

SUPREME COURT OF COLORADO 2 East 14 th Avenue Denver, Colorado 80203	FILED IN THE SUPREME COURT DATE FILED December 2, 2025 DEC 02 2025 OF THE STATE OF COLORADO Cheryl L. Stevens, Clerk ▲ COURT USE ONLY ▲
Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the 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: Tralita Faye Barnhart and Angela Eicher, v. Respondent: Kelly L. Page, and Title Board: Kurt Morrison, Kathleen Wallace, Michael Dohr. Attorneys for Petitioners/Proponents: Pro se/ Proponent Angela Eicher filing on behalf of petitioners Angela Eicher, PO Box 3 Brush CO 80701 970-370-3554 Angelaeicher4@gmail.com	
PETITIONERS' OPENING BRIEF	

CERTIFICATE OF COMPLIANCE

As I am not an attorney, I am not familiar with CAR 28 and CAR 32. However, I have done my best to meet the rules as far as I can ascertain. Please accept this petition which I have formatted according to the format of other Title Board appeal briefs submitted to the Colorado Supreme Court.

I hereby certify that this petition for review contains 1,641 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.

The measure in, in full, states:

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.

Proponents Angela Eicher and Tralita Faye Barnhart filed the original text of Proposed Initiative 2025–2026 #149 with the Title Board on October 1, 2025, at 10:26 a.m.

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.

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 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.

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. 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. 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. Policy debates, merits arguments, and hypotheticals are not resolved at this stage. *In re Ballot Title #3*, 2019 CO 57, 442 P.3d 867.

LEGAL 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 multifaceted provisions inherently creates multiple subjects). Similarly, in *In re Title, Ballot Title & Submission Clause for 2013-2014 #89*, 328 P.3d 172 (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 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.

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. 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.* 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. 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. 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 December 1, 2025,



Angela Eicher

PO Box 3 Brush CO 80701
970-370-3554
Angelaeicher4@gmail.com

Pro Se/Proponent

CERTIFICATE OF SERVICE

I certify that on December 1, 2025, a true copy of the **PROPONENT'S OPENING BRIEF** was served via hand delivery or through an over-night delivery service on the Title Board's and Respondent's counsel at the following addresses.

Counsel for the Title Board

Emily Buckley
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203

Counsel for Respondent

Mark G. Gueskin
1600 Stout St., Suite 1400
Denver, CO 80202



Angela Eicher
Pro Se
On behalf of Proponents