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SECRETARY OF STATE

BALLOT TITLE BOARD

MOTION FOR REHEARING

IN RE PROPOSED INITIATIVE 2005-2006 #95 ("EDUCATION OF ENGLISH-LANGUAGE LEARNERS")

Denise Walters and Jorge L. Garcia ("Petitioners"), being registered electors of the State of Colorado, through their undersigned counsel, respectfully submit the following Motion for Rehearing, pursuant to C.R.S. §1-40-107(1), concerning the actions of the Title Board at the hearing on April 19, 2006, regarding Proposed Initiative 2005-2006 #95 ("Education of English-Language Learners"). Petitioners submit that the title does not fairly express the true meaning and intent of the initiative in the following respects:

1. The title is misleading in that it affirmatively states that parents or legal guardians may obtain waivers allowing a student to transfer from an "English Language Classroom" into "classes using bilingual education or other educational methodologies" while failing to disclose that the effect of the initiative in (a) severely limiting the circumstances in which a waiver may be obtained and (b) requiring that "classes using bilingual education or other educational methodologies" be offered only by schools in which 20 students or more at the same grade level receive such waivers will have the practical effect of rendering such classes generally – and certainly geographically – unavailable and the waiver option, therefore, essentially meaningless. In re Proposed Initiatives for 2001-2002 # 21 and #22, 44 P.3d 213, 220 (Colo. 2002); In re Proposed Initiative for 1999-2000 #258(A), 4 P.3d 1094, 1100 (Colo. 2000).

2. The title is misleading in that it fails to disclose that waivers into "classes using bilingual education or other educational methodologies" are only available in severely limited circumstances, *i.e.*, for children ten years of age or older and students "with special needs." In re Proposed Initiatives for 2001-2002 # 21 and #22, 44 P.3d 213, 220-222 (Colo. 2002); In re Proposed Initiative for 1999-2000 #258(A), 4 P.3d 1094, 1100 (Colo. 2000).

3. The title is misleading in that it uses the phrase "English immersion program" while such term is neither used nor defined in the text of the initiative. The term, further, would operate as a catch phrase.

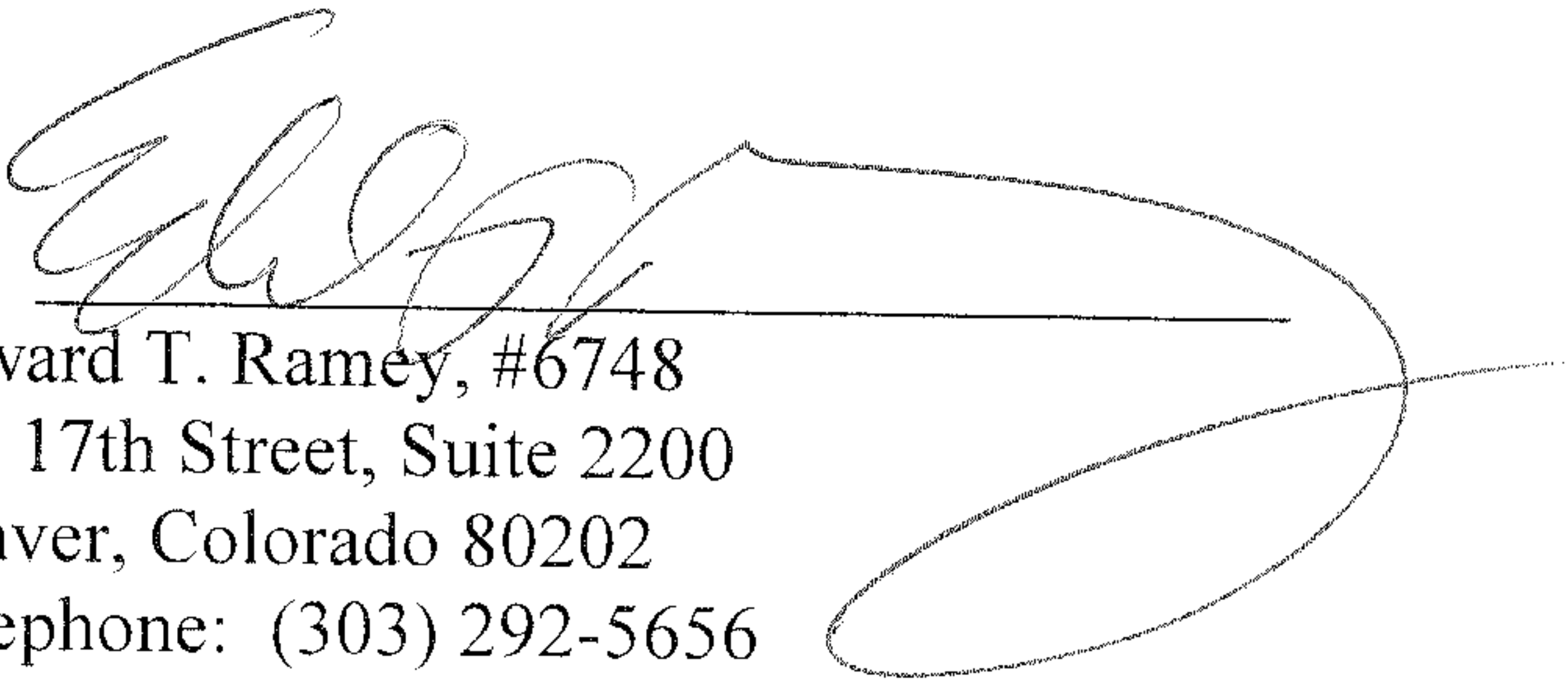
4. The title is misleading in that it states that waivers into "classes using bilingual education or other educational methodologies" must be obtained on an annual basis. There is nothing in the text of the initiative limiting the ability of a school district to provide a waiver of any duration or requiring that it be granted or applied for annually.

5. The title is misleading in that it fails to disclose that English proficiency tests would be required to be administered "at least once each year" to all affected students.

6. The title is misleading in that it fails to disclose that the mandated assessment of "English Learners" must be performed by school districts annually.

Respectfully submitted this 26 day of April, 2006.

ISAACSON ROSENBAUM P.C.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of April, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

Mr. William Garcia
912 8th Avenue
Greeley, CO 80631

Ms. Maria Rocha-Secret
912 8th Avenue
Greeley, CO 80631



Jayne M. Wills