COLORADO SUPREME COURT
2 East 14th Ave
Denver CO 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 2025-2026 #149 ("Right to Continue Living from Conception")

Petitioners Faye Barnhart and Angela Eicher,
co-proponents

v.

TITLE BOARD Kurt Morrison, Kathleen Wallace, Michael Dohr
and
Respondent Kelly Page represented by attorney Mark G. Grueskin #14621 of Recht Kornfeld PC

Pro se/ Proponent Angela Eicher filing on behalf of petitioners

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CERTIFICATE OF COMPLIANCE

As I am not an attorney, I am not familiar with CAR 28 and CAR 32. Please accept this petition which I have formatted according to the format prior petition reviews submitted to the Colorado Supreme Court.

I hereby certify that this petition for review contains 1,794 words.

Angela Eicher

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INTRODUCTION

Pursuant to C.R.S. § 1-40-107(2), Proponent Angela Eicher respectfully petitions this Court for review of the Title Board's decision on rehearing, issued on November 5, 2025, which reversed its initial determination that Proposed Initiative 2025-2026 #149 (the "Initiative") satisfies Colorado's single-subject requirement and refused to set title accordingly. The Board's initial decision was correct: the Initiative advances one straightforward objective—to establish a constitutional right to continue living from the moment of conception—and all provisions are necessarily and properly connected to that aim. The rehearing decision, influenced by opponents' motion, improperly repackaged policy disagreements into unrecognized titling objections, relying on misread authority and speculative impacts that are immaterial at this stage.

This Court should reverse the Board's rehearing decision, reinstate the single-subject finding, and direct the Board to set the titles as originally determined. The Initiative's structure aligns with decades of this Court's single-subject jurisprudence, including cases upholding measures with broad impacts, implementation details, and incidental supersession effects. Denying review would frustrate the people's initiative power under Article V, Section 1 of the Colorado Constitution by elevating conjectural objections over settled law.

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The Initiative proposes to amend the Colorado Constitution by adding a new section recognizing a right to continue living from the moment of conception. Its provisions include operative definitions (specifying who or what the right protects and when it attaches), supersession

language directing that the new right controls over contrary authority, and routine enforcement mechanisms to render the right judicially cognizable.

FILING

Proponents filed the original text of Proposed Initiative 2025–2026 #149 with the Title Board on October 1, 2025, at 10:26 a.m. Designated representatives: Angela Eicher and Tralita Faye Barnhart, P.O. Box 3, Brush, CO 80723.

INITIAL HEARING

On October 15, 2025, after hearing argument, the Board initially found the Initiative complies with the single-subject rule under C.R.S. § 1-40-106.5 and set clear, succinct titles by a 2–1 vote (Morrison dissenting). The Board also determined that the measure proposes a constitutional amendment and therefore the 55% voter-approval requirement applies.

REHEARING

Opponents filed a motion for rehearing, asserting that the Initiative violates the single-subject rule due to alleged "implied repeals," "structural changes," and broad implications across legal domains. They also claimed the titles were unclear for failing to enumerate hypothetical effects (e.g., on end-of-life care, IVF, or agency rules). Proponent opposed the motion, arguing these claims misapply the law and exceed the Board's narrow role. (See attached Opposition to Motion for Rehearing, incorporated herein by reference.)

On November 5, 2025, on an opponent's Motion for Rehearing (Page), the Board granted the motion in its entirety by a 2–1 vote (Dohr dissenting), reversed its single-subject determination,

and declined to set title on the ground that the measure contains multiple subjects and the Board therefore lacked jurisdiction to set title.

PETITION TIMELINESS

This petition is timely filed within five days (excluding weekends and federal holidays) as required by C.R.S. § 1-40-107(2).

RECORD

Record materials. The publicly-posted docket reflects: (1) Original and final text #149 (PDF); (2) Motion for rehearing – Page #149 (PDF); and (3) Proponents' response to motion for rehearing #149 (PDF).

JURISDICTION

This Court has jurisdiction under C.R.S. § 1-40-107(2) to review the Title Board's final action on rehearing. Proponents appeared below and filed this Petition within the statutory deadline. The questions presented—single-subject and refusal to set title—are squarely within the scope of review prescribed by the statute.

