

<p>SUPREME COURT OF COLORADO 2 East 14th Avenue Denver, Colorado 80203</p>	<p>DATE FILED March 3, 2026 6:16 PM</p>
<p>Original Proceeding Pursuant to C.R.S. § 1-40-107(2)</p> <p>Appeal from the Colorado Ballot Title Setting Board</p> <p>Petitioners: Michael Fields, Michael Hancock, Rebecca Sopkin, and the TABOR Foundation</p> <p>v.</p> <p>Respondents: Chris deGruy Kennedy and Kiyana Newell</p> <p>and</p> <p>Colorado Ballot Title Setting Board: Theresa Conley, Christy Chase, and Kurt Morrison.</p>	<p>▲ COURT USE ONLY</p>
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<p>PETITIONER HANCOCK'S OPENING BRIEF</p>	

CERTIFICATE OF COMPLIANCE

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

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

It contains 9,480 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

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

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

In response to each issue raised, the appellee must provide under a separate heading before the discussion of the issue, a statement indicating whether appellee agrees with appellant's statements concerning the standard of review and preservation for appeal and, if not, why not.

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

/s/ David B. Meschke

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Pursuant to section 1-40-107(2), Petitioner Michael Hancock (“Petitioner”), through undersigned counsel, respectfully petitions this Court to review the titles, ballot titles, and submission clauses set by the Colorado Ballot Title Setting Board (“Title Board”) for Proposed Initiatives 2025-2026 #191 (“Initiative #191”), #195 (“Initiative #195”), and #196 (“Initiative #196,” and collectively with Initiatives ##191 and 195, the “Initiatives”), as well as the Initiatives’ initial fiscal impact statements.

ISSUES PRESENTED FOR REVIEW

- A. Whether the Respondents’ purposeful and improper attempt to simply strike language in the Colorado Constitution to avoid triggering the 55% threshold in Article V, Section 1(4)(b) of the Colorado Constitution renders the Initiatives too vague to set title or otherwise strips Title Board of jurisdiction.
- B. 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, such that the Title Board erred in setting title.
- C. Whether Title Board erred by setting a title for the Initiatives because the measures’ provisions are not necessarily or properly connected and do not advance a single subject.

- D. Whether Title Board erred by adopting titles for the Initiatives that mislead voters and cause voter confusion.
- 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 measures' impact on other income tax earners, such as corporations, trusts, and estates.

STATEMENT OF THE CASE

There is no doubt that if Initiative #191, #195, or #196 is on the 2026 ballot, its proponents will promote the measure as a tax increase on millionaires and a tax decrease on lower earners that would raise additional money for popular social programs. That's exactly what they hope voters will see. But these measures do so much more. Among other subjects, they make fundamental and profound changes to TABOR and Colorado's income tax structure and laws as a whole; alter the tax rates for not just individuals but also Colorado businesses of all sizes, including start-up companies, and small and family-owned businesses; provide that the state may collect and retain the increased revenue as a voter-approved revenue change not subject to TABOR refunds; and specify that the increased revenue must (or is intended to) supplement, but not

supplant, existing funding levels for public school education, health care, and early child care and education. These multiple subjects must be presented to voters independently. At minimum, the true nature of the Initiatives must be reflected in their titles and fiscal impact statements.

This appeal, however, raises more than the typical Title Board issues of single subject and clear title—it raises at least two novel issues for this Court to decide that will provide critical guidance to the Title Board, proponents, and practitioners.

First, this appeal concerns whether proponents can “repeal” a constitutional provision and avoid the 55% voter threshold for constitutional amendments even if the stricken language leaves the remaining constitutional provision disjointed and incomprehensible. *See* Colo. Const. art. V, § 1(4)(b). Respondents specifically drafted the Initiatives to bypass this threshold by striking particular words in TABOR. The strikethroughs avoid certain single-subject concerns, but, in the process, divorce the provision of its original intent and leave it unintelligible.

Second, this appeal also concerns whether statutory title requirements for measures increasing the individual income tax rates must be followed even if doing so misleads voters and exacerbates the risks of logrolling and voter surprise in violation of the constitutional single-subject and clear title requirements. Respondents drafted the Initiatives to take advantage of specific statutory title requirements that would lead to favorable (and misleading) language and tables in the titles given the nature of the measures.

The answer to both issues should be a resounding “no.”

I. Factual Background.

Until the past decade, nearly all citizen-initiated ballot measures followed the same rules. No matter whether the proposed measure was constitutional or statutory, (a) its proponents had to gather signatures from at least 5% of the total votes cast at the prior general election for the Office of Secretary of State and (b) the measure needed only a simple majority to pass. And the title set for the measure followed the tried and true format of “Shall there be a change to the [Colorado Constitution or Colorado Revised Statutes] [as to X], and, in connection therewith [Y,

etc.],” unless the measure would increase taxes. In that scenario, TABOR requires the measure’s title begin with the phrase “Shall (District) taxes be increased by [fiscal amount] annually” Colo. Const. art. X, § 20(3)(c).

But the leniency for constitutional measures had adverse consequences. Proponents could amend the Colorado Constitution by gathering signatures from a small swath of Colorado and pass the measure without broad support from all Coloradans. To remedy this, and preserve the sanctity of the Colorado Constitution, Colorado voters passed Amendment 71 in 2016. The amendment, colloquially referred to as “Raise the Bar,” made it more difficult to amend the Colorado Constitution through the citizen initiative process. *See Semple v. Griswold*, 934 F.3d 1134, 1136–37 (10th Cir. 2019). Amendment 71 specifically requires proponents gather signatures from at least 2% of the total registered electors in each of the 35 state senate districts and raised the threshold to adopt an amendment to the state constitution to at least 55% of the votes cast. Colo. Const. art. V, §§ 1(2.5), (4)(b).

