

COLORADO TITLE SETTING BOARD

**IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR PROPOSED INITIATIVE 2025-2026 #218**

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2025-2026 #218

On behalf of Stephanie Tucker, registered elector of the State of Colorado, the undersigned counsel hereby submits to the Title Board this Motion for Rehearing on Proposed Initiative 2025-2026 #218 (“Initiative #218”) and as grounds therefore states as follows:

I. THE TITLE SET BY TITLE BOARD AT FEBRUARY 18, 2026, HEARING

On February 18, 2026, the Title Board set the following ballot title and submission clause for Initiative #218:

Shall there be a change to the Colorado Revised Statutes converting Pinnacol Assurance from a state subdivision that provides workers’ compensation insurance to an independent mutual insurance company to finance workforce development, and, in connection therewith, requiring Pinnacol Assurance to pay the state \$150 million and taxes on insurance premiums; depositing these payments into a skilled workers and trade fund to provide scholarships for training in essential job categories; exempting scholarship payments from the Taxpayer’s Bill of Rights’ limitation on state fiscal year spending; and requiring a risk plan to provide workers’ compensation coverage to employers that are unable to procure coverage in the voluntary market?

II. GROUNDS FOR REHEARING**A. The Initiative Impermissibly Contains More Than One Separate and Distinct Subjects in Violation of the Single Subject Requirement.**

Pursuant to Colo. Const. art. V, §1(5.5),

no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.

See also 1-40-106.5, C.R.S. “[T]he Board may not set the titles of a proposed Initiative, or submit it to the voters, if the Initiative contains multiple subjects.” *Aisenberg v. Campbell (In re Title, Ballot Title & Submission Clause 1990-2000 #104)*, 987 P.2d 249, 253 (Colo. 2000).

The single subject requirement serves two functions. First, the single subject requirement “is intended to ensure that each proposal depends upon its own merits for passage.” *Johnson v. Curry (In re Title, Ballot Title & Submission Clause for 2015-2016 #132)*, 2016 CO 55, ¶13. This function prevents proponents from engaging in “log rolling” tactics, that is, combining multiple subjects into a single initiative in the hope of attracting support from various factions that may have different or even conflicting interests.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 32. Second, the single subject requirement is intended to “prevent surprise and fraud from being practiced upon voters caused by the inadvertent passage of a surreptitious provision ‘coiled up in the folds’ of a complex initiative.” 2016 CO 55, ¶14. “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.” 2016 CO 55, ¶15.

Initiative #218 contains more than one subject in violation of article V, section 1(5.5) of the Colorado Constitution, and section 1-40-106.5, C.R.S. While the Proponents state that the single subject of the measure is to “establish a funding program to support training for essential workers,” the measure contains several separate and distinct subjects.

1. Converting Pinnacol Assurance from a Political Subdivision to a Private Mutual Insurance Company Eliminates Its Policyholders’ Vested Rights to Surplus Funds and Is a Separate Subject.

Initiative #218 is a long, complex measure that purports to convert Pinnacol Assurance (“Pinnacol”) from a workers compensation insurance political subdivision entity of the state, into a private mutual insurance company. In 2002, however, the state legislature stated that Pinnacol’s funds do not belong to the state, and instead “[a]ll revenues, moneys, and assets of Pinnacol Assurance belong solely to Pinnacol Assurance. The State of Colorado has no claim to, nor any interest in, such revenues, moneys, and assets and shall not borrow, appropriate, or direct payments from such revenues, moneys, and assets for any purpose.” *See* Ch. 341 § 2, 2002 Colo. Sess. Laws 1865, at 1869-70. Initiative #218 does not state otherwise. Thus, the measure requires Pinnacol to pay the state \$150 million and future premium taxes for assets that the state does not own.

