

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0741.02 Julie Pelegrin x2700

HOUSE BILL 17-1210

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A BILL FOR AN ACT

101 **CONCERNING THE DISCIPLINE OF PRESCHOOL THROUGH SECOND**
102 **GRADE STUDENTS ENROLLED IN PUBLICLY FUNDED EDUCATION**
103 **PROGRAMS.**

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>.)

With regard to students enrolled in preschool, kindergarten, first grade, or second grade, the bill prohibits a school district, board of cooperative services, charter school, or public preschool program (enrolling entity) from expelling a student, except as specifically required by federal law, and allows the enrolling entity to impose an out-of-school

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

suspension on the student only under specified circumstances for 3 school days. Under additional specified circumstances, the enrolling entity may extend the out-of-school suspension to a total of 5 school days. Each school district and charter school must ensure that its school discipline code reflects the requirements specified in the bill. The state board of education cannot waive the provisions concerning expulsion and suspension of young students for school districts or charter schools.

The bill specifies that school districts are required to adopt prevention and early intervention strategies to reduce the need for early childhood and early elementary grade suspensions and expulsions. The bill expands the expelled and at-risk student services grant program to include services for preschool, kindergarten, and early elementary grade students and their families.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Children in preschool and early elementary years are at a
5 critical stage of development, and a child's early experiences in school
6 have a dramatic impact on the child's health and future success in school;

7 (b) The practice of out-of-school suspension or expulsion of a
8 young child may have profound consequences for the child, as these
9 exclusionary measures come at a time when the child is supposed to be
10 forming positive associations with school and building positive
11 relationships with teachers and peers; and

12 (c) Research indicates that young children who are suspended or
13 expelled from school are several times more likely to experience
14 disciplinary action later in their academic careers, drop out or disengage
15 from high school, report feeling disconnected from school, and be
16 incarcerated later in life.

17 (2) The general assembly therefore declares that the standards for
18 suspension and expulsion of young children should be developmentally

1 appropriate, and implementing inclusionary discipline practices, rather
2 than out-of-school suspension and expulsion, is an important step in
3 supporting a positive school experience for young children in preschool
4 and early elementary programs that will result in greater long-term
5 success for the child in school and in society.

6 **SECTION 2.** In Colorado Revised Statutes, 22-33-102, **amend**
7 the introductory portion; and **add** (3.5) and (13) as follows:

8 **22-33-102. Definitions.** As used in this ~~article~~ ARTICLE 33, unless
9 the context otherwise requires:

10 (3.5) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT IS
11 AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT TO
12 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR AN INSTITUTE CHARTER
13 SCHOOL THAT IS AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE
14 PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

15 (13) "STATE-FUNDED PRESCHOOL PROGRAM" MEANS A
16 COMMUNITY-BASED PRESCHOOL PROGRAM THAT INCLUDES STUDENTS WHO
17 ARE FUNDED THROUGH THE "COLORADO PRESCHOOL PROGRAM ACT",
18 ARTICLE 28 OF THIS TITLE 22, OR STUDENTS WHO ARE FUNDED WITH STATE
19 OR FEDERAL MONEY TO EDUCATE CHILDREN WITH DISABILITIES.

20 **SECTION 3.** In Colorado Revised Statutes, **add** 22-33-106.1 as
21 follows:

22 **22-33-106.1. Suspension - expulsion - preschool through**
23 **second grade - definition.** (1) NOTWITHSTANDING ANY PROVISION OF
24 THIS ARTICLE 33 TO THE CONTRARY, A SCHOOL DISTRICT, BOARD OF
25 COOPERATIVE SERVICES, OR CHARTER SCHOOL SHALL NOT:

26 (a) EXPEL A STUDENT WHO IS ENROLLED IN PRESCHOOL,
27 KINDERGARTEN, FIRST GRADE, OR SECOND GRADE, EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (3) OF THIS SECTION; OR

2 (b) IMPOSE AN OUT-OF-SCHOOL SUSPENSION ON A STUDENT WHO
3 IS ENROLLED IN PRESCHOOL, KINDERGARTEN, FIRST GRADE, OR SECOND
4 GRADE UNLESS:

5 (I) THE STUDENT COMMITS AN ACTION ON SCHOOL GROUNDS THAT
6 ENDANGERS OTHERS;

7 (II) FAILURE TO REMOVE THE STUDENT FROM THE SCHOOL
8 BUILDING WOULD CREATE A SERIOUS SAFETY THREAT THAT CANNOT BE
9 REDUCED OR ELIMINATED BY USING REASONABLE MODIFICATIONS TO
10 MANAGE THE STUDENT'S BEHAVIOR; AND

11 (III) THE ENROLLING ENTITY HAS EXHAUSTED THE OTHER
12 BEHAVIORAL AND DISCIPLINARY INTERVENTIONS THAT ARE APPROPRIATE
13 TO THE CIRCUMSTANCES AND AVAILABLE TO THE ENROLLING ENTITY.

