

SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, Colorado 80203	DATE FILED April 22, 2026 5:20 PM
Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025- 2026 #241 Petitioner: ROBERT BALINK v. Respondents: TANYA NATHAN AND LINDSEY RASMUSSEN and Title Board: THERESA CONLEY; KURT MORRISON; and MICHAEL DOHR	▲ COURT USE ONLY ▲
<i>Attorneys for Petitioner</i> Martha M. Tierney, No. 27521 Tierney Lawrence Stiles LLC 225 E.16 th Ave, Suite 350 Denver, CO 80203 Phone: (303) 356-4870 E-mail: mtierney@tls.legal	Case No.: 2026SA122
<p style="text-align: center;">OPENING BRIEF OF RESPONDENTS TANYA NATHAN AND LINDSEY RASMUSSEN IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #241</p>	

CERTIFICATE OF COMPLIANCE

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

Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in C.A.R. 28(g) because it contains 3215 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A), because it contains under a separate heading before the discussion of the issue, as applicable, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

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.

By: /s/ Martha M. Tierney

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Respondents Lindsey Rasmussen and Tanya Nathan, designated representatives of the proponents of Proposed Initiative 2025-2026 #241 (the “Proposed Initiative”), through undersigned counsel, respectfully submit their Opening Brief as follows:

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The issues presented for review appear to be the following:

Whether the Proposed Initiative contains an impermissible second subject because it repeals the current independent congressional redistricting commission from the Constitution and replaces it in Colorado statute; and because it “amends the constitutional standards that govern how the ballot measure must be approved.”

See Petition p. 3.

Whether the Title that the Title Board drafted for the Proposed Initiative is misleading because it fails to identify a new legal process for redistricting controversies, and states that the statutory commission is identical to the constitutional commission. *See Petition*, p. 4.

STATEMENT OF THE CASE AND FACTS

Respondents Tanya Nathan and Lindsey Rasmussen are the designated representatives of the proponents of the Proposed Initiative (“Proponents”). Proponents submitted their Proposed Initiative to the Title Board for the setting of

a title and submission clause pursuant to § 1-40-106, C.R.S., on March 6, 2026. *See Record*, pp. 16-31

The Title Board held a hearing on March 18, 2026, where it determined that the Proposed Initiative contained a single subject pursuant to Colo. Const. art. V, §1(5.5) and § 1-40-106.5, C.R.S., and set a title. *Record*, p. 14. Petitioner Robert Balink and Objector Wayne Williams each filed a Motion for Rehearing contending that the Proposed Initiative contains multiple subjects in violation of the single-subject requirement, and that the title as set by the Title Board was misleading. *Record*, pp. 2-7 (Balink Motion); *Record*, pp. 8-13 (Williams Motion).

The Title Board held a rehearing on April 1, 2026, and denied the Motions for Rehearing in their entirety. *Record*, p. 15. The title set by the Title Board is as follows:

Shall there be an amendment to the Colorado Constitution and a change to the Colorado Revised Statutes replacing the constitutional independent congressional redistricting commission with an identical statutory independent congressional redistricting commission if a ballot measure creating a new temporary congressional district map to be used in 2028 and 2030 congressional elections is approved by a vote of the people?

Record, p. 14. Petitioner Balink timely filed a Petition for Review of the actions of the Title Board with this Court.

SUMMARY OF THE ARGUMENT

The Title Board properly exercised its broad discretion in setting title on the Proposed Initiative. The Proposed Initiative contains a single subject: repealing the congressional redistricting provisions from the constitution in order that there be a single independent congressional redistricting commission, provided here in Colorado statute. This change allows for mid-decade redistricting by removing the Colorado constitutional requirement that congressional redistricting may only occur once per decade after the decennial census.

Petitioner raises one single subject objection: that in addition to the single subject the Proposed Initiative amends the constitutional standards that govern how the ballot measure must be approved. This argument fails because concerns about the effects that Initiative #241 could have on other laws are not appropriate for review at this stage.

