Final Draft

Amendment 73
Funding for Public Schools

Amendment 73 proposes amending the <u>Colorado Constitution and Colorado statutes</u> to:

- increase funding for preschool through twelfth grade (P-12) public education;

- raise the state individual income tax rate for taxpayers with taxable income over $150,000, and increase the state corporate income tax rate to provide additional funding for education; and

- for property taxes levied by school districts, set the assessment rate at 7.0 percent for residential properties and decrease the assessment rate to 24.0 percent for most nonresidential properties.

Summary and Analysis

Amendment 73 increases funding for P-12 public education by raising the individual income tax rate for some individuals, increasing the corporate income tax rate, and setting new assessment rates for property taxes levied by school districts. This analysis describes current funding for public education, how the measure increases school funding, and how the measure changes Colorado's income and property tax systems.

Education Funding

Current P-12 education funding. P-12 public schools in Colorado are funded through a combination of state, local, and federal sources. Based on the latest available data, total education funding is approximately $9.7 billion, of which $6.6 billion is allocated to school districts through a formula in state law. Formula funding begins with the same amount of funding per student, known as the base per pupil funding, which is constitutionally required to increase by at least the rate of inflation annually. In budget year 2017-18, the base per pupil amount was $6,546. The base funding amount is then adjusted by the following factors to determine a final per pupil amount that varies by district:

- **district size factor**, which provides additional funding based on student enrollment, with smaller districts receiving more funding;
- **cost-of-living factor**, which provides additional funding based on the cost of living in a given district relative to other districts;
- **at-risk factor**, which provides additional funding based on the number of low-income and non-English speaking students; and
- **budget stabilization factor**, which was adopted in 2010 as a budget-balancing tool and applies an equal percentage reduction in formula funding across all school districts.

After the factors were applied, final per pupil amounts ranged from $7,236 to $16,247 across all school districts in budget year 2017-18. Once the funding is distributed to districts, each locally elected school board determines how to spend the revenue in its own district.

Formula funding sources. Formula funding is provided by state and local sources. The state pays for the portion of the formula that school districts are unable to fund with their local revenue. Of the $6.6 billion distributed through the formula in budget year 2017-18, the state share was $4.1 billion and the local share was $2.5 billion. The state share is funded by income taxes, sales taxes, and other state revenues, while the local share is funded through local property taxes and vehicle ownership taxes.

Other funding sources. In addition to funding set by the formula, districts receive additional state assistance for specific programs, known as “categoricals.” Categoricals include special education, English language learning, gifted and talented and vocational programs, and transportation and totaled $297.6 million in budget year 2017-18. Additional sources of revenue for education include federal funding, district-assessed fees, competitive state grants for specific purposes, and state capital construction programs, among other sources.

In many school districts, voters have approved property tax revenue above the amount authorized through the school finance formula. These additional property taxes are called “mill levy overrides,” and are used for specific local education needs. As of 2018, voters in 121 out of 178 districts have approved mill levy overrides. For those districts, the additional per pupil funding ranges from $32 to $5,024 per student.

Education funding under the measure. The measure encourages the state legislature to adopt a new public school finance act that distributes funding to public schools. The new distribution formula must be transparent and easy to understand, and meet criteria related to:

- an increase in base per pupil funding;
- equitable allocation of funding among districts, based on certain student and district characteristics;
- additional funding for certain specialized and early childhood programs; and
- the recruitment and retention of teachers.

Until a new act is adopted, the additional revenue generated by the measure must be spent as shown in Table 1. Of the $1.6 billion in new revenue generated in the first year of implementation (budget year 2019-20), $866 million must be spent on specific funding criteria. The remaining $738.6 million must also be spent on public education, as determined by the state legislature.

Table 1. Funding Requirements Under Amendment 73 Until a New Formula is Adopted

Funding Criteria	Under Current Law For Budget Year 2018-19	Under Amendment 73 For Budget Year 2019-20
Base Per-Student Funding	$6,769 per student	$7,300 per student
Fully Fund Kindergarten	Districts receive approximately half of the per-student funding for each kindergarten student.	Districts receive full per-student funding for each kindergarten student.
Low-income Students	Districts receive funding based on the number of students whose families earn below a certain income level.	Relaxes the income requirements for students to be considered low-income for funding purposes.
Special Education	$176.1 million	$296.1 million (an increase of $120 million)
Gifted and Talented	$12.5 million	$22.5 million (an increase of $10 million)
English Language Proficiency	$21.6 million	$41.6 million (an increase of $20 million)
Preschool	$121.0 million	$131.0 million (an increase of $10 million)
Remaining funding generated by the measure to be spent on public education as determined by the state legislature.		$738.6 million*

**Money generated in budget year 2018-19 and future years is also required to be spent on public education.*

Tax Changes to Fund Education

Income taxes. Amendment 73 increases income tax rates to provide additional revenue for public education. Colorado's current individual and corporate income tax rate is a flat 4.63 percent. Beginning in 2019, the measure creates a graduated individual income tax rate for taxable income above $150,000, and increases the corporate tax rate from 4.63 percent to 6.0 percent. The measure is expected to generate $1.6 billion in budget year 2019-20, the first year of implementation, to be spent on public education. This revenue is exempt from constitutional spending limits.

Individual income tax. Table 2 shows the change in individual income tax rates under the measure and the percentage of filers in each tax bracket. The income tax increase will impact 8.2 percent of individual and joint income tax filers. For joint filers, the income tax tiers shown in Table 2 apply to the joint filers' combined taxable income. The graduated income tax rate also applies to estates, trusts, and businesses that file individually. The change in income tax rates is expected to increase state revenue by an estimated $1.4 billion in budget year 2019-20.

Table 2. Individual Income Tax Rates Under Amendment 73

Taxable income* between...	...is taxed at a rate of...	Percent of filers whose maximum income is in each tax bracket
$0 and $150,000	4.63% (current rate)	91.8%
$150,001 and $200,000	5.0%	3.2%
$200,001 and $300,000	6.0%	2.5%
$300,001 and $500,000	7.0%	1.4%
Over $500,000	8.25%	1.1%

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

Those with taxable income equal to or less than $150,000 will not experience an income tax increase under the measure. The impact of the graduated tax increase on taxpayers with higher earnings will differ based on a taxpayer's taxable income. For example, a taxpayer with taxable income equal to $250,000 would be taxed at 4.63 percent for the first $150,000 in income. The subsequent $50,000 would be taxed at a rate of 5.0 percent, and the final $50,000 would be taxed at a rate of 6.0 percent. Table 3 shows examples of average annual increases in individual income tax liability under the measure.

Table 3. Example Individual Income Tax Increases Under Amendment 73

If your taxable income** is…	The measure will increase your annual income tax liability* by…
less than $150,000	$0
$200,000	$185
$250,000	$870
$400,000	$3,925
$1.0 million	$24,395

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

Corporate income tax. The measure increases the corporate income tax rate from 4.63 percent to 6.0 percent. In contrast to the measure's individual tax rate changes, the increase in the corporate income tax rate is not a graduated tax rate and applies to all corporate taxpayers. The change is expected to generate $229.4 million in budget year 2019-20. On average, each corporate income taxpayer with an income tax liability is expected to pay an additional $14,139 per year under the measure.

Property taxes. Property taxes are paid on a portion of a property's value, determined by an assessment rate. Under current law, the assessment rate for most nonresidential property is set at 29 percent, and the rate for residential property is determined by the state legislature based on a formula in the state constitution. Over time, the residential assessment rate has declined from 21 percent in 1983 to the current rate of 7.2 percent. Based on the most recent projection published by Legislative Council Staff, the rate is expected to fall to approximately 6.1 percent for 2019 and 2020. The actual rate will be determined during the 2019 legislative session.

Changes to property taxes under Amendment 73. For school district property taxes only, beginning in 2019, Amendment 73 reduces the nonresidential assessment rate from 29 percent to 24 percent, thereby reducing taxes for nonresidential property. The measure reduces the current residential assessment rate from 7.2 percent to 7.0 percent, and sets it at this lower rate, keeping it from falling further. Relative to a projected 6.1 percent residential assessment rate, the rate under the measure will result in a tax increase for residential property taxpayers. The measure does not impact the assessment rates for mines and lands producing oil and gas.

