

COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203	DATE FILED December 2, 2025 3:44 PM
Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) 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, v.	▲ COURT USE ONLY ▲
Respondent: Kelly Page, and Title Board: Kurt Morrison, Kathleen Wallace, Michael Dohr.	Case No. 2025SA333
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THE TITLE BOARD’S OPENING BRIEF	

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ISSUE ON REVIEW

Whether the Title Board lacked jurisdiction to set title for Proposed Initiative 2025-2026 #149 because it contained more than a single subject.

STATEMENT OF THE CASE

Proposed 2025-2026 Initiative #149 (“Initiative 149”) provides:

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.

Certified Record, p 14 (bolded text in original). By a 2-1 vote (Morrison dissenting), the Ballot Title Setting Board (“Title Board”) initially set title at its October 15, 2025 hearing, designating the ballot title and submission clause as asking:

Shall there be an amendment to the Colorado
Constitution creating new law that children have
the right to continue living once conceived?

Id. at 12.

Objector Kelly L. Page filed a motion for rehearing, asserting
that:

- (1) the Title Board lacked jurisdiction to set ballot title for Initiative 149 because it contained a second subject – the implicit repeal of Amendment 79¹;
- (2) Initiative 149’s key language of “the right to continue living” was confusing and reflected separate subjects designed to obtain a “yes” vote from divergent, conflicting constituencies; and
- (3) the ballot title was misleading, unfair, and inaccurate.

Id. at 2-5. A motion opposing rehearing was filed, *id.* at 7-11, and the Title Board held a rehearing on November 5, 2025, which resulted in a 2-1 decision (Dohr dissenting) determining Initiative 149 violated the

¹ Amendment 79 provides that “The right to abortion is hereby recognized. Government shall not deny, impede, or discriminate against the exercise of that right, including prohibiting health insurance coverage for abortion.” COLO. CONST. art. II, § 32.

single-subject requirement and the Title Board could not set title. *Id.* at 13.

At the November 5, 2025 rehearing, the Title Board heard from the Objectors that the Initiative 149 did three things: it established a broad right to life from the moment of conception for children; it eliminated Amendment 79 (which passed in the 2024 election cycle and established a right of abortion in the constitution); and it created a broad and uncertain series of legal rights for children in furtherance of the right to continue living but beyond the scope of prohibiting abortion and recognizing life at the moment of conception, which collectively were misleading and created confusion and uncertainty.

In particular, the Objectors explained, Initiative 149 carried an implied repeal of Amendment 79's right to abortion, which could not coexist with Initiative 149 (if adopted), replacing it with a total, no-exception ban on abortion. And that Initiative 149 would apply without exception—irrespective of the safety of the mother or, where the mother was a child herself under the age of 18, or where the pregnancy would threaten that juvenile-mother's right to continue living. Additionally, it

created a definition of “life” that was inconsistent with law and scientific principles. *Rehearing Before Title Board on Proposed Initiative 2025-2026 #149* (Nov. 5, 2025), bit.ly/4o12tZ1 (“Rehearing”) at 1:01:45-1:10:00. And it created a parade of follow-on rights, including the right to food, shelter, and welfare; safety at school; right to medical access, including prescription drug care, mental health care, and vaccines; a tangible, yet uncertain, impact on in vitro fertilization; and an impact on children on life support—none of which Initiative 149 conveyed to voters. *Id.* at 1:10:00-1:14:00.

Further, there was a lack of clarity in title—voters would be unsure of the scope of the title, and the initiative seemingly prohibited judicial review of that scope. *Id.* at 1:14:00-1:16:30. Rather, Initiative 149 created an 18-year set of rights that would apply to a wide range of issues. *Id.* at 1:16:30-1:18:15.

