

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED April 22, 2026 2:33 PM</p>
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #251</p>	
<p>Petitioners: Lindsey Rasmussen and Valerie Beck</p> <p>v.</p>	
<p>Title Board: Theresa Conley, Michael Dohr, and Kurt Morrison.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>and</p>	<p>Case No. 2026SA125</p>
<p>Initiative #251 Proponents: Suzanne Taheri & Elizabeth Caven</p>	
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<p>THE TITLE BOARD'S OPENING BRIEF</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, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 3,654 words.

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

The brief contains, under a separate heading before the discussion of the issue, 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 or 28.1, and C.A.R. 32.

s/ Kolya Glick

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TABLE OF CONTENTS

ISSUES ON REVIEW	1
STATEMENT OF THE CASE	1
SUMMARY OF ARGUMENT	5
ARGUMENT	6
I. The Title Board had jurisdiction to set a title.....	6
A. Standard of review and preservation.....	6
B. The subject of the measure is clearly stated.....	7
C. The portion of the measure setting criteria for a mid-cycle redistricting map is not a second subject.....	10
II. The title set by the Board satisfies the clear title standard.	15
A. Standard of review and preservation.....	15
B. The Initiative does not contain a “catchphrase” for purposes of this title.	16
C. The title is not misleading.	18
CONCLUSION	20

TABLE OF AUTHORITIES

	PAGES
CASES	
<i>In re Proposed Ballot Initiative on Parental Rts.,</i> 913 P.2d 1127 (Colo. 1996)	12
<i>In re Title, Ballot Title & Submission Clause for 1997-1998 #74,</i> 962 P.2d 927 (Colo. 1998)	19
<i>In re Title, Ballot Title & Submission Clause for 2009-2010 #91,</i> 235 P.3d 1071 (Colo. 2010)	14
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #76,</i> 2014 CO 52.....	6, 7, 11, 13
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #85,</i> 2014 CO 62.....	16, 17
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #89,</i> 2014 CO 66.....	11, 13
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #90,</i> 2014 CO 63.....	10, 11, 15
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #3,</i> 2019 CO 57.....	6, 7
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #3,</i> 2019 CO 107.....	15, 17, 18
<i>In re Title, Ballot Title & Submission Clause for 2021-2022 #16,</i> 2021 CO 55.....	6, 10
<i>In re Title, Ballot Title & Submission Clause for 2001-2002 #43,</i> 46 P.3d 438 (Colo. 2002)	8
<i>In re Title, Ballot Title & Submission Clause & Summary for 1997-1998</i> <i>#75,</i> 960 P.2d 672 (Colo. 1998)	8, 9

<i>In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #245(b), 245(c), 245(d) & 245(e),</i> 1 P.3d 720 (Colo. 2000)	7
<i>In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #256,</i> 12 P.3d 246 (Colo. 2000)	13, 19
<i>In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #258(A),</i> 4 P.3d 1094 (Colo. 2000)	14
<i>In re Title, Ballot Title & Submission Clause & Summary for a Pet. on Sch. Fin.,</i> 875 P.2d 207 (Colo. 1994)	8, 9
<i>In re Title, Ballot Title & Submission Clause & Summary Regarding (Petitions),</i> 907 P.2d 586 (Colo. 1995)	10
<i>In re Title, Ballot Title & Submission Clause & Summary Regarding Amend Tabor #32,</i> 908 P.2d 125 (Colo. 1995)	12
<i>In re Title, Ballot Title, Submission Clause & Summary Pertaining to the Proposed Initiative on Surface Mining,</i> 797 P.2d 1275 (Colo. 1999)	18
<i>Parrish v. Lamm,</i> 758 P.2d 1356 (Colo. 1988)	19
<i>People v. Sa'ra,</i> 117 P.3d 51 (Colo. App. 2004).....	19
STATUTES	
§ 1-40-106.5, C.R.S.	11

CONSTITUTION

Colo. Const. art. V, § 1.....6
Colo. Const. art. V, § 44.3..... 14

OTHER AUTHORITIES

Hearing Before Title Board on Proposed Initiative 2025-2026 #251 (Mar. 18, 2026), <https://tinyurl.com/589wfdn8>.....2
Rehearing Before Title Board on Proposed Initiative 2025-2026 #251 (Apr. 1, 2026), <https://tinyurl.com/y9f399by> 3

ISSUES ON REVIEW

- I. Whether the Title Board correctly determined that it had jurisdiction to set a title on 2025-2026 #251.
- II. Whether the Title Board set a clear title.

