

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED April 22, 2026 2:49 PM</p>
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #240 (“Congressional Redistricting”)</p> <p>Petitioner: Wayne Williams</p> <p>v.</p> <p>Title Board: Theresa Conley, Michael Dohr, and Kurt Morrison.</p> <p>And</p> <p>Initiative #240 Proponents: Tanya Nathan and Lindsey Rasmussen</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 2026SA126</p>
<p>PHILIP J. WEISER, Attorney General</p> <p>PETER G. BAUMANN,* #51620 Senior Assistant Attorney General 1300 Broadway Denver, CO 80203 Telephone: (720) 508-6152 E-Mail: Peter.Baumann@coag.gov *Counsel of Record <i>Attorney for the Title Board</i></p>	
<p style="text-align: center;">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 2,567 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/ Peter G. Baumann

PETER G. BAUMANN,

Senior Assistant Attorney General

TABLE OF CONTENTS

ISSUES ON REVIEW	1
STATEMENT OF THE CASE	1
SUMMARY OF ARGUMENT	3
ARGUMENT	4
I. The Title Board had jurisdiction to set a title.....	4
A. Standard of review and preservation.....	4
B. The measure has a single subject.	5
II. The title set by the Board satisfies the clear title standard.	10
A. Standard of review and preservation.....	10
B. The proposed initiative’s title effectively balances the Board’s obligations in describing the measure.	10
CONCLUSION	15

TABLE OF AUTHORITIES

PAGE(S)

CASES

<i>In re Colo. Indep. Congressional Redistricting Comm’n</i> , 2021 CO 73.....	1
<i>In re Proposed Constitutional Amend. under the Designation ‘Pregnancy’</i> , 757 P.2d 132 (Colo. 1988)	13
<i>In re Title, Ballot Title, & Submission Clause for 2013-2014 #76</i> , 2014 CO 52.....	4, 5
<i>In re Title, Ballot Title, & Submission Clause for 2013-2014 #90</i> , 2014 CO 63.....	10, 15
<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #132</i> , 2016 CO 55.....	9
<i>In re Title, Ballot Title, & Submission Clause for 2019-2020 #3</i> , 2019 CO 57.....	4, 5
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #3</i> , 2019 CO 107.....	10
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #315</i> , 2020 CO 61.....	14
<i>In re Title, Ballot Title, & Submission Clause for 2021-2022 #16</i> , 2021 CO 55.....	4
<i>In re Title, Ballot Title & Submission Clause, & Summary for 1999- 2000 #235(a)</i> , 3 P.3d 1219 (Colo. 2000)	11

STATUTES

§ 1-40-106, C.R.S.	12
§ 23-20-102, C.R.S.	7

CONSTITUTION

Colo. Const. art. V, § 1..... 4
Colo. Const. art. V, § 44..... 7
Colo. Const. art. V, § 44-44.6..... 5
Colo. Const. art. X, § 1..... 7

OTHER AUTHORITIES

Hearing Before Title Board on Proposed Initiative 2025-2026 #240 (Mar. 18, 2026), <https://tinyurl.com/589wfdn8>..... 2
Rehearing Before Title Board on Proposed Initiative 2025-2026 #240 (Apr. 1, 2026), <https://tinyurl.com/y9f399by> 2, 8

ISSUES ON REVIEW

- I. Whether the Title Board correctly determined that 2025-2026 #240 does not contain multiple subjects.
- 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. *In re Colo. Indep. Congressional Redistricting Comm'n*, 2021 CO 73, ¶¶ 3-10. In 2018, Colorado voters enacted Amendment Y, codified as article V, sections 44-44.6 of the Colorado Constitution, which established an independent redistricting commission to draw maps following the census. *Id.* ¶ 3. Proposed initiative 2025-2026 #240 (“#240”) is one of several measures that have been submitted to the Title Board this year to adjust the way Colorado enacts congressional district maps, when Colorado enacts those maps, or even the shape and structure of the maps themselves.

Specifically, #240 would establish new maps, in statute, for the 2028 and 2030 election cycles (and any special elections that occur

during this period), but retain the Amendment Y process for redistricting following the 2030 census. Record at 17-48.

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 #240* (Mar. 18, 2026), at 6:09:42-6:09:56, <https://tinyurl.com/589wfdn8>. The Board also determined that the measure required the addition of language to the Colorado Constitution. *Id.* at 6:09:57-6:10:35; Record at 14.