Initiative #218 suggests at section 8-45-201(f) that this use of revenue is the same as other sales of state assets which were dedicated to critical state needs, however, those assets were state-owned. Pinnacol’s assets are not state-owned. Colorado’s Bill of Rights expressly prohibits the state legislature from passing any “ex post facto law, or law impairing the obligation of contracts, or retrospective in its operation.” Colo. Const. Art. II, § 11. This “retrospective legislation” clause is “intended to prevent any unfairness that might result from the application of new law to rights already in existence.” *See City of Golden v. Parker*, 138 P.3d 285, 289 (Colo. 2006). Because Pinnacol’s funds are not assets of the state and Pinnacol’s policyholders have vested rights in any surplus funds, seizing them via initiative is a separate subject from creating a Skilled Worker and Trade Fund (“Worker Fund”).

2. Failing to Debruce the Premium Tax Dollars Allocated to the Skilled Worker and Trade Fund Is a Separate Subject

The initial funding for the Worker Fund comes from a \$150 million payment from Pinnacol. These funds are debruced in the measure at section 8-45-202(15). The ongoing funding for the Worker Fund comes from premium taxes that the independent mutual insurance company Pinnacol will pay after it is separated from the state. Insurance premium tax revenue is subject to the spending and revenue limitations of TABOR. See [Insurance Premium Tax | Colorado General Assembly](#).

The measure does not debruce the premium tax revenues that are intended to flow into the Worker Fund. Initiative #218 contains a separate subject by setting up a scheme that purports to allocate general fund premium taxes to the Worker Fund at section 8-45-202(2)(b)(II), and then states at section 8-83-1107(8), that all disbursements from the Worker Fund are not included in the state's annual revenue and spending limits under TABOR. This attempt to backdoor debruce these premium tax monies that are subject to the state's revenue limit by moving them into the Worker Fund is an impermissible separate subject in the measure.

Proponents acknowledge that the premium taxes are not debruced by the measure. Proponents' counsel at the initial Title Board hearing stated, "It is not the intention to de-Bruce the premium tax ...that is properly state fiscal year spending."¹ The measure at section 8-83-114(1)(f) also allows the Worker Fund to accept "other money appropriated or transferred to the fund by the general assembly." These general fund dollars are also not debruced and are subject to the state fiscal year revenue limits. Indeed, money that is subject to the state's revenue limit does not lose its revenue limit status when it goes into the Worker Fund. And since the measures does not debruce funds coming in from either of these revenue sources, they are revenues subject to refund under TABOR. "Voter approval of tax increases and governmental retention and spending of revenues which might otherwise be subject to refund under [TABOR], is a prerogative of the electorate." *Outcalt v. Bruce*, 959 P.2d 822, 827 (Colo. 1998).

Yet Initiative #218 does not seek voter approval to retain and spend the premium tax revenues or any money appropriated from the general fund. Initiative #218's language describing the premium taxes and their future disbursement from the Worker Fund is confusing and difficult to comprehend. The Title Board should examine Initiative #218 to ascertain whether the multiple subject matters could result in voter surprise or fraud. *Id.* When considering Initiative #218, voters could be enticed to vote for the measure in order to create a long term fund to support workforce development and worker training or to support the privatization of Pinnacol, while not realizing that passage of the measure would simultaneously achieve a purpose – the backdoor approval of governmental retention and spending of revenues subject to refund - not necessarily related to either of those subjects.

Additionally, while Initiative #218 states that ten million dollars in premium taxes annually (per the [Fiscal Summary](#)) will flow into the Worker Fund from the state's general fund,

¹ See audio of [Title Board Meeting - Wednesday, February 18, 2026 9:00 A.M.](#) at 1:50:00 – 1:51:05.

this will almost certainly not be the case given that the legislature cannot transfer general fund money above the spending limit, and the appropriation of money from the general fund is a fiercely competitive process. Initiative #218 asks voters to vote for a measure that proponents want to frame as all about the Worker Fund, but the non debruced premium taxes are unlikely to ever find their way to the Worker Fund. This is yet another a surreptitious separate subject coiled up in the folds of this complex measure that could result in voter surprise or fraud. *See Outcelt v. Bruce*, 959 P.2d at 827.