STATEMENT OF THE CASE

Under existing law, congressional redistricting in Colorado occurs every 10 years, after the federal census is conducted. Colorado law currently has no provision allowing redistricting maps to be drawn outside of the once-a-decade redistricting year. A mid-cycle redistricting is nonetheless possible in unusual circumstances, such as if a federal court were to hold that Colorado's congressional maps are unconstitutionally discriminatory under the Voting Rights Act. In addition, sponsors have submitted various redistricting proposals to the Title Board as voter initiatives this year.

Proposed Initiative 2025-2026 #251 seeks to regulate mid-cycle redistricting, setting forth a process for any mid-cycle congressional redistricting that may occur, and announcing criteria for what constitutes a permissible congressional map in those circumstances. *See*

Record, p. 16. At its March 18, 2026 meeting, the Title Board concluded that the measure contained a single subject and set a title. *Hearing Before Title Board on Proposed Initiative 2025-2026 #251* (Mar. 18, 2026), at 5:23:27-5:23:43, <https://tinyurl.com/589wfdn8>.

Petitioners Valerie Beck and Lindsey Rasmussen each filed separate motions for rehearing. Record, pp. 2-12. Petitioner Beck argued that Initiative #251 (1) did not contain a “single subject” because the approval and adoption of modifications to maps by the congressional committee and Colorado Supreme Court was a separate subject from adding the criteria that the maps may not be “drawn purposefully to favor one political party,” *id.* at 2-3; (2) failed to “clearly express” that the initiative “introduces new criteria for congressional maps,” *id.* at 3-4; and (3) contained the impermissible catch phrase, “drawn purposefully to favor one political party,” *id.* at 4-6, a phrase the Title Board later revised on rehearing, *see id.* at 14 (changing to “does not purposefully favor one political party”).

Petitioner Rasmussen separately argued that (1) Initiative #251 violated the single-subject requirement, asserting that eliminating the

“contiguity” criteria for approving a map outside the redistricting year is a separate subject, *id.* at 8-10; and (2) the ballot title and submission clause were misleading because they did not inform voters of the allegedly new criteria and procedure for drawing congressional maps, *id.* at 10-11.

The Board considered the motions for reconsideration at its April 1, 2026 meeting. *Rehearing Before Title Board on Proposed Initiative 2025-2026 #251* (Apr. 1, 2026), at 2:24:26-3:17:48, <https://tinyurl.com/y9f399by>. The Board granted the motions for rehearing to the extent it made changes to the text of the title, but it otherwise denied the motions. *Id.* at 3:15:43-3:16:07.

In full, the title ultimately fixed by the Board after rehearing for Initiative #251 reads:

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.

Record, p. 14.

In full, the ballot title and submission clause as designated and fixed by the Board after rehearing reads:

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?

Id.

Finally, the Initiative proposes adding, in the Colorado Constitution, section 44.4 of article V, the following subsection 7:

- (7)(a) Upon adoption and approval of the final plan, no plan may be modified for this 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.

Id. at 16.

Petitioner Beck now challenges whether the Board had jurisdiction to set a title for 2025-2026 #251 (Issue 1 in the petition) and whether the title it set contained an impermissible catch phrase (Issue 2 in the petition). Beck Pet. at 3.

Petitioner Rasmussen challenges (1) whether the initiative contains “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 (Issue 1 in the Petition); and (2) whether the title is misleading because it purportedly 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” (Issue 2 in the Petition). Rasmussen Pet. at 2-3.

SUMMARY OF ARGUMENT

The Title Board set an appropriate title for 2025-2026 Initiative #251. The title contains a single subject, the subject is stated clearly

and is not misleading, and neither the title nor the submission clause contains any impermissible catch phrase. This Court should deny the petitions and affirm the Title Board.

ARGUMENT

I. The Title Board had jurisdiction to set a title.

A. Standard of review and preservation.

The Title Board has jurisdiction to set a title only when a measure contains a single subject. *See* Colo. Const. art. V, § 1(5.5). The Court will “overturn the Board’s finding that an initiative contains a single subject only in a clear case.” *In re Title, Ballot Title & Submission Clause for 2021-2022 #16*, 2021 CO 55, ¶ 9 (quotations omitted). “In reviewing a challenge to the Title Board’s single subject determination, [the Supreme Court] employ[s] all legitimate presumptions in favor of the Title Board’s actions.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8.

In doing so, 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.” *In re 2013-2014 #76*, ¶ 8. 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 2013-2014 #76*, ¶ 8.

