IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE FOR INITIATIVE 2025 -2026 #413 ("LIMITS ON POLITICAL SPENDING BY ARTIFICIAL PERSONS")

Initiative Proponents: Sherri Stieg and Senna Keesing

&

Objector: Ted J. Trimpa

MOTION FOR REHEARING

By undersigned counsel, Ted J. Trimpa, a registered voter of the County of Denver, objects to the titles set for Initiative #413, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On April 15, 2026, the Title Board set the following ballot title and submission clause for Initiative #413:

> *Shall there be an amendment to the Colorado Constitution removing the power of artificial persons to spend money or anything of value to influence the outcome of an election, and, in connection therewith, defining "artificial person" as an entity, including a corporation, whose existence is conferred by Colorado law or that otherwise transacts business or holds property in Colorado; extending to these entities only the powers to carry out lawful business or charitable purposes; and removing an entity's state-conferred legal benefits if the entity engages in illegal political spending?*

I. The Title Board lacks jurisdiction to set a ballot title for Initiative #413 because it violates the Constitution's single subject requirement.

A. *The first subject*: prohibiting entities from "political spending"

The subject of the measure is to prohibit entities such as corporations from spending money on elections (""Political spending power" means the legal capacity to expend money or anything of value to influence the outcome of a vote of the electorate."). The measure, however, goes farther and includes two other subjects: (1) restricting the types of committees that may engage in election spending and (2) imposing a new requirement on type of powers the General Assembly may authorize for entities.

B. *The second subject*: The measure revokes the authority of (at the least) issue committees authorized under Article XXVIII to operate.

As revealed and conceded by Proponents during the April 15 hearing, they made an error in drafting Initiative #413 by revoking the authority of, at the least, issue committees authorized under Article XXVIII of the Constitution to operate. At the least, by constitutional definition, an "issue committee" includes entities. *See* Colo. Const. art. XXVIII, sec. 2(9).

This creates an intractable single subject problem: either the measure is so vague that it cannot be understood or it has a second subject. As to the former, as the Supreme Court has recognized, where the Board cannot identify how a measure's key features will operate, it is unable to identify the measure's single subject and lacks jurisdiction over the initiative. *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #25*, 974 P.2d 458, 468-49 (Colo. 1999). The Board clearly struggled to understand whether Initiative #413 applied to issue committees (and other committees) under Article XXVIII of the Constitution. The Board must understand a measure so that it can determine whether it meets the single subject requirement and set a clear title. Here, Proponents admitted drafting error deprives the measure of the needed clarity.

But even if the Board can understand the measure, it creates a second subject by working a fundamental change to campaign finance, namely, altering the ability of persons to advocate for or against ballot measures by prohibiting them from being able to form a committee to do so. *See* Colo. Const. art. XXVIII sec. 2(9) ("'Issue committee' means any person, ***other than a natural person***, or any group of two or more persons, including natural persons …" (emphasis added)). By its terms, the measure prohibits an issue committee authorized by Article XVIII. Whether persons can form an issue committee to address a ballot measure is separate and distinct from whether for-profit companies can spend money on elections, and voters will not recognize that this change is being made. Indeed, more broadly, the measure will affect all committees: no committee at all—except for political committees—can use a corporate form. There is simply nothing in the measure to alert voters that changes of this scope are being made.

C. *The third subject:* The measure redefines the substantive powers the state may confer generally on entities.

Although ostensibly targeting the ability of entities to expend funds on elections, the scope of the measure is broader, as it imposes a heretofore non-existent constitutional limitation on the overall types of "powers" the General Assembly may confer on entities.

Subsection (2) provides "[t]he state extends to artificial persons ***only*** those powers defined as artificial person powers …" (Emphasis added). Subsection (1) provides that "artificial person powers" are those "powers necessary or convenient to carry out lawful business or charitable purposes as provided by statute." The proponents were clear that this is a limitation meant to have teeth, as the measure explicitly states that only those types of powers are permitted. As it says, "and no others."

Put together, if this measure is passed, the General Assembly can only authorize powers for entities that are "necessary or convenient." That is a substantive limitation on the General Assembly's power that does not currently exist in the Constitution, and limiting the legislature's plenary legislative power to regulate entities generally is not connected to the measure's subject of prohibiting entities from expending money on elections.

