

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, Colorado 80203</p>	
<p>Original Proceeding Pursuant to §1-40-107(2), C.R.S. (20210-22) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2021- 2022 #151</p> <p>Petitioner: Scott Wasserman</p> <p>v.</p> <p>Respondents: Colin Larson and John Brackney</p> <p>v.</p> <p>Title Board: Theresa Conley, Ed DeCecco, and Kurt Morrison</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for Petitioner:</p> <p>Edward T. Ramey, #6748 Tierney Lawrence LLC 225 East 16th Avenue, Suite 350 Denver, CO 80203 Telephone: 720-242-7585 Email: eramey@tierneylawrence.com;</p>	<p>Supreme Court Case No. 2022SA132</p>
<p>PETITION FOR REVIEW OF FINAL ACTION OF TITLE BOARD CONCERNING PROPOSED INITIATIVE 2021-2022 #151 ("CONCERNING PROPERTY VALUATION")</p>	

Scott Wasserman (“Petitioner”), a registered elector of the State of Colorado, through undersigned counsel, respectfully petitions this Court pursuant to §1-40-107(2), C.R.S. (2021-22), to review the actions of the Title Board with respect to the title, ballot title, and submission clause set for Proposed Initiative 2021-2022 # 151 (the “Proposed Initiative”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2021-2022 #151

Respondents Colin Larson and John Brackney (“Proponents”) are the designated representatives of the proponents of the Proposed Initiative. Proponents submitted their Proposed Initiative to the Title Board on April 8, 2022. The Title Board held a hearing on April 22, 2022, and set a title, ballot title and submission clause for the Proposed Initiative. Petitioner, one other registered elector (Bernard Buescher), and the Proponents filed Motions for Rehearing on April 27, 2022, and a rehearing was held on April 28, 2022. At the rehearing, the Title Board made changes to the titles, but denied Petitioner’s Motion with respect to the issue posed in this Petition for Review.

B. Jurisdiction

Petitioner is timely requesting a review of the actions of the Title Board by the Supreme Court pursuant to §1-40-107(2), C.R.S. (2021-22).

As required by §1-40-107(2), C.R.S. (2021-22), appended to this Petition for Review are certified copies of: (1) the final copy of the Proposed Initiative as submitted to the Title Board; (2) the determinations by the Title Board at its initial hearing on the Proposed Initiative on April 22, 2022; (3) the fiscal summary for the Proposed Initiative prepared by the Director of Research of the Legislative Council of the General Assembly pursuant to §1-40-105.5(1.5), C.R.S. (2021-22); (4) all motions for rehearing filed on April 27, 2022; and (5) the determinations by the Title Board regarding those motions at the rehearing on April 28, 2022.

GROUND FOR REVIEW

1. The title set by the Title Board does not accurately reflect the language of the Proposed Initiative. The text of the measure itself states that all “provisions of the Colorado Revised Statutes and the Constitution of the State of Colorado *affected by this initiative* – emphasis added – will “return to as they were” on December 31, 2032 (except for intervening changes to those “affected” provisions). The title states that the measure “require[s] the *provisions of this measure* to expire on December 31, 2032” (emphasis added). The provisions “affected by this initiative” are neither defined nor reasonably knowable at this time, though they are assuredly broader than “the provisions of this measure.”

2. The Proposed Initiative excepts “changes that were made to those provisions subsequent to the passage of this initiative” from the 2032 expiration. It is unknowable at this time (1) what “those provisions” are or may be and (2) what presently non-existent changes to “those provisions” – *i.e.*, those “affected” in some way by this Initiative – the voters are being asked to affirmatively and prospectively preserve at this time.

3. For the reasons noted above, there is no way to determine at this time if the measure contains more than a single subject.

4. For the reasons noted above, there is no way a title can clearly advise the voters what effect a “yes/for” or “no/against” vote would have. There is no way of knowing what potentially “affected” provisions will “expire” and what presently nonexistent and unknowable “affected” provisions the voters are being asked to affirmatively vote to preserve.

PRAYER FOR RELIEF

Petitioner respectfully requests the Court to reverse the actions of the Title Board and remand the Proposed Initiative with instructions.

Respectfully submitted this 5th day of May, 2022.

s/Edward T. Ramey _____

Edward T. Ramey, #6748

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2022, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2021-2022 #151** was filed through the Colorado Court E-Filing System and served by electronic mail upon the following via the addresses below:

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s/Edward T. Ramey

Edward T. Ramey



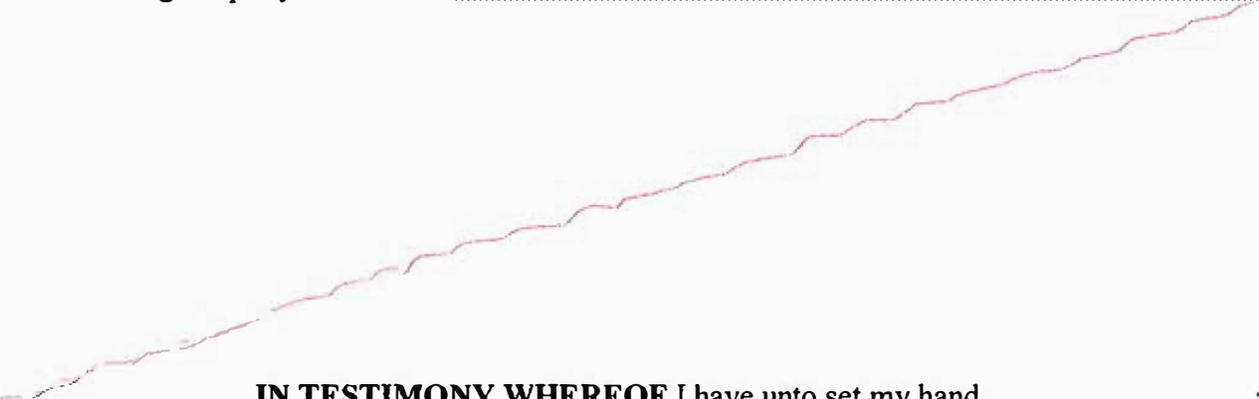
STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal impact statement and abstract, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative “2021-2022 #151 ‘Concerning Property Valuation’”



..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 3rd day of May, 2022.

