



Ballot Measure to Retain Homelessness Resolution & Climate Protection Revenue

Finance and Governance Committee
June 7 2022

Background

- In November 2020, voters approved two new 0.25 sales tax increases
 - 0.25 to support homelessness resolution
 - 0.25 to support climate protection
- Calendar year 2021 marked the first year of collection for the two new funds
- The final actual revenue was reported after the city closed its books at the end of Q1



TABOR Refund Triggers

- When a tax increase is placed on the ballot, the City is legally required to provide two numbers.
- If either actual number in the **first year of collection** exceeds the number provided, a refund is triggered

TABOR Required Information	Number provided	Actual Amount	Overage	Refund Triggered?
first-year revenue derived from a new voter-approved tax exceeds for each measure (ballot)	\$40M	\$41.3M	\$1.3M	✓
city's total fiscal year <i>spending as defined by TABOR</i> in the first year of collection (TABOR notice)	\$3.87B	\$2.0B	N/A	X

First Year Revenue

- Final 2021 actuals collected for each sales initiative = \$41.3M
- Two factors contributed to the growth:
 - Recovery outpaced projections
 - In summer of 2020, nationally economists were trying to determine pace of recovery as it responded to the pandemic surges
 - Unanticipated inflation increase impacted sales tax
 - Out of State Retailer Tax (OOS)
 - December 2020: City council approved the ordinance to enable the city to collect sales tax from online sales that do not have physical nexus in the city/county
 - This was based upon the Wayfair Decision
 - Approximately \$2M of the final revenue amount can be attributed to the OOS expansion of the tax base



TABOR Refund has been triggered

- A refund for the excess amount is required ...unless....
- TABOR allows entities to obtain ‘later voter approval’ to keep the amount of revenue collections that exceeded the original estimate, rather than providing a refund
- As in the past, the city proposes a return to the ballot in November 2022 to reaffirm the authority to keep the \$1.3m in first year revenue collections for each sales tax initiatives for their stated purpose (homelessness resolution and climate protection) and *reaffirm the 0.25 sales tax for each initiative*

Has this happened before?

Year	Ballot measure	Description	Yes	No	Passed?
2015	Prop BB	State MJ Retail sales tax retention	75%	25%	✓
2015	2B	Denver MJ Retail sales tax retention	81%	19%	✓
2016	2A	Denver Preschool Program reauthorization of sales tax retention	76%	24%	✓

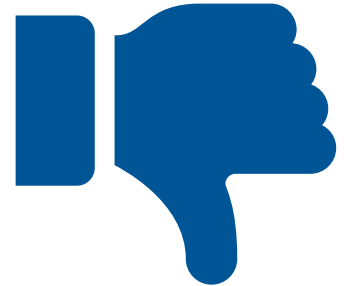
What happens if voters approve the measure?

- Status Quo
- HOST and CASR can continue their work to resolve homelessness and combat climate change in alignment with their approved plans



What happens if voters do *not* approve the ballot measure?

- City must refund \$1.3M for each initiative that does not pass
- TABOR requires refunds be given no later than December 31, 2022
- The city would also have to contend with the provision of TABOR indicating that the tax must be ‘thereafter reduced up to 100%*’ if the voters do not approve retention of the first-year excess collections
 - No case law has specifically determined the meaning of ‘thereafter reduced up to 100%’
 - Under any interpretation, this language means that without this secondary voter approval the amount available for these purposes will decrease



*State Constitution: Article X Section 10 (3)(c)

BR22-0657 & BR 22-0656

- Refers two separate questions to the November 2022 ballot asking voters to retain the taxes already collected for the stated purposes of resolving homelessness and climate action

- Proposed Denver ballot measure:

MAY THE CITY AND COUNTY OF DENVER RETAIN AND SPEND 2021 REVENUES DERIVED FROM THE 0.25 HOMELESSNESS RESOLUTION SALES TAX ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 3, 2020, AND CONTINUE TO IMPOSE AND COLLECT THE TAX TO THE FULL EXTENT OF THE 0.25 PERMITTED BY THE ORIGINAL VOTER APPROVAL?

- Proposed Denver ballot measure:

MAY THE CITY AND COUNTY OF DENVER RETAIN AND SPEND 2021 REVENUES DERIVED FROM THE 0.25 CLIMATE PROTECTION SALES TAX ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 3, 2020, AND CONTINUE TO IMPOSE AND COLLECT THE TAX TO THE FULL EXTENT OF THE 0.25 PERMITTED BY THE ORIGINAL VOTER APPROVAL?

Homelessness Resolution Fund

- The Homelessness Resolution Fund, established via a 2020 ballot initiative, created a 0.25% sales tax that will be expended on the following items for people experiencing homelessness:
 - Housing
 - Shelter
 - Services
- In 2021, this fund paid for:
 - Shelter services
 - Housing support and services
 - COVID emergency response-related housing and shelter services



Climate Protection Fund

- The Climate Protection Fund, established via a 2020 ballot initiative, created a 0.25% sales tax that will be used for
 - Renewable and clean energy job creation
 - Increased investment in renewable energy
 - Climate justice programs
 - Home and business energy efficiency programs
 - Resiliency programs
 - Sustainable transportation
- In 2021, the Climate Protection Fund began investment in:
 - Large-scale community solar,
 - E-bike libraries for essential workers
 - Neighborhood-scale micro-mobility
 - Steam-to-electric conversion program
 - Workforce training for good green jobs



Proposed Schedule