The Proponents argued that Initiative 149 made clear that a child lives as soon as it is conceived, that children had a right to life at birth, while also asserting that Initiative 149 was just a prohibition against abortion to avoid “the execution of a child.” They also referenced the

murders committed by Christopher Watts against his pregnant wife and young daughters.² *See* Rehearing at 1:18:30-2:05:00. Proponents submitted written comments indicating approval for Initiative 149, most asserting that the title was clear, albeit for a variety of reasons. *See* Colo. Sec’y of State, Title Board Meeting (Nov. 5, 2025), “2025-2026 #149 – “Right to Life From Conception,” bit.ly/4o12tZ1 (Public Comments).³

Ultimately, the Title Board explained that even it was not sure what the scope of Initiative 149 was, and if the Board could not comprehend the initiative well enough to articulate the single subject, it

² *See People v. Watts*, 2018CR2003, Plea Agreement (Weld Cnty. Nov. 6, 2018); *see also* “Watts family murder” (last visited Nov. 26, 2025), https://en.wikipedia.org/wiki/Watts_family_murders

³ For example, many comments indicated Initiative 149 “guarantees that children have the right to continue living from the moment they are conceived” (e.g., T Konrath), *see* <https://bit.ly/4pyZXun>; another indicated it was designed to “recognize and protect the right to life for children from the moment of conception” (A Konrath), *see* <https://bit.ly/43RSRZn>; and another indicated that the wording was “to affirm that life—and the right to live—begins at conception” (J Baumann), *see* <https://bit.ly/49zLaL6>.

was unfair to the voters and the Board could not set title. Rehearing at 2:04:00-2:05:55 (Board Member Wallace).

SUMMARY OF THE ARGUMENT

The Title Board correctly determined that it did not have jurisdiction because Initiative 149 violates the Colorado Constitution’s single subject requirement. It also is misleading and fails to fully and fairly express the intent of the proposed initiative.

ARGUMENT

I. The Title Board correctly determined it did not have jurisdiction because Initiative 149 contains more than a single subject.

A. Standard of Review and Preservation

This Court overturns the Title Board’s finding concerning whether an initiative contains a single subject “only in a clear case.” *In re Title, Ballot Title & Submission Clause for 2021-2022 #16*, 2021 CO 55, ¶ 9 (quotations omitted). This Court gives great deference to the Title Board’s determination; “[i]n reviewing a challenge to the Title Board’s single subject determination, [this Court] employ[s] all legitimate

presumptions in favor of the Title Board’s actions.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8.

This issue is preserved. Certified Record, pp 2-6 (Rehearing), pp 7-11 (Proponents’ Objection to Rehearing).

B. Initiative 149 violates the single-subject requirement.

“No measure shall be proposed by petition containing more than one subject,” and “[i]f a measure contains more than one subject . . . no title shall be set.” COLO. CONST. art. V, § 1(5.5); *see also* § 1-40-106.5(1)(a), C.R.S. (“Section 1(5.5) of article V . . . require[s] that every constitutional amendment or law proposed by initiative . . . be limited to a single subject, which shall be clearly expressed in its title[.]”). This is “to ensure that each proposal depends upon its own merits for passage.” *In re Proposed Initiative “Pub. Rts. in Waters II,”* 898 P.2d 1076, 1078 (Colo. 1995). To satisfy the single-subject requirement, the “subject matter of an initiative must be necessarily and properly connected rather than disconnected or incongruous.” *In re 2013-2014 #76*, ¶ 8. The single-subject requirement prevents “attracting support from various

factions which may have different or even conflicting interests.” *Waters II*, 898 P.2d at 1079.

In conducting its limited review, this Court does “not address the merits of the proposed initiative” or “suggest how it might be applied if enacted.” *In re Title, Ballot Title, & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 8. Instead, this Court “must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *Id.* Where an initiative “tends to . . . carry out one general objective” or central purpose, “provisions necessary to effectuate [that] purpose . . . are properly included within its text,” and the “effects th[e] measure could have on Colorado . . . law if adopted by voters are irrelevant” to the single subject inquiry. *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶¶ 11, 17 (quotations omitted).

On the other hand, an “initiative will be held to violate the single subject requirement when it relates to more than one subject and has at least two distinct and separate purposes.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 14. So if an

initiative advances separate and distinct purposes, “the fact that they both relate to the same general concept or subject is insufficient to satisfy the single subject requirement.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶ 16.

This single-subject requirement seeks “[t]o prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.” § 1-40-106.5(1)(e)(II). It exists to avoid “log rolling,” where a measure would attempt to gain support from various factions by combining unrelated subjects into a single initiative for consideration. *In re 2013-2014 #76*, ¶ 32. This requirement thus “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.” *Id.* at ¶ 8. Consequently, a “proponent’s attempt to characterize an initiative under some general theme will not save the initiative from violating the single-subject rule if the initiative contains multiple subjects.” *In re Title, Ballot Title & Submission Clause for 2009-2010 #91*, 235 P.3d 1071, 1076 (Colo. 2010).

