

|                                                                                                                                                                                                                                                                                                                                               |                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| SUPREME COURT OF COLORADO<br>2 East 14th Avenue<br>Denver, Colorado 80203                                                                                                                                                                                                                                                                     | <div> <div>DATE FILED</div> <div>December 2, 2025 3:11 PM</div> </div> <div>▲ COURT USE ONLY ▲</div> |
| Petition for Review Pursuant to Colo. Rev. Stat.<br>§1-40-107(2)<br>Appeal from the Ballot Title Setting Board                                                                                                                                                                                                                                |                                                                                                      |
| In the Matter of the Title, Ballot Title, and<br>Submission Clause for Proposed Initiative<br>2025-2026 #158<br><b>Petitioner:</b> JOSHUA MANTELL<br><br>v.<br><br><b>Respondents:</b> MICHAEL FIELDS and<br>SUZANNE TAHERI, Proponents<br><br>and<br><br><b>Ballot Title Board:</b> CHRISTY CHASE,<br>KATHLEEN WALLACE, and KURT<br>MORRISON |                                                                                                      |
| <b>Attorney for Respondents</b> MICHAEL FIELDS<br>and SUZANNE TAHERI:<br>Suzanne M. Taheri, #23411<br>WEST GROUP LAW & POLICY<br>6501 E. Belleview Ave, Suite 375<br>Englewood, CO 80111<br>Phone Number: (303) 263-0844<br>Email: st@westglp.com                                                                                             | Case Number: 25SA000334                                                                              |
| <b>RESPONDENTS' OPENING BRIEF</b>                                                                                                                                                                                                                                                                                                             |                                                                                                      |

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with all the requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

Choose one:

  X   It contains 1,392 words.

       It does not exceed 30 pages.

The brief complies with C.A.R. 28(k):

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

/s/ Suzanne Taheri  
Suzanne Taheri  
*Attorney for the Petitioner*

## **TABLE OF CONTENTS**

|                                                                                                        |     |
|--------------------------------------------------------------------------------------------------------|-----|
| CERTIFICATE OF COMPLIANCE .....                                                                        | ii  |
| TABLE OF CONTENTS.....                                                                                 | iii |
| TABLE OF AUTHORITIES .....                                                                             | iv  |
| STATEMENT OF THE ISSUES PRESENTED.....                                                                 | 1   |
| STATEMENT OF THE CASE.....                                                                             | 1   |
| SUMMARY OF ARGUMENT .....                                                                              | 2   |
| STANDARD OF REVIEW .....                                                                               | 2   |
| LEGAL ARGUMENT.....                                                                                    | 3   |
| I.    Initiative #158 Meets the Single Subject Requirement.....                                        | 3   |
| A.    Provisions Must be Related to One Object or Purpose.....                                         | 3   |
| B.    Initiative #158 Does Not Implicate Dangers to be Prevented by<br>Single Subject Requirement..... | 5   |
| CONCLUSION .....                                                                                       | 7   |

## **TABLE OF AUTHORITIES**

### **Cases**

|                                                                                                                                                                                                                             |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <i>Aisenberg v. Campbell (In re Title, Ballot Title &amp; Submission Clause for Proposed Initiative 1997-98 # 64)</i> , 960 P.2d 1192 (Colo. 1998).....                                                                     | 6          |
| <i>Bentley v. Mason (In re Title Ballot Title &amp; Submission Clause for 2015-2016 #63)</i> , 370 P.3d 628 (Colo. 2016) .....                                                                                              | 6          |
| <i>Earnest v. Gorman (In re Title, Ballot Title &amp; Submission Clause for 2009-2010 #45)</i> , 234 P.3d 642 (Colo. 2010).....                                                                                             | 3, 7       |
| <i>Hayes v. Lidley (In re Title, Ballot Title and Submission Clause for 2009-2010 #24)</i> , 218 P.3d 350 (Colo. 2009) .....                                                                                                | 3          |
| <i>Herpin v. Head (In re Title, Ballot Title &amp; Submission Clause)</i> , 4 P.3d 485, (Colo. 2000).....                                                                                                                   | 5          |
| <i>In re Branch Banking Initiative</i> , 612 P.2d 96 (Colo. 1980) .....                                                                                                                                                     | 6          |
| <i>In re Title v. Respondents: Dennis Polhill &amp; Douglas Campbell, Proponents, &amp; Title (In re Title, Ballot Title &amp; Submission Clause for Proposed Initiative 2001-2002 #43)</i> , 46 P.3d 438 (Colo. 2002)..... | 5, 7       |
| <i>Kemper v. Hamilton (In re Title, Ballot Title &amp; Submission Clause for 2011-2012 #3)</i> , 274 P.3d 562 (Colo. 2012).....                                                                                             | 3, 6, 7    |
| <i>Milo v. Coulter (In re Title, Ballot Title &amp; Submission Clause for 2013-2014 #129)</i> , 333 P.3d 101 (Colo. 2014) .....                                                                                             | 3, 4, 5, 6 |

