

**SUPREME COURT,
STATE OF COLORADO**

2 East 14th Avenue
Denver, Colorado 80203

DATE FILED
April 22, 2026 8:52 PM

ORIGINAL PROCEEDING
PURSUANT TO C.R.S. § 1-40-107(2),
(2025-2026)
Appeal from the Ballot Title Board

Petitioner:
Valerie Beck,

v.

Respondents:
Suzanne Taheri and Elizabeth
Caven,

and

Title Board:
Michael Dohr, Teresa Conley, Kurt
Morrison.

Attorney for Petitioner:
Mario Nicolais, Reg. #38589
KBN Law, LLC
7830 W Alameda Ave., Suite 103-301
Lakewood, CO 80226
Tel: 720.773.1526
Mario@kbnlaw.com

COURT USE ONLY

Supreme Court Caste No:
2026SA125

PETITIONER BECK'S OPENING BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, 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) - the principal brief does not exceed 9,500 words; it contains 2,561 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7).

I acknowledge that this brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28, 28.1 or 32.

/s/ Mario Nicolais
Mario Nicolais
Attorney for Petitioner

TABLE OF CONTENTS

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW..... 1

STATEMENT OF THE CASE..... 1

 A. Procedural History..... 1

 B. Summary of Argument 2

ARGUMENT 3

 A. Standard of Review and Preservation of Issue. 3

 B. Initiative #251 contains multiple subjects..... 4

 C. The phrase “does not purposefully favor one political party” in the title
 for Initiative #251 is an impermissible catch phrase..... 9

CONCLUSION..... 14

TABLE OF AUTHORITIES

Cases

<i>In re Amend Tabor No. 32</i> , 908 P.2d 125, 130 (Colo.1995)	11
<i>In re Ballot Title 1999-2000 #104</i> , 987 P.2d 249, 253 (Colo.1999)	6
<i>In re Ballot Title 1999-2000 No. 258(A)</i> , 4. P.3d 1094,1100 (Colo. 2000)	11, 12
<i>In re Ballot Title 2011-2012 No. 45</i> , 2012 CO 26	6
<i>In re Proposed Initiative on “Public Rights in Waters II,”</i> 898 P.2d 1076, 1078-79 (Colo.1995)	6
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #315</i> , 2020 CO 61	4, 15
<i>In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025- 2026 #158</i> , 2026 CO 13	7, 8, 9
<i>In the Matter of the Title v. Gorman</i> , 234 P.3d 643, 649 (Colo. 2010)	12, 13
<i>In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63</i> , 2016 CO 34	6
<i>In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128</i> , 2022 CO 37	4, 5

Statutes

§ 1-40-106, C.R.S. (2026)	1
§ 1-40-107(2), C.R.S. (2026)	2

§ 1-40-107, C.R.S. (2026)2

Other Authorities

Black’s Law Dictionary 641 (8th ed. 2004).....12

Constitutional Provisions

Colo. Const. art. V § 1(5.5).....5, 14

Colo. Const. art. V § 44.38

Colo. Const. art. V § 44.3(2)(a)9

Colo. Const. art. V § 44.3(3).....9

Colo. Const. art. V §§ 44 and 44.1 thru 44.66

Petitioner Valerie Beck (“Petitioner” or “Beck”), through undersigned counsel, respectfully *Petitioner Beck’s Opening Brief* regarding the title, ballot title, and submission clause set by the Colorado Title Setting Board (the “Title Board”) for Proposed Initiative 2025-2026 #251 (“Initiative #251”).

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

Petitioner presents two issues for review before this Court:

- (1) Whether creating an approval and adoption process for modifications to congressional maps and also creating a new criteria scheme for congressional maps constitute separate subjects in violation of the single subject rule?
- (2) Whether the phrase “does not does not purposefully favor one political party” constitutes an impermissible catch phrase or slogan in the title set by the Title Board?

