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Amendment 59 Education Funding and TABOR Rebates

Amendment 59 proposes amending the Colorado Constitution to:

- ◆ eliminate rebates that taxpayers receive when the state collects more money than it is allowed, and spend the money on preschool through 12th grade (P-12) public education;
- ◆ eliminate the required inflationary increase for P-12 education spending; and
- ◆ set aside money in a new savings account for P-12 education.

Summary and Analysis

What is the state spending limit and how is it changed? A constitutional provision known as TABOR limits the amount of money the state may spend each year. Any money collected above the limit must be rebated to taxpayers unless voters allow the state to spend it. Current projections do not show any rebates during the next five years. Since the economy grows faster than the limit over time, tax collections will grow beyond the limit and rebates will occur at some point in the future. Beginning in 2011, Amendment 59 permanently eliminates these rebates and instead places that money in the State Education Fund.

What are the required increases for education spending and how are they changed? Another constitutional provision known as Amendment 23 requires the state to increase the amount of money it spends on P-12 education. Spending per student must increase by at least inflation each year after 2011. Amendment 59 eliminates this requirement.

What is the State Education Fund? The State Education Fund is an existing state fund that receives and holds money that can be spent only on P-12 education. Under current law, a portion of state income taxes is deposited in the fund. Amendment 59 deposits the money that the state keeps above the TABOR spending limit into the fund, along with other money the legislature may transfer to the fund.

What is the new savings account for P-12 education? Amendment 59 creates a savings account within the State Education Fund. It places ten percent of income tax revenue that is currently deposited in the fund into the savings account until a certain threshold is reached. This money, about \$46 million in the first year, may be spent only if two-thirds of the state legislature votes to do so. In years that statewide personal income grows less than 6 percent, the state legislature may spend it with a simple majority vote. In either case, this money may be spent only on P-12 education.

What else does the amendment do? In addition to the TABOR spending limit mentioned above, the state has a yearly limit on spending increases for most state

1 programs. Any money the state has above this limit is currently spent on transportation
2 and to build and maintain the state's buildings. Amendment 59 allows the legislature to
3 transfer this money to the State Education Fund as long as certain other transfers for
4 transportation have been made.

5 **Arguments For**

6
7 1) Without raising taxes, Amendment 59 provides a future source of money for
8 educating Colorado's children. This money may be used to increase per-student
9 funding and for P-12 education improvements, including expanding preschool and
10 full-day kindergarten programs, reducing class size, expanding technology education,
11 and providing performance pay for teachers. Providing new sources of money to invest
12 in P-12 education helps schools teach children the skills needed for the jobs of the
13 future. A well-educated workforce is necessary to attract new businesses, generate
14 new jobs, and keep existing jobs in Colorado.

15 2) A savings account for education protects both P-12 schools and other state
16 programs during economic downturns. Currently, Amendment 23 requires an increase
17 in school funding every year, regardless of the economic situation. In difficult times,
18 this required increase may result in cuts to other state programs such as health care,
19 transportation, and higher education in order to fund P-12 education. Amendment 59
20 relieves pressure to cut other programs while protecting funding for
21 P-12 education during an economic downturn.

22 3) TABOR limits spending growth while Amendment 23 requires spending
23 increases on education. Amendment 59 eliminates this tension while protecting
24 funding for education and retaining the right of Coloradans to vote on tax increases.

25 **Arguments Against**

26 1) Amendment 59 permanently eliminates all future TABOR rebates to
27 Colorado taxpayers. It is effectively a tax increase that will grow the size of state
28 government. In addition, while the TABOR rebates are supposed to be spent on
29 education, the money could instead replace existing education spending, allowing
30 growth in other state programs. Amendment 59 also allows the only major source of
31 money that is spent on the state's buildings to be transferred for spending on P-12
32 education at a time when the state is currently unable to keep up with building
33 maintenance and construction needs.

34 2) Amendment 59 eliminates guaranteed funding increases for education and
35 places future funding for education at the discretion of the state legislature. Without
36 these guaranteed increases, legislators could provide less than inflationary increases
37 for P-12 education in order to pay for other programs.

38 3) Without a limit on spending, government is more likely to increase fees.
39 TABOR requires that money collected above the spending limit be returned to
40 taxpayers. When the state is providing rebates, government has little incentive to

Final Draft

1 raise fees because the additional money is rebated to taxpayers. Amendment 59
2 weakens this disincentive and thus is likely to result in an increase in the amount of
3 fees charged to people.

4 **Estimate of Fiscal Impact**

5 Beginning in 2010, ten percent of the income tax collections deposited into the
6 State Education Fund will be placed in a savings account. The savings account will
7 receive an estimated \$46 million in 2010 and \$50 million in 2011. Money will be
8 placed in the savings account each year until the account balance reaches a certain
9 threshold amount. The savings account is expected to reach the threshold in 2023.
10 Under current projections, no new money will be deposited in the State Education
11 Fund from TABOR rebates during the next five years. The state is expected to
12 deposit new money from TABOR rebates at some point in the future.

13 Amendment 59 allows transfers of money to the State Education Fund above
14 the state's yearly limit on spending for most state programs as long as certain other
15 transfers for transportation have been made. Money is expected to be available for
16 these transfers beginning in 2010. Any transfers will result in a dollar-for-dollar
17 decrease in spending on transportation and capital construction projects.

Amendment 59
Education Funding and TABOR Rebates

Amendment 59 proposes amending the Colorado Constitution to:

- ◆ eliminate rebates that taxpayers receive when the state collects more money than it is allowed, and ~~spend~~ DEDICATE the money on TO preschool through 12th grade (P-12) public education;
- ◆ eliminate the requirement that spending for P-12 education increase by a ~~minimum amount~~ SPECIFIC FORMULA each year; and
- ◆ set aside money in a new savings account for P-12 education.

Summary and Analysis

What is the state spending limit and how is it changed? A constitutional provision known as TABOR limits the amount of money the state may spend each year. Any money collected above the limit must be rebated to taxpayers THROUGH A VARIETY OF TAX CREDITS, unless voters allow the state to spend it. Current projections do not show any rebates during the next five years. Since the economy grows faster than the limit over time, tax collections will grow beyond the limit and rebates will occur at some point in the future. Beginning in 2011, Amendment 59 permanently eliminates these rebates and instead places that money in the State Education Fund.

HOW DOES THE MEASURE CHANGE TABOR? THE MEASURE AFFECTS ONLY HOW SURPLUSES ABOVE THE STATE REVENUE LIMIT ARE USED (BY COMMITTING THEM TO THE STATE EDUCATION FUND RATHER THAN REBATES). IT DOES NOT CHANGE ANY OTHER PROVISION OF TABOR. COLORADANS WILL STILL HAVE THE RIGHT TO VOTE ON ANY TAX INCREASES.

What are the required increases for education spending and how are they changed? Another constitutional provision known as Amendment 23 requires the state to increase the amount of money it spends on P-12 education. Spending per student must increase by at least inflation each year after 2011. Amendment 59 eliminates this requirement.

