

<p>SUPREME COURT OF COLORADO 2 East 14th Avenue Denver, Colorado 80203</p>	
<p>Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2021-2022, #27</p> <p>Petitioners:</p> <p>Carol Hedges and Scott Wasserman,</p> <p>v.</p> <p>Respondents/Proponents:</p> <p>Suzanne Taheri and Michael Fields</p> <p>and</p> <p>Title Board:</p> <p>Theresa Conley, Leeann Morrill, and Jason Gelender</p>	<p>▲ COURT USE ONLY ▲</p> <p>Supreme Court Case No.: 2021SA151</p>
<p>Attorneys for Respondents/Proponents:</p> <p>Suzanne Taheri, Reg. No. 23411 MAVEN LAW GROUP 1600 Broadway, Suite 1600 Denver, CO 80202 Phone: (303) 263-0844 Email: staheri@mavenlawgroup.com</p>	
<p>RESPONDENTS'/PROPONENTS' OPENING BRIEF</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

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It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

/s/ Suzanne Taheri

Suzanne Taheri

Attorney for the Respondents/Proponents

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Michael Fields and Suzanne Taheri (“Respondents/Proponents”), through the undersigned counsel, hereby respectfully submit this Opening Brief in support of the title, ballot title and submission clause set by the Title Board for Proposed Initiative 2021-2022 #27 (the “Initiative” or “Measure”).

STATEMENT OF THE ISSUES PRESENTED

1. Whether the Title Board erred in ruling that the measure contains a single subject as required by Article V, § 1(8) of the Colorado Constitution and C.R.S. §1-40-105(4).
 - a. Whether a permanent reduction in both residential and most non-residential property tax assessment rates at the local district level is a separate subject.
 - b. Whether a mandated reduction in revenue available at the State district level for funding State programs is a concealed and separate subject.
 - c. Whether the possible impact upon program funding available for Colorado’s public school system is a concealed and separate subject.
 - d. Whether an authorization for the State to retain and spend up to \$25 million per year for five years “for the purpose of off-setting lost revenue resulting from a reduction in property tax;” is a separate subject.

- e. Whether an authorization for the State to retain and spend up to \$25 million per year for five years “to fund state reimbursements to local government entities for the application of the homestead exemption” is a separate subject.
2. Whether the title, ballot title and submission clause correctly and fairly express the true intent and meaning of the Proposed Initiative and 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).
- a. Whether 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. Whether 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. Whether the title obscures the possibility that funding at both the State and local district levels for public schools could be materially impacted as a result of the measure.

- d. Whether the title misleadingly describes the minimal and problematic additional revenue authorized from the State to local districts as an “offset”.
- e. Whether the title wholly misrepresents the purpose and effect of the measure by converting an authorization to retain and spend revenue “for warrants otherwise authorized” under §39-3-207, C.R.S. (2020) – and for which a “voter-approved revenue change” is therefore completely meaningless and unnecessary under §39-3-209, C.R.S. (2020) – into “a voter-approved revenue change;” and
- f. Whether the title is not clear as to whether the authorization for the State “to retain and spend revenue” is for the purpose of (i) “off- setting lost revenue [at the local district level] resulting from a reduction in property tax;” or (ii) funding State reimbursements to local government entities already mandated and facilitated by Colo. Const. art. X, §3.5, §39-3-207, C.R.S. (2020), and §39-3-209, C.R.S. (2020).

STATEMENT OF THE CASE

Petitioners Carol Hedges and Scott Wasserman bring this this original proceeding pursuant to section 1-40-107(2), C.R.S., as an appeal of the Title

Board's decision to deny Petitioner's Motion for Rehearing and set title for Proposed Initiative 2021-2022 #27.

Proposed Initiative 2021-2022 #27 amends Colorado statute. The measure, in full, states:

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, 39-3-207 **add** (6) as follows:

39-3-207. Reporting of exemptions—reimbursement to local governmental entities.

(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 THE APPLICATION OF THE HOMESTEAD EXEMPTION, 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 FOR WARRANTS OTHERWISE
AUTHORIZED UNDER THIS SECTION.

Respondents/Proponents Michael Fields and Suzanne Taheri filed an original draft of the measure on March 6, 2020. The Respondents/Proponents filed an original and final draft of the Initiative with the Title Board on March 12, 2020. The Title Board considered the Initiative on April 21, 2021 and determined that it had jurisdiction to set title 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 revenue lost due to the homestead exemptions for qualifying seniors and disabled veterans.

At the April 30, 2020 Rehearing, the Title Board denied the Petitioners Motion for Rehearing and granted Respondent's motion with a change to the ballot language.

