

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED May 14, 2026 2:42 PM</p>
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #312 (“Cost of Natural Gas Pipeline Extensions”)</p> <p>Petitioner: Edward Andrew Leighty</p> <p>v.</p> <p>Respondents: Sidra Aghababian and Jessica Arhontoulis,</p> <p>and</p> <p>Title Board: Christy Chase, Theresa Conley, Kurt Morrison</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 26SA148</p>
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<p style="text-align: center;">THE TITLE BOARD’S ANSWER BRIEF</p>	

CERTIFICATE OF COMPLIANCE

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

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 2,012 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).

The brief contains, under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.

s/ Erin Farinelli

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INTRODUCTION

Petitioner Edward Andrew Leighty challenges the Ballot Title Board's jurisdiction to set title on proposed Initiative 2025-2026 #312 ("Proposed Initiative" or "#312"), and the title the Board set once it determined it had jurisdiction to do so. Both challenges fail for the reasons stated in the Board's Opening Brief, and none of the authorities cited in Petitioner's Opening Brief suggest otherwise. As such, the actions of the Board should be affirmed.

ARGUMENT

- I. The Title Board had jurisdiction to set a title.**
 - A. The Proposed Initiative contains a single subject.**

As explained in the Board's Opening Brief, the single subject of #312 is prohibiting utilities from raising bill rates of existing customers to pay for the costs of natural gas pipeline extensions and associated decommissionings to provide service for new customers. Title Bd.'s Opening Br. at 1-2 (May 7, 2026). Petitioner's argument focuses on the

effects #312 would have if passed rather than the single purpose of the initiative, which is outside the scope of review for proposed initiatives. *See In re Title, Ballot Title, Submission Clause for 2011–2012 # 3*, 274 P.3d 562, 568 n. 2 (Colo. 2012) (“The effects this measure could have on Colorado ... law if adopted by voters are irrelevant to our review of whether [the proposed initiative] and its Titles contain a single subject”.); *see also In re Title, Ballot Title and Submission Clause, and Summary for 1999–2000 #256*, 12 P.3d 246, 254 (Colo. 2000) (“We have never held that just because a proposal may have different effects...it necessarily violates the single-subject requirement.”).

Petitioner’s references to *In re Title, Ballot Title, and Submission Clause for 2009-2010 # 91* and *In re Title, Ballot Title and Submission Clause, and Summary for 1997-1998 # 64*, as discussed in the Board’s Opening Brief, are unconvincing because Petitioner fundamentally misunderstands this Court’s reasoning for finding multiple subjects in the proposed initiatives at issue. Pet’r’s Opening Br. at 14-16 (May 7, 2026); 235 P.3d 1071 (Colo. 2010); 960 P.2d 1192 (Colo. 1998). As

previously discussed, each of the initiatives found to contain multiple subjects in those instances were complex multi-part measures containing provisions not related to the overall purpose of the initiative and included unrelated governmental or procedural changes. Title Bd.'s Opening Br. at 7-10.

Further, Petitioner's added reference to *In re Title, Ballot Title and Submission Clause for 2003-2004 # 32 & # 33 and Failure to Set Title for 2003-2004 # 21 & # 22*, is equally unconvincing, as each of the initiatives in that case had the purpose of "liberaliz[ing] the procedure for initiative and referendum petitions" to be placed on a ballot *and* contained an unrelated provision that prevented attorneys from serving as a member of the title board. 76 P.3d 460, 462-463 (Colo. 2003) ("By foreclosing any possibility that an attorney could serve on the title board, these initiatives restrict the political rights of all attorneys... It has no necessary or proper connection to the purpose of the proposed measures, i.e., to liberalize the *procedure* for initiative and referendum petitions.") (emphasis in original). Yet again, this case is easily

distinguishable from the Proposed Initiative here because #312 contains just a single provision, with a single purpose.

B. Even if the Board could consider the effects the measure would have on Colorado law, the effects are directly related to the Proposed Initiative's single purpose.

