

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

Petition for Review
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 2019-
2020 #24

Petitioner: TYLER SANDBERG

v.

Respondents/Proponents: MARTHA OLSON and
DONALD J. ANDERSON,
Proponents,

and

Title Board: BEN SCHLER, LEEANN MORRILL,
and JULIE PELEGRIN

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▲ COURT USE ONLY ▲

Supreme Court Case No.

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING
BOARD CONCERNING PROPOSED INITIATIVE 2019-2020 #24**

Tyler Sandberg (“Petitioner”), a registered Colorado elector and objector of Proposed Initiative 2019-2020 #24 (the “Proposed Initiative”), through his undersigned counsel, respectfully petitions this Court pursuant to § 1-40-

107(2), C.R.S. (2018), to review the actions of the Ballot Title Setting Board (“Title Board”) with respect to the setting of the title, ballot title, and submission clause for Proposed Initiative 2019-2020 #24.

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative

Title Board held a hearing on April 3, 2019, where it determined that the Proposed Initiative contained a single subject as required by Colo. Const. art. V, §1(5.5), and § 1-40-106.5, C.R.S. (2018), and set a title. On April 9, 2019, Petitioner filed a Motion for Rehearing stating that the Proposed Initiative does not contain a single subject, and that its title was unfair and misleading in contravention of § 1-40-106(3)(b), C.R.S. (2018). Title Board held a rehearing on April 17, 2019, at which time it denied Petitioner’s Motion for Rehearing.

B. Jurisdiction

Petitioner is timely requesting a review of the actions of the Title Board by the Supreme Court pursuant to § 1-40-107(2), C.R.S. (2018).

As required by § 1-40-107(2), C.R.S. (2018), attached to this Petition for Review are certified copies of the final Proposed Initiative, the title and submission clause, Fiscal Impact Statement, and Motions for Rehearing and the rulings thereon.

GROUNDS FOR REVIEW

Petitioner respectfully submits that the Proposed Initiative contains more than a single subject in violation of Colo. Const. art. V, §1(5.5), and § 1-40-106.5, C.R.S. (2018), and that its title is unfair and misleading in contravention of § 1-40-106(3)(b), C.R.S. (2018).

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that the that the title set by the Title Board for the Proposed Initiative is unfair and misleading, and that the Proposed Initiative contains more than a single subject. Petitioner requests the Court to reverse the actions of the Title Board and order the Proposed Initiative be returned to the Proponents.

Respectfully submitted this 22nd day of April, 2019.

/s/ Gwendolyn A. Benevento

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CERTIFICATE OF SERVICE

This is to certify that I caused the within filing to be served by Colorado Courts E-Filing E-Service, email and United States Mail this 22nd day of April, 2019, as follows:

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/s/ Gwendolyn A. Benevento

DATE FILED: April 23, 2019 9:35 AM



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 impact abstract, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2019-2020 #24 'Funding for Public Schools'".....

..... **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 18th day of April, 2019.

A handwritten signature in cursive script that reads "Jena Griswold".

SECRETARY OF STATE

RECEIVED

MAR 22 2019

S. WARD
11:30 AM

Initiative 24 - Final

Colorado Secretary of State

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

SECTION 1. In the constitution of the state of Colorado, section 17 of article IX, add (4.5) as follows:

Section 17. Education -- Funding. (4.5) Quality Public Education Fund Created. (a) THIS SUBSECTION SHALL BE KNOWN AND CITED AS THE "QUALITY PUBLIC EDUCATION FUND AMENDMENT OF 2019". THE PURPOSE OF THIS SECTION IS TO CREATE A MORE SUSTAINABLE, FAIR, AND ADEQUATE SYSTEM FOR FINANCING PUBLIC SCHOOLS THAT IS DESIGNED TO MEET THE NEEDS OF EVERY STUDENT IN THE STATE OF COLORADO TO PREPARE THEM FOR SUCCESS IN CAREER, COLLEGE, AND LIFE.

(b) THERE IS HEREBY CREATED IN THE DEPARTMENT OF THE TREASURY THE QUALITY PUBLIC EDUCATION FUND. THE QUALITY PUBLIC EDUCATION FUND SHALL RECEIVE ALL REVENUES COLLECTED THROUGH AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING APPROVED BY THE VOTERS AT THE 2019 GENERAL ELECTION. ALL INTEREST EARNED ON MONEYS IN THE QUALITY PUBLIC EDUCATION FUND SHALL BE DEPOSITED IN THE QUALITY PUBLIC EDUCATION FUND AND SHALL BE USED BEFORE ANY PRINCIPAL IS DEPLETED. MONEYS REMAINING IN THE QUALITY PUBLIC EDUCATION FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND NOT REVERT TO THE GENERAL FUND, THE STATE EDUCATION FUND, OR TO ANY OTHER CASH FUND.

(c) IN STATE FISCAL YEAR 2020-2021, AND EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE, AND SCHOOL DISTRICTS MAY ANNUALLY EXPEND, MONEYS FROM THE QUALITY PUBLIC EDUCATION FUND FOR SUCH PURPOSES AS SHALL BE SPECIFIED BY LAW TO IMPROVE, SUPPORT AND ENHANCE THE QUALITY OF PRE-PRIMARY, PRIMARY, AND SECONDARY PUBLIC SCHOOL EDUCATIONAL PROGRAMS, RESOURCES, AND OPPORTUNITIES ON AN EQUITABLE BASIS FOR THE BENEFIT OF STUDENTS THROUGHOUT THE STATE.

(d) MONEYS APPROPRIATED FROM THE QUALITY PUBLIC EDUCATION FUND SHALL BE USED TO SUPPLEMENT, AND NOT SUPPLANT, THE LEVEL OF FISCAL YEAR GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION FUNDING EXISTING ON THE EFFECTIVE DATE OF THIS SUBSECTION.

SECTION 2. In the constitution of the state of Colorado, section 3 of article X, amend (1)(b) as follows:

(1)(b)(I) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for

assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. All other taxable property shall be valued for assessment at twenty-nine percent of its actual value. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation.

(b)(II) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (1)(b)(I) OF THIS SECTION, FOR ALL SCHOOL DISTRICT PROPERTY TAX LEVIES IN ANY PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020, RESIDENTIAL REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT THE PERCENTAGE OF ITS ACTUAL VALUE ESTABLISHED BY THE GENERAL ASSEMBLY FOR RESIDENTIAL REAL PROPERTY PURSUANT TO SUBSECTION (1)(b)(I) OF THIS SECTION AT ITS 2019 GENERAL SESSION, AND ALL OTHER TAXABLE PROPERTY SHALL BE VALUED FOR ASSESSMENT AT TWENTY-FOUR PERCENT OF ITS ACTUAL VALUE EXCEPT AS OTHERWISE SET FORTH IN SUBSECTION (1)(b)(I) OF THIS SECTION WITH REGARD TO PRODUCING MINES AND LANDS OR LEASEHOLDS PRODUCING OIL OR GAS. HOWEVER, FOR PURPOSES OF DETERMINING THE ADJUSTMENT TO BE MADE IN THE RATIO OF VALUATION FOR ASSESSMENT FOR RESIDENTIAL REAL PROPERTY UNDER SUBSECTION (1)(b)(I), THE AGGREGATE STATEWIDE VALUATION FOR ASSESSMENT THAT IS ATTRIBUTABLE TO EACH CLASS OF TAXABLE PROPERTY SHALL BE CALCULATED WITHOUT REGARD TO THE ADJUSTED VALUES FOR ASSESSMENT FOR PROPERTY SUBJECT TO A SCHOOL PROPERTY TAX LEVY.

SECTION 3. In the constitution of the state of Colorado, section 20 of article X, **amend (8)(a)** as follows:

(8) Revenue limits. (a) New or increased transfer tax rates on real property are prohibited. No new state real property tax or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter-approved tax credits, with no added tax or surcharge; EXCEPT THAT MULTIPLE RATES MAY APPLY TO TAXABLE NET INCOME OF INDIVIDUALS, TRUSTS, ESTATES, AND CORPORATIONS IF SPECIFIC RATE INCREASES IN EXCESS OF THE TAX RATE IN EFFECT ON THE DAY OF AN ELECTION ARE APPROVED BY VOTERS FOR THE

PURPOSE OF PROVIDING AN INCOME TAX INCREMENT DEDICATED TO THE FUNDING OF PRE-PRIMARY THROUGH SECONDARY PUBLIC SCHOOLS.

