

Court pursuant to C.R.S. § 1-40-107(2) to review the actions of the Ballot Title Setting Board (“Title Board”) with respect to the title, ballot title, and submission clause for Proposed Initiative 2021-2022 #62 (the “Proposed Initiative”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative

Title Board held a hearing on March 16, 2022, where it determined that the Proposed Initiative contained a single subject as required by Colo. Const. art. V, §1(5.5) and C.R.S. § 1-40-106.5 and set a title. On March 23, 2022, Petitioner filed a Motion for Rehearing stating that the Proposed Initiative title was unfair and misleading in contravention of C.R.S. § 1-40-106(3)(b). Title Board held a rehearing on April 6, 2022, at which time it granted Petitioner’s Motion for Rehearing granted only to the extent that the Title Board made changes to the titles.

B. Jurisdiction

Petitioner is entitled to a review by the Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board and timely filed this Petition for Review. *See* C.R.S. § 1-40-107(1) and (2).

As required by C.R.S. § 1-40-107(2), 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 March 16, 2022; (3) the Fiscal Summary for the Proposed Initiative prepared by the Director of Research of the Legislative Council of the General Assembly pursuant to C.R.S. §1-40-105.5(1.5); (4) the Motions for Rehearing filed by the Petitioner and Natalie Menten; and (5) the determinations by the Title Board at the rehearing on April 6, 2022.

GROUND FOR REVIEW

Petitioner respectfully submits that the Title Board erred as follows:

1. The title as set by the Board does not correctly and fairly express the true intent and meaning of the proposed initiative.

The Title states that proposed initiative will make a “change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education.” The title goes on to provide details about the use of funds, but first states that the additional funds are provided “without raising the existing state income tax rate.” There is no justification for including information about something the Proposed Initiative does not do, particularly when such language is not comprehensive. This phrase is misleading and does

not correctly or fairly express the true intent and meaning of the proposed initiative in contravention of C.R.S. § 1-40-106(3)(b).

2. The title as set by the Board may cause voter confusion.

Based upon the titles set by the Board, voters may not understand that the Proposed Initiative will increase state revenue from taxes in years where a TABOR refund would otherwise be required.

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 not a clear and accurate ballot title, and petitioner requests that the Court strike the following language from the ballot title: "without raising the existing state income tax rate."

Respectfully submitted this 13th day of April, 2022.

/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 this 13th day of April, 2022, as follows:

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/s/Gwendolyn A. Benevento



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 #62 'Additional Dedicated Revenue to the State Education Fund'.....

..... **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 6th day of April, 2022.

Jena Griswold

SECRETARY OF STATE



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

SECTION 1. Statement of purpose. The people of the State of Colorado find and declare that:

(1) A strong system of public education is required by the Colorado constitution and creates the foundation for individual opportunity, strong communities, a well-prepared workforce, a vibrant democracy, and a thriving, resilient economy;

(2) Colorado voters recognize that, to approach those goals, every public school must have the resources to attract and retain teams of caring, well-qualified, capable adults, who together can meet the academic, emotional, and social needs of *all* Colorado's diverse learners.

(3) Despite the critical importance of teachers and student support professionals in promoting student achievement and well-being, Colorado lags the nation in providing competitive salaries. Whether measured in comparison to the cost of living or by the gap between teacher salaries and comparable professions, Colorado ranks among the bottom five states.

(4) Colorado has not been able to provide those resources, having fallen behind inflation and enrollment growth since 2009 by \$571 million in the 2021-22 school year alone, and by \$9.7 billion in the past thirteen years. Likewise, Colorado's average per pupil student funding is \$2,200 behind the national average according to the National Center for Education Statistics.

(5) The impact of the COVID-19 pandemic has only widened the gaps between what Colorado students need and what is available to them, especially in light of Colorado's geographic and demographic diversity. Since March of 2020, school districts have been required to transform the delivery of education, make continual staffing and technology adjustments, address the mental and physical health needs of their students and educators, and overcome the impact of lost time and engagement. While Colorado's chronically inadequate funding levels had already caused localized staffing shortages before the pandemic, the extreme stress, challenges, and non-competitive wages exacerbated by COVID-19 have resulted in a severe statewide staffing crisis, in every aspect of school operations, threatening the quality of Colorado students' educational experience.