The “Board’s actions are presumptively valid[,] and this presumption precludes [the Supreme Court] from second-guessing every decision the Board makes in setting titles.” *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #245(b), 245(c), 245(d) & 245(e)*, 1 P.3d 720, 723 (Colo. 2000).

The Title Board agrees that Petitioners preserved their single-subject objections in their motions for rehearing.

B. The subject of the measure is clearly stated.

The single subject of Initiative #251 is the process for any mid-cycle congressional redistricting. Specifically, the measure sets forth a

process for the review of any mid-cycle congressional maps and criteria to guide that process.

The single-subject rule serves to prevent both the joinder of multiple subjects to secure the support of various factions, and voter fraud and surprise. *In re Title, Ballot Title & Submission Clause for 2001-2002 #43*, 46 P.3d 438, 442 (Colo. 2002). To set a proper title, the “Board need not consider and resolve potential or theoretical disputes or determine the meaning or application of the” measure. *In re Title, Ballot Title & Submission Clause & Summary for a Pet. on Sch. Fin.*, 875 P.2d 207, 210 (Colo. 1994).

Nor does the potential need for future judicial interpretation of a measure render the Board unable to set a title. For instance, this Court has held that to the extent an initiative’s use of the term “nonexempt well” was unclear, the Board could still set a title even though the term’s “definition must await future legislative and judicial construction and interpretation.” *In re 1997-1998 #75*, 960 P.2d 672, 673 (Colo. 1998).

The same is true here. Contrary to Beck’s argument below, Record, p. 3, the fact that further legislative and judicial construction may be necessary to determine what it means for a congressional map to “purposefully favor one political party,” does not render the meaning of the initiative unknowable to voters. *See In re Title, Ballot Title & Submission Clause for 1997-1998 #75*, 960 P.2d at 673. The concept of political gerrymandering—and what it means to “purposefully favor one political party”—may be subject to future judicial and legislative dispute. But the possibility that the Initiative #251’s terms *might* require further interpretation does not mean they *necessarily* contain a second subject; rather, that possibility suggests its *single* subject could be challenged and interpreted in the future. *See In re Pet. on Sch. Fin.*, 875 P.2d at 210 (Board’s duty is to summarize central features of initiated measure, not to “consider and resolve potential or theoretical disputes”).

Ultimately, most of Petitioners’ arguments boil down to a disagreement with the effect the initiative would have on Colorado law, criticizing it for, *inter alia*, changing the criteria for drawing

congressional maps. *See Record*, p. 8-10 (Rasmussen Reh’g Pet.). But as this Court has held, the “effects th[e] measure could have on Colorado . . . law if adopted by voters are irrelevant” to the single subject inquiry. *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17 (quotations omitted). Thus, while Petitioners may disagree with the policy choices embodied in Initiative #251, that policy difference is the very reason to *allow* the initiative to be presented to voters to make a decision, not a reason to prohibit it.

Because there is a clear central purpose in Initiative #251, the single subject requirement is satisfied.

C. The portion of the measure setting criteria for a mid-cycle redistricting map is not a second subject.

In objecting to title, Petitioners each assert different purported “second” subjects. Neither one amounts to a second subject that divested the Title Board of jurisdiction.

There are three core methods of violating the single-subject requirement: (1) if the text relates to more than one subject; (2) if the Initiative has two or more distinct and separate purposes that are not dependent on or corrected to each other; or (3) if the Initiative is an

impermissible umbrella topic. See *In re 2021-2022 #16*, ¶ 22; *In re Title, Ballot Title & Submission Clause & Summary Regarding (Petitions)*, 907 P.2d 586, 590 (Colo. 1995). This single-subject requirement seeks “[t]o prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.” § 1-40-106.5(1)(e)(II), C.R.S. It exists to avoid “log rolling,” where a measure would attempt to gain support from various factions by combining unrelated subjects into a single initiative for consideration. *In re 2013-2014 #76*, ¶ 32. Initiative #251 does not violate any of these principles.

First, Initiative #251 does not contain two subjects merely because it announces a process *and* criteria to guide that process, as Beck argued below. See Record, p. 3. Rather, as this Court has held, just because an initiative “encompasses *related* matters[,] it does not violate the single subject requirement.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 12 (quotation marks omitted) (emphasis in original); see also *In re 2013-2014 #90*, ¶ 11 (where initiative tends to “carry out one general objective” or central purpose,

“provisions necessary to effectuate [that] purpose . . . are properly included within its text”) (quotation omitted). Indeed, this Court has consistently held that voter initiatives can impact multiple aspects of a central purpose without violating the single subject requirement. For instance, this Court concluded that the provisions of a voter initiative that sought to establish parental rights concerning children in four distinct areas—upbringing, education, values, and discipline—were sufficiently connected to satisfy the single subject requirement. *In re Proposed Ballot Initiative on Parental Rts.*, 913 P.2d 1127, 1131 (Colo. 1996).