SECTION 4. In Colorado Revised Statutes, add 22-55-109 as follows:

22-55-109. Quality Public Education Fund – purpose and implementation. (1)
KNOWLEDGE AND LEARNING BEING ESSENTIAL FOR THE PRESERVATION OF LIBERTY AND A FREE AND DEMOCRATIC SOCIETY, THE PEOPLE OF THE STATE OF COLORADO DECLARE THAT:

(a) A SOUND PUBLIC EDUCATION SYSTEM IS FUNDAMENTAL TO ENABLING EVERY PERSON TO DEVELOP HIS OR HER FULL POTENTIAL AND TO PARTICIPATE MEANINGFULLY IN THE CIVIC AND ECONOMIC LIFE OF THE COMMUNITY;

(b) QUALITY PUBLIC EDUCATION IS ESSENTIAL TO THE DEVELOPMENT OF THE QUALITY WORKFORCE THAT WILL DRIVE A VIBRANT COLORADO ECONOMY FOR DECADES TO COME;

(c) OUR PUBLIC SCHOOLS HAVE BEEN THE PATHWAY TO OPPORTUNITY AND A BETTER LIFE FOR GENERATIONS OF COLORADANS;

(d) EACH AND EVERY COLORADO CHILD REQUIRES ACCESS TO EXCELLENT PUBLIC SCHOOLS, QUALITY EARLY CHILDHOOD EDUCATION OFFERINGS, A HIGHLY PROFESSIONAL AND WELL-SUPPORTED TEACHING FORCE, APPROPRIATE EDUCATIONAL TECHNOLOGY, TEXTBOOKS AND OTHER SCHOOL SUPPLIES, AND BROAD, HIGH-QUALITY EDUCATIONAL OPPORTUNITIES; AND

(e) A MORE SUSTAINABLE, FAIR, AND ADEQUATE SYSTEM FOR FINANCING PUBLIC SCHOOLS IS NECESSARY TO ACHIEVE THESE GOALS AND MEET THE NEEDS OF EVERY STUDENT IN THE STATE OF COLORADO TO PREPARE THEM FOR SUCCESS IN CAREER, COLLEGE AND LIFE IN THE TWENTY-FIRST CENTURY.

(2) THE PURPOSE OF THIS SECTION IS TO IMPLEMENT SUBSECTION (4.5) OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, AS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE AT THE 2018 GENERAL ELECTION.

(3) (a) IN STATE FISCAL YEAR 2020-2021, AND EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE, AND LOCAL SCHOOL DISTRICTS MAY ANNUALLY EXPEND, MONEYS FROM THE QUALITY PUBLIC EDUCATION FUND FOR THE PURPOSES STATED IN THIS SUBSECTION (3).

(b) UNTIL SUCH TIME AS A COMPREHENSIVE NEW PUBLIC SCHOOL FINANCE LAW SUBSTANTIALLY IN COMPLIANCE WITH SUBSECTION (3)(c) OF THIS SECTION HAS BEEN ENACTED AND HAS TAKEN EFFECT, THESE MONEYS SHALL BE APPROPRIATED AND SPENT AS FOLLOWS:

(1) TO INCREASE THE ANNUAL STATEWIDE BASE PER PUPIL FUNDING FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE TO NO LESS THAN SEVEN THOUSAND THREE HUNDRED DOLLARS, PLUS ANNUAL ADJUSTMENTS FOR INFLATION;

(II) TO FULLY FUND REDUCTIONS RESULTING FROM APPLICATION OF THE BUDGET STABILIZATION FACTOR, FORMERLY KNOWN AS THE NEGATIVE FACTOR, PURSUANT TO SECTION 22-54-104(5)(g)(I).

(III) TO INCREASE THE LEVEL OF TOTAL ANNUAL STATE FUNDING FOR CATEGORICAL PROGRAMS DIRECTED TO SPECIAL EDUCATION BY AN AMOUNT NO LESS THAN ONE HUNDRED TWENTY MILLION DOLLARS, TO PROGRAMS FOR GIFTED AND TALENTED STUDENTS BY AN AMOUNT NO LESS THAN TEN MILLION DOLLARS, AND TO PROGRAMS FOR ENGLISH LANGUAGE PROFICIENCY BY AN AMOUNT NO LESS THAN TWENTY MILLION DOLLARS OVER THE AMOUNTS OF FUNDING FOR THOSE PROGRAMS FOR FISCAL YEAR 2019-20, PLUS ANNUAL ADJUSTMENTS FOR INFLATION;

(IV) TO INCREASE ANNUAL STATE FUNDING FOR PRESCHOOL EARLY EDUCATION PROGRAMS BY AN AMOUNT NO LESS THAN TEN MILLION DOLLARS OVER THE AMOUNT OF FUNDING FOR THOSE PROGRAMS FOR FISCAL YEAR 2019-20, PLUS ANNUAL ADJUSTMENTS FOR INFLATION;

(V) TO INCREASE ANNUAL STATE FUNDING FOR PUPILS ELIGIBLE FOR FREE LUNCH AS NECESSARY TO INCLUDE PUPILS ELIGIBLE FOR REDUCED LUNCH PURSUANT TO THE PROVISIONS OF THE FEDERAL "RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751, ET SEQ; AND

(VI) TO FUND ALL KINDERGARTEN STUDENTS ENROLLED IN A FULL DAY PROGRAM AT THE LEVEL OF ONE FULL-TIME EQUIVALENT.

(c) IT IS THE INTENTION OF THE PEOPLE OF THE STATE OF COLORADO THAT THE GENERAL ASSEMBLY SHALL ENACT AS EXPEDITIOUSLY AS POSSIBLE A NEW PUBLIC SCHOOL FINANCE LAW THAT WILL SUBSTANTIALLY MEET THE FOLLOWING CRITERIA: PROVIDE A BASE PER PUPIL FUNDING LEVEL FOR ALL STUDENTS MOVING TOWARD OR EXCEEDING THE NATIONAL AVERAGE; ALLOCATE FUNDING IN A FAIR AND EQUITABLE MANNER AMONG THE LOCAL SCHOOL DISTRICTS, WITH RECOGNITION OF DIFFERENCES RELATED TO SIZE, GEOGRAPHY, POPULATION DEMOGRAPHICS, AND LOCAL ECONOMIC AND COST FACTORS; ASSURE MORE ADEQUATE FUNDING FOR SPECIALIZED PROGRAMS ADDRESSED TO STUDENTS WITH SPECIAL NEEDS, GIFTED AND TALENTED STUDENTS, STUDENTS LIVING IN POVERTY, ENGLISH LANGUAGE LEARNERS, AND OTHER IDENTIFIABLE GROUPS WHO WOULD BENEFIT FROM SUCH PROGRAMS; MORE ADEQUATELY FUND PROGRAMS TO ADDRESS THE CRITICAL IMPORTANCE OF EARLY CHILDHOOD LEARNING; PROVIDE FOR THE RECRUITMENT AND RETENTION OF QUALITY TEACHERS; AND PROVIDE A MODEL FOR FUNDING THAT WILL BE TRANSPARENT AND EASILY UNDERSTANDABLE BY THE PUBLIC. AT SUCH TIME AS A NEW PUBLIC SCHOOL FINANCE LAW SUBSTANTIALLY MEETING THESE CRITERIA HAS BEEN ENACTED AND HAS TAKEN EFFECT, THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE, AND THE SCHOOL DISTRICTS MAY ANNUALLY EXPEND, MONEY FROM THE QUALITY PUBLIC EDUCATION FUND FOR THE PURPOSES PROVIDED IN SUCH LAW.

(4) MONEY FROM THE QUALITY PUBLIC EDUCATION FUND SHALL BE APPROPRIATED AND EXPENDED TO SUPPORT PUBLIC SCHOOLS, EXCEPT THAT SUCH MONEY MAY BE SPENT AS REQUIRED PURSUANT TO AN INDIVIDUALIZED EDUCATION PROGRAM UNDER THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 2004", 20 USC SEC.1400, ET SEQ., AS AMENDED, OR SUCCESSOR ACT.

(5) MONEY APPROPRIATED FROM THE QUALITY PUBLIC EDUCATION FUND SHALL BE USED TO SUPPLEMENT, AND NOT SUPPLANT, THE LEVEL OF FISCAL YEAR GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION FUNDING EXISTING ON THE EFFECTIVE DATE OF THIS SUBSECTION, PLUS ANNUAL ADJUSTMENTS FOR INFLATION UP TO A MAXIMUM ANNUAL ADJUSTMENT OF FIVE PERCENT.

(6)(a) UPON RECEIVING MONEY FROM THE QUALITY PUBLIC EDUCATION FUND, AND PURSUANT TO ESTABLISHED DISTRICT REPORTING REQUIREMENTS SET FORTH IN THE "EDUCATION ACCOUNTABILITY ACT OF 2009", ARTICLE 11 OF TITLE 22, THE FEDERAL "EVERY STUDENT SUCCEEDS ACT", PUB.L. 114-95, AND REGULATIONS DEVELOPED BY THE COLORADO DEPARTMENT OF EDUCATION PURSUANT TO STATE EDUCATION LAW, EACH DISTRICT SHALL MAKE PUBLICLY AVAILABLE ON ITS WEB SITE ITS MISSION AND VISION AND CURRENT BUDGET, AUDIT, UNIFORM IMPROVEMENT PLAN AND STUDENT ACHIEVEMENT SCORES.

(b) WITHIN FIVE YEARS OF IMPLEMENTATION OF THE QUALITY PUBLIC EDUCATION FUND, AND PURSUANT TO A REQUEST FOR PROPOSALS PROCESS WITH COMPETITIVE BIDDING, THE COLORADO DEPARTMENT OF EDUCATION WILL COMMISSION A STUDY TO INVESTIGATE HOW MONEY FROM THE QUALITY PUBLIC EDUCATION FUND WERE SPENT AND TO DETERMINE THE BEST PRACTICES OF VARIOUS DISTRICTS FROM DIVERSE GEOGRAPHICAL REGIONS IN PROMOTING CONTINUOUS IMPROVEMENT IN STUDENT ACHIEVEMENT. MONEY FROM THE QUALITY PUBLIC EDUCATION FUND MAY BE USED FOR THIS STUDY. THIS STUDY WILL BE MADE AVAILABLE TO THE PUBLIC AND POSTED ON THE DEPARTMENT OF EDUCATION WEBSITE.

