

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, Colorado 80203

Original Proceeding Pursuant to §1-40-107(2),
C.R.S.

Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2015-
2016 #132

Petitioners: DONNA R. JOHNSON,

v.

Respondents: KATHLEEN CURRY and FRANK
MCNULTY,

and

Title Board: SUZANNE STAIERT, SHARON
EUBANKS, and FREDERICK R. YARGER.

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Supreme Court Case No.:
16SA153

RESPONDENTS' ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in C.A.R. 28(g) because it contains **4,144** words.

In response to each issue raised, Proponents provide under a separate heading before the discussion of the issue, a statement indicating whether Proponents agree with Ms. Johnson's statements concerning the standard of review and preservation for appeal and, if not, why not.

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

By: /s/ Kelley B. Duke
Kelley B. Duke, #35168

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Respondents Kathleen Curry and Frank McNulty ("Proponents"), registered electors of the State of Colorado and the proponents of Initiative 2015-2016 #132 ("Initiative #132"), through counsel, IRELAND STAPLETON PRYOR & PASCOE, PC, respectfully submit their Answer Brief in support of the title, ballot title, and submission clause (the "Title(s)") set by the Title Board for Initiative #132 and in response to the Opening Brief submitted by Petitioner Donna R. Johnson ("Ms. Johnson").

SUMMARY OF ARGUMENT¹

Ms. Johnson cannot dispute that Initiative #132's provisions all relate to redistricting in Colorado. Instead, she first tries to parse out congressional and legislative redistricting as separate subjects. This argument fails because congressional and legislative redistricting both involve the process by which political districts are redrawn to reflect population changes after the decennial census. The two are directly connected to one another but, at a minimum, encompass related matters that satisfy the single subject rule.

¹ Pursuant to C.A.R. 28(b), Proponents' Answer Brief omits the statement of the issues and statement of the case, not because Proponents agree with Petitioners' recitation of such sections, but because they were addressed in Proponents' Opening Brief.

Ms. Johnson next asserts that certain implementing provisions in Initiative #132 that address the redistricting commission's nominating process and eligibility requirements are separate subjects. This argument similarly fails because implementing provisions that are directly connected to the central purpose of the initiative are not separate subjects. Accordingly, the Petition should be denied.

ARGUMENT

I. Initiative #132 Contains a Single Subject.

A. Standard of Review.

Ms. Johnson's recitation of the standard of review omits statements of law reflecting the appropriate deference owed to the Title Board's conclusion that Initiative #132 contains a single subject. Proponents believe the standard of review is more accurately and completely set forth in their Opening Brief. See *In re Title, Ballot Title, and Submission Clause for 2013-2014 #89*, 328 P.3d 172, 176 (Colo. 2014) ("*In re #89*") (in connection with reviewing the Title Board's decision on single subject, the Court should "employ[s] all legitimate presumptions in favor of the propriety of the Title Board's actions.").

Proponents agree that Ms. Johnson preserved the single subject issue below.

B. Initiative #132 Addresses the Single Subject of Redistricting in Colorado.

"So long as an initiative encompasses related matters, it does not violate the single subject requirement." *See In re #89*, 328 P.3d 177. Here, as reflected in its Title, the single subject of Initiative #132 is redistricting in Colorado. Initiative #132 proposes to change the process of redistricting political districts in Colorado through a single commission that will utilize comparable criteria and nonpartisan staff to draw legislative and congressional districts. Ms. Johnson does not contend that any of Initiative #132's provisions are unrelated to redistricting in Colorado, but instead asserts that redistricting in Colorado is too broad to constitute a single subject. However, this Court has upheld the Title Board's decision as to single subject where the initiatives in question were broader in scope than Initiative #132.

For example, this Court recently affirmed the Title Board's decision that 2015-2016 #73 contains a single subject. *In re Title, Ballot Title and Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶¶ 20-21 ("*In re #73*"). The single subject of Initiative #73 is the manner in which recall elections are triggered and conducted for both state and local elective officials. *Id.* ¶ 20.