What is the State Education Fund? The State Education Fund is an existing state fund that receives and holds money that can be spent only on P-12 education. Under current law, a portion of state income taxes is deposited in the fund. Amendment 59 deposits the money that the state keeps above the TABOR spending limit into the fund, along with other money the legislature may transfer to the fund.

What is the new savings account for P-12 education? Amendment 59 creates a savings account within the State Education Fund. It places ten percent of income tax revenue that is currently deposited in the fund into the savings account until a certain threshold is reached. This money, about \$46 million in the first year, may be spent only if two-thirds of the state legislature votes to do so. In years that statewide

1 personal income grows less than 6 percent, the state legislature may spend it with a
2 simple majority vote. In either case, this money may be spent only on P-12 education.

3 **What else does the amendment do?** In addition to the TABOR spending limit
4 mentioned above, the state has a yearly limit on spending increases for most state
5 programs. Any money the state has above this limit is currently spent on transportation
6 and to build and maintain the state's buildings. Amendment 59 allows the legislature to
7 transfer this money to the State Education Fund as long as certain other transfers for
8 transportation have been made.

9 **DOES THE MEASURE AFFECT ANNUAL INCOME TAX REFUNDS?** NO. A TAXPAYER
10 RECEIVES A STATE INCOME TAX REFUND WHEN THE TAXPAYER PAYS MORE IN STATE INCOME
11 TAXES THAN HE OR SHE OWES. THE TABOR REFUNDS AFFECTED BY THIS MEASURE ARE
12 DIFFERENT THAN INDIVIDUAL INCOME TAX REFUNDS.

13 **Arguments For**

14
15 1) Without raising taxes, Amendment 59 provides a future source of money for
16 educating Colorado's children. This money may be used to increase per-student
17 funding and for P-12 education improvements, including expanding preschool and
18 full-day kindergarten programs, reducing class size, expanding technology education,
19 and providing performance pay for teachers. Providing new sources of money to invest
20 in P-12 education helps schools teach children the skills needed for the jobs of the
21 future. A well-educated workforce is necessary to attract new businesses, generate
22 new jobs, and keep existing jobs in Colorado.

23 2) A savings account for education protects both P-12 schools and other state
24 programs during economic downturns. Currently, Amendment 23 requires an increase
25 in school funding every year, regardless of the economic situation. In difficult times,
26 this required increase may result in cuts to other state programs such as health care,
27 transportation, and higher education in order to fund P-12 education. Amendment 59
28 relieves pressure to cut other programs while protecting funding for
29 P-12 education during an economic downturn.

30 3) TABOR limits spending growth while Amendment 23 requires spending
31 increases on education. Amendment 59 eliminates this tension while protecting
32 funding for education and retaining the right of Coloradans to vote on tax increases.

33 4) THE STATE'S EXPERIENCE OVER THE PAST 16 YEARS SHOWS THAT THE
34 LEGISLATURE WILL BE MORE LIKELY TO INCREASE USER FEES IF IT IS NOT ALLOWED TO RETAIN
35 FUTURE SURPLUSES. BECAUSE THE EXISTING REVENUE AND SPENDING LIMITS GROW MORE
36 SLOWLY THAN THE OVERALL ECONOMY, IN THE PAST THE LEGISLATURE RESORTED
37 REPEATEDLY TO INCREASING USER FEES TO AVOID CUTTING IMPORTANT SERVICES. PASSAGE
38 OF THIS MEASURE WILL RELIEVE SOME OF THE PRESSURE TO RAISE USER FEES IN THE
39 FUTURE.

1 **Arguments Against**

2 1) Amendment 59 permanently eliminates all future TABOR rebates to
3 Colorado taxpayers. It is effectively a tax increase that will grow the size of state
4 government. In addition, while the TABOR rebates are supposed to be spent on
5 education, the money could instead replace existing education spending, allowing
6 growth in other state programs. Amendment 59 also allows the only major source of
7 money that is spent on the state's buildings to be transferred for spending on P-12
8 education at a time when the state is currently unable to keep up with building
9 maintenance and construction needs.

10 2) Amendment 59 eliminates guaranteed funding increases for education and
11 places future funding for education at the discretion of the state legislature. Without
12 these guaranteed increases, legislators could provide less than inflationary increases
13 for P-12 education in order to pay for other programs.

14 3) Without a limit on spending, government is more likely to increase USER
15 fees. TABOR requires that money collected above the spending limit be returned to
16 taxpayers. When the state is providing rebates, government has little incentive to
17 raise USER fees because the additional money is rebated to taxpayers. Amendment
18 59 weakens this disincentive and thus is likely to result in an increase in the amount of
19 USER fees charged to people.

20 **Estimate of Fiscal Impact**

21 Beginning in 2010, ten percent of the income tax collections deposited into the
22 State Education Fund will be placed in a savings account. The savings account will
23 receive an estimated \$46 million in 2010 and \$50 million in 2011. Money will be
24 placed in the savings account each year until the account balance reaches a certain
25 threshold amount. The savings account is expected to reach the threshold in 2023.
26 Under current projections, no new money will be deposited in the State Education
27 Fund from TABOR rebates during the next five years. The state is expected to
28 deposit new money from TABOR rebates at some point in the future.

29 Amendment 59 allows transfers of money to the State Education Fund above
30 the state's yearly limit on spending for most state programs as long as certain other
31 transfers for transportation have been made. Money is expected to be available for
32 these transfers beginning in 2010. Any transfers will result in a dollar-for-dollar
33 decrease in spending on transportation and capital construction projects.

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**Amendment 59
Education Funding and TABOR Rebates**

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- ◆ eliminate rebates that taxpayers receive when the state collects more money than it is allowed, and spend the money on preschool through 12th grade (P-12) public education;
- ◆ eliminate the required inflationary increase for P-12 education spending; and
- ◆ set aside money in a new savings account for P-12 education.

Summary and Analysis

What is the state spending limit and how is it changed? A constitutional provision known as TABOR limits the amount of money the state may spend each year. Any money collected above the limit must be rebated to taxpayers unless voters allow the state to spend it. Current projections do not show any rebates during the next five years. Since the economy grows faster than the limit over time, tax collections will grow beyond the limit and rebates will occur at some point in the future. Beginning in 2011, Amendment 59 permanently eliminates these rebates and instead places that money in the State Education Fund.

What are the required increases for education spending and how are they changed? Another constitutional provision known as Amendment 23 requires the state to increase the amount of money it spends on P-12 education. Spending per student must increase by at least inflation each year after 2011. Amendment 59 eliminates this requirement.

What is the State Education Fund? The State Education Fund is an existing state fund that receives and holds money that can be spent only on P-12 education. Under current law, a portion of state income taxes is deposited in the fund. Amendment 59 deposits the money that the state keeps above the TABOR spending limit into the fund, along with other money the legislature may transfer to the fund.

What is the new savings account for P-12 education? Amendment 59 creates a savings account within the State Education Fund. It places ten percent of income tax revenue that is currently deposited in the fund into the savings account until a certain threshold is reached. This money, about \$46 million in the first year, may be spent only if two-thirds of the state legislature votes to do so. In years that statewide personal income grows less than 6 percent, the state legislature may spend it with a simple majority vote. In either case, this money may be spent only on P-12 education.