(c) WITHIN TEN YEARS AFTER THE IMPLEMENTATION OF A SUCCESSOR TO THE "PUBLIC SCHOOL FINANCE ACT OF 1994", AND EVERY FIVE YEARS THEREAFTER, THE GENERAL ASSEMBLY SHALL REVIEW IMPLEMENTATION OF THE SUCCESSOR ACT TO ENSURE THAT THE FORMULA SET FORTH IN THE SUCCESSOR ACT ENABLES ALL SCHOOL DISTRICTS TO MEET COLORADO ACADEMIC STANDARDS AND PERFORMANCE FRAMEWORKS. IF THE FORMULA REQUIRES CHANGES TO MEET THESE GOALS IN AN ADEQUATE AND EQUITABLE MANNER, THE GENERAL ASSEMBLY SHALL ADOPT REVISIONS TO THE SCHOOL FINANCE FORMULA.

SECTION 5. In Colorado Revised Statutes, 39-22-104, amend (1.7) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – definitions – repeal. (1.7) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2000, a tax of four and sixty-three one hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust. IN ADDITION TO THE TAX RATE AUTHORIZED IN THIS SUBSECTION (1.7) ON FEDERAL TAXABLE INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS, FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2020, AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING TO BE DEDICATED TO THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF TITLE IX OF THE STATE CONSTITUTION SHALL BE IMPOSED ON THE FEDERAL TAXABLE INCOME OF SUCH TAXPAYERS:

(a) OVER ONE HUNDRED FIFTY THOUSAND DOLLARS AND UP TO AND INCLUDING TWO HUNDRED THOUSAND DOLLARS, AT THE RATE OF THIRTY-SEVEN ONE HUNDREDTHS PERCENT;

(b) OVER TWO HUNDRED THOUSAND DOLLARS AND UP TO AND INCLUDING THREE HUNDRED THOUSAND DOLLARS, AT THE RATE OF ONE AND TWELVE ONE HUNDREDTHS PERCENT;

(c) OVER THREE HUNDRED THOUSAND DOLLARS AND UP TO AND INCLUDING FOUR HUNDRED THOUSAND DOLLARS, AT THE RATE OF TWO AND TWELVE ONE HUNDREDTHS PERCENT;

AND

(d) OVER FOUR HUNDRED THOUSAND DOLLARS, AT THE RATE OF THREE AND TWELVE ONE HUNDREDTHS PERCENT.

SECTION 6. In Colorado Revised Statutes, 39-22-301, amend (1)(d)(I)(I), as follows:

39-22-301. Corporate tax imposed. (1)(d)(I) A tax is imposed upon each domestic C corporation and foreign C corporation doing business in Colorado annually in an amount of the net income of such C corporation during the year derived from sources within Colorado as set forth in the following schedule of rates:

(I) Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2000, four and sixty-three one hundredths percent of the Colorado net income. IN ADDITION TO THE TAX RATE AUTHORIZED IN THIS SUBSECTION (1)(d)(I)(I), FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2020, AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING TO BE DEDICATED TO THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF TITLE IX OF THE STATE CONSTITUTION SHALL BE IMPOSED ON COLORADO NET INCOME AT THE RATE OF ONE AND THIRTY-SEVEN ONE HUNDREDTHS PERCENT.

SECTION 7. In Colorado Revised Statutes, 39-22-623, amend (1)(b) as follows:

39-22-623. Disposition of collections. (1) The proceeds of all moneys collected under this article, less the reserve retained for refunds, shall be credited as follows:

(b) Following apportionment of the city, town, and county shares pursuant to paragraph (a) of this subsection (1) and pursuant to section 29-21-101, C.R.S., all remaining funds, less the amount credited to the reserve created in section 39-29-107.8, in accordance with subsection (2) of said section, shall be credited AS FOLLOWS:

(I) FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2020, ALL MONEY DERIVED FROM THE INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING UNDER SECTIONS 39-22-104(1.7) AND 39-22-301(1) SHALL BE CREDITED TO AND DEPOSITED IN THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION. NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION OF LAW, ALL MONEY CREDITED TO AND DEPOSITED IN THE QUALITY PUBLIC

EDUCATION FUND PURSUANT TO THIS SUBPARAGRAPH AS APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2019, MAY BE COLLECTED AND SPENT AS VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE SUBSEQUENT VOTER APPROVAL.

(II) ALL REMAINING FUNDS SHALL BE CREDITED to the general fund, and the general assembly shall make appropriations therefrom for the expenses of the administration of this article.

Ballot Title Setting Board

Proposed Initiative 2019-2020 #24¹

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

STATE TAXES SHALL BE INCREASED \$1,500,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING FUNDING RELATING TO PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATION, AND, IN CONNECTION THEREWITH, CREATING AN EXCEPTION TO THE SINGLE RATE STATE INCOME TAX FOR REVENUE THAT IS DEDICATED TO THE FUNDING OF PUBLIC SCHOOLS; INCREASING INCOME TAX RATES INCREMENTALLY FOR INDIVIDUALS, TRUSTS, AND ESTATES USING FOUR TAX BRACKETS STARTING AT .37% FOR INCOME ABOVE \$150,000 AND INCREASING TO 3.12% FOR INCOME ABOVE \$400,000; INCREASING THE CORPORATE INCOME TAX RATE BY 1.37%; FOR PURPOSES OF SCHOOL DISTRICT PROPERTY TAXES, ESTABLISHING THE RESIDENTIAL ASSESSMENT RATE EFFECTIVE FOR THE 2019 PROPERTY TAX YEAR AS THE PERMANENT RESIDENTIAL ASSESSMENT RATE AND REDUCING THE CURRENT NONRESIDENTIAL ASSESSMENT RATE OF 29% TO 24%; REQUIRING REVENUE FROM THE INCOME TAX INCREASES TO BE DEPOSITED IN A DEDICATED PUBLIC EDUCATION FUND AND ALLOWING THE REVENUE TO BE RETAINED AND SPENT AS VOTER-APPROVED REVENUE CHANGES; REQUIRING THE LEGISLATURE TO ANNUALLY APPROPRIATE MONEY FROM THE FUND TO THE SCHOOL DISTRICTS TO SUPPORT PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATIONAL PROGRAMS ON AN EQUITABLE BASIS THROUGHOUT THE STATE WITHOUT DECREASING GENERAL FUND APPROPRIATIONS; DIRECTING THE LEGISLATURE TO ENACT, REGULARLY REVIEW, AND REVISE WHEN NECESSARY, A NEW PUBLIC SCHOOL FINANCE LAW THAT MEETS SPECIFIED CRITERIA; UNTIL THE LEGISLATURE HAS ENACTED A NEW PUBLIC SCHOOL FINANCE LAW, REQUIRING THE MONEY IN THE FUND TO BE ANNUALLY APPROPRIATED FOR SPECIFIED EDUCATIONAL PROGRAMS AND PURPOSES; REQUIRING THE MONEY IN THE FUND TO SUPPORT PUBLIC SCHOOLS; REQUIRING GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION TO INCREASE BY INFLATION, UP TO 5% ANNUALLY; AND REQUIRING THE DEPARTMENT OF EDUCATION TO COMMISSION A STUDY OF THE USE OF THE FUND WITHIN FIVE YEARS.

¹ Unofficially captioned “**Funding for Public Schools**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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

SHALL STATE TAXES SHALL BE INCREASED \$1,500,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING FUNDING RELATING TO PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATION, AND, IN CONNECTION THEREWITH, CREATING AN EXCEPTION TO THE SINGLE RATE STATE INCOME TAX FOR REVENUE THAT IS DEDICATED TO THE FUNDING OF PUBLIC SCHOOLS; INCREASING INCOME TAX RATES INCREMENTALLY FOR INDIVIDUALS, TRUSTS, AND ESTATES USING FOUR TAX BRACKETS STARTING AT .37% FOR INCOME ABOVE \$150,000 AND INCREASING TO 3.12% FOR INCOME ABOVE \$400,000; INCREASING THE CORPORATE INCOME TAX RATE BY 1.37%; FOR PURPOSES OF SCHOOL DISTRICT PROPERTY TAXES, ESTABLISHING THE RESIDENTIAL ASSESSMENT RATE EFFECTIVE FOR THE 2019 PROPERTY TAX YEAR AS THE PERMANENT RESIDENTIAL ASSESSMENT RATE AND REDUCING THE CURRENT NONRESIDENTIAL ASSESSMENT RATE OF 29% TO 24%; REQUIRING REVENUE FROM THE INCOME TAX INCREASES TO BE DEPOSITED IN A DEDICATED PUBLIC EDUCATION FUND AND ALLOWING THE REVENUE TO BE RETAINED AND SPENT AS VOTER-APPROVED REVENUE CHANGES; REQUIRING THE LEGISLATURE TO ANNUALLY APPROPRIATE MONEY FROM THE FUND TO THE SCHOOL DISTRICTS TO SUPPORT PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATIONAL PROGRAMS ON AN EQUITABLE BASIS THROUGHOUT THE STATE WITHOUT DECREASING GENERAL FUND APPROPRIATIONS; DIRECTING THE LEGISLATURE TO ENACT, REGULARLY REVIEW, AND REVISE WHEN NECESSARY, A NEW PUBLIC SCHOOL FINANCE LAW THAT MEETS SPECIFIED CRITERIA; UNTIL THE LEGISLATURE HAS ENACTED A NEW PUBLIC SCHOOL FINANCE LAW, REQUIRING THE MONEY IN THE FUND TO BE ANNUALLY APPROPRIATED FOR SPECIFIED EDUCATIONAL PROGRAMS AND PURPOSES; REQUIRING THE MONEY IN THE FUND TO SUPPORT PUBLIC SCHOOLS; REQUIRING GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION TO INCREASE BY INFLATION, UP TO 5% ANNUALLY; AND REQUIRING THE DEPARTMENT OF EDUCATION TO COMMISSION A STUDY OF THE USE OF THE FUND WITHIN FIVE YEARS?

