

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203</p>	
<p>Original Proceeding Pursuant to C.R.S. § 1-40-107(2) (2013) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2013-2014 #139</p> <p><b>Petitioners:</b> Vickie L. Armstrong and Bob Hagedorn, v.</p> <p><b>Respondents:</b> Richard Evans and Stephen Roark, and</p> <p><b>Title Board:</b> Suzanne Staiert, David Blake, and Jason Gelender</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No. _____</p>
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**PETITION FOR REVIEW OF FINAL ACTION OF  
BALLOT TITLE SETTING BOARD CONCERNING  
PROPOSED INITIATIVE 2013-2014 #139  
("LOCAL VOTER APPROVAL FOR GAMBLING")**

Petitioners, Vickie L. Armstrong and Bob Hagedorn (jointly, “Petitioners”), registered electors of the State of Colorado, respectfully petition this Court pursuant to C.R.S. § 1-40-107(2) (2013), to review the action of the Title Board with respect to the title, ballot title, and submission clause (the “Title”) set for Initiative 2013-2014 #139 (“Local Voter Approval for Gambling”).

### **STATEMENT OF THE CASE**

#### **A. Procedural History of Proposed Initiative #139**

Richard Evans and Stephen Roark (jointly, “Proponents”) filed Initiative 2013-2014 #139 (the “Proposed Initiative”) with the Directors of the Legislative Council and the Office of Legislative Legal Services on March 21, 2014. The legislative staff provided Proponents with its review and comment memorandum for the Proposed Initiative on April 2, 2014, and conducted the associated review and comment meeting on April 4, 2014.

Proponents filed an amended version of the Proposed Initiative with the Secretary of State’s office on April 4, 2014. At a hearing conducted on April 17, 2014, the Title Board found that the Proposed Initiative contained a single subject and set the Title.

On April 23, 2014, Petitioners filed a motion for rehearing (the “Motion”) regarding the Title. In the Motion, Petitioners explained that the Proposed Initiative (a) improperly addresses multiple subjects, in violation of article V,

section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 (2013), and (b) is misleading, does not fairly and correctly express the true meaning of the Proposed Initiative, and will lead to voter confusion, in violation of C.R.S. §§ 1-40-106 and 1-40-107 (2013). The Title Board denied the Motion on April 24, 2014.

**B. Jurisdiction**

Petitioners are entitled to a review of the Title before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2) (2013). Petitioners timely filed the Motion with the Title Board. *See* C.R.S. § 1-40-107(1) (2013). Additionally, Petitioners timely filed this Petition for Review within seven days from the date on which the Secretary of State furnished Petitioners with certified copies of the Proposed Initiative, the Title, the Motion, and the Title Board’s ruling on the Motion. *See* C.R.S. § 1-40-107(2) (2013).

As required by C.R.S. § 1-40-107(2) (2013), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the Proposed Initiative; (2) the original Title; (3) the Motion; and (4) the ruling on the Motion as reflected by the title and ballot title and submission clause that the Board set. Petitioners respectfully submit that the Title Board erred in denying the Motion.

## ADVISORY STATEMENT OF GROUNDS FOR APPEAL

The Title Board erred in finding that the Proposed Initiative concerns a single subject, pursuant to article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 (2013). In addition, in violation of C.R.S. §§ 1-40-106 and 1-40-107 (2013), the Title is misleading, does not fairly and correctly express the true meaning of the Proposed Initiative, and will lead to voter confusion.

The following is an advisory list of issues that Petitioners expect to address in their brief:

1. The Proposed Initiative relates to the following multiple subjects, among others:

(a) Providing that statewide elections to legalize or to authorize “gambling” cannot take effect unless, within thirteen months following the effective date of the statewide vote, the voters of “a county or counties’ host community, named in the statewide ballot measure,” also vote to approve that type of “gambling” in the named host community;

(b) Potentially nullifying Initiatives 2013-2014 #80, #81, #134, and #135;

(c) Expanding counties’ authority to submit measures to their voters;

(d) Granting counties a dramatically expanded power of initiative they do not currently possess;

(e) Stripping powers from home rule cities by allowing counties for the first time to override home rule cities' decisions relating to "gambling";

(f) Effecting a fundamental change in the relationship between home rule cities and their counties;

(g) Reducing the authority of the executive branch;

(h) Overriding the existing constitutional requirement that measures initiated by or referred to the people take effect within thirty days after the vote has been canvassed; and

(i) To the extent the Proposed Initiative requires county votes, potentially prohibiting the expansion of "gambling," including limited gaming under the Colorado Constitution, article XVIII, section 9, beyond the three mountain towns already approved for limited gaming, because, under existing law, counties could not conduct votes within thirteen months after the effective date of the statewide vote.