Its provisions address such far-reaching issues as: (1) dramatically reducing the signature requirement for recall elections; (2) allowing four different types of officials to be recalled by the same petition; (3) limiting the petition review that

election officials perform to ensure that the recall election should go forward; (4) specifying successor election procedures for state and local officials; (5) changing qualifications to hold office for state and county officials by prohibiting recalled officials and officials who resign from office during a recall process from holding any elective office for six years; and (6) eliminating the application of campaign finance laws and disclosure requirements for only the proponents of the recall, but not for the opponents. *Id.* at Appendix. This Court reasoned that Initiative #73 contains a single subject because all of its provisions, while wide-ranging, fall under the umbrella of the manner in which recall elections are triggered and conducted for both state and local elective officials. *Id.* at ¶ 20 (citing *In re Title, Ballot Title, and Submission Clause for 2013-2014 #76*, 333 P.3d 76 (Colo. 2014) ("*In re #76*") (finding similar recall initiative would have contained single subject absent provision creating new constitutional right to recall non-elected officials)).

This Court has similarly held that other more broadly defined initiatives contained a single subject. *See In re #89*, 328 P.3d at 179 (upholding title setting for initiative creating a right to conservation of the environment, adopting a public trust doctrine based on common property, and empowering local control over environmental regulations that would preempt less restrictive state laws); *In the Matter of the Title, Ballot Title and Submission Clause for 1999-2000 #256*, 12

P.3d 246, 254-55 (Colo. 2000) (upholding title setting for initiative relating to "management of development" and addressing "numerous issues in a detailed manner" with "different effects" because all the provisions were connected to management of development).

Here, the provisions of #132 all relate to, and are directly connected with, redistricting in Colorado, which is not a broader subject than recall elections, a public right to the environment, or management of development. Nevertheless, Ms. Johnson raises three arguments in support of her position that Initiative #132 contains multiple subjects. Each is addressed in turn.

1. Congressional and Legislative Redistricting Encompass Related Matters and Are Not Separate Subjects.

Redistricting, whether at a congressional or legislative level, involves the redrawing of political districts to reflect population changes after the decennial federal census. Congressional and legislative redistricting are so related to one another such that a number of states, including Arizona and Washington, utilize a single commission to handle both tasks.² Arizona and Washington have constitutional single subject requirements and each states' commissions were

² See Arizona Independent Redistricting Commission, <http://azredistricting.org/>; Wash. Const. art. II, § 43(6); see also Washington State Redistricting Commission, <http://www.redistricting.wa.gov/commission.asp>.

instituted through a single ballot initiative.³ Additionally, the United States Supreme Court recently upheld the constitutionality of Arizona's delegation of congressional redistricting to its redistricting commission. *Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. at 2668.

A single commission is well-suited to handle congressional and legislative redistricting because they involve the application of comparable criteria, including adherence to federal requirements for equal protection and non-discrimination and limitations on population variance between districts. *See Hall v. Moreno*, 270 P.3d 961, 969-970 (Colo. 2012) (discussing criteria in C.R.S. § 2-1-102 and Colo. Const. art. V, §§ 46, 47). While other criteria not rooted in the U.S. Constitution are weighed differently between the two, the criteria are nevertheless substantially similar. *See id.* (discussing both congressional and legislative redistricting as including criteria related to preservation of political subdivisions, compactness, and preservation of communities of interest). These criteria are preserved in Initiative #132, with the addition of an identical competitiveness factor for both congressional and legislative redistricting. *See R.*, pt. 1, pp. 7-8, Proposed §§

³ *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2658 (U.S. 2015) (discussing history of 2000 Arizona Proposition 106 (available at <http://azredistricting.org/2001/Prop-106.asp>); Washington State Redistricting Commission, <http://www.redistricting.wa.gov/history.asp> (discussing 1983 ballot measure instituting commission)).

46(1)(c) and 47(4). Accordingly, congressional and legislative redistricting are related matters because they involve the same task of redrawing political districts using comparable criteria.

In support of her argument that congressional and legislative redistricting are separate subjects, Ms. Johnson first asserts that the current congressional redistricting process is superior to the independent redistricting commission proposed by Proponents. Petitioner's Op. Br. at 8-11. Ms. Johnson states that she prefers the current process that inevitably involves court intervention when the general assembly fails to carry out its redistricting function due to partisan politics. *Id.* at 8.