Taxpayer impacts. As explained above, the measure is expected to decrease school district property taxes for most nonresidential property taxpayers, and increase school district property taxes for residential property taxpayers above what would be paid in 2019 without the measure. The impact on property owners will vary significantly based on several factors, including the school finance formula mill levy rate for the local school district, the actual value of the property, the 2019 residential assessment rate without the measure, and whether and what type of mill levy overrides have been approved by the voters in the school district. For information about the projected impacts on taxpayers in a particular school district, please visit http://coloradobluebook.com/amendment73map

School finance impacts. In 2019, the measure is projected to decrease school district property tax revenue by $62.4 million, reflecting a decrease in nonresidential property tax revenue of $317.8 million, partially off-set by an increase in residential property tax revenue of $255.3 million. This decrease in school district revenue in 2019 could be replaced by state funding, which could come from the additional income tax revenue generated by the measure, depending on decisions made by the state legislature. In future years, local property tax revenue for school districts will only be impacted by changes in property values and mill levy rates, not by a changing residential assessment rate.

Reporting Requirements

Amendment 73 requires the Colorado Department of Education, within five years of the measure's implementation, to review how the additional revenue is spent and identify best practices for promoting continuous student achievement. In addition, the state legislature, within ten years of the implementation of the new school finance formula, is required to review the formula and make any necessary adjustments.

For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2018, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html

Arguments For

1) The state needs a sustainable source of revenue to adequately and equitably fund public education. Colorado cut P-12 public education funding as a result of the Great Recession, and funding levels have not recovered relative to what the formula would otherwise require, even though Colorado has one of the healthiest economies in the nation. Since the 2010-11 budget year, the budget stabilization factor has cut education funding by a total of $7.2 billion. As a result, school districts have had to make difficult choices, such as limiting teacher salaries, increasing class sizes, limiting mental health and counseling services for students, and narrowing course offerings. Further, approximately half of Colorado school districts are currently operating on four-day weeks. The measure alleviates the impact of these historical cuts by providing a dedicated income tax increase to fund public education.

2) The measure provides property tax relief for business property owners, farmers, and ranchers who have paid an increasingly higher proportion of property taxes compared to residential property owners. Since 1983, the nonresidential assessment rate has been set at 29 percent, while the residential assessment rate has fallen from 21 percent to the current 7.2 percent. The measure lessens these inequities between residential and nonresidential property owners by both stabilizing the residential assessment rate and lowering the nonresidential assessment rate for school district property taxes.

3) One of the government's most important functions is to provide children with a high-quality public education. Local school districts will prioritize how to spend the new revenue in ways that best fit their community, such as recruiting and retaining highly qualified teachers, improving access to early childhood education programs, strengthening science and math, vocational, and literacy programs, and providing a safe learning environment for all students. These are key investments in a successful public education system, which could help ensure a strong Colorado economy that is capable of competing in today's global market.

4) Constitutional constraints have suppressed local property tax revenue in many areas and led to greater pressure on the state general operating budget to meet required education funding levels. Stabilizing the local share of required school formula funding and creating a dedicated source of state revenue for education provide additional flexibility for the state to use more of its general operating budget on other core programs, such as transportation, public safety, and health care.

Arguments Against

1) The measure imposes a tax increase without any guarantee of increased academic achievement. A focus on educational reform and opportunity rather than new revenue is more likely to improve student outcomes. Policymakers should find efficiencies within the current system and reprioritize existing revenue in order to meet current education funding requirements. Since the 2012-13 budget year, total formula funding has increased by between 1.3 percent and 7.4 percent annually, and just this year, the state share of school formula funding increased by $425.6 million without a tax increase.

2) Increasing the state income tax rate could negatively impact the state's economy. Individuals will have less money to spend, save, and invest, and businesses will have less money to invest in their workers. Many businesses report their earnings through individual income tax returns and would pay the higher income tax rates under the measure. Colorado may also have a harder time attracting or retaining workers and businesses, as the top income tax rate under the measure would be 8.25 percent, the ninth highest state income tax rate in the country. This puts Colorado at a competitive disadvantage compared to other states.

3) The measure increases the property tax burden on homeowners, providing a tax cut for businesses at the expense of homeowners. In addition, it complicates an already complicated property tax system. By creating one assessed value for school districts and another assessed value for all other local taxing entities, the

measure will lead to confusion among taxpayers and further complicate tax administration for state and local governments.

4) The measure does not allow the state legislature to adjust the income tax thresholds to account for inflation. As a result, over time, more taxpayers will end up in the higher tax brackets as their incomes are adjusted for inflation, resulting in additional revenue that must be spent only on education. To the extent that more revenue is raised than is needed to sufficiently fund education, the state will not be able to use this money to address other critical needs such as transportation and health care. Finally, the additional revenue generated by the measure is exempt from the state's constitutional spending limit, thereby removing an important protection for taxpayers.

Estimate of Fiscal Impact

State revenue. The measure increases state revenue by $750.9 million in budget year 2018-19 (half-year impact) and $1.6 billion in budget year 2019-20. This amount is from individual income taxes and corporate income taxes. This revenue is exempt from constitutional spending limits and must be used for educational purposes identified in the measure.

State expenditures. The measure increases state expenditures by $174,933 in budget year 2018-19 for administrative costs. In budget year 2019-20, the measure increases expenditures for education by $1.6 billion. Revenue generated in other years must also be spent on education.

School district impact. The measure increases school district revenue by a minimum of $866 million and up to a net $1.5 billion in budget year 2019-20, the first full fiscal year the measure is implemented. The minimum spending represents the funding requirements specified in the measure; the maximum increase is the result of the $1.6 billion in new state revenue in budget year 2019-20, and a $62.4 million decrease in revenue from property taxes.

Local government impact. The measure increases costs for county assessors and treasurers offices to update computer and data systems related to the changes in assessment rates. Specific costs will vary among counties.

Initiative #93
Funding for Public Schools

Amendment ? proposes amending the <u>Colorado Constitution and Colorado statutes</u> to:

- ♦ increase funding for preschool through twelfth grade (P-12) public education;
- ♦ raise the state individual income tax rate for taxpayers with taxable income over $150,000, and increase the state corporate income tax rate to provide additional funding for education; and
- ♦ for property taxes levied by school districts, set the assessment rate at 7.0 percent for residential properties and decrease the assessment rate to 24.0 percent for most nonresidential properties.

Summary and Analysis

Amendment ? increases funding for P-12 public education by raising the individual income tax rate for some individuals, increasing the corporate income tax rate, and setting new assessment rates for property taxes levied by school districts. This analysis describes current funding for public education, how the measure increases school funding, and how the measure changes Colorado's income and property tax systems.

Education Funding

Current P-12 education funding. P-12 public schools in Colorado are funded through a combination of state, local, and federal sources. Based on the latest available data, total education funding is approximately $9.8 billion, of which $6.6 billion is allocated to school districts through a formula in state law. Formula funding begins with the same amount of funding per student, known as the base per pupil funding, which is constitutionally required to increase by at least the rate of inflation annually. In budget year 2017-18, the base per pupil amount was $6,546. The base funding amount is then adjusted by the following factors to determine a final per pupil amount that varies by district:

- **district size factor**, which provides additional funding based on student enrollment, with smaller districts receiving more funding;
- **cost-of-living factor**, which provides additional funding based on the cost of living in a given district relative to other districts;
- **at-risk factor**, which provides additional funding based on the number of low-income and non-English speaking students; and
- **budget stabilization factor**, which was adopted in 2010 as a budget-balancing tool and applies an equal percentage reduction in formula funding across all school districts.

After the factors were applied, final per pupil amounts ranged from $7,236 to $16,247 across all school districts in budget year 2017-18. Once the funding is distributed to districts, each locally elected school board determines how to spend the revenue in its own district.

Formula funding sources. Formula funding is provided by state and local sources. The state pays for the portion of the formula that school districts are unable to fund with their local revenue. Of the $6.6 billion distributed through the formula in budget year 2017-18, the state share was $4.1 billion and the local share was $2.5 billion. The state share is funded by income taxes, sales taxes, and other state revenues, while the local share is funded through local property taxes and vehicle ownership taxes.

Other funding sources. In addition to funding set by the formula, districts receive additional state assistance for specific programs, known as “categoricals.” Categoricals include special education, English language learning, gifted and talented and vocational programs, and transportation and totaled $297.6 million in budget year 2017-18. Additional sources of revenue for education include federal funding, district-assessed fees, competitive state grants for specific purposes, and state capital construction programs, among other sources.

In many school districts, voters have approved property tax revenue above the amount authorized through the school finance formula. These additional property taxes are called “mill levy overrides,” and are used for specific local education needs. As of 2018, voters in 121 out of 178 districts have approved mill levy overrides. For those districts, the additional per pupil funding ranges from $32 to $5,024 per student.

Education funding under the measure. The measure encourages the state legislature to adopt a new public school finance act that distributes funding to public schools. The new distribution formula must be transparent and easy to understand, and meet criteria related to:

- an increase in base per pupil funding;
- equitable allocation of funding among districts, based on certain student and district characteristics;
- additional funding for certain specialized and early childhood programs; and
- the recruitment and retention of teachers.

