

The opinion summaries are not part of the Colorado Supreme Court's opinion. They have been prepared solely for the reader's convenience. As such, they may not be cited or relied upon. If there is any discrepancy between the language in the summary and the opinion, the language in the opinion controls.

ADVANCE SHEET HEADNOTE
June 29, 2026

2026 CO 56

No. 24SC281, *Unite for Colo. v. Colo. Dep't of State* – Campaign Finance – Constitutional Law – Issue Committees.

The supreme court interprets the definition of “issue committee” in article XXVIII, section 2(10)(a)(I) of the Colorado Constitution and holds that Unite for Colorado does not qualify as an issue committee. Article XXVIII, section 2(10)(a)(I) defines an issue committee as an organization that has “a major purpose of supporting or opposing any ballot issue or ballot question.” The supreme court construes the phrase “a major purpose” to require a fact-specific analysis of an organization’s creation, spending, and ballot campaign-related activities to determine whether the organization spent a considerable or principal amount of its time and resources engaging in ballot issue advocacy. The supreme court construes the phrase “any ballot issue or ballot question” to allow consideration of the organization’s aggregate spending and activities across multiple ballot issues. After conducting a fact-specific analysis, the supreme court holds that

Unite for Colorado did not have a major purpose of ballot issue advocacy during the 2020 election cycle and reverses the judgment of the court of appeals.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 56

Supreme Court Case No. 24SC281
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 23CA989

Petitioner:

Unite for Colorado,

v.

Respondents:

Colorado Department of State; Jena Griswold, in her official capacity as the Colorado Secretary of State; and Andrew Kline, in his official capacity as the Colorado Deputy Secretary of State.

Judgment Reversed

en banc

June 29, 2026

Attorneys for Petitioner:

Brownstein Hyatt Farber Schreck LLP

Jason R. Dunn

Denver, Colorado

Attorneys for Respondents:

Philip J. Weiser, Attorney General

Peter G. Baumann, Assistant Solicitor General

Denver, Colorado

CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court, in which **JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE SAMOUR, JUSTICE BERKENKOTTER,** and **JUSTICE BLANCO** joined.

CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court.

¶1 This campaign finance dispute arising out of the 2020 election concerns whether Unite for Colorado (“Unite”) qualifies as an issue committee, a type of organization subject to registration, reporting, and disclosure requirements under Colorado’s campaign finance laws.¹

¶2 As relevant here, article XXVIII, section 2(10)(a)(I) of the Colorado Constitution defines an issue committee as an organization “[t]hat has a major purpose of supporting or opposing any ballot issue or ballot question.” Unite and the Colorado Secretary of State² disagree on two parts of this definition: (1) the meaning of the phrase “a major purpose,” and (2) whether the phrase “any ballot issue or ballot question” allows consideration of an organization’s spending on ballot issue advocacy in the aggregate, or instead limits consideration to the

¹ We granted certiorari to review the following issue:

Whether the court of appeals erred in interpreting the Colorado Constitution’s “major purpose” standard, Colo. Const. art. XXVIII, § 2(10)(a)(I), which qualifies an organization as an “issue committee” subject to registration, reporting, and disclosures, by adopting a multifactor test that permits a major purpose finding when an organization spends 10% or less of its total outlays supporting or opposing a particular ballot measure.

² Respondents in this case are the Colorado Department of State; Jena Griswold, in her official capacity as the Colorado Secretary of State; and Andrew Kline, in his official capacity as the Colorado Deputy Secretary of State. For the sake of brevity, we refer to them as “the Secretary of State” throughout.

organization's activities on a proposition-by-proposition basis. Colo. Const. art. XXVIII, § 2(10)(a)(I).

¶3 First, we interpret the phrase "a major purpose" to require a fact-specific analysis of an organization's creation, spending, and ballot campaign-related activities, as guided by a nonexhaustive list of factors established in case law and statute at the time of this dispute. In conducting this fact-specific analysis, we interpret the phrase "any ballot issue or ballot question" to allow consideration of an organization's aggregate activity and spending across multiple ballot issues.

¶4 Next, we apply the fact-specific analysis to Unite to determine whether it meets article XXVIII, section 2(10)(a)(I)'s definition of issue committee. We conclude that Unite's decision to engage in statewide ballot issue advocacy soon after its creation and its in-kind contributions to gather signatures in support of propositions both weigh in favor of a major purpose. On the other hand, the fact that Unite spent less than a quarter of its overall spending during the 2020 election cycle on issue advocacy weighs strongly against a major purpose. Under the totality of the circumstances, we hold that Unite did not have a major purpose of ballot issue advocacy in 2020.

¶5 For these reasons, we reverse the judgment of the court of appeals.

I. Legal Background

¶6 Because this dispute concerns Unite’s activities in 2020, we first summarize the relevant campaign finance laws applicable at that time.

¶7 Colorado’s campaign finance laws can be traced back to the Campaign Reform Act of 1974, which focused on the regulation of political committees that support or oppose the nomination or election of candidates for public office. Ch. 57, sec. 1, §§ 49-27-101 to -121, 1974 Colo. Sess. Laws 261, 261-70. In 1996, voters updated and reenacted the law via a ballot measure (Amendment 15) as the Fair Campaign Practices Act (“FCPA”). Legis. Council of the Colo. Gen. Assemb., *An Analysis of 1996 Ballot Proposals*, at 27-32, 56-67 (1996), <https://historicalelectiondata.coloradosos.gov/document/191?page=26> [https://perma.cc/P7K4-4YM9]; Colo. Sec’y of State, *State of Colorado: Abstract of Votes Cast 1995-1996*, at 159, <https://historicalelectiondata.coloradosos.gov/document/232?page=168> [https://perma.cc/8SGT-F9A8] (showing the abstract of votes cast for Amendment 15 in the November 5, 1996 general election). The FCPA included the regulation of issue committees that support or oppose ballot issues, § 1-45-108(1), (3), C.R.S. (1997), and required the disclosure of information about “contributions received . . . expenditures made; and obligations entered into,” § 1-45-108(1), C.R.S. (1997).