Similarly, an initiative establishing a tax credit that applied to multiple taxes satisfied the single subject requirement because “[a]ll six taxes [we]re connected to the same tax credit and [we]re bound by the same limitations.” *In re Title, Ballot Title & Submission Clause & Summary Regarding Amend Tabor #32*, 908 P.2d 125, 129 (Colo. 1995). And in a measure addressed to giving building and development control to voters instead of local government officials, this Court found no single-subject violation because, while the initiative was broad, its

provisions were related to the purpose and management of the purpose of the initiative. *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #256*, 12 P.3d 246, 254 (Colo. 2000); *accord In re 2013-2014 #89*, ¶¶ 14-15 (affirming single-subject title for proposed initiative involving the over-arching purpose of creating public right to Colorado’s environment along with mechanisms to carry out that purpose).

Here, the Initiative does not, on its own, allow parties to initiate a mid-cycle congressional redistricting. *See Record*, p. 16. Nor does it create a new congressional commission for redistricting. Rather, the Initiative merely sets the process and criteria for the existing Commission and the Colorado Supreme Court to employ in the event that a mid-cycle redistricting process is triggered. This does not impermissibly contain hidden aspects “coiled up in the folds.” *See In re 2013-2014 #76*, ¶ 32. Rather, including substantive criteria to guide that process is explicit and falls well within the scope of the Initiative’s single subject.

Second, Rasmussen offers a different “second” subject, asserting that, “[b]y failing to include a requirement that maps approved outside the redistricting year must be contiguous, the measure creates a separate subject.” Record, p. 9. But while the Initiative’s processes mirror certain provisions of the Colorado Constitution (*i.e.*, Colo. Const. art. V, § 44.3(2), which contains the “whole communities of interest” criteria, and § 44.3(3), which addresses “politically competitive districts”), it intentionally does *not* include the Constitution’s contiguity requirement. Because the Initiative governs a new process—mid-cycle redistricting—its omission of certain requirements for congressional maps in redistricting years has no import.

Even if the Initiative changes the status quo, “[t]he mere fact that a proposed [initiative] may affect the powers exercised by government under preexisting [law] does not by itself demonstrate that the proposal embraces more than one subject.” *In re Title, Ballot Title & Submission Clause for 2009-2010 #91*, 235 P.3d 1071, 1077 (Colo. 2010). Indeed, “[a]ll proposed . . . laws would have the effect of changing the status quo in some respect if adopted by the voters.” *In re Title, Ballot Title &*

Submission Clause & Summary for 1999-2000 #258(A), 4 P.3d 1094, 1098 (Colo. 2000). Here, the fact that the Initiative *omits* a continuity provision does not somehow *add* a second subject, regardless of the fact that the Initiative departs from the process for approving a congressional map in a redistricting year.

II. The title set by the Board satisfies the clear title standard.

A. Standard of review and preservation.

When considering a challenge to a title, the Court does not “consider whether the Title Board set the best possible title.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 107, ¶ 17. “The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re 2013-2014 #90*, ¶ 24. The Board “is given discretion in resolving interrelated problems of length, complexity, and clarity in setting a title and ballot title and submission clause.” *Id.* The Court will reverse the title set by the Board “only if a title is insufficient, unfair, or misleading.” *Id.* ¶ 8.

The Board agrees that Petitioners preserved their challenge to the clear title set by the Board.

B. The Initiative does not contain a “catchphrase” for purposes of this title.

Petitioner Beck argued below that the title contains an impermissible “catchphrase” by including the term “drawn purposefully to favor one political party.” Record, pp. 4-6. Critically, however, the Board *amended* the language of the Initiative in response to Beck’s rehearing motion. The final title before this Court reads: “does not purposefully favor one political party or minimize politically competitive districts.” *Id.* at 14. Thus, while Beck’s Petition continues to press its “catchphrase” argument, Beck Pet. at 3, that argument was originally directed to different language, and, following the Board’s revision, that original argument does not appear to be applicable any longer. After all, the phrase “does not purposefully favor one politically party,” does not exactly roll off the tongue, and it is far afield from the kind of catchy jingle that should be invalidated for an abuse of the initiative process.

