

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

Petition for Review
Pursuant to Colo. Rev. Stat. § 1-40-107(2)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2019-
2020 #194 (“Policy Changes Pertaining to State
Income Taxes”)

Petitioner: TYLER SANDBERG

v.

Respondents/Proponents: CAROL HEDGES and
STEVE BRIGGS,
Proponents,

and

Title Board: THERESA CONLEY, JASON
GELENDER, and DAVID POWELL

Attorneys for Petitioner:
Gwendolyn A. Benevento, #34190
Maven Law Group
1800 Glenarm Pl., Suite 950
Denver, CO 80202
Telephone: 303-218-7150
Email: gbenevento@mavenlawgroup.com

▲ COURT USE ONLY ▲

Supreme Court Case No.

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2019-2020
#194 (“POLICY CHANGES PERTAINING TO STATE INCOME TAXES”)**

Tyler Sandberg (“Petitioner”), a registered Colorado elector of
the State of Colorado through his undersigned counsel, respectfully

petitions this Court pursuant to C.R.S. § 1-40-107(2) to review the actions of the Ballot Title Setting Board (“Title Board”) with respect to the title, ballot title, and submission clause for Proposed Initiative 2019-2020 #194 (the “Proposed Initiative”). *See* Exhibit 1.

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative

Title Board held a hearing on February 5, 2020, where it determined that the Proposed Initiative contained a single subject as required by Colo. Const. art. V, §1(5.5) and C.R.S. § 1-40-106.5 and set a title. (Ex. 1). On February 12, 2020, Petitioner filed a Motion for Rehearing stating that the Proposed Initiative does not contain a single subject, and that its title was unfair and misleading in contravention of C.R.S. § 1-40-106(3)(b). (Ex. 1). Title Board held a rehearing on February 19, 2020, at which time it denied Petitioner’s Motion for Rehearing. (Ex. 1).

B. Jurisdiction

Petitioner is entitled to a review by the Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board and timely filed this Petition for

Review. *See* C.R.S. § 1-40-107(1) and (2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of the final petition with the titles and submission clause, the abstract, the determination of whether the petition repeals in whole or in part a constitutional provision, and the motion for rehearing and of the ruling thereon. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing.

GROUND FOR REVIEW

The Proposed Initiative contains more than a single subject in violation of Colo. Const. art. V, §1(5.5) and C.R.S. § 1-40-106.5.

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that the that the title set by the Title Board for the Proposed Initiative are legally flawed. Petitioner requests the Court to reverse the actions of the Title Board and order the Proposed Initiative be returned to the Proponents.

Respectfully submitted this 26th day of February, 2020.

/s/ Gwendolyn A. Benevento

GWENDOLYN A. BENEVENTO,
#34190
Maven Law Group
1800 Glenarm Place, Suite 950
Denver, CO 80202
Telephone: 303-218-7150
gbenevento@mavenlawgroup.com
Attorneys for Petitioner

CERTIFICATE OF SERVICE

This is to certify that I caused the within filing to be served by Colorado Courts E-Filing E-Service, email and United States Mail this 26th day of February, 2020, as follows:

Edward T. Ramey, #6748
Tierney Lawrence LLC
225 East 16th Avenue, Suite 350
Denver, CO 80203
eramey@tierneylawrence.com
Attorneys for Proponents

Michael Kotlarczyk, #43250
Assistant Attorney General
Public Officials Unit
Colorado Attorney General's Office
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 6th Floor
Denver, Colorado 80203
mike.kotlarczyk@coag.gov
Attorneys for Title Board

/s/Gwendolyn A. Benevento



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 impact statement and abstract, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2019-2020 #194 'Policy Changes Pertaining to State Income Taxes'".....

[Handwritten signature in red ink]

..... **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 24th day of February, 2020.

Jena Griswold

SECRETARY OF STATE



RECEIVED

S. WARD
4:56 P.M.

COLORADO TITLE SETTING BOARD **Colorado Secretary of State**

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR
INITIATIVE 2019-2020 #194

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 2019- 2020 #194 - Policy Changes Pertaining to State Income Taxes, pursuant to Section 1-40-107, C.R.S., and as grounds therefore states as follows:

I. INITIATIVE #194 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

This Initiative impermissibly contains multiple subjects, thus depriving the Title Board of jurisdiction to set a title. The first subject is when the Initiative first creates the authority under the Colorado Constitution for a graduated rate tax system.