1. Initiative 149’s implied repeal of Amendment 79 violates the single-subject requirement.

Here, the Title Board did not clearly err by finding that there was more than one general objective or purpose at issue, not just incidental effects.

Specifically, Initiative 149 provides for an unqualified “right to continue living” for children “from the moment they are conceived.” Certified Record, p 14. This framing implicates multiple subjects, including (i) enshrining a constitutional right to life from conception; (ii) a near-explicit prohibition of abortion; (iii) an inherent repeal of Amendment 79 (which enshrines a constitutional right to abortion); (iv) a legal assertion of life beginning at conception; (v) a swath of confusion as to the scope of the “right to life” for children, including impacts on access to medicine, rights of child-mothers, access to vaccines, numerous rights to safety (including in schools), and right to life at birth; and (vi) voiding all existing laws and judicial judgments to the contrary; and (vii) the implicit inability for “legislation, [judicial] judgments[,] or constitutional provisions” to address or, in the case of

judicial review, interpret the provision. *Id.* In short, Initiative 149 reflects multiple subjects and much ambiguity.

This Court may affirm the Title Board’s decision that it could not set title for Initiative 149 based on its implied repeal of Amendment 79 alone. Nowhere does Initiative 149 address Amendment 79, let alone provide that it is repealing the constitutional right to abortion. But that is the precise impact Initiative 149 would have. A repeal in this instance is a second subject. Implied repeals 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, 714 (Colo. 1937). Because Initiative 149 is irreconcilable with the rights enshrined by Amendment 79, it would effect an implicit repeal. This violates the single-subject requirement.⁴ See *In re Title, Ballot Title & Submission Clause, & Summary for Initiative 1999-2000 #104*, 987 P.2d 249, 256 (Colo. 1999) (“implied repeal” of separate provision “constitutes a discrete and independent subject”); *In re Title, Ballot Title &*

⁴ In contrast, and as discussed in section I.B.2, *infra*, an initiative may properly propose as a single subject an explicit repeal of a provision. See *In re 2019-2020 #3*, ¶ 17. Initiative 149 does not do so.

Submission Clause, & Summary for Initiative 1999-2000 #29, 972 P.2d 257, 263-64 (Colo. 1999) (implied repeal was “improperly include[d]” separate subject). This Court should affirm the Title Board’s decision on this ground alone.

2. Initiative 149 contains multiple subjects.

Regardless, the multiple subjects Initiative 149 implicates confirms the Title Board properly determined it did not have jurisdiction to set title. In *In re Titles, Ballot Titles & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128*, 2022 CO 37, ¶ 23, this Court explained that the seemingly similar topics concerning purchase of alcohol by authorizing the sale of wine in grocery stores, on the one hand, and the home delivery of alcoholic beverages on the other were sufficiently “two different subjects” that warranted separate initiatives because some voters might support one but not the other, yet feel compelled to vote in favor of the initiative to provide the affirmative support to their desired subject. Here, too, Initiative 149 contains hidden aspects “coiled up in the folds of a complex proposal.” See *In re 2013-2014 #76*, ¶ 32.

Proponents contend there is a similar unifying theme of recognizing life as beginning at conception and thus the need to protect life from that point and prohibit abortion. But the single-subject requirement does not permit the passage of disparate proposals under such an “overarching theme.” *Id.* at ¶ 34; *Waters II*, 898 P.2d at 1080 (rejecting “water” as a common theme).

Proponents cursorily cite numerous cases as to why Initiative 149 satisfies the single-subject requirement. None is on all fours.

- Proponents contend *In re Ballot Title #3* allows for repealing entire constitutional provisions as a single subject. (Pet., pp 8, 10.) That’s true, but in that case, the *entire* proposed initiative was only asking whether to “repeal section 20 of article X.” *In re 2019-2020 #3*, ¶ 1. So, at issue there was an initiative with a single, explicit repeal. Here, in contrast, Initiative 149 does not even address—or convey to the voter—the repeal of Amendment 79. Nothing about Initiative 149 “apprise[s] the [voters] of the subject of . . . [or] prevent[s] surprise and fraud” concerning the impact of

Initiative 149 on the constitutional right to abortion. *See id.* at ¶ 15 (citing § 1-40-106.5(1)(e)(II)).

