

MOTION FOR REHEARING ON TITLE SET

Initiatives 2025–2026 #189, #190, #191, #192, #193, #194, #195, and #196

Title Board Hearing: January 21, 2026

Motion submitted by: Natalie Menten, Registered Colorado Elector

I. Distinct Separate Subjects

I respectfully request a rehearing pursuant to section 1-40-107(1)(a), C.R.S., regarding the titles and submission clauses set for Initiatives #189–196 on January 21, 2026. Additionally, I request my motions for re-hearing on the prior 2025-2026 “Graduated Income Tax” be incorporated with this current motion.

These measures were previously rejected, and it is not clear why they were approved this time, because the core issues raised at prior hearings remain unresolved and the language has not materially changed in a way that addresses those issues.

Separate Subjects:

- **These measures repeal TABOR’s constitutional single-rate income tax protection.**
- **They create a tiered income tax system (separate rate structures for individuals and businesses), which functions as an added tax or surcharge through higher rates for certain taxpayers.**
- **They create a direct conflict with Colorado’s refund structure, because the current refund framework does not cleanly operate once the flat-rate foundation is removed.**

II. THE MEASURES REMOVE TABOR’S FLAT-RATE PROTECTION AND CREATE AN “ADDED TAX OR SURCHARGE”

TABOR currently provides that any income tax law change after July 1, 1992 must tax all taxable net income “at one rate” and must do so “with no added tax or surcharge.”

At prior hearings, proponents’ counsel described the revenue and distribution impacts as “incidental,” stating:

“The point of this measure is to create a graduated income tax, **not to increase revenue, not to favor this group or that group**... It is incidentally to this that if we’re moving from one flat rate to a graduated rate, **some rates might go down, some rates might go up**...” (Ed Ramey, Title Board hearing, Oct. 1, 2025.)

That statement confirms the core practical effect: even if framed as “incidental,” the measure necessarily creates higher rates for some taxpayers and lower rates for others, which is an “added tax or surcharge” issue under TABOR’s plain language.

A tiered (graduated) income tax is, by definition, an added layer of tax:

- some taxpayers pay higher rates than others depending on their income.

The measure imposes added tax through higher rates for certain taxpayers, and the plain language of TABOR uses the terms “added tax or surcharge.”

III. THE REFUND CONFLICT REMAINS UNRESOLVED

A central problem remains: the initiatives remove the flat-tax foundation while leaving refund-related statutory references in place, which creates confusion and conflict.

For example, the measure still includes “EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627...,” while changing the income tax system into graduated brackets beginning in 2027.

This issue has been raised more than once at prior hearings, including Review & Comment.

The initiatives rely on Legislative Declaration promises instead of fixing the conflict in the operative text. Legislative declarations are sentiment and messaging, not controlling law.

IV. THE TITLES SHOULD USE PLAIN REFUND LANGUAGE (“OTHERWISE REQUIRED TO REFUND TO TAXPAYERS”)

The titles for these measures rely on phrases such as “voter-approved revenue change” or “voter-approved retention.” But the average voter will not necessarily understand that phrase to mean the government is being authorized to keep revenue that otherwise would be refunded.

A. Title Board examples spanning years show we have made more clear and transparent voter-facing titles

The Title Board has **used clearer refund language** in recent cycles.

For example, **Initiative #106 (2021–2022)** included language stating that revenue transfers may be from “revenue the state is otherwise required to refund to taxpayers.”

Initiative #63 (2021–2022) likewise used the same concept: “revenue that the state or a local school district is otherwise required to refund to taxpayers.”

These attached examples show there is a workable, established way to provide voters clarity on refunds.

B. Older Title Board examples also used this refund clarity phrasing (additional support)

In trying to locate similar measures from prior years, I found older Title Board titles that used the same refund clarity concept, largely in the context of school finance measures.

For example, **Initiative #125 (2008–2009)** used the phrase “revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending...”

Initiative **#126 (2008–2009)** used the same concept.

These examples show that the Title Board has understood the value of clearly stating when a measure redirects or keeps revenue that otherwise would be refunded.

C. Requested title revision if the Board does not find multiple subjects

If the Title Board declines to find multiple subjects, and does not address the added tax and refund nullification concerns, the minimum fix is plain language that tells voters the measure allows the state to keep revenue that otherwise would be refunded to taxpayers.

V. REQUEST FOR REHEARING / RELIEF REQUESTED

For the reasons above, I respectfully request rehearing and ask the Title Board to:

1. find these measures contain multiple subjects and decline to set title; or
2. in the alternative, revise the titles and submission clauses to clearly and transparently inform voters that these measures remove TABOR’s flat-rate income tax requirement and authorize the state to retain revenue **that otherwise would be refunded to taxpayers**.

