

MOTION FOR REHEARING

Proposed Initiative 2025–2026 #181 (“Graduated Income Tax”)

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INTRODUCTION

Pursuant to § 1-40-107(1)(a), C.R.S., I request a rehearing on Initiative #181.

A rehearing is required for two reasons:

- 1. Initiative #181 contains more than one subject, so the Title Board did not have jurisdiction to set title.**
- 2. The titles that were set are unclear and misleading, especially regarding how the measure affects the Taxpayer’s Bill of Rights (TABOR) statutory refund system that remains in effect through tax year 2034.**

Both issues were discussed during the Review & Comment hearing by legislative staff and were raised again at the initial Title Board hearing by myself and others. Even with those concerns identified early, they remain unresolved in the final text and the titles adopted on December 3, 2025.

A rehearing is needed so the measure can be accurately evaluated and described.

I. INITIATIVE #181 CONTAINS MULTIPLE SUBJECTS, SO THE BOARD LACKED JURISDICTION TO SET TITLE

Colorado’s single-subject rule exists so voters are not asked to accept one large policy change in order to get another. Initiative #181 combines several separate ideas that are not naturally connected.

A. The initiative repeals the Taxpayer’s Bill of Rights (TABOR) single-rate protection

The measure eliminates the long-standing constitutional requirement that all taxable net income be taxed at one rate. That alone is a substantial and independent policy change.

B. The initiative creates a brand-new graduated income-tax system

The measure adds multiple tax brackets for individuals, estates, trusts, and corporations. This is a separate fiscal policy decision unrelated to whether the Constitution should keep or remove the single-rate requirement.

C. The initiative creates a new “excess revenue” designation and spending structure

The measure adds a new statutory framework to classify certain income-tax revenue as a “voter-approved revenue change,” exempt it from TABOR limits, and direct it to a set of public services. This revenue-retention and earmarking system is a separate subject that stands apart from the tax-rate structure.

D. Legislative staff stated multiple purposes

At the Review & Comment hearing, Legislative Legal Services described a list of distinct “purposes” in the draft, including constitutional changes, tax-rate changes, revenue-retention changes, and new reporting requirements. These are separate policy areas, not one unified subject.

E. The initiative also effectively changes or disables the statutory refund mechanism — another separate subject

Colorado has a statutory refund system under § 39-22-627 that runs through **2034**. Under that law, refunds must be issued by temporarily **reducing the single state income-tax rate** in years when the state collects revenue above the limit.

By eliminating the single rate and adopting a multi-bracket tax system, Initiative #181 removes the foundation the refund law depends on. This effectively changes the refund mechanism itself.

Whether Colorado should continue, replace, or eliminate the current rate-reduction refund system is **its own major policy question**, unrelated to:

- repealing TABOR's single-rate rule,
- adopting a graduated income tax, or
- creating a new "excess revenue" designation and spending structure.

F. The initiative keeps TABOR's prohibition on "no added tax or surcharge" while creating an added tax — a separate subject and an internal contradiction

The initiative retains TABOR's constitutional language stating that income must be taxed at one rate "**with no added tax or surcharge.**" At the same time, it creates a graduated income-tax schedule that **raises tax rates for certain income levels.**

By any ordinary meaning, that is an **added tax** on those taxpayers.

Legislative staff pressed the proponents on this contradiction:

ALLISON KILLIAN (OLLS):

"If the Constitution still says 'no added tax or surcharge,' how is the graduated rate schedule not an added tax for some taxpayers?"

KILLIAN (follow-up):

"I'm trying to understand how this fits with the prohibition on added taxes or surcharges. The new brackets appear to increase the tax for some income levels."

The proponents did not provide a clear explanation.

This shows the measure has **two separate and conflicting purposes**:

1. Keeping the constitutional ban on added taxes or surcharges, and
2. Imposing higher marginal tax rates for some taxpayers.

These are independent subjects and cannot be considered “necessarily and properly connected.”

Because Initiative #181 bundles all of these unrelated policy changes into one measure, the Board did not have jurisdiction to set title.

A rehearing is required on this ground alone.

II. IF THE BOARD FINDS THE MEASURE CONTAINS A SINGLE SUBJECT, THE TITLES MUST BE REHEARD BECAUSE THEY ARE UNCLEAR AND MISLEADING ABOUT TABOR REFUNDS

Even if the Board decides the measure meets the single-subject test, the titles must still be reheard. The titles do **not** explain how Initiative #181 affects the existing statutory refund mechanism in § 39-22-627.

That law requires TABOR refunds to be issued by **temporarily reducing the income-tax rate**, and that mechanism remains in effect through **2034**. It depends entirely on having **one single rate**.

Initiative #181 removes that rate and replaces it with multiple brackets, making the refund statute nonfunctional.

Legislative staff explained this directly:

KILLIAN (OLLS):

“By completely ignoring section 39-22-627, it now has **no functional mechanism** for applying in those years.”

Staff went further:

KILLIAN:

“The language in section 39-22-627 is **not consistent** with the changes proposed... the designated representative should add a section amending or repealing section 39-22-627... *they don’t go together anymore.*”

They also emphasized the importance of voter understanding:

KILLIAN:

“Expressing that intent clearly so that **voters understand...** is important.”

The proponents themselves conceded the text does not reflect their stated intention:

ED RAMEY (Proponents’ Counsel):

“Our intention is not to affect the refund mechanism... and I’m **not sure our measure is worded appropriately** to do that at this point.”

These issues are not disclosed in the current titles.

III. WHY THIS MATTERS TO VOTERS

TABOR’s rate-reduction refund system applies through **2034** and affects all taxpayers. It only works with one single tax rate.

Initiative #181 removes the single rate, making the refund statute inoperable. It also creates a new category of revenue that is retained and spent rather than refunded.

Example

Current law:

Taxpayer A earns **\$50,000**. If the state exceeds the TABOR limit, the state lowers the income-tax rate temporarily, and Taxpayer A gets a refund through that reduced rate.

Under Initiative #181:

There is **no single rate** to reduce. The statutory refund mechanism cannot operate. Taxpayer A would no longer receive that type of refund.

Several years of the remaining refund system (through 2034) would be disrupted, but the titles do not explain this.

The titles are therefore unclear and misleading.

IV. REQUESTED RELIEF

I respectfully request that the Board:

1. **Set aside the titles** because Initiative #181 contains multiple subjects, and titles cannot legally be set for such a measure;
OR, if the Board determines it does have jurisdiction:
2. **Revise the titles** to explain that the measure:
 - eliminates the single-rate foundation of Colorado’s statutory refund mechanism,
 - adopts a revenue system that does not operate with that refund mechanism, and
 - results in the state retaining money that would otherwise be refunded to taxpayers.

To that end, I propose the following alternate title.

PROPOSED ALTERNATE TITLE (if the board doesn’t reverse title set)

Shall state taxes be increased \$4.1 billion annually, in order to increase or improve levels of **public 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 Taxpayer’s Bill of Rights (TABOR) requirement for a single income-tax rate and adopting a revenue system that does not operate with the current statutory refund mechanism that reduces the income-tax rate, and resulting in the state retaining money that would otherwise be refunded to taxpayers**, establishing various income tax rates based on 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?

CONCLUSION

Initiative #181 makes several different changes to Colorado's tax and refund systems. Concerns about multiple subjects, added taxes, and refund-mechanism conflicts were raised early in the process but remain unaddressed. Voters deserve titles that accurately describe these effects.

For these reasons, I request rehearing under § 1-40-107.

Respectfully submitted,

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