

<p>SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203</p> <hr/> <p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2019-2020 #293 (“Tobacco Tax Revenue for New State Preschool Program”)</p> <p><b>Petitioner: Anna Jo Haynes</b></p> <p>v.</p> <p><b>Respondents: Monica Vondruska and Jon Caldara</b></p> <p><b>and</b></p> <p><b>Title Board: Theresa Conley, David Powell, and Julie Pelegrin</b></p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Petitioner:</p> <p>Mark G. Grueskin, #14621 Recht Kornfeld, P.C. 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900 (telephone) 303-446-9400 (facsimile) <a href="mailto:mark@rklawpc.com">mark@rklawpc.com</a></p>	<p><b>Case No. 2020SA000136</b></p>
<p><b>PETITIONER’S ANSWER BRIEF ON PROPOSED INITIATIVE 2019-2020 #293 (“TOBACCO TAX REVENUE FOR NEW STATE PRESCHOOL PROGRAM”)</b></p>	

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

Choose one:

It contains 2,824 words.

It does not exceed 30 pages.

The brief complies with C.A.R. 28(k).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

*s/ Mark G. Grueskin* \_\_\_\_\_

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**TABLE OF CONTENTS**

INTRODUCTION .....1

LEGAL ARGUMENT .....2

    A. Initiative #293 violates the constitutional single subject requirement. ....2

    B. The Board failed to set a clear title for Initiative #293. ....5

        1. A brief, non-descriptive title is not a legally sufficient clear title. ....6

        2. As a matter of law, petitions are not required to include the initiative text  
        so petition signers can know of these central features of #293. ....10

CONCLUSION .....13

## TABLE OF AUTHORITIES

### Cases

<i>Colo. Dept. of Revenue v. Creager Mercantile Co.</i> , 2017 CO 41M, ¶20, 395 P.3d 741, 744.....	4, 5
<i>In re Proposed Initiative on Parental Notification of Abortions for Minors</i> , 794 P.2d 238, 242 (Colo. 1990).....	6, 10
<i>In the Matter of the Title, Ballot Title &amp; Submission Clause, and Summary for Proposed Election Reform Amendment</i> , 852 P.2d 28, 32 (Colo. 1993) .....	7, 13
<i>In the Matter of the Title, Ballot Title and Submission Clause for 2009-2010 # 91</i> , 235 P.3d 1071, 1079-80 (Colo. 2010) .....	3

### Statutes

C.R.S. § 1-40-102(6).....	2, 11
C.R.S. § 1-40-102(10).....	6
C.R.S. § 1-40-105.5(4).....	11
C.R.S. § 1-40-110 .....	11
C.R.S. § 1-40-110 (1).....	11
C.R.S. § 1-40-111 (2).....	11
C.R.S. § 1-40-110 (3).....	11
C.R.S. § 1-40-113 .....	11
C.R.S. § 39-28.5-101(5).....	4, 5

### Other Authorities

<a href="https://www.colorado.gov/governor/sites/default/files/inline-files/D%202020%20065%20Ballot%20Issue%20Signatures.pdf">https://www.colorado.gov/governor/sites/default/files/inline-files/D%202020%20065%20Ballot%20Issue%20Signatures.pdf</a> .....	11
Legislative Council of the Colorado General Assembly, <i>2016 State Ballot Information Booklet</i> , Research Publication No. 669-6 at 39.....	8
Legislative Council of the Colorado General Assembly, <i>Analysis of the 2004 Ballot Proposals</i> , Research Publication No. 527-8 at 28 ( <a href="http://hermes.cde.state.co.us/drupal/islandora/object/co:2995/datastream/OBJ/view">http://hermes.cde.state.co.us/drupal/islandora/object/co:2995/datastream/OBJ/view</a> ).....	9

## INTRODUCTION

The Title Board and the Respondents (together, “Title Proponents”) take different approaches to justify why this initiative comprises a single subject. The Board argues that penalizing local governments for adopting policies to protect their citizens’ health is a minor detail; the Respondents argue it is an integral part of their funding scheme. They cannot both be correct, and neither addresses the fundamental issue raised – whether an attempt to skew local policy-making by penalizing bans of tobacco products and nicotine products is a necessary part of a statewide preschool program.