As an initial matter, Proponents disagree that a process inevitably involving costly litigation, multiple expert witnesses, several law firms, and lengthy trials, after which a judge is put in a position of having to choose from a limited number of maps submitted by partisans, is the best means of redistricting congressional districts. *See Hall*, 270 P.3d at 965 (discussing 10-day trial involving five experts after legislature failed to redistrict after 2010 census); *Beauprez v. Avalos*, 42 P.3d 542 (Colo. 2002) (discussing similar litigious process after legislature failed to redistrict after 2000 census). Proponents further disagree with Ms. Johnson's contention that gerrymandering is not an issue in congressional redistricting when

the legislature has failed in its mission to redistrict after three of the last four censuses as a result of political gridlock. *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1226 (Colo. 2003) (discussing failures after 1980 and 2000 censuses); *see Hall*, 270 P.3d at 964-965 (discussing failure after 2010 census).

Nevertheless, Ms. Johnson's argument that this Court is best-suited to redistrict congressional districts addresses the merits of the initiative and is irrelevant to the single subject inquiry. *In re #89*, 328 P.3d at 176. Ms. Johnson tries to couch her merits-based argument as a "logrolling" issue. Petitioner's Op. Br. at 11-12. Her position is illogical because a Colorado voter is unlikely to prefer the current litigious process for congressional redistricting while at the same time preferring an independent commission for legislative redistricting.

Regardless, a "no" vote against Initiative #132 does not somehow disband the current reapportionment commission for legislative redistricting. Initiative #132 would present only logrolling issues if it proposed conflicting measures such as instituting a redistricting commission for only congressional redistricting while eliminating the use of the commission for legislative redistricting. This is not the case and therefore there are no "conflicting interests" present. Simply put, voters who favor utilizing an independent redistricting commission for redistricting will vote in favor of the initiative, while those who do not, such as Ms. Johnson, can

vote against it. As for her belief that one system is better than the other, Ms. Johnson will have the opportunity to inform voters of her opinion during the political campaign.⁴

Ms. Johnson next tries to separate congressional and legislative redistricting because congressional redistricting traces its roots to the United States Constitution as opposed to the Colorado Constitution for legislative redistricting. Petitioner's Op. Br. at 12-16. This historical recitation is not helpful to the single subject inquiry because it ignores the practical reality that congressional and legislative redistricting involves similar issues and goals, regardless of their underlying legal authority.

Moreover, Ms. Johnson's historical argument is misplaced, because even she concedes that both congressional and legislative redistricting have long-established roots in the Colorado Constitution. Petitioner's Op. Br. at 13 (stating that U.S. Constitution delegates congressional redistricting to the states and has been addressed by the Colorado Constitution since 1877). In fact, the authorities cited

⁴ As in her Motion for Rehearing, Ms. Johnson cites *In re #76* to support her logrolling argument. Petitioner's Op. Br. at 12. As discussed in Proponents' Opening Brief, *In re #76* is inapposite because the initiative there addressed two unrelated issues: overhauling the recall process for elected public officers while creating a previously non-existent constitutional right to recall non-elected public officers. Proponents' Op. Br. at 9-10.

by Ms. Johnson make clear that issues of congressional redistricting turn on the Colorado Constitution. *Salazar*, P.3d at 1229 (recognizing that "United States Supreme Court has made it clear that states have primary responsibility in congressional redistricting" and therefore the "case turns on the Colorado Constitution").

Ms. Johnson then cites Colorado Supreme Court cases that have nothing to do with the single subject issue to support her illogical statement that congressional and legislative redistricting "have little or nothing to do with each other." Petitioner's Op. Br., at 13-14. For instance, Ms. Johnson cites *Hall*, where this Court analyzed the district court's redistricting of congressional districts after the 2010 census for compliance with U.S. Constitutional and state statutory requirements. *Hall*, 270 P.3d at 963-64. Ms. Johnson states that the *Hall* Court rejected the "intertwining of the reapportionment and redistricting processes" and that this analysis bears on the single subject inquiry. Petitioner's Op. Br. at 14.