D. The prohibition on entities' funding of "political spending power" is so broad and undefined that voters will not know what they are being asked to approve.

Initiative #413 defines "political spending power" as "the legal capacity to expend money on anything of value to influence the outcome of a vote of the electorate."

The phrase, "a vote of the electorate," is exceedingly broad. It takes in spending on statewide candidates, county candidates, municipal candidates, special districts director candidates, judicial retentions, statewide ballot issues, local ballot issues, special district formation elections, state recall elections, local recall elections, TABOR elections at all levels of government, and more. And this prohibition does not just include direct contributions to candidate or issue campaigns. Because the definition of "political spending power" extends to anything that will "influence the outcome of a vote of the electorate," it includes contributions to independent expenditure committees and groups that engage in electioneering communications.

Indeed, it will prohibit spending on purely educational materials about an entity's business if it happens to be the subject of a ballot measure. Likewise, it would prevent a nonprofit organization from addressing its mission that could be advanced – or adversely affected – by a proposed policy at the state or local level. This is no conjecture, as overly ambitious campaign finance laws are often crafted to reach far into protected First Amendment activity. *See Fed. Election Comm'n v. Wis. Right to Life, Inc*., 551 U.S. 449 (2007) ("an intent-based test would chill core political speech by opening the door to a trial on every ad within the terms of [the statute], on the theory that the speaker actually intended to affect an election, no matter how compelling the indications that the ad concerned a pending legislative or policy issue").

There may be voters who want corporate-type entities out of the realm of candidate elections as a statement of resistance to *Citizens United v. Federal Election Comm'n*, 558 U.S. 310 (2010). Others may want to prevent private parties and entities from forming special districts to facilitate regional development. And, as noted, the measure is so broad that it applies to ballot measures that have little or nothing to do with the types of influence and fears about "corruption or the appearance of corruption" that are at the heart of much of campaign finance judicial nuance, particularly in terms of corporations. *Federal Election Comm'n v. National Conservative Political Action Comm*., 470 U.S. 480, 496-497 (1985).

Of course, "[t]he risk of corruption perceived in cases involving candidate elections simply is not present in a popular vote on a public issue." *Common Sense Alliance v. Davidson*, 995 P.2d 748, 755 (Colo. 2000), citing *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 790 (1978). Thus, it is unthinkable that voters would seek to vindicate their concerns about corruption-free governmental decision making as to candidate campaigns by voting for a measure that applies an overly broad ban to initiative and referendum campaigns. Unknowingly, many may do so. And

this goes to the very essence of the single subject mandate – ensuring that voters do not adopt requirements or prohibitions that are "coiled in the folds" of an initiative.

It is no defense that the title simply uses the language of the measure. Where a measure is so vaguely worded and uses no limiting language to give voters an understanding of its expanse, it can certainly violate the single subject requirement:

> [T]he Initiative's failure to specify any definitions, services, effects, or purposes makes it impossible for a voter to be informed as to the consequences of his or her vote. This facial vagueness not only complicates this court's attempt to understand the Initiative's subjects, but results in items being concealed within a complex proposal as prohibited by the single subject rule.

In re Title, Ballot Title and Submission Clause for 2005-2006 #55, 138 P.3d 273, 282 (Colo. 2006). The same is true of the text of Initiative #413.

Therefore, no title should be set for this measure.

II. The ballot title is misleading, unfair, and inaccurate.

A. The title's reference to "artificial persons" is a prejudicial catch phrase, as it suggests that entities formed under law are not "persons" as a matter of law.

The general definition of "person" in Colorado law is well-accepted. "'Person' means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity." C.R.S. § 2-4-401(8). Likewise, for campaign finance purposes, "person" has a broad, accepted, neutral meaning. "'Person' means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons." Colo. Const., art. XXVIII, sec. 2(11).

In marked contrast, the term "artificial" is an adjective that is often used to evoke negative connotations. This perception is recognized by the courts. "[T]he addition of the word 'artificial' to a product's label creates the misimpression that the product is nutritionally inferior." *Committee for Accurate Labeling & Marketing v. Brownback*, 665 F. Supp. 880, 884 (D. Kan. 1987). It is also reflective of the use of this word in common parlance.