Hearing April 3, 2019:

Single subject approved; staff draft amended; titles set.

The Board determined that the proposed initiative does not only repeal in whole or in part a provision of the state constitution. The requirement for approval by fifty-five percent of the votes cast applies to this initiative.

The Board made one technical correction to the text of the initiative. In Section 4 of the initiative, the Board changed "2018 General Election" to "2019 Coordinated Election."

Hearing adjourned 1:59 p.m.

BEFORE THE COLORADO STATE TITLE BOARD

OBJECTION AND PROTEST OF TITLE SETTING FOR 2019-2020 #24
~~and #25~~

DOUGLAS BRUCE is a registered Colorado elector. He files this protest to register his objection to the April 3, 2019 actions of the title board in setting ballot titles for issues #24 and ~~#25~~.

1. Neither text is a single subject as required by Article V section 1 (5.5) of the state constitution and by 1-40-106.5 C.R.S. At the title hearing, Bruce identified added subjects inconsistent and incongruous with the main purpose of each text. One is a 17% de facto tax cut in school taxes for one special interest group in a text intended to raise tax revenue for government schools. That prohibited practice, called log rolling, is designed to build a political coalition of supporters from various disparate groups that do not necessary agree on the single subject.

2. The texts further modify on page two a well-known and widely-discussed provision of the constitution, known as the 1982 Gallagher Amendment. They change and complicate a formula known as the 55-45 ratio between non-residential and residential assessment ratios. Different valuation of a majority of real property values for school purposes is not adequately disclosed in the ballot title. Different non-residential assessment ratios for purposes of tax collection and Gallagher computation is a computation that amends the purpose of the Gallagher Amendment, a second subject that is not even disclosed.

3. Both ballot titles are misleading and insufficiently describe the main features of the two texts. Bruce identified deficiencies in the title at the title setting hearing, including features hidden from petition signers and voters, and other features inadequately described in their impact on signers and voters.

4. The fiscal note and abstract are in error and incomplete. They were rounded off to the nearest \$100 million first-year cost in the last clone, which was defeated as Amendment 73 at the 2018 election. This sloppy practice is not used in less costly proposals, and should not be tolerated here. It favors larger tax increases by its imprecision of estimates, which should be stated within millions of dollars, not tens or hundreds of millions of dollars. This broad brush denies equal protection of the law for all petitioners.

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5. The 17% property tax cut for a small percentage of the population (non-residential property owners), to be offset by a widespread increase for income taxpayers, is not sufficiently disclosed.

6. Section 5 of #25 says "a rate reduction shall be allowed against" state income taxes, which is inconsistent with raising revenue. The number of individual income tax brackets is increased from ONE to SIX. This must be defined and disclosed in the ballot title, with percentage tax impact on each bracket of taxpayers, to notify them they are being "bracketed" and treated differently than their fellow citizens. The cynical political calculation of offering a 2.8% income tax cut to one bracketed group in order to raise income taxes up to 67% on six other groups is impermissible logrolling and a second subject.

7. Corporate income tax is increased 29%, as a SEVENTH income tax bracket, though corporate property tax is reduced. That inconsistency must be disclosed in the title. It should disqualify the text as a single subject, because corporate increases and decreases are not part of one purpose.

8. Both texts attempt to repeal the provision of TABOR (3)(c) requiring accuracy in tax increases ballot titles. A statute cannot amend the constitution. The general assembly placed issue BB on the ballot to correct false information in the fiscal data listed in the election notice for marijuana tax AA; they honored TABOR's requirement for truth in voter information. The penultimate sentence of each text is both illegal and a second subject. No ballot title may be set for either of them.

Bruce requests a rehearing by the title board to address these issues.



Douglas Bruce

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S. WARD
4:28 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

IN THE MATTER OF THE BALLOT TITLE AND SUBMISSION
CLAUSE FOR INITIATIVE 2019-2020 #24, Funding for Public Schools

MOTION FOR REHEARING

On behalf of Tyler Sandberg, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing of the Title Board's April 3, 2019, decision to set the title of 2019-2020 Initiative #24 ("Initiative"), pursuant to C.R.S. § 1-40-107, and as grounds therefore states as follows:

- I. The Initiative impermissibly contains multiple separate and distinct subjects in violation of the constitutional single-subject requirement.**

The Initiative contains multiple separate subjects including at least the following:

a. Central purpose.

The Objector proposes that the central purpose of the Initiative is increasing income and property taxes to be dedicated to the Quality Public Education Fund and appropriated for schools and specific public education programs.

At the initial Title Board hearing, the proponents' stated a broader single subject: to create a more fair, sustainable, and adequate system for funding public schools. While a proposed voter initiative's subject or purpose may be broad, the Supreme Court has stated that an initiative cannot satisfy the single-subject requirement simply by claiming that each proposed change falls under the same general overarching theme. *Matter of Title, Ballot Title, and Submission Clause for 2013-2014 #89*, 328 P.3d 172 (Colo. 2014). An initiative cannot include purposes unrelated to the initiative's central theme to gain passage of a provision. See *Matter of Title, Ballot Title and Submission Clause, Summary Clause for 1997-1998 No. 74*, 962 P.2d 927 (Colo. 1998) (the single-subject requirement for state initiative is intended to ensure that each proposal for change is considered on its own merits); and *Bruce v.*

City of Colorado Springs, 252 P.3d 30 (Colo. App. 2010) (purpose of single subject requirement is to ensure that each initiative depends upon its own merits for passage).

The Initiative includes other distinct and separate purposes, including education policy regarding paid full-day kindergarten and significant tax policy changes (the state's flat tax, the required ratio between residential and business property tax rates, and reducing the commercial property tax rate). These are not necessarily or properly related to the central purpose of the Initiative. See *In re Title, Ballot Title and Submission Clause, for 2007-2008, #17*, 172 P.3d 871 (Colo. 2007) (single subject provision prohibits initiatives from containing two or more separate and discrete subjects that are not dependent upon or necessarily connected with each other), *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 258(A)*, 4 P.3d 1094 (Colo. 2000) (single-subject requirement prevents joining two distinct and separate purposes that are not dependent upon or connected with each other), and *In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 No. 200A*, 992 P.2d 27 (Colo. 2000) (purpose of the single-subject requirement is to prevent joining in the same act disconnected and incongruous measures).

These multiple subjects represent distinct and different purposes in violation of the single subject requirement of Colo. Const. art. V § 1(5.5) and C.R.S. § 1-40-106.5.

b. Eliminating the flat tax.

The state derives its authority to tax from Article X of the state constitution. Colo. Const. art. X § 20(8) requires a single, or flat, income tax rate: "Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxes at one rate..." The income tax structure in Colorado has been the subject of legislation and several proposed citizen initiatives over the years addressing this tax policy alone. There is ongoing significant debate over the economic impact of a flat income tax compared to a graduated income tax. This Initiative would end the state's single tax rate and impose graduated individual income tax rates.

This is a significant tax policy change that is not necessary or properly connected to increasing funding for public schools and which should depend upon its own merits for passage. It is a separate subject within this proposed measure. A citizen-initiated

amendment to the Colorado Constitution could certainly amend the flat tax provision, but a proposed initiative cannot accomplish that change in a single subject where it also seeks to dramatically reshape education policy and create an entirely new property tax scheme.

c. Establishing full-day kindergarten.

Colorado currently funds only half-day kindergarten. Governor Polis campaigned on providing full-day kindergarten at no cost to families. The general assembly is currently considering the policy of funding full-day kindergarten proposed in HB 19-1262 after a similar bill was introduced but not passed last year. This Initiative states that the general assembly shall appropriate money for full-day kindergarten (Section 4, § 22-55-109(3)(b)(VI)). Whether or not to establish a state-funded full-day kindergarten program is a proposal that should depend upon its own merits for passage, which is why legislators wisely chose to introduce a standalone bill that deals with that single subject. It is not necessarily or properly connected to the purpose of increasing funding for public education, nor for creating a fair, sustainable, and adequate system for funding public schools. In addition, this provision creates a danger of log rolling, because the Initiative may attract a “yes” vote from voters who support the increased funding for public schools but who otherwise might not support funding for full-day kindergarten if it were proposed separately. *See In Matter of Title, Ballot Title*, 374 P.3d 460 (Colo. 2016), and *see Matter of Title, Ballot Title, Submission Clause, and Summary Adopted April 5, 1995, by Title Board Pertaining to a Proposed Initiative Public Rights in Waters II*, 898 P.2d 1076 (Colo. 1995) (single-subject requirement precludes joining together of multiple subjects into single initiative in hope of attracting support from various factions which may have different or even conflicting interests).

d. Reforming the Gallagher Amendment.