Separately, recent legislation has mandated additional title language to soften the constitutional requirement that the title begin with the amount of the proposed tax increase. House Bill 21-1321, which was sponsored by Respondent and then-Representative Chris deGruy Kennedy, among others, requires the title for a measure that increases tax revenue to include the phrase “in order to increase or improve levels of public services, including, but not limited to (public service specified in the measure)” *See* C.R.S. § 1-40-106(3)(g). Subsequently, Proposition GG, which was a referred measure sponsored by Respondent DeGruy Kennedy and passed by voters in 2022, compels the Title Board to include in the title a table showing the potential tax changes to different individual income tax earners. *See* C.R.S. § 1-40-106(3)(j). As a result, if a measure proposes an increase to the individual income tax rate, the title not only must include an estimate of the increased taxes but also must list the programs where the increased revenue would go to and include a table showing the measure’s impact on various individual income categories.

The Initiatives are not the first citizen-initiated ballot measures proposing that Colorado adopt a graduated income tax system. Similar measures were proposed in both the 2017-2018 and 2019-2020 ballot measure cycles. Although some of these measures obtained titles, they came before the aforementioned new title language requirements and their proponents did not seek to place them on the ballot.

Unlike the similar measures from prior years, the Initiatives, which are three of a series of graduated income tax measures this ballot measure cycle, stand to benefit from the new title language requirements of House Bill 21-1321 and Proposition GG because they alter the individual income tax rate. Although Respondents have characterized the Initiatives as plainly setting forth a graduated income tax system, each measure proposes the following numerous changes:

- Section 1: Provides a lengthy “legislative declaration” setting forth Respondents’ intent as to numerous policy goals;
- Section 2: Deletes language in Section 20(8)(a) of Article X of TABOR, including the flat income tax requirement;
- Sections 3 and 4: Creates a new statutory graduated income tax system for all categories of earners, including individuals and corporations;

- Section 5 (part 1): Specifies that the increased revenue generated by the graduated income tax system is a voter-approved revenue change that allows the state to collect, keep, and spend the revenue; and
- Section 5 (part 2): Requires the General Assembly to use the increased revenue to supplement and not supplant current levels of appropriations for public school education, health care, and early child care and education, in amounts decided by the legislature.

II. Procedural Background.

At the Initiatives' January 21, 2026 initial hearings, Title Board voted 3-0 that the Initiatives each contained a single subject and then set titles. After Petitioner Hancock and other objectors filed motions for rehearing challenging the measures on single-subject, title, and fiscal note grounds, Title Board held rehearings on February 4, 2026. For Initiative #191, Title Board voted 3-0 to deny each objector's motion for rehearing. For Initiatives ##195–196, Title Board voted 2-1, with Title Board member Kurt Morrison opposed, to deny the objectors' motions for rehearing. The board, however, granted Respondents' motions for rehearing for these measures to the extent reflected in the change to the titles. As to all three measures, Title Board found that because

constitutional language is repealed and not added, none of the Initiatives require a 55% majority for passage.

Petitioner Hancock, as well as Petitioners Fields, Sopkin, and the TABOR Foundation, subsequently filed these consolidated appeals. Petitioner Hancock specifically requests this Court hold that Title Board does not have jurisdiction to set title for the Initiatives because the measures improperly strike constitutional language and do not contain a single subject, or alternatively hold that the titles set by the Title Board violate the clear title requirements and the initial fiscal impact statements are improperly misleading, incomplete, and prejudicial.

SUMMARY OF THE ARGUMENT

This appeal raises two novel issues for this Court's guidance: (1) whether proponents can avoid Raise the Bar's 55% threshold by striking constitutional language, even if the resulting provision is unintelligible; and (2) whether the statutory title requirements, if followed, would mislead voters into thinking that they are simply voting to increase taxes on millionaires to fund popular programs and purposes. Both issues should prevent the Initiatives from moving forward.

As to the first issue, Title Board lacks jurisdiction to set titles for the Initiatives or otherwise should be prevented from doing so because the partially stricken constitutional provision in each Initiative is so vague and confusing that its substance cannot be ascertained or described as a single subject. Respondents struck the language to avoid the 55% voter threshold for constitutional amendments, while also removing TABOR's flat income tax requirement. This is not "repealing" a constitutional provision—it is something entirely different that strips Title Board of jurisdiction.

As to the second issue, the statutory requirements necessitating inclusion of a table showing changes to the individual income tax, but not changes to income tax for all other earners, including C-corporations, trusts, and estates, poses both single-subject and clear title concerns. While not clear from either the texts of the Initiatives or their titles, the Initiatives' changes to Colorado's income tax system would impact all earners, beyond just individuals. The inclusion of a table showing only income tax impacts to individuals highlights for voters popular features of the Initiatives while exacerbating the voter surprise and logrolling

concerns posed by the multiple subjects coiled up within the folds of the Initiatives.