The second subject is when the Initiative changes state statute to create a four separate tiers of tax rates. While these tax rates would be illegal without the first subject, they are in fact a second subject as their exact tax rates are completely independent of the first subject, as shown by the fact that proponents have introduced other initiatives with differing rates.

The third subject is the creation of a new governmental entity - the Citizen's Oversight Committee. This Committee does not depend on the passage of the first subject and can exist with or without the rest of the Initiative.

The fourth subject is the limitation of all additional income generated by the graduated income tax to no greater than .5% of Colorado personal income for the calendar year 2020.

It is entirely possible that there are voters who would appreciate a Citizen's Oversight Committee but would not want a graduated tax system, or that there could be voters who would desire a graduated tax system, but would not want a Citizen's Oversight Committee. Any of the

voters in these categories could also disagree on what the rates to be set in the graduated tax rate system should be. Finally, those voters who would like to see additional revenue capped at .5% are yet a different interest group. This creates a “Christmas tree” situation where voters with different interests are enticed into voting for the other issues in order to see their own interests satisfied.

II. THE TITLE BOARD LACKS JURISDICTION BECAUSE MISLEADING LANGUAGE IN THE PROPOSED MEASURE RESULTS IN A CONFUSING MEASURE.

The Title Board should deny jurisdiction to consider this measure because it fails to meet drafting requirements of simplicity and clarity and will confuse voters. See C.R.S. § 1-40-105(3) (“To the extent possible, drafts shall be worded with simplicity and clarity and so that the effect of the measure will not be misleading or likely to cause confusion among voters.”). The Initiative creates a new entity, the Citizen’s Oversight Committee, which has no discernable function. The language of the Initiative states that it will “assure that the funds are spent in accordance with this section.” However, the only guidance that “this section” gives is that the revenue “shall be appropriated and expended to address the impacts of a growing population and a changing economy.” One cannot envision any expenditure of money that could not be said to address such impacts and, thus, the language is meaningless and the Committee would have no function.

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 12th day of February, 2020.

/s/Rebecca R. Sopkin
Rebecca R. Sopkin
Attorney at Law, #20998
720 Kipling St. #12
Lakewood, CO 80215
303-946-2299
grsop@msn.com

RECEIVED

S. WARD

1:56 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

IN THE MATTER OF THE BALLOT TITLE AND SUBMISSION CLAUSE FOR
INITIATIVE 2019-2020 #194

MOTION FOR REHEARING

On behalf of Tyler Sandberg, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing of the Title Board's February 5, 2020, decision to set the title of 2019-2020 Initiative #194 ("Initiative"), pursuant to C.R.S. §1-40-107, and as grounds therefore states as follows:

I. The Initiative contains multiple subject in violation of the single-subject requirements.

The Initiative has at least three distinct and separate purposes:

- A. Repeals the constitutional flat income tax rate and imposes a graduated income tax system;
- B. Creates a new alternative minimum tax on corporations doing business in Colorado; and
- C. Creates a tax-funded preschool program in Colorado.

II. The title set by the Title Board is unclear and misleading.

The title states that the Initiative establishes a graduated individual income tax by increasing the individual income tax rate, but it is not clear that the graduated amounts would apply to taxpayers filing jointly as well as individuals. Voters may assume that the proposed graduated tax increase will be applied to each individual's income, but the title should reflect that the Initiative will apply the new graduated rates to combined income if individuals file jointly.

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 12th day of February, 2020.

MAVEN LAW GROUP

/s/ Gwendolyn Benevento

Gwendolyn Benevento, 34190
1800 Glenarm Place, Suite 950
Denver, CO 80202
303-218-1750
gbenevento@mavenlawgroup.com