Until a new act is adopted, the additional revenue generated by the measure must be spent on the funding criteria shown in Table 1. These requirements result in an $866 million spending increase compared with current year spending. New revenue generated by the measure above this amount must also be spent on public education, as determined by the state legislature.

Table 1. Funding Requirements Under Amendment ?
Until New Formula is Adopted

Funding Criteria	Current Law *(Projected Budget Year 2018-19)*	Under Measure For Budget Year 2019-20
Base Per-Student Funding	$6,769 per student	$7,300 per student
Fully Fund Kindergarten	Districts receive approximately half of the per-student funding for each kindergarten student.	Districts receive full per-student funding for each kindergarten student.
Low-income Students	Districts receive funding based on the number of students whose families earn below a certain income level.	Relaxes the income requirements for students to be considered low-income for funding purposes.
Special Education	$176.1 million	$296.1 million (an increase of $120 million)
Gifted and Talented	$12.5 million	$22.5 million (an increase of $10 million)
English Language Proficiency	$21.6 million	$41.6 million (an increase of $20 million)
Preschool	$121.0 million	$131.0 million (an increase of $10 million)

Tax Changes to Fund Education

Income taxes. Amendment ? increases income tax rates to provide additional revenue for public education. Colorado's current individual and corporate income tax rate is a flat 4.63 percent. Beginning in 2019, the measure creates a graduated individual income tax rate for taxable income above $150,000, and increases the corporate tax rate from 4.63 percent to 6.0 percent. The measure is expected to generate $1.6 billion in budget year 2019-20, the first year of implementation, to be spent on public education. This revenue is exempt from constitutional spending limits.

Individual income tax. Table 2 shows the change in individual income tax rates under the measure and the percentage of filers in each tax bracket. The income tax increase will impact 8.2 percent of individual and joint income tax filers. The graduated income tax rate also applies to estates, trusts, and businesses that file individually. The change in income tax rates is expected to increase state revenue by an estimated $1.4 billion in budget year 2019-20.

Table 2. Individual Income Tax Rates Under Amendment?

Taxable income* between...	...is taxed at a rate of...	Percent of filers whose maximum income is in each tax bracket
$0 and $150,000	4.63% (current rate)	91.8%
$150,001 and $200,000	5.0%	3.2%
$200,001 and $300,000	6.0%	2.5%
$300,001 and $500,000	7.0%	1.4%
Over $500,000	8.25%	1.1%

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

Those with taxable income equal to or less than $150,000 will not experience an income tax increase under the measure. The impact of the graduated tax increase on taxpayers with higher earnings will differ based on a taxpayer's taxable income. For example, a taxpayer with taxable income equal to $250,000 would be taxed at 4.63 percent for the first $150,000 in income. The subsequent $50,000 would be taxed at a rate of 5.0 percent, and the final $50,000 would be taxed at a rate of 6.0 percent. Table 3 shows examples of average annual increases in individual income tax liability under the measure.

Table 3. Example Individual Income Tax Increases Under Amendment ?

If your taxable income** is…	The measure will increase your annual income tax liability* by…
less than $150,000	$0
$200,000	$185
$250,000	$870
$400,000	$4,425
$1.0 million	$26,145

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

Corporate income tax. The measure increases the corporate income tax rate from 4.63 percent to 6.0 percent. Businesses that pay corporate income tax are typically large businesses that operate across multiple states or countries. In contrast to the measure's individual tax rate changes, the increase in the corporate income tax rate is not a graduated tax rate and applies to all corporate taxpayers. The change is expected to generate $229.4 million in budget year 2019-20. On average, each of the approximately 15,000 corporate income taxpayers with an income tax liability are expected to pay an additional $14,139 per year under the measure.

Property taxes. Property taxes are paid on a portion of a property's value, determined by an assessment rate. Under current law, the assessment rate for most nonresidential property is set at 29 percent, and the rate for residential property is determined by the state legislature based on a formula in the state constitution. Over time, the residential assessment rate has declined from 21 percent in 1983 to the current rate of 7.2 percent. The rate is expected to fall further to 6.1 percent in 2019, based on projections published by Legislative Council Staff in December 2017.

For school district property taxes only, beginning in 2019, Amendment ? reduces the nonresidential assessment rate from 29 percent to 24 percent, thereby reducing taxes for nonresidential property. The measure reduces the residential assessment rate from 7.2 percent to 7.0 percent, and sets it at this lower rate, keeping it from falling further. Relative to the projected 6.1 percent residential assessment rate, the rate under the measure will result in a tax increase for residential property taxpayers. The measure does not impact the assessment rates for mines and lands producing oil and gas, nor does it impact property taxes levied by other local governments.

Taxpayer impacts. As explained above, the measure is expected to decrease school district property taxes for most nonresidential property taxpayers, and increase school district property taxes for residential property taxpayers beginning in 2019. The impact on property owners will vary significantly based on several factors, including the school finance formula mill levy rate for the local school district, the actual value of the property, the 2019 residential assessment rate without the measure, and whether and what type of mill levy overrides have been approved by the voters in the school district. For information about the projected impacts on taxpayers in a particular school district, please visit https://bit.ly/2M8T0ku.

School finance impacts. In 2019, the measure is projected to decrease school district property tax revenue by $62.4 million, reflecting a decrease in nonresidential property tax revenue of $317.8 million, partially off-set by an increase in residential property tax revenue of $255.3 million. If the state legislature chooses to keep school finance formula funding constant, this decrease in school district revenue in 2019 will be replaced by state funding, which could come from the additional income tax revenue generated by the measure. In future years, local property tax revenue for school districts will only be impacted by changes in property values and mill levy rates, not by a changing residential assessment rate.

Reporting Requirements

Amendment ? requires the Colorado Department of Education, within five years of the measure's implementation, to review how the additional revenue is spent and identify best practices for promoting continuous student achievement. In addition, the state legislature, within ten years of the implementation of the new school finance formula, is required to review the formula and ensure that it meets the goals of the measure.

For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2018, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html

Arguments For

1) The state needs a sustainable source of revenue to adequately and equitably fund public education. Colorado significantly cut P-12 public education funding during the Great Recession, and funding levels have not recovered, even though Colorado has one of the healthiest economies in the nation. Since the 2010-11 budget year, the budget stabilization factor has cut education funding by a total of $7.2 billion. As a result, school districts have had to make difficult choices, such as limiting teacher salaries, increasing class sizes, limiting mental health and counseling services for students, and narrowing course offerings. Further, approximately half of Colorado school districts are currently operating on four-day weeks. The measure alleviates the impact of these historical cuts by providing a dedicated income tax increase to fund public education.

2) The measure provides property tax relief for business property owners, farmers, and ranchers who have paid an increasingly higher proportion of property taxes compared to residential property owners. Since 1983, the nonresidential assessment rate has been set at 29 percent, while the residential assessment rate has fallen from 21 percent to the current 7.2 percent. The measure lessens these inequities between residential and nonresidential property owners by both stabilizing the residential assessment rate and lowering the nonresidential assessment rate for school district property taxes.

3) One of the government’s most important functions is to provide children with a high-quality public education. Local school districts will prioritize how to spend the new revenue in ways that best fit their community, such as recruiting and retaining highly qualified teachers, improving access to early childhood education programs, strengthening science and math, vocational, and literacy programs, and providing a safe learning environment for all students. These are key investments in a successful public education system, which could help ensure a strong Colorado economy that is capable of competing in today’s global market.

4) Constitutional constraints have suppressed local property tax revenue in many areas and led to greater pressure on the state general operating budget to meet required education funding levels. Stabilizing the local share of required school formula funding and creating a dedicated source of state revenue for education provide additional flexibility for the state to use more of its general operating budget on other core programs, such as transportation, public safety, and health care.

Arguments Against

1) The measure imposes a tax increase without any guarantee of increased academic achievement. A focus on education reform rather than new revenue is more likely to improve student outcomes. Policymakers should be encouraged to find efficiencies within the current system and to reprioritize existing revenue in order to meet current education funding requirements. Since the 2012-13 budget year, total formula funding has increased by between 1.3 percent and 7.4 percent annually, and just this year, the legislature increased school formula funding by over $150 million without a tax increase.

2) Increasing the state income tax rate could negatively impact the state’s economy. Businesses will have less money to invest in their workers and individuals will have less money to spend, save, and invest. Colorado may also have a harder time attracting or retaining businesses, as the top income tax rate under the measure would be 8.25 percent, the ninth highest state income tax rate in the country. This puts Colorado at a competitive disadvantage compared to other states.

3) The measure complicates an already complicated property tax system. By creating one assessed value for school districts and another assessed value for all other local taxing entities, the measure will lead to confusion among taxpayers and further complicate tax administration for state and local governments.