¶8 In 2002, voters adopted Amendment 27, which enshrined comprehensive campaign finance regulations, including the regulation of issue committees, in the Colorado Constitution. *See* Colo. Const. art. XXVIII. Article XXVIII, section 2(10)(a) defines an issue committee as:

any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

Only the first prong of this definition is at issue in the majority of cases, including this one, because the Secretary of State has interpreted this provision to require an organization to meet both the major purpose element *and* spend in excess of two hundred dollars to qualify as an issue committee. Dep't of State, 8 Colo. Code Regs. 1505-6:1.9 (2022).³ Because no party disputes the Secretary of State's interpretation, we proceed under this interpretation.

¶9 Article XXVIII requires organizations that qualify as issue committees to meet the disclosure requirements set out in section 1-45-108, C.R.S. (2025). Colo.

³ We note that the United States Court of Appeals for the Tenth Circuit has held, when interpreting the definition of "political committee" in Amendment 27, that a two-hundred-dollar spending threshold, standing alone, is unconstitutional. *Colo. Right to Life Comm., Inc. v. Coffman*, 498 F.3d 1137, 1153 (10th Cir. 2007).

Const. art. XXVIII, § 7. Section 1-45-108(1)(a)(I), C.R.S. (2025), requires issue committees to “report . . . their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.” And the issue committee must also disclose “the occupation and employer of each person who has made a contribution of one hundred dollars or more.” § 1-45-108(1)(a)(II), C.R.S. (2025). Such disclosures must be made every year, even when the issue committee is inactive. Dep’t of State, 8 Colo. Code Regs. 1505-6:17.2.3 (2022).

¶10 In 2008, a division of the court of appeals first analyzed article XXVIII, section 2(10)(a)(I) in *Independence Institute v. Coffman*, 209 P.3d 1130, 1136–39 (Colo. App. 2008). There, the Independence Institute argued that the phrase “a major purpose” was unconstitutionally vague and overbroad. *Id.* at 1136. The division rejected the vagueness challenge, reasoning that “[c]onstitutional provisions need not be so exact as to eliminate any need for [a] fact-specific analysis,” and that an organization’s “major purpose” could be assessed by “compar[ing] the purposes stated in its charter, articles of incorporation, and by-laws; the purposes of its activities and annual expenditures; and the scope of issues addressed in its print and electronic publications.” *Id.* at 1139. The division also rejected the Independence Institute’s First Amendment overbreadth challenge because article

XXVIII, section 2(10)(a)(I) did “not burden a substantial amount of constitutionally protected speech.” *Id.* at 1140.

¶11 Two years later, a different division of the court of appeals expounded on the definition of the phrase “a major purpose” in *Cerbo v. Protect Colorado Jobs, Inc.*, 240 P.3d 495, 501 (Colo. App. 2010). There, the division examined the plain language definition of the term “major” at the time Amendment 27 passed in 2002. *Id.* It concluded that an organization has “a major purpose” of ballot issue advocacy if it expends “a considerable or principal portion of the organization’s total activities” on ballot issue advocacy. *Id.* (quoting *N.C. Right to Life, Inc. v. Leake*, 525 F.3d 274, 328–29 (4th Cir. 2008) (Michael, J., dissenting)). The division also applied the phrase to *Protect Colorado Jobs, Inc.*, and relied on several factors to assess whether the organization’s ballot issue advocacy amounted to a considerable or principal portion of its activities. *Id.* at 501–04.

¶12 That same year, the General Assembly passed a new statutory definition of “a major purpose” that essentially codified the factors identified in *Independence Institute*. Ch. 270, sec. 4, § 1-45-103(12), 2010 Colo. Sess. Laws 1239, 1241. This new legislation stated that an organization’s “major purpose” could be reflected by: (1) “[a]n organization’s specifically identified objectives in its organizational documents”; or (2) “an organization’s demonstrated pattern of conduct based upon its . . . [a]nnual expenditures in support of or opposition to a ballot issue or

ballot question” or “[p]roduction or funding . . . of written or broadcast communications . . . in support of or opposition to a ballot issue or ballot question.” § 1-45-103(12)(b), C.R.S. (2011).

¶13 Finally, in *Colorado Ethics Watch v. Gessler*, 2013 COA 172M, ¶¶ 32–35, 363 P.3d 727, 731–32, a division of the court of appeals rejected a rule promulgated by the Secretary of State. The rule sought to clarify that an organization has a major purpose of ballot issue advocacy if more than 30% of its annual expenditures are directed to such activity. *Id.* at ¶ 31, 363 P.3d at 731. The division concluded that the 30% threshold was arbitrary and capricious because it was unsupported by competent evidence and was untethered to the language in section 1-45-103(12)(b), C.R.S. (2013), that required a broader analysis of an organization’s “pattern of conduct.” *Colo. Ethics Watch*, ¶¶ 32–35, 363 P.3d at 731–32 (citing § 1-45-103(12)(b), C.R.S. (2013)).⁴

⁴ In addition to these developments, in 2016, the legislature amended section 1-45-108 to exclude “small-scale issue committee[s]” from the general issue committee disclosure requirements. Ch. 269, sec. 2, § 1-45-108(1.5), 2016 Colo. Sess. Laws 1113, 1114. Section 1-45-103(16.3)(a), C.R.S. (2025), defines small-scale issue committees as those that have “accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle.”