STATEMENT OF THE CASE

A. Procedural History

Under § 1-40-106, C.R.S. (2026), proponents for Initiative 251 filed with the Title Board on March 6, 2026. The initiative received an initial hearing on March 18, 2026, and the Title Board (1) approved Initiative #251 as a single subject; (2) held that Initiative #251 proposed the

addition of language to the Colorado Constitution and, therefore, required approval by fifty-five percent of the votes cast; and, (3) set title and ballot title and submission clauses for Initiative #251. On March 25, 2026, Petitioner timely filed a motion for rehearing with the Title Board under § 1-40-107, C.R.S. (2026). A rehearing before the Title Board was held on April 1, 2026. At the rehearing, Petitioner's motion and a second motion for rehearing were partially granted to the extent that the Title Board made changes to the title and ballot title and submission clauses.

Subsequent to the rehearing, on April 8, 2026, Petitioner timely filed her *Petition for Review of Final Action of the Ballot Title Setting Board Concerning Proposed Initiative 2025-2026 #251* under § 1-40-107(2), C.R.S. (2026). The petition attached certified copies of documentation from the Secretary of State as required by the statute.

B. Summary of Argument

Initiative #251 and its title violate multiple constitutional mandates for ballot initiatives. First, the Title Board should not have accepted jurisdiction because the initiative has more than a single subject. Initiative #251 both creates a process of adoption and approval

of mid-cycle modifications to congressional maps and also creates new criteria to which those maps must conform. Because the two subjects necessarily attract support from various factions with differing interests, Initiative #251 and its title present a classic case of unconstitutional “log rolling.” Second, Initiative #251 and its title leverage an unconstitutional “catch phrase” (“drawn purposefully to favor one political party”) intended to evoke an emotional response from voters rather than focusing on the merits of the initiative. For those reasons, this Court should reverse the decision of the Title Board to set title.

ARGUMENT

A. Standard of Review and Preservation of Issue.

While this Court accords “all legitimate presumptions in favor of the propriety of the Board’s actions ... our deference here is not absolute; we have an obligation to ‘examine the initiative’s wording to determine whether it comports with the constitutional requirements.’”

In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128, 2022 CO 37, ¶ 9

(internal quotations omitted), quoting *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶8. In conducting its review, the Court must “use general rules of statutory construction, ‘giving words and phrases their plain and ordinary meanings’” and it should “not consider the merits of the proposed initiatives nor their validity or efficacy if approved by voters and enacted.” *Id.* at ¶ 10 (internal quotations omitted).

Petitioner preserved the issues presented for this Court’s review in her *Motion for Rehearing*. Petitioner both argued that Initiative #251 violated the single subject requirement (*Motion for Rehearing*, p. 2-3) and that the title included a catch phrase (*Motion for Rehearing*, p. 3-4). Petitioner also presented these arguments before the Title Board at the rehearing on April 1, 2026. While the Title Board partially granted Petitioner’s motion to revise the title, ultimately the Title Board denied the motion related to both single-subject and catch phrase objections.

B. Initiative #251 contains multiple subjects.

The Colorado Constitution mandates that “No measure shall be proposed by petition containing more than one subject.” Colo. Const.

art. V § 1(5.5). “When a proposed initiative comprises multiple subjects, the Board lacks jurisdiction to set its title.” *In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128*, 2022 CO 37, ¶ 8, citing Colo. Const. art. V §1(5.5).

The single-subject rule is intended to prevent two dangers: (1) combining subjects with no necessary or proper connection for the purposes of garnering support for an initiative from various factions, and (2) to help avoid voter surprise or fraud due to passage of a surreptitious provision coiled up in the folds of an initiative. *In re Proposed Initiative on “Public Rights in Waters II,”* 898 P.2d 1076, 1078-79 (Colo.1995); *In re Ballot Title 2011-2012 No. 45*, 2012 CO 26; *In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63*, 2016 CO 34. The single-subject rule prevents proponents from joining two distinct and separate purposes that are not dependent upon or connected with each other in order to garner support for the initiative. *In re Ballot Title 1999-2000 #104*, 987 P.2d 249, 253 (Colo.1999). For example, the “single subject requirement prevents proponents from engaging in ‘log rolling’ tactics combining multiple subjects in hopes of

attracting support from various factions with different or conflicting interests.” *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158*, 2026 CO 13, ¶ 16.

Initiative #257 fails the single subject test. It contains two separate subjects that are not dependent on one another nor necessarily connected. Specifically, Initiative #251 contains the following subjects:

1. Creation of a process for approval and adoption of mid-cycle modifications to congressional district maps by the independent congressional redistricting commission and the Colorado Supreme Court.
2. Adding new constitutional criteria for congressional maps, barring any “drawn purposefully to favor one political party.”