The Initiatives' flaws, however, do not stop there. Title Board also erred because (a) the Initiatives contain multiple subjects, (b) aspects of the titles themselves must be set aside or amended because they fail to meet the clear title requirement and are misleading, and (c) the initial fiscal impact statements, drafted by Legislative Council Staff ("LCS"), are misleading and prejudicial and must be revised to comply with statutory requirements. Specifically, Title Board lacks jurisdiction to set titles because the Initiatives' additional subjects include applying the graduated income tax system to corporations, as well as individuals, capping the income tax rate at passage, repealing the TABOR requirement that "net income" be taxed, and directing revenue towards multiple, prescribed social programs. And even if the Title Board had jurisdiction, the titles do not make clear who the Initiatives impact, nor do they accurately explain the broad, sweeping changes made by the Initiatives. If the titles are allowed to stand, voters will be left with the specific impression that the measures propose a millionaire's tax that

would not impact other earners, including small businesses. And, similarly, the initial fiscal impact statements are misleading and prejudicial because they focus on individual earners and thus minimize the impacts on small businesses and other earners.

Given these flaws, the Initiatives cannot be presented to voters. Petitioner respectfully requests this Court reverse Title Board's decision to deny Petitioner's motions for rehearing.

STANDARD OF REVIEW

This Court is vested with the authority to review the rulings of the Title Board. C.R.S. § 1-40-107(2). As part of this review, this Court “employ[s] all legitimate presumptions in favor of the propriety of the [Title] Board's action.” *In re Title, Ballot Title, & Submission Clause for 2009-2010 No. 45*, 234 P.3d 642, 645 (Colo. 2010). While the Court's “review of actions taken by the Title Board is of a limited scope,” *In re Title, Ballot Title, & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 58 (Colo. 2008), the interpretation of a statutory provision is a question of law that this Court reviews de novo, *see, e.g., Robinson v. Legro*, 325 P.3d 1053, 1056 (Colo. 2014). And “the proponents of an initiative bear

the ultimate responsibility for formulating a clear and understandable proposal for the voters to consider.” *In re 2007-2008 #62*, 184 P.3d at 57 (quotation omitted).

In reviewing whether a measure encompasses more than a single subject, the focus is on whether the initiative presents either of the two “evils” the single subject requirement ails to prevent: logrolling and voter surprise. *See Matter of Title, Ballot Title, & Submission Clause for 2021-2022 #16*, 489 P.3d 1217, 1224 (Colo. 2021). Additionally, an initiative’s title must “correctly and fairly express [its] true intent and meaning,” C.R.S § 1-40-106(3)(b), and “should allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal,” *In re Title, Ballot Title & Submission Clause for 2015–2016 #73*, 369 P.3d 565, 568 (Colo. 2016).

ARGUMENT

- I. **Respondents cannot strike constitutional language to avoid the 55% voter threshold and leave the resulting provisions vague, confusing, and incomprehensible because doing so strips Title Board of jurisdiction.**

Raise the Bar requires a citizen initiative to obtain 55% of the vote to pass if it amends the constitution, unless the measure is “repealing, in whole or in part, any provision of this constitution.” Colo. Const. art. V, § 1(4)(b). But this Court has never addressed whether a measure that strikes constitutional language but leaves the resulting provision unintelligible can nevertheless obtain a title. Here, Respondents deliberately struck certain words in Section 20(8)(a) of TABOR to avoid adding language or creating additional single-subject concerns. But, in doing so, Respondents’ haphazard strikethroughs to TABOR render the resulting language so vague, confusing, and incomprehensible that no

voter can understand what it means. Under these circumstances, Title Board must lack jurisdiction to set a title.¹

“The Colorado Constitution mandates that an initiative’s single subject shall be clearly expressed in its title.” *In re 2015-2016 #73*, 369 P.3d at 568. The clear title standard requires that titles “allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal.” *Id.* The Board must consider the confusion that may arise from a misleading title and set titles that “correctly and fairly express the true intent and meaning” of a measure. *Id.* (quoting C.R.S. § 1-40-106(3)(b)).

Based on these principles, and as recognized by Title Board on multiple occasions, if an initiative is so vague or confusing that its true purpose cannot be understood, then Title Board lacks jurisdiction to set a title. That is the case for these Initiatives.

¹ Petitioner Hancock preserved this argument in his motions for rehearing, (Initiative #191 Pet. for Review, Ex. 1 at 30; Initiative #195 Pet. for Review, Ex. 1 at 21; Initiative #196 Pet. for Review, Ex. 1 at 21), and at the rehearing, (*see generally* Title Board Rehearing (Feb. 4, 2026); Title Board Rehearing (Dec. 17, 2025)).

A. Raise the Bar raised the threshold required to change the Colorado Constitution.

As described above, Amendment 71 (*i.e.*, “Raise the Bar”) requires all ballot measures that propose to amend the Colorado Constitution to garner at least 55% of the votes cast. Colo. Const. art. V, § 1(4)(b). Importantly, however, a repeal, in whole or in part, of a constitutional provision requires only a simple majority of votes cast. Since its passage, Amendment 71 has also been cemented into statute. *See* C.R.S. § 1-40-106(3.5). Title Board must “determine whether the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of section 1(4)(b) of article V of the state constitution.” *Id.*

B. The Initiatives are deliberately drafted to skirt the 55% threshold required by the Colorado Constitution.

Respondents drafted their Initiatives deliberately to avoid the 55% threshold requirement in Article 5, Section 1(2.5) of the Colorado Constitution, even though their drafting knowingly strikes meaningful constitutional language unrelated to repealing TABOR’s flat income tax requirement and leaves the remaining constitutional language

fragmented and ambiguous. Respondents’ counsel, Ed Ramey, admitted as much during Initiative #191’s rehearing. He explicitly stated that while Respondents “could amend TABOR itself affirmatively and add that language and move, obviously, up to a higher vote requirement,” but “[they] didn’t.” Instead, Respondents “are trying to limit [them]selves to strikeouts for obvious voter reasons.” (Title Board Rehearing, at 2:12–2:13, <https://tinyurl.com/28a9ce3p> (Feb. 4, 2026).)