Finally, in 2022, the legislature again amended the definition of “a major purpose” in section 1-45-103(12)(b). Ch. 400, sec. 1, § 1-45-103(12)(b), 2022 Colo. Sess. Laws 2851, 2852. However, because the 2022 legislation does not appear to apply retroactively to Unite’s activities in 2020, we decline to apply those factors to Unite or otherwise comment on the factors the legislature provided in that legislation.

II. Facts and Procedural History

¶14 Unite began operations in January 2020 and described itself on its website as “an issue advocacy organization” with the mission of “support[ing] policies that increase economic opportunity and greater government transparency” and “oppos[ing] policies that would be harmful to Colorado’s economic wellbeing, and efforts to unnecessarily grow the size and reach of government.” Katie Kennedy, Unite’s registered agent and only board member, and Dustin Zvonek, a contractor, directed all of Unite’s activities.

¶15 In 2020, Unite spent a total of \$17,174,246.70. Of that amount, \$4,026,017.26, approximately 23.4%, was directed to ballot issue advocacy:

- Unite spent \$1,500,808.85 opposing Proposition 113, a ballot initiative to join the National Popular Vote Interstate Compact, including spending on advertising, text messages, and direct contributions to Protect Colorado’s Vote, an issue committee opposing Proposition 113.
- Unite spent \$964,998.25 supporting Proposition 116, a ballot initiative to reduce the state income tax rate. Spending on Proposition 116 included in-kind contributions for signature gathering to support Energize our Economy, an issue committee supporting Proposition 116.
- Unite spent \$1,560,210.16 supporting Proposition 117, a ballot initiative to require voter approval of certain new state-owned businesses. This spending also included advertising to support the initiative and in-kind contributions for signature gathering to Voter Approval of Fees, an issue committee supporting Proposition 117.

¶16 In August 2020, members of the public filed a campaign finance complaint against Unite with the Elections Division of the Department of State (“the Elections

Division”), alleging that Unite was an issue committee under the definition in article XXVIII, section 2(10)(a) of the Colorado Constitution and had failed to register and make the required disclosures.

¶17 After investigating the complaint, the Elections Division ultimately moved to dismiss the complaint, reasoning that Unite did not meet article XXVIII, section 2(10)(a)’s definition of an issue committee. The Elections Division reached this conclusion in part because it construed article XXVIII, section 2(10)(a) to require a major purpose of supporting a specific ballot initiative, not a major purpose of supporting ballot initiatives generally.

¶18 However, then-Deputy Secretary of State, Ian Rayder, disagreed with this interpretation, denied the motion, and remanded the case back to the Elections Division with instructions to commence administrative proceedings against Unite for failing to register as an issue committee and make the required disclosures. The Elections Division did so, and after proceedings before the Administrative Law Judge (“ALJ”), the ALJ found that Unite had a major purpose of ballot issue advocacy because of its activities in connection with Propositions 113, 116, and 117. On review, the new Deputy Secretary of State, Christopher P. Beall, adopted the ALJ’s findings and conclusions in part.⁵ The Final Agency Order adopted by

⁵ The ALJ also held that under article XXVIII, section 2(10)(a)(II), spending more than two hundred dollars on ballot issues or ballot questions qualifies an organization as an issue committee. But the Deputy Secretary of State ultimately

the Deputy Secretary of State imposed a \$40,000 fine on Unite and required Unite to register and make the required disclosures.

¶19 Pursuant to section 24-4-106, C.R.S. (2025), Unite sought review of the Final Agency Order in district court. Unite challenged the Deputy Secretary of State's interpretation and application of the major purpose standard and argued that the requirement to register and make disclosures violated Unite's First Amendment rights. The district court reversed the Final Agency Order, concluding that Unite was not an issue committee. The district court reasoned that the statutory definition of an issue committee, section 1-45-103(12)(b), C.R.S. (2020), did not support aggregating Unite's activity across all three ballot initiatives. The district court did not rule on Unite's First Amendment claims. The Secretary of State appealed the district court's order.

¶20 A division of the court of appeals unanimously reversed the district court. *Colo. Dep't of State v. Unite for Colo.*, 2024 COA 31, ¶ 1, 551 P.3d 687, 693. The division conducted its own major purpose analysis. Starting with the constitutional language in article XXVIII, section 2(10)(a), the division held that the language contemplates an organization's aggregate conduct across multiple ballot issues or ballot questions. *Id.* at ¶¶ 41-43, 551 P.3d at 699. The division also

rejected this interpretation in the Final Agency Order because the ALJ raised the issue sua sponte without any argument on that point from the Elections Division.

identified seven factors to guide its analysis of whether Unite had a major purpose of ballot issue advocacy during the 2020 election cycle. *Id.* at ¶ 38, 551 P.3d at 698. The division applied these factors and held that Unite had a major purpose of ballot issue advocacy during the 2020 election cycle. *Id.* at ¶ 58, 551 P.3d at 702. The division also considered and rejected Unite’s First Amendment claims. *Id.* at ¶¶ 59–70, 551 P.3d at 702–04.

¶21 Unite petitioned this court for a writ of certiorari. We granted review to consider the interpretation of the “major purpose” standard.⁶

III. Standard of Review

¶22 Issues of constitutional interpretation are questions of law subject to de novo review. *Gessler v. Colo. Common Cause*, 2014 CO 44, ¶ 7, 327 P.3d 232, 235. We accord administrative proceedings a “presumption of validity” and resolve “all reasonable doubts as to the correctness of administrative rulings . . . in favor of the agency.” *Van Sickle v. Boyes*, 797 P.2d 1267, 1272 (Colo. 1990). That said, such deference is unwarranted where “the agency’s interpretation is contrary to constitutional and statutory law.” *Gessler*, ¶ 7, 327 P.3d at 235.

