

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR
INITIATIVE 2025-2026 #145

MOTION FOR REHEARING

On my own behalf, as a registered elector of the State of Colorado, the undersigned hereby submits this Motion for Rehearing for Initiative 2025-2026 #145 - Graduated Income Tax, pursuant to Section 1-40-107, C.R.S., and as grounds therefore states as follows:

I. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR INITIATIVE #145 AS INITIATIVE #145 IMPERMISSIBLY CONTAINS 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.”

In these times of growing mistrust of authority in general, and government in particular, this function of the Title Board has never been more important. The right of initiative is stated in our Constitution to be “the first power hereby reserved by the people,” Colo. Const. Art. V, sec. 1(2) and a clear and honest title is absolutely essential for the exercise of this right.

Similarly, the people of Colorado have come to cherish the rights given to them by the Taxpayer’s Bill of Rights (TABOR) in our Constitution and it continues to be extremely popular with the people of Colorado, regardless of their age or political affiliation. Therefore, initiatives which intend to repeal rights given under the Taxpayer’s Bill of Rights must be given titles which are very clear so as to avoid in any way allowing “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.>

The proponents of Proposed Ballot Initiative #145 have stated that the point of the initiative is to change our Constitution to allow a graduated tax rate. Audio of hearing, Oct. 1, 2025, at 19:52. This does require repealing the portion of the Taxpayer's Bill of Rights which requires a single tax rate.

However, the proponents also acknowledge that the proposed initiative has the effect colloquially known as "de-Brucing." Audio of hearing, Oct. 1, 2025, at 40:11. This is the process of having voters authorize the state "to retain and spend . . . any resulting increase in revenue." Title as set by Title Board. In other words, in difficult economic times the voters of Colorado will be choosing to not receive any TABOR refunds to which they are entitled if the revenue raised exceeds TABOR's limits. This is not a necessary or connected result of having a graduated tax rate. A graduated tax rate could be revenue neutral, or it could be implemented and then if the revenue exceeds TABOR's limits the required refunds could be issued. One way or another the retention of revenue exceeding TABOR's limits is a completely different subject than the structure of the tax rates by which that revenue is raised. This is precisely the type of subject that should not be in any way concealed from voters or obscured by the distractions of the other subject.

II. THE TITLE SET FOR INITIATIVE #145 IS NOT CLEAR AND ACCURATE BUT IS MISLEADING

Notwithstanding whether the Proposed Ballot Initiative #145 contains more than one subject, the title of the initiative is misleading because it does not make it clear to voters that they are approving a revenue change which will result in the forfeiture of their TABOR refunds. The board debated the inclusion of language making this more clear - adding "as a voter approved revenue change" - but then decided to remove such language. This is an issue which voters care very deeply about and they will not appreciate being surprised that they have inadvertently waived their refund rights.

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 8th day of October, 2025.

/s/Rebecca R. Sopkin

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