- Proponents claim *In re Title, Ballot Title & Submission Clause for 2013-2014 #89*, 328 P.3d 172 (Colo. 2014), affirmed a single-subject title for a proposed initiative that would create new environmental rights and alter existing laws as an effect of the initiative. Pet., p 9. But that case involved one over-arching purpose (the creation of a public right to Colorado’s environment), along with specific mechanisms for carrying out that purpose. *In re 2013-2014 #89*, 328 P.3d at 177. In contrast, Initiative 149 (i) would create a constitutional amendment enshrining the “right to continue living,” (ii) would impliedly repeal the existing constitutional right to abortion, and (iii) would prevent further legislative or judicial judgments concerning (or considering) Initiative 149. Certified Record, p 14.
- Proponents next assert that “minor connected provisions do not fracture the [single-subject] rule,” Pet., p 9, citing *In re Proposed Initiative on Petitions*, 907 P.2d 586 (Colo. 1995). But in that case,

the court *approved* the Title Board’s action in setting title, finding the title had a single subject generally address the “subject of ‘petitions’,” including the various procedural formalities associated with the exercise of the right to petition. *Id.* at 590-91. Here, in contrast, Proponents ask this Court to *reject* the Title Board’s decision, which is accorded significant deference, and Initiative 149 itself is not concerned with administrative procedural formalities, but rather broadly imposes a right that eliminates significant other constitutional and statutory provisions, in addition to prohibiting legislative action or judicial judgments concerning Initiative 149. So that case does not help Proponents, either.

- Proponents next cite *In re Amend Tabor No. 32*, 908 P.2d 125 (Colo. 1995), to suggest that “broad impacts do not violate the rule if unified.” Pet., p 9. But *Amend Tabor* addressed the addition of a tax credit across multiple tax concerns, which the Title Board found was a single subject—i.e., the addition of a specified credit. 908 P.2d at 128-29. In contrast, Initiative 149 sweepingly applies

across constitutional and statutory provisions, operating to implicitly repeal, outright negate, or contradict those provisions. And as above, the Title Board in *Amend Tabor* set title, whereas here Proponents are asking this Court to reject the Title Board's decision in declining to set title.

- Proponents claim a “broad parental rights measure encompassed multiple aspects without separate subjects, directly paralleling a general right from conception.” Pet., p 9 (citing *In re Proposed Initiative on Parental Rights*, 913 P.2d 1127 (Colo. 1996)). But in *Parental Rights*, the initiative concerned the single purpose of parents “direct[ing] and control[ling]” the raising of their children. 917 P.2d at 1131. Here, Initiative 149 (i) adds a constitutional provision, (ii) impliedly repeals another constitutional provision, (iii) voids all legislative and judicial judgments that may be in tension or conflict with Initiative 149, and (iv) injects significant uncertainty as to the scope and type of rights afforded. Further, as above, this Court *approved* the Title Board's action in *Parental*

Rights, whereas here Proponents seek this Court’s *disapproval*, over deference to the Title Board. *Id.* at 1129.

- Proponents contend “ancillary statements serving the main goal [are] permissible, akin to the supersession clause here.” Pet., p 9 (citing *In re Proposed Initiative on Parental Choice in Education*, 917 P.2d 292 (Colo. 1996)). This Court again approved title in *Parental Choice*, 917 P.2d at 293, whereas here the Title Board rejected title. Further, *Parental Choice* addressed the topic of “quality educational programs” and the establishment of a voucher system in furtherance of that goal. *Id.* at 294-95. It included provisions “encourag[ing]” the General Assembly to repeal laws that are impediments. *Id.* at 294. And here, in contrast, Initiative 149 requires supersession of laws, implicitly repeals an existing constitutional provision, and supersedes all conflicting laws and judgments—all while having a murky, at best, scope of the amendment itself.
- Proponents cite *In re Proposed Initiative 1996-6 (Public Rights in Waters III)*, 917 P.2d 1277 (Colo. 1996), *In re Proposed Initiative*

for 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000), and *In re Proposed Initiative for 1999-2000 No. 255*, 4 P.3d 485 (Colo. 2000), for the proposition that undefined future effects do not create multiple subjects. Pet., p 9. Those cases do not help Proponents.