One of Respondents’ goals is clear: replace Colorado’s current flat tax system with a graduated income tax system. The Initiatives seek to do just that—a complete overhaul of Colorado’s current income tax system, as well as certain core provisions of TABOR. But the last sentence in Section 20(8)(a) of TABOR—the only sentence in TABOR Respondents alter—does more than just set forth a constitutional right to a flat income tax. It also specifies that income taxes apply to net income, as opposed to gross income, and that the legislature cannot add taxes or surcharges to the income tax rate.

To avoid single-subject concerns and circumvent Amendment 71, Initiative #191 proposes the following repeal: “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.” Initiatives ##195–196 strike the same provisions, but in a different way: “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.” In either instance, Respondents have repealed the “one rate” requirement but left a fragmented and ambiguous sentence in the Colorado Constitution where simply adding a few words would have remedied the problem.

Such impactful constitutional changes must be properly drafted and pass with 55% of the vote. Indeed, the very purpose of Raise the Bar “was to make it more difficult to amend Colorado's constitution using the initiative process.” *Semple*, 934 F.3d at 1137.

C. The Initiative resulting from Respondents’ manipulation is incomprehensible.

In their efforts to avoid the higher 55% vote threshold, Respondents created an ambiguous and incomprehensible constitutional provision. If passed, Coloradans are left with the following:

- Initiative #191: “Any income tax law change after July 1, 1992 shall also require no added tax or surcharge.”
- Initiatives ##195–196: “Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed with no added surcharge.”

These proposed changes to the final sentence of Paragraph 8(a) of TABOR 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 transform the sentence to state something completely different, divorcing the original intent of the provision from its roots.

Relevant to Initiative #191, “no added tax or surcharge” currently modifies “one rate.” By removing the “, with,” that phrase would instead modify “income tax law change.” Moreover, with the resulting provision contained in Initiative #191, it is unclear what the language would actually do. Must any income tax law change specifically state in the law that it is “requir[ing] no added tax or surcharge”? Does that prevent new income tax law changes from adding taxes or surcharges to the rate, as TABOR currently does? Or does it do something different? Voters, let alone tax experts, would be left baffled. All Respondents had to do was

add language to specify that the prohibition on adding taxes and surcharges on top of the income tax rate is still valid.

As to Initiatives ##195–196, what does it mean to require “all taxable income to be taxed”? At minimum, that phrase seems to be internally redundant. And what does leaving in “with no added surcharge” mean in this instance after Respondents deleted the reference to a tax rate? Again, Respondents could have amended the provision to clarify that they were repealing the constitutional flat income tax requirement but not altering anything else. They choose not to.

This Court must clarify that proponents cannot avoid Raise the Bar and obtain title to a measure if the strikethroughs butcher the resulting constitutional provision. Respondents’ drafting choices have rendered their Initiatives too confusing to set title and thus Title Board erred in determining it had jurisdiction to do so. Altering the Colorado Constitution requires greater care.

II. The statutory title requirements for ballot measures create single-subject concerns and misleading titles.

Petitioner Hancock raises another issue of first impression for this Court—whether the statutory title requirements for a measure that

increases the individual income tax rate impermissibly cause logrolling and voter surprise and create a misleading title, when the measure makes a systematic tax change and also increases the income tax rate for other types of earners.² Here, the Initiatives do just that.

A. The Initiatives impact more than individuals earners.

The Initiatives violate the single-subject and clear title requirements by applying the graduated income tax to all categories of earners while simultaneously triggering statutory title language requirements that apply only to measures that increase the individual income tax rate. Although unclear from the titles, the graduated income tax system created by the Initiatives applies not only to individuals, but also to corporations, estates, trusts, and pass-through entities.

The choice to have the measures apply to all categories of earners is not simply a policy decision by Respondents. They knew doing so would

² Petitioner Hancock preserved this argument in his motions for rehearing, (Initiative #191 Pet. for Review, Ex. 1 at 26–27; Initiative #195 Pet. for Review, Ex. 1 at 25–26; Initiative #196 Pet. for Review, Ex. 1 at 25–26), and at the rehearing, (*see generally* Title Board Rehearing (Feb. 4, 2026); Title Board Rehearing (Dec. 17, 2025)).

allow the graduated income tax to raise more revenue by increasing the income tax rates on corporations, while keeping voters' focus on how the graduated income tax rates would apply to their individual income because of the required statutory title language. Thus, by applying the graduated income tax to multiple categories of earners, the Initiatives fall victim to both ills plaguing omnibus measures. Moreover, the table required by statute showing the Initiatives' changes to individual income tax, as described in greater detail below, *see infra* Section II(C), results in unclear and misleading titles.

B. The statutory title requirements contained in C.R.S. § 1-40-106(3)(j).

The recent changes to the law prescribing what language must be included in the titles for measures increasing the individual income tax rate not only compounds the Initiatives' single-subject problem—it highlights and explains why the proponents must seek to impose a graduated income tax on individuals in its own separate and distinct measure. Specifically, C.R.S. 1-40-106(3)(j), which was added by Proposition GG, 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. The table required by statute both (1) implicates multiple subjects and (2) leads to an unclear and misleading title.

C. The Initiatives’ changes to the income tax rates for all categories of earners, including businesses of all sizes, raises significant single-subject concerns.

By applying the newly created graduated income tax structure to all categories of earners, the Initiatives fall victim to both ills that plague omnibus measures.

- 1. By lumping all categories of earners together, the Initiatives present a grave logrolling risk.*

The Initiatives decouple 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 Initiatives thus did not need to impose a graduated income tax on each category of earners. But they do.