This Initiative reduces the nonresidential property tax rate and alters the calculation of the residential property tax rate under Colo. Const. art. X § 3, known as the “Gallagher Amendment.”

The Gallagher Amendment is a major piece of tax policy in Colorado’s constitution, and frequently the subject of state tax policy discussions. The Gallagher Amendment requires a constant ratio dividing the state’s total property tax burden between residential and commercial property. The implications of the

Gallagher Amendment on state property taxes is significant, and the possibility of, and options for, reforming this tax policy are fervently debated.

Recent reform efforts include the general assembly's interim legislative committee tasked with studying property tax issues and the impact of the Gallagher Amendment, the "Alternatives to the Gallagher Amendment Interim Study Committee." The committee forwarded three alternatives to change the Gallagher Amendment that are proposed bills for consideration by the general assembly during its 2019 session. Each one of those bills represents a single subject that the legislature will rightly consider on their individual merits.

This Initiative proposes to modify the Gallagher Amendment by decreasing the assessment rate for commercial property taxes and changing the method of setting an assessment rate for residential property, effectively increasing residential property tax revenues and ending the consistent ratio between residential and commercial property tax rates. Adjusting the long-standing ration between commercial and residential property tax could have wide-ranging implications for all local taxes, including municipalities, counties and special districts. It is a significant property tax policy change which should depend upon its own merits for passage. It is a separate subject within this proposed measure.

e. Reducing the commercial property tax rate.

The Initiative proposes to reduce the commercial property tax rate from 29% to 24%. While the overall effect of the Initiative is to increase funding for public schools, lowering the commercial tax rate does the precise opposite. Thus, it is not necessarily and properly connected to increasing funding for public schools. This issue is similar to the single-subject concerns raised by the Title Board regarding the reduction in certain income tax rates in proposed Initiative 2019-2020 #25 prior to its withdrawal.

Furthermore, reducing the property tax burden on corporations creates a danger of log rolling, because the Initiative may attract a "yes" vote from voters who support the increased funding for public schools but who otherwise might not support reducing the commercial tax rate if it were proposed separately.

II. The title set by the Title Board is inaccurate, unclear, misleading and unfair.

- a. The portion of the title regarding increasing individual income tax rates is inaccurate and unclear and is misleading and unfair because it fails to express the magnitude of the tax rate increase.**

The title states that the initiative would be "...increasing income tax rates incrementally for individuals, trusts, and estates using four tax brackets starting at .37% for income above \$150,000 and increasing to 3.12% for income above \$400,000..."

As written, this title is mathematically inaccurate. The title states that, for income above \$150,000, the proposal would increase tax rates *0.37 percent* (current rate of 4.63% increased by 0.37%). However, the Initiative would increase the tax rate an additional *0.37 percentage points* on top of the existing rate (current rate of 4.63% increased to 5.0%). The same problem exists when the title states that, for income above \$400,000, the proposal increases the income tax rate *3.12 percent* (rather than an additional *3.12 percentage points*).

A voter who reads the current title would almost certainly assume their taxes would be increased somewhere between 0.37% and 3.12%. That voter would be surprised when the taxes came due. In addition, as written, voters cannot evaluate the magnitude of the tax rate increase. A tax increase of "3.12%" may not appear to voters to be a significant increase, but it should be disclosed that the initiative actually proposes a *3.12 percentage point* increase, which represents a 78% increase over the current income tax rate (going from current 4.63% rate to 7.75% rate is a 78% increase).

The Objector requests the wording of this section to be amended to read: "...increasing income tax rates incrementally for individuals, trusts and estates using four tax brackets, starting with increasing the rate for income above \$150,000 by 8% up to increasing the rate for income above \$400,000 by 78%."

This language would clarify the title language and accurately describe the tax rate increase being proposed.

b. The portion of the title regarding increasing corporate income tax rates is inaccurate.

The title's mathematical inaccuracies discussed above also apply to the proposed corporate tax increase. The title states that the Initiative would be "...increasing the corporate income tax rate by 1.37%..." This is not an accurate statement. Increasing the tax rate from 4.63% to 6.0% is a 30% increase. It would be correct for the title to state that the proposal is: "...increasing the corporate tax rate by 30%..."

c. The title does not make clear that the proposal alters the state's single rate income tax policy and is confusing and misleading.

Under this Initiative, Coloradans would no longer have their income taxed at a single rate, altering the flat tax policy maintained in Colorado for many years. The title states that the Initiative would be "...creating an exception to the single rate state income tax for revenue that is dedicated to the funding of public schools..."

Referring to the income tax increases as an "exception" is confusing and misleading because it implies that the flat tax is still in effect, but that there is an exception that does not apply generally. The wording of the title avoids conveying to voters that taxpayers would no longer be taxed at a single rate and that the proposal would end the flat tax policy as it currently pertains to the income of all taxpayers. The Objector suggests the following change: "...ending the state's single rate state income tax and creating tax brackets with graduated increased taxes to be dedicated to the funding of public schools..."

d. The title does not make clear that the proposal applies to joint tax filers and is confusing and misleading.

The Initiative's title states that it seeks to increase the tax rates on "individuals, trusts, and estates." Many Coloradans file their taxes jointly with their spouse. The title does not clearly indicate to joint filers that they will be included in the tax increase.

Voters may assume that the proposed graduated tax increase will be applied to each individual's income, when in reality, the proposal seeks to apply the new graduated rates to their combined income when they file jointly. For instance, two married teachers who file jointly and each make \$80,000 may assume that because the title refers to "individual" tax filers, they will not face a tax increase under the proposal. But under the proposal will increase their taxes because their joint income is over the proposed \$150,000 threshold.

III. Conclusion

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 9th day of April, 2019.

/s/ Jonathan Anderson

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S. WARD
12:35 P.M.

BALLOT TITLE SETTING BOARD

Colorado Secretary of State

IN THE MATTER OF PROPOSED INITIATIVE 2019-2020 #24

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2019-2020 #24

This Motion for Rehearing is submitted on behalf of Jon Caldara, a registered elector in Colorado, and the Independence Institute, a Colorado nonprofit corporation, pursuant to Colorado law challenging the title and submission clause set by the Title Board on April 3, 2019, for Initiative #24 .

As grounds therefore opponents state as follows:

1. Proposed Initiative #24 is a complicated measure that mixes proposed state income tax increases for individuals and entities with discrete but complex changes to what is known as the Gallagher Amendment to the Colorado Constitution dealing with a wholly separate topic of assessment rates for property taxation by local governmental jurisdictions. These are decidedly separate and distinct issues and are not properly included in one measure.

2. The Title Board erred in finding that the measure contained a single subject. The measure contains both a state income tax increase with a local government property tax decrease for a narrow subset of property owners. It appears that for political and not legal reasons the proponents elected to buy off owners of commercial and industrial property from opposing the measure. These two purposes are separate and distinct and not dependent on each other, contrary to Colorado law. *In re Proposed Initiative 1996-4*, 916 P.2d 528 (Colo. 1996); *In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), and 245(e)*, 1 P.3d 720 (Colo. 2000); *In re Ballot Title 1999-2000 Nos. 245(f) and 245(g)*, 1 P.3d 739 (Colo. 2000).

3. The Title for proposed initiative #24 as set by the Title Board is misleading and confusing to voters as it does not clearly and simply disclose the proposed income tax increases. The use of "income tax brackets" in the same paragraph as "income tax rates" is inherently misleading in a state that currently has flat income tax rates for taxpayers.

4. The Title for proposed initiative #24 is also misleading to voters as it fails to disclose the impacts to residential property owners' assessment rates in light of the 17% decrease for commercial and industrial property owners that are unlikely to be Colorado electors.

Respectfully submitted this 10th day of April, 2019.

s/ Shayne M. Madsen
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CERTIFICATE OF SERVICE

A true and correct copy of the above Motion for Rehearing on Proposed Initiative 2019-2020 #24 was delivered via email to the following on April 10, 2019:

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s/ Sally A. Kline
Sally A. Kline, Paralegal

Initiative # 24



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

INITIAL FISCAL IMPACT STATEMENT

Date: April 2, 2019

Fiscal Analyst: Anna Gerstle (303-866-4375)

LCS TITLE: FUNDING FOR PUBLIC SCHOOLS

Fiscal Impact Summary		FY 2019-20	FY 2020-21
Revenue	Cash Fund	\$722 million	\$1.5 billion
	Total	\$722 million	\$1.5 billion
Expenditures	General Fund		\$47,536
	Cash Fund		at least \$1.6 billion
	Total		at least \$1.6 billion

Disclaimer. This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

Summary of Measure

The measure makes changes to the Colorado Constitution and state law related to funding for public education.

