

FISCAL IMPACT OF INITIATIVES

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions relating to estimating the fiscal impact of an initiative.

Highlighted Provisions:

This bill:

- ▶ modifies the length, form, and content of a fiscal impact statement for an initiative;
- ▶ provides that a fiscal impact statement is based on the time periods that are most useful in understanding the estimated fiscal impact of a proposed law; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-202.5, as last amended by Laws of Utah 2019, Chapters 255 and 275

20A-7-203, as last amended by Laws of Utah 2019, Chapters 210 and 275

20A-7-703, as last amended by Laws of Utah 2012, Chapter 334

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-7-202.5** is amended to read:

20A-7-202.5. Initial fiscal impact estimate -- Preparation of estimate -- Challenge to estimate.

30 (1) Within three working days after the day on which the lieutenant governor receives
31 an application for an initiative petition, the lieutenant governor shall submit a copy of the
32 application to the Office of the Legislative Fiscal Analyst.

33 (2) (a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good
34 faith initial fiscal impact estimate [of the fiscal impact] of the law proposed by the initiative,
35 not exceeding 100 words plus 100 words per revenue source created or impacted by the
36 proposed law, that contains:

37 (i) a [~~dollar amount representing~~] description of the total estimated fiscal impact of the
38 proposed law over the time period or time periods determined by the Office of the Legislative
39 Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed
40 law;

41 (ii) if the proposed law would increase [~~or~~] taxes, decrease taxes, or impose a new tax,
42 a dollar amount representing the total estimated increase or decrease for each type of tax
43 affected under the proposed law, a dollar amount showing the estimated amount of a new tax,
44 and a dollar amount representing the total estimated increase or decrease in taxes under the
45 proposed law;

46 (iii) if the proposed law would increase [~~taxes~~] a particular tax or tax rate, the tax
47 percentage difference and the tax percentage increase for each tax or tax rate increased;

48 (iv) if the proposed law would result in the issuance or a change in the status of bonds,
49 notes, or other debt instruments, a dollar amount representing the total estimated increase or
50 decrease in public debt under the proposed law;

51 [~~(v) a listing of all sources of funding for the estimated costs associated with the~~
52 ~~proposed law showing each source of funding and the percentage of total funding provided~~
53 ~~from each source;~~]

54 [~~(vi) a dollar amount representing the estimated costs or savings, if any, to state and~~
55 ~~local government entities under the proposed law;~~]

56 [~~(vii) a concise explanation, not exceeding 100 words, of the above information and of~~
57 ~~the estimated fiscal impact, if any, under the proposed law, and]~~

58 (v) a dollar amount representing the estimated cost or savings, if any, to state or local
59 government entities under the proposed law;

60 (vi) if the proposed law would increase costs to state government, a listing of all
61 sources of funding for the estimated costs; and

62 [~~viii~~] (vii) a concise description and analysis titled "Funding Source," not to exceed
63 [50] 100 words for each funding source, of the funding source information described in
64 Subsection 20A-7-202(2)(d)(ii).

65 (b) [(i)] If the proposed law is estimated to have no fiscal impact, the Office of the
66 Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact
67 statement in substantially the following form:

68 "The Office of the Legislative Fiscal Analyst estimates that the law proposed by this
69 initiative would have no significant fiscal impact and would not result in either an increase or
70 decrease in taxes or debt."

71 [~~(ii) If the proposed law is estimated to have a fiscal impact, the Office of the~~
72 ~~Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact~~
73 ~~estimate in substantially the following form:]~~

74 [~~"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this~~
75 ~~initiative would result in a total fiscal expense/savings of \$ _____, which includes a (type of~~
76 ~~tax or taxes) tax increase/decrease of \$ _____ and a \$ _____ increase/decrease in state debt."]~~

77 [~~(iii) If the estimated fiscal impact of the proposed law is highly variable or is~~
78 ~~otherwise difficult to reasonably express in a summary statement, the Office of the Legislative~~
79 ~~Fiscal Analyst may include in the summary statement a brief explanation that identifies those~~
80 ~~factors affecting the variability or difficulty of the estimate:]~~

81 [~~(iv) If the proposed law imposes a tax increase, the Office of the Legislative Fiscal~~
82 ~~Analyst shall include a summary statement in the initial fiscal impact estimate in substantially~~
83 ~~the following form:]~~

84 [~~"This initiative petition seeks to increase the current (insert name of tax) rate by (insert~~
85 ~~the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase)~~

86 ~~percent increase in the current tax rate."]~~

87 (3) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith
88 estimate of the cost of printing and distributing information related to the initiative petition in:

89 (a) the voter information pamphlet as required by Chapter 7, Part 7, Voter Information
90 Pamphlet; or

91 (b) the newspaper, as required by Section 20A-7-702.