Further, this complicated system ultimately represents an additional burden on homeowners, providing a tax cut for businesses at the expense of homeowners.

4) The measure does not allow the state legislature to adjust the income tax thresholds to account for inflation. As a result, over time, more taxpayers will end up in the higher tax brackets as their incomes are adjusted for inflation, resulting in additional revenue that must be spent only on education. To the extent that more revenue is raised than is needed to sufficiently fund education, the state will not be able to use this money to address other critical needs such as transportation and health care. Finally, the additional revenue generated by the measure is exempt from the state's constitutional spending limit, thereby removing an important protection for taxpayers.

Estimate of Fiscal Impact

State revenue. The measure increases state revenue by $750.9 million in budget year 2018-19 (half-year impact) and $1.6 billion in budget year 2019-20. This amount is from individual income taxes and corporate income taxes. This revenue is exempt from constitutional spending limits and must be used for educational purposes identified in the measure.

State expenditures*.* The measure increases state expenditures by $174,933 and 1.6 FTE in budget year 2018-19 and by at least $866.1 million and 1.3 FTE beginning in budget year 2019-20. Expenditure increases in budget year 2018-19 are for administrative costs and increases in budget year 2019-20 include both administrative expenses and the new expenditures for education. Additional administrative expenses may occur in future years to comply with the measure's reporting requirements.

School district impact. The measure increases school district revenue by a minimum of $866 million and up to a net $1.5 billion in budget year 2019-20, the first full fiscal year the measure is implemented. For the potential $1.5 billion, school districts will receive $1.6 billion in state revenue, and see a $62.4 million decrease in revenue from property taxes. The allocation of this revenue to districts is dependent on several factors and has not been estimated; however, a minimum of $866 million must be distributed in budget year 2019-20 for the purposes specified in the measure.

Local government impact. The measure increases costs for county assessors and treasurers offices to update computer and data systems related to the changes in assessment rates. Specific costs will vary among counties.

Last Draft Comments from Interested Parties

Amendment 73
Funding for Public Schools

Anna Feldman, representing the proponents:

Page 1 – Lines 18-20 – (the rationale being that other dollars included in this amount are not from state sources)
Based on the latest available data, total state-generated education funding totals approximately $8.8 billion, of which $6.6 billion is allocated to school districts through a formula in state law established under the existing school finance act, and $297.6 million is distributed through categorical state grants for specific programs. Formula funding begins with….

Page 2 – Lines 33-35 – (This is based on our conversation, as well as that the Amendment impacts 2 components of the funding: the school finance act and categoricals)
The additional $1.6 billion in new revenue generated by the measure must be spent on public education in the following manner: first, the funding criteria set forth in Table 1 must be met, resulting in $866 million in new school funding for 2019-2020 compared to the current school year; second, the remaining $734 million in new revenue must be distributed through the existing school finance act to local school districts to spend on local school district priorities

Page 3 – Table 1 – per our conversation to add another box that would reflect the $734 million to be distributed through the existing school finance act to local school districts to spend on local school district priorities. For illustrative purposes:

Table 1. Funding Requirements Under Amendment ?
Until New Formula is Adopted

Funding Criteria	Current Law *(Projected Budget Year 2018-19)*	Under Measure For Budget Year 2019-20
Base Per-Student Funding	$6,769 per student	$7,300 per student
Fully Fund Kindergarten	Districts receive approximately half of the per-student funding for each kindergarten student.	Districts receive full per-student funding for each kindergarten student.
Low-income Students	Districts receive funding based on the number of students whose families earn below a certain income level.	Relaxes the income requirements for students to be considered low-income for funding purposes.
Special Education	$176.1 million	$296.1 million (an increase of $120 million)
Gifted and Talented	$12.5 million	$22.5 million (an increase of $10 million)
English Language Proficiency	$21.6 million	$41.6 million (an increase of $20 million)
Preschool	$121.0 million	$131.0 million (an increase of $10 million)

Additional revenue	No additional dollars	$734 million all additional revenue
Total Funding		$1.6 billion new revenue

Page 4 – Table 3 for $400,000 it is $3925 and for $1.0 million it is $24,395

Page 4 – Lines 29-30 (our concern on all of this is that coming up with an impact for dropping the residential assessment rate and applying the old assessed valuation and creating a number will be incorrect)

Residential assessment rate could be reduced in 2019, the state has initially indicated this estimate at 6.1%, a final determination of the rate will not be established until April of 2019 and will not impact taxpayers until 2020.

Page 5 – Link to the map on line 9 – to distinguish in the map with Amendment 73 to show 2 scenarios:

1) If Amendment 73 passes: This amendment will reduce the residential assessment rate from 7.2% to 7.0% and the non-residential rate from 29% to 24%.
2) Separated by a new paragraph – If Amendment 73 does not pass: the state has estimated residential assessments rates to drop in 2019 this initial estimate is 6.1%. This change will not reduce the non-residential assessments rates. Taxpayers will not see any change until 2020

Page 7 – Lines 26-27 (the rationale is to be consistent with other references in the bluebook)

The additional $1.6 billion in new revenue generated by this measure must be spent on public education

Page 7 – Lines 28-30 (the rationale remaining consistent with the other references in the bluebook)

Eliminate sentence beginning: The allocation… and replace with the additional $1.6 billion in new revenue generated by the measure must be spent on public education in the following manner: first, the funding criteria set forth in Table 1 must be met, resulting in $866 million in new school funding for 2019-2020 compared to the current school year; second, the remaining $734 million in new revenue must be distributed through the existing school finance act to local school districts to spend on local school district priorities

Last Draft Comments from Interested Parties

Dennis Gallagher, representing himself:

Dear Anna: Here are my comments on 93.

If this measure passes, in the first year of implementation, residential property taxpayers will pay more than $600 million in increased taxes while business property taxpayers will pay less.

So here we go again, business property tax payers will shift their share of property tax burden onto Colorado's residential taxpayers.

This measure is more confusing, convoluted and complex than TABOR.

The title framers would have been more transparent if they would have described this measure's question as: "Should residential property taxpayers in Colorado pay more so business taxpayers can pay less?"

Hope to see you in September to listen to the discussion of blue book words, Dennis Gallagher

Linda Gorman, representing the Independence Institute:

Main concerns:
The sections explaining the effects of the proposed tax increases emphasize how few people are paying the tax and suggest that only large corporations will pay the corporate tax increase. Some of the statements in these sections edge towards advocacy because proponents would obviously like to convince a majority of voters that they can have higher spending while taxing the other guy, in this case by taxing “the rich.”

Specific language that does this:

Page 4, lines 11-12: “Businesses that pay corporate income tax are typically large businesses that operate across multiple states or countries.”

The Colorado Secretary of State listed over 100,000 corporations in good standing in Colorado in the first quarter of 2018. The 2017 Department of Revenue Annual Report included the statement that there were 49,643 corporate tax returns filed in the state in 2015 (page 54). In 2017, 53,503 electronic and paper corporate returns were processed. (page 61). It also states that corporations paid about 7.2 percent of all gross receipts.

Are all these returns filed by large businesses operating across multiple states or countries? This seems unlikely. Please provide references to the data supporting that statement in the Blue Book draft. How is a “large business” defined? After all, even small corporations can have banner years if they sell part of the business, surf a trend, or get a big legal settlement. Do extremes of many very small corporate tax payments affect the average increase in payments of $14,139 per year? What about extremes of very large payments?

To reduce the level of advocacy, please consider just giving people the actual numbers: “The Colorado Secretary of State listed over 100,000 corporations in good standing in Colorado in the first quarter of 2018. X percent, or Y of them, paid corporate taxes. Each of them will be affected by the corporate tax increase.” Page 4, lines 15-17: “On average, each of the approximately 15,000 corporate taxpayers with an income tax liability are expected to pay an additional $14,139 per year under the measure.”

Are all of these large? Are they the same 15,000 every year? How many corporations reported losses in one year that might be gains in another? Corporate earnings can be variable. What year were these data extracted from?

Page 3, lines 11-16: “Table 2 shows the change in individual income tax rates under the measure and the percentage of filers in each tax bracket. The income tax increase will impact 8.2 percent of individual and joint income tax fliers. The graduated income tax rate also applies to estates, trusts, and businesses that file individually.”

This section seems to imply that only individuals (or joint) filers pay income taxes, a problem that occurs throughout the draft. On page 3, lines 13-15, the draft clearly states that the income tax rate “also applies to estates, trusts, and businesses that file individually.” Why not make it clear that the income tax also affects businesses by simply referring to “households, businesses, and other income tax filers? “ This gets around the individual versus joint problem. A household is a household whether as an individual, two people filing individually, or a couple filing jointly.

