-106 (3)(i)(II),".

21 Page 8, strike line 25 and substitute "1-40-106 (3)(i)(I).".

** *** ** *** **

JARED POLIS
GOVERNOR



136 STATE CAPITOL
DENVER, COLORADO 80203
TEL 303-866-2471
FAX 303-866-2003

July 7, 2021

Colorado House of Representatives
The 73rd General Assembly
First Regular Session
200 E. Colfax Ave.
Denver, CO 80203

Dear Honorable Members of the Colorado House of Representatives:

Today I signed House Bill 21-1321, "Concerning voter transparency requirements to increase information about the fiscal impact of statewide ballot measures that would result in a change in district revenue."

A citizen's right to initiate a measure for the ballot is sacrosanct. In Colorado, this exercise in direct democracy has a long history, dating back to the early 20th Century. Since that time, Coloradans have consistently made consequential policy at the ballot. It's not always a comfortable process for Colorado's entrenched political hierarchies, and indeed, partisans on both sides of the aisle have long lists of examples of laws they don't like that passed at the ballot. But direct democracy is a key feature of Colorado's political framework -- a framework that was in large measure shaped at the ballot by the citizens of this state -- and one that I will always champion and protect as Governor of Colorado.

Colorado has adopted modest common sense reforms to the initiative process over the years. For example, in 2016, voters passed Amendment 71, which established a higher threshold for passage of new constitutional measures. Similarly HB21-1321 modifies the procedures we use to place questions of law before the voters. My goal as governor is to protect direct access to the ballot, which is the purest, most direct expression of citizen democracy in Colorado. I also want to ensure that voters know what they are voting on -- that the ballot language is a fair and accurate description of any proposed ballot measure.

I was not comfortable with all of the changes originally included in HB21-1321, and appreciate that the sponsors scaled the bill back from its original form. I signed the measure for two reasons: 1) it protects Coloradans' access to the ballot; and 2) it makes it simpler for

JARED POLIS
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Coloradans to understand what they are voting on and what a proposed policy means for them and their families. All tax policy changes have two impacts: how much people pay and how much the government receives to pay for services. This, at a minimum, should be included in the ballot title for any tax policy proposal.

As this bill does not provide contrary guidance on applicability to measures that have already come before the Title Board, I signed this bill today with the understanding that it shall only apply prospectively pursuant to Section 2-4-202, C.R.S. Therefore, this bill will apply only to ballot measures that have *yet to have a title set* by the Title Board, not those that already have a title set.

This bill applies only to measures that increase or reduce state or local tax revenue by a determinable amount. Therefore, this legislation does not apply to measures that seek to slow the rate of increase of revenue because such measures do not necessarily result in a determinable increase or decrease in state or local revenue or funding for a particular program. *Cf. Bickel v. City of Boulder*, 885 P.2d 215, 236-37 (Colo. 1994) (where constitutional language requires a proposed tax increase to include a dollar estimate of the increase, an indeterminate description of the increase does not meet constitutional requirement).

While I am signing this bill today, I am wary of the legislature encroaching too far into the initiative process, and would veto any measure I see as intruding on citizens' right to initiate ballot measures. Likewise, I will look skeptically at legislative reform I view as undermining the express will of the voters.

I appreciate the work of the sponsors to make our ballot clearer and more precise. And whether I agree with you on the substance or not, I appreciate every citizen who undertakes the process of qualifying a measure and advocating on its behalf at the ballot.

Sincerely,

A handwritten signature in black ink that reads "Jared Polis".

Jared Polis
Governor