STANDARD OF REVIEW

This Court reviews the Board's single-subject and title-setting determinations de novo, applying the same standards the Board must follow. In re Title, Ballot Title & Submission Clause for 2019-2020 #315, 2020 CO 61. The single-subject inquiry asks whether all parts of the measure are "necessarily and properly connected" to one general objective, without coercing voters or

hiding disparate purposes. C.R.S. § 1-40-106.5; In re Title, Ballot Title & Submission Clause for 2013-2014 #90, 328 P.3d 155, 160 (Colo. 2014). Titles must be clear, succinct, and fairly express the measure's central features, alerting voters to its thrust without cataloging every implication or resolving ambiguities. In re Title, Ballot Title & Submission Clause for 2009-2010 #45, 234 P.3d 642, 648 (Colo. 2010). The Court presumes compliance and resolves doubts in favor of the proponents, guarding against undue restrictions on the initiative process. Id. at 646. Policy debates, merits arguments, and hypotheticals are not resolved at this stage. In re Ballot Title #3, 2019 CO 57, 442 P.3d 867.

ARGUMENT

I. The Title Board Erred in Reversing Its Initial Single-Subject Determination; the Initiative Contains a Single Subject: Establishing a Constitutional Right to Continue Living from Conception.

The Board's initial finding was sound: the Initiative's objective is direct—to create a constitutional right to continue living from conception—and its supporting provisions are mere implementation details. These include the right's definitions, supersession/priority language, and enforcement scaffolding. This structure satisfies the single-subject test, as all elements are "necessarily and properly connected" to the unifying purpose. C.R.S. § 1-40-106.5.

This Court has repeatedly rejected claims that a measure becomes multi-subject simply because it displaces existing law. To the contrary, even repealing entire constitutional provisions can occur within a single subject when serving one objective. In re Ballot Title #3, 2019 CO 57, 442

P.3d 867 (upholding repeal of TABOR in its entirety as single subject, rejecting notion that repealing multi-faceted provisions inherently creates multiple subjects). Similarly, in In re Title, Ballot Title & Submission Clause for 2013-2014 #89, 328 P.3d 172, 177 (Colo. 2014), the Court upheld a measure creating a new environmental right that altered existing laws, as all components connected to that aim.

Additional precedents reinforce this: In In re Proposed Initiative on Petitions, 907 P.2d 586 (Colo. 1995), the Court upheld reforms to petition procedures, finding minor connected provisions do not fracture the rule—analogous to the Initiative's definitions and enforcement details. In In re Amend Tabor No. 32, 908 P.2d 125 (Colo. 1995), a tax credit across multiple taxes was single-subject due to its central relief aim, showing broad impacts do not violate the rule if unified, like the Initiative's ripple effects. In In re Proposed Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996), a broad parental rights measure encompassed multiple aspects without separate subjects, directly paralleling a general right from conception. In In re Proposed Initiative on Parental Choice in Education, 917 P.2d 292 (Colo. 1996), ancillary statements serving the main goal were permissible, akin to the supersession clause here. In In re Proposed Initiative 1996-6 (Public Rights in Waters III), 917 P.2d 1277 (Colo. 1996), undefined future effects and supersession did not create multiple subjects. In In re Proposed Initiative for 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000), phasing out programs was incidental to English-only instruction. In In re Proposed Initiative for 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000), incidental effects on sellers did not violate the rule in a gun-check measure. Finally, in In re Proposed Initiative for 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006), subtle effects on employees were not separate subjects, affirming deference to hypotheticals.

These cases confirm the Board's reversal was error; the Initiative's breadth, impact, or controversy does not create a second subject where all parts serve one end.

A. "Implied Repeal" Is a Consequence, Not a Subject.

Opponents' focus on "implied repeal" misses the mark. When an initiative establishes a new constitutional right, any displacement of contrary statutes or precedents is a consequence of that single change, not a separate subject. The Colorado Supreme Court has upheld measures with sweeping effects—including the complete repeal of TABOR—as single-subject when the provisions are "necessarily and properly connected" to one central objective. In re Ballot Title #3, 2019 CO 57, ¶¶ 30–39, 442 P.3d 867 (holding full repeal of a multi-faceted provision is still one subject); see also In re Proposed Initiative 1996-6 (Public Rights in Waters III), 917 P.2d 1277, 1280–81 (Colo. 1996) (possible conflicts or supersession do not create multiple subjects). The subject here remains the declared right; the priority/supersession language merely enforces that unified aim.