> While *artificial* can simply mean "made by humans," it's often used in a negative sense, conveying the idea that an artificial product is inferior to the real thing. If you remark that your friend's new hair color looks artificial, for example, you're not paying her a compliment. *Artificial* can also describe a behavior or expression that seems insincere — much like the smile on your girlfriend's face if you bring her artificial flowers instead of real ones.

https://www.vocabulary.com/dictionary/artificial (emphasis in original) (last viewed April 20, 2026); *see also* https://www.dictionary.com/browse/artificial ("This sense of the word (negative)

is sometimes used figuratively to describe something as being faked, phony, or contrived") (last viewed April 20, 2026).

The inclusion of the definition of "artificial person" in the title does not dispel this negative inference. If anything, repeating the term a second time reinforces the image of illegitimacy that the measure raises.

Thus, the title – and particularly the measure's single subject statement – should not include the word "artificial."

B. The title incorrectly refers to entities' "illegal" political spending.

The title states that such entities can lose their "state-conferred legal benefits if the entity engages in illegal political spending." In fact, Initiative #413 states that political spending by affected entities is "ultra vires and void." Proposed Art. XV, sec. 16(2).

An ultra vires act by a corporation is "acting beyond the scope of its power." *Mortg. Invs. Corp. v. Battle Mt. Corp*., 70 P.3d 1176, 1182 (Colo. 2003). That doesn't make it "illegal." It is simply unauthorized. The use of "illegal" in the title suggests criminality whereas the core of an ultra vires act "is merely one of agency and therefore governed by the well-settled rules of law relating to agency." *Id.* Moreover, because the measure may prohibit all committee spending (i.e., by preventing the formation of committees), the inclusion of the term "illegal" is misleading in suggesting that some of this political spending will remain permitted. At a minimum, then, the term introduces improper confusion.

Similarly, "void" has a clear meaning that is not equivalent to "illegal." "Void" means "[o]f no legal effect." *Black's Law Dictionary* 1885 (11th ed. 2019), cited by *Che Cazzo, LLC v. Riverwalk at Edwards Prop. Owners Ass'n*, 2024 Colo. App. LEXIS 1696, ¶13.

Thus, the title is misleading and prejudicial if it continues to use "illegal" as a modifier of "political spending."

C. The title needs to alert voters that a new standard for entity powers generally is being proposed.

As explained above, the measure requires that all powers authorized for entities must be "necessary or convenient." This is a significant change in the law. Thus, while the title informs voters that business powers need be for "lawful business or charitable purposes," it is incomplete and misleading because it omits the substantive qualification that powers be "necessary or convenient."

D. The title should not include the phrase "including a corporation."

The title states that the measure applies to "an entity, ***including a corporation***, whose existence is conferred by Colorado law…" (Emphasis added). The measure, however, does not state that it applies to a "corporation"; indeed, it does not even use the word "corporation." It says

instead that it applies to "entities." The inclusion of an example of an entity is an interpretative step that exceeds the Board's authority.

Further, in the context of campaign finance, the particular example of a "corporation" is politically charged with a distinct political valiance. Contributions by corporations to state candidates and political parties are specifically banned by applicable law, as are expenditures that expressly advocate the election or defeat of a candidate." Colo. Const., art. XXVIII, sec. 3(4)(a). The inclusion of the example does not "correctly" or "fairly express" the meaning on the measure, and the Board should strike it.

WHEREFORE, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #413 for lack of jurisdiction, and if it does not do so, it should revise the titles so that they are fair, accurate, and not misleading.

RESPECTFULLY SUBMITTED this 22nd day of April, 2026.

RECHT KORNFELD, P.C.

s/ Mark Grueskin
Mark Grueskin
Nathan Bruggeman
1600 Stout Street, Suite 1400
Denver, CO 80202
Phone: 303-573-1900
Email: mark@rklawpc.com
nate@rklawpc.com

CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2025 -2026 #413** was sent this day, April 22, 2026, via email to:

Sherri Stieg
Senna Keesing
Proponents

Kyle Holter
Assistant Attorney General

s/ Erin Mohr