Jena Griswold

SECRETARY OF STATE



2021-2022 #151 – Final Text

Be it Enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, **amend** section 3 of article X as follows:

Section 3. Uniform taxation – exemptions. (1)(a) Each property tax levy shall be uniform upon all real and personal property not exempt from taxation under this article located within the territorial limits of the authority levying the tax. The actual value of all real and personal property not exempt from taxation under this article shall be determined under general laws, which shall prescribe such methods and regulations as shall secure just and equalized valuations for assessments of all real and personal property not exempt from taxation under this article. Valuations for assessment shall be based on appraisals by assessing officers to determine the actual value of property in accordance with provisions of law, which laws shall provide that actual value be determined by appropriate consideration of cost approach, market approach, and income approach to appraisal; EXCEPT THAT ACTUAL VALUE FOR REAL PROPERTY SHALL NOT BE INCREASED ANNUALLY BY MORE THAN INFLATION, LIMITED TO 3%, AND THAT THE ACTUAL VALUE OF REAL PROPERTY SHALL EQUAL THE AMOUNT OF THE PROPERTY’S MOST RECENT SALE (ALTHOUGH THE ACTUAL VALUE OF REAL PROPERTY THAT HAS NOT SOLD SINCE JUNE 30, 2020, SHALL BE EQUAL TO THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY’S 2021 PROPERTY TAXES), UNLESS THE PROPERTY IS SUBSTANTIALLY IMPROVED IN WHICH CASE THE PROPERTY’S ACTUAL VALUE SHALL BE REAPPRAISED AND DETERMINED BY APPROPRIATE CONSIDERATION OF COST APPROACH, MARKET APPROACH, AND INCOME APPROACH TO APPRAISAL. However, the actual value of residential real property shall NOT be INCREASED ANNUALLY BY MORE THAN INFLATION, LIMITED TO 3%, AND SHALL EQUAL THE AMOUNT OF THE PROPERTY’S MOST RECENT SALE (ALTHOUGH THE ACTUAL VALUE OF REAL PROPERTY THAT HAS NOT SOLD SINCE JUNE 30, 2020, SHALL BE EQUAL TO THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY’S 2021 PROPERTY TAXES), UNLESS THE PROPERTY IS SUBSTANTIALLY IMPROVED IN WHICH CASE THE PROPERTY’S ACTUAL VALUE SHALL BE REAPPRAISED AND determined solely by consideration of ~~cost approach~~ **and** THE market approach to appraisal; and, however, the actual value of agricultural lands, as defined by law, shall be determined solely by consideration of the earning or productive capacity of such lands capitalized at a rate as prescribed by law. NOTHING IN THIS SUBSECTION (1)(a) OF ARTICLE X OF THE COLORADO CONSTITUTION SHALL BE CONSTRUED TO CHANGE THE APPLICABILITY OF THE HOMESTEAD EXEMPTION FOR QUALIFYING SENIORS AND QUALIFYING DISABLED VETERANS AS SET FORTH IN SECTION 3.5 OF ARTICLE X OF THE COLORADO CONSTITUTION.

SECTION 2. In Colorado Revised Statutes, **add** 39-1-102.5 as follows:

39-1-102.5. ADDITIONAL DEFINITIONS. AS USED IN SECTIONS 103, 104, AND 125, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) “INFLATION” MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKESIDE, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(2) “SALE” MEANS THE TRANSFER OF MORE THAN 50% OWNERSHIP OF REAL PROPERTY MADE EITHER: (1) IN THE ORDINARY COURSE OF BUSINESS FOR FULL AND ADEQUATE CONSIDERATION AND A TRANSACTION THAT IS (a) BONA FIDE, (b) AT ARM’S LENGTH, AND (c) FREE FROM ANY DONATIVE INTENT; OR (2) UPON THE DEATH OF THE PROPERTY’S OWNER, IF THE PROPERTY PASSES AT DEATH TO ANYONE OTHER THAN THE DECEASED’S SPOUSE.

(3) “SUBSTANTIALLY IMPROVED” MEANS HAVING CHANGED THE SQUARE FOOTAGE OF ANY EXISTING STRUCTURES OR BUILDINGS ON THE REAL PROPERTY OR HAVING ADDED ANY NEW STRUCTURES OR BUILDINGS TO THE REAL PROPERTY. PROPERTY THAT IS RECONSTRUCTED OR REPAIRED AFTER BEING DAMAGED OR DESTROYED BY NATURAL DISASTER OR OTHER UNFORESEEN EVENT IS NOT CONSIDERED TO BE SUBSTANTIALLY IMPROVED SO LONG AS THE RECONSTRUCTED OR REPAIRED PROPERTY DOES NOT EXCEED 120% OF THE SQUARE FOOTAGE OF THE PROPERTY BEFORE THE DAMAGE OR DESTRUCTION.

(4) “PORTABILITY” MEANS THE ABILITY OF REAL PROPERTY OWNERS TO TRANSFER SOME ASPECT OF THE VALUE OF ONE REAL PROPERTY TO ANOTHER UNDER CERTAIN CIRCUMSTANCES RELATED TO THE TAXATION OF THAT PROPERTY.

SECTION 3. In Colorado Revised Statutes, 39-1-103 **amend** (5)(a) and (15) and **add** (15.5) as follows:

39-1-103. Actual value determined – when. (5)(a) All real and personal property shall be appraised and the actual value thereof for property tax purposes determined by the assessor of the county wherein such property is located. The actual value of such property, other than agricultural lands exclusive of building improvements thereon ~~and other than residential real property~~ and other than producing mines and lands or leaseholds producing oil or gas, shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal; EXCEPT THAT ACTUAL VALUE FOR REAL PROPERTY SHALL NOT BE INCREASED ANNUALLY BY MORE THAN INFLATION, LIMITED TO 3%, AND THAT THE ACTUAL VALUE OF REAL PROPERTY SHALL EQUAL THE AMOUNT OF THE PROPERTY’S MOST RECENT SALE, (ALTHOUGH THE ACTUAL VALUE OF REAL PROPERTY THAT HAS NOT SOLD SINCE JUNE 30, 2020, SHALL BE EQUAL TO THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY’S 2021 PROPERTY TAXES), UNLESS THE PROPERTY IS SUBSTANTIALLY IMPROVED IN WHICH CASE THE PROPERTY’S ACTUAL VALUE SHALL BE REAPPRAISED ACCORDING TO SECTION 39-1-104 (10.2) AND DETERMINED BY CONSIDERATION OF THE COST APPROACH, THE MARKET APPROACH, AND THE INCOME APPROACH TO APPRAISAL. The assessor shall consider and document all elements of such approaches that are applicable prior to a determination of actual value. Despite any orders of the state board of equalization, no assessor shall arbitrarily increase the valuations for assessment of all parcels represented within the abstract of a county or within a class or subclass of parcels on that abstract by a common multiple in response to the order of said board. If an assessor is required, pursuant to the order of said board, to increase or decrease valuations for assessment, such changes shall be made only upon individual valuations for assessment of each and every parcel, using each of the approaches to appraisal specified in this paragraph (a), if applicable. The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a

