

<p>SUPREME COURT OF COLORADO 2 East 14th Avenue Denver, Colorado 80203</p>	<p>DATE FILED April 22, 2026 5:59 PM</p>
<p>Petition for Review Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Ballot Title Setting Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #251 Petitioners: LINDSEY RASMUSSEN and VALERIE BECK</p> <p>v.</p> <p>Respondents: ELIZABETH CAVEN and SUZANNE TAHERI, Proponents</p> <p>and</p> <p>Ballot Title Board: MICHAEL DOHR, THERESA CONLEY, and KURT MORRISON</p>	<p>▲ COURT USE ONLY ▲</p>
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<p>RESPONDENTS' OPENING BRIEF</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this 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, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

Choose one:

It contains 1,917 words.

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The brief complies with C.A.R. 28(k):

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

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.

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Elizabeth Caven and Suzanne Taheri (“Respondents/Proponents”) hereby respectfully submit this Opening Brief in support of the Title Board’s decision for Proposed Initiative 2025-2026 #251 (the “Initiative” or “Measure”).¹

STATEMENT OF THE ISSUES PRESENTED

1. Whether the Title Board correctly found that Proposed Initiative 2025-2026 #251 is a single subject.
2. Whether the ballot title set by the Title Board properly describes the purpose of Proposed Initiative 2025-2026 #251.

STATEMENT OF THE CASE

Initiative #251 is a short constitutional amendment designed to provide additional structure to the congressional redistricting process. Specifically,

¹ **SECTION 1.** In the constitution of the state of Colorado, section 44.4 of article V, **add 7**, as follows:

(7)(A) UPON ADOPTION AND APPROVAL OF THE FINAL PLAN, NO PLAN MAY BE MODIFIED FOR THE 2028 CONGRESSIONAL ELECTION OR THEREAFTER EXCEPT WITH THE APPROVAL OF THE CONGRESSIONAL COMMISSION AND ADOPTION BY THE COLORADO SUPREME COURT.

(B) IN REVIEWING ANY PLAN OUTSIDE THE REDISTRICTING YEAR, THE COMMISSION MUST HOLD AT LEAST THREE PUBLIC MEETINGS.

(C) OUTSIDE THE REDISTRICTING YEAR, NO MAP MAY BE APPROVED BY THE COMMISSION OR GIVEN EFFECT BY THE COLORADO SUPREME COURT IF IT:

(I) FAILS TO PRESERVE, AS MUCH AS REASONABLY POSSIBLE, WHOLE COMMUNITIES OF INTEREST OR;

(II) HAS BEEN DRAWN PURPOSEFULLY TO FAVOR ONE POLITICAL PARTY OR TO MINIMIZE POLITICALLY COMPETITIVE DISTRICTS.

Initiative #251 protects the rights of Colorado residents by establishing requirements for mid-cycle redistricting.

On March 18, 2026, the Title Board met to conduct an initial hearing on Initiative #251. The Board found that the initiative constitutes a single subject and proceeded to set title. Petitioners filed separate Motions for Rehearing. A rehearing was conducted on April 1, 2026, where the Title Board upheld its original decision and made slight changes to the final ballot title.² Petitioners now appeal that decision.

SUMMARY OF ARGUMENT

The text of Initiative #251 is quite short. The initiative provides that once a final redistricting plan is adopted and approved, the plan cannot be modified except by approval of the congressional commission and adoption by the Colorado Supreme Court. Initiative #251 requires that before the congressional commission can make any mid-cycle plan change, three public meetings must be held. Lastly, the measure provides requirements which must be met for a plan to be approved.

² 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.

The requirements are to preserve whole communities of interest as much as reasonably possible, a prohibition on drawing any map purposely to favor any one political party or to minimize the competitiveness of districts.

Each of the requirements of Initiative #251 are necessary to ensure the integrity of the redistricting process mid-cycle. The changes are all necessarily and properly connected to the purpose of the initiative, and the ballot title established by the Board correctly describes the initiative and does not use a catch phrase.

STANDARD OF REVIEW

The Court’s role in reviewing Title Board actions is limited, and it must, “employ all legitimate presumptions in favor of the propriety of the Title Board’s actions and ...overturn its finding that an initiative contains a single subject only in a clear case.” *Milo v. Coulter (In re Title, Ballot Title & Submission Clause for 2013-2014 #129)*, 333 P.3d 101, 103-04 (Colo. 2014); citing *Kemper v. Hamilton (In re Title, Ballot Title & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 565 (Colo. 2012); *Earnest v. Gorman (In re Title, Ballot Title & Submission Clause for 2009-2010 #45)*, 234 P.3d 642, 645 (Colo. 2010). The Court must “also liberally construe the single subject requirement to ‘avoid unduly restricting the initiative process.’” *Id.*, quoting *Hayes v. Lidley (In re Title, Ballot Title and Submission Clause for 2009-2010 #24)*, 218 P.3d 350, 353 (Colo. 2009).

The Court affords the same presumption in favor of the Title Board in setting title, and the Board is afforded discretion in resolving problems of length, complexity, and clarity in designating a title and ballot title and submission clause. *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 162 (Colo. 2014). The Board's duty is to summarize the central features of a proposed initiative. *Id.*

LEGAL ARGUMENT

I. Initiative #251 Meets the Single Subject Requirement

A. Provisions Must be Related to One Object or Purpose

The Colorado Constitution requires a measure proposed by petition to contain only one subject. Colo. Const. art. V, § 1(5.5). “To run afoul of the single subject requirement, the proposed initiative must have at least two distinct and separate purposes that are not dependent upon or connected with each other.” *Earnest*, 234 P.3d at 645, citing *Hayes*, 218 P.3d at 352.

