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BEFORE THE COLORADO BALLOT TITLE SETTING BOARD Colorado Secretary of State

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Anthony Milo, Objector,

vs.

Mike Krause and Jon Caldara, Proponents.

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**MOTION FOR REHEARING ON INITIATIVE 2017-2018 #21**

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Anthony Milo, a registered elector of Colorado, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2017-18 #21, proposing a bonded indebtedness increase for transportation.

I. The Title Board set a title for Initiative 2017-18 #21 on April 19, 2017.

At the hearing held in connection with this proposed initiative, the Board designated and fixed the following ballot title and submission clause:

*SHALL STATE DEBT BE INCREASED \$2,500,000,000, WITH A MAXIMUM REPAYMENT COST OF \$4,000,000,000, WITHOUT RAISING TAXES, BY A CHANGE TO THE COLORADO REVISED STATUTES REQUIRING THE ISSUANCE OF TRANSPORTATION BONDS, AND, IN CONNECTION THEREWITH, BOND PROCEEDS SHALL BE RETAINED AS A VOTER-APPROVED REVENUE CHANGE AND USED EXCLUSIVELY TO FUND SPECIFIED ROAD AND BRIDGE EXPANSION, CONSTRUCTION, MAINTENANCE, AND REPAIR PROJECTS THROUGHOUT THE STATE?*

II. The Board's April 19 decision on Initiative #21 fails to acknowledge that this initiative violates the single subject requirement by combining:

A. A proposed debt increase; and

B. A mandatory reduction in state spending (transportation or non-transportation programs, or both). *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1997-1988 #84*, 961 P.2d 456, 460 (Colo. 1998) (single subject requirement violated by measure that proposed tax cuts and "mandatory reductions in state spending on state programs"); *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #172, #173, #174, and #175*, 987 P.2d 243, 460 (Colo. 1999) ("no difference legally between a reduction and a restriction in state spending" as either, when paired with another TABOR related election, violate the single subject requirement).

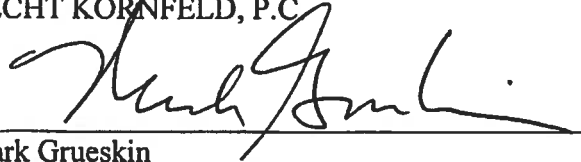
III. The Board's April 19 decision on Initiative #21 does not reflect a fair and accurate title.

- A. The title implies to the unknowing voter that the new indebtedness will be supported by a sufficient revenue source, without which the bonds could not be sold. To clarify this element of the initiative, the phrase "without raising taxes" should read: "without raising taxes or any other source of revenue to offset any part of the \$5,200,000 repayment cost."
- B. In addition to the language above, the source of the only authorized funding to support the proposed indebtedness should be included in the ballot title. To that end, the Board should add after "therewith": "requiring a diversion of moneys from existing transportation projects or a reallocation of funds used in non-transportation programs, or both."
- C. Specify that the measure purports to be "self-executing" to inform voters the measure treats a statutory enactment as if it were a constitutional amendment.

WHEREFORE, the titles set on April 19, 2017 should be stricken altogether or modified to account for the concerns raised in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 26th day of April, 2017.

RECHT KORNFELD, P.C



Mark Grueskin  
1600 Stout Street, Suite 1000  
Denver, CO 80202  
Phone: 303-573-1900  
Email: mark@rklawpc.com

Objector's Address:  
5534 E. 140th Drive  
Thornton, CO

**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2017-2018 #21 was sent this day, April 26, 2017 via first class U.S. mail, postage pre-paid to the proponents' counsel at:

Jon Caldara  
727 E 16th Ave,  
Denver, CO 80203

Mike Krause  
727 E 16th Ave  
Denver, CO 80203

A handwritten signature in cursive script, reading "Erin Holcup", is written over a horizontal line.