SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203	DATE FILED April 30, 2026 12:21 PM ▲COURT USE ONLY▲
Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #312 ("Cost of Natural Gas Pipeline Extensions") **Petitioner:** Edward Andrew Leighty, **v.** **Respondents:** Sidra Aghababian and Jessica Arhontoulis, **and** **Title Board:** Christy Chase, Theresa Conley, Kurt Morrison	
Attorneys for Petitioner: Thomas M. Rogers III, #28809 Nathan Bruggeman, #39621 Recht Kornfeld, P.C. 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900 (telephone) 303-446-9400 (facsimile) trey@rklawpc.com; nate@rklawpc.com	Case Number:

PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2025-2026 #312 ("COST OF NATURAL GAS PIPELINE EXTENSIONS")

Edward Andrew Leighty, a registered elector of Arapahoe County and the State of Colorado ("Petitioner"), through his undersigned counsel, respectfully petitions this Court, pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board (the "Title Board" or "Board") with respect to the title, ballot title, and submission clause set for Initiative 2025-2026 #312 ("Cost of Natural Gas Pipeline Extensions"), and states:

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2025-2026 #312.

Sidra Aghababian and Jessica Arhontoulis ("Proponents") proposed Initiative 2025-2026 #312 (the "Proposed Initiative"). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, Proponents submitted final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or her designee is a member.

A Title Board hearing was held on April 15, 2026, at which time titles were set for 2025-2026 #312. On April 22, 2026, Petitioner filed a Motion for Rehearing, alleging that Initiative #312 contained multiple subjects contrary to Colo. Const. art. V, sec. 1(5.5), that the Title Board lacked jurisdiction to set titles, and that the Board set titles which are misleading and incomplete as they do not

fairly communicate the true intent and meaning of the measure and will mislead voters. The rehearing was held on April 23, 2026, at which time the Title Board denied the Motion for Rehearing by a 2-1 vote.

B. Jurisdiction

Petitioner is entitled to review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within seven days from the date of the hearing on the Motion for Rehearing. *See* C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the final version of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed by the Petitioner; and (4) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioner believes the Title Board erred in denying the Motion for Rehearing. The matter is properly before this Court.

GROUNDS FOR APPEAL

The titles set by the Title Board violate the legal requirements imposed on it because the Board lacked jurisdiction to set titles for the Initiative and the titles set

by the Board violate the "clear ballot title" requirement by omitting critical elements of the measure and will mislead voters. The following is an advisory list of issues to be addressed in Petitioner's Opening brief:

1. Whether the Proposed Initiative violates the single subject requirement by surreptitiously altering the long-standing, separate constitutional authority of (a) the state government and (b) municipalities that own utilities to regulate and approve utility rates under the guise of a billing restriction on utility companies?

2. Whether the Title Board erred in setting titles that are misleading and incomplete in that the titles fail to disclose to voters that the Proposed Initiative will apply at different times to different utility customers based upon the occurrence of vague and undefined triggering events?

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court hold that the titles are legally flawed and direct the Title Board to return the initiative to the designated representative for lack of jurisdiction or, in the alternative, to correct the title to address the deficiencies outlined in Petitioner's briefs.

Respectfully submitted this 30th day of April, 2026.

s/ Nathan Bruggeman
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2025-2026 #312 ("COST OF NATURAL GAS PIPELINE EXTENSIONS")** was sent electronically via Colorado Courts E-Filing this day, April 30, 2026, to the following:

Counsel for the Title Board:

Kyle Holter
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203

And Counsel for Proponents:

Martha Tierney
Tierney Lawrence Stiles LLC
225 E. 16th Ave., Suite 350
Denver, CO 80203

/s Erin Mohr

DATE FILED
April 30, 2026 12:21 PM

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 summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2025-2026 #312 'Cost of Natural Gas Pipeline Extensions'"..

.... **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 23rd day of April, 2026.

SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE 2025-2026 #312

MOTION FOR REHEARING

On behalf of Lynn Granger and Carly West (collectively, the "Objectors"), registered electors of the State of Colorado, the undersigned counsel hereby submit this Motion for Rehearing for Proposed Initiative 2025-2026 #312 ("Initiative #312") pursuant to C.R.S. § 1-40-107, and as grounds therefore state as follows:

This Motion seeks the Title Board's review for two reasons: (1) the Title Board lacks jurisdiction to set a title because Initiative #312 is vague, confusing, and unclear; and (2) the title set for the proposed measure fails to accurately describe the measure and would mislead voters.

I. THE TITLE BOARD LACKS JURISDICTION TO SET TITLE ON INITIATIVE #312 BECAUSE THE MEASURE IS SO VAGUE, CONFUSING, AND UNCLEAR THAT IT CANNOT BE UNDERSTOOD.

Initiative #312 is, on its face, vague, unclear, and confusing. The Colorado Constitution mandates that an initiative's single subject shall be clearly expressed in its title." *See In re Title, Ballot Title and Submission Clause for 2015-2016 #73, 369 P.3d 565, 568 (Colo. 2016).* The clear title standard requires that titles "allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal." *Id.* The Board must consider the confusion that may arise from a misleading title and set titles that "correctly and fairly express the true intent and meaning" of a measure. *Id.* (quoting C.R.S. § 1-40-106(3)(b)). Based on these principles, if an initiative is so vague, confusing, or unclear that its true purpose cannot be understood, then the Title Board lacks jurisdiction to set a title. The Title Board has declined to set a title on this ground in the past, and it should similarly refrain from doing so here.

The proposed statutory text of Initiative #312 reads: "Utilities shall not raise utility rates of existing customers to pay any costs of a natural gas pipeline extension and its eventual decommissioning undertaken to serve new customers." The measure also includes an applicability clause limiting its application to ". . . contracts entered into on or after the effective date of this measure." On the face of the measure, two glaring question emerge.

First, how and to what extent does the measure encompass contract renewals? In the utility industry, contracts with local governments, which are often termed "franchise agreement," are ordinarily long-term agreements that, instead of getting replaced outright, are renegotiated or renewed. Does this measure encompass those renegotiated or renewed contracts? Or do they constitute "contracts entered into on or after the effective date of this measure"? As it stands, the answer to this question is not clear from the language of the measure. Accordingly, Title Board lacks jurisdiction to set title. *See In re 2015-2016 #73*, 369 P.3d at 568. And at a minimum, this open aspect of the measure needs to be addressed in the title, as further explained below.

Second, what are "new" customers in comparison to "existing" customers. Neither term is defined. This leads to multiple questions: is a customer that moves an "existing customer"? Are "new customers" only those being served by the extended natural gas pipeline? Does "existing" refer to the existing location or the person paying the utility bill? What if an existing customer starts requiring a different amount of service? Do they become a "new customer"?

II. THE TITLE FAILS TO ACCURATELY DESCRIBE THE MEASURE AND WOULD MISLEAD VOTERS.

Even if the Title Board were to affirm it has jurisdiction to set a title, setting the title drafted for Initiative #312 is problematic for at least four reasons. The title must be amended so that the title fully and accurately captures the measure's central features and does not mislead voters.

First, the title must make clear the measure's applicability is limited to future contracts, and does not impact existing contracts, including the typical long-term franchise agreements. Without this clarification, voter confusion is nearly inevitable. As explained above, most utility contracts with local governments are long-term franchise agreements entered into years, or even decades, ago. Accordingly, Initiative #312 will not have an immediate effect as to those existing contracts. This important aspect is not apparent from the title and must be adequately explained to voters.

Second, the title references "existing customers" and "new customers" without defining these terms. As described above, this will lead to confusion unless clarified for voters. To avoid voter confusion, the title must clearer inform voters who are "existing" customers and when are customers deemed "new."

Third, the phrase "later removing or retiring the extended pipeline" in the title must be modified by "new customers," as it is in the language of the measure itself. The text of Initiative #312 reads: "Utilities shall not raise utility rates of existing customers to pay any costs of a natural gas pipeline extension and its eventual decommissioning undertaken to serve new customers." To track the intent

and meaning of the measure, the title must be changed to read: "An amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline ***or later removing or retiring the extended pipeline*** to serve new customers ~~or later removing or retiring the extended pipeline~~."