B. The Opponents' Reliance on Older, Misplaced Authority Is Unavailing.

Opponents invoke pre-Ballot Title #3 decisions involving incongruous projects, but those are distinguishable. Here, there is one project: constitutionalizing the right and ensuring its efficacy. The supersession clause is not a freestanding redesign but a standard mechanism, as upheld in Waters III and Parental Rights. This Court's modern jurisprudence underscores that ordinary consequences of priority do not fracture the single-subject rule.

II. The Title Board Erred in Finding the Titles Unclear; the Originally Set Titles Fairly Present the Measure's Central Features.

Titles must be clear but need not exhaustively list implications or litigate hypotheticals. In re 2009-2010 #45, 234 P.3d at 648. The Board's original titles met this: they stated the core change and alerted to priority over inconsistent law, avoiding speculation while enabling informed votes.

Opponents' clarity objections confuse breadth with ambiguity. Many initiatives have ripple effects (e.g., tax limits or reforms), yet remain clear if summarizing the thrust. In re Amend Tabor No. 32, 908 P.2d 125. The Board was not required to enumerate doctrines like end-of-life standards or IVF—such "laundry lists" invite prolixity, which this Court discourages. Id.; In re 2009-2010 #45, 234 P.3d at 649. Voters grasp that a constitutional right supersedes contrary law without an exhaustive inventory.

Claims of "structural changes" curtailing judicial power are baseless: the clause directs application of the new standard, as in every amendment, without stripping authority. See Parental Rights, 913 P.2d 1127 (implementation mechanisms are not separate objectives). The reversal on clarity grounds was thus unwarranted.

III. The Opponents' Parade of Hypotheticals Is Legally Irrelevant at the Title-Setting Stage.

Speculative applications (e.g., medical protocols or liabilities) do not belong in title review. The Board does not resolve future interactions; that is for litigation or legislation. C.R.S. § 1-40-106; In re 2005-2006 No. 73, 135 P.3d 736 (Board should not predict applications). Using conjecture

to find multiple subjects or unclear titles exceeds the Board's mandate and invites merits adjudication, which is prohibited.

IV. Even Accepting the Opponents' Premises, the Requested Relief Is Improper and the Title Board's Reversal Was Unwarranted.

Opponents failed to identify a correctable title defect; their grievances stem from the Initiative's impact and hierarchy, not titling errors. Burdening titles with contested characterizations would render them argumentative. In re 2009-2010 #45, 234 P.3d at 648. The original concise, neutral titles were proper; the reversal elevates policy discord over law.

CONCLUSION AND RELIEF REQUESTED

The Initiative presents one subject, and the original titles fairly inform voters. The Board's rehearing reversal, converting merits debates into barriers, contravenes Colorado law. This Court should reverse, reinstate the single-subject finding, and direct title-setting as initially determined.

Respectfully submitted on November 12, 2025,

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Pro Se/Proponent

CERTIFICATE OF SERVICE

I certify that on November 12, 2025, a true copy of this Petition was served via email on the Title Board's and opponents' counsel at mark@rklawpc.com and ebuckley@coag.com Attorney Mark G. Grueskin #14621 of Recht Kornfeld PC

Angela Eicher

STATE OF COLORADO

DEPARTMENT OF STATE

CERTIFICATE

I, JENA GRISWOLD, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2025-2026 #149 'Right to Life From Conception'" .....

..... **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 6th day of November, 2025.

Jena Griswold

SECRETARY OF STATE

IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE FOR INITIATIVE 2025-2026 #149 ("Prohibiting Certain Surgeries on Minors")

Initiative Proponents: Tralita Faye Barnhart & Angela Eicher

v.

