DATE FILED: May 19, 2014 5:01 PM

SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	
Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2013) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiatives 2013-2014 #80 and #81 **Petitioner:** Richard Evans v. **Respondents:** Vicki Armstrong[1] and Bob Hagedorn, and **Title Board:** Suzanne Staiert, Daniel Domenico and Jason Gelender[2]	▲ COURT USE ONLY ▲ Supreme Court Case No. 2014SA106 & 2014SA99

[1] Ms. Armstrong's name should appear as Vickie L. Armstrong.

[2] Although the caption identifies Jason Gelender as a member of the Title Board, Sharon Eubanks served on the Title Board for purposes of Initiatives #80 and #81 as the designee of the Director of the Office of Legislative Legal Services.

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RESPONDENTS' ANSWER BRIEF

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, the undersigned certifies that:

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

It does not exceed 30 pages.

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

It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record, not to an entire document, where the issue was raised and ruled on.

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

/s/ Lino S. Lipinsky de Orlov
Lino S. Lipinsky de Orlov

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

OTHER AUTHORITIES

Proponents, Vickie L. Armstrong and Bob Hagedorn (jointly, "Respondents"), respectfully submit this answer brief in support of the titles, ballot titles, and submission clauses (jointly, the "Titles") that the Title Board set for Proposed Initiative 2013-2014 #80 ("Initiative #80") and for Proposed Initiative 2013-2014 #81 ("Initiative #81") (jointly, the "Proposed Initiatives").

SUMMARY OF THE ARGUMENT

Petitioner has failed to meet his burden of proving that the Title Board erred in adopting the Titles. The Titles adequately describe the new taxes that the Proposed Initiatives would establish, and expressly refer to a "new tax." Colorado law does not require that the Titles reference the rates of those new taxes. The Title Board applied simple arithmetic to determine the percentages of tax revenues that would be allocated to the new K-12 Education Fund (the "Education Fund"). In applying elementary school math, the Title Board neither interpreted nor characterized the Proposed Initiatives.

Further, the Titles do not mislead the voters concerning the amount of tax revenues that would benefit K-12 education and do not contain an improper sequencing of the elements of the Proposed Initiatives. Contrary to Petitioners' assertion, the number of gaming machines that would be authorized under the Proposed Initiatives and the hours of gaming are not central features that must be included in the Titles. Lastly, the Title Board was not required to include in the

Titles a feature not found in the Proposed Initiatives – a requirement for a second vote before the Proposed Initiatives could take effect. For these reasons, this Court should affirm the Title Board's decisions regarding the Titles.

STANDARD OF REVIEW

Respondents incorporate by reference the Standard of Review section of their Opening Brief. *See* Respondents' Opening Brief ("Resps.' Br.") 6-7.

ARGUMENT

I. THE TITLE BOARD APPROPRIATELY EXERCISED ITS DISCRETION IN DESCRIBING THE NEW TAXES THAT THE PROPOSED INITIATIVES WOULD ESTABLISH.

The Titles describe the new taxes that the Proposed Initiatives would establish by stating (1) the total dollar amount of tax revenues that the Proposed Initiatives would generate in the first fiscal year; (2) that the tax is a "new tax"; (3) the percentage of tax revenues that would be allocated to the Education Fund; and (4) that the remaining tax revenues would be allocated to host communities.[3] Petitioner asserts that the Title Board erred by omitting any reference to a "new tax," by not including the rates of the new taxes, and by stating the percentage of taxes allocated to the Education Fund. These arguments are without merit.

[3] The Proposed Initiatives define "host community" as the jurisdiction that issues the permits and approvals necessary for a facility to operate video lottery terminals (for Initiative #80) or to conduct horse racetrack limited gaming (for Initiative #81). *See* Resps.' Br. 4.

A. The Titles Expressly State That The Proposed Initiatives Would Impose a New Tax.

Petitioner inaccurately states that "[t]he [Titles] omit[ ] any reference to imposition of a 'new tax.'" Petitioner's Opening Brief ("Pet.'s Br.") 13. To the contrary, as explained in Respondents' Opening Brief, the Titles fully comply with the Taxpayer's Bill of Rights ("TABOR") by stating: "*Shall state taxes be increased* $[107,600,000 under Initiative #80, and $120,700,000 under Initiative #81] annually in the first full fiscal year, and by such amounts that are raised thereafter, *by imposing a new tax*. . . ?" (Emphases added.) *See* Resps.' Br. 15.[4]