(6) While federal COVID-19 relief funds have helped set the stage for recovery from COVID-19, those one-time dollars must be spent for prescribed purposes by the end of 2024, and generally not on ongoing expenses like teachers' salaries and new positions. At the same time, state funding for schools in 2024 will be restricted by a structural deficit, as a result of constitutional limits on spending that can only be lifted by the voters. Without such a vote, students will be harmed by significant cuts.

(7) The people further declare that the most effective way to make necessary investments in the adults who educate, support, treat, tutor, mentor, protect and nurture *all* of Colorado's students is to immediately dedicate an additional specified minimum percentage of state revenue, without raising taxes, to the state's public schools;

(8) Without raising taxes, these additional ongoing dollars will allow districts to support students and staff and will help them regain stability within communities and build programs and supports for students who have suffered from the long-term disruptions, hardships and challenges resulting from the COVID-19 pandemic and its aftermath; and

(9) In connection with such additional dedication of revenue, the people are entitled to full accountability from the state regarding the specific uses and applications to which such additional revenue is applied, and the manner in which the dollars have supplemented, rather than supplanted, existing state school funding expenditures.

SECTION 2. In Colorado Revised Statutes, 22-55-102, **amend** (13) as follows:

22-55-102. Definitions. (13) “State education fund revenues” means revenues collected from a tax of one-third of one percent on federal taxable income, as modified by law, of every individual, estate, trust, and corporation, as defined in law, that are required to be transferred to the state education fund pursuant to section 17(4)(a) of article IX of the state constitution. “STATE EDUCATION FUND REVENUES” SHALL ALSO INCLUDE REVENUES COLLECTED AND REQUIRED TO BE DEPOSITED IN THE STATE EDUCATION FUND PURSUANT TO SECTION 22-55-102.3, C.R.S.

SECTION 3. In Colorado Revised Statutes, **add** 22-55-102.3 as follows:

22-55-102.3. Additional dedication of revenues to state education fund. (1) COMMENCING ON JANUARY 1, 2023, IN ADDITION TO THE REVENUES REQUIRED BY SECTION 17(4) OF ARTICLE IX OF THE COLORADO CONSTITUTION TO BE DEPOSITED IN THE STATE EDUCATION FUND, AN ADDITIONAL AMOUNT OF STATE REVENUE EQUAL TO ONE-THIRD OF ONE PERCENT ON ALL FEDERAL TAXABLE INCOME, AS MODIFIED BY LAW, OF EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION, AS DEFINED BY LAW, SHALL BE DEPOSITED IN THE STATE EDUCATION FUND.

(2) THE REVENUE DEPOSITED IN THE STATE EDUCATION FUND PURSUANT TO SUBSECTION (1) OF THIS SECTION, TO THE EXTENT NOT OTHERWISE SUBJECT TO THE EXEMPTIONS SPECIFIED IN SECTION 22-55-103(5), C.R.S., MAY BE COLLECTED, RETAINED, DEPOSITED IN THE STATE EDUCATION FUND, AND APPROPRIATED AND SPENT BY THE STATE GOVERNMENT AND LOCAL SCHOOL DISTRICTS FOR THE PURPOSES SPECIFIED IN SECTION 17(4)(b) OF ARTICLE IX OF THE STATE CONSTITUTION AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20(7)(d) OF ARTICLE X OF THE STATE CONSTITUTION.

(3) MONEY DEPOSITED IN AND APPROPRIATED FROM THE STATE EDUCATION FUND PURSUANT TO THIS SECTION SHALL BE USED TO SUPPLEMENT, AND NOT SUPPLANT, THE LEVEL OF GENERAL FUND AND STATE EDUCATION FUND APPROPRIATIONS EXISTING ON THE EFFECTIVE DATE OF THIS SECTION.

(4) THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY SHALL REPORT TO THE PUBLIC ON AN ANNUAL BASIS THE ADDITIONAL AMOUNT OF STATE REVENUE DEPOSITED IN THE STATE EDUCATION FUND PURSUANT TO THE REQUIREMENTS OF THIS SECTION, TOGETHER WITH THE

SPECIFIC USES FOR WHICH SUCH ADDITIONAL REVENUE HAS BEEN APPLIED, DEDICATED, AND DISTRIBUTED.

SECTION 4. Effective date. This act takes effect January 1, 2023.

Ballot Title Setting Board

Proposed Initiative 2021-2022 #62¹

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

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education without raising taxes, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

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 additional funding for preschool through twelfth-grade public education without raising taxes, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue?

