

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

Original Proceeding Pursuant to
§ 1-40-107(2), C.R.S. (2020)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and Submission
Clause for Proposed Initiative 2021-2022 #16 (“Laws
Concerning Cruelty to Animals”)

Petitioners: Janie VanWinkle, Carlyle Currier, Chris
Kraft, Terri Diane Lamers, William Hammerich, and
Joyce Kelly

v.

Respondents: Alexander Sage & Brent Johannes,

and

Title Board: Theresa Conley, David Powell, & Julie
Pelegrin.

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Case No. 2021SA125

THE TITLE BOARD’S OPENING 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, I certify that:

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

It contains 4,273 words.

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

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

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

s/ Peter G. Baumann

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ISSUES ON REVIEW

- 1) Whether Proposed Initiative 2021-2022 #16 contains multiple subjects.
- 2) Whether the title set by the Board on that Proposed Initiative is insufficient, unfair, or clearly misleading because it includes impermissible catch phrases.

STATEMENT OF THE CASE AND FACTS

I. The Proposed Initiative

Alexander Sage and Brent Johannes (“Proponents”) seek to circulate Proposed Initiative 2020-2021 #16 (the “Proposed Initiative”) to obtain the requisite number of signatures to place a measure on the November 2022 ballot.

The Proposed Initiative addresses Colorado’s criminal animal cruelty law, § 18-9-201 *et seq.* According to the Proponents, the goal of the measure is to remove what they see as an “exemption” for livestock under the statute. *Hearing Before the Title Board on Proposed Initiative 2020-2021 #16* (March 17, 2021) (“Initial Hearing”), at 8:15–9:10,

available at <https://tinyurl.com/33ujx6x6>. To do so, the Proposed Initiative first amends the definition of “animal” in that statute to specifically encompass fish and livestock. Record at 2 (proposed § 18-9-201(2)). It then removes carve-outs from criminal penalties in current law for negligent treatment of pack or draft animals, treatment of livestock or ranch animals, treatment of rodeo animals, and treatment of hunting dogs. *Id.* at 4 (proposed § 18-9-202(2)(a.5)(VII)).

To implement the removal of this putative exemption, the measure makes related adjustments to the animal cruelty laws. First, the measure addresses how listing livestock will affect animal slaughter. Record at 3 (proposed § 18-9-202(1.9)). Specifically, it clarifies that the slaughter of livestock “in accordance with accepted agricultural animal husbandry practices” does not violate the statute “so long as the animal has lived one quarter of their natural lifespan.” The Proposed Initiative would also define those lifespans for certain species. *Id.* at 2 (proposed § 18-9-201(3.5)).

Second, the Proposed Initiative adds detail to the animal cruelty statute’s definition of “sexual act with an animal.” Record at 2 (proposed

§ 18-9-201(5)). This detail clarifies that the definition encompasses “any intrusion or penetration, however slight, with an object or part of a person’s body into an animal’s anus or genitals,” and removes the definition’s exemption for “accepted animal husbandry practices.” *Id.* It then adds an exemption for “care to an animal in the interest of improving that animal’s health.” *Id.*

Finally, the Proposed Initiative includes a supremacy clause. Record at 3 (proposed § 18-9-201.5(3) (“In case of any conflict between animal care otherwise authorized by law, this Part 2 shall control.”)).

II. Procedural History

The Title Board conducted an initial public hearing on March 17, 2021. The Board determined that #16 contained a single subject and proceeded to set a title. Record at 5.

Petitioners/Objectors Janie VanWinkle, Carlyle Currier, Chris Kraft, Terri Diane Lamers, William Hammerich, and Joyce Kelly filed a motion for rehearing alleging violations of the single subject requirement and the clear title requirement. Record at 17–23. Another group of objectors also moved for rehearing. *Id.* at 6–16. The Title Board

conducted a rehearing on the Proposed Initiative on April 7, 2021.

Rehearing Before the Title Board on Proposed Initiative 2020-2021 #16

(April 7, 2021) (Rehearing”), available at <https://tinyurl.com/rvzs32hh>.