Objector: Kelly L. Page

MOTION FOR REHEARING

On behalf of Kelly L. Page, a registered voter of the City and County of Denver, this Motion for Rehearing is submitted because the Title Board must reverse its decision to set titles for Initiative #149, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On October 15, 2025, the Title Board set the following ballot title and submission clause for #149: "*Shall there be an amendment to the Colorado Constitution creating new law that children have the right to continue living once conceived?*"

As background to the Title Board's 2-1 decision to set the above ballot title and submission clause, the full text of Initiative #149 reads as follows:

> **SECTION 1.** In the constitution of the state of Colorado, add section 33 to Article II as follows:
>
> **Section 33. Right to be born.**
> CHILDREN HAVE THE RIGHT TO CONTINUE LIVING FROM THE MOMENT THEY ARE CONCEIVED.
>
> **Self-Executing**. This provision shall be self-executing, shall supersede any conflicting state statutes, legislation, judgments, or constitutional provisions, and shall apply and shall take effect December 25, 2026, if approved by the vote of the people.

The Board erred in setting titles for the following reasons.

I. The Title Board lacks jurisdiction to set a ballot title for Initiative #149.

A. Initiative #149 repeals Amendment 79 and thus contains a second subject.

The proponents' stated intent is to prevent any interference with the decision to continue a pregnancy from "the moment" of conception. In other words, they are trying to constitutionally

ban abortion in Colorado. This initiative does not state it is effectively repealing Amendment 79, passed by voters in 2024, which put the right to abortion in the Colorado Constitution.[1] But that is what it does. And that repeal is a second subject.

Initiative #149 achieves this end by means of an implied repeal of the voter-approved right to an abortion. In Colorado, repeals by implication are not to be found "unless there is a repugnancy or an irreconcilable conflict between the statutes under consideration." *Ferch v. People*, 74 P.2d 712 (Colo. 1937).

#149 and Amendment 79 present an irreconcilable conflict. #149 seeks to deprive a woman of the right to determine the course of her pregnancy, as guaranteed by Amendment 79. It is exactly the type of measure that will "deny" or "impede" that right, expressly authorized by Section 32 of Article II of the Colorado Constitution. The undermining of rights guaranteed by voters in 2024 is repugnant to the slyly worded right of just-fertilized eggs,[2] now treated as children "from the moment they are conceived," to "continue living."

The Colorado Supreme Court has held that an "implied repeal" of an existing constitutional provision violates the single subject requirement. For example, the Court agreed with petitioners that an "implied repeal" of the otherwise broad constitutional grant of authority over Denver's courts, in addition to the measure's other objectives, was a single subject violation. *In re Title & Ballot Title & Submission Clause, and Summary for Initiative 1999-2000 #29,* 972 P.2d 257, 263-64 (Colo. 1999); *In re Title & Ballot Title & Submission Clause, and Summary for Initiative 1999-2000 #104,* 987 P.2d 249, 256 (Colo. 1999). Here, the implied repeal of Amendment 79, coupled with a murkily worded amendment about the right of a child, is also just such a violation.

This measure's "Self-executing" provision states that #149 "shall **supersede any conflicting** state statutes, legislation, judgments, or **constitutional provisions**." (Emphasis added.) In other words, #149 creates this right to continued life, but it also sets that right as a preemption of Amendment 79. The undefined rights of a just-fertilized egg (or of any organism that qualifies as a "child" under this measure) is not intended to co-exist with the rights enshrined in Amendment 79.

Likewise, because #149 supersedes any conflicting "judgments," the courts are prevented from giving effect to Amendment 79. This restriction on judicial application of Amendment 79 would be hidden from voters in violation of the single subject requirement.

Therefore, #149 should be returned to its proponents.

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[1] According to the 2024 Blue Book, "Amendment 79 makes abortion a constitutional right in Colorado and prohibits state and local governments from denying, impeding, or discriminating against exercising that right." Legislative Council of the Colorado General Assembly, Research Publication No. 815 at 26.

[2] According to the esteemed Cleveland Clinic, "Conception (or fertilization) is when sperm and an egg join together." https://my.clevelandclinic.org/health/articles/11585-conception (last viewed Oct. 22, 2025).

B. Initiative #149's key language – "the right to continue living" – reflects separate subjects to obtain "yes" votes from divergent, conflicting constituencies, and thus the Board lacks jurisdiction to set titles.