Quality Public Education Fund. The measure creates the Quality Public Education Fund (fund) in the Colorado Constitution. Money in the fund must be used to support and enhance the quality of preschool through twelfth grade (P-12) public education, beginning in FY 2020-21. The fund will contain revenue from a proposed income tax increase, discussed below. Money in the fund is exempt from the TABOR revenue limit and must be used to supplement General Fund appropriations for P-12 public education as of the measure's effective date, adjusted each year for inflation up to 5 percent.

New school finance act. The measure states that it is the intent of the people that the General Assembly enact, as expeditiously as possible, a new public school finance law that meets certain criteria. Criteria relate to base per pupil funding; equitable allocation of funding among districts, based on several factors; adequate funding for certain specialized programs and early childhood programs; recruitment and retention of teachers; and the creation of a model that is transparent and easy to understand. Once a new school finance act has been enacted, the General Assembly may utilize money in the fund for implementation.

Education spending requirements. Beginning in FY 2020-21, and until a new public school finance law is enacted by the General Assembly, money from the Quality Public Education Fund must be used to:

- increase the statewide base per pupil funding for P-12 public education to \$7,300;
- fully fund reductions from the budget stabilization factor; and

- increase state funding for the following programs by at least the following amounts over FY 2019-20 levels:
 - special education by \$120 million;
 - gifted and talented programs by \$10 million;
 - English language proficiency programs by \$20 million; and
 - preschool funding by \$10 million.

The specific increases are to be adjusted for inflation beginning in FY 2021-22. In addition, the bill expands the number of kindergarten and at-risk students that receive funding through the state's P-12 funding formula. Specifically, the measure requires that:

- at-risk funding include students qualifying for reduced priced lunch; and
- full day kindergarten funding be increased from 0.58 to 1.0 per full time equivalent student.

Income tax. The measure creates an exception to the current requirement that any new income tax law change require taxable net income to be taxed at a single rate. Specifically, the measure allows multiple tax rates to apply to individuals, trusts, estates, and corporations if the tax increase is approved by voters for the funding of P-12 public education. The measure increases state income tax rates on the taxable income of individuals, fiduciaries, and partnerships by the following graduated rates, beginning in tax year 2020:

- 0.37 percentage points for income between \$150,000 and \$200,000;
- 1.12 percentage points for income between \$200,000 and \$300,000;
- 2.12 percentage points for income between \$300,000 and \$400,000; and
- 3.12 percentage points for income over \$400,000.

The measure also increases the state corporate income tax rate for C corporations doing business in Colorado by 1.37 percentage points, beginning in tax year 2020. All revenue from this individual and corporate income tax increase is deposited in the Quality Public Education Fund and may be retained and spent without further voter approval.

Assessment rates. Currently, the residential assessment rate is 7.2 percent and the assessment rate for all other taxable property, excluding property and leases for mines and producing oil and gas, is 29 percent. Beginning January 1, 2020, the measure specifies that the residential assessment rate for property taxes levied by school districts is set at the rate established by the General Assembly during the 2019 legislative session. All other taxable property is valued for assessment at 24.0 percent for property taxes levied by school districts, with the exception of property and leases for mines and producing oil and gas. The measure specifies that for the purposes of calculating the aggregate statewide assessed values, the assessment rates set by the measure for school district property must not be considered.

Reporting requirements. Within five years of when the new revenue is first appropriated from the fund, the Colorado Department of Education (CDE) must contract for a study that includes how money from the fund was spent, and determine best practices for continuous improvement in student achievement. In addition, school districts that receive money from the fund must make certain information available on its website, including its mission, and current budget, audit, uniform improvement plan, and student achievement scores.

Within ten years of implementation of the new act, and every five years thereafter, the General Assembly must conduct a review of the new school finance act to determine if it enables all school districts to meet academic standards and performance requirements, as well as make any necessary changes to the act.

State Revenue

The measure increases state revenue by \$722.0 million in FY 2019-20 (half-year impact) and \$1.5 billion in FY 2020-21, deposited in the newly created Quality Public Education Fund. This amount is expected to grow over time with growth in population, income, and business earnings, and includes approximately \$610.6 million from individual income taxes and \$111.4 million from corporate income taxes in FY 2019-20. The revenue estimate for FY 2020-21 includes approximately \$1.24 billion from individual income tax and \$227.0 million from corporate income tax. This revenue is exempt from TABOR and must be used for purposes identified in the measure.

Individual income tax. The measure creates graduated income tax rates for taxable income above \$150,000. Graduated rates are increased above the current 4.63 percent by between 0.37 percentage points and 3.12 percentage points, depending on the amount of taxable income, as shown in Table 1. For example, a taxpayer with taxable income equal to \$250,000 would be taxed at the current rate of 4.63 percent for the first \$150,000 in income. The subsequent \$50,000 would be taxed at a rate of 5.0 percent, and the final \$50,000 would be taxed at a rate of 5.75 percent.

**Table 1
 Individual Income Tax Rates Under Initiative #24**

Taxable income* between...	...is taxed at a marginal rate of...	Percent of filers whose maximum income is in each tax bracket**
\$0 and \$150,000	4.63%	91.7%
\$150,001 and \$200,000	5.0%	3.2%
\$200,001 and \$300,000	5.75%	2.5%
\$300,001 and \$400,000	6.75%	1.0%
Over \$400,000	7.75%	1.6%

* These taxable income tiers apply to single, head of household, and joint filers.

** Based on projections for tax year 2020.

Under current law, revenue from individual income taxes is expected to be \$8.30 billion in FY 2019-20 and \$8.58 billion in FY 2020-21, based on the March 2019 Legislative Council Staff forecast. The measure is expected to increase state individual income tax collections by an additional \$0.6 billion in FY 2019-20 (half-year impact) and \$1.24 billion in FY 2020-21. These estimates are based on actual taxpayer data for tax years 2015 through 2017. Estimates assume growth in taxpayer incomes, resulting in a larger share of taxpayers impacted by the new tax rates over time. Table 2 shows the impact on the income tax liability for five example taxable incomes.

**Table 2
 Individual Income Taxpayer Impacts Under Initiative #24**

If taxable income* is...	The measure will increase annual income tax liability** by....
less than \$150,000	\$0
\$200,000	\$185
\$250,000	\$745
\$400,000	\$3,425
\$1,000,000	\$22,145

* These examples apply to single, head of household, and joint filers.
 ** Actual tax liability may vary based on state income tax credits.

Corporate income tax. Under current law, the corporate income tax rate is 4.63 percent, which is expected to generate \$766.1 million in FY 2019-20 and \$740.0 million in FY 2020-21. The measure increases the corporate tax rate by 1.37 percent to a total rate of 6.0 percent. The rate increase is expected to generate \$111.4 million in new revenue in FY 2019-20 (half-year impact) and \$227.0 million in FY 2020-21. This amount is based on the Legislative Council Staff March 2019 forecast for corporate income tax collections in FY 2019-20 and FY 2020-21.

State Expenditures

In FY 2020-21, the measure increases state expenditures by at least \$1.6 billion, and up to \$2.2 billion and 0.1 FTE. Of the expenditures, \$47,536 is from the General Fund and the remainder is from the Quality Public Education Fund. The minimum funding represents the funding requirements specified by the measure; the maximum of \$2.2 billion includes all new revenue generated by the measure in FY 2019-20 (\$722 million) and FY 2020-21 (\$1.5 billion). In future years, \$1.5 billion annually will be generated by the measure and available for spending on public education by the General Assembly. FY 2020-21 expenditures from the Quality Public Education Fund are listed in Table 3.

**Table 3
 Expenditures Under Initiative 24**

Cost Components	FY 2020-21
Formula Funding	
Base per pupil funding to \$7,300	\$399 million
Full day kindergarten (1.0 FTE)	up to \$230 million
Expansion of at-risk (include reduced-price lunch students)	\$80 million
Fully fund the budget stabilization factor	\$672 million
Interactive impacts*	\$17 million
Formula Subtotal	up to \$1.4 billion
Categorical and Preschool Programs	
Special education	\$120 million
Gifted and talented programs	\$10 million
English language learning	\$20 million
Preschool funding	\$10 million
Program Subtotal	\$160 million
Total Specified Funding Requirements	up to \$1.6 billion
Remaining state funding generated by the measure in FY 2019-20 and FY 2020-21, to be spent on public education, as determined by the state legislature.	\$626 million
Total Education Spending	\$2.2 billion**

* Interactive impacts result from a higher base per pupil level for students projected under current law, and the additional at-risk and kindergarten students required to be funded by the measure.

** Includes revenue generated in FY 2019-20 (\$722 million) and FY 2020-21 (\$1.5 billion). Future years will allow spending up to an estimated \$1.5 billion per year, plus growth. The measure requires the revenue be spent on education, but does not specify the timing for the spending.

Formula funding. The measure increases total program funding by at least \$1.4 billion in FY 2020-21. Funding increases include:

- \$399 million from increasing the base per pupil funding to \$7,300;
- \$230 million from increasing full day kindergarten funding from 0.58 to 1.0 per full time equivalent student;
- \$80 million from increasing at-risk funding to include students qualifying for reduced price lunch; and
- \$672 million to fully fund the budget stabilization factor, based on the FY 2018-19 budget stabilization factor. This fiscal impact statement assumes that the budget stabilization factor must be fully funded beginning in FY 2020-21 and the measure does not require previous years' reductions to be fully funded.