This is wholly incorrect. In *Hall*, the Court simply held that it was proper for the district court to reject a proposed congressional redistricting map that utilized the legislative redistricting criteria.⁵ *Hall* might be relevant if Initiative

⁵ The U.S. Supreme Court, for instance, has enunciated unequal limitations on population variance for congressional districts vis-à-vis legislative districts, such

#132 required the redistricting commission to apply the wrong criteria, i.e., legislative criteria to congressional redistricting. Of course, Initiative #132 does not do so, and therefore Ms. Johnson's position that utilizing a single commission will create a "jumble of constitutional subjects and processes" is misrepresentative of Initiative #132. Such argument is also irrelevant to the single subject inquiry, because it centers on Ms. Johnson's belief as to the "efficacy, construction, or future application" of Initiative #132. *In re #89*, 328 P.3d at 176.

Ms. Johnson also relies upon a 1975 case in which this Court answered interrogatories related to two conflicting constitutional amendments passed by voters in 1974. Petitioner's Op. Br. at 15 (citing *In re Interrogatories Propounded by the Senate Concerning House Bill 1078*, 536 P.2d 308 (Colo. 1975) ("*In re HB 1078*"). *In re HB 1078* addresses constitutional severability, not single subject, and therefore has no bearing on this proceeding.

Regardless, *In re HB 1078* is not persuasive for other reasons. Ms. Johnson analogizes Initiative #132 with the 1974 Amendment No. 6 in *In re HB 1078*, which this Court stated addressed "several other subjects" for severability purposes. *In re HB 1078*, 536 P.2d at 314. Amendment No. 6, however, was entirely different from Initiative #132 as it was "a housekeeping amendment, that the variance standards for legislative districts cannot be applied to congressional districts.

among many other things." *In re HB 1078*, 536 P.2d at 319. The 1974 Blue Book reveals that Amendment No. 6 addressed dozens of topics wholly unrelated to redistricting, such as topics "concerning the revision of functions and procedures of the executive and legislative departments of the State of Colorado, providing for filling vacancies in state offices, and relieving the Lieutenant Governor of legislative duties."⁶ Thus, even with respect to the unrelated severability issue, the Court in *In re HB 1078* did not distinguish congressional and legislative redistricting as separate subjects. *In re HB 1078* is inapposite.

In addition to relying on *In re HB 1078*, Ms. Johnson contends that Proponents' submission of two proposed initiatives addressing congressional and legislative redistricting, respectively, is evidence that the two are separate subjects. Petitioner's Op. Br. at 15-16. As an initial matter, Ms. Johnson omits that Proponents have withdrawn 2015-2016 #128. Her position is also misguided. The standard for single subject is not whether an initiative can be parsed out into separate initiatives, because in that case every proposed initiative would fail the single subject requirement. Any initiative could be parsed out into potentially dozens of separate initiatives implementing each and every provision. In fact, Proponents have introduced various initiatives in the hopes of addressing the

⁶ The 1974 Blue Book is available at <http://www.law.du.edu/forms/library/clcviewinfo.cfm?ID=215>.

concerns of individuals and multiple citizen groups in an effort to put forth an initiative that will garner support.

Ms. Johnson next contends that the addition of competitiveness to the redistricting criteria constitutes a separate subject, despite the fact she expressly concedes that competitiveness is already a standard this Court has endorsed in the redistricting process. Petitioner's Op. Br. at 17, n.2 (citing *Hall*, 270 P.3d at 972-73). In support of this argument, she cites *In re Title, Ballot Title and Submission Clause for 2007-2008 #27*, 172 P.3d 871 (Colo. 2007) ("*In re #27*"). There, the proposed initiative created a previously nonexistent environmental conservation department, transferring to such department the responsibilities and duties from dozens of other state agencies. It also created an otherwise nonexistent public trust standard by "superimpose[ing] onto existing constitutional and statutory provisions the duty to resolve every conflict between 'economic interest' and 'public ownership or values' in favor of the [latter]." *Id.* at 876. The new public trust standard was discreetly buried within the initiative and only enunciated by reading two separate provisions together. *Id.* at 874-75. This Court held that a previously non-existent public trust doctrine that applied to all existing Colorado natural resources law was not sufficiently connected to a new environmental conservation department.