92 (4) Within 25 calendar days after the day on which the lieutenant governor delivers a
93 copy of the application, the Office of the Legislative Fiscal Analyst shall:

94 (a) deliver a copy of the initial fiscal impact estimate to the lieutenant governor's
95 office; and

96 (b) mail a copy of the initial fiscal impact estimate to the first five sponsors named in
97 the initiative application.

98 (5) (a) (i) Three or more of the sponsors of the petition may, within 20 calendar days
99 after the day on which the ~~[Governor's Office of Management and Budget]~~ Office of the
100 Legislative Fiscal Analyst delivers the initial fiscal impact estimate to the lieutenant governor's
101 office, file a petition with the appropriate court, alleging that the initial fiscal impact estimate,
102 taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

103 (ii) After receipt of the appeal, the court shall direct the lieutenant governor to send
104 notice of the petition to:

105 (A) any person or group that has filed an argument with the lieutenant governor's office
106 for or against the measure that is the subject of the challenge; and

107 (B) any political issues committee established under Section 20A-11-801 that has filed
108 written or electronic notice with the lieutenant governor that identifies the name, mailing or
109 email address, and telephone number of the person designated to receive notice about any
110 issues relating to the initiative.

111 (b) (i) There is a presumption that the initial fiscal impact estimate prepared by the
112 Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable
113 data, and applies accepted analytical methods to present the estimated fiscal impact of the

114 initiative.

115 (ii) The court may not revise the contents of, or direct the revision of, the initial fiscal
116 impact estimate unless the plaintiffs rebut the presumption by clear and convincing evidence
117 that establishes that the initial fiscal estimate, taken as a whole, is an inaccurate statement of
118 the estimated fiscal impact of the initiative.

119 (iii) The court may refer an issue related to the initial fiscal impact estimate to a master
120 to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule
121 53.

122 (c) The court shall certify to the lieutenant governor a fiscal impact estimate for the
123 measure that meets the requirements of this section.

124 Section 2. Section **20A-7-203** is amended to read:

125 **20A-7-203. Form of initiative petition and signature sheets.**

126 (1) (a) Each proposed initiative petition shall be printed in substantially the following
127 form:

128 "INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

129 We, the undersigned citizens of Utah, respectfully demand that the following proposed
130 law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the
131 regular general election/session to be held/ beginning on _____(month\day\year);

132 Each signer says:

133 I have personally signed this petition;

134 I am registered to vote in Utah or intend to become registered to vote in Utah before the
135 certification of the petition names by the county clerk; and

136 My residence and post office address are written correctly after my name.

137 NOTICE TO SIGNERS:

138 Public hearings to discuss this petition were held at: (list dates and locations of public
139 hearings.)"

140 (b) If the initiative petition proposes a tax increase, the following statement shall
141 appear, in at least 14-point, bold type, immediately following the information described in

142 Subsection (1)(a):

143 "This initiative petition seeks to increase the current (insert name of tax) rate by (insert
144 the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase)
145 percent increase in the current tax rate."

146 (c) The sponsors of an initiative shall attach a copy of the proposed law to each
147 initiative petition.

148 (2) Each signature sheet shall:

149 (a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

150 (b) be ruled with a horizontal line three-fourths inch from the top, with the space above
151 that line blank for the purpose of binding;

152 (c) contain the title of the initiative printed below the horizontal line, in at least
153 14-point, bold type;

154 (d) be vertically divided into columns as follows:

155 (i) the edge of the first column shall appear .5 inch from the extreme left of the sheet,
156 be .25 inch wide, and be headed, together with the second column, "For Office Use Only";

157 (ii) the second column shall be .25 inch wide;

158 (iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed
159 Name (must be legible to be counted)";

160 (iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered
161 Voter";

162 (v) the fifth column shall be .75 inch wide, headed "Date Signed";

163 (vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip
164 Code"; and

165 (vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";

166 (e) be horizontally divided into rows as follows:

167 (i) the top of the first row, for the purpose of entering the information described in
168 Subsection (2)(d), shall be .5 inch high;

169 (ii) the second row shall be .15 inch high and contain the following statement printed

170 or typed in not less than 12-point type:

171 "By signing this petition, you are stating that you have read and understand the law
172 proposed by this petition."; and

173 (iii) the first and second rows shall be repeated, in order, leaving sufficient room at the
174 bottom of the sheet for the information described in Subsection (2)(f); and

175 (f) at the bottom of the sheet, contain in the following order:

176 (i) the title of the initiative, in at least 14-point, bold type;