14 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
15 SECTION, A STATE-FUNDED PRESCHOOL PROGRAM SHALL NOT EXPEL A
16 PRESCHOOL STUDENT WHO IS IN A CLASSROOM THAT INCLUDES STUDENTS
17 FOR WHOM THE PROGRAM RECEIVES FUNDING THROUGH THE "COLORADO
18 PRESCHOOL PROGRAM ACT", ARTICLE 28 OF THIS TITLE 22, OR STUDENTS
19 WHO ARE FUNDED WITH STATE OR FEDERAL MONEY TO EDUCATE CHILDREN
20 WITH DISABILITIES. A STATE-FUNDED PRESCHOOL PROGRAM SHALL NOT
21 IMPOSE AN OUT-OF-SCHOOL SUSPENSION ON A PRESCHOOL STUDENT WHO
22 IS IN A CLASSROOM THAT INCLUDES STUDENTS FOR WHOM THE PROGRAM
23 RECEIVES FUNDING THROUGH THE "COLORADO PRESCHOOL PROGRAM
24 ACT", ARTICLE 28 OF THIS TITLE 22, OR STUDENTS WHO ARE FUNDED WITH
25 STATE OR FEDERAL MONEY TO EDUCATE CHILDREN WITH DISABILITIES
26 UNLESS THE STUDENT MEETS THE CRITERIA SPECIFIED IN SUBSECTION
27 (1)(b) OF THIS SECTION.

1 (3) AN ENROLLING ENTITY MAY EXPEL A STUDENT ONLY IN
2 ACCORDANCE WITH THE PROVISIONS OF 20 U.S.C. SEC. 7961, AS AMENDED.

3 (4) (a) IF A STUDENT MEETS THE CRITERIA SPECIFIED IN
4 SUBSECTION (1)(b) OF THIS SECTION, THE ENROLLING ENTITY MAY IMPOSE
5 AN OUT-OF-SCHOOL SUSPENSION THAT DOES NOT EXCEED THREE SCHOOL
6 DAYS. THE ENROLLING ENTITY IS STRONGLY ENCOURAGED TO MINIMIZE
7 THE LENGTH OF THE OUT-OF-SCHOOL SUSPENSION TO THE GREATEST
8 EXTENT POSSIBLE.

9 (b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a) OF
10 THIS SECTION TO THE CONTRARY, IF A THREE-DAY OUT-OF-SCHOOL
11 SUSPENSION IS INSUFFICIENT TIME FOR THE ENROLLING ENTITY TO
12 DEVELOP A SAFETY PLAN FOR THE STUDENT'S RETURN TO SCHOOL,
13 IDENTIFY AND DISCUSS INTERVENTIONS AND SUPPORTS WITH THE
14 STUDENT'S PARENT, AND ADDRESS OTHER SIGNIFICANT CIRCUMSTANCES,
15 THE ENROLLING ENTITY MAY EXTEND THE STUDENT'S OUT-OF-SCHOOL
16 SUSPENSION FOR UP TO A TOTAL OF FIVE SCHOOL DAYS.

17 (5) IF THE BEHAVIORAL CHALLENGES PRESENTED BY A STUDENT
18 WHO HAS NOT BEEN IDENTIFIED AS A CHILD WITH A DISABILITY PURSUANT
19 TO ARTICLE 20 OF THIS TITLE 22 AND WHO IS ENROLLED IN PRESCHOOL,
20 INCLUDING A STATE-FUNDED PRESCHOOL PROGRAM, OR IN KINDERGARTEN,
21 FIRST GRADE, OR SECOND GRADE ARE SO SEVERE THAT THE ENROLLING
22 ENTITY CANNOT SAFELY EDUCATE THE STUDENT, THE STUDENT'S SCHOOL
23 DISTRICT OF ATTENDANCE SHALL CONSIDER, SUBJECT TO THE CONSENT OF
24 THE STUDENT'S PARENT, INITIATING THE CHILD FIND PROCEDURES TO
25 DETERMINE WHETHER THE STUDENT IS A CHILD WITH A DISABILITY, AS
26 DEFINED IN SECTION 22-20-103, AND IS ELIGIBLE FOR SERVICES UNDER THE
27 FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C.