Fourth, as described above, and depending on the answer to the question posed above, the title must make clear whether the measure applies to contract renewals that occur on or after the effective date of the measure. Voters will undoubtedly be confused if the measure does *not* apply to contract renewals. In that case, the measure's applicability is extremely limited. Voters must be informed of this aspect of the measure.

The title must be amended to make these changes because otherwise the title would not "correctly and fairly express the true intent and meaning" of the measure. *See* C.R.S. § 1-40-106(3)(b). Indeed, Title Board's "duty is to ensure that the title, ballot title and submission clause, and summary fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the board." *In re Ballot Title 1997–1998 # 62*, 961 P.2d 1077, 1082 (Colo. 1998) (quoting *In re Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment*, 873 P.2d 718, 719 (Colo. 1994)).

CONCLUSION

Accordingly, the Objectors respectfully request that a rehearing is set pursuant to C.R.S. § 1-40-107(1) and that the Title Board grant this Motion.

Respectfully submitted this 22nd day of April 2026.

/s/ David B. Meschke

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IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE
FOR INITIATIVE 2025 -2026 #312
("COST OF NATURAL GAS PIPELINE EXTENSIONS")

Initiative Proponents: Sidra Aghababian and Jessica Arhontoulis

&

Objector: Edward Andrew Leighty

MOTION FOR REHEARING

By undersigned counsel, Edward Andrew Leighty, a registered voter of the County of Arapahoe, objects to the titles set for Initiative #312, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On April 15, 2026, the Title Board set the following ballot title and submission clause for Initiative #312:

> *Shall there be an amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline to serve new customers or later removing or retiring the extended pipeline?*

I. The Title Board lacks jurisdiction to set a ballot title for Initiative #312.

A. The Board lacks jurisdiction to set a ballot title for Initiative #312 because it violates the single subject requirement.

The purpose of #312 is to limit the billing practice of utilities. It provides: "Utilities shall not raise utility bill rates …" The measure, in other words, serves a consumer protection function.

Yet, without telling voters, the measure re-calibrates the constitutional authority conferred on state and local governments. Specifically, the Constitution establishes the state Public Utilities Commission ("PUC"), and, subject to state statute, it grants the PUC regulatory authority over utility rates:

> In addition to the powers now vested in the General Assembly of the State of Colorado, ***all power to regulate the facilities, service and rates and charges therefor***, including facilities and service and rates and charges therefor within home rule cities and home rule towns, of every corporation, individual, or

> association of individuals, wheresoever situate or operating within the State of Colorado, whether within or without a home rule city or home rule town, as a public utility, as presently or as may hereafter be defined as a public utility by the laws of the State of Colorado, ***is hereby vested in such agency of the State of Colorado as the General Assembly shall by law designate***.
>
> Until such time as the General Assembly may otherwise designate, said authority shall be vested in the Public Utilities Commission of the State of Colorado …

Colo. Const. Art. XXV (emphasis added)[1]; *see also* C.R.S. § 40-3-102; *Colo.-Ute Electr. Assoc. v. Pub. Utils. Comm'n*, 760 P.2d 627, 638 (Colo. 1988) ("The setting of 'just and reasonable rates,' both as to level and design, goes to the very essence of the Commission's duties under the public utilities law."). As the Supreme Court has explained, this constitutional provision fulfills a consumer protection role. "The PUC's regulatory powers and duties are aimed primarily at the protection of consumers who have little or no choice in the selection of their provider because the utility enjoys monopoly status." *CF&I Steel, L.P. v. PUC*, 949 P.2d 577, 584 (Colo. 1997).

The Constitution, in turn, exempts municipal-owned utilities from the PUC's jurisdiction:

> … and provided, further, that nothing herein shall be construed to apply to municipally owned utilities.

Colo. Const. Art. XXV. The exemption exists because municipally owned utilities are subject to electoral accountability through municipal officials.