### **Statutes**

|                                          |   |
|------------------------------------------|---|
| Colo. Rev. Stat. Ann. § 1-40-106.5 ..... | 5 |
|------------------------------------------|---|

### **Constitutional Provisions**

|                                    |      |
|------------------------------------|------|
| Colo. Const. art. V, § 1(5.5)..... | 3, 5 |
|------------------------------------|------|

Michael Fields and Suzanne Taheri (“Respondents/Proponents”) hereby respectfully submit this Opening Brief in support of the Title Board’s decision for Proposed Initiative 2025-2026 #158 (the “Initiative” or “Measure”).

### **STATEMENT OF THE ISSUES PRESENTED**

1. Whether the Title Board correctly found that Proposed Initiative 2025-2026 #158 is a single subject.

### **STATEMENT OF THE CASE**

Initiative #158 is designed to increase voter control over state revenue that is derived from mandatory charges to citizens. To accomplish this purpose, the initiative modifies Article X, Section 20 of the Colorado constitution, requiring statewide voter approval for any fees imposed by the General Assembly when a fee is projected to produce or actually produces \$100,000,000 or more in revenue in the first five fiscal years following passage of the fee.

To prevent attempts to circumvent its voter approval requirements, Initiative #158 defines “fee.”

The Title Board initially heard the matter on October 15, 2025, finding the initiative contains a single subject and set title. Petitioner timely filed a motion for rehearing and on November 5, 2025 again found the matter had a single subject

and set a final title.<sup>1</sup> Petitioner maintains that because the initiative contains both a new definition of “fee” and a voter approval requirement, the measure does not constitute a single subject.

### **SUMMARY OF ARGUMENT**

To effectuate the purpose of Initiative #158, it is necessary to define “fee.” The voter approval and the definition of “fee” are properly and necessarily connected. No voter surprise will result from the definition of “fee” or the voter approval requirement for new fees enacted by the General Assembly.

### **STANDARD OF REVIEW**

The Court’s role in reviewing Title Board actions is limited, and it must, “employ all legitimate presumptions in favor of the propriety of the Title Board's actions and ...overturn its finding that an initiative contains a single subject only in a clear case.” *Milo v. Coulter (In re Title, Ballot Title & Submission Clause for*

---

<sup>1</sup> An amendment to the Colorado Constitution creating new law that requires statewide voter approval for certain fees imposed by state law, and, in connection therewith, amending the Taxpayer’s Bill of Rights to: Require statewide voter approval for any such new or increased fee if the first five fiscal years’ projected or actual combined revenue from the fee, and other fees collected to fund similar purposes, is greater than \$100 million, excluding institutions of higher education fees; and define any existing or new “fee” authorized by Colorado law and imposed by the state or any local government or special district as a governmental charge voluntarily paid in exchange for a specific benefit.

2013-2014 #129), 333 P.3d 101, 103-04 (Colo. 2014); citing *Kemper v. Hamilton* (*In re Title, Ballot Title & Submission Clause for 2011-2012 #3*), 274 P.3d 562, 565 (Colo. 2012); *Earnest v. Gorman* (*In re Title, Ballot Title & Submission Clause for 2009-2010 #45*), 234 P.3d 642, 645 (Colo. 2010). The Court must “also liberally construe the single subject requirement to ‘avoid unduly restricting the initiative process.’” *Id.*, quoting *Hayes v. Lidley* (*In re Title, Ballot Title and Submission Clause for 2009-2010 #24*), 218 P.3d 350, 353 (Colo. 2009).

## **LEGAL ARGUMENT**

### **I. Initiative #158 Meets the Single Subject Requirement**

#### **A. Provisions Must be Related to One Object or Purpose**

The Colorado Constitution requires a measure proposed by petition to contain only one subject. Colo. Const. art. V, § 1(5.5). “To run afoul of the single subject requirement, the proposed initiative must have at least two distinct and separate purposes that are not dependent upon or connected with each other.” *Earnest*, 234 P.3d at 645, citing *Hayes*, 218 P.3d at 352.

The single subject of Initiative #158 is to require voter approval of certain fees. Voter approval is accomplished by including a definition of “fee” in Colo. Const. Article X, Section 20 (“TABOR”). The initiative adds a definition of fee to mean “a voluntarily incurred governmental charge in exchange for a specific

benefit conferred on the payer, which fee should reasonably approximate the payer's fair share of the incurred by the government in providing said specific benefit.”

In *Coulter*, “fee” was likewise defined as “[a] voluntarily incurred governmental charge in exchange for a specific benefit conferred on the payer, which fee should reasonably approximate the payer's fair share of the costs incurred by the government in providing said specific benefit.” *Id.*, at 103. The two definitions are identical.