To be sure, the Board “must avoid using catch phrases when setting a title.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #85*, 2014 CO 62, ¶ 31. But “[p]hrases that merely describe the proposed initiative are not impermissible catch phrases.” *Id.* Nor is a

phrase a catchphrase “when it contributes to a voter’s rational comprehension and does not promote impulsive choices based on false assumptions about the initiative’s purpose and its effects if enacted.” *In re 2019-2020 #3*, 2019 CO 107, ¶ 28 (quotations omitted).

Here, the title introduces a new criteria for partisan gerrymandering into Colorado law. But its use of the term “does not purposefully favor one political party” is descriptive, not misleading. Indeed, the term traces “directly from the text of the Proposed Initiative[], and its inclusion in the title provides an accurate description of what the Proposed Initiative[] would do.” *In re 2013-2014 #85*, ¶ 32. “The phrase is descriptive and informative based on the common understanding of the words used.” *In re 2019-2020 #3*, 2019 CO 107, ¶ 29. Again, the fact that courts and legislatures may need to develop the precise metrics for satisfying the Initiative’s criteria does not render its title invalid. *Supra* at 8.

Rather, in this context, use of the phrase “does not purposefully favor one political party” meaningfully “contributes to a voter’s rational comprehension” of Initiative #251 and “does not promote impulsive

choices based on false assumptions about the initiative’s purpose and its effects if enacted.” *In re 2019-2020 #3*, 2019 CO 107, ¶ 28 (quotations omitted). Indeed, even the language is neutral—it explicitly disclaims favoring any political party. The Board thus acted within its considerable discretion when selecting words that accurately describe the meaning and purpose of Initiative #251. *Cf. In re Title, Ballot Title, Submission Clause & Summary Pertaining to the Proposed Initiative on Surface Mining*, 797 P.2d 1275, 1281 (Colo. 1999) (upholding phrase contained in the summary conveying that surface mining “may scar the land” as an accurate and fair repetition of the language in proposed initiative).

C. The title is not misleading.

Petitioner Rasmussen’s argument that the title and submission clause are misleading, Record pp. 3-4, largely rehashes her single-subject arguments. It provides no basis to grant her petition.

Under this Court’s precedent, “[a]n appropriate general title [that] is broad enough to include all the subordinate matters considered is safer and wiser than an enumeration of several subordinate matters in

the title.” *Parrish v. Lamm*, 758 P.2d 1356, 1363 (Colo. 1988); *accord In re 1999-2000 #256*, 12 P.3d at 254 (initiative does not violate single-subject requirement simply because it covers a broad subject). And “[t]here is no requirement that the title clearly express the act’s provisions or the details by which its object is to be accomplished.” *People v. Sa’ra*, 117 P.3d 51, 58 (Colo. App. 2004); *see In re Title, Ballot Title & Submission Clause for 1997-1998 #74*, 962 P.2d 927, 930 (Colo. 1998) (rejecting argument that title required more detail and stating “we find it highly unlikely that support for Initiative No. 74 would turn on whether it includes renovated apartments or condominiums”).

Here, Initiative #251 clearly announces its purpose and effect: to set a process and criteria for drawing mid-cycle congressional maps. Petitioner Rasmussen faults Initiative #251 for *omitting* certain procedures (like the continuity and local-hearing requirements for) that apply when redistricting in a typical redistricting year. Record, p. 10. But ultimately, Initiative #251 unambiguously *does* propose to set the process and criteria for mid-cycle redistricting. *Id.* at 16. That its proposal is different from the process for redistricting after a federal

census in a redistricting year simply reflects the policy decisions informing the Initiative. Petitioners' disagreement with those policy decisions do not make the title's language misleading.

Finally, to the extent any lack of clarity existed in the Initiative #251 *initial* proposal, the Title Board thoughtfully revised the text of the title and the submission clause at the rehearing. *Compare* Record p. 13, *with* Record p. 14. Those changes included language clarifying that the Initiative would "limit" mid-cycle redistricting efforts, as well as a significant reorganization of the title's language to confirm that the criteria listed in the title are *exclusive* for any mid-cycle review. Particularly given those changes, Rasmussen's misleading-by-omission arguments hold no water.

As written, the title allows voters to understand that the measure intends to impose a process and criteria for any mid-cycle redistricting in Colorado.

CONCLUSION

For these reasons, this Court should affirm the title set by the Title Board on Initiative #251.

Respectfully submitted on this 22nd day of April, 2026.

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** Practice temporarily authorized
pending admission under C.R.C.P.
205.6.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S OPENING BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE), this 22nd day of April, 2026.

/s/ Carmen Van Pelt

Carmen Van Pelt