⁶Unite also raises various free speech and freedom of association arguments under the First Amendment throughout its briefing. Opening Brief for Petitioner at 36–40. We do not address these arguments because we denied certiorari review of Unite’s First Amendment claims.

IV. Analysis

¶23 We begin with our guiding principles of constitutional interpretation. We then analyze the phrase “a major purpose of supporting or opposing any ballot issue or ballot question.” Colo. Const. art. XXVIII, § 2(10)(a)(I). First, we analyze the meaning of the phrase “a major purpose” and conclude that it requires a fact-specific analysis of an organization’s creation, spending, and ballot campaign-related activities. Second, we examine the phrase “any ballot issue or ballot question” to determine whether the major purpose analysis allows consideration of an organization’s aggregate spending across multiple ballot issues. We conclude that it does. We end our analysis by applying article XXVIII, section 2(10)(a)(I) to Unite and hold that Unite is not an issue committee because it did not have a major purpose of ballot issue advocacy during the 2020 election cycle.

A. Principles of Constitutional Interpretation

¶24 Our goal when interpreting amendments to the Colorado Constitution is twofold: effectuate the intent of the framers of our constitution and the people of the State of Colorado and prevent evasion of the constitution’s legitimate operation. *Markwell v. Cooke*, 2021 CO 17, ¶ 33, 482 P.3d 422, 429. To do so, we start with the plain language of a constitutional provision, giving its terms their ordinary and popular meanings. *People v. Smith*, 2023 CO 40, ¶ 20, 531 P.3d 1051, 1055. That said, we may look beyond the plain and ordinary definitions of phrases

if “they have acquired a technical meaning through . . . judicial construction.” *Parrish v. Lamm*, 758 P.2d 1356, 1368 (Colo. 1988); see also *Colo. Ethics Watch v. Senate Maj. Fund, LLC*, 2012 CO 12, ¶ 26, 269 P.3d 1248, 1255–56 (applying the legal meaning of the phrase “express advocacy” in interpreting a different provision of article XXVIII of the Colorado Constitution). We may also consider the objective the provision sought to achieve and the mischief it sought to avoid. *Senate Maj. Fund, LLC*, ¶ 20, 269 P.3d at 1254. In discerning voter intent, we consider the ballot title and submission clause, as well as the voter Blue Book, “which is the analysis of ballot proposals prepared by the legislature.” *In re Submission of Interrogatories on House Bill 99-1325*, 979 P.2d 549, 554 (Colo. 1999).

¶25 We favor constructions that harmonize different constitutional provisions over those that create conflict, and where possible, we adopt a construction consistent with those given by coordinate branches of government. *In re Interrogatory on House Joint Resol. 20-1006*, 2020 CO 23, ¶¶ 32–33, 500 P.3d 1053, 1062–63. We also presume that voters know the existing law when they vote to amend the constitution. *Dwyer v. State*, 2015 CO 58, ¶ 19, 357 P.3d 185, 191.

B. The Phrase “a Major Purpose” Demonstrates the Voters’ Intent to Adopt a Fact-Specific Analysis

¶26 Here, we begin with the plain language of the phrase “a major purpose.” We conclude that the plain language sets an overarching standard for whether an organization qualifies as an issue committee but sheds little light on how to

analyze whether an organization meets this standard. So, to better understand how the voters would have understood the phrase in 2002 when they approved Amendment 27, we review the origins of the phrase in United States Supreme Court case law and trace its development in Colorado. We examine the policy declaration voters approved alongside Amendment 27, the Blue Book that accompanied Amendment 27 on the ballot, and the voter informational interest undergirding the disclosure requirements in Amendment 27.

¶27 All these sources of the voters' intent clarify that the major purpose test is a holistic, case-by-case assessment of an organization's creation, spending, and ballot campaign-related activities to determine whether it spent a considerable or principal amount of its time and resources engaging in ballot issue advocacy.

¶28 We conclude by highlighting some guiding factors from the legislature and case law that courts should consider when conducting this analysis.

1. The Plain and Ordinary Meaning of "a Major Purpose"

¶29 Common definitions of "major" and "purpose" at the time voters passed Amendment 27 offer some insight. In 2002, the Webster's Third New International Dictionary defined "major" as "notable or conspicuous in effect or scope: considerable, principal." *Cerbo*, 240 P.3d at 501 (quoting *Major*, Webster's Third New International Dictionary (2002)). "Considerable" was defined further as "rather large in extent or degree." *Id.* (quoting *Considerable*, Webster's Third New

International Dictionary (2002)). And as of 2002, Black's Law Dictionary defined "purpose" as "[a]n objective, goal, or end." *Purpose*, Black's Law Dictionary (7th ed. 1999). These definitions indicate the voters' intent to categorize as issue committees those organizations that spend a considerable or principal amount of their time and resources on ballot issue advocacy. Finally, we note that by using the phrase "a major purpose," voters recognized that organizations could have more than one major purpose. *Cerbo*, 240 P.3d at 501 ("[B]y using the indefinite article 'a,' the phrase 'a major purpose' brings within its ambit organizations for which promoting a ballot issue is but one major purpose.").

¶30 Because the phrase "major purpose" has its origins in United States Supreme Court case law, we turn next to that history.