The differences between the present initiative and the one examined by the Court in *Coulter* were related to applicability. If anything the application was much broader in *Coulter*, including provisions that applied the definition throughout the statutes, codes, directives, and public documents. *Id.* The *Coulter* initiative also had provisions that barred the application of ancillary terms defined by Black's Law Dictionary and specifically superseded conflicting Supreme Court findings, court findings of fact and local provisions. *Id.*

Here, the initiative does not seek this broad application rather the initiative's purpose is to provide for a vote on certain fees and defines “fee” as it was defined and upheld by this Court in *Coulter*.



**B. Initiative #158 Does Not Implicate Dangers to be Prevented by  
Single Subject Requirement**

The purpose of the single-subject requirement for proposed voter initiatives is to prevent two “dangers” of multi-subject initiatives: first, it prevents the enactment of combined measures that would fail on their individual merits; second, it protects against fraud and surprise occasioned by the inadvertent passage of a surreptitious provision coiled up in the folds of a complex initiative. Colo. Const. art. V, § 1(5.5); Colo. Rev. Stat. Ann. § 1-40-106.5.

The Title Board considered whether Initiative #158 posed the danger of voter surprise due to the potential impacts, including the application of the definition, and determined the initiative contained a single subject. The Court’s role is limited and prohibits “[a]ddressing the merits of a proposed initiative or suggesting how an initiative might be applied if enacted.” *Milo*, 333 P.3d 101, 104; citing *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title (In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-2002 #43)*, 46 P.3d 438, 443 (Colo. 2002). “In determining whether a proposed measure contains more than one subject, [the Court] may not interpret its language or predict its application if it is adopted. *Herpin v. Head (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 485, 495 (Colo. 2000); citing *Aisenberg v. Campbell*

*(In re Title, Ballot Title & Submission Clause for Proposed Initiative 1997-98 # 64)*, 960 P.2d 1192, 1197 (Colo. 1998); *cf. In re Branch Banking Initiative*, 612 P.2d 96, 99 (Colo. 1980). Concerns about the effects of an initiative, valid or not, are irrelevant to whether the proposed initiative contains a single subject. *Milo*, 333 P.3d at 105, citing *Kemper*, 274 P.3d at 568 n.2. Therefore, how Initiative #158 might be affected by case law or interact with other state requirements is not relevant to the single subject determination.

The provision of Initiative #158 carries out this single purpose of requiring a vote on certain fees. To carry out the purpose of the initiative it is properly connected to define “fee”. Even an expansive definition is necessarily and properly connected to the initiative's purpose if it effectuates the purpose. See *Bentley v. Mason (In re Title Ballot Title & Submission Clause for 2015-2016 #63)*, 370 P.3d 628, 632 (Colo. 2016) (“[a]n expansive definition of the governmental entities here is necessarily and properly connected to the initiative's purpose, which is to establish and broadly effectuate the right to a healthy environment for all Coloradans.”)

The single subject requirement also helps avoid “voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative.” *Kemper v. Hamilton (In re Title, Ballot Title, &*

*Submission Clause for 2011-2012 #3*), 274 P.3d 562, 566 (Colo. 2012). (quoting *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title*, 46 P.3d 438, 442 (Colo. 2002)).

Initiative #158 itself is brief and direct, not “complex” nor “omnibus,” and there is no hidden or concealed provision that would cause voter surprise. *Earnest*, 234 P.3d at 647. Initiative #158 unambiguously provides a definition of “fee”. It contains no surreptitious provision that would surprise voters.

### **CONCLUSION**

Proposed Initiative #158 is a single subject. The Court should uphold the Title Board’s actions regarding the initiative.

Respectfully submitted this 2<sup>nd</sup> day of December, 2025

s/Suzanne Taheri  
Suzanne M. Taheri, #23411  
WEST GROUP LAW & POLICY  
6501 E. Belleview Ave, Suite 375  
Englewood, CO 80111  
Phone Number: (303) 263-0844  
Email: st@westglp.com  
*Attorney for Respondents*

## CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of December, 2025, a true and correct copy of the **RESPONDENTS' OPENING BRIEF** was served via the Colorado Court's E-Filing System to the following:

Edward T. Ramey, #6748  
Tierney Lawrence Stiles LLC  
225 East 16th Avenue, Suite 350  
Denver, CO 80203  
Telephone: 303-949-7676  
Email: *eramey@TLS.legal*  
*Counsel for Petitioners*

Emily Buckley  
Office of the Attorney General  
1300 Broadway, 6th Floor  
Denver, CO 80203  
*Counsel for the Title Board*

/s/ Suzanne Taheri

Suzanne Taheri

*Duly signed original on file at West Group*