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Colorado Secretary of State

**BEFORE COLORADO STATE TITLE SETTING BOARD**

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**In re Ballot Title and Submission Clause for 2017-2018 Initiative #161 (“Policy Changes Pertaining to State Income Taxes”)**

**Denise Burgess, Objector.**

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**MOTION FOR REHEARING**

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Pursuant to C.R.S. § 1-40-107, Objector, Denise Burgess, a registered elector of the State of Colorado, through her legal counsel, Lewis Roca Rothgerber Christie LLP, submits this Motion for Rehearing of the Title Board’s March 21, 2018 decision to set the title of 2017-2018 Initiative #161 (“Initiative”), and states:

**I. The Initiative impermissibly contains multiple separate and distinct subjects in violation of the constitutional single-subject requirement.**

While the Initiative purports to address only one subject, several subjects are impermissibly woven into the Initiative, including:

- In addition to expanding income tax credits in Colorado, the Initiative creates a new revenue stream for the General Fund that is not necessarily or properly connected to the tax credits.
- In addition to expanding income tax credits in Colorado, which constitute a revenue reduction and do not count toward the TABOR fiscal year spending cap, the Initiative exempts *all* tax revenues from the proposed tax increase from the TABOR fiscal year spending cap, although such exemption is not necessary or proper to the stated purpose of funding the tax credits.

These additional subjects represent distinct and additional purposes of the Initiative, thus violating the single-subject requirement. *See* Colo. Const. art. V § 1(5.5); C.R.S. § 1-40-106.5.

**II. The title set by the Title Board is unfair and does not fairly express the true meaning and intent of the proposed constitutional amendment.**

The title set for the Initiative by the Title Board fails to fairly, clearly, and accurately convey the central features of the measure because, among other things:

- It does not explain that the Initiative allows excess revenues to increase the general fund;

- It does not explain that the tax credit created by the initiative is available to individuals with no income;
- It does not explain that some individuals will receive monthly refund checks from the state to the extent the tax credit exceeds their tax liability;
- The use of the phrase “earned income tax credit” to describe the initiative is misleading. Unlike a true “earned income” credit, the Initiative is available to individuals who have no earned income.
- The title does not reflect the true intent and meaning of the Initiative which allows the state to collect, retain, and spend the full amount of the increased tax revenue without accounting for the reduction in revenue associated with the income tax credits under the Initiative.

WHEREFORE, Objector respectfully requests that the Title Board set Initiative 161 for rehearing pursuant to C.R.S. § 1-40-107(1).

DATED: March 28, 2018.

*s/ Thomas M. Rogers III*

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Dietrich C. Hoefner

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2018, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via email as follows:

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