Page 4, Line 7 , would then read “Table 3 shows examples of the average annual increase in income tax liability for households, businesses, and other entities in each individual tax bracket.” The table title should be modified to reflect the change in terminology.

The heading in Table 3, second column, should read “Increase in annual income tax liability.” Not the personalized, individualized “your annual income tax liability.” The second line of the footnotes could then be eliminated.

Page 3, Table 2, the title, the column headings and the footnote entirely ignore businesses. Page 3, Lines 11-16 emphasize individual income tax rates, and “individual and joint income tax filers.” In fact, it goes so far as to say that “the income tax increase will impact 8.2 percent of individual and joint income tax filers.” This ignores the effect on business.

Though many voters recognize that taxing businesses may lead to fewer businesses, they do not realize that the majority of businesses in the US file as individuals. The current Blue Book draft does not enlighten them. In 2011, 23.4 million sole proprietorships filed US tax returns, 3.2 million businesses filed partnership returns, and 4.15 million businesses filed as S corporations. Only 1.6

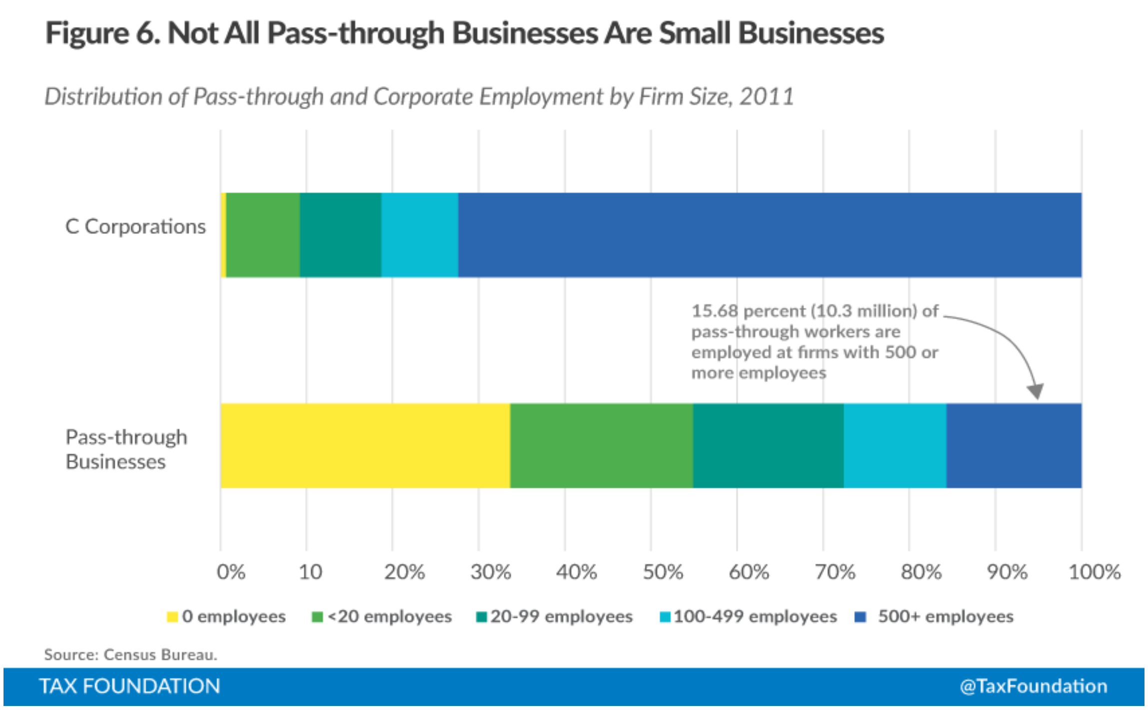
million businesses filed as C corporations. In view of the fact that the majority of US businesses file as individuals, the Blue Book needs some recognition of the fact that the "individual" income tax rates on higher incomes the Amendment creates are likely to disproportionately affect businesses.

Existing data suggest that businesses will be heavily affected by the new income tax rates. According to 2015 data from the IRS, the majority of Colorado filers with adjusted gross income above $500,000 have business or partnership income. So do more than a third of the people with incomes at $200,000 and above.   Here are the data. Note that not all pass-through businesses are small, just as not all c corporations are big. Colorado ranks 17th among the states in employment by pass-through businesses filing as individuals.

Happy to provide the complete spreadsheet if it would be helpful.

Colorado Income Tax Details	**Income $100,000 to under $200,000**	**Income $200,000 to under $500,000**	**Income $500.000 to under $1,000,000**	**Income $1,000,000 or more**
Total number of returns (2,617,250)	370,100	113,740	16,310	7,650
Percent of returns reporting S corporation or partnership earnings	17	37	64	80
Percent of total Adjusted Gross Income	27	17	6	12
Percent of Total Returns	14	4	1	<1

Link: https://files.taxfoundation.org/legacy/docs/SR227-Figures_6.png



Last Draft Comments from Interested Parties

The third bullet point at the top of page 1 should say that the measure will raise residential property taxes. The draft already says this on page 4, line 29***.*** If income taxes increases are important enough to be included in a bullet point, so are property tax increases. In the discussion on page 4, the draft should also explain that as housing prices rise the constitutionally required 7 percent rate ensures that residential property taxes paid will rise in the future as well.

In "Arguments For," page 5 lines 26-31 there are two factual errors that should be eliminated.

The first is "Colorado significantly cut P-12 public education funding during the Great Recession, and funding levels have not recovered…" This is simply not true.

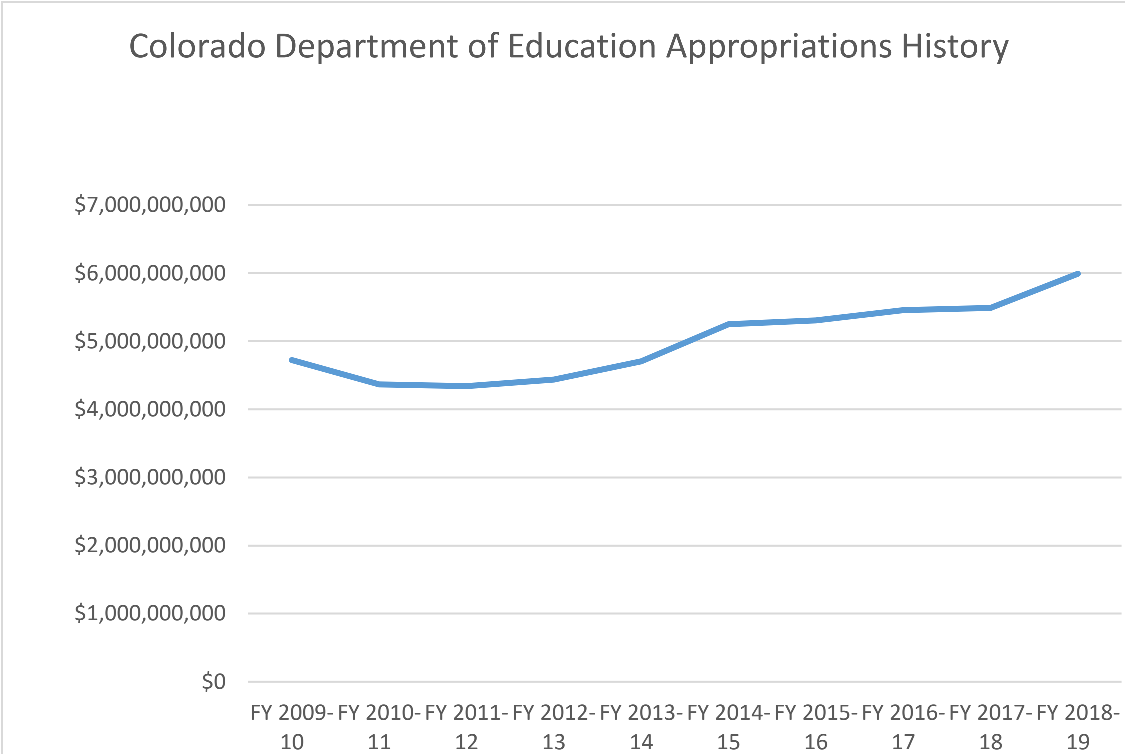
Funding levels have more than recovered—they are the highest ever as the graph of the Colorado Department of Education appropriations history shows. The JBC appropriations history lists FY 2009-10 appropriations as $4.725 billion. Its lowest point was $4.340 billion in FY 2012-12. For FY 2018-19 appropriations will be $5.992 billion. It is simply inaccurate to say that spending levels have never recovered.

As an aside, the dates of the Great Recession are December 2007 – June 2009. Colorado cut spending in FY 2009-2010. State fiscal years run from July to June. "As a result of the Great Recession" would be accurate. During the Great Recession is not.