The Board considered whether a right to "continue living" means only the prohibition on abortion. Rights such as a putative right to health care for children and a putative right not to be shot in classrooms were mentioned. The inquiry certainly does not stop there.

Does this proposed constitutional right also include the right of every child to be fed? Or the right of every child to be housed? Clearly, depriving any child of sustenance or shelter is a direct attack on the child's life. Certain voters who support the right to abortion (and thus oppose #149) would also support the feeding and sheltering of children (which could impel them to vote for #149). How are these voters to cast their ballots?

Likewise, reading #149 literally, a child's right to "continue living" means a child who is severely injured or severely ill and who has no brain activity can never be removed from life support treatment in a hospital, despite the best interest of the child. Such a decision, while painful, can be made by a parent or legal guardian after full explanation of the medical realities affecting that child. But under this measure, no parent or guardian could take on such a role, and no hospital or medical professional could allow such intervention to occur.

This is not all that is encompassed within the right to "continue living." A family that practices Christian Science or relies solely on homeopathic remedies would have to place their child, suffering from a severe illness or injury, in the care of medical professionals at a hospital or urgent care facility. If consistent with a doctor's professional judgment, the child would have to take prescribed pharmaceuticals.

On a somewhat different but related note, under #149, all parents would be mandated to have their children vaccinated against all diseases that can be fatal but that can be prevented through such anticipatory treatment. This would be consistent with a child's right to "continue living."

Furthermore, Initiative #149 would certainly seem to apply to an embryo that results from the IVF process. "In vitro fertilization is a medical treatment that helps women **conceive** and carry a baby." https://uihc.org/services/vitro-fertilization-ivf (last viewed Oct. 22, 2025) (emphasis added). Under #149, must an embryo be implanted if it is viable? Absent implantation, would the embryo have been allowed to "continue living"?

The Title Board cannot find a measure contains a single subject if the Board does not know what the measure actually does. And here, despite its dialogue with proponents, it does not. This is a well-settled legal proposition that is consistent with the notion that initiatives may have broad single subjects. "[W]here the Board has acknowledged that it cannot comprehend the initiatives well enough to state their single subject in the titles, we hold that the initiatives cannot be forwarded to the voters and must, instead, be returned to the proponent." *In re Title & Ballot Title & Submission Clause, and Summary for Initiative 1999-2000 #25,* 974 P.2d 458, 469 (Colo. 1999).

□

It is not this Board's job to concoct the single subject of an initiative. That responsibility belongs to proponents, based on the language they have used in their measure.

> **The ultimate responsibility for formulating a clear and understandable proposal for the voters to consider belongs to the proponents of the initiative.** When we return the titles and summary to the Title Board for non-compliance with the applicable constitutional and statutory requirements, the Title Board must then determine whether any re-proposal of the initiative complies with the single subject and clarity requirements; if not, it must refuse to set the titles.

In re #29, supra, 972 P.2d at 262 (emphasis added).

It is no defense to maintain, as proponents did here, the actual breadth of this initiative will be sorted out by the courts. Recall the "Self-executing" clause of Initiative #149. It prevents any "conflicting... judgments." Under this measure, courts cannot bring clarity to the application of this measure. And in light of the precedent cited above, that limitation on the judicial power is a subject unto itself. *See id.*

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

The titles do not state that this measure repeals Amendment 79. Neither do they state that it supersedes conflicting constitutional provisions and court judgments. Both of these failures are material omissions from the titles that must be corrected if this measure is to proceed to the petitioning phase and/or to the ballot.

Further, the lack of clarity in the initiative's text, discussed above, prevent setting a clear title. The fact that the title incorporates this facial vagueness does not prevent voter confusion. "[T]he source of a title's language does not rule out the possibility that the title could cause voter confusion." *In re Title, Ballot Title & Submission Clause for 2015-2016 #156*, 2016 CO 56, ¶15. The problem is not the Board's to solve. "Here, perhaps because the . . . proposed initiative [itself] is difficult to comprehend, the titles . . . are not clear." *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #44*, 977 P.2d 856, 858 (Colo. 1999).