reasonable period of time, capitalized at a rate of thirteen percent. Land that is valued as agricultural and that becomes subject to a perpetual conservation easement shall continue to be valued as agricultural notwithstanding its dedication for conservation purposes; except that, if any portion of such land is actually used for nonagricultural commercial or nonagricultural residential purposes, that portion shall be valued according to such use. Nothing in this subsection (5) shall be construed to require or permit the reclassification of agricultural land or improvements, including residential property, due solely to subjecting the land to a perpetual conservation easement. The actual value of residential real property shall NOT be INCREASED ANNUALLY BY MORE THAN INFLATION, LIMITED TO 3%, AND SHALL EQUAL THE AMOUNT OF THE PROPERTY'S MOST RECENT SALE, UNLESS THE PROPERTY IS SUBSTANTIALLY IMPROVED IN WHICH CASE THE PROPERTY'S ACTUAL VALUE SHALL BE REAPPRAISED, PURSUANT TO SECTION 39-1-104 (10.2), AND determined solely by consideration of the market approach to appraisal. A gross rent multiplier may be considered as a unit of comparison within the market approach to appraisal. The valuation for assessment of producing mines and of lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title. NOTHING REGARDING HOW THE ACTUAL VALUE OF A PROPERTY IS DETERMINED SHALL BE CONSTRUED AS A TAX CHANGE OR AS A CHANGE TO A PROPERTY'S MILL LEVY RATE OR PROPERTY TAX RATE.

(15) The general assembly hereby finds and declares that assessing officers shall give appropriate consideration to ~~the cost approach, market approach, and income approach to appraisal as required by~~ section 3 of article X of the state constitution in determining the actual value of taxable property. In the absence of evidence shown by the assessing officer that the use of the cost approach, market approach, and income approach to appraisal requires the modification of the actual value of taxable property the first year of a reassessment cycle in order to result in uniform and just and equal valuation for the second year of a reassessment cycle, the assessing officer shall consider the actual value of any taxable property for the first year of a reassessment cycle, as may have been adjusted as a result of protests and appeals, if any, prior to the assessment date of the second year of a reassessment cycle, to be the actual value of such taxable property for the second year of a reassessment cycle. HOWEVER, THE ACTUAL VALUE OF REAL PROPERTY SHALL EQUAL THE AMOUNT OF THE PROPERTY'S MOST RECENT SALE, UNLESS THE PROPERTY IS SUBSTANTIALLY IMPROVED, OR THE VALUE HAS BEEN PROTESTED IN ACCORDANCE WITH SECTION 39-5-121 (1)(a)(I) OR APPEALED IN ACCORDANCE WITH SECTION 39-5-122 (2), IN WHICH CASE THE PROPERTY SHALL BE REAPPRAISED AND THE ASSESSING OFFICERS SHALL GIVE APPROPRIATE CONSIDERATION TO SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION.

(15.5)(a) IF A REAL PROPERTY SUFFERS A DECLINE IN VALUE, THE TAXPAYER MAY PROTEST THE ACTUAL VALUE OF THE PROPERTY IN ACCORDANCE WITH SECTION 39-5-121 (1)(a)(I) OR MAY APPEAL THE ACTUAL VALUE OF THE PROPERTY IN ACCORDANCE WITH SECTION 39-5-122 (2). IF THE PROTEST OR APPEAL RESULTS IN AN ACTUAL VALUE THAT IS LESS THAN THE VALUE OF THE REAL PROPERTY'S MOST RECENT SALE OR REAPPRAISAL, OR THAT IS LESS THAN THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY'S 2021 PROPERTY TAXES IF THE PROPERTY HAS NOT SOLD SINCE JUNE 30, 2020, AS DEFINED IN SECTION 39-1-102.5(2), THEN THE PROPERTY SHALL BE REAPPRAISED, PURSUANT TO SECTION 39-1-104 (10.2), ANNUALLY AND THE ACTUAL VALUE SHALL BE THE REAPPRAISED VALUE UNTIL THE PROPERTY RECOVERS ALL ITS VALUE, CALCULATED AS THE ACTUAL VALUE OF THE PROPERTY PRIOR TO WHEN THE PROTEST OR APPEAL CONCLUDED, ADJUSTED FOR INFLATION TO THE CURRENT YEAR.

(b) IF AN ASSESSOR DETERMINES THAT THE COUNTY HAS SUFFERED A SUSTAINED ECONOMIC DOWNTURN, THE ASSESSOR MAY CONDUCT A COUNTYWIDE REAPPRAISAL OF ALL REAL PROPERTIES IN THE COUNTY. IF THE REAPPRAISAL RESULTS IN AN ACTUAL VALUE THAT IS LESS THAN THE VALUE OF THE REAL PROPERTY'S MOST RECENT SALE OR REAPPRAISAL, OR THAT IS LESS THAN THE ACTUAL VALUE USED TO CALCULATE THE REAL PROPERTY'S 2021 PROPERTY TAXES IF THE PROPERTY HAS NOT SOLD SINCE JUNE 30, 2020, AS DEFINED IN SECTION 39-1-102.5(2), THEN THE PROPERTY SHALL BE REAPPRAISED, PURSUANT TO SECTION 39-1-104 (10.2), ANNUALLY AND THE ACTUAL VALUE SHALL BE THE REAPPRAISED VALUE UNTIL THE PROPERTY RECOVERS ALL ITS VALUE, CALCULATED AS THE ACTUAL VALUE OF THE PROPERTY PRIOR TO THE SUSTAINED ECONOMIC DOWNTURN ADJUSTED FOR INFLATION TO THE CURRENT YEAR.