The second is "the budget stabilization factor has cut education funding by a total of $7.2 billion."

One cannot claim that a spending cut has occurred when money has never been appropriated. The school finance formula is a theoretical model that shows how funding might be distributed across school districts if infinite funds are available. But funds are never infinite. The budget stabilization factor is used to reduce the theoretical spending of the school finance model to the level of the appropriations available. This is a method for appropriating school funding, not a "cut" as normal people interpret it. As we saw above, school funding has not been "cut" by $7.2 billion. At most, it was cut during FY 2009-10 by $359 million, and by slightly more than $25 million in FY 2010-11. This is nowhere close to $7.2 billion.

Last Draft Comments from Interested Parties



Please correct my error in the points against and rewrite certain sections as follows:

1. Please correct what I believe was my error on page 6 line 38. It should read "…the eighth highest state income tax rate in the country." Colorado will be tied with Hawaii. Leaving DC out leaves CO as 8th highest rate.

2. Please consider rewriting page 6, lines 25 to 27 as follows:

"A focus on educational opportunity rather than new revenue is most likely to improve student outcomes. The proposed Amendment allows the additional money to be spent on anything the state bureaucracy defines as educational, including higher pension payments, more administrative positions, and subsidized preschool or daycare. The higher taxes on businesses will reduce employment and private sector training opportunities for students as they leave the public schools. Policymakers should be encouraged to find….."

3. Please consider rewrite page 6, line 40, as follows:

"The measure increases residential property now and in the future. It reduces commercial property taxes. It complicates an already complicated property tax system. By……"

Other Miscellaneous points:

On pages 4 (lines 25-32) and 5 (lines 1-9) the draft discusses the "decrease in nonresidential property tax rates" first in each case. In the interest of even treatment, the order should be switched in at least one of the cases as people are likely to react most strongly to the first item in any list.

Page 5 lines 22-24: Should read “If the state legislature implements a new school finance formula, the legislature must review the formula within 10 years to ensure that it meets the goals of the proposed Amendment.” The draft never delineates the goals of the Amendment so it is inappropriate to mention them here. Suggestion: just leave it as “If the state legislature implements a new school finance formula, the legislature must review the formula within 10 years.”

Page 7, estimate of fiscal impact. Lines 12-33. Should include disclaimer that *if state incomes rise as projected*, the measure will increase state revenues by XYZ.

Rather than making readers work to figure out how much the local government impact will be, it would be nice to include a general estimate. After all, one of the opposition points is how complex this will make the property tax system.

Joann Groff, representing the Division of Property Taxation in the Department of Local Affairs

Upon review Draft 3 of the proposed blue book on Initiative #93 soon to be Amendment ?, a few suggestions and comments:

Page 4, under property taxes, line 19, do you think it would be helpful to insert an example of what an assessment rate means? For instance,

For example, on $100,000 of actual value, an assessment rate of 7% creates $7,000 of assess value; an assessment rate of 24% creates $24,000 of assessed value.

On line 27, insert the word current between the and residential

On line 32, do you mean that the measure does not impact property taxes levied? Or, do you mean the assessment rate for all other local governments?

On that same topic, if you mean the assessment rate for all other local governments is not impacted, I have to respectfully disagree. I believe the language of the amendment is ambiguous at best in this area.

An unanticipated consequence: Narrowly construing the “Notwithstanding” language of the amendment, the reduction of the “all other” assessment rate to 24% will need to be taken into consideration when calculating the target percentage and the 7% residential rate will need to be part of the calculation for the residential assessment rate that will apply to all other taxing jurisdictions.

What does this mean more simply? **The residential assessment rate for all other taxing jurisdictions will be lower than it would have been without the School property tax base of 7% RAR freeze and reduction to 24% for most other**

types of properties.

Broadly applying the interpretation of “notwithstanding” to say the adjustment in assessment rates for schools should not be considered when calculating the residential assessment rate to be used for all other taxing jurisdictions, the new assessment rates for schools will shift a higher proportion of property tax obligation to residential property, undermining the intent of Gallagher.

In support of my position, an informal attorney general opinion [ATTACHMENT A] on whether “Notwithstanding” should be narrowly or broadly applied is attached as a separate document to e-mail transmission.

Jason Hopfer, representing the county treasurers:

John LeFebvre, Weld County Treasurer
This measure initial lowers taxes for homeowners for only the first year. After that it holds the taxes at higher assessment rates indefinitely. The Assessor and Treasurer systems were not built to handle different assessment rates for individual authority types. This will cause all of these systems to be reprogrammed and will cause a large burden on government and individuals to have to hand calculate the taxes for purposes of auditing the work. During our early tax roll work in late December and early January it will at a minimum double if not quadruple the time it takes to spot check the tax roll. This comes at a critical time when we are statutorily required to get the tax bills out by the end of January. So to do this work we will either have to greatly expand staffing (which is not practical as they would need to be trained to do this work) during this time or do less checking which will likely result in tax bill errors. Weld County has over 400 underlying tax authorities and unique 4,000 tax areas that we routinely spot check certain tax bill types for each authority in as many tax areas as possible. This will create serious auditing issues.

Dee Ann Stults, Yuma County Treasurer and Public Trustee
I agree totally with John’s comments. This is going to put a burden on counties, especially smaller ones that are already strapped for money. I don’t have the staff and I have seven school districts that we would have to work with.

Jana Mendez, representing herself:

Hello Anna - Below is the additional language I'd like to see added to the Blue Book language for arguments against Amendment 93...in the property tax section. After fighting to uphold the Gallagher Amendment for 10 years in the State Senate, i cannot stand by and let these folks get by with that veiled attempt to increase homeowners' property taxes. As one - at least - public school superintendent told me..."It is greedy AND sneaky." Bravo to him, I say. Unfortunately, too many superintendents cannot see past the dollar signs. I have personally voted for every property tax increase in my local district over the years. But this is unconscionable. Thanks. Jana Here is the language:

Last Draft Comments from Interested Parties

There is a "poison pill" in the property tax portion of Amendment 93. Since the Gallagher amendment was passed to reduce rapidly increasing property taxes on homes, billions of dollars have been saved by homeowners. The current proposal eliminates that protection. It causes an immediate real property tax increase to homeowners, while giving business a big property reduction. And this increase for homeowners would be amplified in future reassessments. It’s a bad deal for homeowners.

Luke Ragland, representing Ready Colorado:

Please find our comments below. Always happy to discuss if you have any questions!

1) Page 1, line 4: Remove the word "individual"

Rationale: It might be confusing to joint filers that think if they make less than $150,000 as an individual they will not have to pay any increase. If you are uncomfortable removing "individual" I hope we can at least add and asterisk similar the one under table 2.

2) Page 3, line 13: Replace "8.2%" to the number of actual Coloradans the increase will impact. At a minimum, it would be best to note the total number of people in addition to the percentage.

Rationale: This make more sense to the everyday voter understanding truly how many people will pay the tax vs. a percentage

3) Page 3, table 2: Replace percentages in the 3rd column with the actual number of Colorado taxpayers

Rationale: Same as 2

4) Page 4, lines 11-12: Remove the sentence that starts with "Businesses" and ends with "countries."

Rationale: I believe this is factually inaccurate. The statement is likely untrue for more than half of registered corporations in Colorado.

5) Page 5, line 28: Remove "funding levels have not recovered" or add language clarifying "adjusted for inflation"

Rationale: Funding levels have in-fact recovered and we now spend more per pupil. If that language is included it needs to say "adjusted for inflation" or it is potentially inaccurate.

6) Page 6, Argument Against #1, amend lines 25-29 to read: "The measure imposes a tax increase without a focus student achievement. Focusing on education

opportunity rather than new revenue is more likely to improve student outcomes. Policymakers can and should find efficiencies within the current system and to reprioritize existing revenue in order to better serve students."

Rationale: Makes it cleaner for the everyday Coloradan to understand and has less education policy speak.

7) Page 6, line 37: Replace "ninth" with "eighth"

Rationale: 8.25% would make Colorado the 8th highest state, but 9th if D.C. is included, which isn't a state. Comparing state tax rates v. District of Columbia tax rates is problematic because of different levels of governance.

8) Page 6, line 40. Make the first sentence of Argument Against #3 read: "This complicated system will result in an increase in residential property taxes for homeowners while providing a property tax cut for corporations and commercial enterprises." Eliminate lines 1-2 on page 7 if this change is made.

Rationale: A more clear and direct message of what this will actually do to Coloradans and their own personal property tax.

9) Page 7, line 6: Replace "resulting in additional revenue that must be spent on education" with "resulting automatic increases in their own tax rates."

Rationale: The focus should be on the negative implications on the tax increase not the spending. Because of inflation, more and more people will automatically see their taxes increase, regardless of whether real wages have increased.