177 (ii) except as provided in Subsection (4), the initial fiscal impact estimate's summary
178 statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection
179 [20A-7-202.5\(2\)\(~~b~~\)](#)(a), including any update in accordance with Subsection [20A-7-204.1\(5\)](#),
180 and the cost estimate for printing and distributing information related to the initiative petition
181 in accordance with Subsection [20A-7-202.5\(3\)](#), in not less than 12-point, bold type;

182 (iii) the word "Warning," followed by the following statement in not less than
183 eight-point type:

184 "It is a class A misdemeanor for an individual to sign an initiative petition with a name
185 other than the individual's own name, or to knowingly sign the individual's name more than
186 once for the same measure, or to sign an initiative petition when the individual knows that the
187 individual is not a registered voter and knows that the individual does not intend to become
188 registered to vote before the certification of the petition names by the county clerk.";

189 (iv) the following statement: "Birth date or age information is not required, but it may
190 be used to verify your identity with voter registration records. If you choose not to provide it,
191 your signature may not be verified as a valid signature if you change your address before
192 petition signatures are verified or if the information you provide does not match your voter
193 registration records."; and

194 (v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet,
195 horizontally, in not less than 14-point, bold type, the following statement:

196 "This initiative petition seeks to increase the current (insert name of tax) rate by (insert
197 the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase)

198 percent increase in the current tax rate."

199 (3) The final page of each initiative packet shall contain the following printed or typed
200 statement:

201 "Verification

202 State of Utah, County of ____

203 I, _____, of _____, hereby state, under penalty of perjury, that:

204 I am a resident of Utah and am at least 18 years old;

205 All the names that appear in this packet were signed by individuals who professed to be
206 the individuals whose names appear in it, and each of the individuals signed the individual's
207 name on it in my presence;

208 I believe that each individual has printed and signed the individual's name and written
209 the individual's post office address and residence correctly, that each signer has read and
210 understands the law proposed by the initiative, and that each signer is registered to vote in Utah
211 or intends to become registered to vote before the certification of the petition names by the
212 county clerk.

213 Each individual who signed the packet wrote the correct date of signature next to the
214 individual's name.

215 I have not paid or given anything of value to any individual who signed this petition to
216 encourage that individual to sign it.

217 _____
218 (Name) (Residence Address) (Date)"

219 (4) If the initial fiscal impact estimate described in Subsection (2)(f), as updated in
220 accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative
221 Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a
222 signature sheet, that does not exceed 200 words.

223 [~~4~~] (5) If the forms described in this section are substantially followed, the initiative
224 petitions are sufficient, notwithstanding clerical and merely technical errors.

225 Section 3. Section 20A-7-703 is amended to read:

226 **20A-7-703. Impartial analysis of measure -- Determination of fiscal effects.**

227 (1) The director of the Office of Legislative Research and General Counsel, after the
228 approval of the legislative general counsel as to legal sufficiency, shall:

229 (a) prepare an impartial analysis of each measure submitted to the voters by the
230 Legislature or by initiative or referendum petition; and

231 (b) submit the impartial analysis to the lieutenant governor no later than the day that
232 falls 90 days before the date of the election in which the measure will appear on the ballot.

233 (2) The director shall ensure that the impartial analysis:

234 (a) is not more than 1,000 words long;

235 (b) is prepared in clear and concise language that will easily be understood by the
236 average voter;

237 (c) avoids the use of technical terms as much as possible;

238 (d) shows the effect of the measure on existing law;

239 (e) identifies any potential conflicts with the United States or Utah Constitutions raised
240 by the measure;

241 (f) fairly describes the operation of the measure;

242 (g) identifies the measure's fiscal effects [~~for the first full year of implementation and~~
243 ~~the first year when the last provisions to be implemented are fully effective]~~ over the time
244 period or time periods determined by the director to be most useful in understanding the
245 estimated fiscal impact of the proposed law; and

246 (h) identifies the amount of any increase or decrease in revenue or cost to state or local
247 government.

248 (3) The director shall analyze the measure as it is proposed to be adopted without
249 considering any implementing legislation, unless the implementing legislation has been enacted
250 and will become effective upon the adoption of the measure by the voters.

251 (4) (a) In determining the fiscal effects of a measure, the director shall confer with the
252 legislative fiscal analyst.

253 (b) The director shall consider any measure that requires implementing legislation in

254 order to take effect to have no financial effect, unless implementing legislation has been
255 enacted that will become effective upon adoption of the measure by the voters.

256 (5) If the director requests the assistance of any state department, agency, or official in
257 preparing [~~his~~] the director's analysis, that department, agency, or official shall assist the
258 director.