Compliance with the clear title requirement raises at least one issue that has never been addressed by this Court. Title Proponents maintain that the Board did not err in omitting the elements at issue here, but even if it did, voters will have the Blue Book to review the measure’s text before they vote. This rationalization fails for two reasons.

First, this Court has long held that an accurate, informative title was necessary for potential petition signers who must, of course, be registered voters; the title does not just benefit persons casting ballots. Thus, the title is critical to members of the electorate who might sign a petition to help the measure get on the ballot – a process that takes place months before the Blue Book is published and distributed in October.

Second, the Governor recently suspended key initiative statutes by executive order. Included in the provisions suspended is the statute that requires a petition section contain the text of the measure, C.R.S. § 1-40-102(6). Because petitions will not be required to have the #293 text for petition signers to review and assess as to the features that are addressed in this appeal (the financial penalty for local jurisdictions and the major funding diversions from existing programs), its title is more important than ever. As such, the title must err, if at all, on being more informative, not less. Merely referring to a Blue Book that will not be available to affected voters is no backstop at all.

The Title Proponents do not dispute that all issues raised in Objectors' Opening Brief were preserved for appeal in the proceedings below. Thus, all such issues are properly before the Court.

## **LEGAL ARGUMENT**

### **A. Initiative #293 violates the constitutional single subject requirement.**

The Title Board and the Proponents disagree about how #293's financial penalty for local bans of "tobacco and nicotine products in any form" can be deemed part of a single subject. For the Board, this attempt to skew local policy-making is merely an implementation provision or a statement of #293's effect on a state law. In other words, it's no big deal. The Proponents insist this financial penalty is an

important funding source for the preschool program and thus is an integral element of their measure.

The Board is wrong; it cannot be that the financial penalty resulting from local bans of tobacco and nicotine products is a virtual irrelevancy. This Court does not treat limits on legislative power as an incidental byproduct of an overly ambitious citizen initiative. When an element of a ballot measure represents a “significant invasion” of an already existing constitutional right (such as local law-making authority concerning zoning), that element is incongruous as it does not “relate **directly** to the proposed initiative’s single subject.” *In the Matter of the Title, Ballot Title and Submission Clause for 2009-2010 # 91*, 235 P.3d 1071, 1079-80 (Colo. 2010) (citations omitted) (emphasis added).

The Proponents are also wrong. They misstate their measure, arguing their financial penalty provision applies only “if a local government enacts a ban on tobacco and nicotine products (**and as a result does not collect cigarette tax revenues**).” Proponents’ Opening Brief at 9 (emphasis added). Thus, they depend on the assertion that there is a nexus between taxes withheld (state cigarette taxes) and tax revenues foregone (due to bans on “tobacco and nicotine products in any form”).

Proponents placed #293's financial penalty on local jurisdictions in C.R.S. § 39-22-623(1)(a)(II)(A). By its express terms, that provision deals only with the "gross state cigarette tax." *Id.*

In contrast, the financial penalty created in #293 applies if there is any ban on any "tobacco or nicotine products in any form." Proposed Section 39-22-623(1)(a)(II)(A). To get a sense of how divorced cigarettes are from this broader category, one only has to review the statutory definition of "tobacco product."

**"Tobacco products" means** cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking, **but does not include cigarettes which are taxed separately pursuant to article 28 of this title.**

C.R.S. § 39-28.5-101(5).