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 revenue lost due to the homestead exemptions for qualifying seniors and disabled veterans.

Petitioners subsequently filed a timely petition for review in this Court on May 7, 2021.

SUMMARY OF ARGUMENT

The Title Board properly found the initiative contained a single subject. The subject is property taxes. The initiative simply lowers the property tax assessment rate with a voter approved revenue change to be applied to the Senior Property Tax Exemption (“homestead exemption”). The measure is clear, and voters would not be surprised by its application. Property tax assessments and funding of the homestead exemption are connected. Any effects of the measure are a necessary result of the measure’s purpose and are not a separate subject.

The ballot Title properly notifies voters of the central aspects of the measure. The Title notifies voters of the percentage of tax reduction, the overall revenue impact and the revenue impact of the offset.

STANDARD OF REVIEW

The Court has the authority to review the Title Board’s single-subject and clear-title findings. *In the Matter of the Title, Ballot Title and Submission Clause for 2017-2018 No. 4*, 395 P.3d 318, 323 (Colo. 2017). When reviewing a challenge to the Title Board’s decision on single subject and clear title, this Court “employ[s] all legitimate presumptions in favor of the propriety of the Title Board’s action.” *In the Matter of Title, Ballot Title, and Submission Clause for 2013-2014 No. 89*, 328 P.3d 172, 176 (Colo. 2014); *In the Matter of the Title, Ballot Title and*

Submission Clause for 2017-2018 No. 4, 395 P.3d at 323. Provisions relating to the initiative should be liberally construed to permit the exercise of the electors of this most important privilege. See *Brownlow v. Wunch*, 83 P. 2d 775, 777 (Colo. 1938). Only in a clear case should this Court reverse a decision of the Title Board. *In re Title, Ballot Title and Submission Clause Pertaining to Casino Gambling Initiative*, 649 P.2d 303, 306 (Colo. 1982).

LEGAL ARGUMENT

I. THE TITLE BOARD PROPERLY FOUND THE MEASURE CONTAINS A SINGLE SUBJECT.

Article V, § 1(5.5) of the Colorado Constitution requires that “[n]o measure shall be proposed by petition containing more than one subject....” No title can be set and submitted to the people for adoption or rejection at the polls if a measure contains more than one subject and has at least two distinct and separate purposes not dependent upon or connected with each other. *People ex rel. Elder v. Sours*, 74 P. 167, ¶ 177 (Colo. 1903); Colo. Const. art. V, § 1(5.5); see also C.R.S. § 1-40-106.5 (statutory single-subject requirement).

The single-subject requirement serves two functions. First, it prohibits incongruous subjects in the same measure that have no necessary or proper

connection for the purpose of enlisting support of a measure that could not be passed on its own merits. § 1-40-106.5(1)I(I).

A proposed initiative cannot seek to accomplish multiple, discrete, unconnected purposes. *See In re Title, Ballot Title, Submission Clause, & Summary Adopted April 5, 1995, by Title Bd. Pertaining to a Proposed Initiative Pub. Rights in Waters II*, 898 P.2d 1076, 1080 (Colo.1995) (“*Waters II*”). If the initiative tends to effect or to carry out one general object or purpose, it is a single subject under the law. *In re Title, Ballot Title & Submission Clause 2015–2016 #73*, 369 P.3d 565, 568 ¶ 17 (Colo. 2016); *Matter of Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶¶ 11-16, 442 P.3d 867, 869–70. Implementation details that are directly tied to the initiative's central focus do not constitute a separate subject. *See In re Title, Ballot Title & Submission Clause 1999-2000 No. 200A*, 992 P.2d 27, 30 (Colo. 2000). Even an initiative that proposes a comprehensive framework can satisfy single subject if all its provisions are related. *See In re Title, Ballot Title, & Submission Clause for 2009–2010 No. 91*, 235 P.3d 1071, 1076 (Colo.2010); *In re Matter of Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 12, 328 P.3d 172, 176–77 (Colo. 2014).

Here the initiative does not seek to gain support from various factions by combining unrelated subjects in a single proposal. Rather, the proposal is singular,

and all provisions relate to its implementation. Because each part of the measure is related to the accomplishment of a single purpose, the proposal will pass or fail on its own merits and does not run the risk of garnering support from factions with different or conflicting goals. Voters will either be in favor of reducing the tax rate or they will not.

The second function of the single-subject requirement is “[t]o 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)(II). This voter surprise occurs with the inadvertent passage of a surreptitious provision ‘coiled up in the folds’ of a complex initiative.” *In re Proposed Initiative 2001–02 No. 43* *In re Proposed Initiative 2001–02 No. 43*, 46 P.3d 438, 442 (Colo. 2002); *see* § 1–40–106.5(1)(e)(II), C.R.S.

