

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0866.01 Pierce Lively x2059

SENATE BILL 25-180

SENATE SPONSORSHIP

Kirkmeyer and Amabile, Bridges

HOUSE SPONSORSHIP

Taggart and Sirota, Bird

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING THE METHOD OF CALCULATING STATE POPULATION
102 GROWTH FOR PURPOSES OF CALCULATING STATE FISCAL YEAR
103 SPENDING PURSUANT TO SECTION 20 OF ARTICLE X OF THE
104 STATE CONSTITUTION.

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/>.)

Joint Budget Committee. Section 20 of article X of the state constitution (TABOR) requires the maximum annual percentage change in state fiscal year spending to equal inflation plus the percentage change

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

in state population in the prior calendar year adjusted for revenue changes approved by voters. Although TABOR does not specify how the state shall determine the percentage change in state population (population growth), the TABOR implementing statutes do. For years in which there is not a decennial census, the TABOR implementing statutes require the state to calculate population growth by determining the percentage change between:

- The federal census bureau's estimate of state population (census estimate) for the previous calendar year, as of December in the current calendar year; and
- The census estimate for the current calendar year, as of December in the current calendar year.

The current method for calculating population growth can lead to either double-counting or under-counting population changes in census estimates. If the federal census bureau revises a census estimate upward for a given year:

- The calculated population growth between the given year and the immediately preceding year will be understated, since the population growth between those years is based on an inaccurately low census estimate for the given year; and
- The understated population growth between the given year and the immediately preceding year is not corrected or carried forward when calculating population growth for subsequent years, as those calculations are based on the revised census estimate for the given year.

Put differently, if the federal census bureau revises a census estimate upward for a given year, population growth will be understated and the fiscal year spending limit will be lower. The opposite is true if the federal census bureau revises a census estimate downward. In either case, under the current method for calculating population growth, population growth would be measured inaccurately.

The bill adjusts the method of calculating population growth. Under the bill, population growth is calculated by determining the percentage change between:

- The census estimate, as of December in the previous calendar year, for the previous calendar year; and
- The census estimate, as of December in the current calendar year, for the current calendar year.

This approach prevents double-counting or under-counting population changes as a result of revised census estimates and results in a more accurate measurement of population growth.

The bill also makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-77-103, **amend**
3 (2)(b)(I), (2)(b)(II), (2)(b)(II.5)(B), and (2)(b)(II.5)(C); and **add**
4 (2)(a)(IV) and (2)(b)(I.5) as follows:

5 **24-77-103. Limitation on state fiscal year spending - legislative**
6 **declaration - report.** (2) (a) (IV) THE GENERAL ASSEMBLY FURTHER
7 FINDS AND DECLARES THAT:

8 (A) FOR THE PURPOSE OF DETERMINING THE MAXIMUM
9 PERCENTAGE CHANGE IN STATE FISCAL YEAR SPENDING FOR ANY GIVEN
10 FISCAL YEAR, SECTION 20 (7)(a) OF ARTICLE X OF THE STATE
11 CONSTITUTION REQUIRES THE STATE TO ANNUALLY DETERMINE THE
12 CHANGE IN STATE POPULATION FROM ONE CALENDAR YEAR TO THE NEXT
13 WITH THE USE OF ANNUAL FEDERAL CENSUS BUREAU STATE POPULATION
14 ESTIMATES;

15 (B) THE APPROACH FOR DETERMINING THE CHANGE IN STATE
16 POPULATION FOR STATE FISCAL YEARS COMMENCING BEFORE JULY 1,
17 2024, RESULTED IN BOTH DOUBLE-COUNTING AND UNDER-COUNTING OF
18 POPULATION AS A RESULT OF REVISED FEDERAL CENSUS BUREAU STATE
19 POPULATION ESTIMATES;

20 (C) DOUBLE-COUNTING POPULATION FOR PURPOSES OF
21 DETERMINING THE CHANGE IN STATE POPULATION RESULTS IN AN
22 INCREASED LIMIT ON STATE FISCAL YEAR SPENDING AND UNDER-COUNTING
23 POPULATION FOR PURPOSES OF DETERMINING THE CHANGE IN STATE
24 POPULATION RESULTS IN A REDUCED LIMIT ON STATE FISCAL YEAR
25 SPENDING;

26 (D) FROM STATE FISCAL YEAR 2015-16 THROUGH STATE FISCAL
27 YEAR 2024-25, EXCLUDING THE FISCAL YEAR IMPACTED BY THE

1 DECENNIAL CENSUS, AS A RESULT OF REVISED FEDERAL CENSUS BUREAU
2 ESTIMATES OF STATE POPULATION, THERE WERE THREE FISCAL YEARS
3 WITH SIGNIFICANT DOUBLE-COUNTING, TWO FISCAL YEARS WITH
4 SIGNIFICANT UNDER-COUNTING, AND FOUR FISCAL YEARS WITH NEITHER
5 SIGNIFICANT DOUBLE-COUNTING NOR UNDER-COUNTING;

6 (E) SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION
7 DOES NOT SPECIFY HOW THE STATE SHALL ANNUALLY DETERMINE THE
8 CHANGE IN STATE POPULATION BY ANNUAL FEDERAL CENSUS ESTIMATES;