2. The Origins of the Major Purpose Test and Its Understanding in 2002

¶31 The Supreme Court first invoked what has come to be called the major purpose test in *Buckley v. Valeo*, 424 U.S. 1 (1976). *Buckley* concerned various challenges to the constitutionality of the Federal Election Campaign Act of 1971 ("FECA"), one of which claimed that FECA's definition of "political committee" was unconstitutionally vague. *Id.* at 7-8, 76-80. FECA defined "political committee" as a group of people that spent over one thousand dollars in a calendar year for the purpose of influencing the nomination or election of a candidate. *Id.* at 62-63. The Court held that this definition of "political committee" was not

unconstitutionally vague in part because it “only encompass[ed] organizations that are under the control of a candidate or *the major purpose* of which is the nomination or election of a candidate.” *Id.* at 79 (emphasis added). Because the Court tied the definition of “political committee” to the organization’s “major purpose,” federal courts started using the major purpose definition as a test for whether an organization qualified as a political committee. *See, e.g., Fed. Election Comm’n v. Machinists Non-Partisan Pol. League*, 655 F.2d 380, 392 (D.C. Cir. 1981); *Fed. Election Comm’n v. Fla. for Kennedy Comm.*, 681 F.2d 1281, 1287 (11th Cir. 1982).

¶32 The Supreme Court applied the major purpose requirement ten years later in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“MCFL”). MCFL concerned a constitutional challenge to a different provision of FECA that prohibited corporations from using treasury funds to make expenditures “in connection with” a federal election and required that any such expenditures be financed by voluntary contributions to a separate segregated fund. *Id.* at 241. FECA then regulated these separate segregated funds as political committees. *Id.* at 253. For a nonprofit corporation like MCFL that engaged in issue advocacy, this meant that its independent expenditure activity could be regulated as though MCFL’s major purpose was to further the election of candidates.

¶33 The Court ultimately held the provision at issue unconstitutional as applied to MCFL. *Id.* at 254–64. It began by summarizing the circumstances of MCFL’s creation and its activities as an organization – noting when the organization was created, quoting the organization’s purpose statement in its articles of incorporation, describing from whom the organization did and did not accept funding, listing the various types of activities the group pursued in the community, and detailing its campaign-related spending. *Id.* at 241–44.

¶34 From all this information, the Court concluded that MCFL was not a political committee (and therefore could not be subjected to the full panoply of regulations that accompany political committee status) because it did not have the major purpose of nominating or supporting a candidate. *Id.* at 241–42, 252 n.6, 262. The Court cautioned, however, that “should MCFL’s independent spending become so extensive that the organization’s *major purpose* may be regarded as campaign activity,” then it would be “classified as a political committee” and subject to FECA’s requirements. *Id.* at 262 (emphasis added).

¶35 In sum, the Court examined the specific facts of MCFL’s creation, spending, and campaign-related activities to reach its conclusion that campaign activity was not MCFL’s major purpose. *Id.* at 241–44, 252 n.6, 262.⁷

⁷ The Federal Election Commission has also interpreted the Court’s case law regarding the major purpose test as requiring a broad, fact-specific analysis. See *The Real Truth About Abortion, Inc. v. Fed. Election Comm’n*, 681 F.3d 544, 556 (4th

¶36 We too encountered the major purpose test in the lead up to the passage of Amendment 27 in 2002. In *Common Sense Alliance v. Davidson*, 995 P.2d 748, 753–57 (Colo. 2000), we interpreted the earlier statutory definition of issue committee in the FCPA (Colorado’s Fair Campaign Practices Act). At that time, the FCPA did not include “a major purpose” in its definition of issue committee but instead defined an issue committee as “[t]wo or more persons who are elected, appointed, or chosen, or have associated themselves, for *the purpose* of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question.” § 1-45-103(8)(a)(I), C.R.S. (2000) (emphasis added). Though an ALJ in *Common Sense Alliance* read the major purpose test from *Buckley* and *MCFL* into the FCPA’s definition, we refused to do so because the plain language of the definition omitted it. *Common Sense All.*, 995 P.2d at 751, 753. We noted that the FCPA’s definition created a “loophole” that “may be troubling” but refused to read the major purpose test into the definition because we were “bound by the [FCPA’s] plain language.” *Id.* at 755.

Cir. 2012) (highlighting that the Federal Election Commission interprets the major purpose test as requiring “the flexibility of a case-by-case analysis of an organization’s conduct that is incompatible with a one-size-fits-all rule” (quoting Political Committee Status, 72 Fed. Reg. 5601 (Feb. 7, 2007))). The United States Court of Appeals for the Tenth Circuit has similarly interpreted article XXVIII, section 2(10)(a) as adopting a version of *Buckley*’s major purpose test. *Colo. Right to Life Comm., Inc.*, 498 F.3d at 1155.

3. Amendment 27's Passage, the Voters' Policy Declaration, the 2002 Blue Book, and the Informational Interest

¶37 It was against this legal backdrop that the voters in 2002 adopted Amendment 27's new definition of issue committee:

"Issue committee" means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; [and]

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

Colo. Const. art. XXVIII, § 2(10)(a) (emphasis added).

¶38 This definition expressly incorporated the same major purpose language from *Buckley* and *MCFL* that we had declined to read into the earlier FCPA definition in *Common Sense Alliance*. And because we assume that voters knew the law at the time, we interpret the definition in section 2(10)(a) as adopting the major purpose test as articulated in *Buckley* and *MCFL*—i.e., as a fact-specific analysis of an organization's spending, creation, and ballot campaign-related activities. Additional evidence of the voters' intent supports this interpretation.

¶39 The declaration that appears at the beginning of Amendment 27 serves as a guide to the voters' intent. See *Weld Cnty. Sch. Dist. RE-12 v. Bymer*, 955 P.2d 550, 555 (Colo. 1998). Specifically, the voters of Colorado declared that

the interests of the public are best served by . . . full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.

Colo. Const. art. XXVIII, § 1. This language reveals that the voters' intent in adopting Amendment 27 was to ensure robust compliance with and enforcement of Colorado's campaign finance law requirements.

¶40 The Blue Book voter guide offers additional insight into the voters' intent. *In re Submission of Interrogatories on House Bill 99-1325*, 979 P.2d at 554. Specifically, the 2002 Blue Book clarifies that the disclosure provisions focused on the importance of providing the electorate with sufficient information about who is spending money to influence elections:

Requiring greater disclosure of who pays for political advertising provides more information about who is spending money to influence elections.