Sincerely,

Natalie Menten
Colorado Elector

— **Exhibits Follow** —

Exhibit Index (Attachments)

Exhibit A — Legislative Council Staff, December 2025 TABOR Outlook (excerpt showing income tax rate reduction refund mechanism forecast).

Exhibit B — Colorado Title Board Results for Proposed Initiative #63 (2021–2022) (title language referencing revenue “otherwise required to refund to taxpayers”).

Exhibit C — Colorado Title Board Results for Proposed Initiative #106 (2021–2022) (title language referencing revenue “otherwise required to refund to taxpayers”).

Exhibit D — Colorado Title Board Results for Proposed Initiative #125 (2008–2009) (historic title language referencing revenue “otherwise required to refund”).

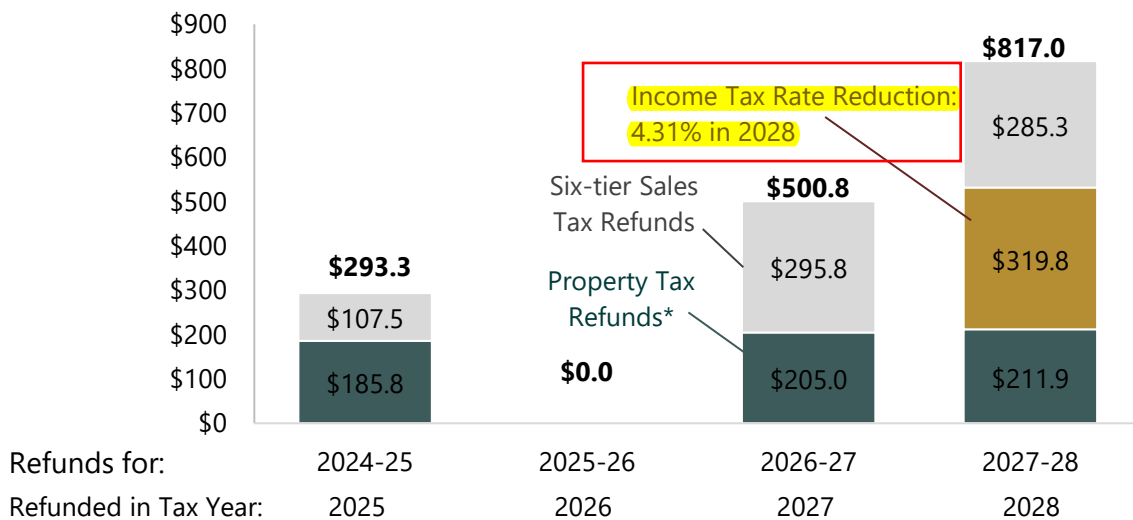
— Following copies includes highlighting for emphasis. —

The **temporary income tax rate reduction** is expected to apply for **tax year 2028 as the second TABOR refund mechanism after property tax refunds**. The income tax rate will be reduced from **4.40 percent to 4.31 percent in tax year 2028**, based on the expected amounts of the TABOR surplus remaining after property tax refunds in FY 2027-28.

This forecast anticipates that the income tax rate reduction mechanism will not be triggered in tax years 2025, 2026, or 2027. In subsequent years, the amount of the income tax rate reduction that is triggered depends on the amount of the TABOR surplus remaining after reimbursements to local governments for property tax exemptions.

The **six-tier sales tax refund mechanism** is expected to apply for tax years 2025, 2027 and 2028 with refund amounts based on taxpayer incomes, as average refunds per taxpayers are projected to exceed the \$15 threshold to trigger identical sales tax refunds. While SB 24-228 established a higher threshold for triggering identical sales tax refunds, that change is contingent upon an Internal Revenue Service ruling that has not yet been made. Hence, this forecast assumes the current law threshold remains at \$15 per person throughout the forecast period, pending further information. Table 9 on page 37 presents estimated six-tier sales tax refund amounts for tax years 2025, 2027, and 2028.

Figure 5
Expected TABOR Refunds and Refund Mechanisms
 Dollars in Millions



Source: Legislative Council Staff December 2025 forecast.

"Property tax refunds" includes the homestead exemption for seniors, veterans, and Gold Star Spouses, and, for FY 2024-25, property tax reimbursements to local governments under SB 24-111.

Refunds made via property tax reductions reduce obligations that would otherwise be paid from General Fund revenue. Refunds made via the income tax rate reduction or sales tax refunds are paid to taxpayers when they file their state income tax returns. TABOR refund mechanisms are accounted for as an offset against the amount of surplus revenue restricted to pay TABOR refunds, rather than as a revenue reduction. Therefore, the General Fund revenue forecast does not incorporate downward adjustments as a result of refund mechanisms being activated.