2. In addition, the Title does not fairly express the true meaning and intent of the Proposed Initiative, and, therefore, violates C.R.S. §§ 1-40-106 and 1-40-107 (2013), for the reasons set forth below:

(a) The Title does not disclose the multiple subjects of the Proposed Initiative set forth in Paragraph 1 above;

(b) The use of the phrase “local vote” is misleading because the Proposed Initiative provides that “a county or counties’ host community,” and not necessarily a “local” community, would conduct the vote; and

(c) “Local vote” and “gambling” are impermissible catch phrases or slogans.

### **PRAYER FOR RELIEF**

Petitioners respectfully request that this Court determine (a) that no title for the Proposed Initiative may be set because (i) the Proposed Initiative improperly addresses multiple subjects, in violation of article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 (2013), and (ii) the reference to “a county or counties’ host community” in the text of the Proposed Initiative is so incomprehensible that no clear title can be set for the Pending Initiative, or (b) alternatively, that the Title is neither fair nor accurate, and remand the Proposed Initiative to the Title Board with instructions to redraft the Title to represent the text of the Proposed Initiative accurately and fairly.

Respectfully submitted this 1st day of May, 2014.

MCKENNA LONG & ALDRIDGE  
LLP

*/s/ Lino S. Lipinsky de Orlov*

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WILLIAM A. HOBBS

*/s/ William A. Hobbs*

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CO-COUNSEL FOR PETITIONERS,  
VICKIE L. ARMSTRONG AND  
BOB HAGEDORN



**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2013-2014 #139 (“LOCAL VOTER APPROVAL FOR GAMBLING”)** was sent this 1st day of May, 2014, via first class U.S. mail, postage prepaid, to the proponents of the Proposed Initiative and their counsel of record at:

Mr. Richard Evans  
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Maurice Knaizer, Esq.  
Office of the Attorney General  
1300 Broadway, 6<sup>th</sup> Floor  
Denver, CO 80203

/s/ Lisa F. King

\_\_\_\_\_  
Lisa F. King

SUPREME COURT, STATE OF COLORADO  
2 East 14th Avenue  
Denver, CO 80203

Original Proceeding Pursuant to C.R.S. § 1-40-107(2) (2013)  
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative 2013-  
2014 #139

**Petitioners:**

Vickie L. Armstrong and Bob Hagedorn,  
v.

**Respondents:**

Richard Evans and Stephen Roark, and

**Title Board:**

Suzanne Staiert, David Blake, and Jason Gelender

▲ COURT USE ONLY ▲

Case No. \_\_\_\_\_

**EXHIBIT A  
TO  
PETITION FOR REVIEW OF FINAL ACTION OF  
BALLOT TITLE SETTING BOARD CONCERNING  
PROPOSED INITIATIVE 2013-2014 #139  
("LOCAL VOTER APPROVAL FOR GAMBLING")**