Petitioner Wayne Williams filed a motion for rehearing. Record at 8-13. Williams argued that (1) #240 did not contain a “single subject” because the creation of new maps and the re-establishing of the existing redistricting commission were separate subjects, as was the transfer of voters into State Board of Education and/or regent districts that they would not have the opportunity to vote for; *id.* at 8-10; and (2) the title set by the Board failed to reflect the “central purpose” of the initiative by “conceal[ing] that the primary goal of [the] initiative is to replace the existing nonpartisan maps with gerrymandered hyperpartisan maps.” *Id.* at 10-11.

The Board considered the motion at its April 1, 2026 meeting. *Rehearing Before Title Board on Proposed Initiative 2025-2026 #240* (Apr. 1, 2026), 4:24:29-4:36:39, <https://tinyurl.com/y9f399by> (“Apr. 1 Reh’g”). The Board denied the Motion for rehearing. *Id.* at 4:35:35-4:35:55; Record at 15.

In full, the title fixed by the Board for #240 reads:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes concerning congressional redistricting and adopting a new temporary congressional map, and, in connection therewith, creating a temporary map to be used in 2028 and 20230 congressional elections that replaces the current congressional district map drawn by the independent congressional redistricting commission and requiring the commission to draw congressional district maps in 2031 and every 10 years thereafter.

Id.

Before this Court, Petitioner Williams renews both his single subject and clear title challenges. Pet. for Review at 3-4 (Apr. 8, 2026).

SUMMARY OF ARGUMENT

The Title Board set an appropriate title for #240. The title contains a single subject, the subject is stated clearly and not

misleading, and neither the title nor the submission clause contains any impermissible catch phrase. This Court should deny the petition.

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 Title Board agrees that Petitioner preserved his single-subject objection in his motions for rehearing.

B. The measure has a single subject.

The single subject of #240 is congressional redistricting. Under current law, congressional maps are drawn by the Colorado Independent Redistricting Commission every ten years, following the decennial census. *See* Colo. Const. art. V, §§ 44-44.6. Number 240 fits within the existing framework by making two associated adjustments. First, the measure amends the constitutional provisions to state that a statutory map shall be used for any elections that occur between when the measure is adopted and when the Commission completes its work following the 2030 census. Record at 18. This Section of the measure

expressly reaffirms that the Commission “shall continue to engage in congressional redistricting” following the 2030 census “and every 10 years thereafter.” *Id.*

Second, the measure establishes the statutory map contemplated by the constitutional change. *Id.* at 18-50.

Notwithstanding the inherent connection between these sections, Petitioner argues that the measure has three separate subjects: (1) “Disenfranchising voters of their representation on the State Board of Education and University of Colorado regents;” (2) “Adoption of 8 hyper partisan maps;” and (3) “Granting authority for the independent redistricting commission to continue to engage in congressional redistricting in 2031 and every 10 years thereafter.” Pet. for Review at 3. Petitioner’s suggestion that these are separate subjects is unavailing.

First, Petitioner’s third contemplated subject is simply an affirmation of the status quo. Before the Title Board, Petitioner argued that the “creation” of an independent redistricting commission in #240 is “unrelated and unconnected” to the initiative’s adoption of statutory congressional maps. Record at 8. But the measure does not “create” a

redistricting commission. Instead, it simply reaffirms that the existing process for creating congressional maps following the decennial census remains in place.

Importantly, Amendment Y does not contemplate mid-cycle redistricting. Rather, it acknowledges that the Commission will conduct its work in a “redistricting year,” which is defined in the Constitution as “the year following the year in which the federal decennial census is taken.” Colo. Const. art. V, § 44(3)(d). Thus, by confirming that the Commission will create maps following the 2030 census, #240 is just restating current law. It is not “creating” a Commission.

Second, that the statutory map that would be in place between the measure’s adoption and 2032 would also apply to State Board of Education and CU Board of Regents elections does not establish a second subject. Under Colorado law, members of both the State Board and the Board of Regents are elected by congressional district. *See* Colo. Const. art. IX, § 1 (board of education); § 23-20-102, C.R.S. (board of regents).