The Court has recently interpreted this provision and specifically its inclusive reference to "other kinds and forms of tobacco." Reversing the Court of Appeals, this Court noted that "this catchall category is **particularly expansive.**" *Colo. Dept. of Revenue v. Creager Mercantile Co.*, 2017 CO 41M, ¶20, 395 P.3d 741, 744 (emphasis added). In fact, that catchall "does not limit the type or character of the product, so long as it is tobacco." *Id.*

Thus, a local ban on snuff or cigars (not to mention cheroots, plug cut, snuff flour, or cavendish – all non-cigarettes, as a matter of law, C.R.S. § 39-28.5-101(5)) – will result in a financial penalty to localities that would otherwise receive state revenue from taxes on an entirely separate product, cigarettes. Put differently, a city could allow cigarette sales but prevent sales of other nicotine or tobacco products and it would lose its share of state cigarette taxes. Thus, Proponents misstate existing law and their proposal as a basis for their conclusion that #293 contains a single subject.

Voters should not be forced to choose between banning non-cigarette tobacco or nicotine products, such as Blunt Wraps that are suitable for smoking “marijuana[] and other smoking material,” *Creager, supra*, 2017 CO 41M, ¶21, and keeping their locality’s share of state cigarette taxes. This is a hidden future dilemma for local policy-makers that is well concealed within a multidimensional proposal that seems to address only the more politically palatable topic of preschool access. Thus, #293 is exactly the type of measure that gave rise to the single subject requirement.

**B. The Board failed to set a clear title for Initiative #293.**

The Title Proponents make two basic arguments as to why the title did not reference the threat to fiscal solvency that is triggered for localities that act to ban any tobacco or nicotine products, discussed above, and the funding cuts that are

hidden from voters until far too late in the process. First, they argue that these are mere details rather than the measure's central features and, in the name of brevity, were properly excluded from the title. Respondents' Opening Brief at 11-12; Title Board Opening Brief at 12-13. Second, they argue that voters can spend some time with the so-called Blue Book to figure out what programs are affected before they vote. Respondents' Opening Brief at 12-13; Title Board Opening Brief at 14.

*1. A brief, non-descriptive title is not a legally sufficient clear title.*

It is true that titles are to be brief. C.R.S. § 1-40-102(10) (“‘Title’ means a brief statement that fairly and accurately represents the true intent and meaning of the proposed text of the initiative”).

But Title Proponents ignore two cornerstones of title setting. First, the title should inform voters, regardless of how knowledgeable they are, about the key aspects of a measure so that they can decide whether to support it or oppose it.

It is well established that the Board must act with utmost dedication to the goal of producing documents which will **enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal.**

*In re Proposed Initiative on Parental Notification of Abortions for Minors*, 794 P.2d 238, 242 (Colo. 1990) (internal quotation marks and citations omitted) (emphasis added).

Second, although brevity is a laudable objective for ballot titles, it is not to be achieved at the expense of voter understanding or, as the Court puts it, “full disclosure.”

**However, if a choice must be made between brevity and a fair description of essential features of a proposal, the decision must be made in favor of full disclosure** to the registered electors. In the case of a complex measure embracing many different topics like the proposal now before us, the titles and summary cannot be abbreviated by omitting references to the measure's salient features.

*In the Matter of the Title, Ballot Title & Submission Clause, and Summary for Proposed Election Reform Amendment*, 852 P.2d 28, 32 (Colo. 1993) (emphasis added).

Here, Objectors have outlined why voters need to know about the penalty on communities that ban “any form” of tobacco or nicotine product. As stated in the fiscal impact statement prepared for #293’s petition abstract, it could be substantial.

Local governments that are otherwise eligible for income tax redistribution based on cigarette tax revenue and that have enacted bans on tobacco and nicotine products as of December 31, 2021, will experience a reduction in revenue. As the total revenue redistributed in this way is \$8.8 million annually, the amount of revenue diverted from local governments to the Preschool Cash Fund in this way is up to \$8.8 million.

R. at 30. Thus, the fiscal assumption was that the entire local allocation – all \$8.8 million – could be blocked because localities would have something that would amount to a ban of one of these products “in any form.” This belies Proponents’

contention that Objectors' concern was "specious" as represented to the Title Board. Proponents' Opening Brief at 13.