Hearing March 16, 2022:

Single subject approved; staff draft amended; titles set.

Board members: Hilary Rudy, David Powell, Ed DeCecco

Hearing adjourned 11:52 A.M.

¹ Unofficially captioned “**Additional Dedicated Revenue to the State Education Fund**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2021-2022 #62¹

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

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education, and, in connection therewith, without raising the existing state income tax rate, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be from revenue that the state or a local school district is otherwise required to refund to taxpayers in years in which a refund is due; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

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 additional funding for preschool through twelfth-grade public education, and, in connection therewith, without raising the existing state income tax rate, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be from revenue that the state or a local school district is otherwise required to refund to taxpayers in years in which a refund is due; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue?

Hearing March 16, 2022:

Single subject approved; staff draft amended; titles set.

Board members: Hilary Rudy, David Powell, Ed DeCecco

Hearing adjourned 11:52 A.M.

Rehearing April 6, 2022:

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

Board Members: Theresa Conley, David Powell, Ed DeCecco

Hearing adjourned: 10:40 A.M.

¹ Unofficially captioned “**Additional Dedicated Revenue to the State Education Fund**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Title Board
c/o Colorado Secretary of State
1700 Broadway, 5th Floor
Denver, CO 80290

Natalie Menten
Lakewood, CO
Registered Voter

I'm requesting a rehearing on proposed ballot issues 2021-22 No. #62, #63, #64, and #65.
All the initiatives are unofficially captioned "*Additional Dedicated Revenue to the State Education Fund*".

My questions and concerns cover the same language found in all four initiatives. I've inserted the #62 text for the example. The bold emphases are the areas of concern.

2021-22 #62

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education **without raising taxes**, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; **allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change**; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

Issue #1:

The phrase "without raising taxes" became a central feature in all four initiatives, though that wasn't in the staff draft. That phrase is 100% controversial and will prompt further distrust from voters.

Projected refunds under the Taxpayer's Bill of Rights amount to [\\$2.2 billion](#)* over the two-year period FY 2022-23 and 2023-24.

We're expecting \$622,600,000 in TABOR refunds in the first full-year that #62-65 would be in effect.

The cost of initiative #62 or 64 at 1/3 of 1% of taxable income is \$983,900,000 for the first full year.
The cost of initiative #63 or 65 at 1/2 of 1% of taxable income is \$1,500,000,000 for the first full year.

In either case, it appears the proposed initiative will wipe out any TABOR refunds.

Issue #2

The phrase "voter-approved revenue change" does not make it clear that this would be a vote that forfeits refunds that tax payers would otherwise be entitled to.
Suggestions to make it clearer are listed below.

Issue #3

The fiscal note should clearly reflect the impact to the refunds under the Taxpayer's Bill of Rights.

Suggestions for clearer wording

I reviewed past titles that bear many similarities to initiatives #62-65.

Short Title: Education Funding and TABOR Rebates

Amendment 59 (2008 initiative)

Ballot Title: Shall there be an amendment to the Colorado Constitution concerning the manner in which the state funds public education from preschool through the twelfth grade, and, in connection therewith, for the 2010-11 state fiscal year and each state fiscal year thereafter, **requiring that any revenue that the state would otherwise be required to refund** pursuant to the constitutional limit on state fiscal year spending be transferred instead to the state education fund?

Prop BB (2015 referendum)

Ballot Title: **May the state retain and spend state revenues that otherwise would be refunded** for exceeding an estimate included in the ballot information booklet for proposition AA and use these revenues to provide forty million dollars for public school building construction and for other needs, such as law enforcement, youth programs, and marijuana education and prevention programs, instead of refunding these revenues to retail marijuana cultivation facilities, retail marijuana purchasers, and other taxpayers?

