

SUPREME COURT OF COLORADO
2 East 14th Avenue
Denver, Colorado 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 2021-
2022, #26

Petitioners: CAROL HEDGES and SCOTT
WASSERMAN

v.

Ballot Title Board: THERESA CONLEY,
JASON GELENDER, and LEEANN MORRILL

and

Respondents/Proponents: SUZANNE TAHERI
and MICHAEL FIELDS

▲ COURT USE ONLY ▲

Attorneys for Petitioners:

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Supreme Court Case No.

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING
PROPOSED INITIATIVE 2021-2022 #26**

Carol Hedges and Scott Wasserman (“Petitioners”), through their undersigned counsel, respectfully petition this Court pursuant to §1-40-107(2), C.R.S. (2020), to review the actions of the Ballot Title Setting Board (“Title Board”) in denying the relief requested by the Petitioners in their Motion for Rehearing regarding Proposed Initiative 2021-2022 #26 (the “Proposed Initiative”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2021-2022 # 26.

Suzanne Taheri and Michael Fields (“Proponents”) are the Designated Representatives of the Proponents of Proposed Initiative 2021-2022 #26 (“Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change”). The Proponents submitted their Proposed Initiative to the Title Board for the setting of a title, ballot title, and submission clause pursuant to §1-40-106, C.R.S. (2020), on April 9, 2021.

The Title Board held a hearing on April 21, 2021, at which it concluded (by a 2-1 vote) 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. (2020), and proceeded to set a title, ballot title and submission clause. Motions for Rehearing were filed by both the Proponents (objecting to aspects of the title) and Petitioners (objecting to the

Title Board's conclusion that the Initiative contained a single subject and to aspects of the title) pursuant to §1-40-107(1), C.R.S. (2020), on April 28, 2021. The Title Board conducted a rehearing on April 30, 2021, at which it denied Petitioners' Motion for Rehearing in full and granted-in-part and denied-in-part Proponents' Motion for Rehearing.

B. Jurisdiction.

Petitioners are timely requesting a review of the actions of the Title Board by the Supreme Court pursuant to §1-40-107(2), C.R.S. (2020).

As required by §1-40-107(2), C.R.S. (2020), attached to this Petition for Review are certified copies of: (1) the final copy of the Proposed Initiative as submitted to the Title Board; (2) the determinations by the Title Board at its initial hearing on the Proposed Initiative on April 21, 2021; (3) the Fiscal Summary for the Proposed Initiative prepared by the Director of Research of the Legislative Council of the General Assembly pursuant to §1-40-105.5(1.5), C.R.S. (2020); (4) the Motions for Rehearing filed by both the Petitioners and the Proponents on April 28, 2021; and (5) the determinations by the Title Board at the rehearing on April 30, 2021.

GROUNDS FOR REVIEW

Petitioners respectfully submit that the Title Board erred in its final determinations as follows:

1. The Proposed Initiative contains multiple subjects in violation of the requirements of Colo. Const. art. V, §1(5.5), and §1-40-106.5, C.R.S. (2020). In this regard, the Proposed Initiative encompasses at least the following subjects:

- a. a permanent reduction in both residential and most non-residential property tax assessment rates at the local district level;
- b. a concealed constitutionally mandated reduction in revenue available at the State district level for funding State programs;
- c. a concealed and substantial direct impact upon total program funding available for Colorado’s public school system;
- d. an authorization for the State to retain and spend up to \$25 million per year for five years in revenue “exempt from limitations under section 20 of article X of the state constitution” “for the purpose of off-setting lost revenue resulting from a reduction in property tax” (revenue?); and
- e. an authorization for the State to retain and spend up to \$25 million per year for five years in revenue “exempt from

limitations under section 20 of article X of the state constitution” “to fund state reimbursements to local government entities for fire protection;”

