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| <p>COLORADO SUPREME COURT 101 W. Colfax, # 800 Denver, Colorado 80202</p> | <p>DATE FILED May 5, 2026 3:32 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.: 2026SA000121</p> |
| <p>PETITIONERS' ANSWER BRIEF</p> | |

CERTIFICATE OF COMPLIANCE

I hereby certify that this Answer Brief complies with all the requirements of C.A.R.28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g).

It contains 1056 words (principal brief does not exceed 9500 words; reply brief does not exceed 5700 words).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28, and C.A.R. 32.

/s/ Rebecca R. Sopkin

Rebecca R. Sopkin

TABLE OF CONTENTS

| | |
|--|-----|
| CERTIFICATE OF COMPLIANCE..... | i |
| TABLE OF CONTENTS..... | ii |
| TABLE OF AUTHORITIES | iii |
| INTRODUCTION | 1 |
| ARGUMENTS..... | 1 |
| 1. The Exemption of Zoning Matters from the Definition of Petition Does Not Create an Additional Subject..... | 1 |
| 2. The Elimination of a Number of Different Parts of the Ballot Initiative Proposal Process is Necessary to Simplify the Process..... | 3 |
| CONCLUSION..... | 6 |
| CERTIFICATE OF SERVICE | 7 |

TABLE OF AUTHORITIES

Cases

| | |
|---|---|
| <i>Armstrong v. Davidson</i> , 10 P.3d 1278 (Colo. Oct. 10, 2000)..... | 4 |
| <i>In re Title, Ballot Title & Submission Clause for 2011–2012 #3</i> , 2012 CO 25, ¶6, 274 P.3d 562 (Colo. 2012)..... | 4 |
| <i>In re Title, Ballot Title, Submission Clause, & Summary for 1999–2000 # 256</i> , 12 P.3d 246 (Colo. 2000)..... | 4 |
| <i>In re Title, Ballot Title, Submission Clause, & Summary for 2009-2010 # 24</i> , 218 P.3d 350 (Colo. 2009)..... | 3 |
| <i>In re Title, Ballot Title, Submission Clause, & Summary for 2019-2020 # 315</i> , 500 P.3d 363 (Colo. 2020)..... | 5 |

Statutes and Ordinances

| | |
|---------------------------------|---|
| C.R.S § 31-11-101 et seq. | 2 |
| C.R.S. § 1-40-103(2)..... | 2 |
| C.R.S. § 31-23-101 et seq. | 2 |

Other Authorities

| | |
|--|---|
| Review and Comment Memorandum, March 2, 2026 | 2 |
| Secretary of State Website | 3 |

Constitutional Provisions

| | |
|-------------------------------------|---|
| Colo. Const. Art. V, Sec. 1(2)..... | 1 |
|-------------------------------------|---|

Pleadings

| | |
|---------------------------------|---------|
| Title Board Opening Brief | 1, 3, 5 |
|---------------------------------|---------|

Petitioners Marty Neilson and Frank Atwood (hereinafter Proponents), through undersigned counsel, respectfully submit the following answer brief:

INTRODUCTION

Proposed Ballot Initiative 2025-2026 #245 has only one subject: to simplify the current process for submitting proposed ballot initiatives and referenda to the voters of Colorado.

ARGUMENTS

1. The Exemption of Zoning Matters from the Definition of Petition Does Not Create an Additional Subject

The Title Board argues that Proposed Ballot Initiative #245 “substantively limits the content of citizen initiatives by excluding zoning laws.” Title Board Opening Brief, pg. 13. This is simply factually incorrect.

The right to citizen initiatives in Colorado is a constitutional right, delineated in Article V, Section 1(2). There is nothing in Proposed Ballot Initiative #245 which in any way purports to amend this section of the constitution. Neither

the Legislative Council Staff nor the Title Board found any potential constitutional amendment. See Review and Comment Memorandum, March 2, 2026.¹

The potential subject matter of such citizen initiatives, as set forth in the Colorado Constitution, includes zoning matters. The definition set forth in Proposed Ballot Initiative #245, proposed C.R.S. § 1-40-137(3)(2), which defines “petitions,” only serves to exempt zoning matters from the revised procedures set forth in Proposed Ballot Initiative #245.

As a practical matter, zoning matters are not state policy matters and are handled by municipal and local bodies. C.R.S. § 31-23-101 et seq. As C.R.S. § 1-40-103(2) states “The laws pertaining to municipal initiatives, referenda, and referred measures are governed by the provisions of article 11 of title 31, C.R.S.”

