

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR
INITIATIVE 2025-2026 #181

Nash Herman, Objector

MOTION FOR REHEARING ON INITIATIVE 2025-2026 #181

Nash Hermann, registered elector of the State of Colorado and Objector, by and through counsel, hereby submits this Motion for Rehearing and objects to the Title Board's title and ballot title and submission clause set for Proposed Initiative 2025-2026 #181. The Board met on December 3, 2025, to consider Proposed Initiative 2025-2026 #181 and set the following title:

Shall state taxes be increased \$4.1 billion annually, in order to increase or improve levels of public services, including public school education, health care, child care, and workforce development 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 state income tax rate, and, in connection therewith, eliminating the constitutional requirement in the Taxpayer's Bill of Rights 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, and authorizing the state to retain and spend the increased revenue for specific purposes, which will result in the estimated change in income taxes owed by individuals as identified in the following table?

It is apparent that this measure is more than just a proposal for the establishment of a graduated income tax system. The proposal makes significant changes to TABOR impacting the cherished right of citizens to vote on future tax measures.

As grounds therefore, Objector Herman states as follows:

- I. The title completely fails to notify voters that their rights under TABOR will be significantly impaired.**

Section 1 of the proposed initiative 2025-2026 #181 states as follows:

SECTION 1. 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 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 initiative then proceeds to propose an initiated statutory change concerning the adoption of a graduated income tax system as a substitute for the TABOR procedure.

However, it is unclear how the deletion of the constitutional TABOR language will apply to future tax measures which will be the province of the legislature. Specifically, it is unclear whether Colorado voter will be afforded the opportunity to vote on future tax changes as is currently guaranteed under TABOR.

Section 4 of the proposed initiative proposal further muddies the waters by the use of the phrase “notwithstanding any provision of law to the contrary.”

The title set for 2025-2026 #181 by the Title Board seems to indicate that the application of the TABOR changes will be applicable only to the adoption of the instant graduated income tax proposal. Without clarification, the title is misleading and prevents the voters from fully understanding the actual breadth of the proposal.

It is axiomatic that the title to #181 must be amended to provide clarity to the voters. *See* C.R.S section 1-40-106(3)(b). Objector believes that it is the duty of the Title Board to “ensure that the title, ballot title and submission clause, and summary fairly reflect the proposed initiative so that petition signers and voter 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).

The bottom line question is once tax matters are delegated to the general assembly, will voters ever have the right to vote on tax increases in the future?

Respectfully submitted this 10th day of December, 2025

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