2. The title, ballot title and submission clause do not correctly and fairly express the true intent and meaning of the Proposed Initiative, nor do they clearly reflect the effect of a “yes/for” or “no/against” vote on the Proposed Initiative, as required by §1-40-106(3)(b), C.R.S. (2020), in at least the following respects:

a. The title – particularly as revised at the Proponents’ request at the rehearing – obscures the fact that “local government revenue” will be substantially reduced as a result of the measure;

b. The title obscures the fact (and subject) that *State programs* – separate and distinct from local district programs – will suffer an immediate, material, direct, and constitutionally mandated reduction in available funding as a result of the measure;

c. The title obscures the fact that funding at both the State and local district levels for public schools will be materially impacted as a result of the measure;

d. The title misleadingly describes the minimal and problematic “excess” revenue funding “authorized” from the State to local districts as an “offset;”

e. The title misstates the plain language of the Proposed Initiative by converting an authorization to retain and spend revenue “exempt from limitations under section 20 of article X of the state constitution” to “a voter-approved revenue change;” and

f. The title is not clear as to whether the “exempt” – or (inaccurately) “excess” per the title – revenue from the State may be used (i) exclusively to replace lost revenue at the local level (for any purpose); (ii) exclusively to replace lost revenue at the local level (for fire protection only); or (iii) exclusively for fire protection (irrespective of local revenue reductions).

PRAYER FOR RELIEF

Petitioners respectfully request the Court, after consideration of the parties’ briefs and documentation, to determine that (1) the Proposed Initiative contains more than a single subject and surreptitiously obscures one or more subjects; and (2) the title, ballot title and submission clause set by the Title Board are misleading and do not reflect the true meaning and intent of the Proposed Initiative. Petitioners

therefore request the Court to reverse the actions of the Title Board and direct that the Proposed Initiative be returned to the Proponents.

Respectfully submitted this 7th day of May, 2021.

s/Edward T. Ramey

Edward T. Ramey, #6748

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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of May, 2021, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2021-2022 #26** was filed and served by electronic mail and United States Mail upon the following via the addresses below:

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Designated Representative of Proponents

s/Edward T. Ramey _____
Edward T. Ramey



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 statement and abstract, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2021-2022 #26 'Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change'"

..... **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 4th day of May, 2021.

Jena Griswold

SECRETARY OF STATE



Initiative 2021-2022 #26--Final

A measure to reduce the residential property tax assessment rate from 7.15% to 6.5% and the non-residential property tax assessment rate from 29% to 26.4% with authorization to retain and spend 25 million per year for 5 years credited to fire protection.

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

SECTION 1. In Colorado Revised Statutes, 39-1-104 **amend** (1) as follows:

(1) THROUGH DECEMBER 31, 2021 the valuation for assessment of all taxable property in the state shall be twenty-nine percent, AND BEGINNING ON JANUARY 1, 2022 THE VALUATION FOR ASSESSMENT OF ALL TAXABLE PROPERTY IN THE STATE SHALL BE TWENTY-SIX AND FOUR-TENTHS PERCENT of the actual value thereof as determined by the assessor and the administrator in the manner prescribed by law, and such percentage shall be uniformly applied, without exception, to the actual value, so determined, of the various classes and subclasses of real and personal property located within the territorial limits of the authority levying a property tax, and all property taxes shall be levied against the aggregate valuation for assessment resulting from the application of such percentage. This subsection (1) shall not apply to residential real property, producing mines, and lands or leaseholds producing oil or gas.

SECTION 2. In Colorado Revised Statutes, 39-1-104.2 **amend** (3)(q) as follows:

39-1-104.2. Adjustment of residential rate - legislative declaration - definitions.

(3) (q) The ratio of valuation for assessment for residential real property is 7.15 percent of actual value for property tax years commencing on or after January 1, 2019 and 6.5 PERCENT OF THE ACTUAL VALUE FOR PROPERTY TAX COMMENCING JANUARY 1, 2022, until the next property tax year that the general assembly adjusts the ratio of valuation for assessment for residential real property.

SECTION 3. In Colorado Revised Statutes, 24-33/5-1201 **add** (6) as follows:

24-33.5-1201. Division of fire prevention and control--creation--public school construction and inspection section--health facility construction and inspection section--legislative declaration.

(6) FOR THE PURPOSE OF OFF-SETTING LOST REVENUE RESULTING FROM A REDUCTION IN PROPERTY TAX AND TO FUND STATE REIMBURSEMENTS TO LOCAL GOVERNMENT ENTITIES FOR FIRE PROTECTION, AS AUTHORIZED BY THE VOTERS AT THE STATEWIDE ELECTION IN THE NOVEMBER 2021, IN FISCAL YEAR COMMENCING ON JULY 1, 2022 THROUGH FISCAL YEAR ENDING JULY 1, 2027, THE STATE SHALL BE AUTHORIZED TO RETAIN AND SPEND UP TO 25 MILLION PER YEAR IN REVENUE EXEMPT FROM LIMITATIONS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

Ballot Title Setting Board

Proposed Initiative 2021-2022 #26¹

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

A change to the Colorado Revised Statutes concerning government revenue, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter-approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection.