Because of the way in which this measure was drafted, a clear title cannot be set. But the title the Board approved does not – cannot, really – meet the statutory requirements for a description of this measure that will not confuse voters. Thus, the Board's decision cannot stand.

WHEREFORE, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #149 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 October, 2025.

RECHT KORNFELD PC

s/ Mark Grueskin
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CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2025-2026 #149** was sent this day, October 22, 2025, via first-class mail, postage prepaid to Proponents:

Angela Eicher
PO Box 3
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Tralita Faye Barnhart
PO Box 3
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Erin Mohr

Opposition to Motion for Rehearing for Initiative 2025-2026 #149

By Gualberto Garcia Jones, Esq.

INTRODUCTION

The Motion for Rehearing repackages policy disagreements with the proposal into titling objections the law does not recognize.

The initiative advances one straightforward objective: to establish a constitutional right to continue living from the moment of conception.

Every provision in the measure—definitions, enforcement mechanics, and the instruction that the new right controls over contrary law—serves that single aim. That is enough under Colorado's well-settled single-subject jurisprudence.

The Motion's remaining claims (about "implied repeal," title clarity, and alleged "structural" side effects) are either legally immaterial at the title-setting stage or rely on misread authority. The rehearing should be denied.

STANDARD

At rehearing, the question is not whether opponents prefer different policy, drafting, or scope. The Title Board's task is narrow: determine whether the measure embraces one general subject and whether the titles fairly and succinctly capture its central features so voters understand the choice before them. Ambiguities in future application, policy forecasts, and merits-level constitutional debates are not resolved by the Board and are not grounds to undo titles.

ARGUMENT

I. The initiative contains a single subject: establishing a constitutional right to continue living from conception.

Colorado's single-subject test asks whether all parts of a proposal are "necessarily and properly connected" to one general objective. This proposal's objective could not be more direct: create a constitutional right to continue living from conception. The supporting provisions are implementation details:

- The right's operative definition (who/what it protects, when it attaches);

- The direction that contrary authority yields to the new right (supersession/ priority language); and
- Routine enforcement scaffolding to make the right judicially cognizable.

Courts have repeatedly rejected the notion that a measure becomes multi-subject merely because it displaces existing law.[1] To the contrary, the Court has recognized that even repealing existing constitutional text may be accomplished within a single subject when the repeal is the vehicle for the one overarching objective. If an express repeal can be one subject, then a conflict-of-laws clause (or the inevitable implied supersession that flows from a new, higher-order right) is doubly within the single-subject lane. The Motion's attempt to transform ordinary consequences of constitutional priority into a "second subject" is contrary to that principle.

A. "Implied repeal" is a consequence, not a subject.

Opponents lean on "implied repeal" as if the phrase were talismanic. It is not. Whether existing provisions are superseded is a law-of-conflicts outcome that follows from adopting a higher, later-in-time constitutional rule. Colorado cases on implied repeal (like *Ferch*) speak to interpretive canons—they tell courts to avoid finding repeal unless there is an irreconcilable conflict. They do not convert the existence of a conflict into a separate subject. The subject remains what the initiative declares: a right to continue living from conception. That this right will—by design—control over inconsistent provisions does not add a second topic; it enforces the first.

B. The Motion's reliance on the "Denver courts" line is misplaced.

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[1] The Colorado Supreme Court has made clear that the mere repeal or displacement of existing constitutional or statutory provisions does not, by itself, render a measure multi-subject. In *In re Ballot Title #3*, 19SA25 (Colo. 2019), the Court held that an initiative seeking to repeal the Taxpayer's Bill of Rights (TABOR) in its entirety satisfied the single-subject requirement, expressly disapproving earlier dicta suggesting that a repeal of a multi-subject constitutional provision necessarily constitutes multiple subjects. *Id.* at ¶¶ 30–39 ("[W]e reject the notion that an initiative that asks voters the single question of whether a constitutional provision should be repealed violates the single-subject requirement simply because the underlying provision contains multiple subjects."). Likewise, in *In re Title, Ballot Title & Submission Clause for 2013-2014 Initiative #89*, 328 P.3d 172 (Colo. 2014), the Court upheld a measure that altered existing constitutional and statutory provisions to create a new "right to Colorado's environment," concluding that all provisions of the initiative were "necessarily and properly connected" to that single objective. *Id.* at 177. These cases confirm that a measure does not become multi-subject merely because it displaces or repeals existing law; the inquiry turns instead on whether the initiative's components are connected to a single unifying purpose.