Ballot Title Setting Board

Proposed Initiative 2019-2020 #194¹

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

1 STATE TAXES SHALL BE INCREASED \$2,400,000,000 ANNUALLY BY AN AMENDMENT TO THE
2 COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING AN
3 INCREASE IN THE STATE INCOME TAX, AND, IN CONNECTION THEREWITH, REPEALING THE
4 CONSTITUTIONAL REQUIREMENT FOR A SINGLE RATE INCOME TAX; ESTABLISHING A GRADUATED
5 INDIVIDUAL INCOME TAX BY DECREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO
6 4.58% FOR INCOME UP TO \$250,000, INCREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63%
7 TO 7.25% FOR INCOME FROM \$250,001 TO \$500,000, FROM 4.63% TO 8.50% FOR INCOME FROM
8 \$500,001 TO \$1,000,000, AND FROM 4.63% TO 9.85% FOR INCOME OVER \$1,000,000; ANNUALLY
9 ADJUSTING THE INCOME BRACKETS BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME;
10 CREATING AN ALTERNATIVE MINIMUM INCOME TAX OF \$250 FOR CORPORATIONS; ALLOWING THE
11 STATE TO KEEP AND SPEND THE ADDITIONAL TAX REVENUE GENERATED BY THE TAX RATE CHANGES;
12 REQUIRING AT LEAST 50% OF THE ADDITIONAL REVENUE TO BE USED FOR PRESCHOOL THROUGH
13 TWELFTH GRADE PUBLIC EDUCATION AND THE REMAINDER TO BE USED TO ADDRESS THE IMPACTS OF
14 A GROWING POPULATION AND A CHANGING ECONOMY; AND REQUIRING THE CREATION OF A
15 CITIZEN’S OVERSIGHT COMMITTEE TO ASSURE THAT THE ADDITIONAL REVENUE IS USED AS
16 REQUIRED.

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

17 SHALL STATE TAXES BE INCREASED \$2,400,000,000 ANNUALLY BY AN AMENDMENT TO THE
18 COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING AN
19 INCREASE IN THE STATE INCOME TAX, AND, IN CONNECTION THEREWITH, REPEALING THE
20 CONSTITUTIONAL REQUIREMENT FOR A SINGLE RATE INCOME TAX; ESTABLISHING A GRADUATED
21 INDIVIDUAL INCOME TAX BY DECREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO
22 4.58% FOR INCOME UP TO \$250,000, INCREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63%
23 TO 7.25% FOR INCOME FROM \$250,001 TO \$500,000, FROM 4.63% TO 8.50% FOR INCOME FROM
24 \$500,001 TO \$1,000,000, AND FROM 4.63% TO 9.85% FOR INCOME OVER \$1,000,000; ANNUALLY

¹ Unofficially captioned “Policy Changes Pertaining to State Income Taxes” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

25 ADJUSTING THE INCOME BRACKETS BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME;
26 CREATING AN ALTERNATIVE MINIMUM INCOME TAX OF \$250 FOR CORPORATIONS; ALLOWING THE
27 STATE TO KEEP AND SPEND THE ADDITIONAL TAX REVENUE GENERATED BY THE TAX RATE CHANGES;
28 REQUIRING AT LEAST 50% OF THE ADDITIONAL REVENUE TO BE USED FOR PRESCHOOL THROUGH
29 TWELFTH GRADE PUBLIC EDUCATION AND THE REMAINDER TO BE USED TO ADDRESS THE IMPACTS OF
30 A GROWING POPULATION AND A CHANGING ECONOMY; AND REQUIRING THE CREATION OF A
31 CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE ADDITIONAL REVENUE IS USED AS
32 REQUIRED?

Hearing February 5, 2020:

Single subject approved; staff draft amended; titles set.

The Board determined that the proposed initiative only repeals language from the state constitution. The requirement for approval by fifty-five percent of the votes cast does not apply to this initiative.

Hearing adjourned 6:25 p.m.

RECEIVED

S. WARD
1:04 P.M.

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

Colorado Secretary of State

SECTION 1. FAIR AND JUST TAX SYSTEM. TAXPAYERS ARE ENTITLED TO A FAIR AND JUST TAX SYSTEM. THE GOAL IS THAT, TO THE EXTENT PRACTICABLE, ALL TAXPAYERS SHOULD PAY SIMILAR PERCENTAGES OF THEIR INCOME IN TOTAL TAXES. SOME TAXES, SUCH AS SALES TAXES AND PROPERTY TAXES, HAVE A DISPROPORTIONAL IMPACT ON THOSE WITH LOWER INCOMES. A GRADUATED INDIVIDUAL INCOME TAX, WHICH TAXES THOSE WITH GREATER INCOMES AT HIGHER INCREMENTAL RATES, MAKES THE TAX SYSTEM MORE FAIR AND JUST. CORPORATIONS SHOULD ALSO PAY A FAIR SHARE OF THE TAX BURDEN, BUT MANY CORPORATIONS PAY NOTHING IN CORPORATE INCOME TAXES IN COLORADO. A MINIMUM CORPORATE INCOME TAX IS THEREFORE ALSO NECESSARY TO MAKE THE TAX SYSTEM MORE FAIR AND JUST.