Here, in contrast, Initiative #132 creates a new redistricting process and the redistricting criteria it enumerates apply only to the redistricting commission and its single purpose of redistricting. It is perfectly appropriate and, in fact, necessary, for a redistricting initiative to set forth the criteria to be used in the redistricting process. Indeed, *In re #27* supports a single subject finding in this instance because if the public trust language in *In re #27* had applied only to the new environmental conservation department and its conservation mission (like the redistricting criteria does here) Initiative #27 would have contained a single subject. 172 P.3d at 877 (Eid, J. dissenting) (observing that if the majority had concluded the public trust doctrine applied only to the conservation department and its mission, the initiative would have passed the single subject inquiry).

Initiative #132 also plainly sets forth its redistricting criteria, while the public trust doctrine was subtly hidden within multiple sub-sections of Initiative #27. Finally, unlike the public trust doctrine proposed by Initiative #27, the additional competitiveness requirement in Initiative #132 is not new, but instead was taken from this Court's opinion on judicial redistricting after the 2010 census. *Hall*, 270 P.3d at 973 (finding that "consideration of competitiveness is consistent with the ultimate goal of maximizing fair and effective representation"). In sum,

Ms. Johnson's reliance on *In re #27* is unpersuasive and supports a finding that Initiative #132 contains a single subject.

Accordingly, congressional and legislative redistricting encompasses related matters and are not separate subjects.

2. Initiative #132's Prohibition on Lobbyists from Serving on the Redistricting Commission Is Properly Connected to Redistricting in Colorado.

Ms. Johnson maintains in her Opening Brief that prohibiting "registered lobbyists" from sitting on the redistricting commission is a separate subject. Petitioner's Op. Br. at 19-21. As set forth in Proponents' Opening Brief, prohibiting lobbyists who are directly involved in influencing the political process is properly connected to Initiative #132's central purpose of depoliticizing the redistricting process. Ms. Johnson's statement that this "issue is controlled by a clear holding on another ballot initiative" is incorrect. Petitioner's Op. Br. at 19 (citing *In re Title, Ballot Title and Submission Clause for 2003-2004 #32 and #33*, 76 P.3d 460, 462 (Colo. 2003) ("*In re #32 and #33*"). As set forth in Proponents' Opening Brief, *In re #32 and #33*, is inapposite because the initiative's prohibition on all attorneys from serving on the Title Board ran contrary to its purpose of liberalizing the initiative process. Proponent's Op. Br. at 13-15.

Ms. Johnson's reliance on *In re #32 and #33* ignores that only separate and unconnected purposes violate the single subject rule. *In re Ballot Title 1999-2000 #200A*, 992 P.2d 27, 30 (Colo. 2000). In contrast, implementation provisions that tend "to effect or to carry out" the "one general object or purpose of the initiative" do not violate the single subject rule. *Id.* Here, eligibility requirements for the redistricting commission implement Initiative #132's central purpose of addressing redistricting in Colorado through an independent commission.

Other ballot initiatives have utilized similar prohibitions and did not violate the single subject rule. For example, this Court recently single-subject approved 2015-2016 #73, which, in addition to dramatically changing how recall elections are triggered and conducted, prohibits all recalled official and all officials who resign from office during a recall process from holding any elective office for six years. *In re #73*, 2016 CO 24, at Appendix. This Court reasoned that the broad prohibition on participating in the political process did not constitute a separate subject because it was related to the manner in which recall elections are triggered and conducted. *See id.* at ¶¶ 20-21.

Similarly, the ballot initiative behind Amendment 41 contained a number of provisions related to ethics in government, including a prohibition on statewide public officer holders and members of the general assembly from serving as

professional lobbyists for two years after leaving office. Colo. Const. Art. XXIX, § 4. Amendment 41 was single subject approved by the Title Board and approved by the Colorado voters in 2006.⁷ The lobbying prohibition in Amendment 41 did not violate the single subject requirement because it implements its central purpose of addressing ethics in government. Likewise, the lobbyist prohibition in Initiative #132 implements its central purpose of redistricting in Colorado through an independent commission and does not constitute a separate subject.