Petitioner's clear title objections fare no better. Petitioner objects to the title on the basis that it does not inform voters of a new legal process for redistricting controversies, and that the title states that the statutory commission is identical to the former constitutionally-authorized commission. These concerns do not override the discretion of the Title Board to draft a brief title that captures the major features of the measure.

The Title Board is only obligated to fairly summarize the central points of a proposed measure and need not refer to every nuance and feature of the proposed measure. While a title must be fair, clear, accurate and complete, it is not required to set out every detail of an initiative.

Accordingly, there is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. The Initiative Complies with the Single Subject Requirement.

A. Standard of Review and Preservation.

Article V, section 1(5.5) of the Colorado Constitution, and section 1-40-106.5(1)(a), C.R.S. state that a proposed initiative must be limited to “a single subject which shall be clearly expressed in its title.” “A proposed initiative violates this rule if its text relates to more than one subject, and has at least two distinct and separate purposes not dependent upon or connected with each other.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 9. When reviewing a challenge to the Title Board’s decision, this Court “employ[s] all legitimate presumptions in favor of the propriety of the Title Board’s action.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 8.

The Court will “only overturn the Title Board’s finding that an initiative contains a single subject in a clear case.” *Id.*

The 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. Nor can the Court “determine the initiative's efficacy, construction, or future application, as these are matters properly considered if and after the voters approve the initiative.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 7. Instead, the Court “must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *In re 2019-2020 #3*, 2019 CO 57, ¶ 8. 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 Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8. “Implementing provisions that are directly tied to the initiative's central focus are not separate subjects”. *In re 2015-2016 # 63*, 2016 CO 34, ¶ 10.

“[T]he single subject requirement should be construed liberally to avoid unduly restricting the initiative process.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 # 61*, 184 P.3d 747, 750 (Colo. 2008).

Proponents do not contest the Petitioner’s preservation of the arguments enumerated above, though they defer to the Petitioner to specify the precise location(s) in the record where each issue they wish to address here was raised and addressed before the Title Board.

B. Initiative #241 Has a Single Subject.

Petitioners argue that Initiative #241 violates the single subject requirement because it repeals the current Independent Congressional Redistricting Commission (“Commission”) from the Constitution and replaces it with a statutory Commission in Colorado statute; and because it allegedly “amends the constitutional standards that govern how the ballot measure must be approved.” *See Petition*, p. 3. At its basis, Petitioner’s complaint is that he does not like the merits of Initiative #241, and its effect on congressional district lines in Colorado. That is not a reason to overturn the Title Board’s single subject finding.

1. The Proposed Initiative’s Repeal of the Constitutional Independent Congressional Redistricting Commission and Recodifying It in Statute Is the Single Subject of the Measure.

Proponents seek to redraw Colorado’s congressional district maps for elections in 2028 and 2030 to replace the district maps adopted by the Commission and this Court in 2021. Per this Court’s holding in *People ex rel. Salazar v. Davidson*, 79 P.3d 1221 (Colo. 2003), the current language of Article V, section 44

of the Colorado Constitution prohibits congressional redistricting more than once per decade. *Salazar*, 79 P.3d at 1231. “More specifically, Article V, Section 44: (1) requires congressional redistricting after a national census and before the ensuing general election; and (2) prohibits redistricting outside of this window.”

Id.

In 2018, the Colorado General Assembly referred what was known as Amendment Y to Colorado voters creating the Commission. Amendment Y amended section 44 of article V of the Colorado Constitution and added several new sections to Article V (sections 44.1 through 44.6), but aside from adding in the requirement that the Commission draw the districts, Amendment Y did not alter the language relied upon by this Court in *Salazar*. Indeed, the new sections further solidify once per decade redistricting after a decennial census. Thus, Proponents, to facilitate their goal to redraw Colorado’s congressional districts for congressional elections in 2028 and 2030, necessarily had to remove the limiting language from the Constitution; but not wanting to eliminate the Commission and its role to draw new district maps after the 2030 decennial census, Proponents replaced the Commission in statute and repealed duplicative provisions in the Constitution. This is the single subject of the Proposed Initiative.

2. The Effective Date in the Proposed Initiative Does Not Create a Separate Subject.

Petitioner contends the language in the Effective Date clause of the Proposed Initiative creates a separate subject because it “amends the constitutional standards that govern how the ballot measure must be approved.” *See Petition*, p. 3. This argument fails.

