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S. WARD

**STATE OF COLORADO  
TITLE SETTING BOARD**

In re Ballot Title and Submission Clause for 2013-2014 Initiatives #13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 (“Funding for Public Schools”) and Initiative #29 (“Public School Finance Act”)

Julie Phillips, Emily Cassidy, and Virginia Belval, Objectors

**MOTION FOR REHEARING**

Pursuant to C.R.S. § 1-40-107, Objectors Julie Phillips, Emily Cassidy, and Virginia Belval registered electors of the State of Colorado, by and through their legal counsel, Kathleen J. Gebhardt LLC, state the following:

***Initiatives #13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24***

Objectors are not satisfied with the April 17, 2013 decisions of the Title Board that Initiatives #13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 (collectively “Initiatives”) comprise a single subject, further that the titles for these proposed ballot measures are fair and that they accurately express the meaning and intent of said measures, that certain initiatives contain inappropriate substantive changes, and certain initiatives do not “concern state matters arising under section 20 of article X of the state constitution,” in violation of C.R.S. § 1-402-102.

- I. These ballot measures violate the single subject requirement, Colo. Cons., art. V, §1(5.5), including but not limited having the multiple topics of:
  - a. Imposing incremental income tax rates for the purpose of increasing public school funding;
  - b. Creating a State Educational Achievement Fund;
  - c. Initiatives # 13, 14, 15, 16, 17, 18, 19, and 20 amend Article X, Section 3 (the “Gallagher Amendment”);
  - d. Initiatives # 13, 14, 15, 16, 21, 22, 23, and 24 repealing core provisions of Article IX, Section 17 (“Amendment 23”), specifically those regarding mandatory annual increases in public schools; and
  - e. Initiatives # 13, 14, 15, 16, 21, 22, 23, and 24 contain a provision to require a certain percent of sales, excise, and income tax revenues are deposited in the State Education Fund.

II. The Title Board did not provide a fair or accurate ballot title because, among other things:

- a. The revenue estimates in the ballot title and submission clause are inaccurate and do not reflect amended revenue projections prepared by Colorado Legislative Council Staff;
- b. Each ballot title contains the “catch phrase” of “educational reform” and is improper to include in the ballot title;
- c. The titles for Initiatives # 13, 14, 15, 16, 21, 22, 23, and 24 do not contain any description of the fiscal impacts on school districts that would result from the amendment of Amendment 23;
- d. The titles for Initiatives # 13, 14, 15, 16, 21, 22, 23, and 24 are misleading because, at a minimum, the language “repealing certain existing public education funding requirements” does not disclose that the proposed initiative is repealing constitutionally mandated educational funding requirements in Amendment 23. This will lead to voter confusion;
- e. The titles for Initiatives # 13, 14, 15, 16, 17, 18, 19 and 20 are misleading because, at a minimum, the language does not disclose that the proposed initiative is amending the constitutional requirement under Section 3, Article X and will lead to voter confusion; and
- f. Placing more than one of the Initiatives on the ballot will lead to voter confusion.

III. The Title Board improperly allowed substantive changes that were not in response to questions posed by the Legislative Council.

- a. Initiatives 13 and 16 change the percent of State sales, excise, and income tax revenues from the original 43% to 44.7 %. This change is a substantive change and was not in response to a specific question posed by Legislative Council, in violation of C.R.S. §1-40-105 (2).

IV. Initiatives #13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 do not arise under section 20 of article X and thus are not appropriate for inclusion on the 2013 ballot.

### ***Initiative #29***

Objectors are not satisfied with the April 17, 2013 decisions of the Title Board that Initiative #29 comprises a single subject, that the title is a fair and accurately express the meaning and intent of the measure, and certain initiatives do not “concern state matters arising under section 20 of article X of the state constitution,” in violation of C.R.S. § 1-402-102.

I. The ballot measure violates the single subject requirement, Colo. Cons., art. V, §1(5.5), including but not limited to having the multiple topics of:

- a. Changing how pupil enrollment is calculated;
- b. Mandating funding for preschool and kindergarten pupils;
- c. Amending factors in the school funding formula for calculating total program funding;
- d. Creating a definition of at-risk pupils and mandating a percentage increase in funding for at-risk pupils;
- e. Directs funding for English language learners and at-risk pupils;
- f. Creating minimum per pupil funding;
- g. Mandating funding for on-line and ASCENT programs;
- h. Creating a new calculation for total program funding;
- i. Authorizing mill levy overrides by school districts;
- j. Making state moneys available to school districts and institute charter schools in addition to total program funding;
- k. Requiring the Department of Education to preform a return on investment study;
- l. Amending the process for mid-year recalculation of total program for certain districts and institute charter schools;
- m. Allocates funding by districts to charter schools and other schools of the district;
- n. Creates an innovation grant program;
- o. Requiring certain school districts to seek mill levy overrides;
- p. Implements new financial reporting by districts and institute charter schools; and
- q. Allocates states moneys for mid-year recalculation of funding for new and expanding district charter schools.

II. The Title Board did not provide a fair or accurate ballot title because, among other things:

- a. The title fails to identify all of the major components of the proposal; and
- b. The title fails to mention the adverse affects on funding levels for certain school districts.

III. The initiative does not arise under section 20 of article X and thus is not appropriate for inclusion on the 2013 ballot.

Objectors respectfully request that the Colorado State Title Board set these matters for rehearing, pursuant to C.R.S. § 1-40-107(1).

Submitted this 24<sup>th</sup> day of April 2013.

KATHLEEN L. GEBHARDT LLC



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## CERTIFICATE OF SERVICE

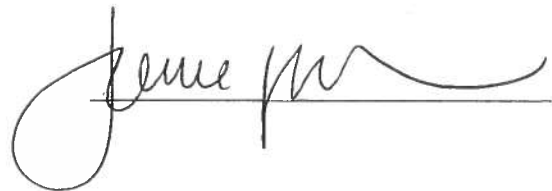
A true and accurate copy of this Motion for Rehearing was sent to the designated representatives, by means of U.S. Mail, first class, postage prepaid:

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A handwritten signature in cursive script, appearing to read "James W. Heiser", is written over a horizontal line.