

DEC 27 2017

SUPREME COURT, STATE OF COLORADO

OF THE STATE OF COLORADO  
DATE FILED: December 27, 2017  
Cheryl L. Stevens, Clerk

Mike Spalding, petitioner,

v. Colorado Title Board, respondent.

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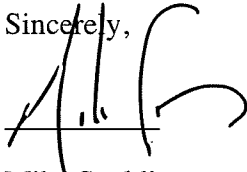
I am petitioning this court to shrink the ballot title for petition #83. I do so under Colorado Revised Statutes 1-40-107 (2). Petition #83 had a rehearing on December 20, 2017. That law says the Supreme Court shall dispose of this appeal "promptly." We need to begin collecting signatures in January. Please.

My rehearing was based on the statute, "Ballot titles shall be brief." The ballot title for a 272-word petition was 126 words, way too long. Instead, the title board ADDED six words, for a new total of 132 words. The title is not fair because it says tax credits are "repealed," which is not in the text, and now adds they are also "replaced," which will confuse voters. The text has a flat tax credit instead, based partly on 2018 tax credits to be given equally.

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Please remove that confusing clause from the ballot title promptly. The last clause should also say only "and changing tax procedures?" Thank you.

Sincerely,



Mike Spalding  
18 Buckthorn Drive  
Littleton, CO 80127  
(303) 434-8110

FILED IN THE  
SUPREME COURT

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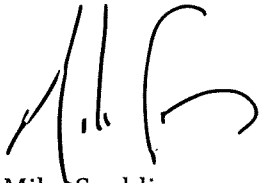
OF THE STATE OF COLORADO  
Cheryl L. Stevens, Clerk

Notice of Service

I certify that on December 26<sup>th</sup>, 2017 I sent copies of the Petition to the Supreme Court to review the ballot title for ballot initiative #83 Income Tax to the following recipients at the Title Board:

Email - Steven.Ward @SOS.state.co.us

Mail - Steven Ward, Colorado Department of State, Elections Division, 1700  
Broadway#200, Denver, CO 80290

A handwritten signature in black ink, appearing to read "M. Spalding". The signature is stylized with a large initial "M" and a long horizontal stroke at the end.

Mike Spalding  
18 Buckthorn Drive  
Littleton, CO 80127



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

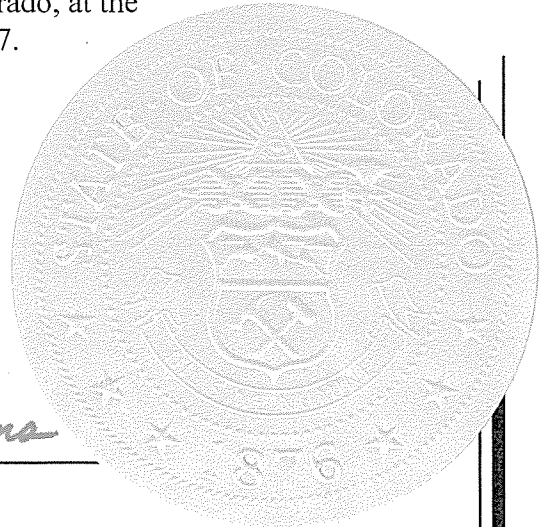
I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, initial fiscal impact statement, abstract, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2017-2018 #83 'State Income Tax'".....

.....

**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 26<sup>th</sup> day of December, 2017.

*Wayne W. Williams*  
\_\_\_\_\_  
SECRETARY OF STATE



RECEIVED

NOV 24 2017

Initiative 2017-2018 #83

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

Colorado Secretary of State

S. WARD 8:57 A.M.

Colorado Revised Statutes 39-22-130. Income tax.

(1) Income tax law is long, complex, vague, and harsh. It should be short, simple, clear, and fair. This "Fair And Simple Tax" law, severable and effective on passage, shall supersede all conflicting laws, rules, and practices.

(2) New returns with only four lines shall be filed for 2019 and all later tax years. **Line 1** shall list federal taxable income times 4.6%. **Line 2** shall print a flat dollar amount that, times all resident returns, equals all state income tax credits in 2018, and in the tax year all state tobacco settlement revenue, all state registration fees over \$10 per vehicle, all non-federal revenue to state enterprises started after 2000 without voter approval, and all excess revenue retained by use of Referendum C. Residents may list that amount (doubled for joint returns) or less. "Residents" means full-year Colorado adults. **Line 3** shall list, with attachments, all prepaid state income tax, and 4.6% of income subtractions and income not from Colorado sources. **Line 4** shall list net state income tax or refund due (line 1 minus lines 2 and 3).