SECTION 2. In the constitution of the state of Colorado, section 20 of article X, amend (8)(a) as follows:

(8)(a) Revenue Limits. New or increased transfer tax rates on real property are prohibited. No new state real property tax or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. ~~Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter approved tax credits, with no added tax or surcharge.~~

SECTION 3. In Colorado Revised Statutes, 39-22-104, amend (1.7) and (2); and add (1.8) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – legislative declaration – definitions – repeal. (1.7) 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, 2000, BUT PRIOR TO JANUARY 1, 2021, a tax of four and sixty-three 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.

(1.8)(a) 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, 2021, A GRADUATED TAX IS IMPOSED ON FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST, WITH GREATER TAX RATES APPLYING TO HIGHER INCOME BRACKETS, AND EACH TAX RATE APPLYING ONLY TO THE INCOME BRACKET FOR THAT TAX RATE, AS FOLLOWS:

(I) FOR FEDERAL TAXABLE INCOME NOT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, THE TAX IS FOUR AND FIFTY-EIGHT ONE-HUNDREDTHS PERCENT;

(II) FOR FEDERAL TAXABLE INCOME OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT OVER FIVE HUNDRED THOUSAND DOLLARS, THE TAX IS (A) ELEVEN THOUSAND FOUR HUNDRED

FIFTY DOLLARS PLUS (B) SEVEN AND ONE-QUARTER PERCENT OF THE AMOUNT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS;

(III) FOR FEDERAL TAXABLE INCOME OVER FIVE HUNDRED THOUSAND DOLLARS, BUT NOT OVER ONE MILLION DOLLARS, THE TAX IS (A) TWENTY-NINE THOUSAND FIVE HUNDRED SEVENTY-FIVE DOLLARS PLUS (B) EIGHT AND ONE-HALF PERCENT OF THE AMOUNT OVER FIVE HUNDRED THOUSAND DOLLARS; AND

(IV) FOR FEDERAL TAXABLE INCOME OVER ONE MILLION DOLLARS, THE TAX IS (A) SEVENTY-TWO THOUSAND SEVENTY-FIVE DOLLARS PLUS (B) NINE AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT OF THE AMOUNT OVER ONE MILLION DOLLARS.

(1.8)(b) THE INCOME BRACKETS SET FORTH IN SUBSECTION (1.8)(a) OF THIS SECTION SHALL BE ADJUSTED EACH INCOME TAX YEAR BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME. FOR PURPOSES OF THIS SUBSECTION, "COLORADO PERSONAL INCOME" MEANS THE TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE, OR ANY SUCCESSOR INDEX.

(2) Prior to the application of the rate of tax prescribed in subsection (1), (1.5), ~~or~~ (1.7), OR (1.8) of this section, the federal taxable income shall be modified as provided in subsections (3) and (4) of this section.

SECTION 4. In Colorado Revised Statutes, **add** 39-22-301.1, as follows:

39-22-301.1. Corporate Alternative Minimum Income Tax. NOTWITHSTANDING THE TAX IMPOSED PURSUANT TO 39-22-301, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A MINIMUM INCOME TAX IS IMPOSED UPON EACH DOMESTIC C CORPORATION AND FOREIGN C CORPORATION DOING BUSINESS IN COLORADO ANNUALLY IN THE AMOUNT OF TWO HUNDRED FIFTY DOLLARS.

SECTION 5. In Colorado Revised Statutes, **add** 24-77-103.3 follows:

24-77-103.3. Voter approved revenue change - use of revenue - accountability. (1) THE REVENUE RAISED BY THE TAXES IMPOSED PURSUANT TO SECTIONS 39-22-104(1.8) AND 39-22-301.1 IN EXCESS OF THE REVENUE THAT WOULD BE GENERATED IN ANY CALENDAR YEAR BY APPLYING THE INCOME TAX RATE THAT EXISTED AS OF DECEMBER 31, 2019, SHALL CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND MAY BE COLLECTED, KEPT, AND SPENT NOTWITHSTANDING ANY OTHER LIMITS IN THE CONSTITUTION OR OTHER LAW. AT LEAST FIFTY PER CENT OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED FOR PRE-PRIMARY-12 EDUCATION TO RECRUIT, RETAIN, AND PAY TEACHERS AND STUDENT SERVICE PROVIDERS, PURSUANT TO THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, COLORADO REVISED STATUTES, AND FOR CATEGORICAL PROGRAMS, AS DEFINED IN SECTION 17(2) OF ARTICLE 9 OF THE CONSTITUTION OF THE STATE OF COLORADO, OR THEIR SUCCESSOR PROVISIONS, WITH SUCH REVENUE BEING USED TO SUPPLEMENT AND NOT SUPPLANT GENERAL FUND AND STATE EDUCATION FUND APPROPRIATIONS FOR TOTAL

PROGRAM FUNDING AND CATEGORICAL PROGRAMS EXISTING ON THE EFFECTIVE DATE OF THIS SECTION. THE REMAINDER OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED TO ADDRESS THE IMPACTS OF A GROWING POPULATION AND A CHANGING ECONOMY. THE FUNDS SHALL BE APPROPRIATED AND EXPENDED THROUGH CURRENT FUNDING DISTRIBUTIONS. AT LEAST 90% OF SUCH REVENUE SHALL BE SPENT ON SERVICES FOR COLORADO RESIDENTS AND NOT ADMINISTRATIVE COSTS. THE GENERAL ASSEMBLY SHALL ESTABLISH A CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE FUNDS ARE SPENT IN ACCORDANCE WITH THIS SECTION. FOR EACH FISCAL YEAR THAT THE STATE RECEIVES SUCH REVENUE, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL PREPARE A LEGISLATIVE REPORT THAT INCLUDES THE FOLLOWING INFORMATION:

(a) THE AMOUNT OF SUCH REVENUE THAT THE STATE RECEIVED; AND

(b) A DESCRIPTION OF HOW THE FUNDS WERE EXPENDED.

(2) THE REPORT REQUIRED BY THIS SECTION SHALL BE COMPLETED BY OCTOBER 15 FOLLOWING A FISCAL YEAR IN WHICH THE STATE RECEIVES SUCH REVENUE AND MAY BE AMENDED THEREAFTER AS NECESSARY. THE DIRECTOR OF RESEARCH SHALL PUBLISH AND LINK TO THE OFFICIAL WEB SITE OF THE GENERAL ASSEMBLY A COPY OF THE REPORT.

Initiative # 194



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

INITIAL FISCAL IMPACT STATEMENT

Date: February 4, 2020

Fiscal Analyst: Greg Sobetski (303-866-4105)

LCS TITLE: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

Fiscal Impact Summary		FY 2020-21	FY 2021-22
Revenue	General Fund	\$1.2 billion	\$2.4 billion
Expenditures	General Fund	\$127,137	\$145,309

Disclaimer. This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

Summary of Measure

The measure repeals the constitutional requirement that all taxable net income be taxed at one rate. Beginning in tax year 2021, the measure replaces the current 4.63 percent tax on income earned by individuals and fiduciaries with a graduated income tax, whereby Colorado taxable income earned above certain thresholds is taxed at higher rates. For tax year 2021, the rates in the measure are:

- for taxable income up to \$250,000, 4.58 percent;
- for taxable income from \$250,000 up to \$500,000, 7.25 percent;
- for taxable income from \$500,000 up to \$1,000,000, 8.50 percent; and
- for taxable income from \$1,000,000 and up, 9.85 percent.

The income tax brackets in the measure are adjusted for 2022 and subsequent years according to growth in Colorado personal income as measured by the Bureau of Economic Analysis in the U.S. Department of Commerce.

Beginning in 2022, the measure imposes a corporate alternative minimum tax of \$250. Corporations and partnerships required to file income tax returns in Colorado will be required to remit the greater of \$250 or their income tax due under current law.

Revenue collected from the increased individual income tax and the corporate alternative minimum tax is exempt from the state TABOR limit as a voter-approved revenue change. Revenue is required to be appropriated and spent as follows:

- 50 percent to supplement current funding for pre-primary through twelfth grade education; and
- 50 percent to address the impacts of a growing population and a changing economy, of which no more than 10 percent may be expended for administrative costs.

Funds are required to be appropriated and spent through current funding distributions. The Director of Research of the Legislative Council is required to report annually the amount of revenue received and the how funds were spent.

