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COLORADO TITLE SETTING BOARD

Colorado Secretary of State

THE MATTER OF THE TITLE AND BALLOT TITLE SUBMISSION CLAUSE FOR
INITIATIVE 2015-2016 #117

MOTION FOR REHEARING

Natalie Menten, a registered elector of the State of Colorado, through undersigned counsel, hereby submits this Motion for Rehearing on Initiative #117 and objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #117 ("Initiative 117") as Initiative 117 does not comply with the Single Subject rule. As grounds therefore she states as follows:

A. The Title Board set a title for Initiative 2015-2016 #117 on April 6, 2016.

At the hearing on the proposed Initiative 117, the Board designated and fixed the following ballot title and submission clause:

Shall there be a change to the Colorado Revised Statutes authorizing the state to retain and spend state revenues that exceed the constitutional limitation on state fiscal year spending, and, in connection therewith, authorizing the state to retain and spend all such revenues collected during the ten fiscal years from July 1, 2016 through June 30, 2025; authorizing the state to annually retain and spend such revenues for any subsequent fiscal year in an amount equal to the highest amount collected in any single fiscal year during the ten-year period adjusted for increases in state population and inflation; dedicating specified percentages of any revenues retained to fund education and transportation projects; and allowing the state to use remaining revenues retained for the same purposes and for mental health services and senior services?

B. Initiative 117 violates Colo. Const., art. V, sec. 1(5.5).

1. Contrary to the requirements of the Colorado Constitution, art. V, sec. 1(5.5), Initiative 117 contains multiple subjects. The express purpose of the Single Subject rule is "[t]o forbid the treatment of incongruous subjects in the same measure, especially the practice of putting together in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits." C.R.S. § 1-40-106.5(1)(e)(I).

2. The standard is whether the various purposes specified are “necessarily or properly connected to each other,” rather than “disconnected or incongruous.” In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 25, 974 P.2d 458, 462 (Colo. 1999).

3. The Colorado courts have noted that the practice of including various unrelated items “for the purpose of enlisting in support of such bill the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits, was undoubtedly one of the evils sought to be eradicated.” Matter of Title, Ballot Title, Submission Clause, and Summary Adopted April 5, 1995, by Title Board Pertaining to a Proposed Initiative Public Rights in Waters II, 898 P.2d 1076, 1079 (Colo. 1995) (quoting *Catron v. County Comm’rs*, 18 Colo. 553, 557, 33 P. 513, 514 (1893)).

4. Despite the title language “in connection therewith” there is no actual connection between authorizing the State to retain revenues and “education,” “transportation projects,” “mental health services” or “senior services.” The language could just as easily prioritize any other budgetary purposes or none at all. However, as politicians often do, the proponents have explicitly prioritized these interests as they have broad and varying appeals to potential petition signers and voters. This is a clear example of a practice that Colorado’s Single Subject rule seeks to eliminate.

WHEREFORE, the titles set April 6, 2016 should be reversed, due to the single subject violations addressed herein, or modified to account for the legal insufficiencies highlighted in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 13th day of April, 2016.



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CERTIFICATE OF SERVICE

This is to certify that on April 13, 2016, a true and correct copy of the foregoing **MOTION FOR REHEARING** was sent, via first class U.S. mail, postage pre-paid, to the proponents through their counsel at:

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