After hearing from the Objectors, the Board affirmed that the measure satisfied the single subject requirement. *See id* at 1:22:30–1:26:59.

The Board did, however, rewrite the title to incorporate feedback from the Objectors. The title as fixed by the Board at the rehearing is:

A change to the Colorado Revised Statutes concerning expanding crimes relating to cruelty to animals, and, in connection therewith, expanding the definition of “livestock” to include fish; expanding the definition of “sexual act with an animal” to include intrusion or penetration, however slight, into an animal’s anus or genitals with an object or part of a person’s body and removing the existing exception for animal husbandry practices and creating an exception for care to improve the animal’s health; defining the “natural lifespan” for certain species of livestock and providing that slaughtering those animals is not criminal animal cruelty if done according to accepted animal husbandry practices after the animal has lived 1/4 of the natural lifespan; removing the exception to the animal cruelty statutes for animal husbandry practices used in the care of companion or livestock animals; eliminating some exceptions to certain sentencing requirements; and providing that, in case of a conflict with animal care otherwise authorized by law, the criminal cruelty to animals statutes control.

Record at 28.

Petitioners/Objectors filed a timely petition for review on April 14, 2021. Pet. at 4. The Petition alleges that the Proposed Initiative violates the single subject requirement, and that the title contains impermissible political catchphrases. Pet. at 4.

SUMMARY OF ARGUMENT

The Proponents seek to broaden Colorado's criminal animal cruelty statute. To do so, the Proposed Initiative makes changes to several definitions and subsections of the statute. Although the effects of these changes may be broad, the Title Board correctly determined that each adjustment is necessarily and properly connected to the Proposed Initiative's single subject. The Board's decision was well within its considerable discretion and should be affirmed.

So, too, should the title set by the Board. Over the course of two hearings, lasting nearly six hours total, the Board carefully considered arguments from Proponents and Objectors. The title it crafted fairly and accurately describes the Proposed Initiative without speculating as to the effects the measure might have on current practices.

Petitioners argue that the title uses impermissible catchphrases. But the objected-to phrases are actually the heading of the relevant statutory section. The title accurately informs voters what statute is being amended by referring alternatively to “cruelty to animals” and “animal cruelty.”

Similarly, the title’s description of the measure’s new definition for “sexual assault with an animal” does not constitute a catchphrase. After careful consideration, the Board elected to largely quote the new definition directly from the measure. It did so to avoid obscuring the potential breadth of the measure’s plain language. The resulting title should be affirmed.

ARGUMENT

I. The Board correctly determined that the Proposed Initiative encompasses a single subject.

A. Standard of Review and Preservation.

The Title Board’s first obligation is to determine whether a proposed initiative encompasses a single subject. *See* Colo. Const. art. V § 1(5.5), § 1-40-106.5(1)(a). In reviewing the Title Board’s determination, this Court “liberally construe[s] the single subject

requirement” so as not to interfere with the Board’s “considerable discretion” in setting title, and “to avoid unduly restricting the initiative process.” *In re Title, Ballot Title, & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 17. The Court “employ[s] all legitimate presumptions in favor of the propriety of the Title Board’s actions and will overturn its finding that an initiative contains a single subject only in a clear case.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #129*, 2014 CO 53, ¶ 8.

Petitioners preserved their single subject arguments by raising them in their motion for rehearing. Record at 18–19.

B. The Proposed Initiative contains only a single subject.

The Title Board is vested with “considerable discretion” in determining whether an initiative satisfies the single subject requirement. Against this backdrop, the Petition alleges that the Proposed Initiative violates the single subject rule because it (a) changes animal treatment laws; (b) defines the lifespans of species of animals and requires that those animals not be slaughtered until they

have lived one-quarter of their lifespan; and (c) redefines the statutory phrase “sexual act with an animal.” Pet. at 4.

Each of these revisions is necessarily and properly connected to the Proposed Initiative’s single purpose of revising the criminal animal cruelty statute to remove any existing exemptions for fish and livestock. The Title Board should be affirmed.