1 SEC. 1400 ET SEQ., AS AMENDED, OR WHETHER THE STUDENT IS ELIGIBLE
2 FOR A PLAN OF SERVICES AND ACCOMMODATIONS UNDER SECTION 794 OF
3 THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET
4 SEQ., COMMONLY REFERRED TO AS A "504 PLAN".

5 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES, "EXPEL" MEANS TO DISCONTINUE A STUDENT'S ENROLLMENT IN
7 A SCHOOL DISTRICT, PUBLIC SCHOOL OPERATED BY A BOARD OF
8 COOPERATIVE SERVICES, CHARTER SCHOOL, OR STATE-FUNDED PRESCHOOL
9 PROGRAM AS A DISCIPLINARY RESPONSE TO A STUDENT'S ACTIONS.

10 **SECTION 4.** In Colorado Revised Statutes, 22-2-117, **amend**
11 (1)(b)(IV) and (1)(b)(V); and **add** (1)(b)(VI) as follows:

12 **22-2-117. Additional power - state board - waiver of**
13 **requirements - rules.** (1) (b) The state board shall not waive any of the
14 requirements specified in any of the following statutory provisions:

15 (IV) Any provision of this ~~title~~ TITLE 22 that relates to
16 fingerprinting and criminal history record checks of educators and school
17 personnel; ~~or~~

18 (V) The "Children's Internet Protection Act", article 87 of this
19 ~~title:~~ TITLE 22; OR

20 (VI) SECTION 22-33-106.1 CONCERNING SUSPENSION AND
21 EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

22 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-104, **amend**
23 (6)(c)(IV) and (6)(c)(V); and **add** (6)(c)(VI) as follows:

24 **22-30.5-104. Charter school - requirements - authority - rules.**

25 (6) (c) A school district, on behalf of a charter school, may apply to the
26 state board for a waiver of a state statute or state rule that is not an
27 automatic waiver. Notwithstanding any provision of this subsection (6)

1 to the contrary, the state board may not waive any statute or rule relating
2 to:

3 (IV) The "Public School Finance Act of 1994", article 54 of this
4 ~~title; or~~ TITLE 22;

5 (V) The "Children's Internet Protection Act", article 87 of this
6 ~~title;~~ TITLE 22; OR

7 (VI) SECTION 22-33-106.1 CONCERNING SUSPENSION AND
8 EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

9 **SECTION 6.** In Colorado Revised Statutes, 22-30.5-106, **amend**
10 (1)(p) as follows:

11 **22-30.5-106. Charter application - contents.** (1) The charter
12 school application is a proposed agreement upon which the charter
13 applicant and the chartering local board of education negotiate a charter
14 contract. At a minimum, each charter school application includes:

15 (p) Policies regarding student discipline, expulsion, and
16 suspension that are consistent with the intent and purpose of ~~section~~
17 SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety
18 of students and staff, and provide a level of due process for students that,
19 at a minimum, complies with the requirements of the federal "Individuals
20 with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

21 **SECTION 7.** In Colorado Revised Statutes, 22-30.5-507, **amend**
22 (7)(b)(IV) and (7)(b)(V); and **add** (7)(b)(VI) as follows:

23 **22-30.5-507. Institute charter school - requirements -**
24 **authority - rules.** (7) (b) An institute charter school may apply to the
25 state board, through the institute, for a waiver of state statutes and state
26 rules that are not automatic waivers. The state board may waive state
27 statutory requirements or rules promulgated by the state board; except that

1 the state board may not waive any statute or rule relating to:

2 (IV) The provisions of the "Public School Finance Act of 1994",
3 article 54 of this ~~title~~; or TITLE 22;

4 (V) The "Children's Internet Protection Act", article 87 of this
5 ~~title~~; TITLE 22; OR

6 (VI) SECTION 22-33-106.1 CONCERNING SUSPENSION AND
7 EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

8 **SECTION 8.** In Colorado Revised Statutes, 22-30.5-509, **amend**
9 (1)(p) as follows:

10 **22-30.5-509. Institute charter school application - contents.**

11 (1) The institute charter school application is a proposed agreement upon
12 which the institute charter applicant and the institute negotiate a charter
13 contract. At a minimum, each institute charter school application
14 includes:

15 (p) Policies regarding student discipline, expulsion, and
16 suspension that are consistent with the intent and purpose of ~~section~~
17 SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety
18 of students and staff, and provide a level of due process for students that,
19 at a minimum, complies with the requirements of the federal "Individuals
20 with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

