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| SUPREME COURT, STATE OF COLORADO<br><br>2 East 14th Avenue<br>Denver, Colorado 80203 | DATE FILED<br>February 12, 2026 1:06 PM |
| ORIGINAL PROCEEDING PURSUANT TO C.R.S. § 1-40-107(2)<br><br>**Petitioner:**<br>Michael Hancock<br><br>v.<br><br>**Colorado Ballot Title Setting Board:**<br>Theresa Conley, Christy Chase, and Kurt Morrison<br><br>and<br><br>**Respondents:**<br>Chris deGruy Kennedy and Kiyana Newell | ▲ **COURT USE ONLY** ▲ |
| **Attorneys for Petitioners:**<br><br>Sarah M. Mercer, #39367<br>David B. Meschke, #47728<br>Reilly E. Meyer, #59495<br>BROWNSTEIN HYATT FARBER SCHRECK LLP<br>675 15th St, Suite 2900<br>Denver, CO 80202<br>Tel: 303.223.1100<br>Fax: 303.223.1111<br>smercer@bhfs.com; dmeschke@bhfs.com; and rmeyer@bhfs.com | Case Number: |

**PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2025-2026 #191**

Pursuant to section 1-40-107(2), Petitioner Michael Hancock ("Petitioner"), through undersigned counsel, respectfully petitions this Court to review the title, ballot title, and submission clause set by the Colorado Ballot Title Setting Board (the "Title Board") for Proposed Initiative 2025-2026 #191 (the "Initiative").

## I. ACTION OF THE TITLE BOARD

The Title Board conducted its initial public hearing on the Initiative on January 21, 2026, where the Title Board, by a vote of 3-0, determined that it had jurisdiction to set title. Petitioner subsequently filed a timely Motion for Rehearing on January 28, 2026. The motion challenged whether the Proponents improperly struck language in the Colorado Constitution to avoid triggering the 55% threshold in Article V, Section 1(2.5) and Article XIX, Section 2(1)(b) of the Colorado Constitution and, relatedly, the Title Board's determination that it had jurisdiction to set title because the measure contains several separate and distinct subjects in violation of the single-subject requirement in Article V, Section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5(1)(e). Petitioner also challenged the inclusion of the table showing

changes to the individual income tax rates but not changes to income tax rates for corporations and businesses as both a violation of the single-subject requirement and leading to a misleading and confusing title. Petitioner raised these same concerns as to the initial fiscal impact statement. Additionally, Petitioner challenged the title set by the Title Board more broadly because it misleads voters and causes voter confusion in several respects, including that it minimizes the measure's impact on the tax rates for corporations, businesses, trusts, and estates, and fails to educate voters on how the excess revenues from the tax increases could actually be allocated to various identified social programs. The Title Board considered the motion at a rehearing on February 4, 2026, and denied it, once again by a 3-0 vote, except to the extent the Title Board amended the ballot title. Petitioner now seeks review of the Title Board's actions under C.R.S. § 1-40-107(2).

## II. ISSUES PRESENTED FOR REVIEW

A. Whether the Proponents' purposeful and improper attempt to simply strike language in the Colorado Constitution to avoid triggering the 55% threshold in Article V, Section 1(2.5) and Article XIX, Section 2(1)(b) of the Colorado Constitution renders Initiative #191 too vague to set title or otherwise strips the Title Board of jurisdiction to set title.

B. Whether the Title Board erred by setting a title for Initiative #191 because the measure's provisions are not necessarily or properly connected and do not advance a single subject.

C. Whether the Title Board erred by adopting a title for Initiative #191 that misleads voters and causes voter confusion.

D. Whether the constitutional single subject and clear title requirements override the statutory title requirements for ballot measures, including a table required by C.R.S. § 1-40-106(3)(j) showing any increases to the individual income tax rate but not showing any increases to other affected income tax rates for corporations, trusts, and estates.

E. Whether the initial fiscal impact statement is improperly misleading, incomplete, and prejudicial because it only addresses the impact the measure would have on individual income taxes through inclusion of a table and provides no detail or corresponding table as to the measure's impact on other income tax earners, such as corporations, trusts, and estates.

## III. SUPPORTING DOCUMENTATION

As required by section 1-40-107(2), attached are certified copies of: (1) the final copy of Initiative #191 as submitted to the Title Board; (2) the determinations and final action by the Title Board; (3) the Motion for Rehearing filed by Petitioner; and (4) the initial fiscal summary.

## IV. RELIEF REQUESTED

Petitioners respectfully request that the Court reverse the Title Board's denial of Petitioner's Motion for Rehearing and hold that the Title Board does not have jurisdiction to set title for Initiative #191 because the measure does not contain a single subject, or alternatively hold that the title set by the Title Board violates the clear title requirements and that the initial fiscal impact statement is improperly misleading, incomplete, and prejudicial.

Respectfully submitted on February 11, 2026.

BROWNSTEIN HYATT FARBER SCHRECK LLP

*/s/ David B. Meschke*
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*Attorneys for Petitioner Michael Hancock*

## CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2026, I electronically filed a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2025-2026 #191** with the clerk of Court via the Colorado Courts E-Filing system which will send notification of such filing and service upon the following:

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/s/ Rachael L. Cotner
Rachael L. Cotner, Paralegal

DATE FILED
February 12, 2026 1:06 PM

# STATE OF COLORADO

**DEPARTMENT OF STATE**

## CERTIFICATE

**I, JENA GRISWOLD,** Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2025-2026 #191 'Graduated Income Tax'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand . . . . . and affixed the Great Seal of the State of Colorado, at the City of Denver this 10th day of February, 2026.

Jena Griswold

SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

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Michael Fields, Objector

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**MOTION FOR REHEARING ON INITIATIVE 2025-2026 #191**

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Michael Fields, a registered elector of the State of Colorado objects to the determination of the Title Board regarding single subject for Proposed Initiative 2025-2026 #191 ("Initiative #191"). Objector maintains that the measure does not constitute a single subject and that the Board should not have set title. Objector additionally challenges the title set by the Board.

On January 21, 2026, the Title Board considered Initiative #191. The Board found that the measure constitutes a single subject and proceeded to set title.

1. The Title Board lacked jurisdiction to set a title
   Section 1 of the measure contains a legislative declaration that, if passed, would appear nowhere in law. Colo. Const. Art V, § 1 reserves to the people the power to, "propose laws and amendments to the constitution." Section 1 of the initiative does neither. The people do not have the power to make a legislative declaration outside of a law or amendment.

2. The Measure does not contain a single subject

Initiative #191 contains multiple subjects. Objectors assert the central feature of the measure is a tax increase of $3.6 billion dollars annually the first full fiscal year following adoption. Proponents have maintained that any tax increase is incidental.

But the measure doesn't just increase taxes. The measure contains at least 5 subjects in its change to Colorado statute:

1) The measure would decrease taxes for some taxpayers and increase them for others. This is an attempt to gain support from factions that would not otherwise support the increase;
2) The measure taxes two separate and distinct categories of taxpayers, corporate and individual. Again, this is an attempt to gain support from factions that would not otherwise support the increase;
3) The measure results in the dedication of funds to specified, but incomprehensible, areas of spending unrelated to the measure and unrelated to each other. This is an attempt to gain support from factions that would not otherwise support the increase;
4) The tax dollars collected under the measure are authorized to be kept and spent as a voter approved revenue change. This is unrelated to the measure where the proponents state the increase is merely incidental; and

5) The measure requires excess revenue supplement and not supplant current spending levels across the dedicated funds.

In making the following changes to constitution it creates 4 other subjects:

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.

The sentence would read "Any income tax law change after July 1, 1992 shall also require no added tax or surcharge"

1) In striking the word "all" the measure uncouples the requirement that individual and corporate tax be taxed at the same rate. This is unrelated to any change made by the proponents in the measure where they leave the rates the same across the two categories;
2) By striking ", with" the measure eliminates the prohibition on added taxes and surcharges. The new language, "Any income tax law change after July 1, 1992 shall also require no added tax or surcharge" does not *require* added taxes or surcharges, but that is legally distinguished from a prohibition. This is unconnected to the measure.
3) Striking "taxable net income" allows for taxes to be assessed on something other than "net income". This is not connected to the measure and proponents have not explained the purpose behind the change or how it is necessary to their measure.
4) If the Board finds there is in fact still a prohibition on "added taxes and surcharges" then striking "to be taxed" changes the structure of the sentence to now appear to prohibit any tax. This is because "income tax changes" now require no added tax. If a tax can't be added then the tax must be zero.

One purpose of the single-subject requirement is that it "precludes the joining together of multiple subjects into a single initiative in the hope of attracting support from various factions which may have different or even conflicting interest." *In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1079 (Colo. 1995).

The inclusion of both a tax increase and a tax decrease in one initiative to pass a multibillion-dollar tax hike "is precisely the logrolling dilemma that the voters intended to avoid when they adopted the [single-subject] requirements." *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 31, 274 P.3d 562, 571. The same is true for the inclusion of corporate and personal income tax. When a group of voters might well support a tax decrease for themselves but can only get it by voting for an increase for others it demonstrates that these are two subjects.

The single-subject requirement is designed to protect voters against fraud and surprise and to eliminate the practice of combining several unrelated subjects in a single measure for the purpose of enlisting support from advocates of each subject and thus securing the enactment of measures which might not otherwise be approved by voters on the basis of the merits of those discrete measures. *In re Proposed Initiative for an Amendment to the Constitution of the State of*

*Colorado Adding Section 2 to Article VII (Petitions)*, 907 P.2d 586, 589 (Colo. 1995) *In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1078 (Colo. 1995) *In re Proposed Initiative on Sch. Pilot Program*, 874 P.2d 1066, 1069 (Colo. 1994).

The single-subject requirement "prevent[s] surprise and fraud from being practiced upon voters." § 1-40-106.5(1)(e)(II). An initiative contains a single subject when its provisions are "necessarily and properly connected rather than disconnected or incongruous." *In re 2019-2020 #315,* ¶ 13 (quoting *In re Title, Ballot Title & Submission Clause for 2015-2016 #73*, 369 P.3d 565, 568, 2016 CO 24, ¶ 14); *accord In re 2009-2010* #91, 235 P.3d at 1077 ("[W]hen an initiative's provisions seek to achieve purposes that bear no necessary or proper connection to the initiative's subject, the initiative violates the constitutional rule against multiple subjects.").

The single-subject requirement is violated when the text of the measure "relates to more than one subject and has at least two distinct and separate purposes which are not dependent upon or connected with each other." *In re Title, Ballot Title & Submission Clause for 2005-2006 #74*, 136 P.3d 237, 239 (Colo. 2006) (quoting *In re Title, Ballot Title & Submission Clause, & Summary with Regard to a Proposed Petition for an Amendment to the Const. of State Adding Section 2 to Article VII (Petition Procs.)*, 900 P.2d 104, 109 (Colo. 1995)).

To implement a progressive income tax, it is necessary and connected to alter the language in TABOR to allow for proportional taxes, but it was not necessary or connected to strike the word "all" and allow for different rates across different classes.

In fact, proponents' measure does not provide for different rates between individual and corporate income tax and such a change cannot be said to be necessary or connected to the measure.