The motive behind this is clear. The Initiatives seek to curry favor from voters who want to impose a graduated income tax system on individual income, 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 all earners, including all corporations and small businesses making over a million dollars. See *In re Title, Ballot Title, Submission Clause, & Summary Adopted April 5, 1995, by Title Bd. Pertaining to a Proposed Initiative Pub. 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”). One million dollars in income is not a high threshold for a business. It is highly likely 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. The measures are thus attractive to disparate groups of people that would not vote for all the various subjects. Such a structure, affecting disparate groups, constitutes a separate and distinct subject.

This logrolling risk is amplified by the statutory title requirements. The title adopted by Title Board for each measure contains a table

showing the difference in the proposed change in average individual income tax owed if the measure passed for eight categories of income. For example, Initiative #191's title includes the following table:

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.

Voters' eyes will be drawn towards their individual income level and away from the measure's changes to the income tax affecting business, corporations, and other earners. As a result, these measures could pass based solely on voters' thoughts on the changes to the individual income tax rates, even though comparable changes to the rates

for businesses and other earners would not have passed on their own merits.

2. *Imposing a graduated tax scheme on other categories of earners would lead to voter surprise.*

The Initiatives' 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 Initiatives' text nor the titles set by Title Board even mention small businesses, which can be C-corporations, limited liability companies, or other types of entities. There is no comparable table for corporations, trusts, or estates. The titles also only reference estates, trusts, and corporations once—buried halfway through the title. Voters would undoubtedly be surprised to learn the Initiatives negatively impact not only millionaires, but businesses of nearly all sizes.

Therefore, because the statutory requirements for title language necessarily create voter surprise as to the Initiatives' impact on other types of earners and could allow the measures 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 Respondents to seek to impose a graduated income tax system on individual earners in its own measure.

D. The table required by statute results in misleading and unclear titles.

Not only do the statutory title requirements implicate the ills associated with omnibus measures, but they force the resulting titles to highlight the fiscal impact the measures would have on individual earners at the expense of explaining the changes for other categories of 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 any of the Initiatives 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.

Petitioner understands that LCS was obligated to create the tables for the initial fiscal statements, *see* C.R.S. § 1-40-105.5(1.5)(a)(V), and that Title Board had to place those tables in the titles, but this does not prevent the Title Board from either (a) adding language to the titles to clarify that taxes on businesses would increase or (b) creating separate tables for estates, trusts, and C-corporations. At the very least, should the Court decide Title Board had jurisdiction to set title for the Initiatives, the titles must be remanded to Title Board to remedy these glaring omissions.

E. The constitutional single-subject and clear title requirements govern over competing statutory title requirements.

For the reasons described above, the statutory requirement to include the aforementioned table in the title for measures that raise or lower the individual income tax rate cannot stand where the measure also increases and decreases the income tax rates for other earners. The constitutional single-subject and clear title requirements must govern over any conflicting title requirements. *See In re Senate Bill No. 9*, 56 P. 173, 174 (Colo. 1899) (“The [C]onstitution is the supreme law of the state,

solemnly adopted by the people, which must be observed by all departments of government.”); *People v. Rodriguez*, 112 P.3d 693, 695 (Colo. 2005) (“Essential to our analysis is the principle that Colorado’s Constitution, ‘unlike the federal constitution, does not comprise a grant of but rather, a limitation on power.’” (quoting *Reale v. Bd. of Real Estate Appraisers*, 880 P.2d 1205, 1208 (Colo. 1994))).

III. The Initiatives each include multiple distinct subjects.

Title Board also lacks jurisdiction to set title because the Initiatives contain additional distinct subjects improperly coiled in the folds that would lead to either voter surprise or impermissible logrolling.³ Respondents themselves admit that, while their main goal is to create a graduated income tax system, they have multiple, additional, and unrelated policy goals, including repealing the constitutional requirement that everything be taxed at one rate; retaining any resulting increase in revenue as a voter-approved revenue change; specifying the

³ Petitioner Hancock preserved this argument in his motions for rehearing, (Initiative #191 Pet. for Review, Ex. 1 at 23–30; Initiative #195 Pet. for Review, Ex. 1 at 21–29; Initiative #196 Pet. for Review, Ex. 1 at 21–29), and at the rehearing, (*see generally* Title Board Rehearing (Feb. 4, 2026); Title Board Rehearing (Dec. 17, 2025)).

dedicated uses for the generated revenue; and requiring a new audited report specifying the uses to which such revenue has been put. (*See* Review and Comment Hearing (Jan. 6, 2026).) Indeed, the Initiatives do far more than create a graduated income tax scheme. Each of these policy goals constitutes a separate and distinct subject. *See In re Title, Ballot Title, Submission Clause for 2009–2010 No. 91*, 235 P.3d 1071, 1076 (Colo. 2010) (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; *see also* C.R.S. § 1-40-106.5(1)(e) (explaining that the constitutional single subject requirement seeks “[t]o prevent surreptitious measures and apprise the people of the subject of each measure by the title, . . . to prevent surprise and fraud from being practiced upon voters.”)).

Here, each Initiative has multiple common objectives—enacting fundamental, consequential changes to TABOR, implementing a graduated tax scheme for multiple categories of earners, and increasing

appropriations for specific social programs. Such multi-purpose schemes, lacking a unifying or common objective, do not pass muster under the single subject requirement. *Pub. Rts in Waters II*, 898 P.2d at 1080 (holding the initiative violated the single subject requirement where there was “no unifying or common objective”).