It is acknowledged that “[w]hile investigating whether an initiative presents multiple subjects, some limited legal analysis of the initiative’s text may be necessary.” *In re Title, Ballot Title, and Submission Clause for 2009-2010*, No. 24, 218 P.3d 350, 355 (Colo. 2009). However, Petitioner’s argument relies on speculative interpretations on how the measure would apply if passed, which is beyond the jurisdiction of this Court. Pet’r’s Opening Br. at 17-18. *See In re Title, Ballot Title & Submission Clause, and Summary for 1999-2000 No. 258(A)*, 4 P.3d 1094, 1097–98 (Colo. 2000) (“In conducting our single-subject review, we do not make policy—that role belongs to the initiative sponsors and, ultimately, to the voters who consider a proposed constitutional amendment or statute at the polls. Nor do we

determine the initiative's efficacy, construction, or future application—that is for judicial decision in a proper case if the voters approve the proposal.”).

Even if the Board had jurisdiction to engage in these speculative interpretations, #312 does not violate the single subject requirement because any effects on the Public Utilities Commission (“PUC”) or municipalities are interconnected and directly tied to the single purpose of #312 – preventing utilities from passing the costs of new pipeline infrastructure to existing customers. Additionally, Petitioner asserts that the Proposed Initiative creates a “coiled in the folds problem” by selectively presenting statements from the motion for rehearing. Pet’r’s Opening Br. at 5, 18. Petitioner asserts that #312 has a hidden purpose of a “substantial rearrangement” of the “preexisting powers” of state and local government. *Id.* at 17. However, Petitioner’s argument fails because it relies on reading language into the Proposed Initiative that is simply not there. See *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 442 P.3d 867, 870 (Colo. 2019). (“[T]o conclude that the

initiative here comprises multiple subjects would require us to read language into the initiative that is not there and to address the merits of that initiative and suggest how it might be applied if enacted...[W]e are not permitted to do so.”).

The Proposed Initiative here is similar to a single-subject initiative that proposed expanding local governments' authority to enact laws regulating oil and gas development that would be more restrictive than state law. In that case, this Court rejected the Petitioner's notion that the initiative broadly changed constitutional home rule provisions, the preemption doctrine, or takings provisions. *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 328 P.3d 155, 160 (Colo. 2014). Instead, this Court acknowledged that even to the extent that the initiative affected other areas of law, those provisions were affected “only inasmuch as they *directly relate to the subject matter of the Proposed Initiatives*” and therefore did not violate the single subject requirement. *Id.* (emphasis added). Similarly, here, Petitioner attempts to spin the effects of #312 into a “substantive change with alterations in

governmental authority”, while in reality, these effects directly relate to the subject matter of the Proposed Initiative. Pet’r’s Opening Br. at 6. As acknowledged by this Court, “*All* proposed constitutional amendments or laws would have the effect of changing the status quo in some respect if adopted by voters.” *In re 1999-2000 No. 258(A)*, 4 P.3d at 1098 (emphasis added).

Similarly, in *In re Title, Ballot Title and Submission Clause, and Summary for 1999–2000 # 258(A)*, this Court analyzed a proposed initiative with the stated purpose of requiring all public school students in Colorado to be taught in English. This Court’s limited inquiry in that case recognized the additional effects present in the amendment, including constraining school boards’ traditional power to require bilingual education in public schools. 4 P.3d at 1098. This Court determined that this effect was not a subject separate from the initiative’s central theme of requiring English language instruction. Instead, this Court ruled that the purpose of constraining school boards’ traditional powers was “a logical incident of adopting structured

English immersion.” *Id.* Therefore, the initiative did not violate the single subject requirement. Similarly, here, a logical incident of adopting a prohibition on utilities raising rates of existing customers is that the PUC or municipalities cannot approve rates that seek to do such, therefore not violating the single subject requirement.

The Board correctly determined the #312 contains only one subject: preventing utility companies from passing on charges to construct pipeline expansions to existing customers. Therefore, this Court should affirm the Board’s finding that #312 contains a single subject.