Alternatively, having disconnected corporate income tax from personal income tax, these two categories of income tax can no longer be considered a single subject. There would most certainly be voters that would favor raising corporate income tax while not raising personal income tax. They will now have to vote for a raise on both or choose neither.

It is also not necessary or connected to strike the method upon which taxes are assessed: "net income", nor to strike "to be taxed."

These changes to the constitution were not necessary or connected to the measure. Proponents appear to be attempting to strike language from TABOR to avoid the 55% vote mandate and the mandate that they collect support throughout Colorado. But the strike-out results in an awkward and unclear phrase: "Any income tax law change after July 1, 1992 shall also require no added tax or surcharge." By changing the phrase to the new construction and striking, "with" from the phrase, the constitution at best becomes unclear. Does "shall also require no added tax or surcharge" mean that no tax or surcharge can be added, or does it simply mean what the construction says – that no tax or surcharge is required. Striking "to be taxed" now makes the measure incomprehensible.

The Title Board cannot set title for a ballot initiative where the measure is incomprehensible. If a measure cannot be comprehended well enough to state a single subject in

the title, the initiatives cannot be forwarded to the voters and must be returned to the proponent. *Outcelt v. Buckley (In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #44),* 977 P.2d 856, 857 (Colo. 1999).

Proponents are not required to strike language. They could simply create an exception to that section for the progressive income tax structure they seek. They choose not to do that, not because their changes are connected, but because they want to avoid adding language to the Constitution and triggering the requirements all other proponents must meet when seeking to make such alterations to the Constitution.

The changes made to the constitutional provision are surreptitious. The voters will not know, or be surprised to know, that the changes pave the way to have different tax rates between corporate and personal income tax. The voters will not know, or be surprised to know, that the way income tax is calculated could be altered.

The measure also mandates existing and future state spending by requiring the addition supplement and not supplant current funding. This spending requirement would apply to two of the states highest cost programs—public school education and health care. Mandating that public school education and health care spending remain at current levels is unconnected to the measure and is separate and distinct subject. *Outcelt v. Bruce,* 959 P.2d 822 (Colo.1998).

3. <u>The title does not reflect the central purpose of the measure.</u>

Should the Board hold to its determination that Initiative #191 is a single subject, Objector further asserts that the title set by the Board is inadequate to describe the purpose of the proposed initiative.

The Board set the following title for Initiative #191:

"State taxes shall be increased $2.7 billion annually, in order to increase or improve levels of public services, including K-12 public school education, health care, and early child care and education services, by an amendment to the Colorado Constitution and a change to the Colorado Revised Statutes repealing existing law and creating new law to replace the uniform state income tax rate with a graduated income tax structure, and, in connection therewith, amending the Taxpayer's Bill of Rights to eliminate the constitutional requirement for all income to be taxed at one rate; establishing various income tax rates based on the amount of taxable income earned by individuals, estates, trusts, and corporations, while maintaining the current 4.4% tax on income from the sale of a principal residence, which will result in the estimated change in income taxes owed by individuals as identified in the following table; and authorizing the state to retain and spend any increased revenue from the new tax structure, as a voter-approved revenue change, to supplement current levels of funding for K-12 public school education, health care, and early child care and education programs:"

If the tax increase is merely "incidental" as proponents claim then they cannot benefit from the required language in C.R.S. § 1-40-106(3)(g), "For measures that increase tax revenue for any district though a tax change and specify the public services to be funded…the ballot title shall state "in order to increase or improve levels or public services…" Under § (i)(II). "Tax change" does not mean an initiated ballot issue that results in a tax increase that is incidental to

the primary purpose. Proponents cannot have it both ways. They cannot claim the tax increase is incidental, and not the central feature, and also benefit from the language.

The ballot language also fails to properly capture the totality of changes made to TABOR, as cited above in the single subject argument.

Lastly, the ballot title inappropriately mentions public school education, health care, and early child care and education services twice[1]. Voters are informed of the target programs to be funded by the tax increase at the beginning of the title. There is no need to mention those same programs again at the end, and doing so is prejudicial to opponents.

Respectfully submitted this 28th of January, 2026.

*/s/ Suzanne Taheri*

West Group
*Attorney for Objector*

[1] The opening clause mentions "early child care and education services" while the closing clause mentions "early child care and education programs." There does not appear to be a distinction between these two different terms.

# MOTION FOR REHEARING ON TITLE SET

**Initiatives 2025–2026 #189, #190, #191, #192, #193, #194, #195, and #196**
**Title Board Hearing: January 21, 2026**
**Motion submitted by: Natalie Menten, Registered Colorado Elector**

## I. Distinct Separate Subjects

I respectfully request a rehearing pursuant to section 1-40-107(1)(a), C.R.S., regarding the titles and submission clauses set for Initiatives #189–196 on January 21, 2026. Additionally, I request my motions for re-hearing on the prior 2025-2026 "Graduated Income Tax" be incorporated with this current motion.

These measures were previously rejected, and it is not clear why they were approved this time, because the core issues raised at prior hearings remain unresolved and the language has not materially changed in a way that addresses those issues.

**Separate Subjects:**

- **These measures repeal TABOR's constitutional single-rate income tax protection.**
- **They create a tiered income tax system (separate rate structures for individuals and businesses), which functions as an added tax or surcharge through higher rates for certain taxpayers.**
- **They create a direct conflict with Colorado's refund structure, because the current refund framework does not cleanly operate once the flat-rate foundation is removed.**

## II. THE MEASURES REMOVE TABOR'S FLAT-RATE PROTECTION AND CREATE AN "ADDED TAX OR SURCHARGE"

TABOR currently provides that any income tax law change after July 1, 1992 must tax all taxable net income "at one rate" and must do so "with no added tax or surcharge."

At prior hearings, proponents' counsel described the revenue and distribution impacts as "incidental," stating:

"The point of this measure is to create a graduated income tax, **not to increase revenue, not to favor this group or that group**… It is incidentally to this that if we're moving from one flat rate to a graduated rate, **some rates might go down, some rates might go up**…." (Ed Ramey, Title Board hearing, Oct. 1, 2025.)

That statement confirms the core practical effect: even if framed as "incidental," the measure necessarily creates higher rates for some taxpayers and lower rates for others, which is an "added tax or surcharge" issue under TABOR's plain language.

A tiered (graduated) income tax is, by definition, an added layer of tax:

- some taxpayers pay higher rates than others depending on their income.

The measure imposes added tax through higher rates for certain taxpayers, and the plain language of TABOR uses the terms "added tax or surcharge."

## III. THE REFUND CONFLICT REMAINS UNRESOLVED

A central problem remains: the initiatives remove the flat-tax foundation while leaving refund-related statutory references in place, which creates confusion and conflict.

For example, the measure still includes "EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627…," while changing the income tax system into graduated brackets beginning in 2027.

This issue has been raised more than once at prior hearings, including Review & Comment.

The initiatives rely on Legislative Declaration promises instead of fixing the conflict in the operative text. Legislative declarations are sentiment and messaging, not controlling law.

## IV. THE TITLES SHOULD USE PLAIN REFUND LANGUAGE ("OTHERWISE REQUIRED TO REFUND TO TAXPAYERS")

The titles for these measures rely on phrases such as "voter-approved revenue change" or "voter-approved retention." But the average voter will not necessarily understand that phrase to mean the government is being authorized to keep revenue that otherwise would be refunded.

### A. Title Board examples spanning years show we have made more clear and transparent voter-facing titles

The Title Board has **used clearer refund language** in recent cycles.

For example, **Initiative #106 (2021–2022)** included language stating that revenue transfers may be from "revenue the state is otherwise required to refund to taxpayers."

**Initiative #63 (2021–2022)** likewise used the same concept: "revenue that the state or a local school district is otherwise required to refund to taxpayers."

These attached examples show there is a workable, established way to provide voters clarity on refunds.

## B. Older Title Board examples also used this refund clarity phrasing (additional support)

In trying to locate similar measures from prior years, I found older Title Board titles that used the same refund clarity concept, largely in the context of school finance measures.

For example, **Initiative #125 (2008–2009)** used the phrase "revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending…"

Initiative **#126 (2008–2009)** used the same concept.

These examples show that the Title Board has understood the value of clearly stating when a measure redirects or keeps revenue that otherwise would be refunded.

## C. Requested title revision if the Board does not find multiple subjects

If the Title Board declines to find multiple subjects, and does not address the added tax and refund nullification concerns, the minimum fix is plain language that tells voters the measure allows the state to keep revenue that otherwise would be refunded to taxpayers.

# V. REQUEST FOR REHEARING / RELIEF REQUESTED

For the reasons above, I respectfully request rehearing and ask the Title Board to:

1. find these measures contain multiple subjects and decline to set title; or
2. in the alternative, revise the titles and submission clauses to clearly and transparently inform voters that these measures remove TABOR's flat-rate income tax requirement and authorize the state to retain revenue **that otherwise would be refunded to taxpayers**.

Sincerely,

**Natalie Menten**
Colorado Elector

# — Exhibits Follow —

**Exhibit Index (Attachments)**

**Exhibit A** — Legislative Council Staff, December 2025 TABOR Outlook (excerpt showing income tax rate reduction refund mechanism forecast).

**Exhibit B** — Colorado Title Board Results for Proposed Initiative #63 (2021–2022) (title language referencing revenue "otherwise required to refund to taxpayers").

**Exhibit C** — Colorado Title Board Results for Proposed Initiative #106 (2021–2022) (title language referencing revenue "otherwise required to refund to taxpayers").

**Exhibit D** — Colorado Title Board Results for Proposed Initiative #125 (2008–2009) (historic title language referencing revenue "otherwise required to refund").

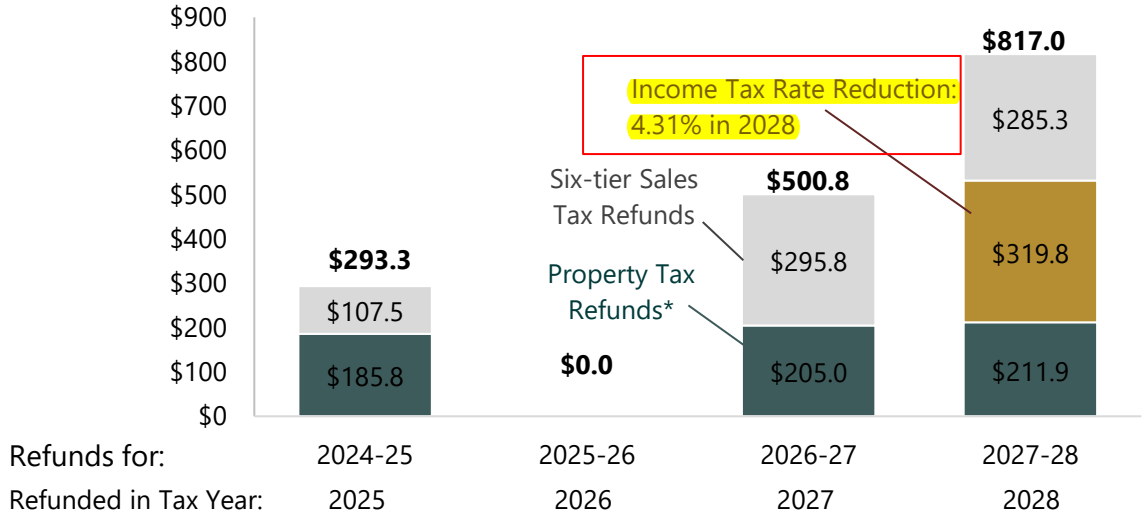
— Following copies includes highlighting for emphasis. —

The **temporary income tax rate reduction** is expected to apply for tax year 2028 as the second TABOR refund mechanism after property tax refunds. The income tax rate will be reduced from 4.40 percent to 4.31 percent in tax year 2028, based on the expected amounts of the TABOR surplus remaining after property tax refunds in FY 2027-28.