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

Shall there be a change to the Colorado Revised Statutes concerning government revenue, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter-approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection?

Hearing April 21, 2021:

Single subject approved 2-1 (Conley); staff draft amended; titles set.

Board members: Theresa Conley, Jason Gelender, LeeAnn Morrill

Hearing adjourned 10:33 a.m.

¹ Unofficially captioned “**Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

COLORADO BALLOT TITLE SETTING BOARD

**IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR PROPOSED INITIATIVE 2021-2022 #26**

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2021-2022 #26

On behalf of Carol Hedges and Scott Wasserman (“Movants”), registered electors of the State of Colorado, undersigned counsel hereby submits to the Title Board this Motion for Rehearing on Proposed Initiative 2021-2022 #26 (“Initiative #26”) pursuant to Section 1-40-107, C.R.S. (2020).

I. ACTIONS BY THE TITLE BOARD AT THE APRIL 21, 2021 HEARING

On April 21, 2021, the Title Board determined (by a 2-1 vote) that Initiative #26 contains a single subject and set the following title:

A change to the Colorado Revised Statutes concerning government revenue, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter-approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection.

II. GROUNDS FOR REHEARING

Movants respectfully submit that the majority of the Board erred at the initial hearing when they concluded that Initiative #26 contains a single subject. This error appears to stem primarily from the confusing language of the initiative itself, though any interpretation of the measure reveals the presence of multiple subjects. Additionally, the title ultimately set by the Board mis-states a couple critical elements of the initiative and fails to disclose a very material direct and obfuscated consequence of the initiative.

A. The Language of the Initiative is Hopelessly Confusing and Its Purposes are Insufficiently Clear for the Board to Set a Title.

The Supreme Court has cautioned that “if the [Title] Board cannot comprehend a proposed initiative sufficiently to state its single subject clearly in the title, it necessarily follows that the initiative cannot be forwarded to the voters.” *See, e.g., In re Title, Ballot Title & Submission Clause, and Summary for 1999-2000 #25*, 974 P.2d 458, 465 (Colo. 1999). “Before a clear title can be written, the Board must reach a *definitive conclusion* as to whether the initiatives encompass multiple subjects.” *Id.*, at 468 (emphasis added).

Initiative #26 poses this conundrum. Sections 1 and 2 of the measure would permanently¹ reduce both residential and most non-residential property tax assessment rates, and thus prospective property tax revenue in most local districts.

Section 3 of the Initiative purports to “authorize” the State – *a separate taxing district*² that does not levy property taxes – “to retain and spend up to 25 million (dollars?) per year in revenue exempt from limitations under section 20 of article X of the state constitution.” The measure recites that this temporary (five year) authorization – at the *State district* level – is for two purposes: “off-setting lost revenue resulting from a reduction in property tax” “and” “to fund state reimbursements to local government entities for fire protection.”

First, it is unclear from the text what “revenue exempt from limitations” under TABOR is being referred to³ – and why any “authorization” is necessary if the revenue is “exempt.” The Board apparently concluded that the Proponents’ intention was to obtain advance voter approval “of a revenue change as an offset” to a “spending limit” otherwise applicable at the State district level under Colo. Const. art. X, §20(7). The language of the measure, however, does not say that.

Second, it is not clear from the language of the measure whether the “authorized” use (or uses) of the transferred “exempt” State revenue is (or are) (1) either “for the purpose of off-setting lost revenue resulting from a reduction in property tax” (irrespective of application at the local level) or – alternatively (at State or local discretion?) – “to fund state reimbursements to local government entities for fire protection” (independent of any “lost” property tax revenue?); or (2) “for the purpose of off-setting lost revenue resulting from a reduction in property tax” *for*

¹ While these reductions are reversible, it should be noted that any future “valuation for assessment increase for a property class” would require a new election and separate voter approval in advance – not just an adjustment by the General Assembly – under Colo. Const. art. X, §20(4)(a).

² Colo. Const. art. X, §20(2)(b).

³ The most logical object of a reference to “exempt” revenue under Colo. Const. art. X, §20, would be the items listed in subsection (2)(e).

the limited purpose of funding “state reimbursements to local government entities for fire protection.”