21 **SECTION 9.** In Colorado Revised Statutes, 22-32-109.1, **amend**
22 (2)(a)(I) introductory portion, (2)(a)(I)(E), and (2)(a)(II) as follows:

23 **22-32-109.1. Board of education - specific powers and duties**
24 **- safe school plan - conduct and discipline code - safe school reporting**
25 **requirements - school response framework - school resource officers**
26 **- definitions - repeal. (2) Safe school plan.** In order to provide a
27 learning environment that is safe, conducive to the learning process, and

1 free from unnecessary disruption, each school district board of education
2 or institute charter school board for a charter school authorized by the
3 charter school institute shall, following consultation with the school
4 district accountability committee and school accountability committees,
5 parents, teachers, administrators, students, student councils where
6 available, and, where appropriate, the community at large, adopt and
7 implement a safe school plan, or review and revise, as necessary in
8 response to any relevant data collected by the school district, any existing
9 plans or policies already in effect. In addition to the aforementioned
10 parties, each school district board of education, in adopting and
11 implementing its safe school plan, may consult with victims' advocacy
12 organizations, school psychologists, local law enforcement, and
13 community partners. The plan, at a minimum, must include the following:

14 (a) **Conduct and discipline code.** (I) A concisely written conduct
15 and discipline code that ~~shall be~~ IS enforced uniformly, fairly, and
16 consistently for all students. Copies of the code shall be provided to each
17 student upon enrollment at the PRESCHOOL, elementary, middle, and high
18 school levels and shall be posted or kept on file at each public school in
19 the school district. The school district shall take reasonable measures to
20 ensure that each student of each public school in the school district is
21 familiar with the code. The code ~~shall~~ MUST include, but need not be
22 limited to:

23 (E) General policies and procedures for determining the
24 circumstances under and the manner in which disciplinary actions,
25 including suspension and expulsion, ~~shall be~~ ARE imposed in accordance
26 with the provisions of sections 22-33-105, ~~and~~ 22-33-106, AND
27 22-33-106.1;

1 (II) In creating and enforcing a school conduct and discipline code
2 pursuant to ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (2)(a)(I)
3 OF THIS SECTION, each school district board of education ~~on and after~~
4 ~~August 1, 2013~~, shall:

5 (A) Impose proportionate disciplinary interventions and
6 consequences, including but not limited to in-school suspensions, in
7 response to student misconduct, which interventions and consequences
8 are designed to reduce the number of expulsions, out-of-school
9 suspensions, and referrals to law enforcement, except for such referrals
10 to law enforcement as are required by state or federal law;

11 (B) Include plans for the appropriate use AT ALL GRADE LEVELS
12 INCLUDING PRESCHOOL of prevention, intervention, restorative justice,
13 peer mediation, counseling, or other approaches to address student
14 misconduct, which approaches are designed to minimize student exposure
15 to the criminal and juvenile justice system. The plans ~~shall~~ MUST state that
16 a school administration shall not order a victim's participation in a
17 restorative justice practice or peer mediation if the alleged victim of an
18 offending student's misconduct alleges that the misconduct constitutes
19 unlawful sexual behavior, as defined in section 16-22-102 (9); ~~€R.S.~~; a
20 crime in which the underlying factual basis involves domestic violence,
21 as defined in section 18-6-800.3 (1); ~~€R.S.~~; stalking as defined in section
22 18-3-602; ~~€R.S.~~; or violation of a protection order, as defined in section
23 18-6-803.5; ~~€R.S.~~;

24 (C) Ensure that the implementation of the code complies with all
25 state and federal laws concerning the education of students with
26 disabilities, as defined in section 22-20-103 (5); ~~and~~

27 (D) Ensure that, in implementing the code, each school of the

1 school district shows due consideration of the impact of certain violations
2 of the code upon victims of such violations, in accordance with the
3 provisions of title IX of the United States Code and other state and federal
4 laws; AND

5 (E) ENSURE THAT, IN IMPLEMENTING THE CODE, EACH SCHOOL OF
6 THE SCHOOL DISTRICT COMPLIES WITH THE REQUIREMENTS OF SECTION
7 22-33-106.1.

8 **SECTION 10.** In Colorado Revised Statutes, 22-33-201.5,
9 **amend** (1) as follows:

10 **22-33-201.5. Definitions.** For purposes of this part 2, unless the
11 context otherwise requires:

12 (1) "Educational services" means:

13 (a) Any of the following types of services to provide instruction
14 in the academic areas of reading, writing, mathematics, science, and
15 social studies:

16 (a) (I) Tutoring services;

17 (b) (II) Alternative educational programs; OR

18 (c) (III) Vocational education programs; OR

19 (b) SERVICES TO SUPPORT FAMILIES AND STUDENTS ENROLLED IN
20 PRESCHOOL, KINDERGARTEN, AND EARLY ELEMENTARY GRADES.