State Revenue

The measure is expected to increase state revenue by \$1.2 billion in FY 2020-21 and \$2.4 billion in FY 2021-22 and subsequent years. The estimate for FY 2020-21 represents a half-year impact for tax year 2021 on an accrual accounting basis. Revenue increases will result from the graduated individual income tax and corporate alternative minimum tax as discussed below.

Graduated individual income tax. The graduated individual income tax is expected to increase state revenue by \$1.2 billion in FY 2020-21 and \$2.4 billion in FY 2021-22 over that which would otherwise be collected at the 4.63 percent income tax rate applied to all taxable income under current law. Estimated impacts for each of the tax year 2021 income tax brackets in the measure are shown in Table 1. Further discussion of taxpayer impacts is presented in the Taxpayer Impacts section of this fiscal impact statement below.

Table 1
Revenue Increase from Graduated Individual Income Tax Provision
Tax Year 2021

Tax Bracket	Number of Returns	Taxable Income	Gross Tax* at 4.63%	New Tax Rate**	Gross Tax* in Measure	Tax Impact
\$0 - \$249,999	2,969,000	\$120.6 billion	\$5.6 billion	4.58%	\$5.5 billion	(\$0.1 billion)
\$250,000 - \$499,999	77,000	\$25.8 billion	\$1.2 billion	7.25%	\$1.4 billion	\$0.2 billion
\$500,000 - \$999,999	23,000	\$15.2 billion	\$0.7 billion	8.50%	\$1.0 billion	\$0.3 billion
\$1,000,000 and up	11,000	\$44.2 billion	\$2.0 billion	9.85%	\$4.1 billion	\$2.0 billion
	3,080,000	\$205.8 billion	\$9.6 billion		\$12.0 billion	\$2.4 billion

Based on December 2019 Legislative Council Staff forecast; totals may not sum due to rounding.

** Gross tax amounts do not include reduced tax liability as a result of income tax credits.*

*** These tax rates apply only to income earned in the tax bracket in the leftmost column of this table. Income earned in lower brackets is taxed at the appropriate lower rate.*

The estimates in Table 1 are based on actual tax returns for tax years 2016, 2017, and 2018, adjusted consistent with the December 2019 Legislative Council Staff forecast. Because per capita income grows less quickly than total state personal income as the population grows, revenue from the graduated income tax brackets is expected to grow less quickly from year to year than individual income tax revenue would under current law. Migration of taxpayer incomes across and within the tax brackets in the measure is difficult to predict and actual revenue collections may be less than or greater than estimated. Estimates do not incorporate the effects of changes in taxpayer behavior as a result of higher tax rates. To the extent that taxpayers choose to relocate or to source income elsewhere, the revenue increase will be less than estimated.

Corporate alternative minimum tax. The corporate alternative minimum tax is expected to increase state revenue by \$5.6 million in FY 2021-22 and \$11.3 million in FY 2022-23. The estimate for FY 2021-22 represents a half-year impact for tax year 2022 on an accrual accounting basis. It is estimated that approximately 47,000 corporations and partnerships will be required to pay the alternative minimum tax each year. Most of these businesses pay no state income tax under current law because their Colorado taxable income is less than or equal to zero.

State Expenditures

The measure directly increases state expenditures by \$127,137 and 0.9 FTE in FY 2020-21 and \$145,309 and 2.0 FTE in FY 2021-22 and subsequent years. These expenditures are for implementation and administration of tax policy changes and required annual reporting. The measure also makes tax revenue available for expenditure in FY 2020-21 and future years; expenditures of this revenue are assumed to be determined in future legislation.

New tax revenue. The measure requires that \$1.2 billion annually collected from the additional taxes in the measure be spent for pre-primary through twelfth grade education, and that the remaining \$1.2 billion annually be spent that to address the impacts of a growing population and a changing economy. It is assumed that expenditures and appropriations for these purposes will be made pursuant to subsequent legislation; therefore, expenditures for these purposes are not identified in this fiscal impact statement.

Department of Revenue. The measure increases General Fund expenditures for the department by \$127,137 and 0.9 FTE in FY 2020-21 and \$145,309 and 2.0 FTE in FY 2021-22 and subsequent years. Expenditures to implement the individual income tax rate increases and corporate alternative minimum tax are estimated at \$41,790 in FY 2020-21. These costs are for computer programming and testing and adjustments to tax forms. The remaining amounts identified are ongoing expenditures to administer the tax policy changes in the measure.