In order to determine whether an initiative carries out a single purpose, the Court reviews the initiative as a whole rather than piecemeal and examines individual statements in light of their context. *In re Title, Ballot Title & Submission Clause #24*, 21 P.3d 350, 353 (Colo. 2009). The single-subject requirement is construed liberally to avoid unduly restricting the initiative process. *Id.*

The second risk, that voters may be surprised by effects that are hidden in the body of an initiative or are misleading or overly complex, is also not present. This only exists where an initiative, although claiming to have a single subject, in reality has multiple purposes, and as a result, voters would not expect that passing the initiative would lead to one or more of the initiative's outcomes. *See In re Title, Ballot Title & Submission Clause 2011–2012 No. 3*, 274 P.3d 562 (Colo. 2012), ¶ 19.

There is no risk here that the voters will be unaware of the primary effects of initiative because the initiative is narrow in its application. The measure relates to property tax. A review of the plain language does not reveal any embedded provisions that would lead to voter surprise or fraud. *In re Proposed Initiative 2001–02 No. 43*, 46 P.3d at 442. Rather, the plain language of the measure is unambiguous and has a limited purpose.

- a. Whether a permanent reduction in both residential and most non-residential property tax assessment rates at the local district level is a separate subject.

The single subject of the measure was correctly stated by the Title Board as “concerning property tax reductions”. Property tax applies to both residential and most non-residential property. Everything within the measure is necessary and connected to the implementation of the single subject.

The Court has previously found single subjects in tax measures that contain multiple taxes as long as the taxes are connected. *In re Amend Tabor No. 32*, 908 P.2d 125, 129 (Colo.1995) (upholding proposed initiative that included a tax credit for six state and local taxes, where single purpose of initiative was implementation of tax credit, all six taxes were connected to same tax credit and were bound by same limitations).

- b. Whether a mandated reduction in revenue available at the State district level for funding State programs is a concealed and separate subject.

Petitioners complaints related to the reduction in state district spending is an effect of other provisions contained in a myriad of laws that make up the State's complex funding formula. These effects are felt each time a tax or fee is lowered or increased, either through initiative, referendum or legislative action. For example, fee increases impact the overall TABOR cap and can have an effect of requiring tax refunds. Lowering a fee may impact state expenditures if the state chooses to backfill the lost revue with other funds. A tax for education would impact the school finance formula which then impacts the overall state budget in a number of ways. The combinations are endless.

These types of impacts are not relevant to the single subject analysis. If the Court were to so find, no tax increase or decrease could pass a single subject test

and the people would be stripped of their fundamental right to petition. This Court has repeatedly stated that “[t]he effects [a] measure could have on Colorado [] law if adopted by voters are irrelevant to our review of whether [a measure] contain[s] a single subject.” *In re Title, Ballot Title, and Submission Clause for 2011-2012 #3*, 274 P.3d 562, 568 n.2 (Colo. 2012); *In re Initiative for 2013-2014 #90*, 328 P.3d 155, 160 (Colo. 2014) (same).

- c. Whether the possible impact upon program funding available for Colorado’s public school system is a concealed and separate subject.

This challenge is essentially the same as the previous issue. The potential impact to school funding is a function of the structure of Colorado’s funding formula. It is not a separate subject for the same reasons stated above.

- d. Whether an authorization for the State to retain and spend up to \$25 million per year for five years “for the purpose of off-setting lost revenue resulting from a reduction in property tax;” is a separate subject.

Proponents have wide latitude in choosing funding formulas. The arguments forwarded by Petitioner’s at the Title Board have been made repeatedly and rejected by the Court. The Court has previously approved horse track betting tax revenue to fund K-12 education. *See In re Title, Ballot Title, & Submission Clause for 2013-1014 #135*. No. 2014SA160 (Colo. June 12, 2014). The Court

again upheld unrelated funding mechanism's in a proposal to use oil and gas severance tax for university scholarships and then school construction. *See In re Title Ballot Title & Submission Clause for 2007-2008 #113*, No. 08SA198 (Colo. June 26, 2008); *In re Title, Ballot Title & Submission Clause for 2007-2008 #14*, No. 07SA155 (Colo. June 28, 2007).

These cases upheld funding provisions that were unrelated to the proposal. In Respondent's measure the funding provision for the homestead exemption is connected directly to property tax because the homestead exemption is a property tax exemption. So long as an initiative encompasses related matters it does not violate the single subject requirement. *Matter of Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, 328 P.3d 172.