What else does the amendment do? In addition to the TABOR spending limit mentioned above, the state has a yearly limit on spending increases for most state

1 programs. Any money the state has above this limit is currently spent on transportation
2 and to build and maintain the state's buildings. Amendment 59 allows the legislature to
3 transfer this money to the State Education Fund INSTEAD OF EXPENDING IT TO MAINTAIN
4 OR BUILD THE STATE'S TRANSPORTATION SYSTEMS AND BUILDINGS as long as certain other
5 transfers for transportation have been made.

6 **Arguments For**

7
8 1) Without raising taxes, Amendment 59 provides a future source of money for
9 educating Colorado's children. This money may be used to increase per-student
10 funding and for P-12 education improvements, including expanding preschool and
11 full-day kindergarten programs, reducing class size, expanding technology education,
12 and providing performance pay for teachers. Providing new sources of money to invest
13 in P-12 education helps schools teach children the skills needed for the jobs of the
14 future. A well-educated workforce is necessary to attract new businesses, generate
15 new jobs, and keep existing jobs in Colorado.

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17 programs during economic downturns. Currently, Amendment 23 requires an increase
18 in school funding every year, regardless of the economic situation. In difficult times,
19 this required increase may result in cuts to other state programs such as health care,
20 transportation, and higher education in order to fund P-12 education. Amendment 59
21 relieves pressure to cut other programs while protecting funding for
22 P-12 education during an economic downturn.

23 3) TABOR limits spending growth while Amendment 23 requires spending
24 increases on education. Amendment 59 eliminates this tension while protecting
25 funding for education and retaining the right of Coloradans to vote on tax increases.

26 **Arguments Against**

27 1) Amendment 59 permanently eliminates all future TABOR rebates to
28 Colorado taxpayers. It is effectively a tax increase that will grow the size of state
29 government. In addition, while the TABOR rebates are supposed to be spent on
30 education, the money could instead replace existing education spending, allowing
31 growth in other state programs. Amendment 59 also allows the only major source of
32 money that is spent on the state's buildings to be transferred for spending on P-12
33 education at a time when the state is currently unable to keep up with building
34 maintenance and construction needs.

35 2) Amendment 59 eliminates guaranteed funding increases for education and
36 places future funding for education at the discretion of the state legislature. Without
37 these guaranteed increases, legislators could provide less than inflationary increases
38 for P-12 education in order to pay for other programs.

39 3) Without a limit on spending, government is more likely to increase fees.
40 TABOR requires that money collected above the spending limit be returned to

1 taxpayers. When the state is providing rebates, government has little incentive to
2 raise fees because the additional money is rebated to taxpayers. Amendment 59
3 weakens this disincentive and thus is likely to result in an increase in the amount of
4 fees charged to people.

5 **Estimate of Fiscal Impact**

6 Beginning in 2010, ten percent of the income tax collections deposited into the
7 State Education Fund will be placed in a savings account. The savings account will
8 receive an estimated \$46 million in 2010 and \$50 million in 2011. Money will be
9 placed in the savings account each year until the account balance reaches a certain
10 threshold amount. The savings account is expected to reach the threshold in 2023.
11 Under current projections, no new money will be deposited in the State Education
12 Fund from TABOR rebates during the next five years. The state is expected to
13 deposit new money from TABOR rebates at some point in the future.

14 Amendment 59 allows transfers of money to the State Education Fund above
15 the state's yearly limit on spending for most state programs as long as certain other
16 transfers for transportation have been made. Money is expected to be available for
17 these transfers beginning in 2010. Any transfers will result in a dollar-for-dollar
18 decrease in spending on transportation and capital construction projects.

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Amendment 59 Education Funding and TABOR Rebates

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- ◆ eliminate rebates that taxpayers receive when the state collects more money than it is allowed, and spend the money on preschool through 12th grade (P-12) public education;
- ◆ eliminate the required inflationary increase for P-12 education spending; and
- ◆ set aside money in a new savings account for P-12 education.

Summary and Analysis

What is the state spending limit and how is it changed? A constitutional provision known as THE TAXPAYER'S BILL OF RIGHTS (TABOR) TABOR limits the amount of money the state may spend each year. Any money collected above the limit must be rebated to taxpayers unless voters allow the state to spend it. ~~Current projections do not show any rebates during the next five years.~~ Since the economy grows faster than the limit over time, tax collections will grow beyond the limit and rebates will occur at some point in the future. Beginning in 2011, Amendment 59 permanently eliminates these rebates and instead places that money in the State Education Fund.

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What else does the amendment do? In addition to the TABOR CONSTITUTIONAL spending limit mentioned above, the state has a yearly STATUTORY limit

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1 on spending increases for most state programs. Any money the state has above this
2 limit is currently spent on transportation and to build and maintain the state's buildings.
3 Amendment 59 allows the legislature to transfer this money to the State Education
4 Fund as long as certain other transfers for transportation have been made. THE
5 CURRENT STATUTORY TRANSFER TO TRANSPORTATION CAN BE LOWERED OR REPEALED AT
6 ANY TIME, AND PASSAGE OF THIS AMENDMENT DOES NOT ASSURE TRANSPORTATION
7 SPENDING WILL CONTINUE.

8 Arguments For

9
10 1) ~~Without raising taxes,~~ Amendment 59 provides a future source of money for
11 educating Colorado's children. This money may be used to increase per-student
12 funding and for P-12 education improvements, including expanding preschool and
13 full-day kindergarten programs, reducing class size, expanding technology education,
14 and providing performance pay for teachers. Providing new sources of money to invest
15 in P-12 education helps schools teach children the skills needed for the jobs of the
16 future. A well-educated workforce is necessary to attract new businesses, generate
17 new jobs, and keep existing jobs in Colorado.

18 2) A savings account for education protects both P-12 schools and other state
19 programs during economic downturns. Currently, Amendment 23 requires an increase
20 in school funding every year, regardless of the economic situation. In difficult times,
21 this required increase may result in cuts to other state programs such as health care,
22 transportation, and higher education in order to fund P-12 education. Amendment 59
23 relieves pressure to cut other programs while protecting funding for
24 P-12 education during an economic downturn.

25 3) TABOR limits spending growth while Amendment 23 requires spending
26 increases on education. Amendment 59 ~~eliminates this tension while protecting~~
27 ~~funding for education and retaining the right of Coloradans to vote on tax increases~~
28 PROTECTS EDUCATION FUNDING BY USING TAXPAYER REFUNDS OF EXCESS STATE REVENUE
29 GROWTH.

30 Arguments Against

31 1) Amendment 59 permanently eliminates all future TABOR rebates to
32 Colorado taxpayers. ~~It is effectively a tax increase that will grow the size of state~~
33 ~~government.~~ IT WOULD BE THE LARGEST TAX INCREASE IN STATE HISTORY THAT WILL
34 ALLOW STATE SPENDING GROWTH TO EXPLODE. In addition, while the TABOR rebates are
35 supposed to be spent on education, the money could instead ENCOURAGE CUTS IN
36 NORMAL EDUCATION SPENDING BY DIVERTING CURRENT EDUCATION MONEY TO OTHER STATE
37 PROGRAMS, REPLACING IT WITH NEW MONEY FROM OUR TAX REFUNDS. THIS BAIT-AND-
38 SWITCH PRACTICE WILL NOT RESULT IN ADDED EDUCATION SPENDING. ~~replace existing~~
39 ~~education spending, allowing growth in other state programs.~~ Amendment 59 also
40 allows the only major source of money that is spent on the state's buildings to be
41 transferred for spending on P-12 education at a time when the state is currently
42 unable to keep up with building maintenance and construction needs.