(3) The state shall start its income tax claims within one year after state and federal returns are filed or due. It shall accept federal findings on federal taxable income. Filers may have civil audits and a local civil jury. The state burden of proof is clear and convincing evidence. Filers shall pay a line 4 tax due, receive three times a state overcharge, plus \$300, and pay three times a proven tax deficit. Income tax refunds shall be paid in 30 days. Late payments bear 0.75% monthly interest and no penalty.



**Colorado  
Legislative  
Council  
Staff**

**Initiative #83**

**INITIAL FISCAL  
IMPACT STATEMENT**

**Date:** December 5, 2017

**Fiscal Analyst:** Kate Watkins (303-866-3446)

**LCS TITLE: STATE INCOME TAX**

<b>Fiscal Impact Summary</b>	<b>FY 2018-2019</b>	<b>FY 2019-2020</b>	<b>FY 2020-2021</b>
<b>State Revenue</b>	<b>(\$1.0 billion to \$6.3 billion)</b>	<b>(\$2.1 billion to \$11.9 billion)</b>	<b>(\$2.2 billion to \$12.2 billion)</b>
<b>State Transfers</b>	<b>Indeterminate</b>	<b>Indeterminate</b>	<b>Indeterminate</b>
General Fund to SEF*	(\$16.2 million)	(\$33.6 million)	(\$35.0 million)
<b>State Expenditures</b>	<b>(Up to \$1.0 billion to up to \$6.3 billion)</b>	<b>(Up to \$2.1 billion to up to \$11.9 billion)</b>	<b>(Up to \$2.2 billion to up to \$12.2 billion)</b>

\*SEF = State Education Fund.

**Note:** This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

**Summary of Measure**

Effective for tax year 2019, the measure changes the state income tax structure to:

- publish only four lines on the state income tax form;
- eliminate all existing state income tax additions and tax credits; and
- create a new, refundable state income tax credit.

The tax credit created under this measure is a flat dollar amount for each resident individual income taxpayer, calculated as the sum of the following components divided by the number of adult Colorado full-year residents:

- the total amount of state income tax credits for tax year 2018;
- all state tobacco settlement revenue for the current tax year;
- all state vehicle registration fees for the current tax year, less \$10 per registered vehicle;
- all non-federal revenue collected in the current tax year by state enterprises established after 2000 without voter approval; and
- all revenue retained under Referendum C in the current tax year.

The measure also makes the following changes to the administration of state income taxes and the prosecution of delinquent or fraudulent tax payments:

- requires the state to issue income tax refunds within 30 days;
- requires that the state pay three times any state overcharges to taxpayers, plus \$300;
- requires that taxpayers pay three times a proven tax deficit;

- for late tax payments, limits interest assessment to 0.75 percent monthly interest, and prohibits penalties; and
- allows civil audits and a local civil jury for income tax filers.

## State Revenue

Assuming that no other changes are made from current law, this measure will reduce state revenue by an estimated \$6.3 billion in FY 2018-19 (half-year impact), \$11.9 billion in FY 2019-20, and \$12.2 billion in FY 2020-21 with larger reductions in subsequent years. If changes are made to state enterprises, vehicle registration fees, and/or tobacco settlement payments, the revenue impact may be lower. At the very least, all revenue retained as a result of Referendum C will need to be included in the measure's new tax credit. This lower bound is equal to a revenue reduction of \$1.0 billion in FY 2018-19 (half-year impact), \$2.1 billion in FY 2019-20, and \$2.2 billion in FY 2020-21. Table 1 summarizes revenue impact components of the measure through FY 2020-21.

Component	FY 2018-19	FY 2019-20	FY 2020-21
New Tax Credit (Range)			
Referendum C Revenue Only	(\$1,027.1 million)	(\$2,136.3 million)	(\$2,221.8 million)
Under Current Law*	(6,230.3 million)	(11,747.0 million)	(12,079.1 million)
Eliminate Existing Tax Credits	169.8 million	339.6 million	339.6 million
Eliminate State Additions	(223.7 million)	(465.2 million)	(483.8 million)
Penalties	Indeterminate	Indeterminate	Indeterminate
<b>General Fund Revenue Impact Range</b>			
Referendum C Revenue Only	(\$6.3 billion to	(\$2.1 billion to	(\$2.2 billion to
Under Current Law*	\$1.0 billion)	\$11.9 billion)	\$12.2 billion)

\*Impact of the measure with no other changes to current law.