(c) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS 15(a) AND 15(b) OF THIS SECTION, IF A REAL PROPERTY IS SOLD, AS DEFINED IN SECTION 39-1-102.5(2), BEFORE IT RECOVERS ALL ITS VALUE, CALCULATED AS THE ACTUAL VALUE OF THE PROPERTY PRIOR TO THE PROTEST OR APPEAL ADJUSTED FOR INFLATION TO THE CURRENT YEAR, THEN THE PROPERTY'S ACTUAL VALUE SHALL BE THE VALUE OF THE SALE AND THE PROPERTY SHALL NO LONGER BE REAPPRAISED UNLESS IT IS SUBSTANTIALLY IMPROVED.

SECTION 4. In Colorado Revised Statutes, 39-1-104 **amend** (10.2) as follows:

39-1-104. Valuation for assessment - definitions. (10.2)(a) Except as otherwise provided in ~~subsection~~ SUBSECTIONS (10.2)(c) AND (12) of this section, beginning with the property tax year which commences January 1, 1989, a reassessment cycle shall be instituted with each cycle consisting of two full calendar years. At the beginning of each reassessment cycle, the level of value to be used during the reassessment cycle in the determination of actual value of real property in any county of the state as reflected in the abstract of assessment for each year in the reassessment cycle shall advance by two years over what was used in the previous reassessment cycle; except that the level of value to be used for the years 1989 and 1990 shall be the level of value for the period of one and one-half years immediately prior to July 1, 1988; except that, if comparable valuation data is not available from such one-and-one-half-year period to adequately determine the level of value for a class of property, the period of five years immediately prior to July 1, 1988, shall be utilized to determine the level of value. Said level of value shall be adjusted to the final day of the data gathering period.

(b) During the two years of each reassessment cycle, in preparation for implementation in the succeeding reassessment cycle, the respective assessors shall conduct revaluations of all taxable real property utilizing the level of value for the period which will be used to determine actual value in such succeeding reassessment cycle and the manuals and associated data published for the period which will be used to determine actual value in such succeeding reassessment cycle.

(c) Repealed.

(d) For the purposes of this article and article 9 of this title, "level of value" means the actual value of taxable real property as ascertained by the applicable factors enumerated in section 39-1-103 (5) for the one-and-one-half-year period immediately prior to July 1 immediately

preceding the assessment date for which the administrator is required by this article to publish manuals and associated data. Beginning with the property tax year commencing January 1, 1999, if comparable valuation data is not available from such one-and-one-half-year period to adequately determine such actual value for a class of property, “level of value” means the actual value of taxable real property as ascertained by said applicable factors for such one-and-one-half-year period, the six-month period immediately preceding such one-and-one-half-year period, and as many preceding six-month periods within the five-year period immediately prior to July 1 immediately preceding the assessment date as are necessary to obtain adequate comparable valuation data. Said level of value shall be adjusted to the final day of the data-gathering period.

(e) Repealed.

(f) BEGINNING WITH THE PROPERTY TAX YEAR WHICH COMMENCES JANUARY 1, 2023, THE ACTUAL VALUE OF REAL PROPERTY SHALL BE EQUAL TO THE AMOUNT OF THE PROPERTY’S MOST RECENT SALE. THE PROPERTY’S ACTUAL VALUE IN SUBSEQUENT TAX YEARS AFTER THE TAX YEAR IN WHICH THE PROPERTY SOLD SHALL BE EQUAL TO THE AMOUNT OF THE PROPERTY’S MOST RECENT SALE PLUS AN ANNUAL ADJUSTMENT FOR INFLATION, LIMITED TO 3%. THE ACTUAL VALUE OF REAL PROPERTY THAT HAS NOT SOLD SINCE JUNE 30, 2020, SHALL BE EQUAL TO THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY’S 2021 PROPERTY TAXES. THE PROPERTY’S ACTUAL VALUE IN SUBSEQUENT PROPERTY TAX YEARS SHALL BE EQUAL THE ACTUAL VALUE USED TO CALCULATE THE PROPERTY’S 2021 PROPERTY TAXES PLUS AN ANNUAL ADJUSTMENT FOR INFLATION, LIMITED TO 3%. IF REAL PROPERTY IS SUBSTANTIALLY IMPROVED, THE PROPERTY’S ACTUAL VALUE SHALL BE REAPPRAISED. THE PROPERTY’S ACTUAL VALUE SHALL SUBSEQUENTLY BE EQUAL TO THE REAPPRAISED VALUE PLUS AN ANNUAL ADJUSTMENT FOR INFLATION, LIMITED TO 3%.

SECTION 5. In Colorado Revised Statutes, 39-5-121 **amend** (1)(b)(I) and (1.2) as follows:

39-5-121. Notice of valuation – legislative declaration – repeal. (1)(b)(I) Commencing as provided in subparagraph (II) of this paragraph (b), the notice of valuation ~~the first year of each reassessment cycle~~ that is mailed to each person who owns land or improvements pursuant to paragraph (a) of this subsection (1) shall include, in addition to the information specified in paragraph (a) of this subsection (1), an itemized listing of the land and improvements and the characteristics that are germane to the value of such land and improvements.

(1.2) A notice of valuation included with the tax bill shall fulfill the requirements of subsection (1) of this section. The general assembly hereby finds and declares that the notice procedure set forth in this subsection (1.2) facilitates the efficient and economic operation of local governments, consistent with the expressed purpose of section 20 of article X of the state constitution to reasonably restrain most the growth of government, and ~~still~~ fulfills the purposes of section 20 (8)(c) of said article X ~~in the intervening year of each reassessment cycle when there is no change in the value for the property in such year.~~

SECTION 6. In Colorado Revised Statutes, **add** 39-1-125 as follows:

39-1-125: REAL PROPERTY ACTUAL VALUE PORTABILITY. THE DEPARTMENT OF LOCAL AFFAIRS IS AUTHORIZED TO PROMULGATE RULES ON THE ISSUE OF PORTABILITY, INCLUDING MAKING THE VALUE OF REAL PROPERTY TRANSFERABLE TO ANOTHER PROPERTY OF EQUAL OR LESSER SQUARE FOOTAGE.

