

ballot title set by the Ballot Title Setting Board for Proposed Initiative 2025-2026 #47.

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2025-2026 #47

Proposed Initiative 2025-2026 #47 was filed with Legislative Council on March 7, 2025. A review and comment hearing was held March 21, 2025. The initiative was filed with the Title Board, and an initial hearing was held on April 2, 2025.

At the April 2, 2025 hearing, the Title Board found single subject and set the following ballot title:

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:

Initiative 47
Change in Income Taxes Owed by Income Category (Tax Year 2027)

Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4

\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.

Proponents Michael Fields and Suzanne Taheri timely filed a Motion for Rehearing to challenge the language in the ballot title. A rehearing occurred on April 16, 2025, and the Board denied the Motion for Rehearing in its entirety. Petitioners now appeal the ballot title set by the Board as false, misleading, and prejudicial.

B. Jurisdiction

Petitioners are entitled to review before the Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioners were present at the initial hearing and rehearing. Additionally, Petitioners timely filed this Petition for Review seven days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. §1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final version of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed; and (4) the ruling on the Motion for Rehearing.

Petitioners believe that the Title Board erred by denying the Motion for Rehearing and upholding a ballot title which strictly adheres to the statutory

structure established by the legislature in violation of the constitutional requirement to set a clear and accurate ballot title.

GROUND FOR APPEAL

The Ballot Title Setting Board found a single subject and set a ballot title at its initial hearing on Proposed Initiative 2025-2026 #47. Petitioners objected to the ballot title as set because the ballot title asserts that passing the initiative, “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.” Petitioners notified the Board that the fiscal summary disproves the title’s assertion that state funding “will” be reduced. Instead of naming programs for reduction, the fiscal summary states: “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 Board’s decision to set and stand upon a ballot title which contains false information regarding the proposed initiative directly conflicts with the proponents’ constitutional right to a clear and accurate ballot title. The following is an advisory list of the issue to be addressed in Petitioners’ brief:

1. Whether the Board improperly set an inaccurate ballot title for Proposed Initiative 2025-2026 #47.

PRAYER FOR RELIEF

Petitioners respectfully request that, after consideration of the parties' briefs, this Court determine that the title set for Proposed Initiative 2025-2026 #47 violates the constitutional requirement to set a clear and accurate ballot title and remand the initiative to the Title Board for immediate correction.

Respectfully submitted this 23rd day of April, 2025

s/Suzanne Taheri
Suzanne M. Taheri, #23411
WEST GROUP LAW & POLICY
6501 E. Belleview Ave, Suite 375
Englewood, CO 80111
Phone Number: (303) 263-0844
Email: st@westglp.com

Attorney for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2025, a true and correct copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2025-2026 #47 (“INCOME TAX RATE”)** was served via the Colorado Court’s E-Filing System to the following:

Emily Buckley
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
Counsel for the Title Board

/s/ Suzanne Taheri

Suzanne Taheri

Duly signed original on file at West Group



DATE FILED
April 23, 2025 2:44 PM

STATE OF COLORADO

DEPARTMENT OF STATE CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2025-2026 #47 - Income Tax Rate".....

.....**IN TESTIMONY WHEREOF** I have unto set my hand.....
and affixed the Great Seal of the State of Colorado, at
the City of Denver this 18th day of April, 2025.

Jena Griswold

SECRETARY OF STATE



2025-2026 #47 – Final (technical corrections)

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-22-104, **amend** (1.7)(c); and **add** (1.7)(d) and (1.7)(e) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - tax preference performance statement - legislative declaration - definitions - repeal.

(1.7)(c) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2027, a tax of four and forty one-hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

(d) SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO THE TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, A TAX OF FOUR AND THIRTY-NINE ONE-HUNDREDTHS PERCENT (4.39%) IS IMPOSED ON THE FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST.

SECTION 2. In Colorado Revised Statutes, 39-22-301, **amend** (1)(d)(I)(K); and **add** (1)(d)(I)(L) as follows:

39-22-301. Corporate tax imposed - repeal.

(1)(d)(I) A tax is imposed upon each domestic C corporation, foreign C corporation, and combined group, as defined in section 39-22-303 (12)(a.3), doing business in Colorado annually in an amount of the net income of such C corporation during the year derived from sources within Colorado as set forth in the following schedule of rates:

(K) Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2027, four and forty one-hundredths percent of the Colorado net income.