Opponents invoke older decisions where a proposal both altered a discrete institutional arrangement and pursued unrelated ends; the Court found multiple subjects because the measure yoked together incongruous projects. Here, by contrast, there is a single project: constitutionalizing a specific right and making it effective. The priority/supersession language is not some freestanding institutional redesign; it is the familiar clause that ensures the newly created constitutional right governs. Colorado case law has since underscored that breadth, impact, or controversy do not create a second subject where all parts serve one end.

II. The Motion's title-clarity objections fail; the titles fairly present the measure's central features.

Titles must be clear and not misleading, but they need not catalog every downstream implication, litigating every hypothetical application (end-of-life care, IVF, standards of proof, etc.). The adopted titles meet the standard:

1. They accurately state the measure's core change—enshrining a right to continue living from conception.

2. They alert voters to the priority of the right over inconsistent law by summarizing that the measure supersedes contrary provisions and decisions.

3. They avoid argumentative or speculative phrasing while fairly expressing the measure's thrust so electors can decide whether they favor or oppose that constitutional change.

Opponents say the Board "cannot comprehend" the initiative's scope because it may affect multiple legal domains. That argument confuses policy breadth with title ambiguity. Many single-subject initiatives have broad consequences—tax limits, criminal-procedure reforms, energy or election changes—that ripple across statutes and case law. That does not make them unclear; it means voters are being asked to approve a consequential constitutional rule. The proper remedy for genuine textual uncertainty is future judicial construction, not withholding titles.

A. The Board was not required to enumerate every potentially affected doctrine.

A title is not a treatise. Colorado decisions repeatedly caution against over-stuffed titles that mislead through prolixity. The Motion demands a laundry list: end-of-life standards, medical licensing, damages regimes, agency mandates, and more. That is precisely what the Court discourages. A faithful summary of the central feature is enough. Voters will understand that a constitutional right of this nature will

supersede contrary law; that recognition does not hinge on reciting an exhaustive inventory of conflicts.

B. The "structural change" label does not transform implementation into a second subject.

Opponents argue the measure "curtails judicial power" by stating the right controls over conflicting judgments. That clause does not strip courts of power; it directs courts on the substantive rule they must apply—just as every constitutional amendment does. Courts will continue to adjudicate controversies; they will simply apply the new constitutional standard where it governs. That is an implementation mechanism, not a separate structural objective.

III. The Motion's parade of hypotheticals is legally irrelevant at the title stage.

The Motion leans on speculative applications (e.g., medical protocols, agency rules, private civil liabilities). Colorado law draws a bright line: the Title Board does not resolve hypothetical effects or future statutory harmonization. The initiative states a constitutional rule; how that rule interacts with specific statutes and fact patterns is for subsequent litigation and legislation. Using conjectural outcomes to manufacture a "multiple-subjects" or "unclear title" problem invites the Board to do precisely what it may not—adjudicate merits disputes in a titling rehearing.

IV. Even taking the Motion's premises at face value, the requested relief is improper.

At rehearing, opponents must identify a specific, material title defect the Board can correct. They do not. Their complaint is that the measure is too impactful—that it may prevail over existing guarantees the opponents prefer. But policy disagreement and constitutional hierarchy are not titling errors. If the Board were to burden titles with every contested characterization opponents propose, the titles would become argumentative and unworkable. The concise, neutral titles the Board adopted are the correct approach.

CONCLUSION

This initiative presents one subject—recognition of a constitutional right to continue living from conception—and the titles fairly, succinctly inform voters of that choice, including that the right will control over contrary law. "Implied repeal" is neither a second subject nor a titling defect; it is the ordinary legal consequence

of elevating a new constitutional rule. The Motion asks the Board to convert merits-level debates and speculative applications into title-setting barriers. Colorado law forbids that.