Rarely can one quantify a provision of a ballot measure to determine if it is a "central feature." But here, 100% of the local share was used to determine what #293's fiscal ramifications can be. And in an era of diminishing budgets, that \$8.8 million is a significant sum.

As to the concerns about brevity where funding cuts are at issue, it is notable that other ballot titles dealing with cigarette and tobacco products were explicit about changes in funding state and local programs and therefore found to be sufficient. #293's ballot title is only 95 words. In contrast, Amendment 72's ballot title dealing with cigarette and tobacco products taxes was 121 words,<sup>1</sup> and described the programs to be funded in 66 words.<sup>2</sup> Amendment 35's ballot title addressing the

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<sup>1</sup> Legislative Council of the Colorado General Assembly, *2016 State Ballot Information Booklet*, Research Publication No. 669-6 at 39 ([http://leg.colorado.gov/sites/default/files/2016\\_bilingual\\_bluebook\\_for\\_the\\_internet\\_0.pdf](http://leg.colorado.gov/sites/default/files/2016_bilingual_bluebook_for_the_internet_0.pdf))

<sup>2</sup> *Id.* That title stated, in relevant part:

ALLOCATING SPECIFIED PERCENTAGES OF THE NEW TOBACCO TAX REVENUE TO HEALTH-RELATED PROGRAMS AND TOBACCO EDUCATION, PREVENTION, AND CESSATION PROGRAMS CURRENTLY FUNDED BY EXISTING CONSTITUTIONAL TOBACCO TAXES; AND ALSO ALLOCATING NEW REVENUE FOR TOBACCO-RELATED

same basic subject was 296 words<sup>3</sup> and described the programs to be funded in 79 words.<sup>4</sup>

The point is, the concerns voiced here about brevity ignore the reality of what Colorado voters expect and need to know in terms of what happens when funding formulas change. At bare minimum, voters should know where new money will be

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HEALTH RESEARCH, VETERANS' PROGRAMS, CHILD AND ADOLESCENT BEHAVIORAL HEALTH, CONSTRUCTION AND TECHNOLOGY IMPROVEMENTS FOR QUALIFIED HEALTH PROVIDERS, EDUCATIONAL LOAN REPAYMENT FOR HEALTH PROFESSIONALS IN RURAL AND UNDERSERVED AREAS, AND HEALTH PROFESSIONAL TRAINING TRACKS.

<sup>3</sup> Legislative Council of the Colorado General Assembly, *Analysis of the 2004 Ballot Proposals*, Research Publication No. 527-8 at 28 (<http://hermes.cde.state.co.us/drupal/islandora/object/co:2995/datastream/OBJ/view>).

<sup>4</sup> *Id.* That title stated, in relevant part:

REQUIRING ANNUAL APPROPRIATIONS OF SPECIFIED PERCENTAGES OF THE ADDITIONAL TOBACCO TAX REVENUES TO EXPAND ELIGIBILITY FOR AND INCREASE ENROLLMENT IN THE CHILDREN'S BASIC HEALTH PLAN, TO FUND COMPREHENSIVE PRIMARY MEDICAL CARE THROUGH CERTAIN COLORADO QUALIFIED PROVIDERS, TOBACCO EDUCATION PROGRAMS, AND PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDVASCULAR AND PULMONARY DISEASES, TO COMPENSATE THE STATE GENERAL FUND, THE OLD AGE PENSION FUND, AND LOCAL GOVERNMENTS FOR TOBACCO TAX LOSSES RESULTING FROM REDUCED SALES OF CIGARETTES AND TOBACCO PRODUCTS.

directed and where existing funding will be cut. The Title Board failed to meet these reasonable informational requirements for the voters who use this information.

2. *As a matter of law, petitions are not required to include the initiative text so petition signers can know of these central features of #293.*

Title Proponents argue that, even if the information is relevant to voters, they can read the Blue Book to gain an understanding before they vote. Respondents' Opening Brief at 5, 12, 14; Title Board Opening Brief at 14. Title Proponents are wrong that this is an adequate substitute for a sufficient title, particularly this year.