Petitioner's assertion that the Titles "fail to provide any specifics about the revenue generation element of these initiatives[,]" Pet.'s Br. 14, is equally incorrect. The Title for Initiative #80 states that "state taxes [would] be increased $107,600,000 annually in the first full fiscal year" "by imposing a new tax on authorized horse racetracks' and limited gaming establishments' net proceeds from on-site electronic gaming." Similarly, the Title for Initiative #81 states that "state taxes [would] be increased $120,700,000 annually in the first full fiscal year" "by imposing a new tax on authorized horse racetracks' adjusted gross proceeds from

[4] Petitioner concedes that "TABOR does not mandate use of the words 'new tax[,]'" Pet.'s Br. 14, but argues that those words should nevertheless be required as a matter of policy. The issue is academic, however, because *the Titles do include the words "new tax."*

limited gaming." Beyond fully complying with TABOR, this language provides ample information regarding the revenue the Proposed Initiatives would generate.

B. The Title Board Properly Exercised Its Discretion to Exclude the Tax Rates That the Proposed Initiatives Would Impose on the Authorized Facilities.

Petitioner effectively concedes his argument that the Titles were required to include the actual tax rates to be imposed. Petitioner acknowledges what Respondents stated in their Opening Brief, namely that "TABOR does not mandate . . . the tax rate imposed in a ballot title." Pet.'s Br. 14. That should be the end of the issue.

However, Petitioner presents a policy argument that "in the post-TABOR world," the tax rates imposed are inevitably "central features" of initiatives. *Id.* That, however, is not what the voters of Colorado concluded when they adopted TABOR, which expressly required initiatives covered by that amendment to state only the amount of the tax increase. Colo. Const. art. X, § 20(3)(c). By specifically requiring inclusion of the tax *amount*, TABOR must be read as *not* requiring inclusion of the separate tax *rate*. *See Beeghly v. Mack*, 20 P.3d 610, 613 (Colo. 2001) ("Under the rule of interpretation *expressio unius est exclusio alterius*, the inclusion of certain terms implies the exclusion of others.") (citation omitted). Indeed, Petitioner does not cite a single case in which this Court required that a title for a pre- or post-TABOR tax initiative include the new or increased tax

rate. In short, Petitioner argues for a radical – and unwarranted – departure from both TABOR and the Court's precedent.

C. The Titles' References to the Percentages of Taxes Allocated to the Education Fund Are Accurate and Are Not a Political Characterization.

The Titles accurately state that 95% (in Initiative #80) and 94% (in Initiative #81) of the tax revenues that the Proposed Initiatives would generate would be allocated to the Education Fund. Petitioner argues that the Title Board's use of these percentages "tilted" toward a "political characterization" and improperly interpreted how the Proposed Initiatives would be applied. Pet.'s Br. 9-10. The Court should reject both arguments.

As explained in Respondents' Opening Brief, the approximate figures of 94% and 95% reflect simple arithmetic calculations of the percentage of tax revenues that would be allocated to the Education Fund, based on the text of the Proposed Initiatives. *See* Resps.' Br. 11; *see also* Title Bd.'s Opening Br. 13-14. Initiative #80 would require each authorized location to pay a 37% tax on its net video lottery terminal profits for the benefit of the Education Fund and another 2% tax for distribution to the host community, for a total tax of 39%. Initiative #80 at §17(8)(a). The percentage of the total tax revenues to be allocated to the Education Fund (*i.e.*, 37% divided by 39%) would be 94.87% – or approximately 95%.

Thus, the Title's statement that Initiative #80 would allocate approximately 95% of resulting tax revenues to the Education Fund is accurate and not misleading.

Similarly, Initiative #81 would require each authorized horse racetrack to pay a 34% tax on its adjusted gross proceeds from horse racetrack limited gaming for the benefit of the Education Fund, and another 2% tax for distribution to the host community, for a total tax of 36%. Initiative #81 at §17(5)(b). The percentage of the total tax revenues to be allocated to the Education Fund (*i.e.*, 34% divided by 36%) would be 94.44%, or approximately 94%. Therefore, the Title's statement that Initiative #81 would allocate approximately 94% of resulting tax revenues to the Education Fund is neither inaccurate nor misleading.