A. Applying the graduated income tax to corporations, as well as individuals, implicates multiple subjects.

As outlined above, *supra* Section II(C), the Initiatives’ application of the graduated tax scheme to individuals, as well as corporations, draws single subject concerns. Grouping all categories of earners together—*i.e.*, individuals, corporations, estates, trusts, and pass-through entities—is not necessary under the Initiatives’ decoupled income tax system. Rather, applying the overhauled income tax system on all earners will lead to both logrolling and voter surprise, implicating multiple separate and distinct subjects.

B. The Initiatives’ strikethroughs in TABOR create multiple subjects unconnected to repealing the flat tax requirement.

Section 2 of each Initiative 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. *Outcalt 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 Proposed Initiative 2001-02 No. 43*, 46 P.3d at 442 (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”).

1. *Initiative #191's language appears to cap the tax rate at passage, creating a single-subject issue.*

In keeping the language in TABOR regarding “no added tax” but not amending it to adjust to the deletion of “one rate,” Initiative #191⁴ contains another crucial subject coiled up within its folds: capping the tax rate as of its passage. Pursuant to Initiative #191's strikes, Section 20(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, and deliberately drafted to avoid amending the Colorado Constitution, as previously addressed, *supra* Section I(B), the resulting provision appears to indicate that the new income tax rates in the statutory sections of the measure could never increase because that could be construed as an “added tax.” 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, starting from the date of the initiative's passage. Voters would undoubtedly be confused to learn that passage of such structure

⁴ Initiatives ##195–196 delete “no added tax” but also do not add language to provide context and clarity.

would also cap the current income tax rates. In the face of such confusion, Title Board lacks jurisdiction and must decline to set title.

2. *Repealing the requirement in TABOR that “net income” be taxed implicates a distinct subject that would lead to voter surprise.*

By striking “all taxable net income” in TABOR, Initiative #191 also creates another subject. This, likely inadvertent, repeal of the requirement in TABOR that “net income,” as opposed to other types of income measurements such as gross income, be taxed is not necessarily or properly connected to repealing TABOR’s requirement that income must be taxed at one rate. Indeed, Initiatives #195 and #196 do not strike this language.

This change in Initiative #191 is not trivial. 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, as opposed to gross income, Initiative #191 opens the door to the

legislature choosing to tax gross income instead, contrary to TABOR's goal of slowing the growth of government.⁵

As previously addressed, Initiative #191 may be able to overcome such uncertainty by amending the Colorado Constitution, which would require a 55% threshold for passage. But by seeking to avoid this higher degree of scrutiny—and public support—Initiative #191 creates uncertainty that undoubtedly leads to voter surprise.

3. *Striking “no added tax” creates an additional subject for Initiatives ##195–196.*

While Initiatives ##195–196 do not strike the language discussed above, they instead strike “no added tax” from the TABOR provision, resulting in the follow language: Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed with no added surcharge.

As noted by Title Board member Morrison, “added tax,” based on a logical reading of the provision, refers to a secondary tax layered upon

⁵ Rocky Mountain News, Vol. 134, No. 203 (Nov. 11, 1992) (quoting Douglas Bruce) (“[TABOR] gives voters rather than elected officials power to increase taxes and imposes strict limits on increases in government spending, tying it to inflation and growth.”).

the income tax levied under TABOR. (Title Board Rehearing, at 1:59, <https://tinyurl.com/28a9ce3p> (Feb. 4, 2026).) Currently, Colorado voters face no such added income taxes precisely due to the existence of this language in TABOR. Thus, removing “no added tax,” as is proposed under Initiatives ##195–196, could subject voters to the whims of the legislature in imposing additional income tax beyond the graduated income tax already in place.

While not explicitly defined in statute or case law, this Court previously shed some light on the meaning of “no added tax” in *Chronos Builders, LLC v. Dep't of Lab. & Emp., Div. of Fam. & Med. Leave Ins.*, 512 P.3d 101 (Colo. 2022). There, while focused on the definition of “surcharge,” the Court acknowledged that “section (8)(a) prohibits only added taxes or surcharges related to an ‘income tax law change.’” *Chronos Builders*, 512 P.3d at 105. “Simply put, ‘with no added tax or surcharge’ refers to added taxes or surcharges associated with a ‘change’ to an ‘income tax law.’” *Id.* Thus, applying this logic, Initiatives ##195–196 would allow the legislature to make an income tax law change which adds taxes (presumably to some unknown rate), without voter approval.

Such change is clearly contrary to the spirit and goal of TABOR, aimed at restraining the growth of government and ensuring voters have the last word on any and all taxes imposed upon them by the legislature.

Moreover, Initiatives ##195–196 are internally inconsistent—they strike this provision while actually adding taxes through the graduated income tax system they create. Again, Respondents face such a predicament for one reason: they seek to enact sweeping changes to the state constitution while avoiding actually amending TABOR and triggering the 55% vote threshold.

C. Respondents’ decision to remove the constitutional right to a flat income tax, create a whole new tax scheme to increase revenue, permit the state to keep the added revenue, and dedicate the new revenue to social programs is at least one step too far.

The Initiatives’ basic premises—instituting a graduated income tax structure and directing excess revenue from such structure towards certain prescribed social programs—are not necessarily or properly connected. Indeed, appropriating money to the social programs, and doing so in this manner, is not necessarily and properly connected to changing the income tax structure in Colorado.

Although prior case law suggests 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 cases are distinguishable. For example, in *Matter of Title, Ballot Title and Submission Clause for 2019–2020 #315*, 500 P. 3d 363, 367–68 (Colo. 2020), the Court considered whether Initiative #315 contained multiple subjects. There, the measure required state cigarette and tobacco tax revenue be 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.