Third, it is not clear from the language of the measure whether the potential offset for “lost revenue resulting from a reduction in property tax” – whether or not limited exclusively to “fire protection” – (a) applies only to reductions in local property tax revenue resulting from the assessment rate reductions specified in Sections 1 and 2, or (b) applies to any-and-all “reduction in property tax” (through reduced mill levies, actual value depreciation, or otherwise) at the local level.

The confusion in the language of the measure itself is inevitably reflected in the title set by the Board – converting the authorization to retain and spend “exempt” revenue to “excess state revenue,” converting “off-setting lost revenue resulting from a reduction in property tax” to “offset lost revenue resulting from the property tax rate reductions,” and retaining ambiguity as to the uses to which the “excess” (accurately “exempt”) revenue may be put (and who decides). While Movants would like to offer suggestions for clarification, they are in no better a position to do so than was the Board.

B. The Initiative Impermissibly Contains Multiple Subjects.

Colo. Const. art. V, §1(5.5) and §1-40-106.5, C.R.S. (2020), require all ballot initiatives to contain a single subject. The purposes of this requirement are:

- (1) To forbid the treatment of incongruous subjects in the same measure, especially the practice of putting together in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits; and
- (2) To prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.

§1-40-106.5(1)(e), C.R.S. (2020). The first purpose is often described as directed primarily at the practice of “log rolling,” while the second is directed, in part, at identifying matters obscurely “coiled in the folds” – intentionally or otherwise – of what may on its surface appear to be a clear measure.

Irrespective of – though exacerbated by – the confusion in the text of the measure itself, Initiative #26 clearly violates the single-subject requirement.

The primary subject of Initiative #26 is presented in Sections 1 and 2 – to permanently reduce both residential and most non-residential property tax assessment rates at the local district level, and thus estimated property tax revenue in most local districts.

Section 3 is where the problems arise:

1) The language of the measure provides that the State will be authorized to retain and spend “25 million” “for the purpose of off-setting lost revenue resulting from a reduction in property tax *and* to fund state reimbursements to local government entities for fire protection” (emphasis added). As noted above, neither the measure itself *nor the title* are clear as to whether this discretionary limited additional funding from the State is:

(a) wholly restricted to “fire protection” (and only to those local districts that independently provide fire protection though all will suffer reduced assessment rates? – *a clear single subject problem*); or available for any local purpose (and any local district) (and, if so, who decides); and/or

(b) available for “fire protection” (solely or alternatively) *independent* of any reduction in local district property tax revenue directly caused by the assessment rate reductions (as suggested by the placement of this provision in §24-33.5-1201, C.R.S. (2020), specifically addressing the operations of the State’s Division of Fire Prevention and Control) – *a clear single-subject violation*; and/or

(c) limited (in whole or in part) to replacing local revenue lost specifically due to the assessment rate reductions in Sections 1 and 2 (either generally or exclusively for “fire protection”) or from *any* reduction in property tax revenue (irrespective of cause) – another *clear single-subject violation*.

This absence of clarity – reflected in the language of both the measure and the title – makes it impossible “to reach *a definitive conclusion* as to whether the initiatives encompass multiple subjects.” *In re 1999-2000 #25, supra*. Under any interpretation, the restrictive or alternative and/or independent dedication to “fire protection” smacks of manifest “log rolling.”

2) The language of the measure states that, for the unclear and disconnected purposes noted above, the State “shall be authorized to retain and spend” a comparatively miniscule – hardly an “offset” – amount of “revenue exempt from limitations under” Colo. Const. art. X, §20. The title interprets this as intended to be a temporary “de-Brucing” clause addressed to State revenue exceeding the Colo. Const. art. X, §20(7) spending limit (though noting appropriately that there may not be any such “excess” to “de-Bruce”). As noted above, this is not what the language of the measure says, and the miniscule level of the restricted “off-setting” “authorization” at the State level – as compared with the magnitude of the sweeping revenue reductions at the local level – demonstrates a complete disconnect (and ulterior purpose) between the subject and purposes of Sections 1 and 2, on the one hand, and Section 3 (whatever it means) on the other.

3) While the temporary (five year) “authorization” for the State to “off-set[.]” “lost revenue” and “reimburse[.]” local government entities” through retention and expenditure of up to “25 million” per year in TABOR-“exempt” revenue is framed in discretionary terms – thus

seeking to avoid the single-subject conundrum of a resulting mandatory reduction in State spending on *State programs* similar to the ones addressed by the Supreme Court in *In re Title, Ballot Title & Submission Clause, and Summary for 1997-1998 #84 (Outcelt v. Bruce)*, 974 P.2d 458, 465 (Colo. 1999), and its progeny – Initiative #26 does not escape this problem.

