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COLORADO TITLE SETTING BOARD

Colorado Secretary of State

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THE MATTER OF THE TITLE AND BALLOT TITLE SUBMISSION CLAUSE FOR INITIATIVE 2015-2016 #118

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MOTION FOR REHEARING

Natalie Menten, a registered elector of the State of Colorado, through undersigned counsel, hereby submits this Motion for Rehearing on Initiative #118 and objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #118 ("Initiative 118") as Initiative 118 does not comply with the Single Subject rule and title set is misleading and prejudicial. As grounds therefore she states as follows:

**A. The Title Board set a title for Initiative 2015-2016 #118 on April 6, 2016.**

At the hearing on the proposed Initiative 118, 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, and 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?*

**B. The Title set for Initiative 118 is misleading and prejudicial, contrary to C.R.S. § 1-40-106**

1. The title set for Initiative 118 differs from those set for Initiatives 116 and 117 in that it does not specify for which purposes the revenues collected will be expended.
2. However, the statutory language proposed by Initiative 118 does in fact state that "[t]he moneys in the account shall be appropriated or transferred for any purposes determined by the general assembly, including, but not limited to, for public schools, transportation projects, and for other priorities." Proposed C.R.S. § 24-77-103.1.

3. The clear meaning of this language is that the funds are to be used for public schools and transportation projects. The “but not limited to” clause opens the funds up for other possible uses, but the word “including” necessitates that at least some of the funds be used for those purposes.

4. This reading is buttressed by Colorado law. The sentence is included in the proposed statute and therefore cannot be deemed meaningless. Colorado statute specifically provides that “[i]n enacting a statute is presumed that . . . [t]he entire statute is intended to be effective.” C.R.S. § 2-4-201(1)(b). Furthermore, Colorado case law affirms the statutory interpretation maxim that we are not to presume that language was used idly. Colorado Ground Water Comm’n v. Eagle Park Farms, Ltd., 919 P.2d 212,218 (Colo. 1996)(quoting *McMillin v. Colorado*, 158 Colo. 183, 188, 405 P.2d 672, 674 (1965)). Any other interpretation of the sentence would render it completely meaningless.

5. However, this prioritization of certain special interests is not mentioned in the proposed title and both petition signers and voters will have no idea that it is contained in the proposed statute and therefore the title will be misleading and confusing to potential petition signers and to voters.

WHEREFORE, the titles set April 6, 2016 should be reversed, due to their misleading and prejudicial nature addressed herein, or modified to account for the legal insufficiencies highlighted in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> 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:

Dee P. Wisor  
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