

CERTIFICATE OF COMPLIANCE

I hereby certify that this Answer Brief complies with all the requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, I certify that:

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

It contains 1680 words (principal brief does not exceed 9500 words; reply brief does not exceed 5700 words).

The brief complies with the requirements set forth in C.A.R. 28(a)(1-3) as well as the requirements of C.A.R. 28(b) & (c).

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

/s/ Rebecca R. Sopkin

Rebecca R. Sopkin

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On my own behalf, as a registered elector of the State of Colorado, the undersigned hereby respectfully submits to this Court the following Answer Brief as authorized by the Court's Order dated February 12, 2026. The Proposed Initiatives shall hereinafter be referred to as Initiative #191, Initiative #195 and Initiative #196. All arguments below apply to all three proposed initiatives unless otherwise stated. In the interest of avoiding needless repetition, Petitioner also incorporates all of the arguments set forth by all of the petitioners.

I have only addressed those issues in which there were further resources and/or arguments to bring to the Court's attention beyond what has already been raised in my brief and the other briefs presented to the Court.

ARGUMENT

I. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR THE PORTION OF INITIATIVES #191, #195 AND #196 WHICH IS ENTITLED "LEGISLATIVE DECLARATION" AS IT IS EXTRALEGAL AND IS NOT PROVIDED FOR IN ANY RELEVANT LAW.

The single subject issues which are raised by the "Legislative Declaration" are addressed below.

The respondents' only defense of the "Legislative Declaration" which they have included is that provision is made for the inclusion of "Legislative Declarations" in the

General Assembly's Legislative Drafting Manual. The Title Board's position is that the people have no less power to legislate than the General Assembly and there is no prohibition in Colorado law. Since the General Assembly often includes "Legislative Declarations" and as there is no specific law on the matter, the proponents assert that a "Legislative Declaration" should be allowed in a proposed ballot initiative.

There is little to no case law on this matter as (1) legislative declarations do not become positive law, and (2) they have not been frequently used on proposed ballot initiatives and their use does not seem to have been challenged before.

The problem with both the respondents' and Title Board's positions is that a "Legislative Declaration" is not legislation. The concern is not that only a legislature can pass "legislation." "Legislation" is defined as "the process of making or enacting a positive law in written form, . . . and the law so enacted." Black's Law Dictionary (12th ed., 2024). The concern is that the "Legislative Declaration" is not law. In the Colorado Constitution "the people reserve to themselves the power to propose laws and amendments to the constitution." Colo. Const. Art. V, § 1(1). The "Legislative Declaration" is not a positive law. It has no binding legal force, nor must it be obeyed or followed by citizens, nor does it have any sanctions or legal consequences.

This issue may seem inconsequential as the "Legislative Declaration" has no legal force, however, in a ballot initiative the language actually has a dual effect in two different parts of the process, and in the first part of that process its effect is particularly pernicious.

Before a ballot initiative becomes a law it first must gather signatures through the petition process. During that process the “Legislative Declaration” serves as an unrefuted and very biased argument in favor of the initiative. This does not give the people of Colorado any additional freedom, but in fact may cause confusion and certainly could contribute to the cynicism rampant in our society due to being an apparently government sanctioned form of potential misinformation.

The ballot initiative process is highly regulated. As there is no provision in law which allows for such a legislative declaration, and as it can be abused and cause confusion, this court should give guidance to the legislative services office and the Title Board and rule that it is inappropriate for a proposed ballot initiative to contain non-functioning language that is simply an argument in favor of the initiative.

II. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR INITIATIVES #191, #195 AND #196 AS THE CONTENTS OF THE PROPOSED INITIATIVES ARE SO VAGUE AND CONFUSING AS TO MAKE IT IMPOSSIBLE TO SET A CLEAR TITLE.

The Proponents state that “[t]he Title Board had no difficulty understanding the proposed measures sufficiently to set titles for each.” Respondents’ Opening Brief, pg. 7.

The actual Title Board meetings and results would say differently. Before proposed Initiatives 2025-2026 #189-196, which were the initiatives appealed to this court before some were withdrawn and the rest were consolidated into this action, there have been

proposed Initiatives 2025-2026 #145, 146, 147 and 181 which did not end up successfully having titles set as it was found that they did not have a single subject.

The revision to the Colo. Const. Art. X, § 20(8)(a) in Proposed Initiative 2025-2026 #181¹ was identical to the revision to that section in Proposed Initiative 2025-2026 #191: “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.”

