

FILED IN THE  
SUPREME COURT

DATE FILED: April 28, 2016

<p>SUPREME COURT, STATE OF COLORADO</p> <p>2 East 14<sup>th</sup> Avenue Denver, CO 80203</p>	<p><b>APR 27 2016</b></p> <p>OF THE STATE OF COLORADO Christopher T. Ryan, Clerk</p>
<p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p>	<p>▲ COURT USE ONLY ▲</p>
<p>In the Matter of the Title, Ballot Title and Submission Clause for Proposed Initiative 2015- 2016 #117</p> <p><b>Petitioner NATALIE MENTEN</b></p> <p>v.</p> <p><b>Respondents DAN RITCHIE and ALBERT YATES</b></p> <p>and</p> <p><b>The Title Board</b></p>	<p>Case No. <u>16SA139</u></p>
<p>Attorney for Petitioner</p> <p>Rebecca R. Sopkin, #20998 2945 Parfet Drive Lakewood, CO 80215 Phone: (303)232-4184 Email: grsop@msn.com</p>	
<p><b>PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD FOR PROPOSED INITIATIVE 2015-2016 #117</b></p>	

PETITIONER, Natalie Menten, registered elector of the State of Colorado by and through her counsel, hereby respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2), to review the action of the Title Setting Board with respect to the Title, Ballot Title and Submission Clause set for Proposed Initiative 2015-2016 #117 (“Proposed Initiative #117”). As grounds therefore she states as follows:

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative #117**

Dan Ritchie and Albert Yates, hereinafter “the Proponents,” proposed Initiative #117. It should be noted that Proposed Initiative #117 is similar to, but different in significant details from, Proposed Initiatives #116 and #118, which have also been proposed by the Proponents. Review and comment hearings were heard before representatives of the Office of Legislative Council and the Legislative Legal Services. Thereafter, the Proponents submitted final versions of Proposed Initiative #117 to the Secretary of State for the purpose of submission to the Title Board.

A Title Board hearing was held on April 6, 2016, to establish whether the Proposed Initiative contained only a single subject and to set its titles and submission clause. On April 13, 2016, Petitioner filed a Motion for Rehearing, alleging that the Proposed Initiative violated the Colorado Constitution, art. V, sec. 1(5.5), also known as the “Single Subject Rule.” On April 20, 2016, a rehearing was held, wherein the Title Board granted the Motion for Rehearing only with respect to certain revisions made to the titles and submission clause and otherwise denied the Motion.

### **B. Jurisdiction**

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. C.R.S. § 1-40-107(1). Additionally,

Petitioner timely filed this Petition for Review within five days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) of Proposed Initiative #116 text, titles and submission clauses; (2) the original ballot titles set for this measure; (3) the Motion for Rehearing filed by the Petitioner; and (4) the rulings on the Motion for Rehearing as reflected by the titles and ballot title and submission clauses set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motions for Rehearing. Consequently, this matter is properly before this Court.

### **GROUND S FOR APPEAL**

Contrary to the requirements of the Colorado Constitution, art. V, sec. 1(5.5), Initiative 117 contains multiple subjects. The following is an advisory list of issues to be addressed in Petitioner's brief:

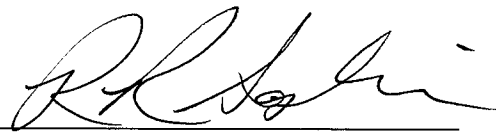
1. Initiative 117 provides for revenues retained by the state to be used to fund a specific and unrelated list of items: 35% for education, 35% for transportation projects, and unspecified amounts possibly spent for mental health services and senior services. These are multiple different subjects which are not in any way necessarily or properly connected with each other and therefore the Initiative does not meet the Single Subject Rule.

### **PRAYER FOR RELIEF**

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that the Title Board lacked jurisdiction to set title as

the Proposed Initiative #117 violates the Single Subject rule, and therefore title setting must be denied.

Respectfully submitted this 27th day of April, 2016.