Legis. Council of the Colo. Gen. Assemb., *2002 Ballot Information Booklet: Analysis of Statewide Ballot Issues and Recommendations on Retention of Judges*, at 6 (2002), <https://hermes.cde.state.co.us/islandora/object/co%3A27117> [https://perma.cc/7W4L-BFY7].

¶41 This voter "informational interest," like the major purpose test itself, traces its origins back to *Buckley*, where the Court identified it as the first of three "substantial governmental interests" that can support campaign disclosure requirements. 424 U.S. at 67-68, 81.

¶42 The Court has repeatedly reaffirmed this informational interest as a justification for disclosure requirements in both ballot issue and candidate elections. In *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 792, n.32 (1978), for example, the Court invalidated a Massachusetts statute that prohibited corporate expenditures to influence certain types of ballot issues, but noted the importance of disclosure requirements, observing that “identif[ying] . . .the source of advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected.” And in *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 203 (1999), the Court observed that such disclosures ensure “voters are informed of the source and amount of money spent by proponents to get a measure on the ballot.” *Id.* at 202–03 (upholding Colorado’s law requiring a ballot issue’s proponents to disclose the amount spent on collecting signatures). The electorate’s informational interest appeared again in *Citizens United v. Federal Election Commission*, 558 U.S. 310, 369 (2010), where the Court upheld disclosure requirements in political advertisements and explained that such disclosures were justified because “the public has an interest in knowing who is speaking about a candidate shortly before an election.”

¶43 The information provided through disclosure requirements can be particularly valuable for voters assessing ballot propositions because they often

concern “divisive and controversial public issues” such as taxation, business regulation, and hot-button political and social issues. *Common Sense All.*, 995 P.2d at 756. Given the stakes, voters often face a deluge of sophisticated special interest groups trying to influence their vote on proposed legislation. It is important to remember that when Colorado voters exercise the power of initiative, they are quite literally acting as legislators because the power of the initiative derives from the legislative power the people have reserved to themselves under the constitution. Colo. Const. art. V, § 1(1) (“The legislative power of the state shall be vested in the general assembly . . . but the people reserve to themselves the power to propose laws and amendments to the constitution”); see also *Vagneur v. City of Aspen*, 2013 CO 13, ¶¶ 36–37, 295 P.3d 493, 504 (explaining that voters are exercising a part of the same legislative power as the General Assembly when they exercise the initiative power).

¶44 Given this dynamic, the disclosure of information regarding who is spending money to influence the decisions of Colorado’s electorate is directly analogous to legislators understanding who is funding the lobbyists trying to influence their vote. See *Citizens United*, 558 U.S. at 369 (noting that the Court has upheld disclosure requirements for lobbyists because “Congress ‘has merely provided for a modicum of information from those who for hire attempt to influence legislation’” (quoting *United States v. Harriss*, 347 U.S. 612, 625 (1954)));

Nat'l Ass'n of Mfrs. v. Taylor, 582 F.3d 1, 6 (D.C. Cir. 2009) (“More than fifty years ago, the Supreme Court held that the public disclosure of ‘who is being hired, who is putting up the money, and how much’ they are spending to influence legislation is ‘a vital national interest.’” (quoting *Harriss*, 347 U.S. at 625–26)). Without this information, “the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal.” *Harriss*, 347 U.S. at 625. The purpose of disclosure requirements is to bring this essential information to light. *Citizens United*, 558 U.S. at 371 (“[T]ransparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”).

4. The Major Purpose Test Requires Analyzing an Organization’s Creation, Spending, and Ballot Campaign-Related Activities

¶45 Colorado voters adopted a definition of “issue committee” against a backdrop of case law that applied a fact-specific analysis. They prefaced it with a declaration insisting on full and timely disclosures and strong enforcement of campaign finance laws. And the Blue Book indicates that voters wanted to ensure access to full and accurate information about who is trying to influence their vote. For these reasons, we conclude that analyzing whether an organization has a “major purpose” of ballot issue advocacy requires a holistic, case-by-case assessment of an organization’s creation, spending, and ballot campaign-related

activities to determine whether it spent a considerable or principal amount of its time and resources engaging in ballot issue advocacy.

¶46 We adopt a case-by-case analysis also to avoid interpretations that allow for easy evasion of the constitution’s requirements. We have long considered it an obligation to “construe the constitution in such a manner as will prevent . . . evasion of its legitimate operation.” *Colo. Common Cause v. Bledsoe*, 810 P.2d 201, 207 (Colo. 1991) (citing *Inst. for the Edu. of the Mute & Blind v. Henderson*, 31 P. 714, 716 (Colo. 1892)). And campaign finance regulation is an area rife with sophisticated evasion. See Chisun Lee, et al., *Secret Spending in the States*, Brennan Ctr. for Just., at 6–9, 14–18 (2016), https://www.brennancenter.org/media/210/download/Report_Secret_Spending_in_the_States.pdf?inline=1 [https://perma.cc/DC3H-MYC8] (explaining the precipitous rise of undisclosed campaign finance spending on ballot measure elections, even in states—such as Colorado—with laws intended to require disclosure); see also *McConnell v. Fed. Election Comm’n*, 540 U.S. 93, 176 (2003) (“Experience under the current law demonstrates that Congress’ concerns about circumvention are not merely hypothetical.”).