Sections 1 and 2 of the Initiative will, among other effects, immediately reduce local property tax revenue available for “local share” funding of public schools throughout the state. This will immediately and directly impact the *State’s* constitutional and statutory obligation to backfill those shortfalls to maintain “thorough and uniform” “total program” funding levels for the affected school districts. Colo. Const. art. IX, §§2, 17; §22-54-101, *et seq.*, C.R.S. (2020) (Public School Finance Act of 1994). The Fiscal Summary for Initiative #26 estimates this impact on the *State share* of public school funding to be \$257.7 million. As the “authorization” in Section 3 for the State to temporarily tap “exempt” State revenue (whatever that means) falls far short of this direct impact created by Sections 1 and 2 of the measure – and as the “authorization” appears to be restricted in whole or in part to “fire protection” in any event – the State will be confronted with an immediate budgetary shortfall.

This will leave the State with one or a mix of three options:

- (a) reduce *other State programs* to enable it to maintain its constitutional funding obligations to the State’s public school system; and/or
- (b) reduce *one specific State program* – funding of its “State Share” support for the State’s public school system (on top of the funding reductions at the local district level);⁴ and/or
- (c) seek – and necessarily obtain – voter approval for a tax increase *and* revenue (spending limit) changes *at the State level* to avoid or ameliorate material reductions in funding for some mix of *State programs*.

There is no way under this scenario that the Initiative’s reduction in *local* assessment rates will not directly cause a material reduction in one or more *State programs* and/or require an immediate increase in taxes and relief from spending limits at the *State* district level. This is quite different from a measure whose direct impacts are limited to *local* taxing districts and their programs.

None of this is at all apparent from either the text of the measure itself or the title set by the Board. Rather – as in *Outcelt, supra* – this is a classic example of a “surreptitious” measure (by design or otherwise) with material and unavoidable consequences “coiled in the folds” that would assuredly “surprise” the voters.

⁴ This would likely have to involve separate legislative invocation of the “budget stabilization factor” *at the State level* per §22-54-104(5)(g), C.R.S. (2020), to reduce overall “total program” funding for the entirety of the State’s public school system.

C. The Title Set By the Board Misstates the Content of the Initiative.

While the presence of multiple subjects and the somewhat contrived and thoroughly confusing language of the Initiative itself effectively makes it impossible for the Board to set a clear title consistent with the single-subject requirement, a few drafting points are paramount:

First, consistent with the language of Section 3 of the Initiative, the title would have to recite that the measure would allow “the state to retain and spend up to \$25 million in revenue exempt from limitations under article X, section 20 of the state constitution” – not “excess state revenue.” The language of the measure does not clearly propose a revenue change under Colo. Const. art. X, §20(7).

Second, the final phrase of the title – constrained to reflect the confusing language and multiple subjects of the measure – would at least more accurately read “to replace a minimal portion of the revenue lost by some local districts resulting from a reduction in property tax and/or to reimburse some local governments for fire protection.”

Third, the concealed direct and inevitable impact upon funding for “state programs” would have to be disclosed – at a minimum by including language to the effect of “necessitating an immediate reduction in funding for public education and/or other State Programs in an amount of at least \$258 million.”

III. REQUEST FOR RELIEF

For the reasons set forth above, Ms. Hedges and Mr. Wasserman respectfully request the Title Board to deny the setting of a title for Proposed Initiative 2021-2022 #26, and/or for such further relief as the Board deems appropriate.

Respectfully submitted this 28th day of April, 2021.

s/Edward T. Ramey
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ATTORNEYS FOR MOVANTS

Address of Movants:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of April, 2021, a true and correct copy of this **MOTION FOR REHEARING ON PROPOSED INITIATIVE 2021-2022 #26** was filed and served to the following:

Suzanne Taheri
Maven Law Group
Via email – Staheri@mavenlawgroup.com

Michael Fields
c/o Suzanne Taheri (Maven Law Group), as counsel
Via email – Staheri@mavenlawgroup.com

CDOS Received 04/28/2021 3:14 p.m.