In addition, the measure also results in \$17 million in additional costs from implementing the above requirements simultaneously. The measure increases the base per pupil funding to \$7,300 and expands the number of kindergarten students and at risk students funded through the school finance formula. The measure thus increases funding for the number of projected students under current law, and for additional students required by the measure to be funded through the formula.

Categorical and preschool components. In FY 2020-21, the measure also increases funding for three categorical programs and preschool early-childhood education by a total of \$160 million above FY 2019-20 spending levels. As shown in Table 3, special education funding must increase by \$120 million, gifted and talented programs by \$10 million, English language proficiency programs by \$20 million, and preschool funding by \$10 million.

Administrative components. The measure requires \$47,536 and 0.1 FTE in FY 2020-21, and \$7,600 and 0.1 FTE in subsequent years to implement the measure, as discussed below.

Department of Revenue. The measure requires \$47,536 and 0.1 FT in FY 2020-21 from the General Fund to the Department of Revenue to implement the measure. Expenditures include \$31,036 to modify and test the GenTax system, and \$7,200 to update forms. The 0.1 FTE is ongoing to address questions, correspondence, and protests in FY 2020-21 and subsequent years. Required costs also include \$2,177 in employee benefit and indirect costs.

Department of Local Affairs. The bill increases the workload for the Division of Property Taxation in the Department of Local Affairs to update manuals, respond to inquiries, and modify property tax assessment procedures and systems to account for multiple tax rates. Should additional appropriations be required, they will be requested through the annual budget process.

Future year impacts - CDE. The measure increases expenditures in the Department of Education to conduct the required study on how much money from the fund was spent, and determine best practices for continuous improvement in student achievement. The study must be completed within five years of the fund's implementation, or no later than FY 2024-25. Costs to contract for the study may range from \$500,000 to \$3.0 million, based on previous studies. Funds from the Quality Public Education Fund may be used to cover the costs of the study.

Future year impacts - LCS. The measure increases the workload for Legislative Council Staff to prepare the required report for the General Assembly no more than ten years after the implementation of a new school finance act. The fiscal impact statement assumes that no additional funding is required to prepare the report.

Local Government Impact

The measure increases revenue to school districts by a minimum of \$1.6 billion and up to \$1.8 billion in FY 2020-21, the first full fiscal year the measure is implemented. The minimum spending represents the funding requirements specified in the measure; the maximum increase is the result of \$2.2 billion in new state revenue generated in FY 2019-20 and FY 2020-21 and a \$358.9 million decrease in property tax revenue in FY 2020-21. In future years, approximately \$1.5 billion, plus growth, is expected to be available annually to support public education.

Initiative # 24

State revenue to school districts. The measure increases revenue from individual and corporate income taxes by \$722 million in FY 2019-20 and \$1.5 billion in FY 2020-21 and beyond. This revenue will be deposited in the Quality Public Education Fund. Beginning in FY 2020-21, the measure requires the General Assembly to appropriate and allows school districts to expend this money to support, improve, and enhance P-12 public education. Of the revenue generated, \$1.6 billion must be spent for the state's share of total program, categorical programs, and preschool funding, based on the measure's requirements. The remaining funds must be spent on public education as determined by the General Assembly.

Property tax revenue - assumptions. The measure impacts assessment rates for school district property taxes starting in tax year 2020. The assessment rate for most nonresidential properties will be reduced from 29 percent to 24 percent. The assessment rate for residential property will remain at the assessment rate established by the General Assembly in 2019. Consistent with the December 2018 Legislative Council Staff assessed values forecast, the measure will reduce assessed values for public school purposes by \$10.8 billion for 2020 and \$7.9 billion in 2021 as shown in Table 4. The assessed value calculations may change once the General Assembly establishes a residential assessment rate in 2019.

**Table 4
 Change in Assessed Value Under Initiative #24**

	2020	2021
Residential Assessed Values	\$0	\$3.58 billion
Percent Change	0%	5.8%
Nonresidential Assessed Values	(\$10.84 billion)	(\$11.47 billion)
Percent Change	-15.2%	-15.2%
Total Assessed Values	(\$10.84 billion)	(\$7.89 billion)

Property tax revenue impact. Using the assessed value assumptions from the December 2018 Legislative Council Staff forecast, and 2018 total program mills and override mills, this measure will decrease local district property tax revenue by \$358.9 million in FY 2020-21 and \$255.8 million in FY 2021-22. Property taxes are paid in the year following when they are levied. For example, property taxes levied in 2020 are collected in the first half of FY 2020-21. Table 5 shows the estimated change in school property taxes by type of property and type of school district mill.

**Table 5
 Change in School Property Tax Revenue under Initiative #24**

Tax Year	2020	2021
Fiscal Year	FY 2020-21	FY 2021-22
Residential Property		
Total Program Mill Revenue	\$0	\$80.3 million
Mill Levy Override Revenue	\$0	\$45.8 million
Residential Total	\$0	\$126.1 million
Nonresidential Property		
Total Program Mill Revenue	(\$232.9 million)	(\$247.3 million)
Mill Levy Override Revenue	(\$126.1 million)	(\$134.5 million)
Nonresidential Total	(\$358.9 million)	(\$381.9 million)
Combined Impact		
Total Program Mill Revenue	(\$232.9 million)	(\$167.0 million)
Mill Levy Override Revenue	(\$126.1 million)	(\$88.8 million)
Total School Property Tax Revenue Impact	(\$358.9 million)	(\$255.8 million)

Workload - school districts. The measure is likely to increase the costs and workload for school districts to document how revenue from Quality Public School Fund is spent for the study compiled by CDE and adjust data systems accordingly. The costs vary based on the size and resources of each district.

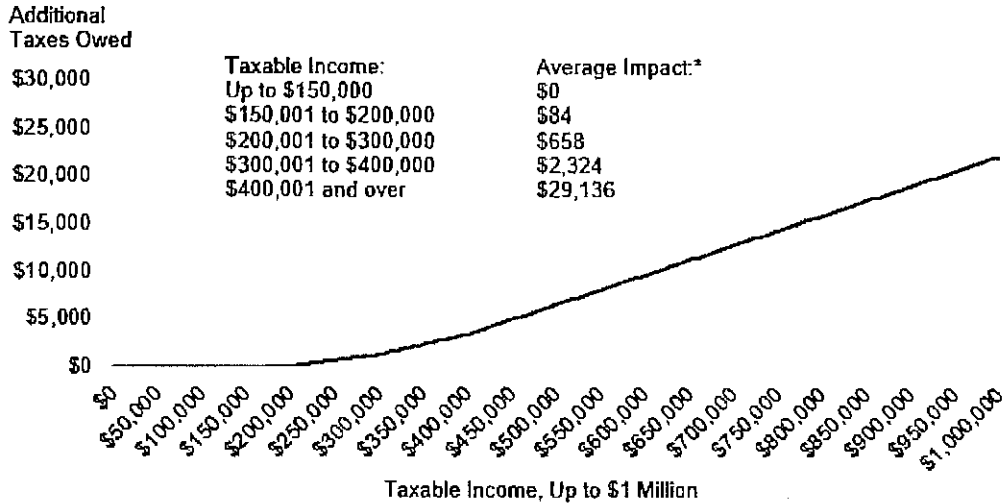
Workload - county assessors. The measure increases costs for county assessors to implement the new assessment rates for school district property taxes only. The measure establishes a parallel set of assessment rates for school districts compared with those used for other local government entities. Assessors will be required to update or change the property tax computer and data systems to accommodate the parallel rates and may require additional staff to implement such a change. Specific impacts will vary by county.

Economic Impact

Additional spending on public education will increase employment, income, and spending in some industries and may increase economic opportunities for students. Households and businesses will pay more in income taxes, reducing investment, spending, or saving elsewhere in the economy.

Taxpayer impacts. The actual amount of additional income taxes paid by each individual and corporate taxpayer depends on the taxpayer's taxable income. On average, corporate income taxpayers are expected to pay an additional \$4,448 per year under the measure. On average, individual income taxpayers will pay an additional \$519 in taxes each year. Higher income taxpayers will pay a larger amount as a percent of their income, while those with income under \$150,000 will be unaffected, as shown in Figure 1.

Figure 1
Individual Income Tax Increase Under Initiative #24



Source: Legislative Council Staff calculations.
 *Averages are based on actual taxpayer data for tax years 2015 to 2017.

This measure may increase property taxes paid on residential property starting in 2021. Assuming the weighted average 2018 statewide school mill levy, property taxes will increase by \$13 for each \$100,000 in actual value. For a residential property valued at the 2017 statewide median of \$286,100, the measure will increase property taxes by about \$37 per year. The amount in additional taxes paid will depend on the residential assessment rate set by the General Assembly in 2019, the taxpayer's property value, and local district mill levies. Reducing the assessment rate from 29 percent to 24 percent for non-residential property will result in a 17.2 percent decrease in school property taxes paid, or by \$176 for each \$100,000 in actual value. The value of nonresidential property and local school mills determine school property taxes.