¶47 Accordingly, we agree with and adopt the factors identified by the division below as guidelines in determining whether an organization has a major purpose

of ballot issue advocacy, while cautioning that no single factor is necessarily dispositive, nor is the list exclusive:

- (1) the organization's specifically identified objectives, as expressed in its organizational documents or in its public statements (such as on its website or in correspondence with potential donors);
- (2) its activities and annual expenditures relative to its ballot-measure-related activities and expenditures;
- (3) the scope of issues addressed in its print and electronic publications relative to its ballot-measure-related communications;
- (4) the length of time of the organization's existence relative to its ballot measure advocacy;
- (5) the organization's structure;
- (6) the interrelatedness of the organization and the ballot measure's proponents or opponents; and
- (7) the various issues with which the organization has been involved.

See Unite, ¶ 38, 551 P.3d at 698.

¶48 Some of these factors can be traced directly to the 2010 legislation. *Id.* (citing § 1-45-103(12)(b), C.R.S. (2020)). And “[w]here possible, courts should adopt a construction of a constitutional provision in keeping with that given by coordinate branches of government.” *In re Great Outdoors Colo. Tr. Fund*, 913 P.2d 533, 538 (Colo. 1996).

¶49 Importantly, all of these factors can also be traced back to the circumstances the Supreme Court considered in *MCFL*. Most are drawn from *Independence Institute*, 209 P.3d at 1139, and *Cerbo*, 240 P.3d at 501-04. Both of those cases, in

turn, relied on Judge Michael’s dissent in *North Carolina Right to Life, Inc.*, 525 F.3d at 328–29 (Michael, J., dissenting). And Judge Michael cited the Court’s analysis in *MCFL* as support for those elements. *Id.*

¶50 Although the Court in *MCFL* did not list these factors explicitly, each factor captures circumstances the Court deemed relevant in that case. The Court discussed (1) the organization’s stated purpose, *MCFL*, 479 U.S. at 241–42; (2) the purposes of *MCFL*’s activities and its annual expenditures, *id.* at 242–43; (3) the scope of issues *MCFL* addressed in its various publications, *id.* at 242–44; (4) the timing of *MCFL*’s election-related advocacy relative to its creation as an organization, *id.* at 241–44; (5) *MCFL*’s organizational structure, *id.* at 241–42, 252–54, 259, 263–64; (6) *MCFL*’s inability to serve as a “conduit[]” for the direct spending of other organizations—i.e., its (lack of) interrelatedness with other organizations, *id.* at 264; and (7) the various issues in which *MCFL* had been involved, *id.* at 241–44.

¶51 In short, the major purpose test is a flexible, fact-specific analysis of an organization’s creation, spending, and ballot campaign-related activities. Because these factors carry the authority of both our legislature and Supreme Court case law, we adopt them as a nonexhaustive list of guidelines for courts to rely on when assessing whether an organization has a major purpose of ballot issue advocacy.

C. The Phrase “Any Ballot Issue or Ballot Question” Permits Aggregation

¶52 The parties also dispute the scope of the phrase “any ballot issue or ballot question” in article XXVIII, section 2(10)(a)(I) of the Colorado Constitution. Unite insists that “any ballot issue or ballot question” means courts must assess an organization’s major purpose on a proposition-by-proposition basis.

¶53 As relevant here, Unite supported or opposed three ballot issues during the 2020 election cycle: Propositions 113, 116, and 117. Unite contends that, to qualify as an issue committee, the court must determine whether it had a major purpose of supporting or opposing each specific proposition. The Secretary of State argues the opposite – that a court may assess whether Unite had a major purpose of ballot issue advocacy by examining the organization’s activities in the aggregate.

¶54 “Any” has an expansive meaning that includes “one or more.” *Any*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/any> [<https://perma.cc/37HA-PXMT>]. Colorado courts have consistently interpreted “any” to mean “all.” See, e.g., *Winslow v. Morgan Cnty. Comm’rs*, 697 P.2d 1141, 1141 (Colo. App. 1985) (relying on *Filmore v. Wells*, 15 P. 343, 345 (Colo. 1887)) (interpreting the word “any” to mean “all” when interpreting zoning requirements in the Colorado code); see also *BP Am. Prod. Co. v. Colo. Dep’t of Revenue*, 2016 CO 23, ¶ 18, 369 P.3d 281, 286 (“When used as an adjective in a statute, the word ‘any’ means ‘all.’” (quoting *Stamp v. Vail Corp.*, 172 P.3d 437, 447

(Colo. 2007)); *Stamp*, 172 P.3d at 447 (construing the phrase “any derivative claim” to mean “all derivative claims”); *Babb v. Wilkie*, 589 U.S. 399, 405 n.2 (2020) (explaining that the word “any” has an expansive meaning). Given our presumption that the voters understood the expansive meaning applied to “any,” we interpret the plain language of the phrase “any ballot issue or ballot question” to permit consideration of an organization’s activities across all ballot issues or ballot questions it supports or opposes.⁸ Colo. Const. art. XXVIII, § 2(10)(a)(I).

¶55 This plain language interpretation of section 2(10)(a)(I) is bolstered by the voter informational interest that underlies the regulation of issue committees. This

⁸ Unite points out that the statutory definition of “issue committee” refers to “a ballot issue or ballot question.” § 1-45-103(12)(b), C.R.S. (2020). It contends that the statute’s use of the indefinite article “a” and the singular terms “issue” and “question” indicate that a major purpose must be assessed with respect to an individual ballot measure. *See* Opening Brief for Petitioner at 44. We disagree. First, the legislature’s use of the article “a” is not necessarily more restrictive than “any.” And in any event, we are bound, first and foremost, by the constitutional language. Here, the voters chose to use the term “any” and thereby implicate our case law interpreting “any” to mean “all.” Colo. Const. art. XXVIII, § 2(10)(a)(I).