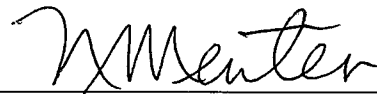
Rebecca R. Sopkin, #20998  
2945 Parfet Dr.  
Lakewood, CO 80215  
Phone: (303) 232-4184  
Email: [grsop@msn.com](mailto:grsop@msn.com)  
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

This is to certify that on April 27, 2016, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD FOR PROPOSED INITIATIVE 2015-2016 #117** was sent, via first class U.S. mail, postage pre-paid, to the proponents and their counsel at:

Dee P. Wisor  
Butler Snow LLP  
1801 California Street, Suite 5100  
Denver, CO 80202

LeeAnn Morrill  
Office of the Attorney General  
1300 Broadway, 6<sup>th</sup> Floor  
Denver, CO 80203

  
\_\_\_\_\_



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:

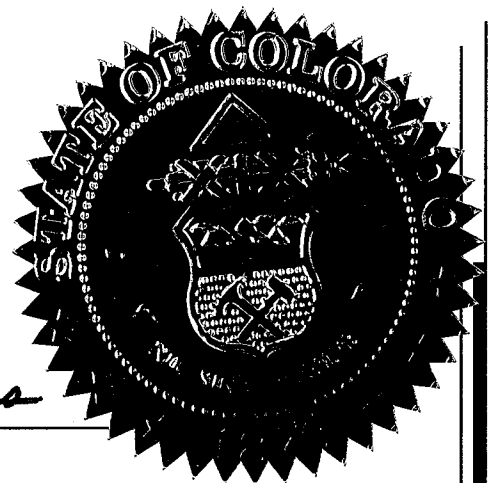
the attached are true and exact copies of the filed text, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #117 'Retention of Excess State Revenue'".....

..... IN TESTIMONY WHEREOF I have unto set my hand .....

and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 25<sup>th</sup> day of April, 2016.

*Wayne W. Williams*

SECRETARY OF STATE



**Ballot Title Setting Board**

**Proposed Initiative 2015-2016 #117<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

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, 2026; 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; allocating at least 35% of any revenues retained to fund education and at least 35% to fund transportation projects; and allowing the state to use any remaining revenues for the same purposes or to fund mental health services and senior services.

The ballot title and submission clause as designated and fixed by the Board is as follows:

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, 2026; 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; allocating at least 35% of any revenues retained to fund education and at least 35% to fund transportation projects; and allowing the state to use any remaining revenues for the same purposes or to fund mental health services and senior services?

*Hearing April 6, 2016:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 4:26 p.m.*

*Rehearing April 20, 2016:*

*Motion for Rehearing filed by proponents granted in its entirety.*

*Motion for Rehearing filed by Caldara granted only to the extent that the Board made changes to the titles; denied in all other regards.*

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<sup>1</sup> Unofficially captioned “Retention of Excess State Revenue” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

*Motion for Rehearing filed by Menten granted only to the extent that the Board made changes to the titles; denied in all other regards.*

*Hearing adjourned 11:10 a.m.*



RECEIVED

MAR 24 2016

S. WARD

12:25 P.M.

2015-16 #117. Final version filed with Secretary of State.

Colorado Secretary of State

Be it enacted by the People of the State of Colorado:

SECTION 1. Article 77 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

§ 24-77-103.1. Retention of 2016 election excess state revenues – 2016 election general fund exempt account - required uses - 2016 election excess state revenues legislative report

(1)(a) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2016, but before July 1, 2026, the state is authorized to retain and spend all state revenues in excess of the limitation on state fiscal year spending.

(b) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2026, the state is authorized to retain and spend all state revenues that are in excess of the limitation on state fiscal year spending, but less than the 2016 election excess state revenues cap for the given fiscal year.