Nor did the Title Board improperly go beyond the text of the Proposed Initiatives to "suggest[ ] effects and applications rather than summarize the measure's text." Pet.'s Br. 9. Rather, by applying straightforward arithmetic to information in the text of the Proposed Initiatives, the Title Board *did* "summarize the measure's text." Petitioner's cited cases, which addressed the undisputed point that neither this Court nor the Title Board may interpret the effect of a proposed initiative, have no bearing on the Title Board's permissible application of simple math to figures in the Proposed Initiatives. Arithmetic calculations do not amount to an impermissible "prediction of doubtful future effects" or a "political characterization." *See Garcia v. Montero (In re Title, Ballot Title & Submission*

Clause for Proposed Initiatives 2001-2002 #21 & #22) ("English Language Educ."), 44 P.3d 213, 221 (Colo. 2002); *see also* Resps.' Br. 8-11.

II. THE TITLES WILL NOT MISLEAD VOTERS REGARDING THE AMOUNT OF TAX REVENUES THAT WOULD BENEFIT K-12 EDUCATION.

Petitioner asserts that "[a] voter who glances [at] but [who] does not study the language [of the Titles] would assume that 94% or 95% of more than $100,000,000 would be dedicated to K-12 education." Pet.'s Br. 11. This statement applies an incorrect standard for setting and reviewing titles. As Petitioner acknowledges, a title must inform the voter of the central features of a measure when the title is "read and understood," Pet.'s Br. 8 (quoting *Garcia*, 44 P.3d at 217) (internal quotation marks omitted), not when the voter merely "glances" at or "quickly scans" a ballot title. *Id.* 11. No law supports Petitioner's assumption that voters do not read titles, but, instead, irrationally and arbitrarily combine words and phrases from different sections of a title to concoct absurd interpretations.[5]

[5] According to Petitioner, the three things that "stick out" in the Titles are the dollar figures, the percentage figures, and "K-12 Education." Pet.'s Br. 10-11. Petitioner argues that voters will jumble the numbers together in processing how much money would go into the Education Fund. Under this logic, including the tax rates imposed instead of the percentage allocations – which Petitioner advocates –would have been equally misleading because voters would have incorrectly assumed that only 37% (for Initiative #80) or 34% (for Initiative #81) of the total dollar amount of new tax revenues would go to the Education Fund.

Under any fair reading of the Titles, voters could not be misled concerning the amount of tax revenues that would benefit K-12 education under the Proposed Initiatives. The Titles accurately explain how the new taxes would be allocated between the Education Fund and the host communities, how the moneys in the Education Fund would be used, and that some of the tax revenues paid to the Education Fund would defray the state's administrative expenses associated with implementation of the Proposed Initiatives. *See* Resps.' Br. 12-13.[6]

[6] Even if, despite the Titles' unambiguous language to the contrary, a voter could somehow conclude that approximately 94% or 95% of the total tax revenues would go to K-12 education, Petitioner has not demonstrated that such an assumption would be inaccurate. Under the Proposed Initiatives, the sole tax revenues not allocated to K-12 education would be used to pay the state's expenses incurred in administering the Proposed Initiatives. Initiative #80 § 17(9)(b); Initiative #81 § 17(6)(b). These costs would not be significant compared with the more than $100,000,000 that would fund K-12 education each year.

Moreover, Petitioner overstates the potential administrative costs by citing to inapplicable and misleading figures concerning the administration of current limited gaming. Pet.'s Br. 11 n.1. The fact sheet that Petitioner cites reflects the expense of regulating about *forty casinos*. Colo. Div. of Gaming, *2012 Fact Book & Abstract* at 14, *cited in* Pet.'s Br. 11 n.1. The fiscal impact of the Proposed Initiatives is premised on the estimate of the State's Principal Economist that, in the full fiscal year, only *one* facility would conduct the new gaming authorized under the Proposed Initiatives. *See* Exs. 1-2 to Resps.' Br. Petitioner did not provide a relevant, per-casino figure for state administrative expenses. However, it is obvious that a single facility would require the state to expend a small fraction of the administrative costs suggested by Petitioner.

III. THE SEQUENCE OF THE REFERENCES IN THE TITLES FOLLOWS APPLICABLE LAW AND IS NOT CONFUSING.

The Title Board appropriately exercised its discretion in determining the sequence of the elements set forth in the Titles, in accordance with the cases decided since the single-subject rule took effect, and with TABOR. In *Garcia*, this Court directed the Title Board to "begin the titles with a clear, general summary of the initiative, followed by a brief description of major elements of the initiative." *Garcia*, 44 P.3d at 222. At the same time, TABOR requires the Titles to begin with specific language that asks whether taxes should be increased. Colo. Const. art. X, § 20(3)(c). Melding these separate requirements, the Title Board appropriately set titles for the Proposed Initiatives that begin by asking whether taxes should be increased by imposing a new tax on facilities either operating video lottery terminals (Proposed Initiative #80) or conducting horse racetrack limited gaming (Proposed Initiative #81), in part to increase funding for K-12 education. Because the single subject of the Proposed Initiatives is expressed in this summary, voters cannot be misled.