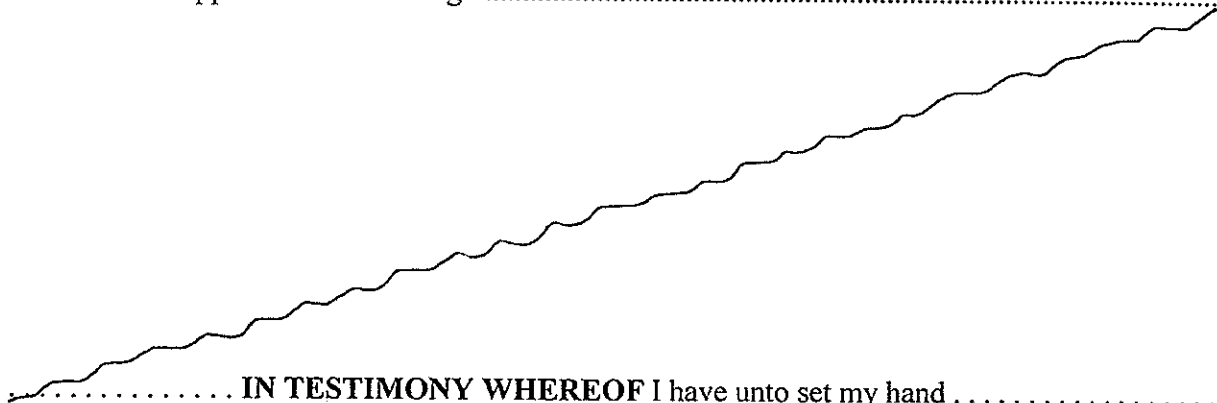
# STATE OF COLORADO

DEPARTMENT OF  
STATE

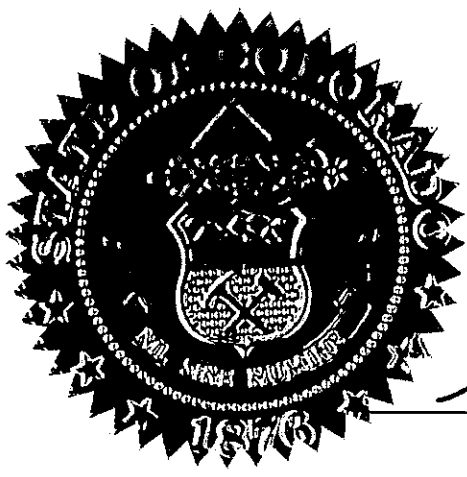
## CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the original text, amended text, final text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2013-2014 #139 'Local Voter Approval for Gambling'".....



..... **IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 28<sup>th</sup> day of April, 2014.



*Scott Gessler*

SECRETARY OF STATE

RECEIVED

APR 04 2014

Colorado Secretary of State

S.WARD 1:55 P.M.

#139 Original

*Be it Enacted by the People of the State of Colorado:*

**Section 1.** In the constitution of the state of Colorado, **add** section 19 to article XVIII as follows:

**Section 19. Local voter approval for gambling required.**

(1) NO STATEWIDE VOTE TO LEGALIZE OR AUTHORIZE ANY TYPE OF GAMBLING MAY BE GIVEN EFFECT UNLESS THE VOTERS OF THE COUNTY OR COUNTIES IN WHICH A HOST COMMUNITY IS TO BE LOCATED ALSO VOTE TO AUTHORIZE THAT TYPE OF GAMBLING IN THEIR COUNTY AND DO SO:

(a) AT AN ELECTION CONDUCTED WITHIN THIRTEEN MONTHS AFTER THE EFFECTIVE DATE OF THE STATEWIDE VOTE; AND

(b) PRIOR TO THE GRANTING OF A LICENSE TO CONDUCT THAT TYPE OF GAMBLING.

(2) THE REQUIREMENT FOR LOCAL VOTER APPROVAL OF A NEW LEGALIZATION OR AUTHORIZATION OF GAMBLING APPLIES TO ANY STATEWIDE VOTE, BEGINNING WITH THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014 AND INCLUDING EACH STATEWIDE ELECTION THEREAFTER.

(3) THIS REQUIREMENT IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND APPLIES TO ANY FORM OF GAMBLING THAT WAS NOT AUTHORIZED IN A COUNTY ON JANUARY 1, 2014, EXCEPT THAT IT SHALL NOT REPLACE, MODIFY, LIMIT, OR DUPLICATE THE REQUIREMENTS FOR LOCAL VOTER APPROVAL OF LIMITED GAMING AS PROVIDED IN SECTION 9(6) AND (7) OF ARTICLE XVIII.

RECEIVED

APR 04 2014

Colorado Secretary of State

SWARD 1:55 P.M.

#139 Amended

*Be it Enacted by the People of the State of Colorado:*

**Section 1.** In the constitution of the state of Colorado, add section 19 to article XVIII as follows:

**Section 19. Local voter approval for gambling required.**

(1) NO STATEWIDE VOTE TO LEGALIZE OR AUTHORIZE ANY TYPE OF GAMBLING MAY BE GIVEN EFFECT UNLESS THE VOTERS OF THE A COUNTY OR COUNTIES, IN WHICH A HOST COMMUNITY, IS TO BE LOCATED NAMED IN THE STATEWIDE BALLOT MEASURE, ALSO VOTE TO AUTHORIZE THAT TYPE OF GAMBLING IN THE NAMED HOST COMMUNITY THEIR COUNTY AND DO SO:

(a) AT AN ELECTION CONDUCTED WITHIN THIRTEEN MONTHS AFTER THE EFFECTIVE DATE OF THE STATEWIDE VOTE; AND

(b) PRIOR TO THE GRANTING OF A LICENSE TO CONDUCT THAT TYPE OF GAMBLING.

(2) THE REQUIREMENT FOR LOCAL VOTER APPROVAL OF A NEW LEGALIZATION OR AUTHORIZATION OF GAMBLING APPLIES TO ANY STATEWIDE VOTE, BEGINNING WITH THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014, AND INCLUDING EACH STATEWIDE ELECTION THEREAFTER.

