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Colorado Secretary of State

COLORADO TITLE SETTING BOARD

IN THE MATTER Of THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE 2019-2020 #267

MOTION FOR REHEARING

On my own behalf, as a registered elector of the State of Colorado, the undersigned hereby submits this Motion for Rehearing for Initiative 2019- 2020 #267 - Policy Changes Pertaining to State Income Taxes, pursuant to Section 1-40-107, C.R.S., and as grounds therefore states as follows:

I. INITIATIVE #267 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

This Initiative impermissibly contains multiple subjects, thus depriving the Title Board of jurisdiction to set a title. The first subject is when the Initiative first creates the authority under the Colorado Constitution for a graduated rate tax system.

The second subject is when the Initiative changes state statute to create a four separate tiers of tax rates. While these tax rates would be illegal without the first subject, they are in fact a second subject as their exact tax rates are completely independent of the first subject, as shown by the fact that proponents have introduced other initiatives with differing rates.

The third subject is the creation of a new governmental entity - the Citizen's Oversight Committee. This Committee does not depend on the passage of the first subject and can exist with or without the rest of the Initiative.

The fourth subject is the creation of a second new governmental entity - the Fair Tax Review Commission.

It is entirely possible that there are voters who would appreciate a Citizen's Oversight Committee but would not want a graduated tax system, that there could be voters who would desire a graduated tax system, but would not want a Citizen's Oversight Committee or that there

are voters who would want a graduated tax system but not want a Fair Tax Review Commission. Any of the voters in these categories could also disagree on what the rates to be set in the graduated tax rate system should be. This creates a "log rolling" situation where voters with different interests are enticed into voting for the other issues in order to see their own interests satisfied.

II. THE TITLE BOARD LACKS JURISDICTION BECAUSE MISLEADING LANGUAGE IN THE PROPOSED MEASURE RESULTS IN A CONFUSING MEASURE.

The Title Board should deny jurisdiction to consider this measure because it fails to meet drafting requirements of simplicity and clarity and will confuse voters. See C.R.S. § 1-40-105(3) ('To the extent possible, drafts shall be worded with simplicity and clarity and so that the effect of the measure will not be misleading or likely to cause confusion among voters.''). The Initiative creates a new entity, the Citizen's Oversight Committee, which has no discernable function. The language of the Initiative states that it will "assure that the funds are spent in accordance with this section." However, the only guidance that "this section" gives is that the revenue "shall be appropriated and expended to address the impacts of a growing population and a changing economy." One cannot envision any expenditure of money that could not be said to address such impacts and, thus, the language is meaningless and the Committee would have no function.

III. THE TITLE DOES NOT ADEQUATELY CONVEY WHAT THE ROLE OF THE FAIR TAX REVIEW COMMISSION WILL BE

The Title of this proposed initiative as currently set states only that the initiative "requir[es] the creation of . . . a tax review to report on the income tax rate structure on or before 2031." This indicates that only the new graduated income tax rate's structure will be reviewed. However, the initiative itself empowers the Fair Tax Review Commission to report on "the effects of the rate structure," including the effects on "state revenue and funding for public services provided by the state," "the distribution of income among taxpayers," and "the business climate, the ability of the state to attract and retain business." These subjects will necessarily lead the Fair Tax Review Commission into an examination of the adequacy of state revenue and the adequacy of funding for all public services provided by the state. In addition, the Commission will need to review economic analyses of the distribution of income, presumably before and after the changes to report on how the changed tax rate structure has impacted this distribution. Finally, the Commission will need to review Colorado's business environment and compare it to other the business environment in other locales to ascertain whether Colorado is able to "attract and retain business." The depth of this investigation is not indicated in the Title.

CONCLUSION

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to Section 1-40-107(1), C.R.S.

Respectfully submitted this 12th day of February, 2020.

/s/Rebecca R. Sopkin

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