1. Legal Standard.

The Colorado Constitution establishes that “[n]o measure shall be proposed by petition containing more than one subject.” Colo. Const. art. V § 1(5.5); *see also* § 1-40-106.5 (addressing constitutional single subject rule). This rule serves two purposes. *First*, it “prevents the proponents from combining multiple subjects to attract a ‘yes’ vote from voters who might vote ‘no’ on one or more of the subjects if they were proposed separately.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 13. *Second*, it prevents “surprise and fraud upon the voters” caused by the inadvertent passage of a surreptitious provision coiled up in the folds of a complex initiative. *In re Proposed Initiative Amend TABOR 25*, 900 P.2d 121, 125 (Colo.

1995); see also *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 14.

“When an initiative tends to effectuate one general objective or purpose, then the initiative presents only one subject.” *Id.* ¶ 15. To satisfy the single subject requirement, an initiative’s subject matter “must be necessarily and properly connected rather than disconnected or incongruous.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶8. “An initiative with a single, distinct purpose does not violate the single-subject requirement simply because it spells out details relating to its implementation. As long as the procedures specified have a necessary and proper relationship to the substance of the initiative, they are not a separate subject.” *In re Title, Ballot Title & Submission Clause, Summary Clause for 1997-1998 #74*, 962 P.2d 927, 929 (Colo. 1998).

Similarly, a measure does not violate the single subject requirement simply because it may have different effects on other provisions of Colorado law. *In re Title, Ballot Title & Submission Clause*

for 2019-2020 #315, 2020 CO 61, ¶ 15. “Such effects are not relevant to whether the proposed initiative contains a single subject.” Id.

2. Specifying lifespans for certain animals is connected to the limitation on criminal liability for slaughtering animals of a certain age.

The Proposed Initiative broadens the scope of Colorado’s criminal animal cruelty statute, § 18-9-201 *et seq.* See also Pet. at 4 (referring to the subject of the Proposed Initiative as “changes to animal treatment laws contained in Title 18”). Before the Title Board, the Proponents described the single subject of the measure as removing what Proponents consider to be an “exemption” for livestock in the animal cruelty statute. Initial Hearing at 8:15–8:55. This, in turn, required the adjustment of several related provisions, including both of the topics alleged to be second subjects by the Petitioners.

Both of these secondary effects are implementing provisions “directly tied” to the Proposed Initiative’s central focus. See *In re Title, Ballot Title, Submission Clause for 2009-2010 #45*, 234 P.3d 642, 646 (Colo. 2010). First, the “specification of lifespans for different species of

animals and a requirement that they not be slaughtered until they have lived at least one-quarter of those time periods,” Pet. at 4, is directly related to the incorporation of livestock into the animal cruelty statutes.

The Proposed Initiative does not revise the acts which constitute cruelty to animals. *See Record* at 3 (proposing no changes to § 18-9-202(1)(a)). Removing any existing exemption for livestock, therefore, may be interpreted to ban the slaughter of these animals. *See* § 18-9-202(1)(a) (prohibiting knowingly “mistreat[ing]” an animal). To address this possibility, the Proposed Initiative clarifies that the slaughter of livestock is not animal cruelty “so long as the animal has lived one quarter of their natural lifespan.” *Id.* at 3 (proposed § 18-9-202(1.9)).

To implement this new subsection, the Proposed Initiative defines the natural lifespan of relevant species. *See Record* at 2 (proposed § 18-9-201(3.5)). Defining these lifespans—and decriminalizing the slaughter of livestock once they have reached a certain age according to those lifespans—is directly related to the measure’s single subject of changing Colorado’s criminal animal rights statute. *See In re Title, Ballot Title, Submission Clause, Summary for 2005-2006 #73*, 135 P.3d 736, 738

(Colo. 2006) (“Mere implementation or enforcement details directly tied to the initiative’s single subject will not, in and of themselves, constitute a separate subject.”).

