

<p>SUPREME COURT OF COLORADO 2 East 14<sup>th</sup> Avenue Denver, Colorado 80203</p>	
<p>Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2021-2022, #27</p> <p><b>Petitioners:</b></p> <p>Carol Hedges and Scott Wasserman,</p> <p>v.</p> <p><b>Respondents/Proponents:</b></p> <p>Suzanne Taheri and Michael Fields</p> <p><b>and</b></p> <p><b>Title Board:</b></p> <p>Theresa Conley, Leeann Morrill, and Jason Gelender</p>	<p><b>▲ COURT USE ONLY ▲</b></p> <p>Supreme Court Case No.: 2021SA151</p>
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<p><b>RESPONDENTS'/PROPONENTS' ANSWER BRIEF</b></p>	

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the 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).

Choose one:

It contains 669 words.

It does not exceed 30 pages.

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

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

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

*/s/ Suzanne Taheri*

Suzanne Taheri

*Attorney for the Respondents/Proponents*

**TABLE OF CONTENTS**

LEGAL ARGUMENT .....1

    I.    THE TITLE BOARD PROPERLY FOUND THE MEASURE  
          CONTAINS A SINGLE SUBJECT .....2

    II.   THE TITLE FAIRLY ADVISES VOTERS OF THE CENTRAL  
          FEATURES OF THE MEASURE

CONCLUSION .....5

**TABLE OF AUTHORITIES**

***Cases***

*In re Petition on Campaign and Political Fin.*, 877 P.2d 311, 313 (Colo.1994) .....3

*In re Proposed Initiative “Auto. Ins. Coverage”*, 877 P.2d 853, 856 (Colo.1994) ..3

*In re Proposed Initiative on “Trespass–Streams With Flowing Water”*, 910 P.2d  
21 (Colo.1996) .....2

*In re Proposed Initiative on Sch. Pilot Program*, 874 P.2d [1066,] 1070  
(Colo.1994) .....3

*In re Proposed Petition for an Amendment to the Constitution of the State of  
Colorado Adding Section 2 to Article VII (Petitions)*, 907 P.2d 586 (Colo. 1995)  
.....2

***Statutes***

Colo. Rev. Stat. § 39-3-207 (2020) ..... 1

***Constitutional Provisions***

Colo. Const. Article X, Section 3.5..... 1

Michael Fields and Suzanne Taheri (“Respondents/Proponents”), through the undersigned counsel, hereby respectfully submit this Answer Brief in support of the title, ballot title and submission clause set by the Title Board for Proposed Initiative 2021-2022 #27 (the “Initiative” or “Measure”).

### **LEGAL ARGUMENT**

#### **I. THE TITLE BOARD PROPERLY FOUND THE MEASURE CONTAINS A SINGLE SUBJECT.**

Petitioners’ argument on single subject focuses on the voter approved revenue change in Section 3 of the initiative. But rather than argue that the subject is disconnected, Petitioner instead argues that the section does not operate the way it is described in the measure. This is not a valid single subject challenge.

Petitioners assert that Section 3 is unnecessary because homestead payments are already authorized by the legislature. Their interpretation suggests that because the legislature already spends funds reimbursing the homestead exemption, Section 3 operates to do nothing. The Petitioners act as though the legislature’s actions are a fait accompli under the law. They are not. The legislature has control over the formula and in the past has taken the homestead exemption to zero. Colo. Const. Article X, Section 3.5; C.R.S. § 39-3-207 (2020).

Moreover, Petitioners' argument is purely speculative. Whether the legislature prioritizes homestead exemptions in setting the overall budget is uncertain. The Title Board is not required to engage in such speculation. *In re Proposed Initiative on "Trespass-Streams With Flowing Water"*, 910 P.2d 21, 26 (Colo.1996).

Finally, if Petitioners are correct and Section 3 operates to do nothing, then they cannot logically argue that a Section that does nothing creates a separate subject.

## **II. THE TITLE FAIRLY ADVISES VOTERS OF THE CENTRAL FEATURES OF THE MEASURE.**

Petitioners' argument on clear title incorporates the complaints above and seeks to have the title detail overall revenue impacts to other programs in the state budget. Here, the Petitioners are complaining about the initiative itself, not the ballot title.

Any problems in the interpretation of the measure or its constitutionality are beyond the functions assigned to the title board and outside the scope of the Court's review of the title board's actions, *see In re Proposed Petitions*, 907 P.2d at 590. (upholding a title and summary that tracked the language of an initiative with respect to the programs and sources of revenue).

Rather, the scope of the Court's review of the actions taken by the Board is limited to ensuring that "the title, ballot title and submission clause, and summary

fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the Board.” *In re Proposed Initiative on Sch. Pilot Program*, 874 P.2d [1066,] 1070 (Colo.1994)

In conducting such review the Court will engage in all legitimate presumptions in favor of the propriety of the Board's actions. *In re Proposed Initiative “Auto. Ins. Coverage”*, 877 P.2d 853, 856 (Colo.1994). The Court nor the Board should address the merits of a proposed initiative, nor should they interpret its language or predict its application if adopted by the electorate. *In re Petition on Campaign and Political Fin.*, 877 P.2d 311, 313 (Colo.1994).

All of Petitioners’ arguments fall within the category of effects of the measure: “[q]uantify the estimate \$1.03 billion impact on local district revenue; [d]erivative of the impact on State programs; support or protection for ‘homestead exemption’” *See Pet.Op.Brief pp.20-22*. Petitioners spend considerable time discussing what they characterize as “surreptitious” provisions that would reduce funding Colorado’s public school system, which in turn would require a commensurate increase in funding of the “state share”, which in turn results in less funding for other state programs. *See Pet.Op.Brief pp.20-22, pp.17-18*.

Whether or not this is true, it is ultimately an effect of the measure which cannot be properly considered.

## **CONCLUSION**

Respondents/Proponents respectfully request the Court affirms the Title Board's determination that the measure satisfies the single-subject and clear title requirements.

Respectfully submitted this 17th day of May 2021.

MAVEN LAW GROUP

*/s/ Suzanne Staiert*

Suzanne Staiert

*Attorney for the Respondents/Proponents*

**CERTIFICATE OF SERVICE/MAILING**

I hereby certify that on 17th day of May, 2021 a true and correct copy of the **RESPONDENTS’/PROPONENTS’ ANSWER BRIEF** was served via the State of Colorado's ICCES File and Serve e-filing system, email and United States mail, postage prepaid, properly addressed to the following:

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