**Data and assumptions.** The impact of the new tax credit was calculated based on data from various sources, as summarized in Table 2, which includes estimates of the new tax credit for tax year 2019. This fiscal note assumes that corporate filers are not eligible for the new tax credit under the measure, and that all full-year Colorado resident adults will claim the credit. Tax credit estimates are expected to grow with revenue and population growth over time.

The estimates in Table 2 assume no other changes to current law other than this measure. The measure is expected to reduce state revenue below the TABOR limit base, eliminating Referendum C revenue, which otherwise is expected to total \$2.1 billion beginning in tax year 2019. A total of \$1.8 billion in enterprise revenue from federal funds was subtracted from enterprises revenue. To the extent that enterprises receive more (or less) federal funds than this amount, the tax credit will be lower (or higher).

If changes in addition to this measure are made to state enterprises, vehicle registration fees, and/or tobacco settlement payments, the revenue impact may be lower. At the very least, all revenue collected in excess of the TABOR limit base retained as a result of Referendum C will need to be included in the measure's new tax credit. This lower bound is equal to a revenue

## Initiative #83

reduction of \$1.0 billion in FY 2018-19 (half-year impact), \$2.1 billion in FY 2019-20, and \$2.2 billion in FY 2020-21. The tax credit in this instance is estimated to be \$512 per single filer in tax year 2019.

<b>Component</b>	<b>Estimates</b>	<b>Data Source and Growth Assumptions</b>
Enterprise Revenue	\$10,574.0 million	TABOR schedule of computations, amounts grown by 5-year compound average annual growth rates.  Excludes an estimated \$1.8 billion in federal funds based on federal funds to enterprises in FY 2016-17.
Brand Board	5.2 million	
Capitol Parking Authority	1.2 million	
Clean Screen Authority	3.5 million	
CollegeAssist	253.9 million	
CollegelInvest	782.4 million	
Parks and Wildlife	225.5 million	
Higher Education Enterprises	7,737.8 million	
Petroleum Storage Tank Fund	46.4 million	
Statewide Bridge Enterprise	17.1 million	
Statewide Transportation Enterprise	23.2 million	
Unemployment Compensation and Service Enterprise	564.1 million	
Colorado Healthcare Affordability and Sustainability Enterprise	913.6 million	
+ Existing Income Tax Credits	\$339.6 million	
+ Referendum C Revenue	\$0	Assumes Referendum C revenue will be eliminated by the tax credit and rate reduction beginning in tax year 2019.
+ Tobacco Settlement Revenue	\$80.3 million	LCS 2017 tobacco settlement forecast.
+ Vehicle Registration Fees	\$439.7 million	LCS September 2017 revenue forecast, less \$10 multiplied by the estimated number of vehicle registrations, grown by projected population growth.
Subtotal	\$11,433.5 million	Sum of the above components.
÷ Colorado Resident Adults	3,864,340	State Demography Office projections of the Colorado population aged 18 and older, less estimated part-year residents.
= Tax Credit per Single Filer	\$2,959	The credit is doubled for joint filers.

DOR = Department of Revenue. LCS = Legislative Council Staff.

The measure eliminates existing state income tax additions to federal taxable income. Eliminating these additions is expected to reduce income tax revenue by \$347.8 million in FY 2019-20, the first full year in which the impact occurs. This amount is based on 2015 data provided by the Department of Revenue and is grown by projected growth in income tax revenue. The reduction from the new tax credit and elimination of state additions are partially offset by adding back revenue from existing tax credits, which are also eliminated by the measure. Income tax credits totaled an estimated \$278.7 million in tax year 2015 and are expected to grow with population and income growth.

Net revenue from the elimination of late fees, new charges for late or delinquent taxes, and payments for state overcharges under the measure cannot be determined as the number of taxpayers that will be impacted is not known. Changes to these penalties may increase or reduce revenue.

### State Transfers

Assuming no other changes from current law, the estimated General Fund revenue reduction from the measure is greater than the amount of General Fund revenue available in FY 2019-20 and subsequent years. This fiscal impact assumes that cash funds will be transferred to the General Fund in order to issue the required income tax refunds under the measure. Additional transfers will be required to continue state funding for programs currently funded with General Fund moneys. However, the total amount of these transfers is indeterminate and dependant upon future action.