The Effective Date clause in the Proposed Initiative states:

SECTION 18. Effective Date.

This measure takes effect only if, at the November 2026 statewide election, a ballot issue amending section 2-1-105, Colorado Revised Statutes, to create temporary new congressional districts to be used in the 2028 and 2030 election cycles is approved by the people, in which case this measure takes effect on the date of the official declaration of the vote thereon by the governor.

Record, p. 31. Proponents included this language in the Effective Date clause to ensure that if their companion measure, proposed initiative 20205-2026 #242, did not pass, then the Commission would remain in the Colorado Constitution, with the *Salazar* language intact, because there would be no new congressional district maps for elections in 2028 and 2030.

Petitioner contends that this Effective Date clause creates a second subject because it amends Section 1(4) of Article V of the Colorado Constitution, which states:

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon or, if applicable the number of votes required pursuant to paragraph (b) of this subsection (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

Petitioner overstates the breadth of the Proposed Initiative. The Proposed Initiative in no way amends Section 1(4) of Article V of the Colorado Constitution or creates a new constitutional provision that changes it. Instead, Petitioner's argument is that the Effective Date clause conflicts with Section 1(4) of Article V, and that conflict creates a second subject. While Proponents do not concede that the Proposed Initiative conflicts with Section 1(4) of Article V, even if it did, that conflict does not create a single subject violation. This Court has "never held that just because a proposal may have different effects it necessarily violates the single-subject requirement. Indeed, the effects this measure could have on Colorado law if adopted by voters are irrelevant to [the Court's] review of whether the proposed initiative and its Titles contain a single subject." *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17(internal citations omitted).

Proponents maintain that the Proposed Initiative does not conflict with Section 1(4) of Article V. “Under the Colorado Constitution, all political power is vested in the people and derives from them.” Colo. Const., art. II, § 1. “An aspect of that power is the initiative, which is the power reserved by the people to themselves to propose laws by petition and to enact or reject them at the polls independent of the legislative assembly.” Colo. Const., art. V, § 1. *Colorado Project--Common Cause v. Anderson*, 495 P.2d 220, 221 (Colo. 1972). As such, the initiative process allows the people to step into the shoes of the legislature. *See Brownlow v. Wunsch*, 83 P.2d 775, 780 (Colo. 1938) (the “purpose of the initiative and referendum act was to expeditiously permit the free exercise of legislative powers by the people”).

Like legislation passed by the General Assembly, the people may determine when and if an initiative becomes effective. Pursuant to Section 19 of Article V of the Colorado Constitution, “an act of the general assembly shall take effect on the date state in the act, or if no date is stated in the act, then on its passage.” The General Assembly commonly makes passage of bills contingent upon passage of another law, or even an initiated measure. For example, consider Senate Bill 23-303, that contains an Effective Date clause that states that subsection (2) of the bill takes effect “only if a majority of voters approve the ballot issue referred in

accordance with 24-77-202, Colorado Revised Statutes....”

https://content.leg.colorado.gov/sites/default/files/2023a_303_signed.pdf. Or consider, Senate Bill 24-230, which conditioned a new definition of a “fee” in C.R.S. §24-77-109 on whether the voters passed an initiated constitutional amendment to change the definition of a “fee” in the Taxpayer Bill of Rights.

https://leg.colorado.gov/bill_files/47781/download.

The effective date clause is merely an implementation feature of the Proposed Initiative and is not a separate subject. “An initiative with a single, distinct purpose does not violate the single-subject requirement simply because it spells out details relating to its implementation.” *In re Title, Ballot Title & Submission Clause for 1997-1998* #74, 962 P.2d 927, 929 (Colo. 1998).

Importantly, the Effective Date clause in Initiative #241 is specific to this measure. It applies **only** to this constitutional amendment and does not apply to any other changes to the Constitution or amendments to Colorado statute. As such, no voter will be forced to choose between this initiative’s restructuring of Congressional redistricting law and a general change to the timing of the effective date of voter-approved laws. Thus, the primary concerns that led to adoption of the single subject requirement are not present as to Initiative #241. “[T]he single subject requirement is intended to ensure that each proposal depends upon its own

merits for passage... and 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 2015-2016 #132*, 2016 CO 55, ¶13 (citations and internal quotation marks omitted).