(2) There is hereby created in the general fund the 2016 election general fund exempt account, which shall consist of the 2016 election excess state revenues that the state retains for a given fiscal year pursuant to this section. The moneys in the account shall be appropriated or transferred by the general assembly for the following purposes:

(a) not less than 35% of the revenues deposited to the account in each fiscal year shall be used to fund education including public pre-school through twelfth grade education, vocational education, and higher education;

(b) not less than 35% of the revenues deposited to the account in each fiscal year shall be transferred to the highway users tax fund and allocated in accordance with the formula specified in section 43-4-205(6)(b) to fund transportation projects, including highways, bridges, underpasses, mass transit or any other infrastructure, facility, or equipment used primarily or in large part to transport people; and

(c) any amounts not spent on education or transportation may only be used to fund mental health services and senior services.

(3) The statutory limitation on general fund appropriations set forth in section 24-75-201.1(1) (a), and the exceptions or exclusions thereto, shall apply to the appropriation of moneys in the 2016 election general fund exempt account.

(4) As permitted by the Taxpayer's Bill of Rights, the approval of this section by the registered electors of the state voting on the issue at the November 2016 statewide election constitutes a voter-approved revenue change to allow the retention and expenditure of state revenues in excess

of the limitation on state fiscal year spending.

(5)(a) For each fiscal year that the state retains and spends state revenues in excess of the limitation on state fiscal year spending pursuant to this section, the director of research of the legislative council shall prepare a 2016 election excess state revenues legislative report that includes the following information:

(I) The amount of 2016 election excess state revenues that the state retained pursuant to this section; and

(II) A description of how the 2016 election excess state revenues that the state retained pursuant to this section were expended.

(b) The report required by this subsection (5) shall be completed by October 15 following a fiscal year that the state retains and spends revenues pursuant to this section and may be amended thereafter as necessary. The director of research shall publish and link to the official website of the general assembly a copy of the report.

(6) As used in this section:

(a) "2016 election excess state revenues" means state revenues that are in excess of the limitation on state fiscal year spending.

(b)(I) "2016 election excess state revenues cap" for a given fiscal year means an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2016-17 fiscal year through the 2025-26 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes.

(II) As used in this paragraph (c), inflation and the percentage change in state population shall be the same rates that are used in calculating the maximum annual percentage change in state fiscal year spending pursuant to section 24-77-103, and the qualification or disqualification of an enterprise or debt service changes shall change the 2016 election excess state revenues cap in the same manner as such change affects the limitation on state fiscal year spending.

(c) "State revenues" means state revenues not excluded from state fiscal year spending, as defined in section 24-77-102(17).

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MAR 24 2016

S. WARD

12:25 P.M.

Colorado Secretary of State

**Retention of Surplus Revenues for Specific Purposes 2015-16 #117. As amended in response to review and comment.**

Be it enacted by the People of the State of Colorado:

SECTION 1. Article 77 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

~~§ 24-77-103.6.5-103.1~~ Retention of 2016 election excess state revenues – 2016 election general fund exempt account - required uses - 2016 election excess state revenues legislative report

(1)(a) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2016, but before July 1, 2026, the state ~~shall be~~ authorized to retain and spend all state revenues in excess of the ~~sum of the limitation on state fiscal year spending plus 2005 election excess state revenues.~~

(b) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2026, the state ~~shall be~~ authorized to retain and spend all state revenues that are in excess of the ~~sum of the limitation on state fiscal year spending plus 2005 election excess state revenues~~, but less than the 2016 election excess state revenues cap for the given fiscal year.

(2) There is hereby created in the general fund the 2016 election general fund exempt account, which shall consist of the 2016 election excess state revenues that the state retains for a given fiscal year pursuant to this section. The moneys in the account shall be appropriated or transferred by the general assembly for the following purposes:

(a) not less than 35% of the revenues deposited to the account in each fiscal year shall be used to fund education including public pre-school through twelfth grade education, vocational education, and higher education;

(b) not less than 35% of the revenues deposited to the account in each fiscal year shall be transferred to the highway users tax fund and ~~allocated and expended~~ in accordance with the formula specified in section 43-24-205(6)(b) to fund transportation projects, including highways, bridges, underpasses, mass transit or any other infrastructure, facility, or equipment used primarily or in large part to transport people; and

(c) any amounts not spent on education or transportation may only be used to fund mental health services and senior services.