**State Education Fund transfers.** The measure eliminates state additions to federal taxable income. As a result, taxable income is reduced and constitutionally required transfers to the State Education Fund would also be reduced by an estimated 5.6 percent each year. This percentage reflects the ratio of state additions to federal taxable income in tax year 2015.

### State Expenditures

This measure will require expenditure reductions of up to the amount of the revenue reduction, or up to \$6.3 billion in FY 2018-19 (half-year impact), up to \$11.9 billion in FY 2019-20, and up to \$12.2 billion in FY 2020-21, with larger amounts in subsequent years. Assuming no other changes from current law, both General Fund and cash fund expenditure reductions are expected because the amount of revenue required to be refunded under the measure exceeds the amount of revenue available in the General Fund. In this case, there will be no money left in the General Fund to pay General Fund obligations, including the administration of income taxes, as a result of this measure.

**Department of Revenue.** Administrative changes for the Department of Revenue (DOR) are expected to decrease General Fund spending by at least \$3.5 million in FY 2019-20, at least \$5.3 million in FY 2020-21, and at least \$6.0 million in subsequent years. These estimates assume reductions in personnel and document management costs with the elimination of existing state tax credits and additions. Personnel reductions include review and audit, call center, and administrative support staff, and are based on historical personnel impacts for the creation of new income tax credits. Expenditure estimates assume that personnel reductions will be phased-in over a three-year period as the statute of limitations for existing tax credits expire. Programming, testing, and form change costs for changes to tax forms will be more than offset by other expenditure reductions, as summarized in Table 3.



<b>Table 3. DOR Expenditures Under Initiative 2017-18 #83</b>			
<b>Cost Components</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
Personal Services	(\$2,405,457)	(\$3,807,319)	(\$4,393,352)
FTE	(47.0 FTE)	(74.0 FTE)	(84.0 FTE)
Operating Expenses and Capital Outlay Costs	(44,650)	(70,300)	(79,800)
Programming and Testing	51,440		
Form Change Costs	2,400		
Document Management, Printing, and Mailing	(505,335)	(513,421)	(521,635)
Employee Benefits	(584,875)	(922,694)	(1,053,914)
<b>TOTAL</b>	<b>(\$3,486,477)</b>	<b>(\$5,313,733)</b>	<b>(\$6,048,701)</b>

**Department of Personnel and Administration.** Data input, imaging, document management, printing, and mailing costs will be reduced with the elimination of state tax credits and additions. Form change costs will require \$2,400 in FY 2019-20. These costs are reappropriated from the Department of Revenue to the document management line for the Department of Personnel and Administration.

**Local Government Impact**

State expenditures include payments to local governments. To the extent that these payments are reduced as a result of the measure, local governments will receive less revenue and may reduce expenditures correspondingly.

**Economic Impact**

The measure eliminates income taxes owed and creates a tax refund for most Colorado taxpayers. On average under current law, taxpayers are expected to pay about \$2,500 in state income tax. These taxes owed would be eliminated under the measure, and adult Colorado full-year residents would receive a tax refund expected to total about \$3,000 per year. If additional changes in law are made, income tax reductions may be smaller, and the tax refund may be as low as \$500 per taxpayer. Tax liabilities will increase for some corporate filers and individual filers who receive more in tax credits under current law than the new credit created under this measure.

The tax refund provides additional household income that may be spent or saved. The state will have less revenue to spend or save, resulting in a reduction in state services and the elimination of state government jobs and government contractor jobs. Reduced state spending may require additional household spending to obtain a similar level of services in areas such as health care, K-12 education, and transportation.

**Effective Date**

If approved by voters, the ballot initiative takes effect upon proclamation of the Governor within 30 days of the official canvass of votes at the 2018 November election.

**State and Local Government Contacts**

Department of Revenue

## **Abstract of Initiative 83: State Income Tax**

**This initial fiscal estimate, prepared by the Director of Research of the Legislative Council as of December 5, 2017, identifies the following impacts:**

The abstract includes estimates of the fiscal impact of the proposed initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at [www.ColoradoBlueBook.com](http://www.ColoradoBlueBook.com) and the abstract will be included in the ballot information booklet that is prepared for the initiative.

**State revenue.** Assuming no other changes from current law, income tax changes from the measure will reduce state revenue by \$6.3 billion in FY 2018-19 (half-year impact), \$11.9 billion in FY 2019-20, and \$12.2 billion in FY 2020-21. Revenue reductions will grow each year through FY 2030-31. If additional changes in law are made to enterprises and/or other revenue sources, the revenue reduction may be as low as \$1.0 billion in FY 2018-19 (half-year impact), \$2.1 billion in FY 2019-20, and \$2.2 billion in FY 2020-21.