This forecast anticipates that the income tax rate reduction mechanism will not be triggered in tax years 2025, 2026, or 2027. In subsequent years, the amount of the income tax rate reduction that is triggered depends on the amount of the TABOR surplus remaining after reimbursements to local governments for property tax exemptions.

The **six-tier sales tax refund mechanism** is expected to apply for tax years 2025, 2027 and 2028 with refund amounts based on taxpayer incomes, as average refunds per taxpayers are projected to exceed the $15 threshold to trigger identical sales tax refunds. While SB 24-228 established a higher threshold for triggering identical sales tax refunds, that change is contingent upon an Internal Revenue Service ruling that has not yet been made. Hence, this forecast assumes the current law threshold remains at $15 per person throughout the forecast period, pending further information. Table 9 on page 37 presents estimated six-tier sales tax refund amounts for tax years 2025, 2027, and 2028.

**Figure 5**
**Expected TABOR Refunds and Refund Mechanisms**
Dollars in Millions




Source: Legislative Council Staff December 2025 forecast.
"Property tax refunds" includes the homestead exemption for seniors, veterans, and Gold Star Spouses, and, for FY 2024-25, property tax reimbursements to local governments under SB 24-111.

Refunds made via property tax reductions reduce obligations that would otherwise be paid from General Fund revenue. Refunds made via the income tax rate reduction or sales tax refunds are paid to taxpayers when they file their state income tax returns. TABOR refund mechanisms are accounted for as an offset against the amount of surplus revenue restricted to pay TABOR refunds, rather than as a revenue reduction. Therefore, the General Fund revenue forecast does not incorporate downward adjustments as a result of refund mechanisms being activated.

# Results for Proposed Initiative #63

## Ballot Title Setting Board
## 2021-2022

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

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

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

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

**Hearing March 16, 2022**

Single subject approved; staff draft amended; titles set.
Board members: Hilary Rudy, David Powell, Ed DeCecco
Hearing adjourned 12:05 PM.

**Rehearing April 6, 2022**

Motion for Rehearing: granted only to the extent that the Board made changes to the titles
. Board Members: Theresa Conley, David Powell, Ed DeCecco
Hearing adjourned: 10:50 A.M.

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

Colorado
Secretary of State
Jena Griswold



# Results for Proposed Initiative #106

## Ballot Title Setting Board
## 2021-2022

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

A change to the Colorado Revised Statutes concerning funding to increase affordable housing, and, in connection therewith, establishing an annual fee upon an owner of residential real property, that is equal to 1.1% of the appraised actual value of the real property that exceeds $2 million, adjusted for inflation; requiring the fee revenue to be deposited in the Colorado affordable housing fund; allowing the state to transfer additional revenue to the fund; providing that any additional transferred amount may be from revenue the state is otherwise required to refund to taxpayers; and requiring the revenue in the fund to be allocated to local governments to address affordable housing shortages in the state.

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

Shall there be a change to the Colorado Revised Statutes concerning funding to increase affordable housing, and, in connection therewith, establishing an annual fee upon an owner of residential real property, that is equal to 1.1% of the appraised actual value of the real property that exceeds $2 million, adjusted for inflation; requiring the fee revenue to be deposited in the Colorado affordable housing fund; allowing the state to transfer additional revenue to the fund; providing that any additional transferred amount may be from revenue the state is otherwise required to refund to taxpayers; and requiring the revenue in the fund to be allocated to local governments to address affordable housing shortages in the state?

**Hearing April 21, 2022**

Single subject approved (2-1, DeCecco dissented); staff draft amended; title set.
Board members: Theresa Conley, Ed DeCecco, Kurt Morrison
Hearing adjourned: 7:49 PM.

** Unofficially captioned "New Fee Assessment on Luxury Residential Real Property" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.*

# Results for Proposed Initiative #125

Ballot Title Setting Board
2007-2008

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

An amendment to the Colorado constitution concerning the manner in which the state funds public education from preschool through the twelfth grade, and, in connection therewith, for the 2010-11 state fiscal year and each state fiscal year thereafter, requiring that any revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending be transferred instead to the state education fund; eliminating the requirement that, for the 2011-12 state fiscal year and each state fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade and the total state funding for all categorical programs increase annually by at least the rate of inflation; creating a savings account in the state education fund; requiring that a portion of the state income tax revenue that is deposited in the state education fund be credited to the savings account in certain circumstances; requiring a two-thirds majority vote of the general assembly to use the moneys in the savings account; establishing the purposes for which moneys in the savings account may be spent; establishing a maximum amount that may be in the savings account in any state fiscal year; and allowing the general assembly to transfer moneys from the general fund to the state education fund, so long as certain obligations for transportation funding are met.

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

Shall there be an amendment to the Colorado constitution concerning the manner in which the state funds public education from preschool through the twelfth grade, and, in connection therewith, for the 2010-11 state fiscal year and each state fiscal year thereafter, requiring that any revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending be transferred instead to the state education fund; eliminating the requirement that, for the 2011-12 state fiscal year and each state fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade and the total state funding for all categorical programs increase annually by at least the rate of inflation; creating a savings account in the state education fund; requiring that a portion of the state income tax revenue that is deposited in the state education fund be credited to the savings account in certain circumstances; requiring a two-thirds majority vote of the general assembly to use the moneys in the savings account; establishing the purposes for which moneys in the savings account may be spent; establishing a maximum amount that may be in the savings account in any state fiscal year; and allowing the general assembly to transfer moneys from the general fund to the state education fund, so long as certain obligations for transportation funding are met?

**Hearing May 21, 2008**

Single subject approved; staff draft amended; titles set.
Hearing adjourned 11:31 AM.

**Rehearing May 29, 2008**

Motions for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:22 PM.

** Unofficially captioned "Education Funding" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.*

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COLORADO TITLE SETTING BOARD

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVES 2025-2026 #189-196

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**MOTION FOR REHEARING**

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This Motion for Rehearing is submitted on behalf of myself, as a registered elector of the State of Colorado, and the Independence Institute, a Colorado nonprofit corporation, pursuant to Colorado law, Section 1-40-107, C.R.S., challenging the titles and submission clauses set by the Title Board on January 21, 2026, for Proposed Initiatives 2025-2026 #189-196 - Graduated Income Tax.

As grounds therefore opponents state as follows:

**I. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR INITIATIVES #189-196 AS INITIATIVES #189-196 IMPERMISSIBLY CONTAIN MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.**

C.R.S. § 1-40-106.5(1)(a) requires that "every constitutional amendment or law proposed by initiative . . . be limited to a single subject, which shall be clearly expressed in its title." C.R.S. § 1-40-106.5(1)(e)(II) further explains that this rule is intended to prohibit certain practices including "to prevent surreptitious measure and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters." The Colorado Secretary of State's website recognizes this as its website explains "the text of the measure must concern only one subject and one distinct purpose." https://www.coloradosos.gov/pubs/elections/Initiatives/guide/2-BallotTitle.html#:~:text=Single%2Dsubject%20requirement,subject%20and%20one%20distinct%20purpose.

There are several single subject issues which affect all of the Proposed Initiatives #189-196, and those are addressed first. The issues which affect the titles' ability to be clear and not misleading, and which affect only certain of the Proposed Initiatives are then discussed below.

## A. THE SO-CALLED "LEGISLATIVE DECLARATION" IS EXTRANEOUS, MISLEADING AND INVOLVES MULTIPLE ADDITIONAL SUBJECTS

The first issue is the insertion of a supposed "Legislative Declaration." Even this title is misleading as there is no legislature involved in this declaration. This declaration is basically a political advertisement for each of the initiatives which it precedes. It is full of catch phrases, arguments, statements of opinion and assertions of facts, with no counter arguments or clarifications.

C.R.S. § 1-40-102(4) defines the "draft" which is to be presented to the Title Board as "the typewritten proposed text of the initiative which, if passed, becomes the actual language of the constitution or statute, together with language concerning placement of the measure in the constitution or statutes." C.R.S. § 1-40-105(1) requires initiative proponents to submit "the original typewritten draft of every initiative petition for a proposed law or amendment to the state constitution to be enacted by the people." C.R.S. § 1-40-105(3) requires that such drafts "be worded with simplicity and clarity."

There is no provision whatsoever in any of the relevant statutes for any material which is not going to "become the actual language of the constitution or statute" or which does not "concern placement of the measure" in the same to be included, reviewed, debated or ultimately submitted to potential voters along with the ballot initiatives. Although the legislature does occasionally include "declarations," their process is entirely separate and has its own rules, including time for discussion, debate and amendment of the declarations during the legislative process.

In contrast, the title setting process does not address the merit or lack of merit of the proposed initiatives it considers, Say v. Baker, 322 P.2d 317 (1958), and therefore any debate regarding the unproven assertions in the "legislative declaration" would be entirely inappropriate. However, the average voter who is considering whether to sign a ballot for a proposed initiative will be misled into believing that the legislature has been involved, presumably including their usual process of debate, and that there has been some official review of the facts contained therein. Allowing such a declaration into the title setting process opens the door for every proposed initiative to include an unreviewable advertisement for itself.

This "Legislative Declaration" in fact, raises several subjects including what type of tax structure is "fair and equitable," what tax system "promotes a vibrant statewide economy," what is "adequate" support for various governmental functions, whether TABOR has limited state and local governments' ability to "support[] teachers and care workers, build[] infrastructure, and

keep[] up with a changing economy." Any one of those issues could convince a voter to support a measure which may or may not affect their concerns, and all of them are clearly logrolling.

The Title Board has no obligation in any relevant law to include the proponents' extraneous statements, arguments and advertising, and we request that the Board simply strike all of the "Legislative Declaration," and decline to include it in the ballot initiative materials which are submitted to voters.

**B. PROPOSED INITIATIVES #189-196 INCLUDE MULTIPLE SUBJECTS IN THEIR EFFECT ON THE TAX STRUCTURE OF COLORADO**

Originally, the-single subject rule was interpreted by the courts to mean that a proposed initiative "must effectuate or carry out only one general object or purpose." In re Ballot Title 2005-2006 No. 74, 136 P.3d 237 (Colo. 2006). It has since been stated that the single-subject rule is "not violated if the matters included are necessarily or properly connected to each other." In re Proposed Ballot Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996). The Colorado Supreme Court has rejected the use of "umbrella proposals" to make disparate subjects appear to be one subject. In re Title, Ballot Title, & Submission Clause for 2013-2014 #76, 2014 CO 52. para. 10 (2014). This includes specifically "revenue changes." In re Amend TABOR 25, 900 P.2d 121, 125-6 (Colo. 1995).