Before the Colorado Ballot Title Setting Board

Suzanne Taheri and Michael Fields, Objector/Proponents

MOTION FOR REHEARING ON INITIATIVE 2021-2022 #26

Suzanne Taheri and Michael Fields, registered electors of the State of Colorado and proponents of Initiative 2021-2022 #26 object to the Title Board's title and ballot title and submission clause set for Initiative 2021-2022, The Board met on April 21, 2021 to consider Initiative 2021-2022 #26 and set the following title:

A change to the Colorado Revised Statutes concerning government revenue, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter- approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection.

The title set is misleading and fails to conform with the requirements of Colorado law.

1. The single subject is inaccurate. This is not a measure concerning "government revenue". It is a measure concerning a tax decrease.
2. "Reducing tax revenue by an estimated \$1.03 billion" is misleading. This number leads voters to believe revenue will be decreased when in fact revenue will increase with the new assessment formula passed by voters in 2020.
3. The title will lead to confusion. If the Board is going to use language similar to TABOR requirements then the question should begin, "Shall taxes be decreased by \$1.03 billion..."

WHEREFORE, Initiative #26 title should be corrected in compliance with Colorado law.

Respectfully submitted this 28th day of April 2021.

/s Suzanne Taheri

/s Michael Fields

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Denver, CO 80202

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Ballot Title Setting Board

Proposed Initiative 2021-2022 #26¹

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

A change to the Colorado Revised Statutes concerning property tax reductions, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter-approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection.

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

Shall there be a change to the Colorado Revised Statutes concerning property tax reductions, and, in connection therewith, reducing property tax revenue by an estimated \$1.03 billion in 2023 and by comparable amounts thereafter by reducing the residential property tax assessment rate from 7.15% to 6.5% and reducing the property tax assessment rate for all other property, excluding producing mines and lands or leaseholds producing oil or gas, from 29% to 26.4% and allowing the state to annually retain and spend up to \$25 million of excess state revenue, if any, for state fiscal years 2022-23 through 2026-27 as a voter-approved revenue change to offset lost revenue resulting from the property tax rate reductions and to reimburse local governments for fire protection?

Hearing April 21, 2021:

Single subject approved 2-1 (Conley); staff draft amended; titles set.

Board members: Theresa Conley, Jason Gelender, LeeAnn Morrill

Hearing adjourned 10:33 a.m.

Rehearing April 30, 2021:

Motion for Rehearing (Movants): denied.

Motion for Rehearing (proponent): granted only to the extent that the Board made changes to the titles.

¹ Unofficially captioned “**Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

*Board members: Theresa Conley, Jason Gelender, LeeAnn Morrill
Hearing adjourned 2:42 p.m.*



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

Initiative 26

Fiscal Summary

Date:	April 15, 2021	Fiscal Analyst:	Anna Gerstle (303-866-4375)
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LCS TITLE: PROPERTY TAX ASSESSMENT RATE REDUCTION AND VOTER-APPROVED REVENUE CHANGE

Fiscal Summary of Initiative 26

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at www.ColoradoBlueBook.com. This fiscal summary identifies the following impact.

Local government impact. By lowering property tax assessment rates, the measure will decrease property tax revenue to local governments statewide by an estimated \$1.03 billion, beginning in 2023. The impact will vary among local governments across the state, and the specific impact on each city, county, special district, or school district will depend on several factors, including mill levies and the composition of properties in each jurisdiction. Subject to appropriations by the General Assembly, local governments may also receive reimbursements for fire protection services, up to \$25.0 million statewide.

State expenditures. The measure increases state expenditures to backfill lost property tax revenue to school districts. By lowering property tax assessment rates, the measure will decrease property tax revenue collected by school districts; as a result, the state share of school finance is estimated to increase by approximately \$257.7 million in budget year 2022-23 and subsequent years. The measure will also increase workload for the Division of Property Taxation to update and review forms and training materials, as well as to respond to inquiries regarding assessment rate changes.

Should the General Assembly appropriate \$25.0 million for fire protection reimbursements, the measure will increase costs for the Division of Fire Prevention and Control in the Department of Public Safety to administer the program. Additionally, the state will be authorized to retain and spend that amount above constitutional spending limits.

Economic impacts. The measure will decrease property taxes for homeowners and nonresidential property owners, increasing the money that households will have to save or spend and that businesses will have to hire employees, purchase equipment or other investments, or retain as profit. The measure will also decrease revenue to cities, counties, special districts, and school districts, resulting in fewer local government services, including police and fire protection, hospitals, transportation, education, and libraries, among other services.