If any of these do not make sense or need additional clarifications for our "rationale" we would love to meet in person for discussion. Please let us know, thank you!

Ron Stewart, representing himself:

It's hard to be against a proposal for more school funding, but when that funding comes with a giveaway to business property and a huge increase to residential property it just isn't right.

This amendment is about a lot more than just increasing funds for schools by raising taxes on the rich. It is also a huge tax increase on homeowners of all income categories and for other residential property owners. And that tax increase will multiply over time. How? The amendment removes the protection that is provided to residential property in Colorado's constitution. It changes the way property taxes are determined for school purposes, shifting more taxes onto homeowners and reducing taxes on business property. It's a huge shift, with possibly more than $600 million in additional taxes in 2020 for homeowners and other residential property and a reduction in business property taxes. So there will be an immediate impact if the amendment is successful.

And that impact will continue as residential property values continue to soar in Colorado. Instead of having a buffer against future valuation increases, residential property will pay more and more of the total tax bill for schools. That buffer is called the Gallagher Amendment and it has saved residential property owners over $30 billion in property taxes since 1987 - and about $2.25 billion in 2017 alone.

Let's do this right and not burden homeowners with a huge tax increase.

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MEMORANDUM

TO:	JoAnn Groff; Curt Settle
FROM:	John H. Ridge (Colo. Dept. of Law)
DATE:	August 16, 2018
RE:	Review of "Notwithstanding" Clause in Initiative 93

1. <u>The Notwithstanding Clause at Issue</u>: Initiative 93 includes the following "Notwithstanding" clause:

> *Notwithstanding the Requirements of Subsection (1)(b)(I) of this section*, for all school district property tax levies in any property tax year commencing on or after January 1, 2019, residential real property shall be valued for assessment at seven percent of its actual value, and all other taxable property shall be valued for assessment at twenty-four percent of its actual value except as otherwise set forth in subsection (1)(b)(I) of this section with regard to producing mines and lands or leaseholds producing oil or gas.

2. <u>Two Interpretations</u>: There are two ways to interpret this clause:

a. *The Broad Interpretation*: The notwithstanding clause could be interpreted broadly. Under this interpretation, in the context of school district property tax levies, all of the requirements of subsection (1)(b)(I) are abrogated and replaced by the new requirements set forth in the notwithstanding clause itself. Residential property would then be valued at seven percent of its actual value without any adjustments associated with the residential assessment rate.

b. *The Restricted Interpretation*: The notwithstanding clause could be interpreted narrowly. Under this interpretation, only those requirements of subsection (1)(b)(I) that specifically conflict with the language in the notwithstanding clause are abrogated and replaced by the new requirements. In this instance, residential property would be valued at seven percent of its actual value, but the remainder of the requirements in subsection (1)(b)(I) would still apply.

3. <u>The Restricted Interpretation Applies</u>: It is our opinion that the restricted interpretation applies in this instance.

Generally speaking, "notwithstanding" clauses do not eliminate the scope of the statutory provisions to which they refer, but simply suggest that textual emendations are appropriate under the conditions suggested. *See* Antonin Scalia & Bryan A. Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 126 (Thompson/West 2012) ("A dependent phrase that begins with *notwithstanding* indicates that the main clause that it introduces … derogates from the provision to which it refers.") (emphasis in original), *cited in* Labor & Empl. L. P 207049 (C.C.H.), 2015 WL 9164495. In other words, the "notwithstanding" clause at issue means "to the extent that subsection (1)(b)(I) deviates from, or conflicts with, the specific terms in subsection (1)(b)(II), the language of subsection (1)(b)(II) controls." Because only the percentages of actual value are modified by subsection (1)(b)(II), only those percentages are modified. All other requirements in the main provision—subsection (1)(b)(I)—remain the same.

In almost every instance, commentators and courts have interpreted notwithstanding clauses narrowly, to except only those specific provisions in the main clause that conflict with the enumerated terms in the notwithstanding clause. For example:

- The statutory construction commentary SUTHERLAND STATUTES AND STATUTORY CONSTRUCTION, in the section discussing statutory interpretation relating to revenue laws, states that "a 'notwithstanding' clause merely excepts enumerated provisions *that otherwise conflict*." 3A SUTHERLAND STATUTORY CONSTRUCTION § 66:3 (7th ed.) (emphasis added). *See also* 3A SUTHERLAND STATUTORY CONSTRUCTION §§ 71:4, 73:8, 75:1 (7th ed.) (coming to the same conclusion in the consumer credit, public elections, and employment contexts).

- The United States Supreme Court has stated that "[a]s we have noted previously in construing statutes, the use of such a 'notwithstanding' clause clearly signals the drafter's intention that the provisions of the 'notwithstanding' section override *conflicting provisions* of . . . other section[s]." *Cisneros v. Alpine Ridge Group*, 113 S. Ct. 1898, 1903 (1993) (emphasis added). *See also* Disposition of Proceeds from the Sale of Real Property Acquired with Money from the Social Security Trust Funds, 2010 WL 11617851, *3 (O.L.C. 2010) (citing *Cisneros* for the proposition that "notwithstanding" clauses only override conflicting provisions).

- The United States Supreme Court has also stated that a "'notwithstanding' clause . . . just shows which of two or more provisions prevails in the event of a conflict. Such a clause confirms rather than constrains breadth." *N.L.R.B. v. SW General, Inc.*, 137 S. Ct. 929, 940 (2017).

- The Ninth Circuit noted that "'notwithstanding' clauses nullify *conflicting* provisions of law." *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1083 (9th Cir. 2014) (emphasis in original).

- The Illinois Supreme Court stated that "[t]he function of a 'notwithstanding' clause is not to qualify or restrict the scope of the preceding provision. Rather it enumerates or designates the conditions in spite of which the provision is to apply." *Beck v. Buena Park Hotel Corp.*, 30 Ill. 2d 343, 348 (Ill. 1964).

While Colorado courts have not specifically addressed this issue, we think it is likely that they would follow the United States Supreme Court's lead.

4. Applying a Broad Interpretation Only when Language Requires: Courts have occasionally applied the broad interpretation, but this is generally used when the language of the "notwithstanding" clause suggests such an interpretation. For example, the Eighth Circuit applied a broad interpretation when the relevant clause stated that "*Notwithstanding any other provision of law*, the settlement of a claim under section 2733 . . . of this title is final and conclusive." *Schneider v. U.S.*, 27 F.3d 1327, 1331 (8th Cir. 1994) (emphasis added). The court found that the broad language of the clause, excluding "any other provision of law," meant that even judicial review was excluded, and to interpret it otherwise would be to render meaningless the broad language of the phrase. *Id.*

Because the "notwithstanding" clause in the matter at hand does not clearly and plainly abrogate the entirety of subsection (1)(b)(I), we do not think the broad interpretation would be appropriately applied here.

Amendment 73
Funding for Public Schools
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Amendment #73
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Amendment 73
Funding for Public Schools

Ballot Title: SHALL STATE TAXES BE INCREASED $1,600,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING FUNDING RELATING TO PRESCHOOL THROUGH HIGH SCHOOL PUBLIC EDUCATION, AND, IN CONNECTION THEREWITH, CREATING AN EXCEPTION TO THE SINGLE RATE STATE INCOME TAX FOR REVENUE THAT IS DEDICATED TO THE FUNDING OF PUBLIC SCHOOLS; INCREASING INCOME TAX RATES INCREMENTALLY FOR INDIVIDUALS, TRUSTS, AND ESTATES USING FOUR TAX BRACKETS STARTING AT .37% FOR INCOME ABOVE $150,000 AND INCREASING TO 3.62% FOR INCOME ABOVE $500,000; INCREASING THE CORPORATE INCOME TAX RATE BY 1.37%; FOR PURPOSES OF SCHOOL DISTRICT PROPERTY TAXES, REDUCING THE CURRENT RESIDENTIAL ASSESSMENT RATE OF 7.2% TO 7.0% AND THE CURRENT NONRESIDENTIAL ASSESSMENT RATE OF 29%TO 24%; REQUIRING THE REVENUE FROM THE INCOME TAX INCREASES TO BE DEPOSITED IN A DEDICATED PUBLIC EDUCATION FUND AND ALLOWING THE REVENUE COLLECTED TO BE RETAINED AND SPENT AS VOTER-APPROVED REVENUE CHANGES; REQUIRING THE LEGISLATURE TO ANNUALLY APPROPRIATE MONEY FROM THE FUND TO SCHOOL DISTRICTS TO SUPPORT EARLY CHILDHOOD THROUGH HIGH SCHOOL PUBLIC EDUCATIONAL PROGRAMS ON AN EQUITABLE BASIS THROUGHOUT THE STATE WITHOUT DECREASING GENERAL FUND APPROPRIATIONS; DIRECTING THE LEGISLATURE TO ENACT, REGULARLY REVIEW, AND REVISE WHEN NECESSARY, A NEW PUBLIC SCHOOL FINANCE LAW THAT MEETS SPECIFIED CRITERIA; UNTIL THE LEGISLATURE HAS ENACTED A NEW PUBLIC SCHOOL FINANCE LAW, REQUIRING THE MONEY IN THE FUND TO BE ANNUALLY APPROPRIATED FOR SPECIFIED EDUCATION PROGRAMS AND PURPOSES; REQUIRING THE MONEY IN THE FUND TO BE USED TO SUPPORT ONLY PUBLIC SCHOOLS; REQUIRING GENERAL FUND APPROPRIATIONS FOR PUBLIC EDUCATION TO INCREASE BY INFLATION, UP TO 5%, ANNUALLY; AND REQUIRING THE DEPARTMENT OF EDUCATION TO COMMISSION A STUDY OF THE USE OF THE MONEY IN THE FUND WITHIN FIVE YEARS?