- In *Waters III*, this Court explained that it “cannot speculate as to the effects th[e] Initiative may have on other constitutional provisions or statutes.” 917 P.2d at 1281.
- In *No. 258(A)*, this Court explained that a title focusing on the “instruction of all public school students using the English language” was properly single subject even if it joined with “three other purposes in the amendment” and “may affect the powers exercised by government under pre-existing constitutional provisions.” 4 P.3d at 1098. However, the court concluded the title nevertheless was unclear, inaccurate, and misleading. *Id.* at 1099.
- And in *No. 255*, this Court explained that the implementation of background checks at gun shows was a single subject, and the initiative properly had a single-

subject when it provided multiple procedures for accomplishing that goal. 4 P.3d at 494-95.

- But Initiative 149, in addition to constitutionalizing children’s “right to continue living” from conception and impliedly repealing the constitutional right to abortion, explicitly states all existing laws and judgments to the contrary are void. At minimum, that covers three different topics—an enactment, a repeal, and vacating innumerable laws and judgments. To be consistent with *Waters III*, though, the latter point would have to be left *unaddressed* and subject to future judicial interpretation. And both *No. 258(A)* and *No. 255* concerned implementation measures for those respective initiatives; Initiative 149, in contrast, does not address implementation methods so much as enacts one right, while providing for the rescission of an existing constitutional right (without ever saying so) and the supersession of all conflicting laws and judgments in effect. This is fully “distinct,” “separate,” and/or “not . . . connected”

from the purpose of enshrining and defining life as beginning at conception. *See Waters II*, 898 P.2d at 1078-79. Further, while the title in 258(A) “may [have] *affect[ed]*” other governmental powers under existing constitutional provisions, that title did not *implicitly repeal* any constitutional provisions as Initiative 149 does. 4 P.3d at 1098-99. Moreover, like the title in 258(A) and as discussed further in Section I.B.3 below, the title and summary are “unclear and misleading,” *id.* at 1097, and would “mislead the voters,” *id.* at 1099.

- Finally, Proponents cite *In re Proposed Initiative for 2005-2006 No. 73*, 135 P.3d 736 (Colo. 2006), for the proposition that “subtle effects on employees were not separate subjects,” thereby suggesting hypothetical impacts of an initiative do not violate the single-subject requirement. Pet., p 9. But *No. 73* does not help Proponents either. In *No. 73*, this Court reiterated that implementation or enforcement details tied to the single subject to not constitute a separate subject. 135 P.3d at 739. The initiative at

issue simply provided mechanisms to enforce the proposed initiative. *Id.* at 739-40. Here, in contrast, Initiative 149 has no enforcement mechanism; rather, its “self-executing” clause voids out all existing laws and judgments, while the proposed amendment’s language has the dual impact of creating a new right, ambiguously defined in scope, and implicitly repealing an existing constitutional right. *No. 73* simply does not apply. And while implementation details “that are directly tied to the initiative’s central focus do not constitute a separate subject,” *In re 2021-2022 #16*, ¶ 29 (quotations omitted), here there are significant ambiguities of application, including a voiding of existing laws and judicial judgments and, by extension, an inability for judicial review of existing law to the provision here, as well as a hidden—but direct—recission of an existing constitutional provision, which individually and collectively go much further than simple implementation details.

If anything, these cases all underscore just how broad and multifaceted Initiative 149 actually is.

3. Initiative 149 is unclear and does not fairly and adequately advise voters of what it does.

As a final matter, this Court’s review encompasses determining whether the proposed title “fairly and succinctly advise[s] the voters what is being submitted, so that in the haste of an election the voter will not be misled into voting for or against a proposition by reason of the words employed.” *In re Proposed Initiative on Parental Notification of Abortions for Minors*, 794 P.3d 238, 241 (Colo. 1990) (quoting *Dye v. Baker*, 354 P.2d 498, 500 (Colo. 1960)). In *Parental Notification*, this Court held that the proposed title was unclear and did not fully or fairly convey the intent of the initiative to the voters because it: (i) failed to define key terms; (ii) contained a definition of “pregnancy” inconsistent with the statutory definition—specifically that pregnancy occurred “at any time after fertilization” rather than as the “implantation of an embryo in the uterus,” § 18-6-101(3), C.R.S. (1986)⁵—and (iii) waded into the “legal status of the fetus,” which was a “central issue[] in the

⁵ The Criminal Code’s definition of “pregnancy” in section 18-6-101(3) was repealed and relocated to section 18-3.5-101(4), C.R.S., in 2013. *See* 2013 Colo. Sess. Laws, Ch. 372, §§ 2-3, H.B. 2013-1154 (eff. July 1, 2013).