(3) The statutory limitation on general fund appropriations set forth in section 24-75-201.1(1) (a), and the exceptions or exclusions thereto, shall apply to the appropriation of moneys in the 2016 election general fund exempt account.

(4) As permitted by the Taxpayer's Bill of Rights, the approval of this section by the registered electors of the state voting on the issue at the November 2016 statewide election constitutes a

voter-approved revenue change to allow the retention and expenditure of state revenues in excess of the limitation on state fiscal year spending.

(5)(a) For each fiscal year that the state retains and spends state revenues in excess of the limitation on state fiscal year spending pursuant to this section, the director of research of the legislative council shall prepare a 2016 election excess state revenues legislative report that includes the following information:

(I) The amount of 2016 election excess state revenues that the state retained pursuant to this section; and

(II) A description of how the 2016 election excess state revenues that the state retained pursuant to this section were expended.

(b) The report required by this subsection (5) shall be completed by October 15 following a fiscal year that the state retains and spends revenues pursuant to this section and may be amended thereafter as necessary. The director of research shall publish and link to the official ~~web-~~ website of the general assembly a copy of the report.

(6) As used in this section:

~~(a) "2005 election excess state revenues" means those state revenues in excess of the limitation of state fiscal year spending that the state is authorized to retain and spend pursuant to 24-77-103.6.~~ (b) "2016 election excess state revenues" means state revenues that are in excess of the ~~sum of the~~ limitation on state fiscal year spending ~~plus 2005 election excess state revenues,~~

~~(c)~~ (b)(I) "2016 election excess state revenues cap" for a given fiscal year means an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2016-17 fiscal year through the 2025-26 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes.

(II) As used in this paragraph (c), inflation and the percentage change in state population shall be the same rates that are used in calculating the maximum annual percentage change in state fiscal year spending pursuant to section 24-77-103, and the qualification or disqualification of an enterprise or debt service changes shall change the 2016 election excess state revenues cap in the same manner as such change affects the limitation on state fiscal year spending.

~~(d)~~ (c) "State revenues" means state revenues not excluded from state fiscal year spending, as defined in section 24-77-102(17).

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MAR 24 2016

S. WARD  
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**Retention of Surplus Revenues for Specific Purposes**

Colorado Secretary of State

Be it enacted by the People of the State of Colorado:

SECTION 1. Article 77 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

§ 24-77-103.6.5. Retention of 2016 election excess state revenues – 2016 election general fund exempt account - required uses - 2016 election excess state revenues legislative report

(1)(a) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2016, but before July 1, 2026, the state shall be authorized to retain and spend all state revenues in excess of the sum of the limitation on state fiscal year spending plus 2005 election excess state revenues.

(b) Notwithstanding any provision of law to the contrary and without increasing tax rates or imposing new taxes, for each fiscal year commencing on or after July 1, 2026, the state shall be authorized to retain and spend all state revenues that are in excess of the sum of the limitation on state fiscal year spending plus 2005 election excess state revenues, but less than the 2016 election excess state revenues cap for the given fiscal year.

(2) There is hereby created in the general fund the 2016 election general fund exempt account, which shall consist of the 2016 election excess state revenues that the state retains for a given fiscal year pursuant to this section. The moneys in the account shall be appropriated or transferred by the general assembly for the following purposes:

(a) not less than 35% of the revenues deposited to the account in each fiscal year shall be used to fund education including public pre-school through twelfth grade education, vocational education, and higher education;

(b) not less than 35% of the revenues deposited to the account in each fiscal year shall be transferred to the highway users tax fund and allocated and expended in accordance with the formula specified in section 43-2-205(6)(b) to fund transportation projects, including highways, bridges, underpasses, mass transit or any other infrastructure, facility, or equipment used primarily or in large part to transport people; and

(c) any amounts not spent on education or transportation may only be used to fund mental health services and senior services.