Our constitution currently requires that individuals and corporations be treated in our state's tax law in the same manner, that is with both being subject only to a flat tax rate. Under these proposed initiatives that will no longer be true. Some voters may like the idea of a graduated tax rate structure. Some other voters may want individuals and corporations to be treated differently by our state's tax law. These proposed initiatives logroll when they entice voters with different interests to support their measure for different reasons seeking different effects of the law. These issues are not "necessarily and properly connected" as required by Colorado law. In re 2021-2022, #16, para. 13, 2021 CO 55, 489 P.3d 1217, 1220. Treating individuals and corporations differently is not a subject that is connected to the stated single subject of a "graduated income tax."

Current state law is structured so that voters receive TABOR refunds if revenues exceed specified amounts. The refund law mechanism was drafted to apply to a flat tax rate structure and it conflicts with the graduated tax rate structure proposed by these initiatives, with consequences that are themselves another separate subject. C.R.S. § 24-77-103.6.

Current controlling state case law holds that tax rate changes are a separate purpose from the various proposed spending directions. Matter of Title, Ballot Title 1997-1998 # 30, 959 P.2d

822 (1998). Although this issue has been clouded by the various title requirements coming out of the state legislature, the underlying concern remains. Including public school education (whether limited to K-12 or not), health care and child care (including when specified to "early child care and education") "combines different proposals in the hopes of getting unrelated subjects passed by enlisting support for the entire initiative from advocates of the separate subjects thereby securing the enactment of subjects that could not be enacted on their merits along." Matter of Title, Ballot Title 1997-1998 # 30, 959 P.2d at 825.

## II. THE TITLE SET FOR INITIATIVES #189-196 IS NOT CLEAR AND ACCURATE BUT IS MISLEADING

Notwithstanding whether the Proposed Ballot initiatives #189-196 contains more than one subject, the title of the initiatives is misleading because the proposed ballot initiatives itself is not clear and accurate. Colorado law requires that the Title Board, and any reviewing court, use "general rules of statutory construction, 'giving words and phrases their plain and ordinary meanings." In re Title, Ballot & Submission Clause for 2021-2022 #16, para. 10, 2021 CO 55, 489 P.3d 1217, 1220.

All of these problems are caused by the proponents' desire to avoid a higher number of signatures as would be required if they were to add material to our constitution. It is not the Title Board's duty or obligation to assist them in avoiding adding material, particularly when the result the proponents seek cannot be clearly conveyed merely by striking language.

### A. ISSUES PERTAINING TO "CONSTITUTIONAL REPEAL A" - #189, 190, 191, 192

These proposed ballot initiatives would amend Art. X, Section 20(8)(a) of the Colorado Constitution to read: "Any income tax law change after July 1, 1992 shall also require no added tax or surcharge." This language suggests that there can be no change in tax law which would in any way increase taxes. However, the proposed initiatives then goes on to specify new tax rates, proposed change to C.R.S. § 39-22-104, several of which do in fact increase taxes, as shown in the chart included in the Title Board's title. The Title Board's charge is to set a title which "enables the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal." In re Ballot Title 2011-2012 No 45, 274 P. 3d 576 (Colo. 2012). However, even the members of the Office of Legislative Legal Services and the Legislative Council Staff, who are quite familiar with tax policy, were confused by the strained meaning that the proponents are trying to put upon this language. See Memorandum dated Nov. 14, 2025, re Proposed initiatives Measure 2025-2026

#181, Concerning a Graduated State Income Tax, pg. 3. It is not possible that the meaning desired by the proponents will be one the electorate can intelligently decipher so as to determine how to vote on this matter.

**B. ISSUES PERTAINING TO "CONSTITUTIONAL REPEAL B" - #193, 194, 195, 196**

In order to avoid the result described above, the proponents also propose to amend Art. X, Section 20(8)(a) of the Colorado Constitution to read: "Any income tax law change after July 1, 1992 shall also require no added surcharge." This is, unfortunately, not more clear. In fact, it may be more confusing to voters. What added surcharge is being discussed? What is the definition of a surcharge? Where the original meaning was to restrict all income taxes to a single flat rate, without any loopholes where that rate could be changed, if the single flat rate has been abolished, then, arguably, all higher rates contain a surcharge.

**CONCLUSION**

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

Respectfully submitted this 28th day of January, 2026.

/s/Rebecca R. Sopkin

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COLORADO TITLE SETTING BOARD

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE 2025-2026 #191

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**MOTION FOR REHEARING**

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On behalf of Michael A Hancock ("Objector"), registered elector of the State of Colorado, the undersigned counsel hereby submit this Motion for Rehearing for Proposed Initiative 2025-2026 #191 ("Initiative #191") pursuant to C.R.S. § 1-40-107, and as grounds therefore state as follows:

This Motion seeks the Title Board's review for four reasons: (1) the Title Board lacks jurisdiction to set a title because Initiative #191 impermissibly contains multiple separate and distinct subjects in violation of the single-subject requirement; (2) the Title Board lacks jurisdiction to set a title because Initiative #191's edits to a provision in the Taxpayer Bill of Rights ("TABOR") create a vague and confusing sentence that cannot be reasonably understood; (3) the title set for the proposed measure fails to accurately describe the measure and would mislead voters; and (4) the proposed measure's initial fiscal impact statement is misleading and prejudicial.

At its heart, this measure, like Initiatives ## 145–147 and 181 that came before it, is more than just a tax increase on millionaires. Among other subjects, it makes profound changes to TABOR, Colorado's income tax structure and laws as a whole, and alters the tax rates for certain incorporated Colorado businesses of all sizes, including small and family-owned businesses, as well as start-up companies. These are impermissible second subjects that are, at minimum, not adequately reflected in the title.

With this Motion for Rehearing, the Objector incorporates his arguments from the Motions for Rehearing filed for Initiatives ## 145, 147, and 181. The Objector also incorporates all arguments made at the Title Board rehearing for Initiative #181 held on December 17, 2025.

## I. INITIATIVE #191 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

First, and most importantly, Initiative #191 contains several distinct subjects improperly coiled in the folds that would lead to either voter surprise or impermissible logrolling.

Tellingly, although the Proponents' main goal is the create a graduated income tax system, they have represented that Initiative #191's single subject consists of a lengthy list of policy goals that include:

- creating a graduated income tax structure in Colorado for individuals, estates, trusts, and corporations, as well as via pass-through entities;
- repealing the constitutional requirement that all income be taxed at one rate;
- retaining any resulting increase in revenue as a voter-approved revenue change;
- specifying the dedicated uses for the generated revenue; and
- requiring a new audited report specifying the uses to which such revenue has been put.

As expressed in the Objector's previous Motions for Rehearing on Initiatives ## 145, 147, and 181, the mere fact that the Proponents could not distill their single subject to a simple phrase should give Title Board pause that the measure contains additional subjects coiled in the folds.

Indeed, Initiative #191 does significantly more than create a graduated income tax system. *See In re 2009–2010 #91*, 235 P.3d at 1076 (quoting *In re Title, Ballot Title & Submission Clause, & Summary for 1997–1998 #64*, 960 P.2d 1192, 1196 (Colo. 1998)) ("[W]here an initiative advances separate and distinct purposes, 'the fact that both purposes relate to a broad concept or subject is insufficient to satisfy the single subject requirement.'") (alteration in original). In addition to repealing and replacing the flat income tax rate requirement in TABOR, the measure contains the following additional subjects:

(1) Repeals the constitutional requirement that Colorado taxes "taxable net income," as opposed to gross income or other means of calculating income—and as a result, removing one of TABOR's requirements designed to slow the growth of government;
(2) Repeals the protections afforded to refund tax credits or voter approved tax credits, permitting the General Assembly to consider those as "taxable income;"
(3) Deletes the TABOR provision requiring that any changes to the state's income tax be identical across income taxpayers (i.e., individuals, estates, trusts, C-corporations, and via pass-through entities(, applying a graduated income tax to these several different categories of earners;
(4) Allows the state to retain the additional revenue from the graduated income tax in excess of that currently permitted under TABOR without express voter approval;

(5) Excludes the excess revenue collected from the TABOR cap, and thus affecting TABOR refunds;[1]
(6) Directs that the excess revenue collected from the graduated income tax be appropriated to supplement certain social programs; and
(7) Both lowers the tax rate and increases it, depending on income levels.

These additional subjects are not necessarily or properly connected to the overall goal of a graduated income tax system. *In re Matter of Title, Ballot Title and Submission Clause for 2019–2020 #315*, 500 P.3d 363, 367 (Colo. 2020) (quoting *In re 2015–2016 #73*, 369 P.3d at 568) (in deciding whether an initiative addresses a single subject, the relevant question is if its provisions are "necessarily and properly connected rather than disconnected or incongruous"); *accord In re Title, Ballot Title & Submission Clause for 2009–2010 #91*, 235 P.3d 1071, 1077 (Colo. 2010) ("[W]hen an initiative's provisions seek to achieve purposes that bear no necessary or proper connection to the initiative's subject, the initiative violates the constitutional rule against multiple subjects.").

To avoid repetition, the Objector expressly incorporates his arguments related to separate subjects from its Motion for Rehearing on Initiative #181. However, the Objector also makes the following arguments in addition to those previously raised:

**A. Section 2 of the Measure (the TABOR Provision) Contains Multiple Subjects.**

Section 2 of the measure strikes language in Section 20 of Article X of the Colorado Constitution to eliminate TABOR's flat income tax requirement. But rather than strike "one rate" and amend the remainder of the TABOR provision to allow the sentence to make sense, the measure strikes additional language not necessarily or properly connected to the establishment of a graduated income tax scheme. *Outcelt v. Bruce*, 961 P.2d 456, 464 (Colo. 1998) ("[T]he purpose of the single subject requirement of article V, section 1(5.5) is to prohibit the practice of putting together in one measure subjects having no necessary or proper connection for the purpose of garnering support for measures from parties who might otherwise stand in opposition.) (Kourlis, J., dissenting). Instead, Section 2 of the measure contains several subjects coiled up within its folds that have no relationship to the establishment of a graduated income tax scheme. *See In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 442 (Colo. 2002) (the single subject rule helps avoid "voter surprise and fraud occasioned by

[1] Indeed, when the legislature sought voter approval this past fall regarding the Healthy School Meals for All ("HSMA") program, it separated the proposals into two different measures. Proposition LL asked the voters permission to retain and spend surplus HSMA funds (e.g., $12.4M). Proposition MM asked voters to further limit deductions on high-income taxpayers to fund HSMA expansion, such as covering grant programs for local food, staff wages, training, and equipment.

the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative").

