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**2 East 14<sup>th</sup> Avenue**  
**Denver, Colorado 80203**

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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 #251

**Petitioners:** VALERIE BECK, and LINDSEY  
RASMUSSEN

v.

**Title Board:** THERESA CONLEY; KURT  
MORRISON; and MICHAEL DOHR

And

**Respondents:** SUZANNE TAHERI AND  
ELIZABETH CAVEN

▲ COURT USE ONLY ▲

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Case No.: 2026SA125

**PETITIONER LINDSEY RASMUSSEN'S OPENING BRIEF IN  
OPPOSITION TO PROPOSED INITIATIVE 2025-2026 # 251**

## 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 2,656 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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Lindsey Rasmussen (“Petitioner”), registered elector of the State of Colorado, through her undersigned counsel, respectfully submits this Opening Brief in opposition to Proposed Initiative 2025-2026 #251 (“Proposed Initiative”).

### **STATEMENT OF THE ISSUES PRESENTED FOR REVIEW**

Petitioner Rasmussen asserts two issues. First, the Proposed Initiative contains two separate subjects by prohibiting mid-cycle modifications of congressional district maps unless they meet certain limited criteria and eliminating the contiguity requirement for approving a district map outside the redistricting year, which is the year following the year in which the federal decennial census is taken. Second, the title set by the Title Board is misleading because it fails to notify voters of the change in status quo by eliminating the contiguity criteria, and by not alerting voters to the changes in public participation at public meetings, and changes to the geographic location requirements for public meetings.

### **STATEMENT OF THE CASE AND FACTS**

Respondents Suzanne Taheri and Elizabeth Caven (“Respondents”) 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. *Record*, p. 16.

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. 13. Petitioner Lindsey Rasmussen 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. 7-12. Additionally, objector Valerie Beck filed a Motion for Rehearing asserting that the Proposed Initiative violates the single subject and clear title requirements. *Record*, pp 2-6. The Title Board held a rehearing on April 1, 2026, at which time it determined that the Proposed Initiative contained a single subject, and that changes to the draft title were appropriate. *Record*, pp. 14-15.

The title set by the Title Board is as follows:

Shall there be an amendment to the Colorado Constitution concerning mid-cycle congressional redistricting, and, in connection therewith, prohibiting congressional redistricting mid-cycle unless the following limited criteria is met holding three public meetings regarding the new map, the map preserves whole communities of interest and does not purposefully favor one political party or minimize politically competitive districts, and the map is approved by an independent congressional redistricting commission and adopted by the Colorado Supreme Court?

Petitioner Rasmussen timely filed a Petition for Review of the actions of the Title Board with this Court.

## SUMMARY OF THE ARGUMENT

Petitioner Rasmussen asserts two issues. First, the Proposed Initiative contains two separate subjects by prohibiting mid-cycle modifications of congressional district maps unless they meet certain limited criteria and eliminating the contiguity requirement for approving a district map outside the redistricting year, which is the year following the year in which the federal decennial census is taken. Second, the title set by the Title Board is misleading because it fails to notify voters of the change in status quo by eliminating the contiguity criteria, and by not alerting voters to the changes in public participation at public meetings, and changes to the geographic location requirements for public meetings.

## ARGUMENT

### **I. The Initiative Violates 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.*

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

[N]o 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. 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. Instead, the Court “must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *Id.* “[T]he Board may not set the titles of a proposed Initiative, or submit it to the voters, if the Initiative contains multiple subjects.” *In re Title, Ballot Title & Submission Clause for 1990-2000 #104*, 987 P.2d 249, 253 (Colo. 2000).

Petitioner preserved the single subject issue in her Motion for Rehearing and at the rehearing on April 1, 2026. *Record*, pp. 7-12.

**B. The Title Board Erred in Concluding That Initiative #251 Contains a Single Subject.**

Initiative #251 has multiple subjects. 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.” *In re Title, Ballot Title &*

*Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶ 13. 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.” *Id.* “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.” *Id.* Both dangers are present in Initiative #251.

In reviewing the Title Board’s single subject determination, the Court must determine “whether the contested language within the initiative creates a distinct and separate subject which is not connected to or dependent upon the remaining aspects of the initiative.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8. To satisfy the single-subject requirement, the “subject matter of an initiative must be necessarily and properly connected rather than disconnected or incongruous.” *Id.*

Initiative #251 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. The Proponents contend that the single subject of the measure is “mid-year (or mid-term?) redistricting” that allegedly “fills a gap” in existing constitutional provisions regarding congressional redistricting. But the sparse language of the

measure clearly omits other mandated criteria for maps adopted in a redistricting year, including contiguity, and this creates a separate subject.

**C. Eliminating the Contiguity Criteria for Approving a Map Outside the Redistricting Year Is a Separate Subject.**

The Title Board erroneously found that Initiative #251 meets the single subject requirement. Sections 7(c)(I) and (II) of the measure state that “outside the redistricting year, no map may be approved by the Commission or given effect by the Colorado supreme Court if it ... [f]ails to preserve, as much as reasonably possible, whole communities of interest or ... [h]as been drawn purposefully to favor one political party or to minimize politically competitive districts.” The measure does not list any other criteria that the Commission must consider when approving a map outside the redistricting year, or cross-reference Colo. Const. art. V, §44.3, which otherwise governs the criteria that the Commission must follow when approving a map in the redistricting year.