Legislative Council Staff. Legislative Council Staff workload will increase to prepare and publish reports on tax revenue and spending. This workload increase can be accomplished within existing appropriations.

Economic Impact

The measure decreases the state income tax burden for taxpayers with taxable incomes up to \$254,770 and increases the state income tax burden for taxpayers with taxable incomes over \$254,770. Across the economy, taxpayers will have less after-tax income available to spend or save overall, decreasing their consumption of goods and services. Increased tax rates may influence location decisions for some high-income taxpayers.

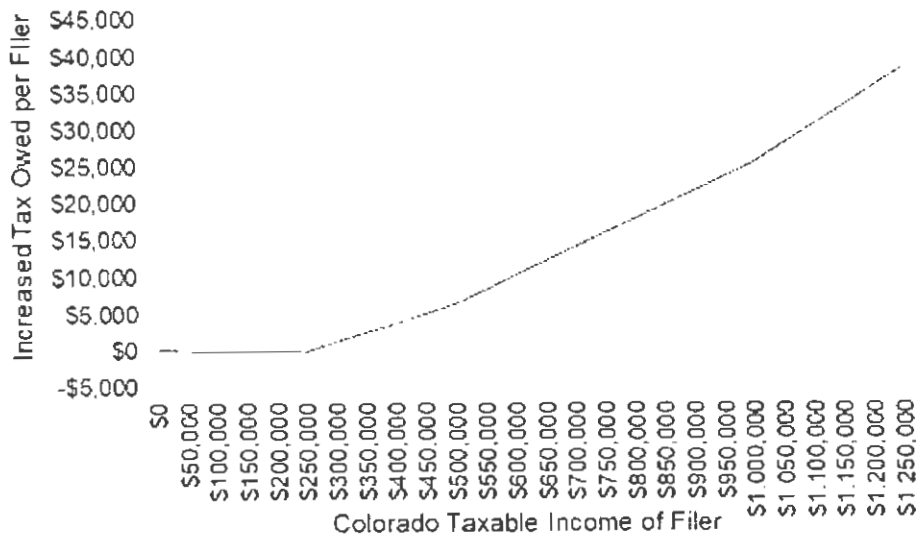
The measure will increase state government spending for pre-primary through twelfth grade education and other programs selected in the future. Government spending may increase employment or wages among public sector employees and government contractors. Additional government services may make these services available at a lower cost to citizens.

Any overall change in economic activity will depend on the net economic impact of lower after-tax household and business income for some taxpayers and additional investment in public services.

Taxpayer Impacts

Total state income taxes paid are expected to increase by \$2.4 billion for tax year 2021 and subsequent years. The change in tax owed will depend on a taxpayer's Colorado taxable income. Figure 1 presents tax impacts for tax year 2021 for taxpayers of different income levels. While, on average, individual income taxpayers will pay an additional \$783 in individual income taxes each year, income tax due will decrease by an average of \$20 for those with taxable income below \$254,770.

Figure 1
Individual Income Tax Impacts by Colorado Taxable Income
Tax Year 2021



Corporate income taxpayers will be required to pay a minimum tax of \$250 beginning in 2022; those whose tax liability exceeds \$250 are unaffected.

Effective Date

If approved by voters at the 2020 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Legislative Council Staff Economics Section

Revenue

Abstract of Initiative 194: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

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 and the abstract will be included in the ballot information booklet that is prepared for the initiative.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of February 2020, identifies the following impacts:

State revenue. The measure is expected to increase state revenue from income taxes by \$1.2 billion in FY 2020-21 and \$2.4 billion in FY 2021-22 and subsequent years.

State expenditures. The measure directly increases state expenditures by \$127,137 in FY 2020-21 and \$145,309 in FY 2021-22 and subsequent years. The measure also makes tax revenue available for expenditure in FY 2020-21 and future years; expenditures of this revenue are assumed to be determined in future legislation.

Economic impacts. Across the economy, taxpayers will have less after-tax income available to spend or save, decreasing their consumption of goods and services. The measure will increase state government spending for pre-primary through twelfth grade education and other programs selected in the future. Any overall change in economic activity will depend on the net economic impact of lower after-tax household and business income for some taxpayers and additional investment in public services.