3. Requiring the Commissioner of Insurance to Establish a New Risk Plan Is a Separate Subject.

Section 8-45-203 of Initiative #218 requires the Commissioner of Insurance to develop a risk plan “to provide coverage to employers who are unable to procure coverage in the voluntary market.” This is a separate subject from the creation of the Worker Fund and the privatization of Pinnacol. The measure states that the risk plan should establish qualifications for coverage that employers must meet, directs the Commissioner of Insurance to set premium rates, authorizes the Commissioner of Insurance to designate a third party to develop and administer the risk plan, requires that all licensed insurance companies participate in the risk pool as a condition of their authority to transact business in the state of Colorado, and requires the Commissioner of Insurance to promulgate rules to implement these provisions. *See* section 8-45-203(2)-(8). This provision of the measure violates the single subject requirement in at least two ways.

First, section 8-45-203 fundamentally alters the power and authority of the Commissioner of Insurance, which is not properly and necessarily related to any of the other purposes of the initiative - to create a workforce development and worker training fund or to allow privatization of Pinnacol, (which are themselves separate subjects) and constitutes yet another separate subject.

Second, the risk plan is not necessarily connected to the Worker Fund or the privatization of Pinnacol, because voters who may favor creating the Worker Fund may not favor requiring all licensed insurance companies to participate in the risk pool as a condition of their authority to transact business in the state of Colorado. *See Johnson v. Curry (In re Title, Ballot Title, & Submission Clause for 2015-2016 #132)*, 2016 CO 55, ¶ 29. Additionally, the Title Board should examine Initiative #218 to ascertain whether the multiple subject matters could result in voter surprise or fraud. *See Outcelt v. Bruce*, 959 P.2d at 827. When considering Initiative #218, voters could be enticed to vote for the measure in order to create a long term fund to support workforce development and worker training or even to allow the privatization of Pinnacol, while not realizing that passage of the measure would simultaneously achieve a purpose – an entirely new risk plan for the state of Colorado to provide insurance to employers who are unable to procure coverage in the voluntary market - not necessarily related to either of those subjects.

To meet the single-subject requirement, an initiative's provisions must be "necessarily and properly connected," and "relate directly to its single subject," and "tend to effect or to carry out one general objective or purpose," *Fine v. Ward (In re Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128)*, 2022 CO 37, P13 (internal citations omitted). An initiative with provisions that are "disconnected or incongruous," — covering "more than one subject and [having] at least two distinct and separate purposes which

are not dependent upon or connected with each other,"—violates this requirement. *Id.* Initiative #218 is a classic case of logrolling whereby several subjects are combined together to secure the enactment of one that could not be carried out on its own. *See* § 1-40-106.5(1)(e)(I); *see also In re Title, Ballot Title, & Submission Clause for 2017-2018 #4*, 2017 CO 57, ¶ 14.

Due to its complex nature, Initiative #218 "run[s] the risk of surprising voters with a 'surreptitious' change," *see In re 2015-2016 #132*, 2016 CO ¶ 26, (quoting § 1-40-106.5(1)(e)(II)), because voters may focus on one change and overlook the other, *see In re 2013-2014 #89*, 2014 CO 66, ¶ 19 ("Th[e] danger [of surprise] exists where an initiative, although claiming to have a single subject, in reality has multiple purposes, and as a result, voters would not expect that passing the initiative would lead to one or more of the initiative's outcomes."). *VanWinkle v. Sage (In re Title, Ballot Title & Submission Clause for 2021-2022 #1)*, 2021 CO 55, ¶ 41

The purpose of the single subject requirement is to "obviate the risk of 'uninformed voting caused by items concealed within a lengthy or complex proposal'" *Public Rights in Water II*, 898 P.2d 1076, 1079 (Colo. 1995). And to prevent proponents from combining several subjects together to secure the enactment of one that could not be carried out on its own. *See* § 1-40-106.5(1)(e)(I). Here, Initiative #218 brings all these dangers.