3. Revising the definition of “sexual act with an animal” is related to the incorporation of livestock into the statute.

Revising the definition of “sexual act with an animal” is also part of the measure’s single subject. *See* Pet. at 4. Title 18 presently criminalizes engaging in a “sexual act with an animal,” § 18-9-202(1)(a), and defines that phrase, § 18-9-201(5). Consistent with broadening the application of the statute, the Proposed Initiative would expand the existing definition to include “any intrusion or penetration, however slight, with an object or part of a person’s body into an animal’s anus or genitals.” Record at 2 (proposed § 18-9-201(5)).

This definition is necessarily and properly connected to the measure’s single subject by clarifying how the definition of “sexual act with an animal” will apply to livestock. By specifically including livestock within the ambit of criminal animal cruelty statutes, the

measure threatens to implicate many traditional or widely accepted agricultural or veterinary practices.

The Proposed Initiative addresses this implication by revising the definition of “sexual act with an animal.” Specifically, it incorporates penetration with an object or part of a person’s body into the definition, removes an exemption for “accepted animal husbandry practices,” and adds an exemption for “care to an animal in the interest of improving that animal’s health.” Record at 2 (proposed § 18-9-201(5)). Each of these is necessarily and properly connected to the measure’s single subject.

At its core, the Proposed Initiative would specifically include livestock in the definition of “animals” for purposes of the criminal animal cruelty statutes. To implement that revision, it includes related adjustments to current law. Including in the two areas identified by Petitioners. These are not separate subjects. Drawing all reasonable presumptions in favor of the Title Board’s decision, as this Court must, this is far from the “clear case” needed to justify reversal. *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8.

II. Petitioners have not carried their burden of identifying impermissible catch phrases.

A. Standard of Review and Preservation.

This Court does not demand that the Board draft the best possible title. *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 27. Instead, the Court grants “great deference” to the Board in the exercise of its drafting authority, *In re Title, Ballot Title & Submission Clause, & Summary for 2009-2010 #45*, 234 P.3d 642, 648 (Colo. 2010), and employs “all legitimate presumptions in favor of the propriety of the Board’s actions,” *In re Title, Ballot Title & Submission Clause, & Summary for 2009-2010 #91*, 235 P.3d 1071, 1076 (Colo. 2010). This Court reads the title as a whole to determine whether it properly reflects the intent of the initiative. *In re Title, Ballot Title & Submission Clause, & Summary for 2009-2010 #45*, 234 P.3d 642, 649 n.3 (Colo. 2010); *In re Proposed Initiative on Trespass-Streams with Flowing Water*, 910 P.2d 21, 26 (Colo. 1996).

The Court “will generally defer to the Board’s choice of language unless the titles set contain a material and significant omission,

misstatement, or misrepresentation.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 27 (internal quotations omitted). Only in a clear case will the Court reverse or rewrite the title set by the Board. *Id.*

Petitioners preserved their clear title arguments in their motion for rehearing. Record at 19–22.

B. The Board’s title for the Proposed Initiative does not contain impermissible catch phrases.

Petitioners assert that the title set by the Board violates the clear title requirement by containing improper “political catch phrases.” Specifically, Petitioners object to including in the title: (a) “cruelty to animals” and “animal cruelty,” and (b) an “unnecessarily graphic” description of the redefined “sexual act with an animal.” Pet. at 4. The Court should reject each of these arguments.

1. Legal Standard.

Section 1-40-106(3)(b) requires titles to be fair, clear, accurate, and complete. *See In re Title, Ballot Title & Submission Clause, & Summary for 2007-2008 #62*, 184 P.3d 52, 58 (Colo. 2008). Among other

requirements, the title must “be brief,” it must be in the form of a question which may be answered “yes/for” or “no/against,” and it must “unambiguously state the principle of the provision sought to be added, amended, or repealed.” § 1-40-106(3)(b).