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 Initiatives’ primary goal. One does not logically follow from the other. Moreover, while other measures, such as Initiative #315, that were

deemed to have a single subject did raise new taxes, they did so within the current tax schemes. The Initiatives, in contrast, would establish an entirely new graduated income tax system, rather than simply raise taxes within the existing tax structure. Respondents could have implemented a graduated income tax scheme that did not raise revenue or simply chosen to raise taxes within the existing tax framework. The dramatic change to a graduated income tax system, which is separate from raising taxes to fund social programs, must be placed before voters on its own merits.

Accordingly, the Initiatives' multiple goals must be accomplished through separate measures. 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 same should be done here.

D. The Initiatives' direction of revenue towards prescribed social programs constitutes multiple subjects.

Section 5 in each of the Initiatives reveals yet more subjects distinct from the creation of a graduated tax scheme: dedication of excess revenue towards four prescribed social programs.

First, by selecting four different social programs, Respondents are engaging in impermissible logrolling by attempting to curry favor from voters who may favor one, but not all social programs. *See, e.g., In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2019-2020 #68, 2019SA82* (affirming Title Board's decision to deny single subject regarding a measure that would have shielded multiple favored categories of tax credits from reduction—such as credits benefiting veterans, parks, open space, early childhood education programs, low-income residents, and seniors).

Second, the Initiatives include a mandate preventing the legislature from lowering current appropriations if it is to appropriate the revenue gained from increased income taxes to those programs.

Specifically, Initiatives #191 and #195 add the following language to C.R.S. 24-77-103.3(2):

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).⁶ By specifying the excess revenue appropriated to the social programs listed must “supplement and not supplement *current* levels, Initiatives #191 and #195 improperly tie the legislature’s hands. *See Outcalt*, 961 P.2d at 460–61 (dictating how the state must deal with collateral fiscal consequences from a measure is a second subject).

Therefore, coiled in the folds of the measure is the requirement the legislature must continue to appropriate funds to the programs listed in

⁶ Initiative #196 provides the new revenue is “intended to supplement and not supplant current levels of appropriations.” While this language does not specifically mandate supplementation, it likely has the same effect.

at least the same amounts as in the year the measure passes if the legislature is to dedicate the new revenue to these programs. And necessarily, should the legislature decide to lower the amount appropriated to a certain social program, the excess revenue described above cannot be lawfully appropriated to such program, as, logically, it does not “supplement” current levels of appropriations.

Respondents themselves admitted at the Initiatives’ rehearing that this language was included only to align with “the intentions” of Respondents, and that, according to Respondents it did not bind the legislature. But to the contrary, the new revenue will sit in the “Colorado Future’s Account,” unable to be returned to voters. This feature is likely to lead to voter surprise, especially considering it is not mentioned in any of the titles and is not even aligned with the stated intention of Respondents.

Respondents will likely argue that the above is an overly rigid interpretation of Section 5 of the measures. At the rehearings, they described that, with this Section “it is the intention of the Proponents to supplement and not supplant” current levels of funding. (Title Board

Rehearing, at 1:15–1:17, <https://tinyurl.com/28a9ce3p> (Feb. 4, 2025).)

Respondents further explained that the language “. . . doesn’t really have any meaning or power to it if the legislature wants to change it, they can.”

(*Id.*) But Respondents’ different (or clarified) intent does not alter the measures’ plain language.

IV. The Initiatives’ titles fail to accurately describe the measures and would mislead voters.

Even if Title Board possessed jurisdiction to set titles (it did not), the titles set are inaccurate and would deliberately focus voters’ intent on the very aspects—lower taxes for most and increased spending on popular social programs—likely to curry their favor.⁷ During the Initiatives’ rehearings on February 4, 2026, the Title Board affixed the following submission clause and title to Initiative #191, with the aforementioned table at the end of the text:

Shall state taxes be increased \$2.7 billion annually, in order to increase or improve levels of public services, including K-12 public school

⁷ Petitioner Hancock preserved this argument in his motions for rehearing, (Initiative #191 Pet. for Review, Ex. 1 at 30–32; Initiative #195 Pet. for Review, Ex. 1 at 29–31; Initiative #196 Pet. for Review, Ex. 1 at 29–31), and at the rehearing, (*see generally* Title Board Rehearing (Feb. 4, 2026); Title Board Rehearing (Dec. 17, 2025)).

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?

Title Board set nearly identical titles for Initiatives ##195–196.

These titles do not sufficiently inform voters of at least seven important features of the Initiative. *In re Title, Ballot Title and Submission Clause, & Summary for 1999-2000 No. 258(A)*, 4 P.3d 1094, 1099 (Colo. 2000) (“Eliminating a key feature of the initiative from the

titles is a fatal defect if that omission may cause confusion and mislead voters about what the initiative actually proposes.”).

First, the titles do not reveal several of the subjects described above, including that the measures would: (i) remove the constitutional requirement that net income, as opposed to gross income, be taxed (Initiative #191 only); (ii) remove the constitutional requirement preventing added taxes to income tax rates (Initiatives ##195–196 only); (iii) delete 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) mandate the legislature keep appropriations to various social programs at current levels if the revenue from the income tax increases are to be dedicated to any of the programs.

Second, the titles fail to clarify the full gravity of the measures’ removal of the flat income tax requirement. Given how difficult it is to amend Colorado’s Constitution, the change, if passed, is likely to be permanent. This dramatic change is not adequately reflected in the title

and should be included in the title's single-subject clause above through the addition of "and, in connection therewith."