(3) THIS REQUIREMENT IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND APPLIES TO ANY FORM OF GAMBLING THAT WAS NOT AUTHORIZED IN A COUNTY ON JANUARY 1, 2014; EXCEPT THAT IT SHALL NOT REPLACE, MODIFY, LIMIT, OR DUPLICATE THE REQUIREMENTS FOR LOCAL VOTER APPROVAL OF LIMITED GAMING AS PROVIDED IN SECTION 9(6) AND (7) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

RECEIVED

APR 04 2014

Colorado Secretary of State

S. WARD 1:55 P.M.

#139 Final

*Be it Enacted by the People of the State of Colorado:*

**Section 1.** In the constitution of the state of Colorado, add section 19 to article XVIII as follows:

**Section 19. Local voter approval for gambling required.**

(1) NO STATEWIDE VOTE TO LEGALIZE OR AUTHORIZE ANY TYPE OF GAMBLING MAY BE GIVEN EFFECT UNLESS THE VOTERS OF A COUNTY OR COUNTIES' HOST COMMUNITY, NAMED IN THE STATEWIDE BALLOT MEASURE, ALSO VOTE TO AUTHORIZE THAT TYPE OF GAMBLING IN THE NAMED HOST COMMUNITY AND DO SO:

(a) AT AN ELECTION CONDUCTED WITHIN THIRTEEN MONTHS AFTER THE EFFECTIVE DATE OF THE STATEWIDE VOTE; AND

(b) PRIOR TO THE GRANTING OF A LICENSE TO CONDUCT THAT TYPE OF GAMBLING.

(2) THE REQUIREMENT FOR LOCAL VOTER APPROVAL OF A NEW LEGALIZATION OR AUTHORIZATION OF GAMBLING APPLIES TO ANY STATEWIDE VOTE, BEGINNING WITH THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014, AND INCLUDING EACH STATEWIDE ELECTION THEREAFTER.

(3) THIS REQUIREMENT IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND APPLIES TO ANY FORM OF GAMBLING THAT WAS NOT AUTHORIZED IN A COUNTY ON JANUARY 1, 2014; EXCEPT THAT IT SHALL NOT REPLACE, MODIFY, LIMIT, OR DUPLICATE THE REQUIREMENTS FOR LOCAL VOTER APPROVAL OF LIMITED GAMING AS PROVIDED IN SECTION 9(6) AND (7) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

**Ballot Title Setting Board**

**Proposed Initiative 2013-2014 #139<sup>1</sup>**

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

An amendment to the Colorado constitution concerning a requirement for a local vote to approve gambling in a host community to the extent authorized by a statewide ballot measure that is adopted on or after November 4, 2014, and, in connection therewith, requiring the local vote within thirteen months after the effective date of the statewide vote and before the granting of a gambling license.

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

Shall there be an amendment to the Colorado constitution concerning a requirement for a local vote to approve gambling in a host community to the extent authorized by a statewide ballot measure that is adopted on or after November 4, 2014, and, in connection therewith, requiring the local vote within thirteen months after the effective date of the statewide vote and before the granting of a gambling license?

*Hearing April 17, 2014:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 11:25 a.m.*

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<sup>1</sup> Unofficially captioned “Local Voter Approval for Gambling” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

APR 23 2014

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State  
S. WARD 12:44 P.M.

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In re Title and Ballot Title and Submission Clause for Initiative 2013-2014 #139 ("Local Voter Approval for Gambling")

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**MOTION FOR REHEARING  
ON INITIATIVE 2013-2014 NO. 139**

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Objectors, Vickie L. Armstrong and Bob Hagedorn (jointly, "Objectors"), move (a) for a finding that no title can be set for Initiative 2013-2014 #139 ("Local Voter Approval for Gambling") (the "Proposed Initiative"), on the grounds that (i) the Proposed Initiative violates the single-subject requirement set forth in Article V, Section 1(5.5) of the Colorado Constitution and in C.R.S. § 1-40-106.5, or (ii) the language of the Proposed Initiative is so incomprehensible that it is impossible to set a clear title therefor, or, alternatively, (b) for correction and clarification of the title set for the Proposed Initiative, for the reasons set forth below:

1. At a hearing conducted on April 17, 2014, the Title Board found it had jurisdiction to set a title for the Proposed Initiative and that the Proposed Initiative addressed a single subject. Accordingly, the Title Board set the following title (the "April 17 Title") for the Proposed Initiative:

An amendment to the Colorado constitution concerning a requirement for a local vote to approve gambling in a host community to the extent authorized by a statewide ballot measure that is adopted on or after November 4, 2014, and, in connection therewith, requiring the local vote within thirteen months after the effective date of the statewide vote and before the granting of a gambling license.