Petitioner’s concern is more properly characterized as a concern about the effects of the measure on other laws. This Court has been consistent in holding that when considering whether an initiative comports with the single subject requirement, the Court does “not address the merits of the proposed initiative or predict how it may be applied if adopted by the electorate. Whether a proposed initiative is a “bad idea” is not the test of whether it meets the single subject requirement.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 21 (internal citations omitted).

II. The Title Set by the Title Board Is Not Misleading.

A. Standard of review and preservation.

“The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 24. The Title Board is “afforded discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and ballot title and submission clause.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 23. The Title

Board is required to summarize the central features of a proposed initiative fairly, but it "need not explain the meaning or potential effects of the proposed initiative on the current statutory scheme." *Id.* Nor must a title recite every detail of the proposed measure. *In re Title, Ballot Title, & Submission Clause for 2001-2002 #21 & #22*, 44 P.3d 213, 222 (Colo. 2002). The Court will reverse the title set by the Board "only if a title is insufficient, unfair, or misleading." *Id.* ¶ 8. The Court does not "consider whether the Title Board set the best possible title." *In re 2019-2020 #3*, 2019 CO 107, ¶ 17.

Respondents agree that Petitioner preserved his challenge to the title set by the Board.

B. The Title Properly Informs Voters of the Key Features of the Proposed Initiative.

Petitioners erroneously contend that the title is misleading because it fails to apprise voters (1) "of a new legal process for redistricting controversies," and (2) that the title "misleadingly states that the statutory commission is identical to the former constitutionally-authorized commission." *Petition*, p. 4. The Title Board considered Petitioner's concerns in these regards but rejected the request to make changes to the title on these grounds. *Record*, p. 15.

First, Proponents had to alter the judicial review component of the maps because a statute cannot expand the original jurisdiction of this Court. *See People*

v. Carter, 527 P.2d 875, 877 (Colo. 1974) (“[T]he original jurisdiction of this Court cannot be expanded by the legislature beyond the limits expressly set forth in the constitution.”). Whereas Amendment Y, in creating the constitutional Commission, provided for immediate Supreme Court review of the congressional district maps, a statutory Commission would necessarily have to provide for district court review and then an appellate process to achieve higher court review. Compare Colo. Const. art. V, §44.5 with C.R.S. §2-1-105.7 of the Proposed Initiative. The Title Board considered Petitioner’s argument on this point during the rehearing on April 8, 2026, and determined that it was not necessary to include in the title. *Record*, p. 15.

Second, aside from judicial review component discussed above, and some very minor formatting and statutory citing differences, the statutory Commission is identical to the constitutional Commission. The Title Board determined that noting these differences in the title would not lead to further voter understanding, and instead, alerting voters that the commissions were identical gave voters useful information to determine whether to vote yes or no on the measure.

The Title Board exercised its discretion to craft a title that seeks to avoid “public confusion,” is “brief” and “unambiguously states the principle of the provision sought to be added, amended, or repealed.” §1-40-106(3)(b), C.R.S.

This Court should defer to the Title Board’s discretion. *In re Title, Ballot Title, & Submission Clause for 1999-2000 #256*, 12 P.3d 246, 255 (Colo. 2000) (“In reviewing the actions of the Board, we grant great deference to the board’s broad discretion in the exercise of its drafting authority.”) “While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail of an initiative.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 60 (Colo. 2008). The title for Initiative #241 satisfies this test because the claimed deficiency in this title is a detail rather than a central feature of this initiative.

CONCLUSION

The Proponents respectfully request the Court to uphold the actions of the Title Board regarding Proposed Initiative 2025-2026 #241.

Respectfully submitted this 22nd day of April, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPENING BRIEF OF RESPONDENTS TANYA NATHAN AND LINDSEY RASMUSSEN IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #241** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 22nd day of April, 2026 to the following:

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