B. The Ballot Title and Submission Clause Is Misleading and Does Not Correctly and Fairly Express Its True Intent and Meaning.

The title of the Initiative is misleading and does not correctly and fairly express the initiatives' true intent and meaning. Section 1-40-106(3)(b), C.R.S. provides:

In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes" or "no" vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof, together with the ballot title and submission clause. . . .

Titles and submission clauses should "enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal." *In re Title, Ballot Title & Submission Clause for Proposed Initiative on Parental Notification of Abortions for Minors*, 794 P.2d 238, 242 (Colo. 1990)). The purpose of reviewing an initiative title for clarity parallels that of the single-subject requirement: voter protection through reasonably ascertainable expression of the initiative's purpose. *See id.*

The Title for Initiative #218 is not a clear statement of what this measure purports to accomplish. First, the title makes no mention that the privatization of Pinnacol strips current policyholders to their vested rights in any surplus funds.

Second, the title also misleads when it states that the payments from the Worker Fund are exempt from the Taxpayer's Bill of Rights, because as explained above at paragraph 11.A.2,

only a portion of the funds in the Worker Fund have been properly exempted from TABOR, and so all funds coming out of the Fund are not exempted from TABOR.

Third, the title makes no mention of the expanded role of the Commissioner of Insurance to develop the risk plan, nor does it tell voters that the measure requires all licensed insurance companies to participate in the new risk pool as a condition of their authority to transact business in the state of Colorado.

Fourth, because the title does not accurately state where the disbursements from the Worker Fund may go, it suggests to voters that the only payments out of the Worker Fund are for scholarships. This is false. The Board is permitted to spend five percent of annual expenditures on administrative costs, and five percent on data management and evaluation, which the Fiscal Summary estimates to be \$1 million annually. In addition, the Board is permitted to pay itself “reasonable per diem compensation to be determined by the board plus their actual expenses for each meeting of the board or a committee of the board.” See §8-83-1107(3).

Finally, the title does not clearly state that the measure will convert Pinnacol from a political subdivision of the state to a *private* entity. Use of the word “independent” in the title does not sufficiently explain to voters the significant change in the status quo from a state entity to a private entity.

Here, the title for Initiative #218 is one for which the general understanding of the effect of a "yes" or "no" vote will be unclear. See 1-40-106(3)(b), C.R.S. The title “does not contain sufficient information to enable voters to determine intelligently whether to support or oppose the initiative.” *Hayes v. Spalding (In re Title, Ballot Title and Submission Clause for 2015-2016 #73)*, 2016 CO 24, ¶ 34; see also *Garcia v. Montero (In re Ballot Titles 2001-2002 #21 & #22)*, 44 P.3d 213, 222 (Colo. 2002) (“The titles, standing alone, should be capable of being read and understood, and capable of informing the voter of the major import of the proposal, but need not include every detail. They must allow the voter to understand the effect of a yes or no vote on the measure. When they do not, both the title board and this court fail in our respective functions.”). The title for Initiative #218 does not enable voters to make an informed choice because it does not correctly and fairly express the measure’s true intent and meaning.

III. CONCLUSION

Based on the foregoing, Objector Stephanie Tucker requests a rehearing of the Title Board for Initiative 2025-2026 #218, because the initiative contains multiple subjects, the title is unclear and misleading to voters, and it fails to fairly express the initiative’s true meaning and intent. As a result, the Title Board lacks jurisdiction to set a title and should reject the measure in its entirety.

Respectfully submitted this 25th day of February, 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 25th day of February, 2026, a true and correct copy of **MOTION FOR REHEARING ON PROPOSED INITIATIVE 2025-2026 #218** was filed and served on Proponents John Mathews and Larry James Blackshear, via email to their counsel of record as follows:

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