As the Court has long held, the title is not just for voters at the end of an election cycle; as a matter of process, a title is first a priority for members of the electorate who are asked to be petition signers, something that could take place within days or weeks if the Court rejects this appeal.

Though included in the summary, the abortion definition is absent from the title and the ballot title and submission clause prepared by the Board. Without this definition, these two documents do not **fully inform the signors of the initiative petition** and the persons voting on the initiative; and, consequently, do not fairly reflect the contents of the proposed initiative.

*Abortions for Minors, supra*, 794 P.2d 238, 242 (emphasis added).

Of course, there is no Blue Book for petition signers. However, there are information sources that are typically available in the petitioning process. Colorado

law mandates that a document only qualifies as a petition “section” if it contains the initiative text, for instance.

“Section” means a bound compilation of **initiative forms** approved by the secretary of state, which **shall include pages that contain** the warning required by section 1-40-110 (1), the ballot title, the abstract required by section 1-40-110 (3), and **a copy of the proposed measure**; succeeding pages that contain the warning, the ballot title, and ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by section 1-40-111 (2). Each section shall be consecutively prenumbered by the petitioner prior to circulation.

C.R.S. § 1-40-102(6). As the Title Board points out, the alternative to a Blue Book explanation of an initiative can be “the language of the measure itself.” Title Board Opening Brief at 14.

Last Friday, that changed. Governor Polis issued Executive Order D 2020 65<sup>5</sup> and ordered the temporary suspension of multiple statutes that related to petitioning for initiatives, including the one quoted at length above, C.R.S. § 1-40-102(6). (See Attachment 1, hereto.)

In relevant part, this order states: “I temporarily **suspend the requirements** in C.R.S. §§ **1-40-102(6)**, 1-40-110, 1-40-105.5(4), and 1-40-113 **that govern** the form of a ballot issue, how a ballot issue petition must be compiled, and **the specific**

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<sup>5</sup> <https://www.colorado.gov/governor/sites/default/files/inline-files/D%202020%20065%20Ballot%20Issue%20Signatures.pdf>

**information that must be printed on the ballot issue petition.”** Executive Order D 2020 65 of Gov. Jared Polis at 2 (¶II.A) (emphasis added). In other words, at this moment in time, there is no requirement that these Proponents comply with any of the legal requirements that provide information to potential petition signers.

The Governor directed the Secretary of State to adopt rules that would allow for emailed petitions or mail-in petitions, among other options. *Id.* at 3 (¶G.a). Those rules could also require that “the full text of the ballot issue must accompany the petition for signature.” *Id.* at ¶G.b. Of course, any such rule is a matter of conjecture at this point. The only certainty is that the statute that mandates the inclusion of the initiative text in a petition form has been suspended.

Without the initiative text, voters could sign this petition and very possibly have no idea what they are signing onto. As it relates to this appeal, they wouldn’t know about the programs to be cut or the measure’s hidden restriction on local policy-making.

The Proponents do not even acknowledge petition signers’ well-established reliance on the title, much less the importance of providing clarity to them via the title. Regardless of whether the Secretary of State adopts regulations to mimic the now-suspended initiative statutes, the ballot title serves its statutorily assigned function only if, as this Court has previously noted, the title provides “full

disclosure” to voters. *Proposed Election Reform Amendment, supra*, 852 P.2d at 32.

On its face and under current circumstances, this title does not achieve that goal.

The title set for #293 should be returned to the Board for correction.

## CONCLUSION

The initiative is flawed because it violates the single subject requirement. The title is flawed because it conceals important matters from voters. The Title Board’s decision should be reversed.

Respectfully submitted this 20<sup>th</sup> day of May, 2020.