Unite further contends that if the voters had intended to allow for aggregation of an organization’s conduct across multiple ballot issues, they would have used “one or more” for the definition of “issue committee” as they did in the definition of “political committee.” *See* Colo. Const. art. XXVIII, § 2(12)(a) (defining “political committee” as supporting or opposing the nomination or election of “one or more candidates” (emphasis added)). Again, we disagree. The voters chose to use the expansive term “any.” The fact that they used another expansive phrase (“one or more”) for political committees does not undermine the established, expansive meaning of “any.”

informational interest is only amplified, not diminished, where a group is seeking to influence the electorate's vote on *more* than one measure in an election cycle.

¶56 Finally, we note that Unite's interpretation that an organization's activities must be evaluated on a proposition-by-proposition basis would lead to absurd results. Under Unite's view, if an organization devotes literally 100% of its resources and activity to ballot issue advocacy but spreads those resources equally across ten separate ballot issues, that organization does not have "a major purpose of supporting or opposing any ballot issue or ballot question" because it has spent only 10% of its resources on each individual proposition. Such a result cannot be squared with the voters' intent in passing Amendment 27.

D. Applying Article XXVIII, Section 2(10)(a) to Unite

¶57 After weighing all of the facts available in the record before us, we conclude that, while it is a close call, Unite did not have a major purpose of ballot issue advocacy during the 2020 election cycle. Of the seven factors listed above, we find four relevant to our analysis here.

¶58 First, we assess Unite's organizational objectives. And although Unite's articles of incorporation do not include a purpose statement, Unite described itself on its website as an "issue advocacy organization" with the goals of "support[ing] policies that increase economic opportunity and greater government transparency" and "oppos[ing] policies that would be harmful to Colorado's

economic wellbeing, and efforts to unnecessarily grow the size and reach of government.” But while Unite calls itself an “issue advocacy organization,” it has also repeatedly disclaimed in its formal correspondence any status as, or intention to be, an issue committee. So, this factor does not weigh strongly in either direction.

¶59 Second, we consider the length of time from Unite’s creation to its ballot issue advocacy. The record indicates that Unite began actively supporting Proposition 116 as early as April 2020, only three months after its creation in January 2020. Given this relatively short period of time between creation and supporting a ballot issue, this factor weighs in favor of a major purpose finding.

¶60 Third, we compare Unite’s overall activities and expenditures to its ballot-initiative-related activities and expenditures. Unite spent approximately \$1.5 million opposing Proposition 113 (8.7% of its total spending); approximately \$965 thousand supporting Proposition 116 (5.6% of its total spending); and approximately \$1.5 million supporting Proposition 117 (9.1% of its total spending). In sum, Unite spent just over \$4 million across three statewide initiatives, and such a high dollar amount demonstrates a significant commitment to ballot issue advocacy. But assessing an organization’s major purpose requires comparing its ballot campaign-related spending with its overall spending. This is essential to determine whether the ballot campaign-related spending constituted a

considerable or principal amount of the organization's overall spending. Here, even considering its spending in the aggregate, Unite devoted only 23.4% of its expenditures during the 2020 election cycle to ballot issue advocacy.

¶61 While we largely align with the division's analysis elsewhere, we disagree with the division's holding that directing less than a quarter of all expenditures to ballot issue advocacy supports a conclusion that an organization has a major purpose of ballot issue advocacy. *Unite*, ¶ 51, 551 P.3d at 701. Spending less than a quarter of all expenditures on ballot issue advocacy does not reflect a major purpose because it does not reflect a considerable or principal amount of an organization's overall spending. For this reason, we hold that Unite's ballot-initiative-related spending, relative to its total annual expenditures, weighs strongly against a major purpose finding.

¶62 Finally, we examine the interrelatedness between Unite and the propositions' other opponents or supporters. The record indicates that Zvonek, Unite's contractor, met with Independence Institute, a policy think tank, in April 2020, where he discussed Unite gathering signatures to qualify Proposition 116 for the ballot. Soon after this meeting, Independence Institute created an issue committee to support Proposition 116.

¶63 Unite also made approximately \$1.5 million worth of in-kind contributions to issue committees in the form of services, specifically, work to print petitions and

gather signatures to get the propositions on the ballot. Because such in-kind contributions in the form of services require a higher degree of coordination than purely monetary contributions, they also demonstrate interrelatedness and weigh in favor of a major purpose finding.

¶64 We emphasize this evidence of interrelatedness because—given the fact-specific nature of the major purpose analysis—slightly different facts with a similar amount of spending could support a major purpose finding. Nevertheless, Unite’s low percentage of overall spending on ballot issue advocacy weighs strongly enough against a major purpose finding that it counterbalances the evidence of interrelatedness.

¶65 We do not apply to Unite the remaining factors (three, five, and seven) because there is insufficient evidence in the record on the facts necessary to assess those factors, namely the scope of Unite’s activities outside of its ballot issue advocacy and whether its organizational structure indicates a major purpose of ballot issue advocacy. Again, the seven factors are a nonexhaustive list of guidelines, and they all may or may not be appropriate in any given case.

¶66 Overall, the totality of the circumstances here leads us to conclude that Unite did not have a major purpose of ballot issue advocacy during the 2020 election cycle.

V. Conclusion

¶67 The voters adopted a major purpose test with broad language and a legal history of fact-specific analysis. They did so to protect their informational interest in knowing who is trying to influence their vote and accompanied the test with a declaration insisting on full and timely disclosures achieved through strong enforcement. For these reasons, we interpret article XXVIII, section 2(10)(a) of the Colorado Constitution to require a fact-specific assessment of an organization's creation, spending, and ballot campaign-related activities. Here, countervailing facts make Unite's status a close call. But ultimately, the facts demonstrate that Unite did not have a major purpose of ballot issue advocacy during the 2020 election cycle. Therefore, it was not an issue committee pursuant to article XXVIII, section 2(10)(a).

¶68 For the foregoing reasons, we reverse the judgment of the court of appeals.