The rehearing should be denied.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #149[1]

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

An amendment to the Colorado Constitution creating new law that children have the right to continue living once conceived.

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 creating new law that children have the right to continue living once conceived?

Hearing October 15, 2025:
Single subject approved; titles set (2-1, Morrison).
The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution. The requirement for approval by fifty-five percent of the votes cast applies to this initiative.
Board members: Kathleen Wallace, Kurt Morrison, Michael Dohr
Hearing adjourned 12:59 P.M.

[1] Unofficially captioned **"Right to Life From Conception"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #149[1]

Hearing October 15, 2025:
Single subject approved; titles set (2-1, Morrison).
The Board determined that the proposed initiative requires the addition of language to the Colorado Constitution. The requirement for approval by fifty-five percent of the votes cast applies to this initiative.
Board members: Kathleen Wallace, Kurt Morrison, Michael Dohr
Hearing adjourned 12:59 P.M.

Rehearing November 5, 2025:
Motion for rehearing (Page) granted in its entirety (2-1, Dohr).
The Board lacks jurisdiction to set title because the measure has multiple subjects.
Board members: Kathleen Wallace, Kurt Morrison, Michael Dohr
Hearing adjourned 11:52 A.M.

[1] Unofficially captioned **"Right to Life From Conception"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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

SECTION 1. In the constitution of the state of Colorado, **add** section 33 to Article II as follows:

Section 33. Right to be born.
CHILDREN HAVE THE RIGHT TO CONTINUE LIVING FROM THE MOMENT THEY ARE CONCEIVED.

Self-Executing. This provision shall be self-executing, shall supersede any conflicting state statutes, legislation, judgments, or constitutional provisions, and shall apply and shall take effect December 25, 2026, if approved by the vote of the people.

Fiscal Summary

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Measure: Initiative 149 – Right to Life from Conception

Analyst: Shukria Maktabi, shukria.maktabi@coleg.gov, 303-866-4720

Date: October 10, 2025

Fiscal Summary of Initiative 149

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

State Revenue

The measure may reduce state licensing revenue if it results in the closure of licensed health facilities that provide abortion services. The measure may result in criminal fines and court filing fee revenue if the right to continue living after conception results in existing criminal and civil laws being applied to the unborn when this right is violated.

State Expenditures

Under current law, the Department of Health Care Policy and Financing (HCPF) is required to cover abortion services for Medicaid and Child Health Plan Plus members using state funds, and public employee insurance plans are required to cover abortion care services for plan members. This measure will decrease costs in HCPF and for state employee health insurance plans by ending coverage for abortion services, and will increase costs to these entities for additional pregnancies and births. Additionally, to remain compliant with federal law, HCPF may have increased costs to transport a person who is pregnant as a result of rape or incest to another state to obtain an abortion.

The measure may also increase costs in other areas. If the measure leads to more persons being charged with criminal offenses, costs may increase for the Attorney General, state law enforcement agencies, and the courts for the investigation and prosecution of businesses and individuals charged. Costs may increase for the Department of Corrections to incarcerate individuals convicted and sentenced to prison under the measure. Workload in the trial courts in the Judicial Department may also increase to hear additional civil cases. Finally, the Department of Public Health and Environment and Department of Regulatory Agencies may have an increase in workload to ensure regulated facilities and providers are in compliance with the new law.

Local Government

Similar to the state, this measure would decrease costs for local government employers that no longer cover abortion services for employees under their health insurance plans. Local law enforcement agencies and district attorneys may have increased workload to investigate and prosecute more cases. Persons charged with criminal offenses under the measure may be held in a county jail while awaiting trial, which would increase costs for counties. Finally, local public health agencies may have an increase in workload to ensure regulated facilities are in compliance with the new law.

Economic Impacts

The measure prohibits abortion services provided by medical providers, which will reduce income and jobs in this sector of the economy. If additional persons are incarcerated for violations under the measure, these individuals will not participate in the labor force, which may reduce income and spending in their households and communities. To the extent that the measure results in more children being born in the state, child-related spending will increase, potentially shifting spending from other areas of the economy. Additionally, labor market participation may decrease for parents or other caretakers. Over the long term, population growth may increase economic activity and output within the state.