> The rationale of Article XXV and City and *County of Denver v. PUC, supra*, is that when a municipally owned utility operates within the municipality, there is no one who needs the protections of the PUC. The electorate of the City exercises ultimate power and control over the City-run utility and if the people of the City are in any way dissatisfied with the operation of the utility, they may demonstrate their discontents at the next municipal election.

K. C. Electr. Asso. v. Pub. Utils. Comm'n, 191 Colo. 96, 100 (Colo. 1976). And the General Assembly has exercised its constitutional authority to allow cooperative electric associations to be exempt from PUC authority, as it "may be duplicative of the self-regulation by the association and may be neither necessary nor cost-effective." C.R.S. § 40-9.5-101. These associations, like municipally owned facilities, do not require PUC oversight, as they "are owned by the member-consumers they serve [and] are regulated by the member-consumers themselves acting through an elected governing body." *Id.*

Thus, while Initiative #312 presents itself as a matter to regulate what utilities do, it in fact changes the constitutional distribution of authority for regulating utility rates. The PUC no longer has the authority to address how to account for gas pipeline expansion as part of an approved rate. And the electors of a municipality with a municipally owned utility are now

[1] Curiously, Proponents did not place their measure in the article addressing utilities rate setting.

deprived of their democratic control over their utility rates. Members of an electric cooperative similarly lose their right of self-management over this aspect of rate setting.

This is the type of mixing of a substantive legal change with a surreptitious alteration in government authority has been held to violate the single subject requirement. As the Supreme Court has explained, it has reversed the Board in "setting titles for initiatives affecting substantial rearrangement of existing governmental powers." *In re the Title, Ballot Title and Submission Clause for 2009-2010 # 91*, 235 P.3d 1071, 1080 (Colo. 2010) (combination of new beverage tax with alteration of General Assembly's constitutional authority over state agency violated the single subject requirement). Similarly, in addition to rejecting the combo beverage tax-legislative power restriction in *#91*, the Court has found a single subject violation in changing judicial qualifications and authority over judges. *In re Title, Ballot Title and Submission Clause, and Summary for 1997-1998 # 64*, 960 P.2d 1192, 1198 (Colo. 1998) (measure's provisions on judicial qualifications separate from provision with the "purpose of reallocating governmental authority and control" over Denver county court judges, as was provision "divest[ing] the Commission of its investigatory and remedial powers"). Like *#91* and *#64*, Initiative #312 impermissibly mixes a substantive legal change with a "rearrangement" of existing governmental powers. It is especially troubling that this change in regulatory authority is not obvious to voters—it is the kind of "subterfuge" the single subject requirement avoids. *2009-2010 # 91*, 235 P.3d at 1079.

II. The ballot title is misleading, unfair, and inaccurate.

Initiative #312 includes an unusual "applicability" provision. Instead of a generally applicable date on which the measure becomes effective, the proponents drafted a "contingent" effective date provision. The measure provides: "This measure applies to conduct occurring or contracts entered into on or after the effective date of this measure."

As an initial matter, it is unclear how this provision applies at all. For utilities regulated by the PUC, rates are effective upon the PUC approving a rate—in other words, there is no "conduct or contract" to trigger a rate. Similarly, municipally owned utilities are not setting rates by some "conduct or contract" but, instead, set rates as provided for by city charters, regulations, and municipal utility rules and/or hearing processes. And electric cooperatives set rates via their elected leadership, not "conduct or contract." Given that "conduct or contract" is not the basis for rate setting, it is unclear how this measure operates. Under such circumstances, the Board should not even set a title. Where the Board cannot identify how a measure's key features will operate, it is unable to identify the measure's single subject and lacks jurisdiction over the initiative. *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #25*, 974 P.2d 458, 468-49 (Colo. 1999).

To the extent that the Board can understand the "applicability" clause such that it can describe it in the title, the Board needs to do so. Voters need to understand that this measure does not apply at the same time across the state—in other words, when and if the prohibition in Initiative #312 kicks in depends upon some triggering "conduct or contract" event that will differ across utility customers. Those events occurring in one location could vary ***drastically*** from another locale. For example, if what proponents intend to mean is to have applicability tied to a

franchise agreement, such agreements can have decades-long effective dates. This prohibition could kick in 2027 for Municipality A that enters a new franchise agreement just after the measure passes, but not until the mid-to-late 2030 or later for Municipality B that reauthorized a franchise just before voters pass the measure.