To avoid misleading the electorate, The Board must also avoid including political catch phrases in the title—that is, “phrases that work in favor of a proposal *without contributing to voter understanding*.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 24 (emphasis added). “By drawing attention to themselves and triggering a favorable response, catch phrases generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase.” *In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100 (Colo. 2000). The Board’s, and this Court’s, “task is to recognize terms that provoke political emotion and impede voter understanding, as opposed to those which are merely descriptive of the proposal.” *Id.*

A phrase is appropriate when it is “descriptive and informative based on the common understanding of the words it contains and when it contributes to a voter’s rational comprehension and does not promote impulsive choices based on false assumptions about the initiative’s purpose and its effects if enacted.” *In re Title*, 2019 CO 107, ¶ 28. Applying this standard, this Court has declined to declare a phrase invalid when it merely re-states relevant constitutional or statutory titles. *Id.* ¶ 29.

The Board’s assessment of potential catch phrases falls under the discretion it is afforded in drafting its titles. *Id.* ¶¶ 23, 24. And Petitioners bear the burden of proving that a phrase “impermissibly distracts voters from consideration of the initiative’s merits.” *In re Title, Ballot Title, Submission Clause for 2009-2010 #45*, 234 P.3d 642, 650 (Colo. 2010). They have failed to clear that bar here.

2. “Animal cruelty” and “cruelty to animals” accurately describe the measure’s scope.

Petitioners allege that “animal cruelty” and “cruelty to animals” are impermissible catch phrases. Pet. at 4. But these phrases accurately describe the provisions amended by the Proposed Initiative.

In 2019, this Court held that the phrase “Taxpayer’s Bill of Rights” was not an impermissible catch phrase. *In re Title*, 2019 CO 107, ¶ 29. In doing so, the Court noted that the provision the measure would amend “is expressly called “The Taxpayer’s Bill of Rights,” and concluded that “using the name of this provision contributes to a voter’s rational comprehension of the [proposal].” *Id.*

So too here. The Proposed Initiative would remove a putative exemption for livestock in the criminal animal cruelty statute. The title of the relevant statutory section includes the phrase “cruelty to animals.” That same phrase, or a slight variation of it, is used again in each of the first five subsections of the statute. *See* § 18-9-202(1)(a)–(c). It would be virtually impossible for the Board to “correctly and fairly” summarize the proposed changes to Colorado’s animal cruelty statute

without using the phrase “animal cruelty” or “cruelty to animals.” See § 1-40-106(3) (“The title . . . shall correctly and fairly express the true intent and meaning” of the Proposed Initiative). The Board’s decision to reflect the statutory language in the title does not result in an impermissible catchphrase.

3. Incorporating the measure’s revisions to “sexual act with an animal” into the title contributes to voter understanding.

Petitioners also argue that the title is invalid because it includes “an unnecessarily graphic description of the elements of the redefined ‘sexual act with an animal.’” Pet. at 4. But the redefinition of this term is part of the Proposed Initiative, and the Board was well within its discretion to determine that its inclusion was necessary assist voters in understanding the scope of the proposed changes.

In drafting a title, the Board must relay the “central features” of the proposed initiative. *In re Proposed Initiated Petitions*, 907 P.2d 586, 591 (Colo. 1995). Its failure to do so will result in the title being rejected. *Id.* In this case, the Proposed Initiative’s redefinition of “sexual

act with an animal” is a central feature of the measure, which the Board described clearly and fairly in the title.

The petitions for rehearing submitted to the Board underscore the new definition’s importance to the Proposed Initiative. Both sets of objectors argued that this aspect of the measure would significantly alter current law. And both alleged that the original title was insufficiently detailed as to the consequences of the amendment. *See* Record at 7 (alleging in Petition for Rehearing that under the Proposed Initiative “common veterinary and animal husbandry practices, such as spaying, neutering, palpating, artificial insemination, correcting a breach baby, etc., would be considered a criminal act and subject to criminal sanctions”); *id.* at 20 (alleging in Petition for Rehearing that a “critical component” of the measure is that “any intrusion or penetration ‘*however slight*’ falls within the revised definition”).