Congressional redistricting encompasses the process of redrawing the boundaries of districts for the United States House of Representatives. The standard process for congressional redistricting is set forth in Colo. Const. art. V §§ 44 and 44.1 thru 44.6. The standard process takes place once every ten years after the decennial U.S. census. However, over the past year the country has been engaged in heated debate about mid-cycle redistricting with several states redrawing congressional maps outside the normal ten-year period through state legislative action or statewide votes. Currently, Colorado has multiple

proposed initiatives that would redraw congressional district maps outside the decennial window or change the criteria used for drawing those maps. *See for example* proposed 2025-2026 initiatives #241, #242, #243, #252, #256, #325, #326, and #327. It is against that backdrop that Initiative #251 has been proposed.

While the two subjects of Initiative #251 may share the general topic of congressional redistricting, they carry out separate objectives or purposes. Recently this Court addressed a similar situation in *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158*, 2026 CO 13. In that case the Court analyzed an initiative that combined voter approval requirements for fees while also changing the definition of “fee.” In holding that the initiative contained separate subjects, the Court explained that “It does not matter if the initiative’s purposes relate to the same general concept or subject, or if its provisions can be grouped under an overarching theme; an initiative that is susceptible to log rolling or that risks misleading voters will not satisfy the single subject requirement.” *Id.* at ¶ 19.

Here, Initiative #251 performs two separate objectives that in turn make it susceptible to log rolling and misleading voters. First, it creates

an adoption and approval process for congressional maps made outside normal redistricting years. Second, it introduces new criteria for congressional maps, effectively redefining the already existing criteria for congressional maps. The dangers of combining these two subjects mirror the dangers the Court raised in *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158*. Voters who support the concept of an approval process for mid-cycle redistricting may not support changing the existing criteria for congressional maps currently encompassed in Colo. Const. art. V § 44.3. Similarly, some voters may want to change the constitutional criteria for congressional maps, but may disagree with an approval process, especially when new maps have been adopted by a vote of the people. This is a classic case of log rolling: Initiative #251 would cobble together support from various factions with different interests.

Similarly, voter surprise presents a significant danger in Initiative #251. The new criteria added by Initiative #251 – “drawn purposefully to favor one party” – is wrapped within the coils of both the initiative and the title. Specifically, the new criteria is sandwiched between already existing criteria which may make it seem as if the

initiative does not change the existing constitutional framework. In both the initiative and the title, the new criteria is preceded by the existing criteria that congressional maps must preserve “whole communities of interest.” *See* Colo. Const. art. V § 44.3(2)(a). Similarly, the new criteria introduced by Initiative #251 is followed by the existing criteria to avoid minimizing “politically competitive districts.” *See* Colo. Const. art. V § 44.3(3). Effectively, Initiative #251 and its title cloak new criteria for congressional maps by surrounding it with existing criteria. That is a recipe for misleading voters who may already be familiar with the roles played by preservation of communities of interest and politically competitive districts under the existing structure. It creates an inference or potential presumption that the new criteria may also already exist under the current framework. Consequently, the potential for voter surprise is significant.

C. The phrase “does not purposefully favor one political party” in the title for Initiative #251 is an impermissible catch phrase.

“It is well established that the use of catch phrases or slogans in the title, ballot title and submission clause, and summary should be

carefully avoided by the Board.” *In re Ballot Title 1999-2000 No. 258(A)*, 4. P.3d 1094,1100 (Colo. 2000), quoting *In re Amend Tabor No. 32*, 908 P.2d 125, 130 (Colo.1995). Such catch phrases prejudice electors to vote for an initiative “merely by virtue of those words’ appeal to emotion.” *Id.* Such catch phrases are “words that work to a proposal’s favor without contributing to voter understanding” and that “generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase.” *Id.* They may also form the basis of a slogan or campaign to support an initiative. *Id.* Catch phrases must be determined in the “context of contemporary political debate.” *Id.*

The purpose of barring catch phrases from an initiative title “is not to prevent voters from making a choice, but rather to guard against inflammatory catch words or phrases that promote prejudice in place of understanding what is really being proposed.” *In the Matter of the Title v. Gorman*, 234 P.3d 643, 649 (Colo. 2010). Petitioner’s must prove “the phrase provokes emotion such that it impermissibly distracts from consideration of the initiative’s merits” or confuses voters. *Id.* at 650.