(3) The statutory limitation on general fund appropriations set forth in section 24-75-201.1(1) (a), and the exceptions or exclusions thereto, shall apply to the moneys in the 2016 election general fund exempt account.

(4) As permitted by the Taxpayer's Bill of Rights, the approval of this section by the registered electors of the state voting on the issue at the November 2016 statewide election constitutes a

voter-approved revenue change to allow the retention and expenditure of state revenues in excess of the limitation on state fiscal year spending.

(5)(a) For each fiscal year that the state retains and spends state revenues in excess of the limitation on state fiscal year spending pursuant to this section, the director of research of the legislative council shall prepare a 2016 election excess state revenues legislative report that includes the following information:

(I) The amount of 2016 election excess state revenues that the state retained pursuant to this section; and

(II) A description of how the 2016 election excess state revenues that the state retained pursuant to this section were expended.

(b) The report required by this subsection (5) shall be completed by October 15 following a fiscal year that the state retains and spends revenues pursuant to this section and may be amended thereafter as necessary. The director of research shall publish and link to the official web site of the general assembly a copy of the report.

(6) As used in this section:

(a) "2005 election excess state revenues" means those state revenues in excess of the limitation of state fiscal year spending that the state is authorized to retain and spend pursuant to 24-77-103.6.

(b) "2016 election excess state revenues" means state revenues that are in excess of the sum of the limitation on state fiscal year spending plus 2005 election excess state revenues

(c)(I) "2016 election excess state revenues cap" for a given fiscal year means an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2016-17 fiscal year through the 2025-26 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes.

(II) As used in this paragraph (c), inflation and the percentage change in state population shall be the same rates that are used in calculating the maximum annual percentage change in state fiscal year spending pursuant to section 24-77-103, and the qualification or disqualification of an enterprise or debt service changes shall change the 2016 election excess state revenues cap in the same manner as such change affects the limitation on state fiscal year spending.

(d) "State revenues" means state revenues not excluded from state fiscal year spending, as defined in section 24-77-102(17).

**Ballot Title Setting Board**

**Proposed Initiative 2015-2016 #117<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

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; 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; dedicating specified percentages of any revenues retained to fund education and transportation projects; and allowing the state to use remaining revenues retained for the same purposes and for mental health services and senior services.

The ballot title and submission clause as designated and fixed by the Board is as follows:

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; 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; dedicating specified percentages of any revenues retained to fund education and transportation projects; and allowing the state to use remaining revenues retained for the same purposes and for mental health services and senior services?

*Hearing April 6, 2016:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 4:26 p.m.*

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<sup>1</sup> Unofficially captioned “**Retention of Excess State Revenue**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



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APR 07 2016

S. WARD  
2:27 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE  
FOR INITIATIVE 2015-2016 #117

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MOTION FOR REHEARING

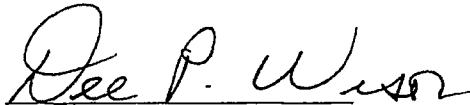
On behalf of Dan Ritchie and Al Yates, registered electors of the State of Colorado and designated representatives of Proposed Ballot Initiative 2015-2016 #117 ("the Proponents"), the undersigned counsel hereby submits this Motion for Rehearing on Initiative #117, and as grounds therefore states as follows:

**The Title Does Not Fairly Describe the Meaning and Intent of the Measure**

The measure provides that the ten year period during which the State may retain and collect all revenues above the constitutional limitation on fiscal year spending "for each fiscal year commencing on or after on July 1, 2016, but before July 1, 2026." The title and submission clause set by the Title Board provide that the ten year period ends on June 30, 2025. This should say June 30, 2026.

Accordingly, the Proponents respectfully request that this Motion for Rehearing be granted and that a proper title be set at a hearing held pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 7<sup>th</sup> day of April, 2016.