Results for Proposed Initiative #63

Ballot Title Setting Board 2021-2022

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education, and, in connection therewith, without raising the existing state income tax rate, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be from revenue that the state or a local school district is otherwise required to refund to taxpayers in years in which a refund is due; requiring the additional revenue to be used for attracting, retaining, and compensating teachers and student support professionals; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning additional funding for preschool through twelfth-grade public education, and, in connection therewith, without raising the existing state income tax rate, requiring revenue collected by the state from one-third of one percent of all federal taxable income of every individual, estate, trust, and corporation, as modified by law, to be deposited in the state education fund; allowing the additional revenue to be from revenue that the state or a local school district is otherwise required to refund to taxpayers in years in which a refund is due; requiring the additional revenue to be used for attracting, retaining, and compensating teachers and student support professionals; specifying appropriations of the additional revenue do not supplant existing appropriations for public education; and requiring an annual report describing the allocation of the additional revenue?

Hearing March 16, 2022

Single subject approved; staff draft amended; titles set.
Board members: Hilary Rudy, David Powell, Ed DeCecco
Hearing adjourned 12:05 PM.

Rehearing April 6, 2022

Motion for Rehearing: granted only to the extent that the Board made changes to the titles
. Board Members: Theresa Conley, David Powell, Ed DeCecco
Hearing adjourned: 10:50 A.M.

** Unofficially captioned "Additional Dedicated Revenue to the State Education Fund" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.*



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Results for Proposed Initiative #106

Ballot Title Setting Board 2021-2022

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes concerning funding to increase affordable housing, and, in connection therewith, establishing an annual fee upon an owner of residential real property, that is equal to 1.1% of the appraised actual value of the real property that exceeds \$2 million, adjusted for inflation; requiring the fee revenue to be deposited in the Colorado affordable housing fund; allowing the state to transfer additional revenue to the fund; providing that any additional transferred amount may be from revenue the state is otherwise required to refund to taxpayers; and requiring the revenue in the fund to be allocated to local governments to address affordable housing shortages in the state.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning funding to increase affordable housing, and, in connection therewith, establishing an annual fee upon an owner of residential real property, that is equal to 1.1% of the appraised actual value of the real property that exceeds \$2 million, adjusted for inflation; requiring the fee revenue to be deposited in the Colorado affordable housing fund; allowing the state to transfer additional revenue to the fund; providing that any additional transferred amount may be from revenue the state is otherwise required to refund to taxpayers; and requiring the revenue in the fund to be allocated to local governments to address affordable housing shortages in the state?

Hearing April 21, 2022

Single subject approved (2-1, DeCecco dissented); staff draft amended; title set.
Board members: Theresa Conley, Ed DeCecco, Kurt Morrison
Hearing adjourned: 7:49 PM.

** Unofficially captioned "New Fee Assessment on Luxury Residential Real Property" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.*

Results for Proposed Initiative #125

Ballot Title Setting Board

2007-2008

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning the manner in which the state funds public education from preschool through the twelfth grade, and, in connection therewith, for the 2010-11 state fiscal year and each state fiscal year thereafter, requiring that any revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending be transferred instead to the state education fund; eliminating the requirement that, for the 2011-12 state fiscal year and each state fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade and the total state funding for all categorical programs increase annually by at least the rate of inflation; creating a savings account in the state education fund; requiring that a portion of the state income tax revenue that is deposited in the state education fund be credited to the savings account in certain circumstances; requiring a two-thirds majority vote of the general assembly to use the moneys in the savings account; establishing the purposes for which moneys in the savings account may be spent; establishing a maximum amount that may be in the savings account in any state fiscal year; and allowing the general assembly to transfer moneys from the general fund to the state education fund, so long as certain obligations for transportation funding are met.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning the manner in which the state funds public education from preschool through the twelfth grade, and, in connection therewith, for the 2010-11 state fiscal year and each state fiscal year thereafter, requiring that any revenue that the state would otherwise be required to refund pursuant to the constitutional limit on state fiscal year spending be transferred instead to the state education fund; eliminating the requirement that, for the 2011-12 state fiscal year and each state fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade and the total state funding for all categorical programs increase annually by at least the rate of inflation; creating a savings account in the state education fund; requiring that a portion of the state income tax revenue that is deposited in the state education fund be credited to the savings account in certain circumstances; requiring a two-thirds majority vote of the general assembly to use the moneys in the savings account; establishing the purposes for which moneys in the savings account may be spent; establishing a maximum amount that may be in the savings account in any state fiscal year; and allowing the general assembly to transfer moneys from the general fund to the state education fund, so long as certain obligations for transportation funding are met?

Hearing May 21, 2008

Single subject approved; staff draft amended; titles set.

Hearing adjourned 11:31 AM.

Rehearing May 29, 2008

Motions for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 2:22 PM.

** Unofficially captioned "Education Funding" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.*

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