Redline to Improve Original Title

Suggested 2021-22 #62

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education ~~without raising taxes~~, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue **THAT OTHERWISE WOULD BE REFUNDED UNDER COLORADO LAW** to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

Current Ballot Titles:

2021-22 #62

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education **without raising taxes**, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; **allowing the**

additional revenue to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

2021-22 #63

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education without raising taxes, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change; requiring the additional revenue to be used for attracting, retaining, and compensating teachers and student support professionals; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

2021-22 #64

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education without raising taxes, and, in connection therewith, requiring revenue collected by the state from one-half of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

2021-22 #65

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education without raising taxes, and, in connection therewith, requiring revenue collected by the state from one-half of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be spent by the state and local school districts as a voter-approved revenue change; requiring the additional revenue to be used for attracting, retaining, and compensating teachers and student support professionals; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

[*Colorado Legislative Council Staff March 22 Economic & Revenue Forecast](#)

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2021-2022 #62

MOTION FOR REHEARING

On behalf of Dr. Brenda Dickhoner, registered elector of the State of Colorado, and President of Ready Colorado, a leading state non-profit focused strengthening Colorado's education system, the undersigned counsel hereby submit this Motion for Rehearing for Initiative 2021-2022 #62 (the "Initiative") pursuant to Section 1-40-107, C.R.S., and as grounds therefore state as follows:

I. THE TITLE BOARD LACKS JURISDICTION TO SET A TITLE**A. The Initiative contains multiple separate and distinct subjects in violation of the single-subject requirement.**

The Colorado General Assembly Legislative Council Staff and Office of Legislative Legal Services stated that the single subject of the Initiative appears to be to "require an additional defined percentage of state revenue to be appropriated to the state education fund." However, the measure actually contains multiple separate subjects. The first subject is, in fact, that it requires an additional defined percentage of state revenue to be appropriated to the state education fund, but the measure also contains another separate and distinct subject: it requires that the additional funds "shall be used to supplement, and not supplant, the level of general fund and state education fund appropriations existing on the effective date of [the Initiative]." As explained in further detail below, the Initiative contains more than a single subject in violation of Colo. Const. art. V, §1(5.5) and C.R.S. § 1-40-106.5.

The Initiative requires that the defined percentage of revenue "deposited in and appropriated from the state education fund ... shall be used to supplement, and not supplant, the level of general fund and state education fund appropriations existing on the effective date of [the initiative]." This provision restricts the general assembly's plenary authority; by prohibiting use of the funds to supplant the level of general fund and state education fund appropriations, it mandates a certain level of funding and appropriations for the state education fund from existing sources.¹

Mandating that the state maintain existing appropriations levels does not have a necessary or proper connection to the purpose of defining a percentage of revenue for transfer to the state education fund. Asking voters to attempt to restrict the general assembly's authority to appropriate funds raises different and conflicting interests. Including this separate and significant

¹ Cf. *Colo. Cmty. Health Network v. Colo. Gen. Assembly*, 166 P.3d 280, 284 (Colo. App. 2007).

provision in the Initiative which is purported to have the single subject of defining the percentage of state revenue to be appropriated to the state education fund could lead to the enactment of this provision that may fail on its own merits.²

In addition, this provision that mandates a certain level of general fund and state education fund appropriations going forward is a surreptitious provision is coiled up in the folds of the Initiative, and voters may be surprised to find that they have restricted the general assembly's plenary power.³

B. The Initiative is confusing and cannot be understood in violation of the single-subject requirement.

This attempt to limit the plenary power of the legislature over appropriations to the state education fund is confusing and misleading.⁴ The Initiative provides that the funds “shall be used to supplement, and not supplant, the level of general fund and state education fund appropriations existing on the effective date of [the initiative].” As discussed above, this provision purports to prohibit the general assembly from exercising its legislative authority over appropriations, but limiting future state education fund appropriations to existing levels is in violation of the general assembly's plenary appropriations authority.⁵ If this is not the intent of the measure, and the provision is somehow interpreted not to freeze current state education fund appropriation level at a minimum amount going forward, then voters would be misled by a title indicating that diverted funds will necessarily provide an overall increase in state education fund dollars.

II. THE TITLE IS UNCLEAR AND MISLEADING

If the Title Board has jurisdiction to set a title for the Initiative, the title 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.⁶ The Objector disagrees with the titles and submission clause set by the Title Board because the title is not only unclear and misleading, it is inaccurate and in direct conflict with the substance of the measure itself.

The Initiative will result in increased taxes in certain years, but the title states that the initiative will not raise taxes. Therefore, the title is misleading in contravention of C.R.S. § 1-40-106(3)(b) because it states that the initiative provides funding “*without raising taxes.*” The title should make clear that the measure allows for retention of revenue that, in years where a refund would be due, is a tax increase.