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1 2) Amendment 59 eliminates guaranteed funding increases for education and
2 places future funding for education at the discretion of the state legislature. Without
3 these guaranteed increases, legislators could provide less than inflationary increases
4 for P-12 education in order to pay for other programs.

5 3) Without a limit on spending, government is more likely to increase fees.
6 TABOR requires that money collected above the spending limit be returned to
7 taxpayers. ~~When the state is providing rebates~~ CURRENTLY, government has little
8 incentive to raise fees because the additional money is rebated to taxpayers.
9 Amendment 59 weakens this disincentive and thus is likely to result in ~~an~~ A DRAMATIC
10 increase in the amount of fees charged to people, AND CREATE AN INCENTIVE TO CALL
11 TAXES "FEES" SO THEY CAN BE INCREASED WITHOUT VOTER APPROVAL, SUCH AS WITH THE
12 RECENTLY-PROPOSED \$100 INCREASE IN CAR REGISTRATION COSTS.

13 4) SPENDING MORE MONEY ALONE WON'T IMPROVE EDUCATION. NEARLY ALL THE
14 BILLIONS TAKEN FROM OUR FUTURE TAX REFUNDS WILL GO FOR SALARY INCREASES. ARE
15 EXISTING SCHOOL ADMINISTRATORS HOLDING BACK ON DISCIPLINE, FOR EXAMPLE, UNTIL
16 THEY GET ANOTHER PAY RAISE? SCHOOLS CAN'T EFFICIENTLY ABSORB THESE ERRATIC CASH
17 AVALANCHES. IF SPENDING INCREASES AN EXTRA BILLION DOLLARS ONE YEAR, BUT NOT THE
18 NEXT, PROPONENTS WILL BE BACK ASKING FOR MORE MONEY TO CONTINUE THE ROLLER
19 COASTER SURGE OF SPENDING RATHER THAN CUT SALARIES OR LAY OFF EMPLOYEES.

20 5) WELL-KNOWN MAJOR PROBLEMS WITH EDUCATION AREN'T SOLVED BY THROWING
21 BILLIONS MORE OF OUR TAX DOLLARS AT THEM. WE WERE TOLD AMENDMENT 23'S
22 GUARANTEED INCREASES WOULD SOLVE THE PROBLEM; NOW WE ARE BEING ASKED TO
23 REPLACE THAT FIXED, PREDICTABLE GUARANTEE WITH ANOTHER ONE WITH NO GROWTH
24 LIMITS. FURTHER, GIVING UP A HARD-WON CITIZEN PETITION LIMIT ON STATE SPENDING
25 GROWTH WILL NOT FIX A FLAWED SYSTEM, BUT ONLY DELAY REAL REFORM.

26 **Estimate of Fiscal Impact**

27 Beginning in 2010, ten percent of the income tax collections deposited into the
28 State Education Fund will be placed in a savings account. The savings account will
29 receive an estimated \$46 million in 2010 and \$50 million in 2011. Money will be
30 placed in the savings account each year until the account balance reaches a certain
31 threshold amount. The savings account is expected to reach the threshold in 2023.
32 Under current projections, no new money will be deposited in the State Education
33 Fund from TABOR rebates during the next five years. The state is expected to
34 deposit new money from TABOR rebates at some point in the future.

35 Amendment 59 allows transfers of money to the State Education Fund above
36 the state's yearly limit on spending for most state programs as long as certain other
37 transfers for transportation have been made. Money is expected to be available for
38 these transfers beginning in 2010. Any transfers will result in a dollar-for-dollar
39 decrease in spending on transportation and capital construction projects. THE
40 CURRENT STATUTORY TRANSFER TO TRANSPORTATION CAN BE LOWERED OR REPEALED AT

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1 ANY TIME, AND PASSAGE OF THIS AMENDMENT DOES NOT ASSURE TRANSPORTATION
2 SPENDING WILL CONTINUE.

**BELL POLICY CENTER ET AL.
OVERVIEW COMMENTS ON AMENDMENT 59**

MEMORANDUM

To: Mike Mauer, Colorado Legislative Council
From: Wade Buchanan, Bell Policy Center
Date: August 22, 2008

RE: INITIATIVE #126 (The SAFE Initiative)

As a companion to our comment letter on the 3rd Draft of the analysis on initiative #126 (the SAFE Initiative), this memo reviews the major themes of our comments on this and previous drafts. It reflects the collective view of the individuals and organizations in our coalition, as well as of the S.A.F.E. campaign committee. We ask that it be included in the packet of information forwarded to the Legislative Council with your final draft.

Initiative Heading

We believe a ballot analysis should reflect the intent of the measure, as represented best in the ballot title language. Title language is carefully crafted by the Title Board in open hearings in which all interested parties may participate. And in the case of the SAFE initiative, the title was further affirmed by the Colorado Supreme Court.

Basing the heading on the ballot title language is the best way to reflect the intent of the measure without getting into details that are best left for the overview and analysis sections, where there is more room to provide context. By breaking with this thematic approach and referencing specific provisions of a measure, the Council runs the risk of crafting a heading that inappropriately biases readers.

Therefore, throughout the comment period we have strongly urged that the heading be thematic and avoid referencing specific provisions of the measure. The heading that would be most consistent with the measure's title would be "Funding Public Schools." Such a heading would also be most consistent with precedent. For instance, in 2005 the heading for the analysis of Referendum C was "State Spending," while the heading for Referendum D was "State Borrowing." These two referenda were no less complex than the SAFE proposal, and yet thematic headings were more than adequate and in no way could be said to have misled or biased readers.

Overview

The overview is perhaps the most critical part of the bluebook analysis. It is most likely to be read and therefore needs to be as accurate, complete and unbiased as possible while capturing the intent of the measure. Throughout the comment period, we have argued for bullets that clearly tie each provision back to the measure's title and subject. We continue

to believe that voters will be best served by the bullets we proposed in response to the first draft:

Amendment XX proposes amending the Colorado Constitution to:

- Establish a savings account for preschool through 12th grade (P-12) education for use during future economic downturns.
- Permit the state to spend on P-12 education revenues that would otherwise be rebated to taxpayers under constitutional provisions.
- Sunset the constitutional requirement that state spending on P-12 education increase by a formula based on inflation.

Summary and Analysis

The purpose of the summary and analysis section is to anticipate questions about the measure and provide answers to those questions that clarify and enhance the voters' understanding of the measure. We appreciate this is not easy to do, and we think Legislative Council Staff has largely done a very good job.

As we have argued in our comment letters, we strongly believe voter understanding would be further enhanced by two additional paragraphs in this section.