Effective Date

If approved by voters at the 2019 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Assessors Property Tax	Education Revenue	Law
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Abstract of Initiative 24: FUNDING FOR PUBLIC SCHOOLS

The abstract includes estimates of the fiscal impact of the proposed initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of April, 2019, identifies the following impacts:

State revenue. The measure increases net state revenue by \$722.0 million in FY 2019-20 (half-year impact) and \$1.5 billion in FY 2020-21. This amount is from individual income taxes and corporate income taxes. This revenue is exempt from TABOR and must be used for purposes identified in the measure.

State expenditures. In FY 2020-21, the measure increases state expenditures by at least \$1.6 billion, and up to \$2.2 billion and 0.1 FTE.

Local government and school district impact. The measure increases local government revenue by a minimum of \$1.6 billion and up to a net \$1.8 billion in FY 2020-21, the first full year the measure is implemented. The net \$1.8 billion is the result of \$2.2 billion in new state revenue generated in FY 2019-20 and FY 2020-21 and a \$358.9 million decrease in property tax revenue in FY 2020-21.

Economic impacts. Additional spending on public education will increase employment, income, and spending in some industries and may increase economic opportunities for students. Households and businesses will pay more in income taxes, reducing investment, spending, or saving elsewhere in the economy.

Taxpayer impacts. The actual amount of additional income taxes paid by each individual and corporate taxpayer depends on the taxpayer's taxable income. On average, corporate income taxpayers are expected to pay an additional \$4,448 per year under the measure. On average, individual income taxpayers will pay an additional \$519 in individual income taxes each year. Higher income taxpayers will pay a larger amount as a percent of their income, while those with income under \$150,000 will be unaffected, as shown in Table 1.

Table 1
Individual Income Taxpayer Impacts Under Initiative #24

Taxpayers with taxable income ranging from...	Filers Impacted	Average 2020 Tax Increase Per Taxpayer
\$0 and \$150,000	2,157,648	No Change
\$150,001 and \$200,000	75,243	\$84
\$200,001 and \$300,000	57,996	\$658
\$300,001 and \$400,000	23,556	\$2,324
Over \$400,000	38,510	\$29,136

This measure may increase property taxes paid on residential property starting in 2021. Assuming the weighted average 2018 statewide school mill levy, property taxes will increase by \$13 for each \$100,000 in actual value. For a residential property valued at the 2017 statewide median of \$286,100, the measure will increase property taxes by about \$37 per year. The amount in additional taxes paid will depend on the residential assessment rate set by the General Assembly in 2019, the taxpayer's property value, and local district mill levies. Reducing the assessment rate from 29 percent to 24 percent for non-residential property will result in a 17.2 percent decrease in school property taxes paid, or by \$176 for each \$100,000 in value. The value of nonresidential property and local school mills determine school property taxes.

Ballot Title Setting Board

Proposed Initiative 2019-2020 #24¹

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

STATE TAXES SHALL BE INCREASED \$1,500,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING FUNDING RELATING TO PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATION, AND, IN CONNECTION THEREWITH, CREATING AN EXCEPTION TO THE SINGLE RATE STATE INCOME TAX FOR INCREMENTAL TAX RATE INCREASES TO GENERATE REVENUE FOR PUBLIC SCHOOL FUNDING; INCREASING INCOME TAX RATES FOR INDIVIDUALS, TRUSTS, AND ESTATES BY CREATING FOUR INCREMENTAL TAX BRACKETS STARTING AT AN ADDITIONAL .37 PERCENTAGE POINTS FOR INCOME ABOVE \$150,000 AND INCREASING TO AN ADDITIONAL 3.12 PERCENTAGE POINTS FOR INCOME ABOVE \$400,000; INCREASING THE CORPORATE INCOME TAX RATE BY 1.37 PERCENTAGE POINTS; FOR PURPOSES OF SCHOOL DISTRICT PROPERTY TAXES, ESTABLISHING THE RESIDENTIAL ASSESSMENT RATE EFFECTIVE FOR THE 2019 PROPERTY TAX YEAR AS THE PERMANENT RESIDENTIAL ASSESSMENT RATE AND REDUCING THE CURRENT NONRESIDENTIAL ASSESSMENT RATE OF 29% TO 24%; REQUIRING REVENUE FROM THE INCOME TAX INCREASES TO BE DEPOSITED IN A DEDICATED PUBLIC EDUCATION FUND AND ALLOWING THE REVENUE TO BE RETAINED AND SPENT AS VOTER-APPROVED REVENUE CHANGES; REQUIRING THE LEGISLATURE TO ANNUALLY APPROPRIATE MONEY FROM THE FUND TO THE SCHOOL DISTRICTS TO SUPPORT PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATIONAL PROGRAMS ON AN EQUITABLE BASIS THROUGHOUT THE STATE WITHOUT DECREASING GENERAL FUND APPROPRIATIONS; DIRECTING THE LEGISLATURE TO ENACT, REGULARLY REVIEW, AND REVISE WHEN NECESSARY, A NEW PUBLIC SCHOOL FINANCE LAW THAT MEETS SPECIFIED CRITERIA; UNTIL THE LEGISLATURE HAS ENACTED A NEW PUBLIC SCHOOL FINANCE LAW, REQUIRING THE MONEY IN THE FUND TO BE ANNUALLY APPROPRIATED FOR SPECIFIED EDUCATIONAL PROGRAMS AND PURPOSES; REQUIRING THE MONEY IN THE FUND TO SUPPORT PUBLIC SCHOOLS; REQUIRING GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION TO INCREASE BY INFLATION, UP TO 5% ANNUALLY; AND REQUIRING THE DEPARTMENT OF EDUCATION TO COMMISSION A STUDY OF THE USE OF THE FUND WITHIN FIVE YEARS.

¹ Unofficially captioned “**Funding for Public Schools**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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

SHALL STATE TAXES SHALL BE INCREASED \$1,500,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING FUNDING RELATING TO PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATION, AND, IN CONNECTION THEREWITH, CREATING AN EXCEPTION TO THE SINGLE RATE STATE INCOME TAX FOR INCREMENTAL TAX RATE INCREASES TO GENERATE REVENUE FOR PUBLIC SCHOOL FUNDING; INCREASING INCOME TAX RATES FOR INDIVIDUALS, TRUSTS, AND ESTATES BY CREATING FOUR INCREMENTAL TAX BRACKETS STARTING AT AN ADDITIONAL .37 PERCENTAGE POINTS FOR INCOME ABOVE \$150,000 AND INCREASING TO AN ADDITIONAL 3.12 PERCENTAGE POINTS FOR INCOME ABOVE \$400,000; INCREASING THE CORPORATE INCOME TAX RATE BY 1.37 PERCENTAGE POINTS; FOR PURPOSES OF SCHOOL DISTRICT PROPERTY TAXES, ESTABLISHING THE RESIDENTIAL ASSESSMENT RATE EFFECTIVE FOR THE 2019 PROPERTY TAX YEAR AS THE PERMANENT RESIDENTIAL ASSESSMENT RATE AND REDUCING THE CURRENT NONRESIDENTIAL ASSESSMENT RATE OF 29% TO 24%; REQUIRING REVENUE FROM THE INCOME TAX INCREASES TO BE DEPOSITED IN A DEDICATED PUBLIC EDUCATION FUND AND ALLOWING THE REVENUE TO BE RETAINED AND SPENT AS VOTER-APPROVED REVENUE CHANGES; REQUIRING THE LEGISLATURE TO ANNUALLY APPROPRIATE MONEY FROM THE FUND TO THE SCHOOL DISTRICTS TO SUPPORT PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATIONAL PROGRAMS ON AN EQUITABLE BASIS THROUGHOUT THE STATE WITHOUT DECREASING GENERAL FUND APPROPRIATIONS; DIRECTING THE LEGISLATURE TO ENACT, REGULARLY REVIEW, AND REVISE WHEN NECESSARY, A NEW PUBLIC SCHOOL FINANCE LAW THAT MEETS SPECIFIED CRITERIA; UNTIL THE LEGISLATURE HAS ENACTED A NEW PUBLIC SCHOOL FINANCE LAW, REQUIRING THE MONEY IN THE FUND TO BE ANNUALLY APPROPRIATED FOR SPECIFIED EDUCATIONAL PROGRAMS AND PURPOSES; REQUIRING THE MONEY IN THE FUND TO SUPPORT PUBLIC SCHOOLS; REQUIRING GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION TO INCREASE BY INFLATION, UP TO 5% ANNUALLY; AND REQUIRING THE DEPARTMENT OF EDUCATION TO COMMISSION A STUDY OF THE USE OF THE FUND WITHIN FIVE YEARS?

*Hearing April 3, 2019:
Single subject approved; staff draft amended; titles set.*

The Board determined that the proposed initiative does not only repeal in whole or in part a provision of the state constitution. The requirement for approval by fifty-five percent of the votes cast applies to this initiative.

The Board made one technical correction to the text of the initiative. In Section 4 of the initiative, the Board changed "2018 General Election" to "2019 Coordinated Election."

Hearing adjourned 1:59 p.m.

Rehearing April 17, 2019:

Motion for Rehearing filed by Douglas Bruce granted only to the extent that the Board made changes to the titles; denied in all other respects.

Motion for Rehearing filed by Tyler Sandberg denied in its entirety.

Motion for Rehearing filed by Jon Caldara denied in its entirety.

Hearing adjourned 11:14 a.m.