II. The title set by the Board satisfies the clear title standard.

Petitioner’s argument that the title of #312 is misleading and incomplete is equally unconvincing.

The applicability clause is not, as Petitioner states, a central component of the measure that needs to be included in the title. When an initiative is approved, it is effective on and after the date of the official declaration of the vote and proclamation of the governor. Colo.

Const. art. V, § 1(4)(a). This is the default effective date if an initiative does not otherwise include one. Office of Legislative Legal Services, Review and Comment Memorandum (March 27, 2026), ¶ 2, <https://tinyurl.com/3nx4p4ad>. Contrary to Petitioner’s arguments, acknowledging a default effective date is not necessary to accurately describe the Proposed Initiative. *See In re 2013-2014 #90*, 328 P.3d at 162 (“The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.”); *see also In re Title, Ballot Title & Submission Clause, & Summary for Proposed Initiative on Educ. Tax Refund*, 823 P.2d 1353, 1355 (Colo. 1991) (“The board is not required to describe every nuance and feature of the proposed measure.”).

Further, as discussed in the Board’s opening brief, the absence of the applicability clause in the title does not suggest “illusory cost savings,” as the title makes clear that #312 will only (1) prevent rate increases associated with the expansion of a natural gas pipeline to new customers and (2) apply to existing customers of the utility. Title Bd.’s

Opening Br. at 13-14. Once again, the Board's only duty in setting a title is to summarize the central features of a proposed initiative. *In re Matter of Title, Ballot Title & Submission Clause for 2013-2014 #85*, 328 P.3d 136, 144 (Colo. 2014). The Board is not required to explain the meaning or potential effects of the proposed initiative on the current statutory scheme. *Id.*

Petitioner's speculation about municipal franchise agreements is just that – mere speculation. Pet'r's Opening Br. at 22-23. The Board is not required to entertain every speculative interpretation in setting a title. *See In re Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment*, 873 P.2d 718, 720-721 (Colo.1994) (rejecting a challenge to a ballot title because “petitioners' argument is based on their interpretation of the proposed initiative, not on its express language” and “there is no requirement that the title, ballot title and submission clause or the summary state the effect an initiative may have on other constitutional and statutory provisions.”); *see also In re Proposed Initiated*

Constitutional Amendment Concerning Fair Fishing, 877 P.2d 1355, 1362 (Colo.1994) (“It is not the function of the Board to determine the meaning of the language of an initiative...Nor is the function of the Board to disclose every possible interpretation of the language of the initiative.”).

Lastly, Petitioner’s reliance on election year polling is equally unpersuasive. Neither the Board nor this Court evaluate whether voters may be "seduced" by cost-related messaging. This is not within the jurisdiction of the Board. *See In re 2009-2010*, No. 24, 218 P.3d at 356 (“[Petitioner’s argument concerns possible degrees of difference between the expectations of voters and the ultimate efficacy of the Initiatives; it does not strike at the fundamental operations or purpose of the Initiatives.”). Again, the Board's duty in setting a title is to summarize the central features of the proposed initiative and the Board is neither obligated nor authorized to construe the future legal effects of an initiative as part of the ballot title. *See In re Proposed Initiatives 2001–2002 # 21 & # 22*, 44 P.3d 213, 215–16 (Colo. 2002).

The Board's title concisely summarizes #312's central features – prohibiting utilities from raising bill rates of existing customers to pay for the costs of natural gas pipeline extensions and associated decommissionings to provide service for new customers – and as such falls squarely within the Board's broad discretion to set a clear and brief title. Therefore, this Court should affirm the Board's title.

CONCLUSION

For the above reasons and based on the above authorities, the Board requests that the Court affirm its determination that #312 contains a single subject and affirm that the Board set a clear title.

Respectfully submitted on this 14th day of May, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **THE TITLE BOARD'S ANSWER BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE), this 14th day of May, 2026.

s/Dave Sluss