At the December 17, 2025, Title Board meeting the Board considered, and eventually granted in their entirety four (4) Motions for Rehearing regarding proposed Initiative 2025-2026 #181, finding that they did not have jurisdiction to set title as the measure had multiple subjects.²

The Title Board had an extended conversation wherein they attempted to ascertain the meaning of the changes proposed. This conversation went from approximately the 1:10:50 hour mark in the audio transcript to the 2:45:50 hour mark. Audio of Title Board Meeting, Wed., Feb. 4, 2026, 2025-2026 #181.³ During this conversation board member Christy Chase stated that “I’m finding very challenging to understand such that setting the title and explaining to voters the full extent of what the measure does when I can’t even

¹ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.coloradosos.gov/pubs/elections/Initiatives/titleBoard/filings/2025-2026/181Final.pdf

² https://www.coloradosos.gov/pubs/elections/Initiatives/titleBoard/results/2025-2026/181Results.html

³ https://csos.granicus.com/player/clip/534?view_id=1&redirect=true

understand, I can't understand what the measure does frankly in terms of the change to TABOR Audio of Title Board Meeting, Wed., Feb. 4, 2026, 2025-2026 #181, 1:26:25. She also stated that "I think words need to be added to make it clear what you can do. I don't know what "no added tax" means in the context of a measure that also increases taxes. Is an added tax an increase in the tax rate? Is it something else? There's just so many things that are confusing. . . . I am very perplexed how we can explain what this clearly and without misleading." Audio of Title Board Meeting, Wed., Feb. 4, 2026, 2025-2026 #181, 1:30:44. Board member Theresa Conley agreed, saying, "I am a little perplexed by that last sentence, if it's doing two things." Audio of Title Board Meeting, Wed., Feb. 4, 2026, 2025-2026 #181, 2:01:03 (referring to the sentence revising Colo. Const. Art. X, § 20, § 1(8)(a)), and "I think I'm now a little bit stuck on whether or not that language is just clunky that's left in 8 or if it's problematic." Audio of Title Board Meeting, Wed., Feb. 4, 2026, 2025-2026 #181, 2:16:36.

The Title Board ruled that this confusion created more than a single subject, but it is also clear that the proposed Initiative #181, particularly the language which is identical to proposed Initiative #191, was so vague and confusing as to make it impossible to set a clear title.

The language in proposed Initiatives #195 and #196 regarding the amending of the Colorado Constitution is slightly different: "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.~~ However, this change does not do anything to clarify the confusion which the Title Board discussed above.

III. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR INITIATIVES #191, #195 AND #196 AS THE INITIATIVES ARE ALL IN VIOLATION OF THE SINGLE SUBJECT RULE.

A. The “Legislative Declaration” introduces several subjects which violate the single subject rule.

If the “Legislative Declaration” is allowed to remain in the proposed Initiatives, then we must seriously consider its contents. There is the issue of whether our current tax system is “fair and equitable,” whether it “promotes a vibrant statewide economy,” whether it “adequately supports our public education, health care, and child care systems.” There are multiple subjects added in the statistics regarding our current tax system. There is the issue of whether the Taxpayer’s Bill of Rights “has significantly limited the ability of state and local governments to invest in supporting teachers and care workers, build[] infrastructure, and keep[] up with a changing economy.” Proposed Initiatives # 191, #195 and #196, § 1(a). There is also the issue of whether this measure amends the Taxpayer’s Bill of Rights “without impacting TABOR refunds.” Proposed Initiatives # 191, #195 and #196, § 1(f). There is the issue of whether “Colorado’s public schools have been underfunded for decades,” and whether “teacher wage competitiveness is still 50th in the

country.” Proposed Initiatives # 191, #195 and #196, § 1(g). There are the issues of whether “[h]ealth care in Colorado is too expensive,” Proposed Initiatives # 191, #195 and #196, § 1(h) and whether “[c]hild care in Colorado is too expensive.” Proposed Initiatives # 191, #195 and #196, § 1(i).

All of these issues are separate issues from those stated in the purported single subject and therefore the Proposed Initiatives have multiple issues and title cannot be set.

IV. IF THE TITLE BOARD DOES HAVE JURISDICTION TO SET TITLES FOR THE PROPOSED INITIATIVES, THE TITLES AS SET ARE MISLEADING AND UNCLEAR.

As discussed above, the language of the Proposed Initiatives #191, #195 and #196 is inherently unclear, and therefore any title the Title Board sets will also be misleading and unclear.

CONCLUSION

Petitioner respectfully requests that, after consideration of the parties’ briefs, this Court determine that the Title Board was without jurisdiction to set a title for the Proposed Initiatives as they are currently written and direct the Title Board to return the initiatives to the designated representative for lack of jurisdiction, due to violation of the constitutional

single subject requirement, or in the alternative, to correct the titles to address the deficiencies outlined in Petitioners' briefs.

Respectfully submitted this 23rd day of March, 2026.

/s/Rebecca R. Sopkin

Rebecca R. Sopkin
Attorney at Law, #20998
2945 Parfet Drive
Lakewood, CO 80215
303/232-4184
grsop@msn.com

COUNSEL FOR SELF AND FOR
THE TABOR FOUNDATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing PETITIONERS REBECCA R. SOPKIN AND TABOR FOUNDATION ANSWER BRIEF was filed and served upon all counsel of record via the Court's E-filing system.

/s/ Rebecca R. Sopkin
Rebecca R. Sopkin