First, While Initiative #191 left in the clause "no added tax or surcharge," the stricken language in that section of TABOR does more than repeal the language that income must be taxed at one rate. It also repeals the requirement in TABOR that "net income," as opposed to other types of income measurements such as gross income, be taxed. Gross income is a taxpayer's total earnings before any deductions, while net income is the amount a taxpayer takes home after all deductions, such as taxes, insurance, and retirement contributions, are subtracted. By removing the constitutional requirement that net income is the type of income taxed, Initiative #191 would open the door to the legislature choosing to tax gross income instead. This would result in more taxes and less money in taxpayers' pockets. It also would be directly contrary to TABOR's goal of slowing the growth of government.

Second, Section 2 of the measure also contains another crucial subject coiled up within its folds: it repeals the protections afforded to refund tax credits or voter approved tax credits, permitting the General Assembly to consider those as "taxable income" in the future. *See In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 442 (Colo. 2002) (the single subject rule helps avoid "voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative"). As described in more detail below, Initiative #191 contains the following change to Section 8(a) of Article X of the Colorado Constitution: "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." While the phrase "excluding refund tax credits or voter approved tax credits" falls after "one rate," the phrase does not modify "one rate," but instead modifies "all taxable income."[2] By removing the constitutional requirement that "all taxable net income" excludes "refund tax credits or voter approved tax credits," it removes any guarantee that refund or voter approved tax credits will *not* be considered taxable income.

A brief review of the state of Colorado's actions post-TABOR reveals that the language "refund tax credits and voter-approved tax credits" refers to TABOR refunds in the form of tax credits. The Colorado Department of Revenue does not treat refundable tax credits as taxable income.[3] For example and to further

[2] Nathaniel Minor, et al., *The Taxman: In TABORS's Wake, A Conservative Civil War – With Douglas Bruce Sidelined*, COLO. PUBLIC RADIO (last visited January 28, 2026), https://taxman.cpr.org/tabor-25-the-taxman-conservative-civil-war-with-doug-bruce-sidelined.html (Bruce explaining to lawmakers and lobbyists that TABOR was not just a means to give voters the final say on all tax increases, it also contained mechanisms that cut off other methods of raising revenue); TABOR Campaign Q&A Sheet, 1992 ("Only the voters can approve tax credits. Politicians cannot use credits to distort the revenue limit.").

[3] *Child Tax Credit (CTC) & Earned Income Tax Credit (EITC) FAQs*, COLO. DEP'T OF REVENUE (last visited January 28, 2026) ("Generally, the money you get back from the earned income tax credit and the child tax credit

illustrate, the earned income tax credit ("EITC") was originally created as a temporary TABOR refund mechanism. Thus, at its creation, the EITC was a "refund tax credit" within the meaning of TABOR. As such, because Section 8(a) of Article 20 of the Colorado Constitution excluded "refund tax credits or voter-approved tax credits" as taxable income, amounts received as TABOR refunds in the form of the EITC are not themselves subject to income tax. But, if you remove this language, these credit amounts are not prohibited from being subject to income tax. This aligns with guidance issued by the Colorado Department of Revenue stating that amounts received under the EITC are not themselves subject to tax.[4]

Moreover, such specific definition of "revenue" was a critical piece of the original intent of TABOR, as described by Douglas Bruce himself. *See* D. Bruce, Rocky Mountain News interview, 1993 ("The revenue limit only works if you define revenue honestly."); Letter to Rep. Dave Owen, ColoradoBiz (Feb. 1999) ("TABOR (8)(a) says the only income tax credits allowed are refund credits or voter-approved credits."). Lacking such specificity, the General Assembly has free reign to fashion tax credits in a way as to artificially increase the revenue base.[5]

Thus, TABOR refund mechanisms, often crafted in the form of tax credits,[6] do not result in payments which are themselves subject to income tax. Striking "refund tax credits" and "voter-approved tax credits" from TABOR Section 20(8)(a) removes the constitutional prohibition on such refunds being subject to tax, in clear violation of the spirit of TABOR. This subject is not clear from the text of the measure and not included in the title set by Title Board. Voters would be surprised to learn that by voting for Initiative #191, they would be allowing the General Assembly to alter how these two tax credits, historically excluded from taxable income, are considered. Considering how important TABOR refunds are to so many Coloradans, this feature is an impermissible second subject.

Third, Section 2 of the measure contains yet another subject: capping the tax rate as of its passage. Pursuant to Initiative #191's strikes, Section 8(a) of Article X of the Colorado Constitution would read: "Any income tax law change after July 1, 1992 shall also require no added tax or surcharge." Although admittedly confusing, a plain reading of that provision appears to indicate that the measure would not permit the income tax rates from the statutory provisions in the measure from ever increasing. In other words, by stating that "[a]ny income tax law change after July 1, 1992 shall also ***require no added tax***," presumably, the income tax rate could never be raised. Voters would undoubtedly be confused when confronted with a graduated income tax structure, that passage of such structure would also cap the

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does not count as taxable income. This means you do not need to pay any taxes on the amount of money you get back from tax credits.").

[4] *Id.*

[5] *See* Nathaniel Minor, et al., *supra* note 2.

[6] *See* Greg Sobetski, *History of TABOR Refund Mechanisms*, LEGISLATIVE COUNCIL STAFF (Feb. 17, 2022), https://content.leg.colorado.gov/sites/default/files/r21-97_history_of_tabor_refund_mechanisms.pdf.

tax rates. The Title Board should decline to set title in the face of such confusion. *In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 25*, 974 P.2d 458, 469 (Colo. 1999) ("The Board must simultaneously consider the potential public confusion that might result from misleading titles and exercise its authority in order to protect against such confusion.").

### B. Applying the Graduated Income Tax to Corporations, as well as Individuals, is Multiple Subjects.

Initiative #191 also contains multiple subjects by applying the graduated income tax to not only individuals, but also several other categories of earners, including C-corporations, estates, trusts, and pass-through entities. This is not simply a policy decision from proponents. By applying a graduated income tax to multiple categories of earners, Initiative #191 falls victim to both ills that plague omnibus measures.

First, Initiative #191 presents a grave logrolling risk. In decoupling the various categories of earners from the same flat income tax (i.e., by deleting that "all taxable net income be taxed at one rate"), the proponents did not need to impose a graduated income tax on each category of earners. But they did. As a result, they seek to curry favor from voters who want to impose a graduated income tax system on individual income—and especially those who want to tax higher income earners (i.e., millionaires) at higher rates—to pass a measure that significantly increases the income tax burden on corporations and small businesses. *See In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1079 (Colo. 1995) (explaining that a central purpose of the single-subject requirement is that it "precludes the joining together of multiple subjects into a single initiative in the hope of attracting support from various factions which may have different or even conflicting interests"). It is more than possible that a voter may want to increase taxes on millionaires, but not on small and medium-sized businesses, as well as start-up companies, organized as C-corporations. This measure thus is attractive to disparate groups of people that would not vote for all the various subjects contained in the measure. This danger is not trivial. The tax burden increase will fall most heavily on corporations and small businesses, almost all of which receive over a million dollars in income, and not individual earners.

Second, and importantly, Initiative #191's logrolling risk is compounded by the fact that imposing a graduated income tax scheme on other categories of earners, and especially small businesses, is coiled up in the folds and would lead to voter surprise. *See In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 442 (Colo. 2002) (the single subject rule helps avoid "voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative"). Neither the draft measure's text nor the title set by Title Board at the original hearing mention small businesses, which can be C-corporations, LLCs, or other types of entities. The

draft title also only references estates, trusts, and corporations once—and this is buried halfway through the title.

Critically, current law prescribing what language must be included in the title not only compounds this problem—it highlights and explains why the proponents must seek to impose a graduated income tax on individuals in its own separate measure. C.R.S. 1-40-106(3)(j) requires that "[a] ballot title for a measure that either increases or decreases the individual income tax rate must, if applicable, include the table created for the fiscal summary pursuant to section 1-40-105.5 (1.5)(a)(V)." No such table is required for an increase or decrease to the income tax rate for other categories of earners. As a result, the drafted title for Initiative #191 only describes the fiscal impact the measure would have on individual earners. This requirement in state law thus necessarily causes the impact to other earners to be minimized in the title, leaving voters with the message that the measure is focused primarily, if not exclusively, on altering the individual income tax rates. In other words, should Initiative #191 be placed in front of voters, they are most likely to misinterpret the measure as raising taxes on millionaires and vote "yes" or "no" on that basis.

Therefore, the statutory requirements for title language necessarily creates voter surprise as to the Initiative #191's impact on other types of earners and could allow the measure to pass simply on the power of the faction of voters in favor of higher taxes for millionaires. The only way to remedy this issue is to require the proponents to seek to impose a graduated income tax system on individual earners in its own measure.

### C. Initiative #191's Direction of Revenue Towards Prescribed Social Programs Constitutes Multiple Subjects.

Initiative #191 additionally contains multiple subjects by not only establishing a graduated income tax system in Colorado, but also directing that excess revenue collected under such a system be directed towards certain social programs and preventing the legislature from lowering current appropriations to those programs if they wanted to appropriate the excess revenue to those programs. Initiative #191's multiple goals present a significant danger of logrolling as well as voter surprise stemming from another subject coiled up within the measure's folds.

First, Initiative #191's basic premise—instituting a graduated income tax structure and directing excess revenue from such structure towards certain prescribed social programs—contains multiple subjects coiled up within the folds. Even the statement of Initiative #191's "single subject" itself reveals this. Appropriating money to the social programs listed in Initiative #191, and doing so in this manner, is not necessarily and properly connected to the purpose of the measure: changing the income tax structure in Colorado.

Although there is case law suggesting that a ballot measure does not violate the single-subject requirement if it imposes new taxes and allocates revenue to fund a particular goal, those case are distinguishable from Initiative #191. For example, in *Matter of Title, Ballot Title and Submission Clause for 2019–2020 #315*, 500 P. 3d 363, 367–68 (Colo. 2020), the Colorado Supreme Court considered whether Initiative #315 contained multiple subjects. *Id.* There, the measure required that state cigarette and tobacco tax revenue is reallocated to a new preschool program. *Id.* at 363. The Court held that "the reallocation of tax revenues away from localities that ban the sale of tobacco and nicotine products" was not a separate subject, but "one means of implementing Initiative #315's single subject of creating a preschool program by redirecting tax revenues to that program." *Id.* at 368. Proposition FF, a legislatively referred measure which created the Healthy School Meals for All ("HSMA") program, and did so by reducing state income tax deductions for taxpayers earning over $300,000 within the state's current flax income tax scheme, is another example. Here, to the contrary, the redirection of revenue towards certain prescribed social programs is *not* a necessary and proper means to implementing the graduated income tax structure, which is the goal of Initiative #191. One does not logically follow from the other. Moreover, while other measures that were deemed to have a single subject did raise new taxes, they did so within the current tax schemes. Initiative #191, in contrast, would establish an entirely new graduated income tax system. This dramatic change must be placed before voters on its own merits.

Accordingly, Initiative #191's multiple goals must be accomplished through separate measures. Indeed, when the legislature sought voter approval this past fall regarding the HSMA, it separated the proposals into two different measures. Proposition LL asked the voters permission to retain and spend surplus HSMA funds (*e.g.*, $12.4M). Proposition MM asked voters to further limit deductions on high-income taxpayers to fund HSMA expansion, such as covering grant programs for local food, staff wages, training, and equipment. The same should be done here.