Third, the titles, including the table explained above, are misleading and prejudicial because they highlight the potential impact to individuals' income taxes at the expense of full disclosure. The table fails to clarify that the Initiatives would alter the income tax rates for incorporated business, estates, and trusts, as well as pass-through entities. Instead, the titles minimize the impact on these other earners by vaguely stating "various income tax rates" would be established for them. This, combined with the table showing proposed changes only to individual earners, implies that the Initiatives would have little-to-no effect on other earners.

When Title Board set titles to prior versions of these measures years ago, the titles listed the income rate changes within the title so voters could see the proposed changes. (*See, e.g.*, Title for Proposed Initiative 2019-2020 #184, <https://tinyurl.com/28a9ce3p>.) The titles set for the Initiatives fail to do this. 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. Thus, Title Board must do some combination of (a) adding language to clarify that taxes on businesses would increase and (b) creating separate tables for estates, trusts, and C-corporations.

Fourth, and relatedly, the titles would mislead voters because they do not address other entities, such as S-corporations, limited liability companies, small and mid-size businesses, and start-up companies organized as C-corporations. But all of these entities may have their taxes increased under the Initiatives. In particular, pass-through entities—usually taxed at the individual level—would undoubtedly be affected by these measures. 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.⁸ The titles as drafted do not sufficiently address the significant dangers to Colorado’s business landscape associated with such a dramatic corporate tax increase and obscure the full reach and

⁸ For example, recent schemes in California to “tax the rich” have led employers of all sizes to leave the state.

impact of the tax increase by listing some of the targets of the new tax scheme but not others. Any individual or business classification that will experience a tax increase if one of these measures passes should be expressly referenced or listed. Likewise, while the Initiatives specify that they apply to “corporations,” voters may not understand that large, medium, and small businesses, as well as start-up companies, are organized as C-corporations. The titles must be edited to make this clarification.

Fifth, the titles’ reference to “estates” is misleading and needs to be clarified. When voters think of “estates,” they may (or even likely) assume this affects only millionaire’s estates. Rather, each time a person passes away, no matter their net worth, 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, the Initiatives would result in higher taxes on the assets left to individuals grieving their lost loved ones, and not just the beneficiaries of millionaires. The titles need to explicitly describe this feature.

Sixth, the titles as drafted do not clarify the excess portion of the revenue generated does not count toward the TABOR cap. They specifically fail to mention the measures remove the voters' right to vote on retaining excess revenue under TABOR. A voter would be surprised to learn this aspect.

Seventh, while the titles create the impression the excess revenue from the tax increase would be directly targeted toward specific social programs, they mask that the legislature has wide discretion to decide which services and programs listed in the measures would receive the revenue. Because these social programs encompass a large part of the state budget, the legislature could choose to spend the revenue in nearly infinite ways. In other words, just because a certain service is listed, such as public school education, does not mean that the legislature will allocate any of the increased tax revenue to that particular service. Voters, who as described above may favor a specific social program, would be surprised to learn after reading the titles that the legislature could decide to place all the excess revenue towards a specific program, at the expense of others. Therefore, at minimum, the words "at the discretion of

the legislature” must be added to the titles to make clear that the decision as to the excess revenue is not in the voter’s hands.

The Initiatives’ titles therefore are incomplete and misleading, and must be amended to express their true intent and meaning.

V. The initial fiscal impact statements are misleading.

Finally, the initial fiscal impact statements prepared by LCS are misleading as to the Initiatives’ changes affecting corporations, and especially small and medium-sized businesses, or start-up companies, organized as C-corporations.⁹ Specifically, in the section titled Economic Impacts, LCS refers only to “business incomes.” This phrasing does not adequately describe the economic impacts of the measures if implemented, as required by C.R.S. § 1-40-105.5(1.5)(a)(II). Referring only to the affected corporations, of all sizes, as “business” does not accurately portray the extent of businesses impacted.

⁹ Petitioner Hancock preserved this argument in his motions for rehearing, (Initiative #191 Pet. for Review, Ex. 1 at 33; Initiative #195 Pet. for Review, Ex. 1 at 31; Initiative #196 Pet. for Review, Ex. 1 at 31), and at the rehearing, (*see generally* Title Board Rehearing (Feb. 4, 2026); Title Board Rehearing (Dec. 17, 2025)).

Moreover, although not required by statute, the initial fiscal impact statements are misleading, incomplete, and prejudicial unless they include a corresponding table addressing corporations. Thus, for these reasons, along with the reasons detailed above, the Court should remand the Initiatives to Title Board and direct Title Board to instruct LCS to revise the initial fiscal impact statements to align with statutory requirements.

CONCLUSION

Petitioner respectfully requests the Court reverse the Title Board's denial of Petitioner Hancock's Motions for Rehearing and hold that the Title Board does not have jurisdiction to set title for the Initiatives because: (1) the Initiatives are so confusing and incomprehensible that it is impossible for Title Board to set accurate titles; and (2) the Initiatives contain multiple subjects. For those reasons, the Court should vacate the Title Board's decisions and remand the measures to the Respondents.

Even if the Court holds that Title Board did have jurisdiction to set titles, the Court should nonetheless vacate Title Board's titles because they violate the clear title requirements, and direct Title Board to modify

the titles to address the concerns raised herein. The Court should also instruct Title Board to direct the initial fiscal impact statements to LCS for revisions to comply with the statutory requirements.

Respectfully submitted March 3, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2026, I electronically filed a true and correct copy of the foregoing **PETITIONER’S OPENING BRIEF** via the Colorado Courts E-Filing system which will send notification of such filing and service upon counsel of record:

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