*/s/ Mark G. Grueskin*

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**CERTIFICATE OF SERVICE**

I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITIONER’S ANSWER BRIEF ON PROPOSED INITIATIVE 2019-2020 #293 (“TOBACCO TAX REVENUE FOR NEW STATE PRESCHOOL PROGRAM”)** was sent electronically via CCEF this day, May 20, 2020, to the following:

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*/s Erin Holweger*

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DATE FILED: May 20, 2020 5:30 PM

## D 2020 065

### EXECUTIVE ORDER

#### **Ordering the Temporary Suspension of Certain Regulatory Statutes Concerning Signature Collection for Ballot Issues and Authorizing the Secretary of State to Create Temporary Rules for Registered Electors To Receive and Return Issue Petitions Over Mail and Email Due to the Presence of COVID-19**

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order ordering the temporary suspension of certain regulatory statutes concerning signature collection for ballot issues and authorizing the Secretary of State to create temporary rules to allow for mail and email signature collection due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

#### **I. Background and Purpose**

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, and D 2020 058. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020..

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

We must take action to minimize the duration of this epidemic and the disruption to our daily lives. The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. Public health experts recommend we practice "social distancing," or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19. On April 26, 2020, I issued Executive Order D 2020 044, Safer at Home, limiting in person activities, which imposes a significant hurdle for ballot petition circulators, who play an essential role in our democratic republic and have significant and determinative barriers due to state and local public health orders that prevent them from the normal statutory conduct of in-person signature gathering.

This Executive Order, in order to preserve our constitutional principle of ballot access, temporarily suspends statutory provisions that in ordinary times are consistent with a constitutional process for ballot access, but are currently, due to the crisis, inconsistent with the constitutional principle of ballot access, including those requiring registered electors to sign ballot issue petitions in the presence of a petition circulator and authorizes the Secretary of State to issue rules that allow for signature collection in a manner that protects public health while the COVID-19 disaster emergency declaration is in place. This Executive Order protects Coloradans' constitutional right to shape their government through the initiative and referendum processes without risking their health or the health of others.

## **II. Directives**

- A. I temporarily suspend the requirements in C.R.S. §§ 1-40-102(6), 1-40-110, 1-40-105.5(4), and 1-40-113 that govern the form of a ballot issue, how a ballot issue petition must be compiled, and the specific information that must be printed on the ballot issue petition.
- B. I temporarily suspend the requirements in C.R.S. § 1-40-108(1) that a ballot issue petition must be filed with the Secretary of State within six (6) months from the date that the titles and submissions clause have been fixed and determined provided however that all ballot issue petitions must be filed with the Secretary of State at least three months before the general election at which they are to be voted on.
- C. I temporarily suspend the requirements in C.R.S. § 1-40-111 that a petition circulator be in the physical presence of the registered electors signing the petition, that the petition circulator be in the physical presence of a notary, and that the Secretary reject any section of a petition that does not have a notarized circulator affidavit attached. Additionally, I temporarily suspend the requirements in C.R.S. § 1-40-135(2)(c)(VI) that the Secretary must revoke a petition entity's license if the entity authorizes or knowingly permits a notary public's notarization of a petition section outside the presence of the circulator.
- D. I temporarily suspend the requirements in C.R.S. § 1-40-116 that a circulator's affidavit be attached to each section of the ballot issue petition and that the Secretary assure that the information required by C.R.S. § 1-40-111(2) is complete. Nothing in this subsection prohibits the Secretary of State from verifying the validity of signatures on a petition as required by C.R.S. § 1-40-116, including by conducting a random sample and, if necessary, a line by line review of signatures as required by subsection (4) of that section.
- E. I temporarily suspend C.R.S. §§ 1-40-130(1)(k), which makes it unlawful for a petition to be signed outside the presence of a circulator, 1-40-130(1)(e), but only to the extent that it requires an affidavit to a ballot petition be signed in the physical presence of the person certifying the affidavit, and 1-40-130(1)(l), which makes it