SECTION 7. In Colorado Revised Statutes, **add** 39-1-126 as follows:

39-1-126. EXPIRATION. ON DECEMBER 31, 2032, THE PROVISIONS IN THE COLORADO REVISED STATUTES AND THE CONSTITUTION OF THE STATE OF COLORADO AFFECTED BY THIS INITIATIVE WILL RETURN TO AS THEY WERE BEFORE THE INITIATIVE WAS ORIGINALLY PASSED ON NOVEMBER 8, 2022, EXCEPT AS TO ANY CHANGES THAT WERE MADE TO THOSE PROVISIONS SUBSEQUENT TO THE PASSAGE OF THIS INITIATIVE. BEGINNING IN 2028, THE LEGISLATIVE AUDIT COMMITTEE SHALL DIRECT AN ANNUAL AUDIT TO BE PERFORMED FOR PURPOSES OF ASCERTAINING THE PROPERTY TAX SAVINGS TO REAL PROPERTY OWNERS AND THE ANNUAL RATE OF INCREASE IN PROPERTY TAX REVENUES TO SCHOOL DISTRICTS, FIRE DISTRICTS, AND OTHER LOCAL DISTRICTS, INCLUDING COUNTY AND MUNICIPAL GOVERNMENTS, AS A RESULT OF THE CHANGES IMPLEMENTED BY THIS INITIATIVE. THE AUDIT SHALL BE PRESENTED TO THE LEGISLATIVE AUDIT COMMITTEE IN DECEMBER OF EVERY YEAR THROUGH DECEMBER 31, 2032.

SECTION 8. Effective date.

THIS INITIATIVE SHALL BECOME EFFECTIVE UPON THE EARLIER OF THE OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR OR THIRTY DAYS AFTER THE VOTE HAS BEEN CANVASSED, PURSUANT TO SUBSECTION (4) OF SECTION 1 OF ARTICLE V OF THE COLORADO CONSTITUTION.

Ballot Title Setting Board

Proposed Initiative 2021-2022 #151¹

The title as designated and fixed by the Board is as follows:

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 by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes concerning the actual value of real property for purposes of property taxation, and, in connection therewith, setting the actual value of real property for the next property tax year at the valuation for the 2021 property tax year or the most recent sale amount; thereafter, establishing the actual value to be equal to the prior year's value adjusted for inflation up to 3%; establishing this adjusted value as a limit on the actual value; resetting the actual value of the property when it is sold; requiring the property to be reappraised if it is substantially improved, as defined, suffers a decline in value, or is in a county that has suffered a sustained economic downturn; authorizing the department of local affairs to issue rules on portability of real property value; defining a recent sale to include a transfer of less than full ownership of real property and a transfer upon the death of the property owner to anyone other than a spouse; and requiring the provisions of this measure to expire on December 31, 2032.

The ballot title and submission clause as designated and fixed by the Board is as follows:

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 \$1.2 billion in property tax revenue by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes concerning the actual value of real property for purposes of property taxation, and, in connection therewith, setting the actual value of real property for the next property tax year at the valuation for the 2021 property tax year or the most recent sale amount; thereafter, establishing the actual value to be equal to the prior year's value adjusted for inflation up to 3%; establishing this adjusted value as a limit on the actual value; resetting the actual value of the property when it is sold; requiring the property to be reappraised if it is substantially improved, as defined, suffers a decline in value, or is in a county that has suffered a sustained economic

¹ Unofficially captioned “**Concerning Property Valuation**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

downturn; authorizing the department of local affairs to issue rules on portability of real property value; defining a recent sale to include a transfer of less than full ownership of real property and a transfer upon the death of the property owner to anyone other than a spouse; and requiring the provisions of this measure to expire on December 31, 2032?

Hearing April 22, 2022

Single subject approved; staff draft amended; titles set.

The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution; a 55% vote is required to pass.

Board members: Theresa Conley, Ed DeCecco, Kurt Morrison

Hearing adjourned 11:23P.M.

Rehearing April 28, 2022:

Motion for Rehearing (Movants) granted only to the extent that the Board made changes to the titles.

Motion for Rehearing (Proponent) denied.

The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution; a 55% vote is required to pass.

Board members: Theresa Conley, Ed DeCecco, Kurt Morrison

Hearing adjourned: 6:51 P.M.

Ballot Title Setting Board

Proposed Initiative 2021-2022 #151¹

The title as designated and fixed by the Board is as follows:

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 by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes concerning the actual value of real property for purposes of property taxation, and, in connection therewith, setting the actual value of real property for the 2023 property tax year at the current valuation or the most recent sale amount; thereafter, establishing the actual value to be equal to the prior year's value adjusted for inflation up to 3%; establishing this adjusted value as a limit on the actual value; resetting the actual value of the property when it is sold; requiring the property to be reappraised if it is substantially improved, as defined, suffers a decline in value, or is in a county that has suffered a sustained economic downturn; authorizing the department of local affairs to issue rules on portability; defining a recent sale to include a transfer upon the death of the property owner to anyone other than a spouse; and requiring the provisions of this measure to expire on December 31, 2032.

The ballot title and submission clause as designated and fixed by the Board is as follows:

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 \$1.2 billion in property tax revenue by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes concerning the actual value of real property for purposes of property taxation, and, in connection therewith, setting the actual value of real property for the 2023 property tax year at the current valuation or the most recent sale amount; thereafter, establishing the actual value to be equal to the prior year's value adjusted for inflation up to 3%; establishing this adjusted value as a limit on the actual value; resetting the actual value of the property when it is sold; requiring the property to be reappraised if it is substantially improved, as defined, suffers a decline in value, or is in a county that has suffered a sustained economic downturn; authorizing the department of local affairs to issue rules on portability; defining a recent sale to include a transfer

¹ Unofficially captioned “**Concerning Property Valuation**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

upon the death of the property owner to anyone other than a spouse; and requiring the provisions of this measure to expire on December 31, 2032?

Hearing April 22, 2022

Single subject approved; staff draft amended; titles set.

The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution; a 55% vote is required to pass.