Proposed Ballot Initiative #245 does not in any way infringe upon the rights of citizens to bring initiatives regarding zoning. The exemption of a subject from what is covered in the proposed initiative is not a separate subject.

¹ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://leg.colorado.gov/initiative_files/3299/download

2. The Elimination of a Number of Different Parts of the Ballot Initiative Proposal Process is Necessary to Simplify the Process

In order to simplify the process for submitting proposed ballot initiatives and referenda to the voters of Colorado it is necessary to address the many steps in the process which complicate it. It is the existence of the many different steps which creates the need to simplify the process, therefore it is necessary and proper to remove the many impediments to simplification. The components of Proposed Ballot Initiative #245 are clearly “connected with each other.” *In re Title, Ballot Title, Submission Clause, & Summary for 2009-2010 # 24*, 218 P.3d 350, 352 (Colo. 2009).

The Title Board raises the issues of “the new civil enforcement mechanism and the repeal of an election transparency and anti-fraud scheme,” Title Board Opening Brief, pg. 15, and claims that these are separate and discrete issues. However, these issues are clearly connected to the ballot initiative process. The collection and review of petition signatures is currently a major procedural hurdle. The Secretary of State’s own website states “[t]he initiative process is complex and lengthy.”² In order to simplify the ballot initiative proposal procedure it is necessary to address the several different areas of procedural complication which have turned the process into the realm of attorneys and experts rather than one that

² <https://www.sos.state.co.us/pubs/elections/Initiatives/guide/1-Guidelines.html>

is truly available to citizens. The court's review of the title setting procedure is limited in this case to whether the proposed ballot initiative has a single subject and the court is to "refrain from addressing its merits." *In re Title, Ballot Title & Submission Clause for 2011–2012 #3*, 2012 CO 25, ¶6, 274 P.3d 562, 565 (Colo. 2012). The Title Board seems to be raising issues with which it disagrees on their substance, but not to be making any serious argument that these are not procedural hurdles which are appropriately eliminated as part of the Proposed Ballot Initiative's single purpose of simplifying the process for proposing ballot initiatives.

This court has previously held that "We construe constitutional and statutory provisions governing the initiative process in a manner that facilitates the right of initiative instead of hampering it with technical statutory provisions or constructions." *Armstrong v. Davidson*, 10 P.3d 1278, 1282 (Colo. Oct. 10, 2000)(citation omitted). It is not a violation of the single subject rule to include matters which are not "inevitably interconnected." *In re Title, Ballot Title, Submission Clause, & Summary for 1999–2000 # 256*, 12 P.3d 246, 254 (Colo. 2000). It is not the court's purview to determine the best or the only way to address an issue, rather to determine whether the matters within the proposed ballot initiative are "necessarily and properly connected rather than disconnected or

incongruous.” *In re Title, Ballot Title, Submission Clause, & Summary for 2009-2010 # 91*, 235 P.3d , 1077, 2020 CO 61, ¶ 13 (Colo. 2020). It is acceptable for an initiative to propose “a comprehensive framework” which is part of a single subject when “all of its provisions relate directly to its single subject.” *In re Title, Ballot Title, Submission Clause, & Summary for 2009-2010 # 91*, 235 P.3d 1071, 1076 (Colo. 2020). An initiative is not violating the single subject rule “merely because it spells out details relating to its implementation.” *In re Title, Ballot Title, Submission Clause, & Summary for 2019-2020 # 315*, 500 P.3d 363, 367 (Colo. 2020).

The Title Board claims that there are issues “coiled in the folds” of this proposed measure, and refers to the measure as “a complex initiative.” Title Board Opening Brief, pg. 15. In reality, this is a measure that is quite clear in its objective of simplifying a complex process. There is no way to simplify a complex process without addressing the various steps in that process, but the overall goal is a simple one which the voters can easily understand and accept or reject. The Title Board claims, strangely, that the measure removes statutory provisions “without saying so explicitly.” Title Board Opening Brief, pg. 16-17. Actually, while the proposed initiative does include a clause stating that it repeals “all conflicting laws,” it then

goes on to explicitly list the statutory provisions repealed in the same sentence. Proposed Ballot Initiative Sec. (4). There is nothing surreptitious about this.

CONCLUSION

Proponents respectfully request that, after consideration of the parties' briefs, this Court determine that the Title Board mistakenly found that Proposed Ballot Initiative 2025-2026 #245 had more than one subject and resubmit the proposed initiative to the Title Board for title setting.

Respectfully submitted this 5th day of May, 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONERS' ANSWER BRIEF** was served via the Colorado Court's E-Filing System, on this 5th day of May, 2026 upon the following:

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