After the introductory text, the Titles briefly describe the major elements of the Proposed Initiatives. The Titles (1) identify authorized locations, and (2) explain the allocation of generated tax revenues – specifically, that a particular approximate percentage would be allocated to a fund to pay the state's administrative expenses and to fund K-12 education, with the remainder allocated

to host communities. This additional language is in plain view, and is not strategically buried in the Titles.

The Titles' references to tax revenues and to K-12 education, in both the introductory text and the description of the Proposed Initiatives' major elements, is not problematic. Some redundancy in Titles is acceptable. *See In re Title, Ballot Title & Submission Clause, & Summ. Pertaining to the Proposed Initiative Designated "Governmental Business,"* 875 P.2d 871, 875 (Colo. 1994). Equally important, Petitioner inaccurately states that the Title Board "sandwiched language about gambling expansion between more politically attractive references to K-12 education funding." In fact, the Titles refer to taxes and gaming before each reference to K-12 education, so there is no risk that voters will be misled. Moreover, as explained in Respondents' Opening Brief, "funding for K-12 education" (the language used in the Titles) is neither a catch phrase nor a political slogan. *See* Resps.' Br. 8-11.

Petitioner's reliance on the 1994 *City of Antonito* decision is misplaced. That case predated Colorado's 1995 adoption of the "single-subject" rule for initiatives. *See* Colo. Const. art. V § 1(5.5); C.R.S. § 1-40-106.5 (2013). *City of Antonito* discussed the proper sequence of issues in a ballot title in the context of a proposed initiative containing multiple independent subjects: (1) authorizing limited gaming in Antonito, and (2) effecting significant changes to authorized

limited gaming statewide. The sequence of the description of these two subjects – sandwiching the second subject between language describing the first subject – was misleading because voters could believe that the proposed initiative addressed solely limited gaming in Antonito, and not a broader change in the law governing limited gaming. *See In re Title, Ballot Title, & Submission Clause Concerning Ltd. Gaming in the City of Antonito*, 873 P.2d 733, 742 (Colo. 1994).

Here, by contrast, each Proposed Initiative addresses only one subject, as the Title Board found and as Petitioner implicitly concedes – he made no multiple subject argument. That single subject is clearly stated at the beginning of each Title. Even if *City of Antonito* were applicable to a title describing a single subject, however, the case acknowledges that "the subject matters of a title can be arranged in any order, even randomly," so long as the Title Board does not select a misleading arrangement. *Id.* As explained above, the Title Board properly sequenced the elements of the Titles, which clearly and accurately explain that each Proposed Initiative would increase taxes through a new tax imposed on facilities authorized to offer video lottery and limited gaming (jointly, "New Gaming"), for the purpose of generating funds for K-12 education.

IV. THE AUTHORIZED NUMBER OF GAMING MACHINES IS NOT A CENTRAL FEATURE OF THE PROPOSED INITIATIVES.

Respondents' Opening Brief explains why the Title Board acted well within its discretion by not including in the Titles implementation details related to the

number of gaming machines authorized under the Proposed Initiatives. The central features of the Proposed Initiatives are the imposition of a new tax, the creation of a new Education Fund, and the authorization of New Gaming to generate revenues for that fund. The number of gaming machines permitted is not a central feature and need not be described in the Titles. *See* Resps.' Br. 17-19.

Emphasizing that Central City has fewer than 2,500 gaming machines, Petitioner claims that the number of machines authorized under the Proposed Initiatives "would make any one of these [New Gaming] racetrack casinos the largest in the state." Pet.'s Br. 15. Petitioner fails to mention that the tiny community of Black Hawk boasted 8,527 machines in 2012, and more than 10,000 machines in 2007. Colo. Div. of Gaming, *2012 Fact Book & Abstract* at 15. These numbers confirm there is nothing unusual – warranting mention in a title – about permitting 2,500 gaming machines at a single location in each of the entire counties of Arapahoe, Mesa, and Pueblo. Rather, the magnitude or scope of the Proposed Initiatives is in line with voters' reasonable expectations for the expansion of legalized gaming, and the Title Board correctly omitted this detail from the Titles.