The single subject of Initiative #251 is to provide additional structure for congressional redistricting by establishing requirements for mid-cycle redistricting. There is nothing coiled in the folds of Initiative #251. It continues the voter protections currently embedded in the Colorado Constitution by closing a loophole which would otherwise apply to mid-cycle changes in congressional districts.

B. Initiative #251 Does Not Implicate Dangers to be Prevented by Single Subject Requirement.

The purpose of the single-subject requirement for proposed voter initiatives is to prevent two “dangers” of multi-subject initiatives: first, it prevents the enactment of combined measures that would fail on their individual merits; second, it protects against fraud and surprise occasioned by the inadvertent passage of a surreptitious provision coiled up in the folds of a complex initiative. Colo. Const. art. V, § 1(5.5); § 1-40-106.5, C.R.S. (2025).

The Title Board considered Initiative #251 and determined the initiative contained a single subject. The Court’s role is limited and prohibits “[a]ddressing the merits of a proposed initiative or suggesting how an initiative might be applied if enacted.” *Milo*, 333 P.3d 101, 104; citing *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title (In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-2002 #43)*, 46 P.3d 438, 443 (Colo. 2002). “In determining whether a proposed measure contains more than one subject, [the Court] may not interpret its language or predict its application if it is adopted. *Herpin v. Head (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 485, 495 (Colo. 2000); citing *Aisenberg v. Campbell (In re Title, Ballot Title & Submission Clause for Proposed Initiative 1997-98 # 64)*, 960 P.2d 1192, 1197

(Colo. 1998); *cf. In re Branch Banking Initiative*, 612 P.2d 96, 99 (Colo. 1980).

Concerns about the effects of an initiative, valid or not, are irrelevant to whether the proposed initiative contains a single subject. *Milo*, 333 P.3d at 105, citing *Kemper*, 274 P.3d at 568 n.2.

The single subject requirement also helps avoid “voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative.” *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 566 (Colo. 2012). (quoting *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title*, 46 P.3d 438, 442 (Colo. 2002)).

The provisions of Initiative #251 carry out the single purpose of establishing a process for mid-cycle congressional redistricting that allows for public input and protects against partisan gerrymandering.

The initiative is brief and direct, not “complex” nor “omnibus,” and there is no hidden or concealed provision that would cause voter surprise. *Earnest*, 234 P.3d at 647. Initiative #251 unambiguously provides a process for mid-cycle congressional redistricting. It contains no surreptitious provision that would surprise voters.

II. The title set for #251 properly describes the purpose of the initiative.

A. It is not necessary to describe every detail of the initiative's effects.

The title and submission clause should allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal. *Cordero*, 328 P.3d 155 at 162. Thus, "[i]n 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/for' or 'no/against' vote will be unclear." § 1-40-106(3)(b), C.R.S. (2025). In addition, the title must "correctly and fairly express the true intent and meaning" of the initiative. *Id.*

In determining whether a title is clear, the Court does not consider whether the Title Board set the best possible title. *Cordero*, 328 P.3d at 162. But the measure must fairly reflect the proposed initiative such that voters will not be misled into supporting or opposing the initiative because of the words employed by the Title Board. *Id.*

Petitioners argue that the title set by the Board must describe the geographic locations of the public meetings, the protocol for the public meetings, and specific requirements for how the congressional districts may be formed. This is not necessary in the ballot title. Initiative #251 is exceptionally short, and all of its

provisions are contained in the plain text of the initiative. These details of the measure are not appropriate for a ballot title.

B. “Does not purposefully favor one political party” is not a catch phrase.

A catch phrase consists of "words that work in favor of a proposal without contributing to voter understanding." *Earnest v. Gorman (In re Title, Ballot Title & Submission Clause for 2009-2010 # 45)*, 234 P.3d 642, 649 (Colo. 2010). The purpose of forbidding the use of catch phrases in an initiative is to "guard against inflammatory . . . words or phrases that promote prejudice in place of [voter] understanding [of] what is really being proposed", words that "merely describe the proposal are not impermissible catch phrases." *Id.* "Catch phrases" are words that work to a proposal's favor without contributing to overall voter understanding. *Garcia v. Chavez (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 1094, 1100 (Colo. 2000). The Court evaluates whether the titles include an impermissible catch phrase by considering the contemporary political debate. *Garcia v. Chavez (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 1094, 1100 (Colo. 2000).

Here, the environment and conversation around redistricting are common topics of contemporary debate. There is much debate over whether partisan

gerrymandering should occur, who started it and how to fight it. Other states have voted on these issues. As shown by the results, voters may well want a map drawn for partisan advantage to offset activities in another state. Other voters may want to preserve the Colorado model of an independent redistricting commission and vote against partisan gerrymandering. In this context, the use of the phrase is descriptive and contributes to voter understanding of the purpose of the initiative. The phrase is not simply an "appeal to emotion" or an attempt to "distract[] voters from consideration of the proposed initiative's merits," the evils that this prohibition seeks to prevent. *Ernest*, 234 P.3d at 649. The Board recognized that these terms are descriptive and do not provoke political emotion and or impede voter understanding

CONCLUSION

Proposed Initiative #251 is a single subject. The title set by the Board adequately and fairly describes the central purpose of the initiative. The Court should uphold the Title Board's actions regarding the initiative.

Respectfully submitted this 22nd day of April 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2026, a true and correct copy of the **RESPONDENTS' OPENING BRIEF** was served via the Colorado Court's E-Filing System to the following:

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