

COLORADO TITLE SETTING BOARD

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Michael Fields and Suzanne Taheri, Objectors

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**MOTION FOR REHEARING ON INITIATIVE 2025-2026 #47**

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Michael Fields and Suzanne Taheri, registered electors of the State of Colorado object to the ballot title set by Title Board for Proposed Initiative 2025-2026 # 47 (“Initiative #47”). The ballot title set does not accurately reflect the purpose or effects of Initiative #47 and contains language that is prejudicial to the proponents.

On April 2, 2025, the Title Board set the following ballot title and submission clause for Initiative #47:

“A reduction to the state income tax by 0.2% for the taxable years commencing on or after January 1, 2027, thereby reducing state revenue, which will reduce funding for state expenditures that include but are not limited to health care policy and financing, education, and higher education by an estimated \$32.2 million in tax revenue, by a change to the Colorado Revised Statutes concerning a reduction in the state income tax rate from 4.40% to 4.39% which will result in the estimated change in income taxes owed by individuals as identified in the table that follows: [table]”

As demonstrated below, the title set for Initiative #47 violates the Colorado Constitution and conflicts with established legal precedent related to clear title. While the Board stated that title was set according to the statutory mandate requiring certain specific language in ballot titles for initiatives that propose a reduction in taxes, the title set by the Board ignores the constitutional mandate to set a title that accurately informs voters of the consequences of voting for an initiative.

Proponents are aware of the Title Board’s duty to follow laws regarding ballot title setting. Unfortunately, in the case of Proposed Initiative 2025-2026 #47, the Board erred on the wrong side of the conflicting statutes. C.R.S. §1-40-106 provides the framework for title setting. The instructions given to the Title Board include: “The title board, by majority vote, shall proceed to designate and fix a proper fair title for each proposed law or constitutional amendment...” §1-40-106(1).

In §1-40-106(2)(b), the mandate for a clear and fair title is further clarified: “In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a “yes/for” or “no/against” vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof...”

Alas, recent changes made by the General Assembly to the title setting process result in a conflict between the long-established precedent of setting a clear and fair title for all ballot initiatives and the mandate to list three programs that will see reduced funding in the event of a tax cut, regardless of the amount of the tax cut, whether taxpayers are scheduled to receive TABOR refunds, or even whether the initiative's language calls for specific programs to be exempted from or targeted by a tax cut.

Unlike the language mandated for tax increases and debt measures in Article 10, Section 20 of the Colorado Constitution (TABOR) which was adopted by the People, the language prescribed by the General Assembly in C.R.S. §1-40-106(3)(e) results in scenarios where the Board's task to comply with the law is in direct conflict with its constitutional mandate to set an accurate title.

C.R.S. §1-40-106(3)(e) requires ballot questions for measures that reduce state tax revenue through a tax change to begin: "Shall there be a reduction to the (description of tax) by (the percentage by which the tax is reduced in the first full fiscal year that the measure reduces revenue) thereby reducing state revenue, which will reduce funding for state expenditures that include but are not limited to (the three largest areas of program expenditure) by an estimated (projected dollar figure of revenue reduction to the state in the first full fiscal year that the measure reduces revenue) in tax revenue...?"

For Initiative #47, the fiscal summary states outright that there will not be program cuts. Yet, the Title Board still chose to inform voters that the initiative, "will reduce funding for state expenditures that include but are not limited to health care policy and financing, education, and higher education..." This assertion is false and unjustifiable. The fiscal summary proves it, stating: "Based on current forecasts for FY 2026-27, the measure is expected to reduce the amount required to be refunded to taxpayers under TABOR, with no net impact on the amount available for the budget." The reality is that it may not even reduce refunds, but will instead reduce homestead exemption amounts or some other similar program paid for with TABOR surplus.

The clear title requirement seeks to accomplish two overarching goals: prevent voter confusion and ensure that the title adequately expresses the initiative's intended purpose. If a title accomplishes these goals, the end result is that voters, "whether or not they are familiar with the subject matter of a particular proposal," should be able to "determine intelligently whether to support or oppose the proposal." *In re 2015-2016 #73*, ¶ 22, 369 P.3d at 568.

The board must consider the public confusion that might be caused by misleading titles. *Id.* The Title as set purports to reduce funding for three state programs that are likely very important to voters. But it does not. The tax cut contained in Initiative #47 will reduce TABOR refunds, but it is not sufficient in size to result in a cut to even one of the three listed programs, much less any other programs as the "include but are not limited to" language would indicate.

Accordingly, the Objectors respectfully request that this Motion for Rehearing be set pursuant to C.R.S. § 1-40-107(1), and Opponent's rehearing be granted because the title set for Initiative #47 is prejudicial and does not even come close to describing either the purpose or the effects of the initiative.

Respectfully submitted this 9<sup>th</sup> day of April, 2025.

/s/ Suzanne Taheri

West Group  
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