One would distinguish between TABOR rebates, which taxpayers receive through a variety of tax credits when the state collects more total revenues than a constitutional limit allows, and the more commonly understood tax refunds that individuals receive when too much has been withheld from their individual paychecks. A similar paragraph appeared in the analysis for Referendum C in 2005 and in the first draft of this overview. We understand and appreciate that the current draft attempts to deal with this confusion by using the term "TABOR rebates" rather than "TABOR refunds." However, given that this is a common and persistent misunderstanding, we believe it could greatly enhance voter understanding if the following paragraph is included:

Does the measure affect annual income tax refunds? No. A taxpayer receives an income tax refund when the taxpayer pays more in income taxes than he or she owes. The TABOR rebates affected by this measure are different than individual income tax refunds because they are based on the total amount of revenues the state collects from all taxpayers and not on the amount paid by any individual.

We also suggest there be a paragraph explaining what provisions of TABOR are changed by this measure and what are not changed. TABOR is complex, and voter understanding of the measure is often incomplete. Since much of the debate about the SAFE measure will focus on the fact that it amends part of TABOR, we think it is essential to have a paragraph laying out which provisions of TABOR are affected and which are not. In our previous comments, we suggested the following:

How does the measure change TABOR? The measure affects how surpluses above the state revenue limit are used by committing them to the state education

fund rather than rebates. It does not change any other provision of TABOR. Coloradans will still have the right to vote on any tax increases.

Arguments For and Against

As will be clear from reading our comments on Draft 3, we strongly object to the last Argument Against regarding fees. I will not reiterate the arguments here, since they should be clear in the comment letter. We have asked that the argument be dropped completely. If it is not dropped, we strongly request that a counter argument be added in the Arguments For section, and we ask that the word “fees” be changed to “user fees” wherever it appears.

A final theme of our comments has been to suggest that the first Argument For is really two arguments. One outlines the important educational improvements this measure could help fund. The other outlines the importance of education as a whole to the state economy. We have asked that these be separated into two distinct arguments, as follows:

1) Without raising taxes, the measure provides more money to educate Colorado's children. This money may be used for a number of P-12 education improvements, including expanding preschool and full-day kindergarten programs, reducing class size, expanding technology education, and providing performance pay for teachers.

2) Investing in education is the single best way to strengthen Colorado's economy and expand opportunities for working families. It helps provide children with the skills they need for the jobs of the future. A well-educated workforce is vital to attract new businesses, generate new quality jobs, and retain existing jobs in Colorado.

If an additional argument is needed against the measure to maintain balance while accommodating this change, we have further suggested that the first Argument Against similarly contains more than one point that can be easily separated as well.

We appreciate the opportunity to participate in this process. Thank you again for your hard work and your commitment to producing an accurate and informative ballot guide for Colorado voters.

**BELL POLICY CENTER ET AL. COMMENTS ON
LAST DRAFT OF AMENDMENT 59**

August 20, 2008

Mr. Mike Mauer
Colorado Legislative Council
State Capitol
Denver, Colorado

RE: INITIATIVE #126, 3rd DRAFT

Dear Mr. Mauer:

Thank you again for the opportunity to comment on the third draft of your analysis of proposed initiative #126 (the S.A.F.E initiative). This letter reflects the collective comments of the undersigned individuals and organizations, as well as the S.A.F.E. campaign committee. We also are attaching an overview of our previous comments to be included in the packet you are preparing for the Legislative Council.

We hope our comments are helpful, and we are happy to answer questions or clarify any of the points we make below. Questions should be directed to Wade Buchanan at the Bell Policy Center, who will further coordinate our response. Wade can be reached at 303-297-0456 or Buchanan@thebell.org.

Comments

1. Initiative Heading

We agree the heading in Draft 3 is an improvement on previous drafts. It hits the broad themes of the measure without getting into details that, given the complexity of the measure, are more likely to distort than clarify.

However, we suggest you flip the order of the title, so that it would read "Education Funding and TABOR Rebates." We make this suggestion because "Education Funding" is the phrase that best encapsulates the measure in its entirety, while "TABOR Rebates" refers to only one component of the measure. In previous comment letters, we have argued for removing the reference to TABOR from the title because the word means many different things to different people. But we understand your assertion that the effect on TABOR rebates is arguably the most significant single change the measure makes. We would simply suggest that "Education Funding" more accurately reflects the measure as a whole and therefore should be the first phrase in the title.

2. Overview

Again, we appreciate your efforts to make the overview as accurate as possible. We have two small but important suggestions.

In the first bullet, we suggest you change the phrase “spend the money on” (page 1, line 5) to either “dedicate the money to” or “commit the money to.” This is a more accurate description of what will happen under the proposal, since it requires that the money be deposited in the State Education Fund but it does not require that it actually be spent in any given year.

Second, we suggest you rephrase the second bullet (page 1, line 7) to make it clear the measure does **not** eliminate spending increases for education, but rather eliminates the **requirement** that education spending increase by a certain formula each year. This is more accurate, and it makes a critical distinction. Under this measure, the Legislature will retain full authority to increase education spending to whatever level it feels appropriate. It simply will not be required to increase it by a specific amount. In other words, SAFE would remove the requirement, not the increase.

With these suggested changes, the overview would now read as follows (changes in bold):

Amendment ?? proposes amending the Colorado Constitution to:

- eliminate rebates that taxpayers receive when the state collects more money than it is allowed, and **dedicate** the money to preschool through 12th grade (P-12) public education;
- eliminate **the requirement that spending for P-12 education increase by a specific formula each year**; and
- set aside money in a new savings account for P-12 education.

3. Summary and Analysis

We have three suggestions for the summary and analysis section.

First, in discussing how the rebates currently work, you say, “Any money collected above the limit must be rebated to taxpayers unless voters allow the state to spend it” (lines 12-13). We believe it would be more accurate to say, “Any money collected above the limit must be rebated to taxpayers **through a variety of tax credits**, unless voters allow the state to spend it.” This change more accurately reflects the actual rebate mechanism, which utilizes over 15 different and often very specific tax credits to distribute the rebates. Some of these credits are available to only a very few taxpayers, and it is highly improbable that any single taxpayer ever qualifies for all of them. Therefore, we should avoid implication that all taxpayers benefit equally from the current rebate structure.

Second, we urge you to retain the paragraph that was in your first draft that distinguishes between TABOR rebates and income tax refunds. We know and appreciate that you have replaced the word “refund” with the word “rebate” throughout the document, and we think

that was an important change. But we also know from experience that this addresses a common and persistent misunderstanding among voters, and we believe it will further enhance voter understanding to also retain the paragraph explaining the difference.

Third, we suggest you add a new paragraph explaining how TABOR itself is changed by this measure. As you point out, the most significant single change in this measure is what happens to TABOR rebates, which affects a core provision of that landmark amendment. Given the importance and complexity of TABOR, as well as strong public perceptions about what it does, it seems appropriate to ensure voters have a very clear sense of how TABOR is changed. We believe the following paragraph will enhance voter understanding and ask that it be added to the analysis:

How does the measure change TABOR? The measure affects only how surpluses above the state revenue limit are used (by committing them to the state education fund rather than rebates). It does not change any other provision of TABOR. Coloradans will still have the right to vote on any tax increases.