Petitioners argue that the Board’s description of how the measure would change the definition is “unnecessarily graphic.” Pet. at 4. But the language used in the title restates—virtually word-for-word—the language used in the Proposed Initiative.

Proposed Initiative (Record at 2 (proposed § 18-9-201(5)))	Title (Record at 28)
“Sexual act with an animal also includes any intrusion or penetration, however slight, with an object or part of a person’s body into an animal’s anus or genitals”	“[E]xpanding the definition of ‘sexual act with an animal’ to include intrusion or penetration, however slight, into an animal’s anus or genitals with an object or part of a person’s body”

The careful consideration displayed by the Board, and the final language upon which it settled, falls firmly within its “considerable discretion.” *In re Title, Ballot Title, & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 17. Although language from a proposal may still be a political catchphrase, see *In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100 (Colo. 2000), such is the case only where the language does not contribute to voter understanding, *In re Title, Ballot Title & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 24; *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100 (Colo. 2000) (rejecting phrase “as rapidly and effectively as possible” because it “mask[ed]” the relevant policy question).

The language here was appropriate for two reasons. First, this language is central to the Proposed Initiative, as even the objections to the Board’s initial title recognized. *See, e.g.*, Rehearing at 29:25 (statement of objector that the redefinition would “affect the majority of the public”).

Second, the Board determined that the specificity in the title not only contributed to voter understanding, but was necessary to avoid ambiguities. The Board tried to eliminate the “unnecessarily graphic” language identified by the Petitioners during the rehearing. *See id.* at 1:57:30–1:58:20. After removing this language from the draft title, the Board made a good faith effort to faithfully describe the measure without including this language. *See generally id.* at 1:57:30–2:09:32.

In doing so, the Board first considered a proposal from Petitioners/Objectors that would have “made clear that the expansion of the definition is taking existing practices and making them a prohibited act under the statute[.]” Rehearing at 1:50:00–1:50:38 (statement of counsel for Petitioners/Objectors). The Board rejected that suggestion because the measure includes an exception for “dispensing care to an

animal in the interest of improving that animal's health." Record at 2 (proposed § 18-9-201(5)). The Board was uncertain how that exception might be interpreted, leading it to determine that it could not speculate as to the effect the redefinition may have on existing practices.

Rehearing at 1:51:05–1:51:46 (Statement of Board Member Julie Pelegrin that her “concern with [Objectors’] suggestion . . . is that [the measure] still has that exception for care to improve the animal’s health. . . . I don’t know what that means. . . . I don’t know what, if any, accepted practices are being criminalized”).

The Board next considered whether to mention only that the definition would be expanded. *See generally id.* at 1:57:30–2:09:32. After discussion, the Board determined that omitting the phrase “intrusion or penetration into an animal’s anus or genitals with an object or part of a person’s body” would obstruct the intent of the Proposed Initiative. In particular, the Board determined that including this phrase was necessary to alert voters to the possibility that it could be interpreted broadly. *Id.* at 2:09:32–2:10:14 (Statement of Board Member Julie Pelegrin). The Board’s concern was that vaguely mentioning an

expansion of the definition of would obscure the breadth of the change proposed, including as it related to artificial insemination. *Id.*

The Board correctly concluded that the most faithful way to describe the measure's change to the definition of "sexual assault with an animal" was to include the specific language from the measure itself. Doing so kept the Board from speculating about interpretations of the definition and its exceptions, while enabling the electorate to develop informed opinions about the measure. *See In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 25 ("The title and submission clause should enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal.").

By copying relevant language from the measure, which contributes to voter understanding of the proposal, the Title Board did not include an impermissible catch phrase in the Proposed Initiative's title. The title should be affirmed.

CONCLUSION

The Court should affirm the title set by the Title Board on 2021-2022 #16.

Respectfully submitted on this 4th day of May, 2021.

NATALIE HANLON LEH
Chief Deputy Attorney General

/s/Peter G. Baumann

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S OPENING BRIEF** upon the following parties electronically via CCEF, at Denver, Colorado and via Fed Ex overnight delivery, this 4th day of May, 2021, addressed as follows:

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