21 **SECTION 11.** In Colorado Revised Statutes, 22-33-202, **amend**
22 (1) as follows:

23 **22-33-202. Identification of at-risk students.** (1) Each school
24 district shall adopt policies to identify students who are at risk of
25 suspension or expulsion from school, INCLUDING STUDENTS WHO ARE
26 ENROLLED IN PRESCHOOL, KINDERGARTEN, AND EARLY ELEMENTARY
27 GRADES. Students identified may include those who are truant, who have

1 been or are likely to be declared habitually truant, or who are likely to be
2 declared habitually disruptive. THE SCHOOL DISTRICT SHALL ADOPT
3 PREVENTION AND EARLY INTERVENTION STRATEGIES TO REDUCE THE NEED
4 FOR EARLY CHILDHOOD AND EARLY ELEMENTARY GRADE SUSPENSIONS
5 AND EXPULSIONS. The school district shall provide students who are
6 identified as at risk of suspension or expulsion with a plan to provide the
7 necessary support services to help them avoid expulsion. The school
8 district shall work with the student's parent or guardian in providing the
9 services and may provide the services through agreements with
10 appropriate local governmental agencies, appropriate state agencies,
11 community-based organizations, and institutions of higher education
12 entered into pursuant to section 22-33-204. The failure of the school
13 district to identify a student for participation in an expulsion-prevention
14 program or the failure of such program to remediate a student's behavior
15 ~~shall~~ IS not be grounds to prevent school personnel from proceeding with
16 appropriate disciplinary measures or used in any way as a defense in an
17 expulsion proceeding.

18 **SECTION 12.** In Colorado Revised Statutes, 22-33-204, **amend**
19 (1) as follows:

20 **22-33-204. Services for at-risk students - agreements with**
21 **state agencies and community organizations.** (1) Each school district,
22 regardless of the number of students expelled by the district, may enter
23 into agreements with appropriate local governmental agencies and, to the
24 extent necessary, with the managing state agencies, including but not
25 limited to the department of human services and the department of public
26 health and environment, with community-based nonprofit and faith-based
27 organizations, with nonpublic, nonparochial schools, with the department

1 of military and veterans affairs, and with public and private institutions
2 of higher education to work with the student's parent or guardian to
3 provide services to any student, INCLUDING A STUDENT WHO IS ENROLLED
4 IN PRESCHOOL, KINDERGARTEN, OR AN EARLY ELEMENTARY GRADE, who
5 is identified as being at risk of suspension or expulsion or who has been
6 suspended or expelled and to the student's family. Any services provided
7 pursuant to an agreement with a nonpublic, nonparochial school shall be
8 subject to approval by the state board of education pursuant to section
9 22-2-107. ~~C.R.S.~~ Services provided through such agreements may
10 include, but are not limited to:

11 (a) Educational services required to be provided under section
12 22-33-203 (2) and any educational services provided to at-risk students
13 identified pursuant to section 22-33-202;

14 (b) Counseling services;

15 (c) Drug or alcohol-addiction treatment programs;

16 (d) Family preservation services.

17 (e) and (f) (Deleted by amendment, L. 98, p. 570, § 3, effective
18 April 30, 1998.)

19 **SECTION 13.** In Colorado Revised Statutes, 22-33-205, **amend**
20 (1)(a) as follows:

21 **22-33-205. Services for expelled and at-risk students - grants**
22 **- criteria.** (1) (a) There is ~~hereby~~ established in the department of
23 education the expelled and at-risk student services grant program, referred
24 to in this section as the "program". The program ~~shall~~ **MUST** provide
25 grants to school districts, to charter schools, to alternative schools within
26 school districts, to nonpublic, nonparochial schools, to boards of
27 cooperative services, to facility schools, and to pilot schools established

1 pursuant to article 38 of this ~~title~~ TITLE 22 to assist them in providing
2 educational services, and other services provided pursuant to section
3 22-33-204, to expelled students pursuant to section 22-33-203 (2) ~~to~~ AND
4 students at risk of expulsion as identified pursuant to section 22-33-202
5 (1), INCLUDING STUDENTS ENROLLED IN PRESCHOOL, KINDERGARTEN, AND
6 EARLY ELEMENTARY GRADES, and to truant students.

7 **SECTION 14. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2018 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.