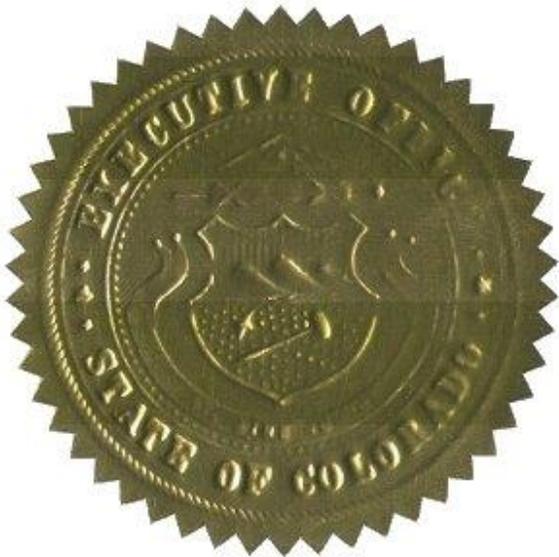
unlawful for any person to circulate in whole or in part a petition section, unless such person is the circulator who signs the affidavit attached to the petition section.

- F. I direct CDPHE to work collaboratively with the Secretary of State to develop guidelines to be issued by the Secretary of State that allow for safe circulation of petitions in-person following state public health orders and state and local social distancing guidelines;
- G. I authorize the Secretary of State to promulgate and issue temporary emergency rules that allow campaigns for ballot issues that have titles set or pending before the Colorado Supreme Court as of the effective date of this order to continue collecting signatures in a way that protects public health consistent with the Constitutional requirement that some registered elector must attest to the validity of signatures on the petition. The ability to collect petitions for ballot issues is limited to proponents and their third party designees. These temporary emergency rules must include, but not limited to, rules that:
- a. Authorize registered electors to sign petitions by a means that does not require a petition circulator, including but not limited to providing electronic mail and mail-in options;
  - b. Establish a process by which proponents of ballot measures would receive petitions from the Secretary of State, transmit petitions to registered electors, receive signed and scanned petitions by electronic mail, transcribe the information from the completed forms, submit completed information, including the transcribed forms and signature documentation to the Secretary of State before the deadline for submission, validate the signed petitions received by the methods set forth in this paragraph, and any other process that the Secretary of State needs for ballot measures including the process to cure a petition; the full text of the ballot issue must accompany the petition for signature;
  - c. Require all circulators, proponents, and designated representatives for ballot issues to provide registered electors with information about the ballot issue that would ordinarily be printed on the signature petition;
  - d. Establish a process for notarization of petition affidavits attesting to the validity of petition signatures, which may include, but is not limited to the procedures established by the Secretary of State's Office under Executive Order D 2020 019 or as amended.
  - e. Require affidavits attached to petitions to be signed by the circulator who received the petition from the register electors;
  - f. Establish a form and requirement for an affidavit;

- g. Ensure that registered electors are able to feasibly complete the process from their homes; and
  - h. Prevent fraud and abuse.
- H. Nothing in this Executive Order relieves circulators or designated representatives collecting signatures for a ballot issue of the burden to ensure that the signatures on the petitions are valid to the best of their knowledge.
- I. Nothing in this Executive Order changes the requirements that a registered elector must provide their signature, their name, their address, and the date of signing under C.R.S. § 1-40-111(1).
- J. Except as expressly provided above, nothing in this Executive Order suspends the other provisions of C.R.S. § 1-40-130, which define the unlawful signature gathering actions and their penalties.
- K. Nothing in this Executive Order shall extend the cure period for a ballot measure that has already submitted signatures to the Secretary of State for a sufficiency review.

### **III. Duration**

This Executive Order shall expire thirty (30) days from May 15, 2020, unless extended further by Executive Order.



GIVEN under my hand and  
the Executive Seal of the  
State of Colorado, this  
fifteenth day of May, 2020

A handwritten signature in blue ink that reads "Jared Polis". The signature is written in a cursive, flowing style.

Jared Polis  
Governor