4. Arguments For and Against

We continue to strongly object to the inclusion of the last argument against (page 3, lines 1-5), which asserts that this measure will lead to an increase in fees. As we said in our comments on previous drafts, this argument is totally speculative. The measure does nothing to raise fees of any kind, and it should not be asserted that it does. Further, the argument implies that the TABOR revenue limit prevents increases in user fees, which is demonstrably not true. In fact, during the period of TABOR surpluses in the late 1990s and early 2000s, the Legislature increasingly used the enterprise mechanism in TABOR to shift a massive amount of funding away from “cash funds” and toward “cash funds exempt.” This included the Division of Wildlife and the College Opportunity Fund. The reason for these changes was to allow fee increases in response to the TABOR limit. Fee increases during the Referendum C time-out period have been nowhere near the order of magnitude they were when the TABOR limit was in effect. Therefore, this argument should be deleted.

However, should you decide to retain this argument, we make two strong suggestions:

First, because one can make a stronger argument that failure to pass this measure will result in fee increases, we suggest such an argument be added in favor of the measure. We suggest the following:

The state’s experience over the past 16 years shows that the legislature will be more likely to increase user fees if it is not allowed to retain future surpluses. Because the existing revenue and spending limits grow more slowly than the overall economy, in the past the legislature resorted repeatedly to increasing user fees to avoid cutting important services. Passage of this measure will relieve some of the pressure to raise user fees in the future.

Second, we strongly suggest language be added to the existing “argument against” that makes it clear we are talking about fees that are paid by users of specific state services that are meant to cover the cost of those specific services. We are not talking about fees that would be used to supplant General Funds or pay for general government programs.

Thank you again for this opportunity to comment on the third draft of the ballot analysis. We hope our comments are helpful, and we look forward to your final draft.

Sincerely,

Cary Kennedy, Co-Chair, Savings Account for Education
Wade Buchanan, President, Bell Policy Center
Janice Sinden, Executive Director, Colorado Concern
Carol Hedges, Senior Policy Analyst, Colorado Fiscal Policy Institute

BEN STEIN'S COMMENTS ON LAST DRAFT OF AMENDMENT 59

Ben Stein
Draft 3 Comments
Received 8/13/2008
5:35 PM

Thank you for sending this to me. I think generally it is very well done. I would only suggest the change I have in all caps below. This is on page 2 lines 5 and 6. I think the addition of this language will make it clear to the voters that they are authorizing the General Assembly to make a choice that potentially has some specific consequences.

Amendment ?? allows the legislature to transfer this money to the State Education Fund **INSTEAD OF EXPENDING IT TO MAINTAIN OR BUILD THE STATE'S TRANSPORTATION SYSTEMS AND BUILDINGS** as long as certain other transfers for transportation have been made.

Thanks again for the opportunity to comment.

REPRESENTATIVE DOUGLAS BRUCE'S COMMENTS ON LAST DRAFT OF AMENDMENT 59

LAST DRAFT COMMENTS

MANY COMMENTS ARE REPEATS. YOU ARE NOT PAYING ATTENTION!

I also incorporate herein all my comments from prior emails.

PAGE ONE

1. On line 11, "known as The Taxpayer's Bill of Rights (TABOR) limits..." It is standard English to mention a full phrase before introducing an acronym. Why conceal what we are talking about?
2. It is UNACCEPTABLE to take sides in a legal dispute about the legality of a statute (Ref. C) trying to change a constitutional formula. The sentence on line 13 HAS TO GO. Not only are you treading into legal opinion territory that has not been litigated, your fiscal projections are historically and consistently WRONG. You should not minimize the importance of this proposal by saying "Don't worry about voting away your rights. You won't be getting a refund anyway."
3. Line 25--"a portion...IS deposited..."
4. Line 30--"income tax revenue that is currently..." avoids grammatical awkwardness and ambiguity.

PAGE TWO

5. Line 1--"TABOR constitutional spending limit... and line 2--"yearly statutory limit..." Line 6--new sentence--"The current statutory transfer to transportation can be lowered or repealed at any time, and passage of this amendment does not assure transportation spending will continue."
6. Line 9--delete "Without raising taxes..." and begin with "Amendment ??" It is ABSURDLY DISHONEST to allow a statement that confiscating BILLIONS in future taxes that would be refunded is not a tax increase.
7. Lines 24-26--There is no "conflict." TABOR has never prevented the Amendment 23 increase. In two years, the economy made budget priorities harder. Replace with "TABOR limits spending growth and Amendment 23 requires spending increases on education. Amendment ?? protects education funding by using taxpayer refunds of excess state revenue growth."

Line 26 is particularly blatant. Since when does the Blue Book mention what a proposal DOES NOT DO? Delete.

8, Line 29--delete "effectively." Why do you minimize the tax increase, and not say the same on line 9? Change to "It would be the largest tax increase in state history that will allow state spending growth to explode."

9. Line 31--insert after "instead" these words-- "encourage cuts in normal education spending by diverting current education money to other state programs, replacing it with new money from our tax refunds. This bait-and-switch practice will not result in added education spending."

PAGE THREE

10. Line 3--change "In this situation," to "Currently," It is ambiguous whether your phrase refers to today's practice or the situation if Amendment ?? passes.

11. Line 5--add "dramatic" before "increase" and add, "people, and create an incentive to call taxes "fees" so they can be increased without voter approval, such as with the recently-proposed \$100 increase in car registration costs.

12. You may want to add #5 above at the end of the fiscal impact.

ARGUMENTS AGAINST

Spending more money alone won't improve education. Nearly all the billions taken from our future tax refunds will go for salary increases. Are existing school administrators holding back on discipline, for example, until they get another pay raise? Schools can't efficiently absorb these erratic cash avalanches. If spending increases an extra billion dollars one year, but not the next, proponents will be back asking for more money to continue the roller coaster surge of spending rather than cut salaries or lay off employees.

Well-known major problems with education aren't solved by throwing billions more of our tax dollars at them. We were told Amendment 23's guaranteed increases would solve the problem; now we are being asked to replace that fixed, predictable guarantee with another one with no growth limits. Further, giving up a hard-won citizen petition limit on state spending growth will not fix a flawed system, but only delay real reform.

State Rep. Douglas Bruce
(719) 550-0010
taxcutter@msn.com

Last Draft as Mailed to Interested Parties

1
2

Initiative #126 TABOR Rebates and Education Funding

3 **Amendment ?? proposes amending the Colorado Constitution to:**

- 4 ♦ eliminate rebates that taxpayers receive when the state collects
5 more money than it is allowed, and spend the money on preschool
6 through 12th grade (P-12) public education;
- 7 ♦ eliminate required spending increases for P-12 education; and
- 8 ♦ set aside money in a new savings account for P-12 education.

9 **Summary and Analysis**

10 ***What is the state spending limit and how is it changed?*** A constitutional
11 provision known as TABOR limits the amount of money the state may spend each year.
12 Any money collected above the limit must be rebated to taxpayers unless voters allow
13 the state to spend it. Current projections do not show any rebates during the next five
14 years. Since the economy grows faster than the limit over time, tax collections will
15 grow beyond the limit and rebates will occur at some point in the future. Beginning in
16 2011, Amendment ?? permanently eliminates these rebates and instead places that
17 money in the State Education Fund.