(L) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, FOUR AND THIRTY-NINE ONE-HUNDREDTHS PERCENT (4.39%) OF THE COLORADO NET INCOME.

SECTION 3. Effective date. This act takes effect January 1, 2027.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #47¹

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

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:

Initiative 47			
Change in Income Taxes Owed by Income Category (Tax Year 2027)			
Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4
\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.

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

Shall there be 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

¹ Unofficially captioned “**Income Tax Rate**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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:

Initiative 47 Change in Income Taxes Owed by Income Category (Tax Year 2027)			
Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4
\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.

Hearing April 2, 2025:

Single subject approved; staff draft amended; titles set.

The Board made a technical correction to the text of the initiative.

Board members: Theresa Conley, Jason Gelender, Kurt Morrison

Hearing adjourned 12:15 P.M.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #47¹

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

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:

Initiative 47			
Change in Income Taxes Owed by Income Category (Tax Year 2027)			
Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4
\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.

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

Shall there be 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

¹ Unofficially captioned “**Income Tax Rate**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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:

Initiative 47 Change in Income Taxes Owed by Income Category (Tax Year 2027)			
Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4
\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.

Hearing April 2, 2025:

Single subject approved; staff draft amended; titles set.

The Board made a technical correction to the text of the initiative.

Board members: Theresa Conley, Jason Gelender, Kurt Morrison

Hearing adjourned 12:15 P.M.

Rehearing April 16, 2025:

Motion for rehearing (proponents) denied in its entirety.

Board members: Theresa Conley, Jason Gelender, Kurt Morrison

Hearing adjourned: 11:12 A.M.

COLORADO TITLE SETTING BOARD

Michael Fields and Suzanne Taheri, Objectors

MOTION FOR REHEARING ON INITIATIVE 2025-2026 #47

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 9th day of April, 2025.

/s/ Suzanne Taheri

West Group
Attorney for Objectors



Fiscal Summary

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Measure: Initiative 47 – INCOME TAX RATE

Analyst: Louis Pino, louis.pino@coleg.gov, 303-866-3556

Date: March 27, 2025

Fiscal Summary of Initiative 47

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

State Revenue

By reducing the state tax rate from 4.40 percent to 4.39 percent, the measure reduces General Fund revenue from income taxes by an estimated \$15.6 million in FY 2026-27 and \$32.2 million in FY 2027-28, with ongoing reductions in future years. The estimate for FY 2026-27 represents a half-year impact for tax year 2027.

State Expenditures

The measure reduces the amount of state General Fund revenue available to spend or save beginning in FY 2026-27 and future fiscal years.

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. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. To administer the tax rate change, the measure is expected to increase one-time General Fund expenditures for the Department of Revenue by \$10,000.

Economic Impacts

Taxpayers will have more after-tax income available to spend or save, increasing their consumption of goods and services. Any overall change in economic activity will depend on the net economic impact of higher after-tax household and business income and reduced investment in public services.

Initiative 47

Taxpayer Impacts

Table 1 below shows the estimated decrease in state income tax owed for individual income taxpayers with different levels of adjusted gross income for tax year 2027, the first year in which the tax rate change under the bill is in effect.

Initiative 47
Change in Income Taxes Owed by Income Category (Tax Year 2027)

Income Categories*	Current Average Income Tax Owed	Proposed Average Income Tax Owed	Proposed Change in Average Income Tax Owed + or -
\$25,000 or less	\$58	\$57	\$0
\$25,001 - \$50,000	\$758	\$756	-\$2
\$50,001 - \$100,000	\$1,897	\$1,893	-\$4
\$100,001 - \$200,000	\$4,137	\$4,127	-\$9
\$200,001 - \$500,000	\$9,248	\$9,227	-\$21
\$500,001 - \$1,000,000	\$18,028	\$17,987	-\$41
\$1,000,001 - \$2,000,000	\$26,419	\$26,539	-\$60
\$2,000,001 - \$5,000,000	\$40,671	\$40,579	-\$92

*Adjusted Gross Income reported to the federal Internal Revenue Service.