

<p>COLORADO SUPREME COURT 101 W. Colfax, # 800 Denver, Colorado 80202</p>	<p>DATE FILED April 7, 2026 12:16 PM</p> <p>COURT USE ONLY</p>
<p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title and Submission Clause for Proposed Initiative #245 – State and Local Initiatives and Referenda Petitioners: Marty Neilson and Frank Atwood v. Respondents: Title Board: Theresa Conley, Christy Chase, Kurt Morrison</p>	
<p>Attorney for Petitioners: Rebecca R. Sopkin, # 20998 2945 Parfet Drive Lakewood, CO 80215 (303) 232-4184 grsop@msn.com</p>	<p>Case No.:</p>
<p>PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE #245 – STATE AND LOCAL INITIATIVES AND REFERENDA</p>	

Petitioners Marty Neilson and Frank Atwood respectfully petition this Court, pursuant to C.R.S. § 1-40-107(2), to review the actions of the Ballot Title Setting Board with respect to Proposed Initiative 2025-2026 #245 - State and Local Initiatives and Referenda.

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2025-2026 #245

Proposed Initiative 2025-2026 #245 was filed with the Legislative Council and a review and comment hearing was held on March 5, 2026. The Initiative was filed with the Title Board, and an initial hearing was held on March 18, 2026. At the initial hearing, the Title Board found that the Proposed Initiative did not have a single subject and did not set title for it.

Petitioners timely filed a Motion for Rehearing to challenge the Board's finding that the Proposed Initiative did not have a single subject. A rehearing occurred on April 1, 2026, and the Board denied the Petitioners' Motion for Rehearing in its entirety.

Petitioners now appeal the Title Board's decision that the Proposed Initiative did not have a single subject.

B. Jurisdiction

Petitioners are entitled to review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioners were present at the initial hearing and timely filed a Motion for Rehearing. Petitioners were present at the rehearing. Petitioners timely filed this Petition for Review seven days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final version of the initiative; (2) the original ballot title set for the initiative; (3) the Motion for Rehearing filed by Petitioner; and (4) the ruling on the Motion for Rehearing.

GROUND FOR APPEAL

Petitioners believe that the Title Board erred in denying the Motion for Rehearing, in finding that the Proposed Initiative did not have a single subject.

The single subject rule is a long-standing Colorado requirement. In *Campbell v. Buckley*, 203 F.3d 738 (10th Cir. 2000) the 10th Circuit Court of Appeals upheld its application to the Colorado initiative process after applying a balancing test which has come to be called the Anderson-Burdick test. The Anderson–Burdick test considers “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” weighed against the “precise interests put forward by the State as justifications for the burden imposed by its rule,” “taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Campbell v. Buckley*, 203 F.3d at 740-1, 745 (quoting *Burdick v.*

Takushi, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)). The *Campbell* case noted that the court would look differently if “the state applied the single subject requirement in a manner that discriminated against proponents on the basis of the content of their initiatives.” *Campbell v. Buckley*, 203 F.3d at 746.

In the twenty-six years since the *Campbell* case, the burdens placed on the petition initiative process have multiplied like barnacles on a boat. In addition, the application of the single subject rule has unpredictable, except that it is invariably more restrictively applied on proposed ballot initiatives which promote an expansive view of the rights of the citizens and voters.

Proposed Ballot Initiative 2025-2026 #245 seeks to reform and simplify the ballot initiative process. This proposed ballot initiative has the additional burden of seeking the repeal of the laws which have instituted the Title Board itself. The difficulty faced by the Title Board in objectively considering its own demise is considerable.

PRAYER FOR RELIEF

Petitioners respectfully request that, after consideration of the parties’ briefs, this Court determine that Proposed Initiative 2025-2026 #245 constitutes a single subject and remand the initiative to the Title Board for immediate correction.

Respectfully submitted this 7th day of April, 2026.

/s/Rebecca R. Sopkin

Rebecca R. Sopkin
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE #245 – STATE AND LOCAL INITIATIVES AND REFERENDA** was served via the Colorado Court’s E-Filing System, on this 7th day of April, 2026 upon the following:

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

Counsel for the Title Board

Rebecca R. Sopkin



DATE FILED
April 7, 2026 12:16 PM

STATE OF COLORADO

DEPARTMENT OF STATE CERTIFICATE

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

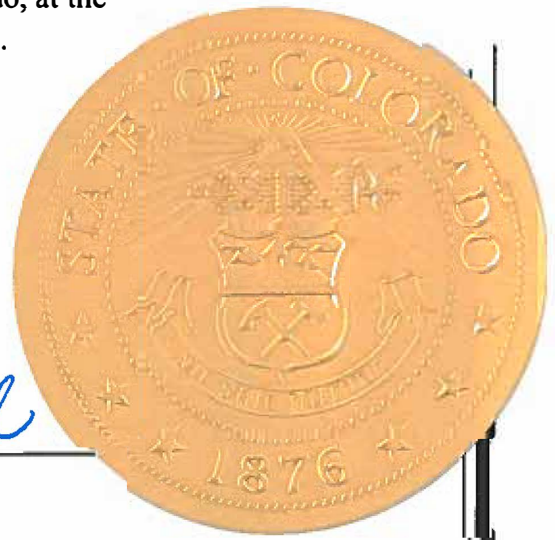
the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2025-2026 #245 'State and Local Initiatives and Referenda'"

.....