That is precisely what the phrase “does not purposefully favor one political party”¹ does: it provokes emotion in voters that both distracts from the initiative’s merits and confuses voters. As mentioned above, Initiative #251 has not been proposed in a political vacuum.

Congressional redistricting is not just a central political question for Colorado, but across the whole nation. The catch phrase used in the title for Initiative #251 leverages that environment.

As already discussed, Initiative #251 contains two subjects. The second subject, adding criteria that congressional maps must meet, helps bolster the first subject, creating an approval process for mid-cycle redistricting modifications, by employing an emotion evoking catch phrase. Anything other than a cursory analysis makes that clear.

In a political environment polarized along party lines, invoking a fairness argument such as purposefully favoring one party over another is an appeal to emotion. By its very definition, “favor” means “bias” or “inclination, prejudice, predilection.” *Black’s Law Dictionary* 641 (8th

¹ The text of Initiative #251 states that a map cannot be approved if it “Has been drawn purposefully to favor one political party” while the Title Board eventually settled on title language that the map “does not purposefully favor one political party.”

ed. 2004). Employing it in the context of political parties is an attempt to curry an emotional reaction from voters who either believe their political party has been treated unfairly in the past or worry they may be subject to such treatment in the future. However, the emotional pull is further charged by employing it in conjunction with the word “purposefully.” Use of that adverb indicates there is intent and forethought behind the favor toward one political party, or conversely, the bias or prejudice toward another. The seeds of political strife in our country have been sown by such assertions.

The emotional aim of the catch phrase is further emphasized by trying to distill what the criteria actually means. While the Court should not engage in determining the merits of an initiative, it should analyze its wording for constitutional conformity, including whether it creates voter confusion. *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 8, 10. Here the vagueness of both “purposefully” and “favor” both lend themselves to evoking emotion from a broad segment of voters yet lead to significant confusion over the actual meaning of the initiative.

For example, every map is necessarily “purposefully” drawn, yet every map also favors one party or another in every congressional district. Just considering the two major parties, drawing lines that move even a single voter from one party to a new district will favor the voter’s party in the new district they are moved to by increasing the party voter registration by one while simultaneously disfavoring the other party in that new district. Furthermore, the situation of the parties will be reversed in the congressional district the voter was removed from – the voter’s party will be disfavored by losing that voter while the other party will be favored. The problem becomes exponentially more confusing when considering minor parties, the interaction between every congressional district in the state, and whether or not “favor” applies to each congressional district individually, to the state’s contingent of congressional districts, or based on the national balance as a whole.

In reality, because “drawn purposefully to favor one political party” is a catch phrase meant to play on voters’ emotions, its meaning is entirely subjective. There is no single objective goal or aim that can be expressed. That means it cannot be clearly expressed as required by

Colo. Const. art. V § 1(5.5) and leads to voter confusion and surprise.
This Court should not countenance such an outcome.

CONCLUSION

The title set for Initiative #251 violates the Colorado Constitution's: prohibition against multiple subjects, requirement to clearly express the initiative's subject, and mandate to avoid catch phrases. As such, this Court should reverse the decision of the Title Board, find that it did not have jurisdiction to set title, and strike the title that has been set.

Respectfully submitted this 22nd day of April 2026.

KBN LAW, LLC

s/ Mario Nicolais

Mario Nicolais
Attorney for Petitioner Valerie Beck

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of April 2026, a true and correct copy of the foregoing *Petitioner's Opening Brief* was filed and served upon the following via the Court's e-filing system:

Emily Buckley
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
Emily.Buckley@coag.gov
Counsel for Title Board

Suzanne Taheri
West Group
6501 E. Belleview Ave
Suite 375
Denver, CO 80111
ST@westglp.com
Counsel for Designated Proponents

Martha Tierney
Tierney Lawrence Stiles LLC
225 East 16th Avenue
Suite 350 Denver, CO 80203
mtierney@TLS.legal
Counsel for Petitioner Lindsey Rasmussen

KBN Law, LLC

/s/ Mario Nicolais

Mario Nicolais