abortion debate.” *Id.* As to the third point, the initiative, by defining the unborn as living “at any time after fertilization,” adopted a legal standard “that is new and likely to be controversial” and thus something “voters are entitled to know of” and know of its “significance to all concerned with the issues surrounding the subject of abortion.” *Id.*

All those infirmities recur with Initiative 149. It fails to define key terms: what does “right to continue living once conceived” mean? What is its scope? Indeed, Proponents variously argued it was strictly a prohibition against abortion, while others argued it was to affirm that life begins at conception, while still others argued it stood against the murder of children, citing the Watts killings. Further, as in *Parental Notification*, Initiative 149 defines fetal status inconsistent with law, see § 18-3.5-101(4), C.R.S., and proposes a legal standard “that is new and likely to be controversial,” *Parental Notification*, 794 P.3d at 241.

Moreover, because of the wide impacts of a general “right to continue living once conceived” carries, voters have a right “to determine intelligently whether to support or oppose such a proposal.” *Parental Notification*, 794 P.2d at 242. The Title Board here correctly

determined Initiative 149 does *not* provide sufficient clarity to “enable the electorate, whether familiar or unfamiliar with the subject matter” to understand what the proposed initiative would do. *In re Proposed Initiative Concerning “State Personnel System,”* 691 P.2d 1121, 1123 (Colo. 1984). Initiative 149 simply does not adequately inform the voter of what it does.

Initiative 149 is also breathtakingly broad and undefined, as the Title Board repeatedly highlighted. For example, Initiative 149 would not just apply to establishing a right to continue living at conception. It would implicate a child’s ongoing safety at school, at home, on public transportation, in public places (which would implicate criminal laws and the Second Amendment, among others); it would implicate a child’s right to access medical care, pharmaceutical drugs in support of continued health, mental health, and vaccines (many of which are in tension with canons of law concerning parental rights); and it would implicate a child’s right to be fed, clothed, and housed. All that is to say nothing of a child who is ill or dependent on life support—does that entitlement to continue living extend to requiring continued life support

or medical care at all costs? This list is far from exhaustive. As in *In re 2021-2022 #16*, ¶¶ 25, 41, voters here would be quite surprised to learn the full number and different types of rights Initiative 149 would implicate, let alone require.

In *In re 2009-2010 #91*, 235 P.3d at 1076, the challenged initiative would have both created a new tax *and* prohibited the legislature from exercising legislative authority over basin roundtables and the inter-basin compact committee. This Court found that the distinct authorizations would have yielded the “kind of log rolling” prohibited by the constitution’s single-subject requirement. *Id.* at 1079. Here, too, Initiative 149 not only would enshrine a new constitutional right that implicitly overrides an existing constitutional right, but it also would require exercising of legislative authority over the multiple areas of impact—school safety, right to medication, right to vaccinations, right to school safety, right of juvenile mothers whose safety is imperiled by pregnancies, etc.—that would yield the exact “kind of log rolling” prohibited by the single-subject requirement. *Cf. id.*; *see also In re 2013-*

2014 #76, ¶ 32 (prohibiting measure containing hidden aspects “coiled up in the folds of a complex proposal”).

In short, because the Board is unsure about Initiative 149’s scope and what it does, it simply did not have jurisdiction to set title. *See In re Title, Ballot Title & Submission Clause, & Summary for Initiative 1999-2000 #25*, 974 P.2d 458, 469 (Colo. 1999) (“[W]here the Board has acknowledged that it cannot comprehend the initiatives well enough to state their single subject in the titles . . . the initiatives cannot be forwarded to the voters[.]”).

CONCLUSION

The Title Board rightly determined it did not have jurisdiction because Initiative 149 contained more than one subject. This Court should affirm.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **THE TITLE BOARD'S OPENING BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE) and on Petitioner *pro se* at the below email address and mailing address, sent via USPS Priority Express⁶ this 2nd day of December, 2025.

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/s/ Carmen Van Pelt

⁶ The Title Board typically uses FedEx for overnight delivery when it is required by the Court. But FedEx does not deliver to PO Boxes, which is the only address the Petitioner provided. *See attached* FedEx Guideline. Consequently, the Title Board is effecting service by simultaneously mailing via USPS Priority Express and emailing Petitioners.