18 ***What are the required increases for education spending and how are they***
19 ***changed?*** Another constitutional provision known as Amendment 23 requires the
20 state to increase the amount of money it spends on P-12 education. Spending per
21 student must increase by at least inflation each year after 2011. Amendment ??
22 eliminates this requirement.

23 ***What is the State Education Fund?*** The State Education Fund is an existing
24 state fund that receives and holds money that can be spent only on P-12 education.
25 Under current law, a portion of state income taxes are deposited in the fund.
26 Amendment ?? deposits the money that the state keeps above the TABOR spending
27 limit into the fund, along with other money the legislature may transfer to the fund.

28 ***What is the new savings account for P-12 education?*** Amendment ??
29 creates a savings account within the State Education Fund. It places ten percent of
30 income taxes that are currently deposited in the fund into the savings account until a
31 certain threshold is reached. This money, about \$46 million in the first year, may be
32 spent only if two-thirds of the state legislature votes to do so. In years that statewide
33 personal income grows less than 6 percent, the state legislature may spend it with a
34 simple majority vote. In either case, this money may be spent only on P-12 education.

Last Draft as Mailed to Interested Parties

1 **What else does the amendment do?** In addition to the TABOR spending limit
2 mentioned above, the state has a yearly limit on spending increases for most state
3 programs. Any money the state has above this limit is currently spent on transportation
4 and to build and maintain the state's buildings. Amendment ?? allows the legislature to
5 transfer this money to the State Education Fund as long as certain other transfers for
6 transportation have been made.

7 **Arguments For**

8
9 1) Without raising taxes, Amendment ?? provides a future source of money for
10 educating Colorado's children. This money may be used to increase per-student
11 funding and for P-12 education improvements, including expanding preschool and
12 full-day kindergarten programs, reducing class size, expanding technology education,
13 and providing performance pay for teachers. Providing new sources of money to invest
14 in P-12 education helps schools teach children the skills needed for the jobs of the
15 future. A well-educated workforce is necessary to attract new businesses, generate
16 new jobs, and keep existing jobs in Colorado.

17 2) A savings account for education protects both P-12 schools and other state
18 programs during economic downturns. Currently, Amendment 23 requires an increase
19 in school funding every year, regardless of the economic situation. In difficult times,
20 this required increase may result in cuts to other state programs such as health care,
21 transportation, and higher education in order to fund P-12 education. Amendment ??
22 relieves pressure to cut other programs while protecting funding for
23 P-12 education during an economic downturn.

24 3) TABOR's spending limit conflicts with Amendment 23's required spending
25 increases. Amendment ?? solves this conflict while protecting funding for education
26 and retaining the right of Coloradans to vote on tax increases.

27 **Arguments Against**

28 1) Amendment ?? permanently eliminates all future TABOR rebates to
29 Colorado taxpayers. It is effectively a tax increase that will grow the size of state
30 government. In addition, while the TABOR rebates are supposed to be spent on
31 education, the money could instead replace existing education spending, allowing
32 growth in other state programs. Amendment ?? also allows the only major source of
33 money that is spent on the state's buildings to be transferred for spending on P-12
34 education at a time when the state is currently unable to keep up with building
35 maintenance and construction needs.

36 2) Amendment ?? eliminates guaranteed funding increases for education and
37 places future funding for education at the discretion of the state legislature. Without
38 these guaranteed increases, legislators could provide less than inflationary increases
39 for P-12 education in order to pay for other programs.

Last Draft as Mailed to Interested Parties

1 3) Without a limit on spending, government is more likely to increase fees.
2 TABOR requires that money collected above the spending limit be returned to
3 taxpayers. In this situation, government has no incentive to raise fees because the
4 additional money is rebated to taxpayers. Amendment ?? eliminates this disincentive
5 and thus is likely to result in an increase in the amount of fees charged to people.

6 **Estimate of Fiscal Impact**

7 Beginning in 2010, ten percent of the income tax collections deposited into the
8 State Education Fund will be placed in a savings account. The savings account will
9 receive an estimated \$46 million in 2010 and \$50 million in 2011. Money will be
10 placed in the savings account each year until the account balance reaches a certain
11 threshold amount. The savings account is expected to reach the threshold in 2030.
12 Under current projections, no new money will be deposited in the State Education
13 Fund from TABOR rebates during the next five years. The state is expected to
14 deposit new money from TABOR rebates at some point in the future.

15 Amendment ?? allows transfers of money to the State Education Fund above
16 the state's yearly limit on spending for most state programs as long as certain other
17 transfers for transportation have been made. Money is expected to be available for
18 these transfers beginning in 2010. Any transfers will result in a dollar-for-dollar
19 decrease in spending on transportation and capital construction projects.

AMENDMENT 59
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Amendment 59
Education Funding and TABOR Rebates

1 **Ballot Title:** An amendment to the Colorado constitution concerning the manner in
2 which the state funds public education from preschool through the twelfth grade, and,
3 in connection therewith, for the 2010-11 state fiscal year and each state fiscal year
4 thereafter, requiring that any revenue that the state would otherwise be required to
5 refund pursuant to the constitutional limit on state fiscal year spending be transferred
6 instead to the state education fund; eliminating the requirement that, for the 2011-12
7 state fiscal year and each state fiscal year thereafter, the statewide base per pupil funding
8 for public education from preschool through the twelfth grade and the total state funding
9 for all categorical programs increase annually by at least the rate of inflation; creating
10 a savings account in the state education fund; requiring that a portion of the state income
11 tax revenue that is deposited in the state education fund be credited to the savings
12 account in certain circumstances; requiring either a two-thirds majority vote of each
13 house of the general assembly or, in any state fiscal year in which Colorado personal
14 income grows less than six percent between the two previous calendar years, a simple
15 majority vote of the general assembly to use the moneys in the savings account;
16 establishing the purposes for which moneys in the savings account may be spent;
17 establishing a maximum amount that may be in the savings account in any state fiscal
18 year; and allowing the general assembly to transfer moneys from the general fund to the
19 state education fund, so long as certain obligations for transportation funding are met.

20 **Text of Proposal:**

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

22 **SECTION 1.** Section 17 (1) and (4) of article IX of the constitution of the state
23 of Colorado are amended, and the said section 17 is further amended BY THE
24 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

25 **Section 17. Education - funding. (1) Purpose.** In state fiscal year 2001-2002
26 through state fiscal year 2010-2011, the statewide base per pupil funding, as defined by
27 the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes,
28 on the effective date of this section, for public education from preschool through the
29 twelfth grade and total state funding for all categorical programs shall grow annually at
30 least by the rate of inflation plus an additional one percentage point. ~~In state fiscal year~~
31 ~~2011-2012, and each fiscal year thereafter, the statewide base per pupil funding for~~
32 ~~public education from preschool through the twelfth grade and total state funding for all~~
33 ~~categorical programs shall grow annually at a rate set by the general assembly that is at~~
34 ~~least equal to the rate of inflation.~~

35 (4) **State education fund created.** (a) There is hereby created in the
36 department of the treasury the state education fund. Beginning on the effective date of
37 this measure, all state revenues collected from a tax of one third of one percent on

1 federal taxable income, as modified by law, of every individual, estate, trust and
2 corporation, as defined in law, shall be deposited in the state education fund. Revenues
3 generated from a tax of one third of one percent on federal taxable income, as modified
4 by law, of every individual, estate, trust and corporation, as defined in law, shall not be
5 subject to the limitation on fiscal year spending set forth in article X, section 20 of the
6 Colorado constitution. All interest earned on monies in the state education fund shall
7 be deposited in the state education fund and shall be used before any principal is
8 depleted. Monies remaining in the state education fund at the end of any fiscal year
9 shall remain in the fund and not revert to the general fund.