Board members: Theresa Conley, Ed DeCecco, Kurt Morrison

Hearing adjourned 11:23P.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Bernard Buescher, Objector,

vs.

Colin Larson and John Brackney, Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2021-2022 #151
("Concerning Property Valuation")**

Bernard Buescher, registered elector of the County of Mesa and the State of Colorado, through his undersigned counsel, objects to the Title Board's (the "Board") title and ballot title and submission clause set for Initiative 2021-2022 #151, and states:

The Board set a title for Initiative 2021-2022 #151 on April 21, 2022. The Board designated and fixed titles for this measure¹ but erred in doing so.

I. This measure violates the constitutional single subject requirement.

The single-subject requirement in Article V, sec. 1(5.5) serves two purposes: (1) it ensures that the initiative "depends upon its own merits for passage"; and (2) it "protects against fraud and surprise occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex bill." *In re Title & Ballot Title & Submission Clause for 2005-2006 #55*, 138 P.3d 273, 277 (Colo. 2006) (citation omitted).

¹

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 by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes concerning the actual value of real property for purposes of property taxation, and, in connection therewith, setting the actual value of real property for the 2023 property tax year at the current valuation or the most recent sale amount; thereafter, establishing the actual value to be equal to the prior year's value adjusted for inflation up to 3%; allowing an additional increase if the annual inflation exceeds 5% and is approved by a board of county commissioners; establishing this adjusted value as a limit on the actual value; resetting the actual value of the property when it is sold; requiring the property to be reappraised if it is substantially improved, as defined, suffers a decline in value, or is in a county that has suffered a sustained economic downturn; authorizing the department of local affairs to issue rules on portability; defining a recent sale to include a transfer upon the death of the property owner to anyone other than a spouse; and requiring the provisions of this measure to expire on December 31, 2032.

In applying this mandate, the Title Board must evaluate the measure to determine if it is constitutionally compliant. An initiative may not group “distinct purposes under a broad theme” to circumvent the single-subject requirement, nor can it “hide purposes unrelated to the [i]nitiative’s central theme” to gain passage of a hidden provision. *Id.* at 277-78.

Proponents contend their single subject addresses predictability in property values for taxpayers. Their measure also has additional purposes.

A. The initiative’s added purpose: using fractional purchases prices as “sales”

The initiative states multiple times that a property’s valuation for tax purposes “shall equal the amount of the property’s most recent sale.” Proposed Colo. Const., Art. X, sec. 20(3); Proposed C.R.S. 39-1-103(5)(a), (15.5)(a); Proposed C.R.S. 39-1-104(10.2)(f). In other words, assessors must use that dollar amount that is paid for the property’s last “sale.”

As a reminder, “sale” is defined by this initiative.

“SALE” MEANS THE TRANSFER OF MORE THAN 50% OWNERSHIP OF REAL PROPERTY MADE EITHER: (1) IN THE ORDINARY COURSE OF BUSINESS FOR FULL AND ADEQUATE CONSIDERATION AND A TRANSACTION THAT IS (A) BONA FIDE, (B) AT ARM’S LENGTH, AND (C) FREE FROM ANY DONATIVE INTENT; OR (3) UPON THE DEATH OF THE PROPERTY’S OWNER, IF THE PROPERTY PASSES AT DEATH TO ANYONE OTHER THAN THE DECEASED’S SPOUSE.

Proposed C.R.S. 39-1-102.5(2). In other words, a “sale” occurs when over 50% of a property’s ownership interests is transferred for fair market compensation. For example, a sale of a property having a total market value of \$1 million occurs when a buyer pays \$501,000 for a 50.1% interest in a bona fide transaction, done at arm’s length, and without donative intent.

Under this measure, though, the property tax valuation of that \$1,000,000 property would be only \$501,000 because a qualifying “sale” occurred when that 50.1% interest changed hands. The sale of the 50.1% interest was a “transfer of more than 50% ownership of real property.” *Id.* As a result, Proponents’ initiative mandates sub-market valuations any time a partial interest over 50% is bought. The Proponents drafted this measure so, in this example, \$499,000 just disappears from what would otherwise be a property’s tax valuation.

The single subject requirement protects against measures that can result in “voter surprise or fraud.” *In re Title, Ballot Title & Submission Clause for 2007-2008 # 17*, 172 P.3d 871, 873 (Colo. 2007); *see also* C.R.S. § 1-40-106.5(1)(e)(II). Subjects need not be entirely unrelated to be separate; changing both the procedures and the substance associated with the same constitutional provision, or even matters grouped under “the same general area of the law,” is no cure for a single subject violation. *In re Title, Ballot Title and Submission Clause for Proposed Initiative 2001-2002 #43*, 46 P.3d 438, 442-43, 445-46 (Colo. 2002). “The risk of uninformed voting caused by **items concealed within a lengthy or complex proposal** is what the single subject requirement seeks to avoid.” *In re Title for Initiative 1997-1998 #30*, 959 P.2d 822, 825 (Colo. 1998) (citations and internal quotation marks omitted) (emphasis added).

That this partial valuation issue has not surfaced in hearings before the legislative offices and this Board on these measures is indicative of just how concealed this provision is. In all the hearings held on this and related matters, it has not been substantively aired. And voters would never think that the sum total of a property's "most recent sale" is actually the price paid for a little over half-interest of the property. They will be misled in voting to support or oppose this measure, only to find after the election that sales of partial interests of property within a county or district must be used and will produce reduced tax bases. "[P]rovisions causing voter surprise or uninformed voting also may constitute a single-subject violation." *In re Title, Ballot Title & Submission Clause for Initiative 1999-2000 #258(A)*, 4 P.3d 1094, 1107 n.6 (Colo. 2000) (Martinez, J., concurring).

Moreover, this valuation loophole masquerading as a definition is not a necessary element of the tax limit proponents highlight within this initiative. Proof of that fact lies in one of their companion measures, Initiative #75, that had no such definition and, in fact, no definition of "sale" at all.² Given the routine use of the market approach to appraisal for decades and its reliance on market sales of property and the commonly understood meaning of "sale," this special interest provision was clearly not needed to achieve proponents' stated goal of providing certainty in property tax valuation.

The Title Board is prohibited from titling a measure that misleads voters due to its unrelated facets, and this initiative should be returned to its proponents.