Dee P. Wisor  
Butler Snow LLP  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
(720)330-2357  
[Dee.wisor@butlersnow.com](mailto:Dee.wisor@butlersnow.com)

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APR 13 2016

S. WARD  
2:35 P.M.

BEFORE THE COLORADO BALLOT TILE SETTING BOARD

Colorado Secretary of State

Jon Caldara, Objector

vs.

Dan Ritchie and Albert Yates, Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2015-2016 #117**

Jon Caldara, through legal counsel, Jackson Kelly PLLC, objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-16 #117 ("Retention of Excess State Revenue").

On April 6, 2016 the Board set 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; 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; DEDICATING SPECIFIED PERCENTAGES OF ANY REVENUES RETAINED TO FUND EDUCATION AND TRANSPORTATION PROJECTS; AND ALLOWING THE STATE TO USE REMAINING REVENUES RETAINED FOR THE SAME PURPOSES AND FOR MENTAL HEALTH SERVICES AND SENIOR SERVICES?

**ADVISORY GROUNDS FOR RECONSIDERATION**

A. The ballot measure violates the single subject requirement, established by Colo. Const., art. V, § 1(5.5) and C.R.S. § 1-40-106.5. A proposed initiative will violate the single subject requirement if the measure has at least two distinct and separate purposes that are not dependent upon or connected with each other. *In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996)*. The multiple topics included in the measure include, but are not limited to:

1. Eliminating the return of excess tax revenue to taxpayers required under Colo. Const., art. X, § 20, the Colorado Taxpayer's Bill of Rights.

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APR 13 2016

S. WARD  
4:40 P.M.

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 #117

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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 #117 and objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #117 ("Initiative 117") as Initiative 117 does not comply with the Single Subject rule. As grounds therefore she states as follows:

**A. The Title Board set a title for Initiative 2015-2016 #117 on April 6, 2016.**

At the hearing on the proposed Initiative 117, 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; 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; dedicating specified percentages of any revenues retained to fund education and transportation projects; and allowing the state to use remaining revenues retained for the same purposes and for mental health services and senior services?

**B. Initiative 117 violates Colo. Const., art. V, sec. 1(5.5).**

1. Contrary to the requirements of the Colorado Constitution, art. V, sec. 1(5.5), Initiative 117 contains multiple subjects. The express purpose of the Single Subject rule is "[t]o forbid the treatment of incongruous subjects in the same measure, especially the practice of putting together in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits." C.R.S. § 1-40-106.5(1)(e)(I).

2. The standard is whether the various purposes specified are “necessarily or properly connected to each other,” rather than “disconnected or incongruous.” In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 25, 974 P.2d 458, 462 (Colo. 1999).

3. The Colorado courts have noted that the practice of including various unrelated items “for the purpose of enlisting in support of such bill the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits, was undoubtedly one of the evils sought to be eradicated.” Matter of Title, Ballot Title, Submission Clause, and Summary Adopted April 5, 1995, by Title Board Pertaining to a Proposed Initiative Public Rights in Waters II, 898 P.2d 1076, 1079 (Colo. 1995) (quoting *Catron v. County Comm’rs*, 18 Colo. 553, 557, 33 P. 513, 514 (1893)).

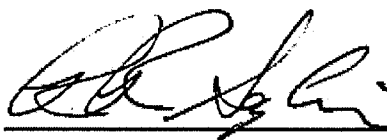
4. Despite the title language “in connection therewith” there is no actual connection between authorizing the State to retain revenues and “education,” “transportation projects,” “mental health services” or “senior services.” The language could just as easily prioritize any other budgetary purposes or none at all. However, as politicians often do, the proponents have explicitly prioritized these interests as they have broad and varying appeals to potential petition signers and voters. This is a clear example of a practice that Colorado’s Single Subject rule seeks to eliminate.

WHEREFORE, the titles set April 6, 2016 should be reversed, due to the single subject violations 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  
Butler Snow LLP  
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