10 (b) In state fiscal year 2001-2002, and each fiscal year thereafter, the general
11 assembly may annually appropriate monies from the state education fund. Monies in the
12 state education fund may only be used ~~to comply with subsection (1) of this section and~~
13 FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE, FOR
14 CATEGORICAL PROGRAMS, for accountable education reform, for accountable programs
15 to meet state academic standards, for class size reduction, for expanding technology
16 education, for improving student safety, for expanding the availability of preschool and
17 kindergarten programs, for performance incentives for teachers, for accountability
18 reporting, or for public school building capital construction.

19 (c) IN ADDITION TO THE AMOUNT DEPOSITED INTO THE STATE EDUCATION FUND
20 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), FOR THE 2010-11 STATE FISCAL
21 YEAR AND EACH STATE FISCAL YEAR THEREAFTER, THE FUND SHALL CONSIST OF
22 REVENUES SPECIFIED IN SECTION 20 (10) OF ARTICLE X OF THIS CONSTITUTION.

23 (6) **State education fund savings account created.** (a) THERE IS HEREBY
24 CREATED IN THE STATE EDUCATION FUND THE STATE EDUCATION FUND SAVINGS
25 ACCOUNT. THE ACCOUNT SHALL CONSIST OF THE MONEYS CREDITED TO THE ACCOUNT
26 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6). THE MONEYS IN THE ACCOUNT
27 SHALL BE USED ONLY AS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (6). ALL
28 INTEREST EARNED ON MONEYS IN THE ACCOUNT SHALL BE DEPOSITED IN THE ACCOUNT.
29 MONEYS REMAINING IN THE ACCOUNT AT THE END OF ANY STATE FISCAL YEAR SHALL
30 REMAIN IN THE ACCOUNT AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER
31 FUND.

32 (b) FOR THE 2009-10 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR
33 THEREAFTER, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION
34 (6), TEN PERCENT OF THE TOTAL AMOUNT THAT IS DEPOSITED IN THE STATE EDUCATION
35 FUND PURSUANT TO PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION SHALL BE
36 CREDITED TO THE STATE EDUCATION FUND SAVINGS ACCOUNT.

37 (c) THE GENERAL ASSEMBLY SHALL ONLY APPROPRIATE MONEYS FROM THE
38 STATE EDUCATION FUND SAVINGS ACCOUNT BY THE ENACTMENT OF A BILL APPROVED
39 BY A TWO-THIRDS MAJORITY VOTE OF ALL THE MEMBERS ELECTED TO EACH HOUSE OF
40 THE GENERAL ASSEMBLY, OR BY A SIMPLE MAJORITY VOTE IN ANY STATE FISCAL YEAR
41 IN WHICH COLORADO PERSONAL INCOME GROWS LESS THAN SIX PERCENT BETWEEN THE

1 TWO PREVIOUS CALENDAR YEARS. THE MONEYS IN THE ACCOUNT MAY BE
2 APPROPRIATED FOR THE SAME PURPOSES FOR WHICH THE MONEYS IN THE STATE
3 EDUCATION FUND MAY BE APPROPRIATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION
4 (4) OF THIS SECTION AND SHALL NOT BE APPROPRIATED FOR ANY OTHER PURPOSE.

5 (d) IF MONEYS THAT WOULD OTHERWISE BE CREDITED TO THE STATE EDUCATION
6 FUND SAVINGS ACCOUNT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6) WOULD
7 CAUSE THE BALANCE OF MONEYS IN THE ACCOUNT TO EXCEED AN AMOUNT EQUAL TO
8 EIGHT PERCENT OF THE TOTAL AMOUNT APPROPRIATED IN THE PREVIOUS STATE FISCAL
9 YEAR BY THE GENERAL ASSEMBLY FROM THE GENERAL FUND AND FROM THE STATE
10 EDUCATION FUND, THE MONEYS SHALL NOT BE CREDITED TO THE ACCOUNT. MONEYS
11 THAT WOULD OTHERWISE BE CREDITED TO THE ACCOUNT FROM THE STATE EDUCATION
12 FUND SHALL REMAIN IN THE STATE EDUCATION FUND.

13 (7) **Transfers from the general fund.** (a) SUBJECT TO THE LIMITATIONS
14 SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (7), FOR THE 2009-10 STATE FISCAL
15 YEAR AND EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY MAY
16 TRANSFER MONEYS FROM THE GENERAL FUND TO THE STATE EDUCATION FUND.
17 TRANSFERS OF MONEYS FROM THE GENERAL FUND TO THE STATE EDUCATION FUND
18 PURSUANT TO THIS SUBSECTION (7) SHALL NOT BE SUBJECT TO ANY STATUTORY
19 LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR OTHERWISE AFFECT SUCH
20 LIMITATION.

21 (b) THE GENERAL ASSEMBLY MAY MAKE A TRANSFER PURSUANT TO PARAGRAPH
22 (a) OF THIS SUBSECTION (7) ONLY IF, FOR THE APPLICABLE STATE FISCAL YEAR, THE
23 MAXIMUM PERCENTAGE OF STATE SALES AND USE TAXES CONSTITUTING SALES AND USE
24 TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS THAT IS
25 REQUIRED, PURSUANT TO LAW, TO BE TRANSFERRED ANNUALLY TO THE HIGHWAY USERS
26 TAX FUND, CREDITED TO THE STATE HIGHWAY FUND, AND EXPENDED BY THE
27 DEPARTMENT OF TRANSPORTATION FOR THE IMPLEMENTATION OF THE STRATEGIC
28 TRANSPORTATION PROJECT INVESTMENT PROGRAM IS SO TRANSFERRED, CREDITED, AND
29 EXPENDED.

30 **SECTION 2.** Section 20 of article X of the constitution of the state of Colorado
31 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32 **Section 20. The Taxpayer's Bill of Rights. (10) State revenue for public**
33 **education exception.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR
34 THE 2010-11 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, ANY
35 REVENUE THAT THE STATE WOULD OTHERWISE BE REQUIRED TO REFUND PURSUANT TO
36 THE PROVISIONS OF THIS SECTION SHALL BE TRANSFERRED INSTEAD TO THE STATE
37 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THIS CONSTITUTION.
38 SUCH TRANSFERS SHALL BE FROM ANY FUNDS SPECIFIED BY LAW.