There is also no basis for Petitioner's speculation regarding the potential growth of the facilities that would be authorized to offer New Gaming. Pet.'s Br. 15-16. At the outset, there are no grounds for Petitioner's fear of as many as 4,500

gaming machines, *id.*, and, in any event, neither the Title Board nor this Court may "interpret the effects of a proposed initiative." *In re Title, Ballot Title and Submission Clause, & Summ. Pertaining to the Proposed Initiative on School Pilot Program*, 874 P.2d 1066, 1072 (Colo. 1994). Moreover, even 4,500 machines in the entire counties of Arapahoe, Mesa, and Pueblo would be roughly half the number of slot machines in the single small community of Black Hawk during the 2007-2012 time period.

Petitioner's speculation grows wilder as he ominously alludes to "what that growth would mean to neighboring communities in the counties where the racetrack casinos will be located." Pet.'s Br. 16. Again, this sort of fear-mongering has no lawful place in the title-setting process. Both the Title Board and the Court are forbidden from considering these potential impacts, even if the record established them – which it did not. *See School Pilot Program*, 874 P.2d at 1072.

The Title Board properly decided not to include in the Titles the number of authorized gaming machines because it is not a central feature of the Proposed Initiatives. In addition, that number is consistent with voters' expectations, based

on the volume of gaming machines in the mountain communities currently authorized to conduct limited gaming.[7]

V. THE PERMITTED HOURS FOR NEW GAMING ARE NOT A CENTRAL FEATURE OF THE PROPOSED INITIATIVES.

For the reasons explained in Respondents' Opening Brief, the Title Board properly exercised its discretion to exclude from the Titles a reference to the permissible hours for New Gaming. Resps.' Br. 19-20. As Petitioner concedes, only "significant element[s] of a ballot measure" should appear in a title. Pet.'s Br. 17 (citing *Outcelt v. Schuck (In re Title, Ballot Title & Submission Clause, & Summ. for 1997-98 #62)*, 961 P.2d 1077, 1082 (Colo. 1998)). The hours of operation are an implementation detail, and not a significant feature of the Proposed Initiatives. This level of detail is not required to ensure that the Titles do not mislead the votes.

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[7] In its amicus brief, Black Hawk echoes Petitioner's position regarding the number of gaming machines that the Proposed Initiatives would permit at each authorized location. *See* Br. of the City of Black Hawk, Colo., as Amicus Curiae in Support of the Pet. 9-11. Black Hawk also parrots Petitioner's arguments regarding the authorized hours of limited gaming, *id.* 6-9, and whether the Titles should refer to a local vote requirement nowhere found in the Proposed Initiatives, *id.* 3-6. The only difference between Black Hawk's arguments and those of Petitioner, however, is that Black Hawk challenges the merits of the Proposed Initiatives. Of course, this Court will not consider the merits in an appeal from a title-setting. *In re Title, Ballot Title, Submission Clause, & Summ., Adopted Aug. 26, 1991, Pertaining to the Proposed Initiative on Educ. Tax Refund*, 823 P.2d 1353, 1355 (Colo. 1991).

Yet again, Petitioner engages in unsupported and improper speculation about the impact of expanded gaming hours on the three counties in which New Gaming would be authorized over time. *Id.* 17-18. And yet again, there is no record support for Petitioner's dire predictions. Petitioner offered, and the Title Board considered, no evidence concerning the impacts of New Gaming.[8]

VI. THE TITLE BOARD PROPERLY EXCLUDED FROM THE TITLES ANY REFERENCE TO A LOCAL VOTE.

The Title Board properly excluded from the Titles any reference to a local vote requirement for the basic reason that the Proposed Initiatives do not include a local vote mandate. *See* Resps.' Br. 21. Attempting to circumvent the rule that a title may not include information not addressed in the proposed initiative, Petitioner tries to analogize the Proposed Initiatives and the Titles to those in the *Obscenity* case. Pet.'s Br. 19; *see generally In re Title, Ballot Title, Submission Clause, & Summ. by Title Bd. Pertaining to a Proposed Initiative on "Obscenity,"* 877 P.2d 848 (Colo. 1994). However, the *Obscenity* case is critically dissimilar for two reasons. First, in the *Obscenity* case, the Court invalidated a title that failed to

[8] The affidavit submitted with Black Hawk's belatedly filed amicus brief cannot cure that absence of evidence because (a) Black Hawk would not have been authorized to participate before the Title Board, (b) its City Manager (the affiant) could have participated before the Title Board, but did not, and (c) a party may not submit new evidence with an amicus brief, much less one submitted in an appeal to this Court from administrative orders entered after hearing and rehearing. *See* Title Bd. & Resps.' Joint Opp'n to City of Black Hawk's Mot. to Participate as Amicus Curiae 3 ¶ 2 - 8 ¶ 9.