2. For the following reasons, the Proposed Initiative contains more than a single subject, in violation of Article V, Section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5. The Proposed Initiative relates to the following multiple subjects, among others:

(a) Providing that statewide elections to legalize or to authorize "gambling" cannot take effect unless, within thirteen months following the effective date of the statewide vote, the voters of "a county or counties' host community, named in the statewide ballot measure," also vote to approve that type of "gambling" in the named host community;

(b) Potentially nullifying Initiatives 2013-2014 #80, #81, #134, and #135;

(c) Expanding counties' authority to submit measures to their voters;

(d) Granting counties a dramatically expanded power of initiative they do not currently possess;



(e) Stripping powers from home rule cities by allowing counties for the first time to override home rule cities' decisions relating to "gambling";

(f) Effecting a fundamental change in the relationship between home rule cities and their counties;

(g) Reducing the authority of the Colorado Limited Gaming Control Commission;

(h) Overriding the existing constitutional requirement that measures initiated by or referred to the people take effect within thirty days after the vote has been canvassed; and

(i) To the extent the Proposed Initiative requires county votes, potentially prohibiting the expansion of "gambling," including limited gaming under the Colorado Constitution, Article XVIII, Section 9, anywhere beyond the three mountain towns already approved for limited gaming, because, under existing law, counties could not conduct votes within thirteen months after the effective date of the statewide vote.

3. In addition, no title can be set for the Proposed Initiative because the reference to a vote by the voters of "a county or counties' host community" is so hopelessly confusing and incomprehensible that no clear title can be set for the Proposed Initiative.

4. Alternatively, the April 17 Title does not fairly express the true meaning and intent of the Proposed Initiative, and, therefore, violates C.R.S. § 1-40-106(3)(b), for the reasons set forth below:

(a) The April 17 Title does not disclose the multiple subjects of the Proposed Initiative set forth in Paragraph 2 above;

(b) The use of the phrase "local vote" is misleading because the Proposed Initiative provides that "a county or counties' host community," and not necessarily a "local" community, would conduct the vote; and

(c) "Local vote" and "gambling" are impermissible catch phrases or slogans.

5. For these reasons, Objectors request that the Title Board conduct a rehearing for the purpose of:

(a) Striking the April 17 Title, and declining to set a new title for the Proposed Initiative, on the grounds that (i) the Proposed Initiative violates the single-subject requirement set forth in Article V, Section 1(5.5) of the Colorado Constitution and in C.R.S. § 1-40-106.5, and (ii) the reference to "a county or counties' host community" in the text of the Proposed Initiative is so incomprehensible that no clear title can be set for the Pending Initiative; or, alternatively,

(b) Revising the April 17 Title to fairly express the true meaning and intent of the Proposed Initiative.

Respectfully submitted this 23rd day of April, 2014.

MCKENNA LONG & ALDRIDGE LLP

*s/ Lino S. Lipinsky de Orlov*

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*Co-Counsel for Objectors, Vickie L.  
Armstrong and Bob Hagedorn*

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Bob Hagedorn  
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Aurora, CO 80011

**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2013-2014 #139** was sent this 23rd day of April, 2014, via first class U.S. mail, postage prepaid, to the proponents of the Proposed Initiative and their counsel of record at:

Mr. Richard Evans  
1724 S. Unita Way  
Denver, CO 80231

Mark Grueskin, Esq.  
Recht Kornfeld, P.C.  
1600 Stout Street, Suite 1000  
Denver, CO 80202

Mr. Stephen Roark  
2732 S. Fillmore St.  
Denver, CO 80210

*/s/ Sally Kline*

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Sally Kline

DN 32267390.7

**Ballot Title Setting Board**

**Proposed Initiative 2013-2014 #139<sup>1</sup>**

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

An amendment to the Colorado constitution concerning a requirement for a local vote to approve gambling in a host community to the extent authorized by a statewide ballot measure that is adopted on or after November 4, 2014, and, in connection therewith, requiring the local vote within thirteen months after the effective date of the statewide vote and before the granting of a gambling license.

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

Shall there be an amendment to the Colorado constitution concerning a requirement for a local vote to approve gambling in a host community to the extent authorized by a statewide ballot measure that is adopted on or after November 4, 2014, and, in connection therewith, requiring the local vote within thirteen months after the effective date of the statewide vote and before the granting of a gambling license?

*Hearing April 17, 2014:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 11:25 a.m.*

*Hearing April 24, 2014:  
Motion for Rehearing denied.  
Hearing adjourned 9:16 a.m.*

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<sup>1</sup> Unofficially captioned “Local Voter Approval for Gambling” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.