Taxpayer impacts. Total state income taxes paid are expected to increase by \$2.4 billion for tax year 2021 and subsequent years. The change in tax owed will depend on a taxpayer's Colorado taxable income. While, on average, individual income taxpayers will pay an additional \$783 each year, income tax due will decrease by an average of \$20 for those with taxable income below \$254,770. All corporate taxpayers will be required to pay a minimum tax of \$250.

Ballot Title Setting Board

Proposed Initiative 2019-2020 #194¹

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

STATE TAXES SHALL BE INCREASED \$2,400,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING AN INCREASE IN THE STATE INCOME TAX, AND, IN CONNECTION THEREWITH, REPEALING THE CONSTITUTIONAL REQUIREMENT FOR A SINGLE RATE INCOME TAX; ESTABLISHING A GRADUATED INCOME TAX FOR ALL INDIVIDUAL TAXPAYERS, INCLUDING JOINT FILERS, ESTATES, AND TRUSTS, BY DECREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO 4.58% FOR INCOME UP TO \$250,000, INCREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO 7.25% FOR INCOME FROM \$250,001 TO \$500,000, FROM 4.63% TO 8.50% FOR INCOME FROM \$500,001 TO \$1,000,000, AND FROM 4.63% TO 9.85% FOR INCOME OVER \$1,000,000; ANNUALLY ADJUSTING THE INCOME BRACKETS BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME; CREATING AN ALTERNATIVE MINIMUM INCOME TAX OF \$250 FOR CORPORATIONS; ALLOWING THE STATE TO KEEP AND SPEND THE ADDITIONAL TAX REVENUE GENERATED BY THE TAX RATE CHANGES; REQUIRING AT LEAST 50% OF THE ADDITIONAL REVENUE TO BE USED FOR PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION AND THE REMAINDER TO BE USED TO ADDRESS THE IMPACTS OF A GROWING POPULATION AND A CHANGING ECONOMY; AND REQUIRING THE CREATION OF A CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE ADDITIONAL REVENUE IS USED AS REQUIRED.

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

SHALL STATE TAXES BE INCREASED \$2,400,000,000 ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION AND A CHANGE TO THE COLORADO REVISED STATUTES CONCERNING AN INCREASE IN THE STATE INCOME TAX, AND, IN CONNECTION THEREWITH, REPEALING THE CONSTITUTIONAL REQUIREMENT FOR A SINGLE RATE INCOME TAX; ESTABLISHING A GRADUATED INCOME TAX FOR ALL INDIVIDUAL TAXPAYERS, INCLUDING JOINT FILERS, ESTATES, AND TRUSTS, BY DECREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO 4.58% FOR INCOME UP TO \$250,000, INCREASING THE INDIVIDUAL INCOME TAX RATE FROM 4.63% TO 7.25% FOR INCOME FROM \$250,001 TO \$500,000, FROM 4.63% TO 8.50% FOR INCOME FROM \$500,001 TO \$1,000,000,

¹ Unofficially captioned "**Policy Changes Pertaining to State Income Taxes**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

AND FROM 4.63% TO 9.85% FOR INCOME OVER \$1,000,000; ANNUALLY ADJUSTING THE INCOME BRACKETS BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME; CREATING AN ALTERNATIVE MINIMUM INCOME TAX OF \$250 FOR CORPORATIONS; ALLOWING THE STATE TO KEEP AND SPEND THE ADDITIONAL TAX REVENUE GENERATED BY THE TAX RATE CHANGES; REQUIRING AT LEAST 50% OF THE ADDITIONAL REVENUE TO BE USED FOR PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION AND THE REMAINDER TO BE USED TO ADDRESS THE IMPACTS OF A GROWING POPULATION AND A CHANGING ECONOMY; AND REQUIRING THE CREATION OF A CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE ADDITIONAL REVENUE IS USED AS REQUIRED?

Hearing February 5, 2020:

Single subject approved; staff draft amended; titles set.

The Board determined that the proposed initiative only repeals language from the state constitution. The requirement for approval by fifty-five percent of the votes cast does not apply to this initiative.

Hearing adjourned 6:25 p.m.

Rehearing February 19, 2020:

Motion for Rehearing (Sopkin) denied in its entirety.

Motion for Rehearing (Sandberg) granted only to the extent that the Board made changes to the titles; denied in all other respects.

Hearing adjourned 2:21 p.m.