

**COLORADO SUPREME COURT**  
2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. § 1-40-107(2)  
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2023-2024 #248 (“Property Tax Revenue”)

**Petitioners:**  
Michael Fields and Dave Davia

v.

**Respondents:**  
Scott Wasserman and Ann Adele Terry,  
Objectors  
and  
Title Board: Theresa Conley, Christy  
Chase, and Kurt Morrison

**▲ COURT USE ONLY ▲**

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Case Number: 24SA122

**PETITIONERS’ ANSWER BRIEF**

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

**The brief complies with the applicable word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).**

It contains 680 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).**

For each issue raised by the appellant, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.

/s/ Suzanne Taheri  
Suzanne M. Taheri, #23411  
*Attorney for Petitioners*

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## REPLY ARGUMENT

Respondents focus on the complexity of Colorado funding schemes to encourage the Court to examine the issues with an exactitude that is not required by law. It is the complexity of the funding formulas that properly connect the reduction in property tax to school funding.

### **I. Initiative #248 is a single subject.**

This Court has found that “[m]ultiple ideas might well be parsed from even the simplest proposal by applying ever more exacting levels of analytic abstraction,” but that is not the appropriate exercise under single subject review. *In re 2021-2022 #16*, 489 P.3d at 1223 (quoting *In re 1997–1998 No. 74*, 962 P.2d at 929).

Respondents Terry and Wasserman ask the Court to find that Initiative #248 has a second subject in seeking to deprive the General Assembly of its legislative power and decision-making necessary to address the complexities of public school financing—which will be upended by Initiative #248’s property tax cuts.

*Respondents Terry and Wasserman Opening Brief*, p. 9.

They further argue that the measure cannot dictate the manner in which the state must provide support. However, Initiative #248 does not dictate the manner. It only provides that revenue loss due to the reduction in property tax revenue may not reduce the funding school districts receive under the School Finance Act. In this

regard it is directly tied to the property tax reduction in that revenue loss required to be replaced is only that, “due to the reduction in property tax revenue”. It does not specify where the money must come from to supplant the reduction and it certainly doesn’t freeze the account forever in time. It only operates in relation to the direct impact from the reduction in property tax.

The Court has previously approved the pairing of a local district tax cuts with a state funding backfill, see *In re Title, Ballot Title and Submission Clause, and Summary with Regard to a Proposed Petition for an Amendment to the Constitution of the State of Colorado Adding Paragraph (D) Subsection (8) of Section 20 of Article X (Amend Tabor #32)*, 908 P.2d 125, 129 (Colo. 1995).

Specifically, the Court allowed a \$60 tax credit to local taxes and required the state to replace the lost funds on a monthly basis, finding the “requirement that the state replace lost local revenue was "dependent upon and closely connected to the \$60 tax credit." *Id.*

The Court has since reaffirmed single subject for local property tax cuts with state backfill twice in unpublished opinions in the past two initiative cycles. See *In Re Ballot Title 2023-2024 #21, 2023SA109* (Upholding single subject for a statewide property tax cap and backfill for local fire districts); *In Re Ballot Title 2021-2022*

#27, 2021SA151 (Upholding single subject for a drop in property tax assessment rates and a state backfill to local governments to fund homestead exemptions).

The same necessary and proper connection exists with the property tax cap, which connects to the subject of keeping property taxes low. Contrary to petitioner Terry and Wasserman's argument this section does not re-bruce local jurisdictions that have received voter approval to retain excess property tax. (*See Petitioner's brief p. 8*). First, this argument is based on a speculative effect of the measure. There are many ways to keep property taxes under the cap. The simpliest way is to reduce the assessment rate across the board. This is not a rebruce and would have no impact on the districts keeping money over a spending limit.

The General Assembly also commonly groups property tax with school funding. This year they also coupled it with a cap. In SB24-233, passed just this week there is a cut to property tax, backfill for education funding and a cap on future increases. In a special session in 2023, the General Assembly again coupled a property tax reduction with a state backfill to local governments and districts in SB23B-001.

## **CONCLUSION**

The funding mechanisms at play are necessarily and properly connected. The Court should reverse the Title Board's single subject determination and set an appropriate ballot title for Initiative #248.

Respectfully submitted May 10, 2024,

s/Suzanne Taheri  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of May, 2024, a true and correct copy of the **PETITIONERS' ANSWER BRIEF** was served via the Colorado Court's E-Filing System to the following:

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*Duly signed original on file at West Group*