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

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

Section 17. Education – Funding. (4.5) **Quality Public Education Fund Created**. (a) THIS SUBSECTION SHALL BE KNOWN AND CITED AS THE "QUALITY PUBLIC EDUCATION FUND AMENDMENT OF 2018". THE PURPOSE OF THIS SECTION IS TO CREATE A MORE SUSTAINABLE, FAIR, AND ADEQUATE SYSTEM FOR FINANCING PUBLIC SCHOOLS THAT IS DESIGNED TO MEET THE NEEDS OF EVERY STUDENT IN THE STATE OF COLORADO TO PREPARE THEM FOR SUCCESS IN CAREER, COLLEGE, AND LIFE.

(b) THERE IS HEREBY CREATED IN THE DEPARTMENT OF THE TREASURY THE QUALITY PUBLIC EDUCATION FUND. THE QUALITY PUBLIC EDUCATION FUND SHALL RECEIVE ALL REVENUES COLLECTED THROUGH AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING APPROVED BY THE VOTERS AT THE 2018 GENERAL ELECTION. ALL INTEREST EARNED ON MONEYS IN THE QUALITY PUBLIC EDUCATION FUND SHALL BE DEPOSITED IN THE QUALITY PUBLIC EDUCATION FUND AND SHALL BE USED BEFORE ANY PRINCIPAL IS DEPLETED. MONEYS REMAINING IN THE QUALITY PUBLIC EDUCATION FUND AT THE END OF

ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND NOT REVERT TO THE GENERAL FUND, THE STATE EDUCATION FUND, OR TO ANY OTHER CASH FUND.

(c) IN STATE FISCAL YEAR 2019-2020, AND EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE, AND SCHOOL DISTRICTS MAY ANNUALLY EXPEND, MONEYS FROM THE QUALITY PUBLIC EDUCATION FUND FOR SUCH PURPOSES AS SHALL BE SPECIFIED BY LAW TO IMPROVE, SUPPORT AND ENHANCE THE QUALITY OF PRE-PRIMARY, PRIMARY, AND SECONDARY PUBLIC SCHOOL EDUCATIONAL PROGRAMS, RESOURCES, AND OPPORTUNITIES ON AN EQUITABLE BASIS FOR THE BENEFIT OF STUDENTS THROUGHOUT THE STATE.

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

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

(1)(b)(I) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. All other taxable property shall be valued for assessment at twenty-nine percent of its actual value. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation.

(b)(II) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (1)(b)(I) OF THIS SECTION, FOR ALL SCHOOL DISTRICT PROPERTY TAX LEVIES IN ANY PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2019, RESIDENTIAL REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT SEVEN PERCENT OF ITS ACTUAL VALUE, AND ALL OTHER TAXABLE PROPERTY SHALL BE VALUED FOR ASSESSMENT AT TWENTY-FOUR PERCENT OF ITS ACTUAL VALUE EXCEPT AS OTHERWISE SET FORTH IN

SUBSECTION (1)(b)(I) OF THIS SECTION WITH REGARD TO PRODUCING MINES AND LANDS OR LEASEHOLDS PRODUCING OIL OR GAS.

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

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

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

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

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

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

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

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

(e) A MORE SUSTAINABLE, FAIR, AND ADEQUATE SYSTEM FOR FINANCING PUBLIC SCHOOLS IS NECESSARY TO ACHIEVE THESE GOALS AND MEET THE NEEDS OF EVERY STUDENT IN THE STATE OF COLORADO TO PREPARE THEM FOR SUCCESS IN CAREER, COLLEGE AND LIFE IN THE 21ST CENTURY.

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

(3) (a) IN STATE FISCAL YEAR 2019-2020, AND EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE, AND LOCAL SCHOOL DISTRICTS MAY ANNUALLY EXPEND, MONEYS FROM THE QUALITY PUBLIC EDUCATION FUND FOR THE PURPOSES STATED IN THIS SUBSECTION (3).

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

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

(II) TO INCREASE THE LEVEL OF TOTAL ANNUAL STATE FUNDING FOR CATEGORICAL PROGRAMS DIRECTED TO SPECIAL EDUCATION BY AN AMOUNT NO LESS THAN ONE HUNDRED TWENTY MILLION DOLLARS, TO PROGRAMS FOR GIFTED AND TALENTED STUDENTS BY AN AMOUNT NO LESS THAN TEN MILLION DOLLARS, AND TO PROGRAMS FOR ENGLISH LANGUAGE PROFICIENCY BY AN AMOUNT NO LESS THAN TWENTY MILLION DOLLARS OVER THE AMOUNTS OF FUNDING FOR THOSE PROGRAMS FOR FISCAL YEAR 2018-2019, PLUS ANNUAL ADJUSTMENTS FOR INFLATION;

(III) TO INCREASE ANNUAL STATE FUNDING FOR PRE-SCHOOL EARLY EDUCATION PROGRAMS BY AN AMOUNT NO LESS THAN TEN MILLION DOLLARS OVER THE AMOUNT OF FUNDING FOR THOSE PROGRAMS FOR FISCAL YEAR 2018-2019, PLUS ANNUAL ADJUSTMENTS FOR INFLATION;

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

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

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

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

(5) MONEYS APPROPRIATED FROM THE QUALITY PUBLIC EDUCATION FUND SHALL BE USED TO SUPPLEMENT, AND NOT SUPPLANT, THE LEVEL OF FISCAL YEAR GENERAL FUND APPROPRIATIONS FOR

PUBLIC EDUCATION FUNDING EXISTING ON THE EFFECTIVE DATE OF THIS SUBSECTION, PLUS ANNUAL ADJUSTMENTS FOR INFLATION UP TO A MAXIMUM ANNUAL ADJUSTMENT OF FIVE PERCENT.

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

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

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

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

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – definitions – repeal. (1.7) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2000, a tax of four and sixty-three one hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust. IN ADDITION TO THE TAX RATE AUTHORIZED IN THIS SUBSECTION ON FEDERAL TAXABLE INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS, FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING TO BE DEDICATED TO THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF TITLE IX OF THE STATE CONSTITUTION SHALL BE IMPOSED ON THE FEDERAL TAXABLE INCOME OF SUCH TAXPAYERS:

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

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

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

AND

(d) OVER FIVE HUNDRED THOUSAND DOLLARS, AT THE RATE OF THREE AND SIXTY-TWO ONE HUNDREDTHS PERCENT.

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

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

(I) Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2000, four and sixty-three one hundredths percent of the Colorado net income. IN ADDITION TO THE TAX RATE AUTHORIZED IN THIS SUBSECTION (1)(d)(I)(I), FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, AN INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING TO BE DEDICATED TO THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF TITLE IX OF THE STATE CONSTITUTION SHALL BE IMPOSED ON COLORADO NET INCOME AT THE RATE OF ONE AND THIRTY-SEVEN ONE HUNDREDTHS PERCENT.

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

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

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

(I) FOR ALL TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, ALL MONEYS DERIVED FROM THE INCOME TAX INCREMENT FOR PUBLIC SCHOOL FUNDING UNDER SECTIONS 39-22-104(1.7) AND 39-22-301(1) C.R.S., SHALL BE CREDITED TO AND DEPOSITED IN THE QUALITY PUBLIC EDUCATION FUND CREATED BY SUBSECTION (4.5) OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION. NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION OF LAW, ALL MONEYS CREDITED TO AND DEPOSITED IN THE QUALITY PUBLIC EDUCATION FUND PURSUANT TO THIS SUBPARAGRAPH AS APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2018, MAY BE COLLECTED AND SPENT AS VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE SUBSEQUENT VOTER APPROVAL.

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