B. The initiative's added purpose: "portability" of property value

1. The provision in this initiative that makes property value "portable" is so uncertain as to its meaning that no title can be drafted for this measure.

This initiative allows "property owners" to "transfer some aspect of the value of one property **to another** under certain circumstances related to the taxation of that property."

This measure is so uncertain that no title can be set, as the Board cannot know what this means. Is value transferred from one property "to another" *property*? Or is some aspect of valuation (say, the improvements on a commercial site) transferred "to another" *property owner*? If it is the former, one can transfer value from one address in one county to another address in another county. If it is the latter, one can transfer value (presumably in exchange for consideration) to a property owner whose property has a lesser value or lower mill levy, thus producing tax savings for the transferor of property value and economic benefit that outweighs the added tax to the transferee.

The measure is purposefully vague. It allows both scenarios above, and because it allocates only rule making and provides no standards, there are no other guidelines for the Department of Local Affairs to use to know which of these approaches was intended by voters.

² <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2021-2022/75Final.pdf>

Because of its murky design, voters would have no idea what they might be referring to the ballot or enacting. Frankly, they are in the same position as the Title Board which can – from the measure itself – have no idea what is actually being proposed.

Where the Board lacks an understanding of what a measure actually accomplishes, it cannot set a title. “If the Board ‘cannot comprehend the initiatives well enough to state their single subject in the titles . . . the initiatives cannot be forwarded to the voters and must, instead, be returned to the proponent.’” *In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #44*, 977 P.2d 856, 858 (Colo. 1999), citing *In re Proposed Initiative for 1999-2000 No. 25*, 974 P.2d 458, 469 (Colo. 1999). As such, no titles may be set for this measure.

2. Making property value “portable” between properties is a new subject as it converts a property tax into a tax that is personal to the taxpayer rather than being imposed on site-specific property.

A “property tax” is based on actual property. Under the portability concept, a taxpayer with multiple properties can transfer value among properties to lower his tax burden without any reference to the property itself. This measure converts a property tax into something it is not, and that is a separate subject.

This provision means that a property isn’t valued based on the results of the applicable approaches to appraisal. It is valued based on its owner’s desire to reallocate value from some other property, potentially in some other remote part of the state. Thus, it is the financial decision of the property owner, not the intrinsic characteristics of the property itself, that will determine the tax base of the county, school district, municipality, or special district. By changing the nature of this tax from being one that is specifically connected to real property to one that is connected only to the property owner, Proponents have confused their measure by including this separate purpose and thus violated the single subject requirement.

3. Making property value “portable” between properties is a new subject as it allows property owners to transfer taxable value (outside of a county, school districts, and special districts), thus changing those entities’ tax revenue bases.

By allowing the property owner to transfer property value among its holdings, the property owner will determine the tax base of the public entity that collects property taxes in 2 jurisdictions – the place where value is transferred from and the place where value is transferred to. No longer is a county or a district able to count on property tax revenue based on the jurisdiction’s assessed value.

For instance, a property valued at \$1 million dollars whose improvement values of, say \$750,000, are transferred elsewhere will have a diminished tax base because that property now carries only \$250,000 of actual value. And the jurisdiction to which property is transferred will have its taxable value increased by that amount. How would voters possibly know, in voting for a tax reduction for themselves, they are also approving the potential for their local tax base to simply disappear at the property owner’s whim? By delegating to property owners what real property will be taxable by a public entity, Proponents diverged from their stated purpose of

providing added certainty to property owners over their property tax assessments and thus violated the single subject requirement.

4. The portability provision does not serve the end proponents said was the measure's single subject: providing certainty to taxpayers about property values.

An initiative's provision must be related to the measure's central theme, *In re #55, supra*, 138 P.3d at 278, but the portability provision fails that test.

This aspect of this initiative allows for changes to property value at the whim of a property owner. A change once made is not necessarily permanent. Thus, this measure puts property values on a pendulum that can swing wildly based on the economic interests of the property owner. That variability in valuation and the place where the valuation is attributed is unrelated to providing certainty to taxpayers about property values.

Instead, the goal of portability is to allow, at the landowner's discretion, the transfer of value to minimize property tax payments. Proponents specifically made this point at Review and Comment hearing. Question 8.e. of the Review and Comment memo on Initiative #140, which set the stage for consideration of this initiative as well, asked:

What does it mean to "make the actual value of real property portable to another property"? **Does this refer to relocating real property, such as structures, or some financial transfer of that property's value in order to reduce the property owner's tax liability?**³

Through counsel, the Proponents responded: "**The latter is the intent**, and we've made changes to make that clear."⁴ So, according to Proponents, this provision operates to lower the taxes of taxpayers who own multiple properties that can swap property value among them.

Portability thus advances the purpose of landowner profitability and is distinct from predictability of property valuations. For example, where a jurisdiction increases its mill levy, property owners are given the incentive to shift value to property where that is not the case. Likewise, if a jurisdiction's mill levy is frozen or reduced, there is an incentive for the property value to be transferred back to such a county. The public entity's financial viability is transferred to property owners whose decision making is a matter of their own financial interest. Thus, portability is a second subject of this measure.

³ <https://www.coloradosos.gov/pubs/elections/Initiatives/titleBoard/filings/2021-2022/140ReviewComment.pdf> at 6.

⁴ <https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20220423/72/13195> at 1:43:45-1:44:05.

II. This measure violates the clear title requirement for initiative titles.

The titles set by the Board are incomplete or misleading in the following ways:

- (a) The titles incorrectly refer to “resetting the actual value of the property when it is sold” and thus fail to be clear that the measure expressly allows real property tax value to be substantially less than 100% of actual value, given that a “sale” – and thus the only relevant sale price for purposes of the initiative – is established at the point when more than 50% of an ownership interest is transferred.
- (b) The titles inaccurately state that all taxpayers will maintain a “current” property value, given that values for properties throughout the state change for multiple reasons including when unusual conditions affect the intervening year of a reassessment cycle, pursuant to C.R.S. 39-1-104(11).
- (c) The titles fail to state the measure exempts from its newly imposed limits on property valuation as to agricultural property, producing mines, and oil and gas producing lands or leaseholds.
- (d) The titles fail to refer to the repeal of the requirement that property owners receive notices of valuation on May 1 of each year to inform them of, among other things, the changes in value for the next property tax cycle, the ratios of assessment that apply to the property in question, and their appeal rights.
- (e) The titles fail to accurately state the definition and role of “portability.”