The measure appears to stand alone on what the Commission must do or not do when approving a map outside the redistricting year. For example, the measure requires the Commission to hold at least three public meetings. This differs from Colo. Const., art. V, §44.2(3)(b)’s requirement that the Commission hold “at least three hearings ... in each congressional district.” Counsel for Proponents, when asked at the Review and Comment hearing as to whether there was any geographic

requirement for the public meetings or if all three public meetings could be held in Denver, responded that all three meetings could be held in Denver. *See Review & Comment Hearing for Proposed Initiatives 2025-2026 #251, #252, #254 and #255, March 6, 2026; audio at <https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20260306-1/18246> at 10:35:16-10:35:47.*

Similarly, the measure does not require that Colorado residents may present maps or testimony in person or in writing for the commission's consideration. This differs from Colo. Const., art. V, §44.2(3)(a) and (b)'s requirement that "[a]ll Colorado residents, ... may present proposed redistricting maps or written comments..." and that the Commission must, "to the maximum extent practicable, provide opportunities for Colorado residents to present testimony at hearings held throughout the state." Counsel for Proponents, when asked at the Review and Comment hearing as to whether the measure required that members of the public be allowed to present testimony, in person or in writing, at the public meetings, responded that there was no requirement to do so. *See Review & Comment Hearing for Proposed Initiatives 2025-2026 #251, #252, #254 and #255, March 6, 2026 at 10:36:05-10:36:16.* The language of the measure, combined with the responses from the Proponents as to their intent, make clear that this measure

constitutes all of the criteria that apply to maps approved outside the redistricting year, absent a federalism override.

Contiguity, a criteria that is met if it is possible to travel between any two points in a district without crossing into a different district, is required in Colo. Const., art. V, §44.3 (1)(a) for maps approved by the commission in a redistricting year. But contiguity is not included in the criteria in Initiative #251 for maps approved outside the redistricting year. Unlike the one-person, one-vote doctrine created by the U.S. Supreme Court in *Wesberry v. Sanders*, 376 U.S. 1 (1964), or the Voting Rights Act of 1965, 52 U.S.C. sec. 10301, as amended, contiguity is not federally mandated and will not be required under Initiative #251 for Colorado congressional district maps approved outside the redistricting year.

By failing to include a requirement that maps approved outside the redistricting year must be contiguous, the measure creates a separate subject. Coiled up in the folds of the measure is this change in the contiguity requirement for maps approved outside the redistricting year. Voters would be surprised to learn that they thought they were voting on a measure to require congressional district maps outside the redistricting year to be approved by the commission and the Colorado Supreme Court, when they are also voting to allow a congressional district map that contains districts that are not contiguous, such that an island of

voters in Craig, Colorado, may be lumped into a district with an island of voters in Denver, or an island of voters in Pueblo, may be lumped into a district with an island of voters in Commerce City. This change in the contiguity requirement for congressional maps approved outside the redistricting year is a separate subject.

Due to its sparse nature, Initiative #251 "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 Title, Ballot Title & Submission Clause for 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."). *In re Title, Ballot Title & Submission Clause for 2021-2022 #1*, 2021 CO 55, ¶ 41.

Because elimination of the contiguity requirement for all congressional district maps approved outside the restricting year is not necessary or proper to fill a gap on mid-cycle congressional redistricting, Initiative #251 runs the risk of surprising voters with a surreptitious, significant change to congressional districts in Colorado. This proposed change is an impermissible second subject "coiled up in the folds" of its proposal. *Mantell v. Fields*, 2026 CO 13, ¶ 27, (internal

citations omitted). Initiative #251 contains multiple subjects in violation of the single subject requirement.

**II. The Title Board Improperly Set A Misleading Title.**

**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 Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 24. The title must fairly reflect the contents of the proposed initiative and contain “sufficient information to enable voters to determine intelligently whether to support or oppose the initiative.” *In re Initiative for 2015-2016 #73*, 2016 CO 24, ¶32.

Petitioner preserved her challenge to clear title in her Motion for Rehearing, *Record* p. 10, and at the rehearing on April 1, 2026.

**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 Proposed Initiative is misleading and does not correctly and fairly express the initiative’s 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 #251 is not a clear statement of what this measure actually does. First, the title omits any language informing voters that there is no contiguity requirement for all future mid-cycle congressional district maps.

Second, the title also misleads when it does not alert voters to the change in the status quo that outside the redistricting year, the commission does not have to allow Colorado residents to present proposed maps, written comments, or testimony at public meetings.

Third, the title makes no mention that commission hearings outside the redistricting year do not have to be held in each congressional district, but instead could all be held in one location.

Here, the title for Initiative #251 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.” *In re 2015-2016 #73*, 2016 CO 24, ¶ 34; *see also In re Titles, Ballot Titles & Submission Clauses for 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 #251 does not enable voters to make an informed choice because it does not correctly and fairly express the measure’s true intent and meaning.

### **CONCLUSION**

The Petitioner respectfully requests the Court to reverse the actions of the Title Board regarding Proposed Initiative 2025-2026 #251 because the measure contains multiple subjects and the title as drafted by the Title Board is misleading.

Respectfully submitted this 22<sup>nd</sup> day of April, 2026.

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PETITIONER RASMUSSEN'S OPENING BRIEF IN OPPOSITION TO PROPOSED INITIATIVE 2025-2026 # 251** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 22<sup>nd</sup> day of April, 2026 to the following:

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