Second, the added language in C.R.S. 24-77-103.3(2) presents another subject coiled up in the folds of Initiative #191. The measure adds the following provision to statute:

> FOR PURPOSES OF ADMINISTERING THE DEDICATION OF EXCESS REVENUE SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THERE IS HEREBY CREATED IN THE GENERAL FUND THE COLORADO FUTURE'S ACCOUNT, WHICH SHALL CONSIST OF AN AMOUNT OF MONEYS EQUAL TO THE AMOUNT OF EXCESS REVENUE SPECIFIED IN SUBSECTION (1) OF THIS SECTION. THE MONEYS IN THE ACCOUNT SHALL BE APPROPRIATED OR TRANSFERRED BY THE GENERAL ASSEMBLY FOR THE FOLLOWING PROGRAMS AND PURPOSES AND **MUST SUPPLEMENT AND NOT SUPPLANT CURRENT LEVELS OF APPROPRIATIONS** THERETO . . .

(Emphasis added). By specifying that the excess revenue appropriated to the social programs listed must "supplement and not supplement ***current*** levels, Initiative #191 ties the General Assembly's hands.[7] Thus, coiled in the folds of the measure, is the requirement that the General Assembly must continue to appropriate funds to the programs listed in the same manner as the year of Initiative #191's passage. And necessarily, should the General Assembly *lower* the amount appropriated to a certain social program, the excess revenue described above cannot be lawfully appropriated to such program, as it does not "supplement" current levels of appropriations. This is particularly concerning in times such as these, where the budget shortfall for the 2026 legislative session is estimated around $850 million[8] and the General Assembly may need to make difficult decisions regarding the funding of various programs.

### D. The Broad Theme of "Income Tax Policy" Does Not Rescue Initiative #191.

Moreover, the measure is not saved by the proponents' characterization of the provisions as all falling under the umbrella topic or theme of "income tax policy" Or something similar. The Colorado Supreme Court has held that that "water," "revenue changes," and "local regulation of oil and gas development" are three examples of "overarching themes" that did not qualify as single subjects when the proposed initiatives associated with those themes contained disconnected or incongruous provisions.

Just as the theme of "water" did not satisfy the single subject rule when the measure sought to establish a so-called public trust doctrine and to impact the procedures of water conservation district elections, Initiative #191 does not satisfy the single subject rule by changing Colorado's flat income tax to a graduated one, making other changes to TABOR unrelated to a graduated income tax scheme, permitting the excess revenue generated by the graduated income tax to be retained, and dictating that revenue must be spent on certain social programs. *See In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076,1080 (Colo. 1995); *see also In re Proposed Initiative Amend TABOR 25*, 900 P.2d 121, 125 (Colo. 1995) (holding that the umbrella subject of "revenue changes" did not alter the fact that the measure contained two unrelated subjects – a tax credit and changes to the procedural requirements for ballot titles); *In re Title, Ballot Title and Submission Clause for 2013–2014 #90 and #93*, 2014 CO 63, ¶ 53 (holding that "the overarching theme of 'local regulation of oil and gas development' does not qualify as a single subject because the Proposed Initiatives contain disconnected and incongruous

[7] While a similar clause was included in Initiative #271, passed by Title Board in 2020, this issue not raised in any Motions for Rehearing.

[8] *See* Jesse Paul, *"Even worse than we thought": Colorado is stuck in a cycle of annual, $1B state budget shortfalls*, COLORADO SUN (Nov. 17, 2025), https://coloradosun.com/2025/11/17/colorado-budget-cycles-1-billion-shortfall-medicaid.

provisions that vest local governments with authority to regulate oil and gas development on the one hand and limit takings law on the other").

The theme of "income tax policy" is at least as equally broad as these other improper umbrella topics, rendering the Title Board without jurisdiction to set title.

## II. THE TITLE BOARD LACKS JURISDICTION TO SET A TITLE BECAUSE THE PROPOSED MEASURE IS SO VAGUE AND CONFUSING THAT IT CANNOT BE UNDERSTOOD.

As explained in detail in the Objector's Motion for Rehearing on Initiative #181, Initiative #191 suffers from the same deficiencies with its strikethrough of only a portion of the last sentence in Paragraph 8(a) of TABOR. (*See* Initiative #191, § 2.) By doing so, the Proponents create an ambiguous and incomprehensible sentence in TABOR that deprives the Title Board of jurisdiction to set title.

If passed, Initiative #191 would remove the requirement that all net income be taxed at one rate (excluding refund tax credits or voter-approved tax credits), with no added tax or surcharge, and instead have the sentence state something completely different: "*Any income tax change after July 1, 1992 shall also require no added tax or surcharge*." This change to the final sentence in Paragraph 8(a) divorces the original intent of the provision from its roots. "No added tax or surcharge" currently modifies "one rate." By removing the ", with," that phrase would instead modify "income tax law change." Initiative #191's vague and confusing change to TABOR—a constitutional provision—means that this Title Board cannot set title and it should refrain from doing so here. *See In re Title, Ballot Title and Submission Clause for 2015-2016 #73*, 369 P.3d 565, 568 (Colo. 2016).

## III. THE TITLE FAILS TO ACCURATELY DESCRIBE THE MEASURE AND WOULD MISLEAD VOTERS.

Even if the Title Board were to affirm it has jurisdiction to set a title, and that the measure does not impermissibly contain multiple subjects, setting a title for Initiative #191 is problematic for at least several reasons. The draft title approved at the January 21st hearing must be amended so that the title fully and accurately captures the measure's central features and does not mislead voters. Thus, at least the following changes must be made:

First, the title does not reveal several of the subjects listed above, including that it: (i) removes the constitutional requirement that net income, as opposed to gross income, be taxed; (ii) repeals the protections afforded to refund tax credits or voter approved tax credits, permitting the General Assembly to consider those as "taxable income;" (iii) deletes the TABOR provision requiring any changes to the state's income tax be identical across income taxpayers (i.e., individuals, estates,

trusts, C-corporations, and via pass-through entities); and (iv) excludes the excess revenue collected from the TABOR cap, and thus affects TABOR refunds. Specifically, as to the third subject identified above (deletes the TABOR provision requiring any changes to the state's income tax be identical across income taxpayers (i.e., individuals, estates, trusts, C-corporations, and via pass-through entities)), the language in the title which identifies the taxpayers affected by the measure is buried within its text.

Second, the title fails to clarify the full gravity of the constitutional repeal—*i.e.*, that the measure would repeal the constitutional provision requiring a single, flat tax. Given how difficult it is to amend Colorado's Constitution, this repeal, if passed, is likely to be permanent. This dramatic change must be adequately reflected in the title.

Third, the title's inclusion of a table showing proposed changes to income taxes by income category is misleading and prejudicial. The table fails to clarify that these proposed changes apply to individuals, estates, and trusts, as well as certain incorporated businesses. As a result, the title creates the impression that the measure is simply increasing taxes on individual millionaires, rather than small and medium-sized businesses, as well as start-up companies. While the Objector understands that Legislative Council was obligated to create such a table for the initial fiscal statement, *see* C.R.S. § 1-40-105.5(1.5)(a)(V), and that a statute requires that the Title Board place that table in the title, this does not prevent the Title Board from either (a) adding language to clarify that taxes on businesses would increase or (b) creating separate tables for estates, trusts, and C-corporations.

Fourth, absent language in the title, voters would be misled into thinking that because the title does not list certain other entities, such as S-corporations and limited liability companies, those entities would not be impacted by Initiative #191. But pass-through entities would be affected by these measures because they are usually taxed at the individual level. In other words, the title obscures the full reach and impact of the tax increase by listing some of the targets of the new tax scheme but not others—a construction that will create the plainly false impression that the owner of an LLC, for example, are not targeted by this policy. Any individual or business classification that will experience a tax increase if this measure passes should be expressly listed in the title.

Fifth, and relatedly, the title fails to include any mention of the effect on smaller businesses. Many small and mid-size businesses, as well as start-up companies, are organized as C-corporations and would clearly have their taxes increased under this measure.[9] Likewise small businesses that are taxed as S-corporations or LLCs would still pass along the income tax increases to their

[9] The following are statistics prepared by the Colorado Department of Revenue: https://cdor.colorado.gov/data-and-reports/income-tax-data/corporate-statistics-of-income-reports.

individual shareholders. The graduated income tax scheme would likely raise their taxes on their net profits. Higher taxes on smaller businesses could have drastic effects, such as decreasing the number of these family-owned businesses in the state, slowing economic growth, and killing jobs for Coloradans. Effects such as these are not inconceivable—it's famously happened in California in recent years, where so-called schemes to "tax the rich" have led employers of all sizes to cease doing business in the state. The title as drafted does not sufficiently address the significant dangers to Colorado's business landscape associated with such a dramatic corporate tax increase. Accordingly, the title must be edited to make this risk clear. Likewise, while Initiative #191 specifies that it applies to "corporations," voters may not understand that large, medium, and small businesses, as well as start-up companies, are organized as C-corporations. The title must be edited to make this clarification.

Sixth, the title's reference to "estates" is misleading and needs to be clarified. Voters are unlikely to think of "estates" as covering anything other than millionaire's estates. Rather, each time a person passes away, the person's estate will need to file an income tax return showing income earned for the assets in its possession before distributing those assets to beneficiaries. Thus, Initiative #191 would result in higher taxes on the assets left to individuals grieving their lost loved ones. The title needs to explicitly describe this feature.

Seventh, the title as drafted does not clarify that the excess portion of the revenue generated does not count toward the TABOR cap, significantly affecting and potentially eliminating the refunds voters have come to expect under TABOR. The title is also misleading in that it does not adequately explain that this measure removes the voters' right to vote on retaining excess revenue under TABOR. These are fundamental changes to TABOR that a voter would be surprised to learn. Thus, this language should be included at the outset.

Eighth, the title does not explain that the General Assembly has the discretion as to how to spend the money amongst the various services listed in the measure. Just because a certain service is listed, does not mean that the legislative will allocate any of the increased tax revenue to that particular service. Therefore, the words "at the discretion of the legislature" must be added to the title.

Therefore, the title must be amended to make these changes because otherwise the title would not "correctly and fairly express the true intent and meaning" of the measure. *See* C.R.S. § 1-40-106(3)(b). Indeed, Title Board's "duty is to ensure that the title, ballot title and submission clause, and summary fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the board." *In re Ballot Title 1997–1998 # 62*, 961 P.2d 1077, 1082 (Colo. 1998) (quoting *In re Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment*, 873 P.2d 718, 719 (Colo. 1994)).

## IV. THE INITIAL FISCAL IMPACT STATEMENT IS MISLEADING AND PREJUDICIAL.

Finally, the Objector incorporates his argument set forth in the Motion for Rehearing on Initiative #181 regarding the misleading, incomplete, and prejudicial initial fiscal impact statement prepared by Legislative Council Staff as to the effects of Initiative #191 on corporations, and especially small and medium-sized businesses, or start-up companies, organized as C-corporations. *See* C.R.S. § 1-40-105.5(1.5)(a)(II).