Petitioner's arguments related to log-rolling is also illogical. By its own words this provision is an offset due to revenue lost from the tax decrease. If a voter doesn't want to lose revenue they will vote no and there would be no reason for the offset.

- e. Whether an authorization for the State to retain and spend up to \$25 million per year for five years "to fund state reimbursements to local government entities for the application of the homestead exemption" is a separate subject.

Section 3.5 of Article X of the Colorado Constitution grants a property tax exemption to qualifying senior citizens and disabled veterans. The General Assembly must reimburse the amount to local governments the net amount of property tax revenues lost. However, the General Assembly can control its reimbursements by lowering the maximum amount of residential real property that is exempt.

The voter approved revenue change is for the purpose of continuing a property tax exemption that may otherwise not be funded.

The Court has, “[n]ever held that just because a proposal may have different effect or that it makes policy choices that are not inevitably interconnected that it necessarily violates the sing-subject requirement. It is enough that the provisions of a proposal are connected. *In re Title, Ballot Title & Submission Clause for 1999-00 #256*, 12 P.3d 246, 254 (Colo.2000) *In re Amend Tabor No. 32*, 908 P.2d 125, 129 (Colo.1995) (initiative provision requiring mandatory replacement of lost local government revenues was dependent upon and closely connected to the tax credit).

Petitioners seek to overcomplicate the initiative in an attempt to create separate subjects. *In re Title, Ballot Title & Submission Clause for 1997-1998*, no 74, 962 P2d. 927 the court said “multiple ideas might well be parsed from even the simplest proposal by applying ever exacting level of analytic abstraction until an

initiative has been broken into pieces. Such analysis, however, is neither required by the single-subject requirement nor compatible with the right to propose initiative guaranteed by Colorado's constitution"

II. THE TITLE FAIRLY ADVISES VOTERS OF THE CENTRAL FEATURES OF THE MEASURE.

Titles and submission clauses should "enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal." *In re # 24*, 218 P.3d at 356 (quoting *In re Title, Ballot Title & Submission Clause for Proposed Initiative on Parental Notification of Abortions for Minors*, 794 P.2d 238, 242 (Colo.1990)). "The purpose of reviewing an initiative title for clarity parallels that of the single-subject requirement: voter protection through reasonably ascertainable expression of the initiative's purpose." *In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45*, 234 P.3d 642, 648 (Colo. 2010).

The responsibility of the Title Board is "set[ting] fair, clear and accurate titles that do not mislead the voters through a material omission or misrepresentation." *In re 1999-2000 No. 256*, 12 P.3d at 256. This requirement, however, does not mean that the title needs to contain every detail of the proposal. *Id.* Also, the title is not required to explain every possible effect of enacting the initiative. *In re Title*

Ballot Title, & Submission Clause for 2007–2008 No. 61, 184 P.3d 747,752 (Colo. 2008). Furthermore, “[t]he Title Board need not set the ‘best possible’ title.” *In re Title, Ballot Title, Submission Clause for 2011- 2012 No. 45*, 274 P.3d 576, 582 (Colo. 2012).

The Title Board has considerable discretion in drafting the title. *In re 1999–2000 No. 256*, 12 P.3d at 255. Unless a title is insufficient, unfair, or misleading, the Court defers to the Title Board’s drafting authority. *See In re Title, Ballot Title & Submission Clause for #62*, 184 P.3d 52, 60 (Colo. 2008). In this Court’s limited review of the Title Board’s actions, it does not address the merits of the proposed initiative nor suggest how they might be applied if enacted. *In re 2011–2012 No.3*, 274 P.3d at 565.

For purposes of a voter determining whether to vote “yes” or “no,” this Title is clear and it is not likely to mislead voters as to the initiative purpose or effect, nor does the Title conceal some hidden intent. *See In re # 24*, 218 P.3d at 356.

- a. Whether 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.

The title states that property tax revenue will be reduced by \$1.03 billion dollars. Petitioners now argue that the language must say “local government

revenue.” Titles need not contain every feature of the proposed measure. *In re Title, Ballot Title, Submission Clause, & Summary with Regard to a Proposed Petition for an Amendment to the Constitution of the State of Colo. Adding Section 2 to Article VII*, 907 P.2d 586, 592 (Colo. 1995). In reviewing a measure, the Court does not determine the initiative’s efficacy, construction, or future application, which is properly determined if and after the voters approve the proposal. *In re Title, Ballot Title & Submission Clause, & Summary for 1999–2000 # 258(A) (English Language Educ. In Pub. Schs.)*, 4 P.3d 1094, 1097-98 (Colo. 2000).