"fairly and accurately reflect the true intent and meaning of the [i]nitiative," an express statutory requirement. *See* C.R.S. § 1-40-106(3)(b) (2013); *Obscenity*, 877 P.2d at 849-50. The title would have given voters the misimpression that the proposed initiative would have expanded "the right of free expression in Colorado. *Id.* at 851. Even the proponents conceded that their proposed initiative had the opposite intent, *i.e.*, "to prevent the Colorado courts from construing the Colorado Constitution as more protective of free expression than the First Amendment in the area of obscenity." *Id.* at 850. Yet the Title Board had rejected the objectors' unopposed request to disclose in the title the proponents' admitted intent. *Id.* Here, Petitioner does not suggest that the Titles do not express the true intent of the Proposed Initiatives. Therefore, the *Obscenity* case is irrelevant.

Second, in the *Obscenity* case, the proposed initiative's intent of restricting First Amendment protection of allegedly obscene materials was a central feature that all parties admitted the proposed initiative would accomplish. Here, a local vote is not a feature of the Proposed Initiatives at all. *Id.* While the Title Board has the discretion to include in titles those features of the initiative it deems to be central, it is not required to describe everything a proposed initiative does *not* accomplish.

Petitioner argues that, because a local vote is a prerequisite to the expansion of existing limited gaming, the Titles must inform voters that the Proposed

Initiatives would not require a local vote – or else the "voters would not appreciate this legal nicety." Pet.'s Br. 19. But the record does not disclose whether voters even know that the expansion of existing limited gaming requires a local vote. Even if they did, there is no basis for *Petitioner's* assumption about *voters'* assumption that an initiative amending the Constitution to create an entirely new section and new form of authorized gaming would repeat the requirements of a distinct constitutional provision.

Petitioner challenges the title for Initiative #80 as more deceptive than that of Initiative #81 because it would authorize video lottery terminals in existing limited gaming establishments. Initiative #80, § 17(d)(2). But it is beyond dispute that different requirements apply to different types of gaming. If the voters approve horse racetrack limited gaming under Initiative #80, the track would have to follow different requirements for pari-mutuel wagering and for limited gaming. Similarly, under Initiative #80, mountain casinos choosing to operate video lottery terminals would be subject to different tax schemes and regulations.

Finally, Petitioner reprises his claim that voters would not appreciate the fact that Initiative #80 requires no local vote to approve twenty four-hour gaming. Pet.'s Br. 21. However, as described above, the permissible hours for gaming is not a central feature of the Proposed Initiatives. And the manner in which those

hours can be expanded is an even more tangential implementation detail that the Title Board appropriately kept out of the Titles. *See supra* p. 14.

CONCLUSION

It is true that the Titles do not "spell out every detail" or "describe every nuance and feature" of the Proposed Initiatives – but they are not required to do so. *Percy v. Fielder* (*In re Title, Ballot Title & Submission Clause, & Summ. for 1999-00 #256)*, 12 P.3d 246, 256 (Colo. 2000). It is true that the Titles do not "include[ ] more information than is contained in the initiative[s]" – but they are not permitted to do so. *Educ. Tax Refund*, 823 P.2d at 1357. And it is true that the Titles do not describe "future effects" of the Proposed Initiatives – but they may not do that either. *Garcia*, 44 P.3d at 221. The Titles fully satisfy the constitutional and statutory requirements of "a brief statement accurately reflecting the central features of the proposed measure." *Feazel v. Martinez* (*In re Title, Ballot Title & Submission Clause, & Summ. Adopted Nov. 1, 1995, by the Title Board Pertaining to Proposed Initiative on "Trespass-Streams with Flowing-Water*"), 910 P.2d 21, 24 (Colo. 1996). This Court should reject Petitioner's arguments and affirm the Titles.

Respectfully submitted this 19th day of May, 2014.

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CERTIFICATE OF SERVICE

I hereby affirm that, on their 19th day of May, 2014, a true and accurate copy of the **RESPONDENTS' ANSWER BRIEF** was sent via UPS overnight delivery service to the Respondents and their counsel and to counsel for the Title Board, and by Integrated Colorado Courts E-filing System (ICCES) to counsel of record, at:

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