**State expenditures.** Revenue reductions from this measure will require expenditure reductions of up to the amount of the revenue reductions.

**Local government revenue, expenditures, taxes, or fiscal liabilities.** State expenditures include payments to local governments. To the extent that these payments are reduced as a result of the measure, local governments will receive less revenue and may reduce expenditures correspondingly.

**Taxpayer impacts.** The measure eliminates income taxes owed and creates a tax refund for most Colorado taxpayers. On average under current law, taxpayers are expected to pay about \$2,500 in state income tax. These taxes owed would be eliminated under the measure, and adult Colorado full-year residents would receive a tax refund expected to total about \$3,000 per year. If additional changes in law are made, income tax reductions may be smaller, and the tax refund may be as low as \$500 per taxpayer. Tax liabilities will increase for some corporate filers and individual filers who receive more in tax credits under current law than the new credit created under this measure.

**Economic impacts.** The tax refund provides additional household income that may be spent or saved. The state will have less revenue to spend or save, resulting in a reduction in state services and the elimination of state government jobs and government contractor jobs. Reduced state spending may require additional household spending to obtain a similar level of services in areas such as health care, K-12 education, and transportation.

**Ballot Title Setting Board**

**Proposed Initiative 2017-2018 #83<sup>1</sup>**

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

A change to the Colorado Revised Statutes concerning modification of the state income tax system, and, in connection therewith, reducing the state income tax rate from 4.63% to 4.6%; repealing all current state income tax credits; allowing each adult full-year resident taxpayer to claim a state income tax credit of up to an equal share of the sum of all state income tax credits in 2018 plus all state tobacco settlement revenue, all state registration fees over \$10 per vehicle, all non-federal revenue to state enterprises started after 2000 without voter approval, and all excess state revenue retained as authorized by state voters in 2005; simplifying state income tax returns; and changing procedures for the collection, enforcement, and administration of state income tax.

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 modification of the state income tax system, and, in connection therewith, reducing the state income tax rate from 4.63% to 4.6%; repealing all current state income tax credits; allowing each adult full-year resident taxpayer to claim a state income tax credit of up to an equal share of the sum of all state income tax credits in 2018 plus all state tobacco settlement revenue, all state registration fees over \$10 per vehicle, all non-federal revenue to state enterprises started after 2000 without voter approval, and all excess state revenue retained as authorized by state voters in 2005; simplifying state income tax returns; and changing procedures for the collection, enforcement, and administration of state income tax?

*Hearing December 6, 2017:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 1:22 p.m.*

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

This is a motion under 1-40-107 (1) C.R.S. for rehearing revised initiative #83. The rehearing date is December 20, 2017.

S. WARD 2:21 P.M.

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The grounds include:

Colorado Secretary of State

- 1) Proponents are not satisfied with the title and submission clause. The ballot title does not accurately express the true meaning and intent of this proposed state law. Specifically the phrase “repealing all current state income tax credits” is misleading. Under initiative #83, the credits are maintained and distributed to all adult resident taxpayers. Additionally the initiative freezes these credits and continues them in perpetuity.
- 2) Proponents believe the ballot title is not sufficiently brief. Specifically the terms “concerning modification of the state income tax system” would be clearer and more concise as “concerning ~~modification of the state income tax system~~” “Modification” is already addressed with “A change to the...” earlier in the sentence.

## Ballot Title Setting Board

### Proposed Initiative 2017-2018 #83<sup>1</sup>

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

A change to the Colorado Revised Statutes concerning modification of the state income tax system, and, in connection therewith, reducing the state income tax rate from 4.63% to 4.6%; repealing, and replacing for all individuals, all current state income tax credits; allowing each adult full-year resident taxpayer to claim a new state income tax credit of up to an equal share of the sum of all state income tax credits in 2018 plus all state tobacco settlement revenue, all state registration fees over \$10 per vehicle, all non-federal revenue to state enterprises started after 2000 without voter approval, and all excess state revenue retained as authorized by state voters in 2005; simplifying state income tax returns; and changing procedures for the collection, enforcement, and administration of state income tax.

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

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*Hearing December 6, 2017:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 1:22 p.m.*

*Rehearing December 20, 2017:*

*Motion for Rehearing granted to the extent that the Board made changes to the titles.*

*Hearing adjourned 10:29 a.m.*

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