Moreover, the full impact to local government is dependent on other funding formulas that cannot be described in the measure as well as legislative actions. Adopting a title that describes the 1.03 billion dollar loss of revenue as only applying to local government would be misleading to the voters.

- b. Whether 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.

Similar to their single subject argument, Petitioners argue that the impacts of the measure on other tax formulas should be included in the titles. The Title Board is not required to describe every nuance and feature of the proposed measure. *In re*

Title, Ballot Title & Submission Clause, & Summary for Proposed Initiative on Educ. Tax Refund, 823 P.2d 1353, 1355 (Colo. 1991).

Adding these effects would not decrease confusion. It would only add to the confusion. It is doubtful the Title Board could adequately describe each and every impact without a full fiscal analysis and an absurdly long title. These issues are left to the campaigns and the blue book.

- c. Whether the title obscures the possibility that funding at both the State and local district levels for public schools could be materially impacted as a result of the measure.

This issue is again similar to the argument above and should fail for the same reasons. Additionally, requesting a description of the funding impact at the State level cuts against Petitioner's first clear title argument that the lost revenue should be described as "local".

- d. Whether the title misleadingly describes the minimal and problematic additional revenue authorized from the State to local districts as an "offset".

"Offset" is not a catchphrase or subjective term. *In re Title, Ballot Title and Submission Clause, and Summary for 1999- 2000, No. 258(A)*, 4 P.3d 1094, 1100 (Colo. 2000) ("Catch phrases are words that work to a proposal's favor without contributing to voter understanding."). The term is contained within the language

of the initiative. It is common practice for the Title Board to fall back on the language in the text of the measure when in doubt. *See In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45*, 234 P.3d 642, 650 (Colo. 2010)

(“[P]hrases that merely describe the proposal are not impermissible catch phrases.)

Here the title contains a dollar amount of the tax reduction. It also contains a dollar amount of the offset. To the extent that there would even potentially be confusion by a voter, the numbers are in the measure. Voters can balance the extent of the offset for themselves.

- e. Whether the title wholly misrepresents the purpose and effect of the measure by converting an authorization to retain and spend revenue “for warrants otherwise authorized” under §39-3-207, C.R.S. (2020) – and for which a “voter-approved revenue change” is therefore completely meaningless and unnecessary under §39-3-209, C.R.S. (2020) – into “a voter-approved revenue change;”

The voter approved revenue change is to fund the program for which warrants are issued. It is not an unnecessary change because it is within the Legislature’s authority to take the property exemption to zero, which it has in the past and then results in no warrants. This offset helps fund the exemption program.

Further, Peitioner’s argument that this is a meaningless and unnecceary change is contrary to their argument that it operates to create a second subject.

- f. Whether the title is not clear as to whether the authorization for the State “to retain and spend revenue” is for the purpose of (i) “off- setting lost revenue [at the local district level] resulting from a reduction in property tax;” or (ii) funding State reimbursements to local government entities already mandated and facilitated by Colo. Const. art. X, §3.5, §39-3-207, C.R.S. (2020), and §39-3-209, C.R.S. (2020).

This argument is similar in some respects to the argument above and should be denied for the same reason.

To the extent Petitioners argue that this detail should be described in the title, Respondents assert that such detail is not required in a title. The title is intended to be a “relatively brief and plain statement by the Board setting forth the central features of the initiative for the voters,” rather than “an item-by-item paraphrase of the proposed constitutional amendment or statutory provision.” In re Proposed Initiative 1997–1998 # 62 In re Proposed Initiative 1997–1998 # 62 961 P.2d 1077, 1083 (Colo. 1998).

CONCLUSION

Respondents/Proponents respectfully request the Court affirms the Title Board's determination that the measure satisfies the single-subject and clear title requirements.

Respectfully submitted this 12th day of May 2021.

MAVEN LAW GROUP

/s/ Suzanne Staiert

Suzanne Staiert

Attorney for the Respondents/Proponents

CERTIFICATE OF SERVICE/MAILING

I hereby certify that on 12th day of May, 2021 a true and correct copy of the **RESPONDENTS’/PROPONENTS’ OPENING BRIEF** was served via the State of Colorado's ICCES File and Serve e-filing system, email and United States mail, postage prepaid, properly addressed to the following:

Edward T. Ramey
Tierney Lawrence
225 E. 16th Ave., Suite 350
Denver, CO 80203
Attorneys for the Proponents

Michael Kotlarczyk, Esq.
Colorado Attorney General’s Office
1300 Broadway, 6th Floor
Denver, CO 80203
Michael.kotlarczyk@coag.gov
Attorneys for Title Board

/s/ Suzanne Staiert _____

Suzanne Staiert

*Duly signed original on file at Maven Law
Group*