² Combining subjects with no necessary or proper connection for the purposes of garnering support for an initiative from various factions that may have different or even conflicting interests could lead to the enactment of measures that would fail on their own merits. *In re Ballot Title 2011-2012 No. 45*, 274 P.3d 576 (Colo. 2012); *In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63*, 2016 CO 34, 370 P.3d 628 (Colo. 2016).

³ The single-subject rule helps avoid voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision coiled up in the folds of an initiative. *Id.*

⁴ The intent of the single-subject requirement is to prevent voters from being confused or misled and to ensure that each proposal is considered on its own merits. *Matter of Ballot Title 1997-98 No. 74*, 962 P.2d 927 (Colo. 1998).

⁵ See Colo. Const. art. III.

⁶ *In re Title, Ballot Title & Submission Clause for 2009-2010 No. 45*, 234 P.3d 642, 648 (Colo. 2010).

The Initiative would allow the revenue diverted to the state education fund to be spent by the state as a voter-approved revenue change under Colo. Const. art. X, § 20(7)(d).⁷ In years where state revenue from sources not excluded from fiscal year spending exceed TABOR limits, the excess shall be refunded.⁸ If voters approve this proposed retention and expenditure of additional education fund revenues, there is an “offset” to the state’s otherwise applicable refund obligation.⁹

Therefore, by diverting funds from currently collected income tax revenue and exempting them from the TABOR refund requirement, this functions to increase the amount of future tax dollars the state can retain rather than refunded to taxpayers. Simply put, when your refund is decreased, then your taxes have increased.

It is misleading to state that the Initiative provides funding “*without raising taxes*,” and that phrase should be stricken from the title. Voters should be informed that the Initiative would reduce their TABOR refund in years where a refund is required.

Finally, the title may or may not result in “additional” appropriations to the state education fund, depending upon whether or not the General Assembly retains its plenary authority to appropriate funds under the Initiative. Therefore, it would be more accurate to refer to the funds as “transferred” funds.

Opponent requests the following changes to the proposed title:

A change to the Colorado Revised Statutes concerning ~~additional~~ funding for preschool through twelfth-grade public education ~~without raising taxes~~ TRANSFERRED THROUGH A REVENUE CHANGE THAT WILL RESULT IN INCREASED TAXES IN YEARS WHERE REFUNDS ARE REQUIRED BY REDUCING TAXPAYER REFUND AMOUNTS DUE UNDER TABOR, and, in connection therewith, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the ~~additional~~ TRANSFERRED revenue to be spent by the state and local school districts as a voter-approved revenue change; specifying appropriations of the ~~additional~~ TRANSFERRED revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the ~~additional~~ TRANSFERRED revenue.

III. CONCLUSION

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

⁷ See Initiative #63, Section 3 proposing adding C.R.S. § 22-55-102.3(2).

⁸ Colo. Const. art. X, § 20(7)(d).

⁹ *Havens v. Bd. of County Comm’rs*, 924 P.2d 517, 522 (Colo. 1996).

Respectfully submitted this 23rd day of March, 2022.

s/ Gwen Benevento
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Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

Initiative 62

Fiscal Summary

Date: March 9, 2022

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

LCS TITLE: ADDITIONAL DEDICATED REVENUE TO THE STATE EDUCATION FUND

Fiscal Summary of Initiative 62

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.

State transfers. Based on the December 2021 Legislative Council Staff Revenue Forecast, the measure transfers \$470.7 million in budget year 2022-23 (half-year impact) and \$983.9 million in budget year 2023-24 from the General Fund to the State Education Fund. This transfer is equal to one-third of one percent of federal taxable income, as specified in the measure, and is diverted from currently collected income tax revenue. The transfer amount is not subject to constitutional revenue limits.

State expenditures. Increased spending on education may result in a reduction in the amount spent or saved elsewhere in the state budget; however, actual funding decisions are determined by the state legislature and cannot be estimated at this time. The measure also increases workload by minimal amount for Legislative Council Staff to report to the public on the amount of money diverted to the State Education Fund and how that money is spent.

Local government impact. To the extent that the additional money in the State Education Fund is distributed to school districts through the school finance formula or other educational programs, school districts will have additional revenue and expenditures. The specific uses and distribution of the money will be determined by the General Assembly.

Economic impacts. The bill may increase spending on K-12 education, which may improve educational outcomes. To the extent that the measure improves educational outcomes, it may increase employment opportunities, workplace readiness, and wage earnings. To the extent that it reduces spending on other state programs, it may impact employment and outcomes in those areas.