## CONCLUSION

Accordingly, the Objector respectfully requests that a rehearing is set pursuant to C.R.S. § 1-40-107(1) and that the Title Board grant this Motion.

Respectfully submitted this 28th day of January 2026.

*/s/ David B. Meschke*
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# Ballot Title Setting Board

## Proposed Initiative 2025-2026 #191[1]

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

State taxes shall be increased $2.7 billion annually, in order to increase or improve levels of public services, including K-12 public school education, health care, and early child care and education services, by an amendment to the Colorado Constitution and a change to the Colorado Revised Statutes repealing existing law and creating new law to replace the uniform state income tax rate with a graduated income tax structure, and, in connection therewith, amending the Taxpayer's Bill of Rights to eliminate the constitutional requirement for all income to be taxed at one rate; establishing various income tax rates based on the amount of taxable income earned by individuals, estates, trusts, and corporations, while maintaining the current 4.4% tax on income from the sale of a principal residence, which will result in the estimated change in income taxes owed by individuals as identified in the following table; and authorizing the state to retain and spend any increased revenue from the new tax structure, as a voter-approved revenue change, to supplement current levels of funding for K-12 public school education, health care, and early child care and education programs:

**Initiative 191**
**Change in Income Taxes Owed by Income Category**

| Income Categories | Current Average Income Tax Owed | Proposed Average Income Tax Owed | Proposed Change in Average Income Tax Owed if Passed + or - |
|---|---|---|---|
| $25,000 or less | $59 | $50 | -$9 |
| $25,001 - $50,000 | $751 | $632 | -$119 |
| $50,001 - $100,000 | $1,877 | $1,666 | -$210 |
| $100,001 - $200,000 | $4,126 | $3,828 | -$298 |
| $200,001 - $500,000 | $9,344 | $9,019 | -$325 |
| $500,001 - $1,000,000 | $19,288 | $18,963 | -$325 |
| $1,000,001 - $2,000,000 | $29,432 | $34,196 | +$4,764 |

[1] Unofficially captioned **"Graduated Income Tax"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

| | | | |
|---|---|---|---|
| $2,000,001 - $5,000,000 | $41,196 | $55,110 | +$13,914 |

Income categories use adjusted gross income reported to the federal Internal Revenue Service.

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

Shall state taxes be increased $2.7 billion annually, in order to increase or improve levels of public services, including K-12 public school education, health care, and early child care and education services, by an amendment to the Colorado Constitution and a change to the Colorado Revised Statutes repealing existing law and creating new law to replace the uniform state income tax rate with a graduated income tax structure, and, in connection therewith, amending the Taxpayer's Bill of Rights to eliminate the constitutional requirement for all income to be taxed at one rate; establishing various income tax rates based on the amount of taxable income earned by individuals, estates, trusts, and corporations, while maintaining the current 4.4% tax on income from the sale of a principal residence, which will result in the estimated change in income taxes owed by individuals as identified in the following table; and authorizing the state to retain and spend any increased revenue from the new tax structure, as a voter-approved revenue change, to supplement current levels of funding for K-12 public school education, health care, and early child care and education programs?

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| $2,000,001 - $5,000,000 | $41,196 | $55,110 | +$13,914 |

Income categories use adjusted gross income reported to the federal Internal Revenue Service.

*Hearing January 21, 2026:*
*Single subject approved; staff draft amended; titles set (3-0).*
*The Board finds that the proposed initiative only repeals, in whole or in part, a provision of the state constitution and therefore does not require a 55% majority for passage.*
*Board members: Theresa Conley, Christy Chase, Kurt Morrison*
*Hearing adjourned 11:35 A.M.*

# Ballot Title Setting Board

## Proposed Initiative 2025-2026 #191[1]

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

State taxes shall be increased $2.7 billion annually, in order to increase or improve levels of public services, including K-12 public school education, health care, and early child care and education services, by an amendment to the Colorado Constitution and a change to the Colorado Revised Statutes repealing existing law and creating new law to replace the uniform state income tax rate with a graduated income tax structure, and, in connection therewith, amending the Taxpayer's Bill of Rights to eliminate the constitutional requirement for all income to be taxed at one rate; establishing various income tax rates based on the amount of taxable income earned by individuals, estates, trusts, and corporations, while maintaining the current 4.4% tax on income from the sale of a principal residence, which will result in the estimated change in income taxes owed by individuals as identified in the following table; and authorizing the state to retain and spend any increased revenue from the new tax structure, as a voter-approved revenue change, to supplement current levels of funding for K-12 public school education, health care, and early child care and education programs:

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Income categories use adjusted gross income reported to the federal Internal Revenue Service.

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

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| $2,000,001 - $5,000,000 | $41,196 | $55,110 | +$13,914 |

Income categories use adjusted gross income reported to the federal Internal Revenue Service.

*Hearing January 21, 2026:*
*Single subject approved; staff draft amended; titles set (3-0).*
*The Board finds that the proposed initiative only repeals, in whole or in part, a provision of the state constitution and therefore does not require a 55% majority for passage.*
*Board members: Theresa Conley, Christy Chase, Kurt Morrison*
*Hearing adjourned 11:35 A.M.*

*Rehearing February 4, 2026:*
*Motions for rehearing (Fields, Menten, Sopkin, Hancock) denied in their entirety, (3-0).*
*Board members: Theresa Conley, Christy Chase, Kurt Morrison*
*Hearing adjourned 11:13 A.M.*

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

**SECTION 1. Legislative Declaration**

(1) The people of the state of Colorado find, determine, and declare that:

(a) Colorado taxpayers are entitled to a fair and equitable tax system that recognizes the affordability challenges facing working families, promotes a vibrant statewide economy, and adequately supports our public education, health care, and child care systems and other essential public services available to all Coloradans;

(b) Colorado's current flat income tax system, unlike the graduated income tax system at the federal level and in 27 other states, taxes millionaires and corporations at the same rate as regular working people;

(c) Combining state income, sales, and property taxes, the wealthiest 1% of Coloradans–those making over $850,000 per year–pay only 7% of their income in state and local taxes every year, whereas the 60% of Coloradans making between $25,000 and $150,000 per year pay between 9-10%.

(d) The 97% of Colorado taxpayers making less than $500,000 would benefit from a tax cut to help them afford the high cost of living;

(e) The Taxpayer's Bill of Rights, or the TABOR amendment, has significantly limited the ability of state and local governments to invest in supporting teachers and care workers, building infrastructure, and keeping up with a changing economy;

(f) TABOR can be amended to allow a graduated income tax without impacting TABOR refunds or the voters' right to approve any future tax increases;

(g) As demonstrated by recent state-commissioned adequacy studies, Colorado's public schools have been underfunded for decades, and despite the elimination of the Budget Stabilization Factor in 2024, teacher wage competitiveness is still 50th in the country.

(h) Health care in Colorado is too expensive, and the cuts in the federal budget bill are expected to exceed $2 billion per year by 2032, with rural hospitals and clinics facing the greatest risks for closing or limiting services; and

(i) Child care in Colorado is too expensive, making it harder for parents to work while raising their families, and yet wages are so low that 46 percent of early childhood workers in the state rely on social welfare programs like Medicaid and SNAP;

(2) The people of the state of Colorado find, therefore, that:

(a) A graduated income tax system will:

(I) Better support Colorado's children and families, working people, and older adults by cutting taxes for individuals and small businesses making less than $500,000 per year while only increasing taxes on individuals and corporations making more than $500,000 per year;

(II) Increase Colorado's ability to adequately invest in our public schools, health care, and child care systems and programs to improve the affordability of health care and child care;

(b) A graduated income tax system will not:

(I) Change the Constitutional requirement that the state government cannot raise any tax rates without another vote of the people;

(II) Reduce or otherwise impact TABOR refunds, because any revenue raised from Colorado's current 4.4% flat income tax, 2.9% sales tax, and various other taxes and fees that exceeds the TABOR spending limit will be required to be refunded to taxpayers;

(c) All new revenue from graduated income tax that exceeds what would have otherwise been collected under Colorado's current tax rates will be transferred into the Colorado's Future Fund, with spending limited to the following purposes:

(I) Improving our public education system, increasing pay to attract and retain great teachers, reducing class sizes, supporting rural schools, and supporting affordable pathways to higher education and workforce training;

(II) Improving our health care system, making health care more affordable, replacing federal Medicaid funds that were cut by the federal budget bill, implementing new requirements in the federal budget bill, increasing access to mental and behavioral health care and primary care, supporting services for older adults and people with disabilities, increasing access to nutritious food, supporting our health care workforce, and supporting rural hospitals and clinics;

(III) Improving our early child care and education systems, helping families afford child care, and increasing pay to attract and retain great child care providers;

(d) New revenues are intended to supplement rather than supplant existing funding;

(e) Taxpayers will be able to monitor and assure responsible and effective usage of all new revenue based on the following requirements:

(I) The nonpartisan office of legislative council will produce an annual report on all spending of new revenue that will be accessible to the public in various formats including the general assembly's website with plain language descriptions and understandable data visualizations;

(II) The nonpartisan and independent office of the state auditor will annually audit this report and present findings to the Joint Budget Committee and the public;

**SECTION 2** 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.

**SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend** (1.7)(c) and (2); and **add** (1.8) as follows:

**39-22-104. Income tax imposed on individuals, estates, and trusts - report - tax preference performance statement - legislative declaration - definitions - repeal.** (1.7)(c) 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, 2022, BUT BEFORE JANUARY 1, 2027, a tax of four and forty 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.

(1.8)(a) 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, 2027, A GRADUATED TAX IS IMPOSED ON FEDERAL TAXABLE INCOME, AS DETERMINED BY SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST, AS FOLLOWS:

(I) FOR FEDERAL TAXABLE INCOME LESS THAN OR EQUAL TO TWENTY FIVE THOUSAND DOLLARS, THE TAX IS THREE AND SEVENTY ONE-HUNDREDTHS PERCENT;

(II) FOR FEDERAL TAXABLE INCOME GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, THE TAX IS (A) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS AND (B) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS;

(III) FOR FEDERAL TAXABLE INCOME GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, THE TAX IS (A) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (B) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED

THOUSAND DOLLARS, AND (C) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS;

(IV) FOR FEDERAL TAXABLE INCOME GREATER THAN FIVE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, THE TAX IS (A) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (B) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (C) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, AND (D) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN FIVE HUNDRED THOUSAND DOLLARS;

(V) FOR FEDERAL TAXABLE INCOME GREATER THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE MILLION DOLLARS, THE TAX IS (A) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (B) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (C) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, (D) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT OVER FIVE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, AND (E) SEVEN AND NINETY ONE-HUNDREDTHS PERCENT ON THE AMOUNT OVER SEVEN HUNDRED FIFTY THOUSAND DOLLARS; AND

(VI) FOR FEDERAL TAXABLE INCOME GREATER THAN ONE MILLION DOLLARS, THE TAX IS (A) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (B) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (C) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, (D) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN FIVE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, (E) SEVEN AND NINETY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE MILLION DOLLARS; AND (F) EIGHT AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE MILLION DOLLARS.