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 2nd day of April, 2026.

Jena Griswold

SECRETARY OF STATE



1. We are WELL aware of the single subject rule. It is the only semi-automatic grounds for NOT setting a ballot title. Petition Rights has a single subject of ITSELF--a petition titled "Petition Rights." Its entire single subject is defined in its title. No "unrelated OR incongruous" subject is slipped in its half-page wording--nothing about gunowner rights, schools, gender issues, agriculture, taxes, crime, or any other UNRELATED topic. It deals only with the subject of citizens' rights to draft, promote, vote on, and enforce legislation for citizen control of government policy. Its ancestor is the one-sentence First Amendment's multi-part list of subjects, particularly the last clause about the right "to petition the Government...." PRA (1) specifically acknowledges the right to protest an alleged violation of the single subject rule.

2. Our state supreme court has clearly stated substantive or procedural wording are joined as a RELATED SINGLE SUBJECT. DETAILS of both are welcomed as acts of clarity, not different subjects. 1994's passage of Amendment "A" reassured voters of that by concurrent addition of statutory interpretation procedures in section C.R.S. 1-40-106.5. Amendment "A" intended to promote the citizen's right to petition, not prevent it. Ref. "A" only intended to avoid political devices already banned by our legislature of 1) "logrolling," which is packaging different issues that would fail on their own merit, and 2) non-disclosure of DIFFERENT issues hidden "in the coils" of a "complex" measure. PRA is one of the shortest texts this Board will ever see. Its goals are brevity and simplicity. It has no devious or hidden agenda. PRA procedures shorten the time for final resolution of single subject disputes. All are resolved before petitions are circulated.

3. Almost every sentence of PRA's half-page text uses the word "petition," a synonym for it, or reference to it. Cutting words in the text of #245 reduces clarity in its single subject. This Title Board may remove text ONLY to remove (by necessity) an UNRELATED second subject. Only one broad subject may remain in a clear and brief title for voter review. PRA inserts more voter information, and requires use of "plain English" and a 60-word ballot title limit. Its features mimic goals of the general assembly and voters passing ballot issue "A" in 1994. PRA simply strengthens the PRA's single subject rule. We request you allow #245 as revised here to go to signature collection. Every sentence has a "necessary or proper connection" to the text as a whole. It has NO "incongruous" matter. Even if it did, it could be excised here or in post-passage litigation. To save as much as possible of a petition is the clear message of Article V section 1 (5.5) and C.R.S. 1-40-106.5, both of which are to be "liberally construed" to protect everyone's right to petition.

4. We incorporate and refile here our written Answers to legislative staff questions. We urge you to set the summary and ballot title as we drafted it, in the spirit of neutrality and brevity. Following lawyers' precedent is not informative; the people on the street do not know what a "referendum" is, but they know they have a right to "petition." A phrase like "and, in connection therewith," is pedantic and foreign to conversational speech. This Board has a legal and moral duty "to preserve, protect, and defend" the right to petition, and NOT act casually to "protect" voters from other people's right to petition.

5. We carefully answered in writing all 59 single and compound questions for legislative staff on #224, and the added questions in #245 now before you. We look forward to getting a brief, user friendly ballot title, and a sample petition in a day or two, to reprint for secretary of state review.

6. Proponents were faced with vague Board "concerns" and total rejection without the clear alternative of deleting offending words as specifically allowed in section (5.5) and C. R.S. 1-40-106.5. The Board did not "liberally construe" its duty "to preserve and protect the right of initiative...." . There is no logrolling, nor any surprise or fraud, prevention of which was the explicit basis for the single subject rule.

7. STAFF had no trouble in filing a clear DRAFT ballot title, but the Title Board did not accept it. It was acceptable to proponents. Finally, we thank you for allowing our title setting to be heard today. See the latest supreme court opinion on single subject rule dated March 9, 2026, (TEN DAYS AGO, case 25SA334, initiative 158). It shows our awareness of the single subject rule. DOZENS of case annotations state the same simple rule and procedure.

Ballot Title Setting Board

Proposed Initiative 2025-2026 #245¹

Hearing March 18, 2026:

Title setting denied on the basis that the Board lacks jurisdiction to set title on the grounds that measure does not constitute a single subject, (3-0).

Board Members: Theresa Conley, Kurt Morrison, Christy Chase

Hearing adjourned 11:15 A.M.

¹ Unofficially captioned “**State and Local Initiatives and Referenda**” 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 #245¹

Hearing March 18, 2026:

Title setting denied on the basis that the Board lacks jurisdiction to set title on the grounds that measure does not constitute a single subject, (3-0).