In all of these ways, the titles must be corrected.

III. Both the ballot title and the fiscal abstract must be corrected to reflect further revenue decreases to local governments, as transfers of partial property interests qualify as “sales” and will limit local government property tax collections beyond the \$1.2 billion projection in the titles and abstract.

Because use of partial (i.e., above 50%) property sales as the “most recent sale” to dictate a property’s value has not been previously addressed, the \$1.2 billion loss reflected in ballot title language and the fiscal abstract understate public entities’ revenue losses and must be corrected. C.R.S. §§ 1-40-105.5, -106(3)(f). This matter is appropriate for a motion for rehearing. *In re Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57 ¶¶17-19, 395 P.3d 318.

RESPECTFULLY SUBMITTED this 27th day of April, 2022.

RECHT KORNFELD, P.C.

s/ Mark G. Grueskin

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CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2021-2022 #151** was sent this day, April 27, 2022, via email to the proponents via their legal counsel:

Sarah Mercer

David Meschke

smercerc@bhfs.com

dmeschke@bhfs.com

s/ Erin Holweger

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Scott Wasserman, Movant

vs.

Colin Larson and John Brackney, Designated Representatives of Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2021-2022 #151
("Concerning Property Valuation")**

Scott Wasserman, a registered elector in the State of Colorado, through his undersigned counsel, respectfully submits the following Motion for Rehearing regarding Proposed Initiative 2021-2022 #151 ("Concerning Property Valuation").

Proposed Initiative 2021-2022 #151 would amend both the Colorado Constitution – by a substantial revision of the basic constitutional criteria upon which real and personal property valuations for assessment must be based – and a variety of statutory provisions implementing the assessment and collection of property taxes in Colorado. The proposed amendments are detailed, complex, controversial, and quite significant in terms of their implementation and the magnitude of their consequences.

The initiative concludes, however, with the following language:

39-1-126. EXPIRATION. ON DECEMBER 31, 2032, THE PROVISIONS IN THE COLORADO REVISED STATUTES AND THE CONSTITUTION OF THE STATE OF COLORADO AFFECTED BY THIS INITIATIVE WILL RETURN TO AS THEY WERE BEFORE THE INITIATIVE WAS ORIGINALLY PASSED ON NOVEMBER 8, 2022, EXCEPT AS TO ANY CHANGES THAT WERE MADE TO THOSE PROVISIONS SUBSEQUENT TO THE PASSAGE OF THIS INITIATIVE.

Tracking this language, the title set by the Title Board interprets this new key statutory section as simply "requiring the provisions of this measure to expire on December 31, 2032."

As an initial matter, the title does not accurately reflect the language of the proposed initiative. New proposed C.R.S. 39-1-126 states that "the provisions in the Colorado Revised Statutes and the Constitution of the State of Colorado *affected by this initiative*" – emphasis added – will "return to as they were" (except for intervening changes).

As – or more – importantly, neither the title nor the measure itself provide any indication of the intended or practical scope of the phrase "*affected by this initiative.*" The one indisputable

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of this **MOTION FOR REHEARING ON INITIATIVE 2021-2022 #151** was delivered on April 27, 2022 to Proponents via their legal counsel:

Sarah M. Mercer
David M. Meschke
Brownstein Hyatt Farber Schreck, LLP
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/s/ Edward Ramey_____

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION
CLAUSE FOR INITIATIVE 2021-2022 #151

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 #151, 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 #151. 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 #151’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 #151. 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 #151 would not result in a “tax change.”

Initiative #151 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%. 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 #151 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 #151'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 #151.

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 #151, *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 #151.²

Governor Polis is correct—such measures are fundamentally different. Initiative #151 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 #151 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 #151’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 #151’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 #151’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 #151.

b. Applying C.R.S. § 1-40-106(3) to Initiative #151 is unconstitutional.

Even if Initiative #151 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 #151. 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 #151 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 #151, 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 #151. 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.

/s/ David B. Meschke

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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

EXHIBIT 4

JARED POLIS
GOVERNOR



136 STATE CAPITOL
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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



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

Initiative 151

Fiscal Summary

Date:	April 19, 2022	Fiscal Analyst:	Greg Sobetski (303-866-4105)
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LCS TITLE: CONCERNING PROPERTY VALUATION

Fiscal Summary of Initiative 151

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at www.colorado.gov/bluebook. This fiscal summary identifies the following impact.

Local government impact. The measure decreases property tax revenue collected by counties, municipalities, school districts, and special districts by an estimated \$1.2 billion for property tax year 2023. This estimate assumes that property that has not been sold since June 30, 2020, is valued at the level used to calculate the property's 2021 taxes. The revenue decrease will become larger in later years as the measure holds changes in property valuations below the market rates at which they would otherwise grow. The measure expires after the 2032 property tax year.

Property tax impacts will differ across local governments according to local market conditions and the composition of their tax bases. However, most local governments that collect property taxes will have less revenue available to spend, save, or refund to taxpayers, relative to the revenue that they would have received under current law. Changes in programmatic expenditures relative to those that would occur under current law will depend on budgetary decisions made by local elected officials. Depending on how the measure is implemented, administrative workload and costs for county assessors' offices could increase.

State expenditures. The measure increases state expenditures to backfill lost property tax revenue to school districts. As a result, the state share of school finance is estimated to increase by \$390 million in FY 2023-24, and by larger amounts in later years. The measure will increase workload and costs for the Division of Property Taxation to update and review forms and training materials, as well as to respond to inquiries regarding new assessment procedures. Annual expenditures for a required audit of the measure's effects are estimated at \$600,000.

Economic impacts. The measure will decrease property taxes for homeowners and nonresidential property owners, increasing the amounts available for households to spend or save and for businesses to hire employees, make investments, or retain as profit. The measure will also decrease revenue to counties, municipalities, school districts, and special districts, resulting in lower levels of local government services, including police and fire protection, hospitals, transportation, infrastructure, education, libraries, and parks and recreation, among others. Any overall change in economic activity will depend on the net economic impacts of higher after-tax household and business income and reduced investment in public services.