(b) FOR PURPOSES OF SUBSECTION (1.8)(a) OF THIS SECTION, TAXABLE NET INCOME FROM THE SALE OR EXCHANGE OF A PRINCIPAL RESIDENCE EXCEEDING THE AMOUNT EXCLUDED FROM FEDERAL TAXABLE INCOME UNDER SECTION 121 OF THE INTERNAL REVENUE CODE SHALL BE SUBJECT TO TAX UNDER THIS SECTION AT THE RATE OF FOUR AND FORTY ONE-HUNDREDTHS PERCENT.

(2) Prior to the application of the rate of tax prescribed in subsection (1), (1.5), ~~or~~ (1.7), OR (1.8) of this section, the federal taxable income shall be modified as provided in subsections (3) and (4) of this section.

**SECTION 4.** In Colorado Revised Statutes, 39-22-301, **amend** (1)(d)(I)(K) and **add** (1)(d)(I)(L) as follows:

**39-22-301. Corporate tax imposed – repeal.** (1)(d)(I)(K). Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2027, four and forty one-hundredths percent of the Colorado net income.

(1)(d)(I)(L) EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, A GRADUATED TAX IS IMPOSED ON COLORADO NET INCOME, AS DETERMINED UNDER THIS SECTION, OF EVERY DOMESTIC C CORPORATION, FOREIGN C CORPORATION, AND COMBINED GROUP, AS DEFINED IN SECTION 39-22-303(12)(a.3), 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, AS FOLLOWS:

(i) FOR COLORADO NET INCOME LESS THAN OR EQUAL TO TWENTY FIVE THOUSAND DOLLARS, THE TAX IS THREE AND SEVENTY ONE-HUNDREDTHS PERCENT;

(ii) FOR COLORADO NET INCOME GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, THE TAX IS (I) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS AND (II) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS;

(iii) FOR COLORADO NET INCOME GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, THE TAX IS (I) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (II) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, AND (III) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS;

(iv) FOR COLORADO NET INCOME GREATER THAN FIVE HUNDRED THOUSAND DOLLARS BUT

LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, THE TAX IS (I) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (II) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (III) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, AND (IV) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN FIVE HUNDRED THOUSAND DOLLARS;

(v) FOR COLORADO NET INCOME GREATER THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE MILLION DOLLARS, THE TAX IS (I) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (II) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (III) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, (IV) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT OVER FIVE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, AND (V) SEVEN AND NINETY ONE-HUNDREDTHS PERCENT ON THE AMOUNT OVER SEVEN HUNDRED FIFTY THOUSAND DOLLARS; AND

(vi) FOR COLORADO NET INCOME GREATER THAN ONE MILLION DOLLARS, THE TAX IS (I) THREE AND SEVENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT UP TO AND INCLUDING TWENTY FIVE THOUSAND DOLLARS, (II) FOUR AND TWENTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN TWENTY FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS, (III) FOUR AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS, (IV) SEVEN AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN FIVE HUNDRED THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS, (V) SEVEN AND NINETY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE MILLION DOLLARS; AND (VI) EIGHT AND FORTY ONE-HUNDREDTHS PERCENT ON THE AMOUNT GREATER THAN ONE MILLION DOLLARS.

**SECTION 5.** In Colorado Revised Statutes, **add** 24-77-103.3 as follows:

**24-77-103.3. Voter approved revenue change – retention and use of revenue – accountability.** (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JANUARY 1, 2026, ALL REVENUE COLLECTED UNDER THE INCOME TAX RATES ESTABLISHED BY SECTION 39-22-104(1.8) AND SECTION 39-22-301(1)(d)(I)(L) IN EXCESS OF THE REVENUE THAT WOULD BE GENERATED IN ANY SUCH STATE FISCAL YEAR BY APPLYING THE INCOME TAX RATE THAT EXISTED AS OF DECEMBER 31, 2026 ("EXCESS REVENUE"), SHALL CONSTITUTE A VOTER APPROVED REVENUE CHANGE UNDER SECTION 20(7)(d) OF ARTICLE X OF THE COLORADO CONSTITUTION, AND MAY BE COLLECTED, KEPT, AND

SPENT NOTWITHSTANDING ANY OTHER LIMITS IN SUBSECTION (20)(7)(d).

(2) FOR PURPOSES OF ADMINISTERING THE DEDICATION OF THE EXCESS REVENUE SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THERE IS HEREBY CREATED IN THE GENERAL FUND THE COLORADO FUTURE'S ACCOUNT, WHICH SHALL CONSIST OF AN AMOUNT OF MONEYS EQUAL TO THE AMOUNT OF EXCESS REVENUE SPECIFIED IN SUBSECTION (1) OF THIS SECTION. THE MONEYS IN THE ACCOUNT SHALL BE APPROPRIATED OR TRANSFERRED BY THE GENERAL ASSEMBLY FOR THE FOLLOWING PROGRAMS AND PURPOSES AND MUST SUPPLEMENT AND NOT SUPPLANT CURRENT LEVELS OF APPROPRIATIONS THERETO:

(a) K-12 PUBLIC SCHOOL EDUCATION, INCLUDING:
(I) IMPROVING KINDERGARTEN THROUGH 12TH GRADE;
(II) INCREASING ACCESS TO CAREER AND TECHNICAL EDUCATION PROGRAMS;
(III) INCREASING TEACHER PAY;
(b) HEALTH CARE, INCLUDING:
(I) PROGRAMS TO HELP FAMILIES AFFORD HEALTH CARE;
(II) REPLACING MEDICAID FUNDING LOST DUE TO RECENT FEDERAL LEGISLATION, AND PAYING FOR IMPLEMENTATION OF NEW FEDERAL REQUIREMENTS;
(III) INCREASING FUNDING FOR PRIMARY CARE, BEHAVIORAL HEALTH AND RURAL HEALTH CARE;
(IV) SUPPORTING HEALTH CARE, LONG-TERM CARE, AND OTHER SUPPORTS FOR OLDER ADULTS AND PEOPLE WITH DISABILITIES;
(V) PROGRAMS THAT INCREASE ACCESS TO NUTRITIOUS FOOD; AND
(c) EARLY CHILD CARE AND EDUCATION, INCLUDING:
(I) PROGRAMS TO HELP FAMILIES AFFORD CHILD CARE;
(II) INCREASING PAY AND SUPPORT FOR THE CHILD CARE WORKFORCE;
(III) IMPROVING ACCESS TO HIGH-QUALITY EARLY CHILDHOOD EDUCATION PROGRAMS;

(3)(a) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JANUARY 1, 2026, THAT THE STATE RECEIVES EXCESS REVENUE AS DEFINED IN SUBSECTION (1) OF THIS SECTION, THE DIRECTOR OF RESEARCH OF THE NONPARTISAN STAFF OF THE LEGISLATIVE COUNCIL SHALL PREPARE A REPORT, TO BE TRANSMITTED TO THE GENERAL ASSEMBLY AND MADE PUBLICLY AVAILABLE AND EASILY ACCESSIBLE ON OR VIA A LINK FROM THE GENERAL ASSEMBLY'S WEBSITE, SPECIFYING THE USES TO WHICH SUCH REVENUE HAS BEEN APPROPRIATED OR TRANSFERRED AND TO ENSURE THAT SUCH REVENUE IS APPROPRIATED, TRANSFERRED, AND SPENT, AS DIRECTED BY THE PEOPLE OF COLORADO, IN ACCORDANCE WITH THIS SECTION. THE OFFICE OF THE STATE AUDITOR SHALL ANNUALLY AUDIT THE REPORT, WHICH MUST AT A MINIMUM CONTAIN THE FOLLOWING INFORMATION:

(I)THE AMOUNT OF SUCH EXCESS REVENUE; AND

(II)A SPECIFICATION AND DESCRIPTION OF THE AMOUNTS, PROGRAMS AND PURPOSES TO WHICH SUCH REVENUE HAS BEEN ALLOCATED AND APPROPRIATED OR TRANSFERRED.

(b) THE REPORT SHALL INCLUDE A PLAIN LANGUAGE SUMMARY AND, WHERE POSSIBLE, EASILY UNDERSTANDABLE VISUALIZATIONS OF THIS INFORMATION, AND SHALL BE MADE REASONABLY AVAILABLE IN OTHER FORMATS WHEN REQUESTED.

# Fiscal Summary

## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

**Measure:** Initiative 191 – GRADUATED INCOME TAX

**Analyst:** Elizabeth Ramey, elizabeth.ramey@coleg.gov, 303-866-3522

**Date:** January 20, 2026

## Fiscal Summary of Initiative 191

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

### State Revenue

By replacing the state flat income tax with a graduated income tax, the measure increases General Fund revenue from income taxes by an estimated $1.0 billion in FY 2026-27, $2.0 billion in FY 2027-28, and increasing amounts in future years based on income and population growth. The estimate for FY 2026-27 represents a half-year impact for tax year 2027. An additional amount of revenue will be diverted to the Healthy School Meals for All Cash Fund under Proposition MM. This amount has not been estimated. The revenue estimate does not account for the impacts of recent federal legislation due to insufficient data. The increased revenue is exempt from TABOR as a voter-approved revenue change.

#### Maximum Dollar Change

The estimates in the previous paragraph represent the revenue impact of the measure under the current LCS revenue forecast. Based on forecast error that could occur, the maximum dollar amount of the change in state government revenue and fiscal year spending for FY 2027-28 is preliminarily estimated as an increase of $2.7 billion.

### State Expenditures

The measure increases the amount of state General Fund revenue available to spend for the purposes identified in the measure in FY 2026-27 and future fiscal years. To administer the tax rate change, the measure is expected to increase one-time General Fund expenditures for the Department of Revenue by $100,000.

## Economic Impacts

Depending on their incomes, taxpayers will have either more or less after-tax income available to spend or save. On net, total after-tax household and business incomes in Colorado will be less than under current law, potentially decreasing consumption of goods and services. Any overall change in economic activity will depend on the net economic impact of changes to after-tax household and business income and the level of investment in public services.

## Taxpayer Impacts

The table below shows the estimated decrease in state income tax owed for individual income taxpayers with different levels of adjusted gross income if the state flat income tax rate is replaced with a graduated income tax rate.

**Initiative 191**
**Change in Income Taxes Owed by Income Category**

| Income Categories | Current Average Income Tax Owed | Proposed Average Income Tax Owed | Proposed Change in Average Income Tax Owed if Passed + or - |
|---|---|---|---|
| $25,000 or less | $59 | $50 | -$9 |
| $25,001 - $50,000 | $751 | $632 | -$119 |
| $50,001 - $100,000 | $1,877 | $1,666 | -$210 |
| $100,001 - $200,000 | $4,126 | $3,828 | -$298 |
| $200,001 - $500,000 | $9,344 | $9,019 | -$325 |
| $500,001 - $1,000,000 | $19,288 | $18,963 | -$325 |
| $1,000,001 - $2,000,000 | $29,432 | $34,196 | +$4,764 |
| $2,000,001 - $5,000,000 | $41,196 | $55,110 | +$13,914 |

Income categories use adjusted gross income reported to the federal Internal Revenue Service.