3. The Nominating Process for the Redistricting Commission Is Properly Connected to Redistricting in Colorado.

As discussed above, implementing provisions that tend "to effect or to carry out" the "one general object or purpose of the initiative" do not violate the single subject rule. *In re #200A*, 992 P.2d at 30. Here, the proposed independent redistricting commission is the cornerstone of Initiative #132, and therefore provisions addressing the commission nominating process carry out the initiative's general object or purpose.

Ms. Johnson, however, reiterates her argument below that utilizing the supreme court nominating commission to provide a list of 10 applicants to fill the last 4 seats on the new redistricting commission amounts to a separate subject

⁷ See Colorado Secretary of State, 2005-2006 Initiative Filings, Agendas & Results, <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/2005-2006index.html>.

because it will politicize the nominating commission.⁸ Petitioner's Op. Br. at 21-25. This argument fails because it addresses the "efficacy, construction, or future application" of the initiative. *In re #89*, 328 P.3d at 176.

Regardless, Ms. Johnson's merits-based position continues to be illogical because Initiative #132 does not alter the composition or selection process for the supreme court nominating commission. Like the redistricting process, the judicial selection process is susceptible to political influences, which is why the supreme court nominating commission was instituted in the first place. If the supreme court nominating committee, as presently constituted and appointed, can leave politics aside in the judicial nominating process, then it can also do so in nominating for the redistricting commission. This is particularly true given that the nominating commission will not directly select any redistricting commissioners but only provide a list of nominees to the redistricting commission. Consequently, Ms. Johnson's concerns about "voter surprise" as to the purported dramatic impacts on the nominating commission lack merit.

⁸ Ms. Johnson inaccurately describes Initiative #132's nominating process when she states that the highest ranking officials from the two largest parties will select the last 4 commissioners from the list of 10 applicants provided by the nominating commission. Petitioner's Op. Br. at 3. The last 4 commissioners will be selected by the 8 commissioners already appointed. Proposed § 44(8)(a)(III)(B).

Ms. Johnson also contends that utilizing the judiciary branch in the nominating process constitutes a separate subject because redistricting is a legislative function. Petitioner's Op. Br. at 23. Ms. Johnson's protestations regarding the judiciary's proposed role in the nominating process are puzzling considering the judiciary's current role in the process and considering she prefers that the judiciary manage congressional redistricting altogether.

Ms. Johnson's argument that redistricting is a legislative function also assumes that the nominating commission will actually be responsible for redistricting, which is not true. Redistricting will be a function of the redistricting commission, and Ms. Johnson concedes that Colorado voters are free to divest the general assembly of this authority and grant it to the redistricting commission. Petitioner's Op. Brief at 23 (citing *Armstrong v. Mitten*, 37 P.2d 757, 759-60 (Colo. 1934)). Ms. Johnson does not cite, and Proponents cannot find, any authority for the proposition that the common practice of utilizing a separate branch of government in a commission nominating process constitutes a separate subject.

Ms. Johnson again cites *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1997-1998 #64*, 960 P.2d 1192 (Colo. 1998) ("*In re #64*") as the only authority in support of her nominating commission argument. Petitioner's Op. Br. at 24. As set forth in Proponent's Opening Brief, the central

purpose of the proposed initiative in *In re #64* was to address the qualifications of judicial officers, yet the initiative also overhauled the composition and nominating process for the unrelated judicial discipline commission. *Id.* at 1199-1200.

In contrast, here, Initiative #132 does not change the composition or nominating process for the supreme court nominating commission. Rather, Initiative #132 addresses the nominating process for the redistricting commission, which is directly related to its single subject of redistricting in Colorado.

Accordingly, Initiative #132 contains a single subject.

CONCLUSION

WHEREFORE, Proponents respectfully request that the Court deny the Petition and affirm the Title Board's setting of the Titles for Initiative #132.

Respectfully submitted this 2nd day of June, 2016.

IRELAND STAPLETON PRYOR & PASCOE, PC

s/ Kelley B. Duke

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2016, a true and correct copy of the foregoing **RESPONDENTS' ANSWER BRIEF** was duly filed with the Court and served via ICCES upon the following:

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