Utility consumers will be treated differently across the state, and many may think this measure will give them some immediate rate relief when it won't (and may not for ***years***). Letting them think so is misleading. The title needs to explain the applicability provision to avoid misleading voters and avoid being a title where "the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear." C.R.S. § 1-40-106(3)(b).

WHEREFORE, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #312 for lack of jurisdiction, and if it does not do so, it should revise the titles so that they are fair, accurate, and not misleading.

RESPECTFULLY SUBMITTED this 22nd day of April, 2026.

RECHT KORNFELD, P.C.

s/ Thomas M. Rogers III
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CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2025 -2026 #312** was sent this day, April 22, 2026, via email to counsel for the proponents at:

Martha Tierney
Counsel for proponents

Kyle Holter
Assistant Attorney General

s/ Erin Mohr

Ballot Title Setting Board

Proposed Initiative 2025-2026 #312[1]

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

An amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline to serve new customers or later removing or retiring the extended pipeline.

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

Shall there be an amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline to serve new customers or later removing or retiring the extended pipeline?

Hearing April 15, 2026:
Single subject approved; draft title changed; titles set.
The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution. The requirement for approval by fifty-five percent of the votes cast applies to this initiative.
Board members: Christy Chase, Theresa Conley, Kurt Morrison
Hearing adjourned 12:17 P.M.

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[1] Unofficially captioned **"Cost of Natural Gas Pipeline Extensions"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #312[1]

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

An amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline to serve new customers or later removing or retiring the extended pipeline.

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

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Hearing April 15, 2026:
Single subject approved; draft title changed; titles set.
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Board members: Christy Chase, Theresa Conley, Kurt Morrison
Hearing adjourned 12:17 P.M.

Rehearing April 23, 2026:
Motions for rehearing (Granger/West; Leighty) denied in their entirety (2-1, Morrison).
Board members: Christy Chase, Theresa Conley, Kurt Morrison
Hearing adjourned 12:03 P.M.

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[1] Unofficially captioned **"Cost of Natural Gas Pipeline Extensions"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

2025-2026 #312 Clean Final

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

SECTION 1. In the constitution of the state of Colorado, **add** section 17 to article XVIII as follows:

Section 17. No cost shifting to existing customers.

UTILITIES SHALL NOT RAISE UTILITY BILL RATES OF EXISTING CUSTOMERS TO PAY ANY COSTS OF A NATURAL GAS PIPELINE EXTENSION AND ITS EVENTUAL DECOMMISSIONING UNDERTAKEN TO SERVE NEW CUSTOMERS.

SECTION 2. **Applicability**. This measure applies to conduct occurring or contracts entered into on or after the effective date of this measure.

Initiative 312

Fiscal Summary

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Measure: Initiative 312 – COST OF NATURAL GAS PIPELINE EXTENSIONS

Analyst: Colin Gaiser, colin.gaiser@coleg.gov, 303-866-2677

Date: April 13, 2026

Fiscal Summary of Initiative 312

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 leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

State Expenditures

The measure increases workload for the Public Utilities Commission in the Department of Regulatory Agencies to update or adopt rules prohibiting certain rate increases for existing customers.

Local Government

The measure impacts municipal utilities that are implementing or pursuing a natural gas pipeline extension. If a municipal utility is planning to pay for a pipeline extension by raising utility bill rates of existing customers, it would need to identify a different funding source for the project.

Economic Impacts

If the measure prevents some customers from having their utility bill rates increased for a natural gas pipeline extension, this results in more income for consumers to spend, save, or invest elsewhere in the economy. The measure may alternatively impact the spending, saving, or investing of customers that bear the cost of pipeline extensions, or impact the profit margins and investment decisions of impacted utilities. The measure may also impact the geographic distribution of investment and development. If the measure prevents utilities from extending a natural gas pipeline, some households and businesses may have increased costs to access natural gas from other sources or for energy substitutes.