Board Members: Theresa Conley, Kurt Morrison, Christy Chase

Hearing adjourned 11:15 A.M.

Rehearing April 1, 2026:

Motion for rehearing (proponents) denied in its entirety (3-0).

Board Members: Theresa Conley, Kurt Morrison, Christy Chase

Hearing adjourned 11:11 A.M.

¹ Unofficially captioned “**State and Local Initiatives and Referenda**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

*Final**Initiative 2025-2026 #245*

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

Colorado Revised Statutes 1-40-137. **PETITION RIGHTS.**

(1) Procedures. (1) Petition rights shall exist in all districts. All state and county election offices shall aid any petition. State texts are reviewed within four days. Ballot titles up to 60 words in plain English shall be set four days later without fiscal impact. All single subject and title protests shall be filed in the supreme court in four days and decided six days later. Sample petitions using 1992 forms are given two days later. Any adult may carry or file any petition.

(2) Local initiative entries shall top 4% of district electors in its last election. Entries list first and last name, signature, date, registered elector home address, and town, city, or county. Random or statistical entry sampling is void. Affidavit defects shall not affect entries. Entries shall be filed within 300 days. In five days, neutral election offices shall count each filed entry. Five days later, only private parties may protest specific itemized entries on specific grounds in the supreme court only. Signers shall be strongly presumed truly addressed district registered electors. Common abbreviations are valid. Decisions shall issue ten days later. Invalidity starts one 5-day cure filing period.

(3) Filings by August 1 may allow November Election Day on any topic. Election notice summaries shall apply. Ballots shall print one filer and one foe web address listed by August 1.

(2) Referendum. Ballot titles shall read, "Shall (listed sections of) (bill number) be rejected?" Future bills on rejected topics require voter approval.

(3) Definitions. (1) Districts: the state and all local and home rule governments.

(2) Petitions: initiatives and referenda on legislative policy, except zoning, started by two or more adults any time.

(4) Enforcement. This law is self-executing, severable, effective at once, and repeals all conflicting laws and C.R.S. 1-40-105, -105.5, -106, -107, -108, -110, -111, -112, -113, -116, -117, -118, -119, -121, -130, -134, and -135. Those who stop, cite, or arrest carriers or signers peaceably petitioning in public access areas shall be fined \$3,000. Petitioners may appear by telephone and email. Any petition fee, fine, or cost after 2024 shall be void. Except Article V, changing petitions requires petitions.

RECEIVED

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ELECTIONS
SECRETARY OF STATE



Fiscal Summary

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Measure: Initiative 245 – STATE AND LOCAL INITIATIVES AND REFERENDA

Analyst: Hamza Syed, hamza.syed@coleg.gov, 303-866-4976

Date: March 16, 2026

Fiscal Summary of Initiative 245

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 requires fines for individuals who illegally prevent the collection of signatures; however, details on what level of government is responsible for the enforcement, collection, and disposition of fine revenue is not included in the measure. Should enabling legislation determine that the state enforce these provisions and collect fines, state revenue may increase.

State Expenditures

This measure is expected to increase the number of additional citizen-initiated ballot measures in the future, which will increase workload and costs for several agencies. These impacts are described below.

Judicial Department

The measure likely increases the number of ballot-related court hearings, and shifts workload and costs for these hearings from district courts to the state Supreme Court by requiring that the Supreme Court act as the court of primary jurisdiction for all protests and appeals related to citizen initiatives. Overall, this is expected to result in a minimal net increase in costs for the Judicial Department.

Legislative Department

An increase in the number of filed initiatives may require increased staff resources and printing costs for the State Ballot Information Booklet sent to all voters.

Initiative 245

Department of State

Under current law, the Department of State may only process statewide ballot measures. The measure allows citizens to initiate both state and local petitions with the department, thus increasing the department's workload. The department may also require additional funding for a one-time campaign advertising the change in the initiative process.

In addition, the Department of State is prohibited from using the current statistical verification processes for validating petition signatures, and instead is restricted to counting and reporting the completion of petition forms, which potentially increase the workload for internal department staff and reduces the cost paid to their current petition processing vendor, the Department of Personnel and Administration.

Local Government

Local governments without a petition process will be required to establish such a process, incurring administrative and computer programming costs. Local governments may also experience an increase in the number of petitions received. Changes in local government revenue and expenditures will depend upon the number of petitions filed.

The measure may require that any county clerk's office process any state or local citizen initiative. These provisions potentially increase workload and costs for county offices to assume these tasks. This includes processing citizen initiatives, preparing printed ballot petitions, verifying signatures, and validating petitions. Local governments will also have increased costs for legal services to attend to protests and appeals heard in the Supreme Court.

Economic Impacts

While this measure may impact the number and type of citizen-initiative measures proposed or enacted in the future, the initiative itself is not expected to have a direct economic impact on the state.