9 (F) IN BOTH HOUSE BILL 02-1310 AND SENATE BILL 02-179,
10 ENACTED IN 2002, THE GENERAL ASSEMBLY MODIFIED HOW THE CHANGE
11 IN STATE POPULATION IS CALCULATED FOR PURPOSES OF SECTION 20 (7)(a)
12 OF ARTICLE X OF THE STATE CONSTITUTION, AND THESE BILLS ARE
13 PRESUMED TO BE CONSTITUTIONAL; AND

14 (G) THEREFORE, IT IS WITHIN THE GENERAL ASSEMBLY'S PLENARY
15 POWER AND CONSISTENT WITH SECTION 20 (7)(a) OF ARTICLE X OF THE
16 STATE CONSTITUTION FOR THE GENERAL ASSEMBLY TO ENACT
17 LEGISLATION THAT MODIFIES HOW POPULATION GROWTH IS CALCULATED
18 FOR PURPOSES OF SECTION 20 (7)(a) OF ARTICLE X OF THE STATE
19 CONSTITUTION TO MITIGATE BOTH POPULATION DOUBLE-COUNTING AND
20 POPULATION UNDER-COUNTING.

21 (b) (I) Except as otherwise provided in ~~subparagraphs (H) and~~
22 ~~(H.5) of this paragraph (b)~~ SUBSECTIONS (2)(b)(II) AND (2)(b)(II.5) OF
23 THIS SECTION, FOR STATE FISCAL YEARS COMMENCING BEFORE JULY 1,
24 2024, the percentage change in state population for any given calendar
25 year ~~shall be~~ IS the percentage change between the estimate of state
26 population due to be issued by the United States bureau of census in
27 December of such calendar year with a reference date of July 1 of the

1 same calendar year and the estimate of state population due to be issued
2 by the United States bureau of census in December of the same calendar
3 year with a reference date of July 1 of the immediately preceding calendar
4 year.

5 (I.5) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY
6 1, 2024, THE PERCENTAGE CHANGE IN STATE POPULATION FOR ANY GIVEN
7 CALENDAR YEAR IS THE PERCENTAGE CHANGE BETWEEN THE ESTIMATE OF
8 STATE POPULATION ISSUED BY THE UNITED STATES BUREAU OF CENSUS IN
9 DECEMBER OF THE CALENDAR YEAR WITH A REFERENCE DATE OF JULY 1
10 OF THE SAME CALENDAR YEAR AND THE ESTIMATE OF STATE POPULATION
11 ISSUED BY THE UNITED STATES BUREAU OF CENSUS IN DECEMBER OF THE
12 IMMEDIATELY PRECEDING CALENDAR YEAR WITH A REFERENCE DATE OF
13 JULY 1 OF THE IMMEDIATELY PRECEDING CALENDAR YEAR.

14 (II) Except as otherwise provided in ~~subparagraph (H.5) of this~~
15 ~~paragraph (b)~~ SUBSECTION (2)(b)(II.5) OF THIS SECTION, for any calendar
16 year for which an estimate of state population is not issued due to the
17 federal census of the United States bureau of census, the percentage
18 change in state population for such calendar year ~~shall be~~ IS the
19 percentage change between the state population as reported in the federal
20 census conducted by the United States bureau of census due in December
21 of such calendar year and the estimate of state population ~~due to be~~ issued
22 by the United States bureau of census in December of the ~~same year~~
23 IMMEDIATELY PRECEDING CALENDAR YEAR with a reference date of July
24 1 of the immediately preceding calendar year.

25 (II.5) (B) The difference between the percentage change in state
26 population determined in accordance with ~~subparagraph (H) of this~~
27 ~~paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION and the reduced

1 percentage change in state population used to calculate the limitation on
2 state fiscal year spending pursuant to ~~sub-subparagraph (A) of this~~
3 ~~subparagraph (H.5) shall be~~ SUBSECTION (2)(b)(II.5)(A) OF THIS SECTION
4 IS carried forward as an adjustment of the percentage change in state
5 population determined pursuant to ~~subparagraph (I) of this paragraph (b)~~
6 SUBSECTION (2)(b)(I) OR (2)(b)(I.5) OF THIS SECTION for a maximum
7 period of nine fiscal years. If the amount of state fiscal year spending for
8 the immediately subsequent fiscal year exceeds the limitation on state
9 fiscal year spending for that fiscal year, the unused adjustment ~~shall be~~ IS
10 added first to the percentage change in state population determined
11 pursuant to ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (2)(b)(I)
12 OR (2)(b)(I.5) OF THIS SECTION that is included in the percentage of the
13 allowable increase in state fiscal year spending used in calculating the
14 limitation on state fiscal year spending for that fiscal year to the greatest
15 extent possible without causing the limitation on state fiscal year
16 spending to exceed the actual amount of state fiscal year spending for that
17 fiscal year.

18 (C) Any remaining portion of the unused adjustment shall
19 continue to be added, to the greatest extent possible, to the percentage
20 change in state population determined pursuant to ~~subparagraph (I) of this~~
21 ~~paragraph (b)~~ SUBSECTION (2)(b)(I) OR (2)(b)(I.5) OF THIS SECTION that
22 is included in the percentage of allowable increase in state fiscal year
23 spending used in calculating the limitation on state fiscal year spending
24 for subsequent fiscal years without causing the limitation on state fiscal
25 year spending for a given fiscal year to exceed the actual amount of state
26 fiscal year spending for that fiscal year.

27 **SECTION 2. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.