Number 240 amends the existing congressional map. That doing so will affect the election of the State Board of Education and the CU Board of Regents is incidental to the measure’s purpose. Moreover, there is no reason to believe that whatever legislative purposes underscored the decisions to align elections for those two offices with the state’s congressional districts does not apply equally to the districts established by #240.

Before the Title Board, Petitioner raised that because members of those two offices are elected every six years, some Colorado residents will be represented under the new maps by board members they never had a chance to elect. Record at 9, 12. Petitioner argued that this “[wholesale] disenfranchisement . . . is a separate subject.” *Id.* at 9.

But this possibility—that redistricting might leave Coloradans represented on the two Boards by individuals they did not elect—happens after every redistricting. Petitioner acknowledged this fact. Apr. 1 Reh’g at 3:27:53¹ (“Q: Wouldn’t this happen when redistricting

¹ This discussion occurred during the Board's consideration of a related measure. Petitioner's Motion for Rehearing covered multiple measures,

happens? . . . Isn't this systemic to any time there is redistricting? A: It is systemic, yes.”). That #240's redistricting would have the same effects as other redistricting only underscores that it covers a single subject: Congressional Redistricting.

The single subject requirement “is intended to ensure that each proposal depends upon its own merits for passage,” and to “prevent surprise and fraud from being practiced upon the voters.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶¶ 13, 14 (quotations and citations omitted). Neither concern is present here. Number 240 establishes new maps for two election cycles (and any intervening special elections), while maintaining the existing process for redistricting following the decennial census. The proposal is clear, succinct, and harmonious. Voters who favor temporarily deviating from the process established by Amendment Y will support the measure. Voters who are opposed to such deviation will not.

including #240 and the measure during which this conversation occurred. *See Record* at 8.

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 Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 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 proposed initiative’s title effectively balances the Board’s obligations in describing the measure.

Petitioner Williams argues that #240’s title “does not reflect the central purposes of the measure” in four ways:

- 1) It “fails to apprise voters of its stated purpose to gerrymander Colorado congressional district lines;”
- 2) It “fails to apprise voters that the new lines will also be redrawn for the State Board of Education and the University of Colorado Board of Regents;”
- 3) It “fails to describe the maps in any detail,” such that “voters may be led to believe this is some type of clean up measure;”
and
- 4) It “fails to inform voters that the mid-cycle creation of new districts will disenfranchise voters.”

Pet. for Review at 3-4. None of these arguments are availing.

First, as to the both the purpose and the content of the maps (numbers 1 and 3, above), the Board correctly determined that it would be impossible to describe the maps in any detail in a Title while complying with its obligation to be concise. *See, e.g., In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #235(a)*, 3 P.3d 1219, 1225 (Colo. 2000) (“The task of the Title Board is to provide a concise summary of a proposed initiative, focusing on the most critical

aspects of the proposal, not simply to restate all of the provisions of the proposed initiative.”).

The measure consists of over two-dozen pages of census block descriptions. Any effort to describe the proposed districts would necessarily be incomplete. And the Board’s challenge was exacerbated by its knowledge that several other redistricting proposals were being submitted; many of the proposals share similarities, meaning that two different maps might be described identically by the Board, leading to confusion. *But see* § 1-40-106(3)(b), C.R.S. (requiring Board to “consider the public confusion that might be caused by misleading titles”).

Instead, the Board correctly determined that describing the proposed map in detail would not serve the public’s interests. Specifically, the Board concluded that such information is better suited for the Blue Book or public information campaigns.

Most importantly, the measure itself contains a picture of the proposed map. Record at 50. That map is the best indication of the proposal and will be available to both signatories and voters. The Board

was correct to hold that any attempt to describe the map would be futile and inconsistent with the Board's charge.

Next, Petitioner faults the Board for not informing voters that the purpose of the measure is to “gerrymander Colorado congressional district lines.” Pet. for Review at 3. In setting title, the Board may “[consider] language in a proposal expressly stating the intent of the initiative,” but may do so only so as to “express the clear and unequivocal intent of the initiative’s draftsmen.” *In re Proposed Constitutional Amend. under the Designation ‘Pregnancy’*, 757 P.2d 132, 135-36 (Colo. 1988). Here, the measure expressly states its intent: “It is the intent of the people that Colorado’s temporary map be designed to neutralize the partisan gerrymandering being undertaken by Republican-led states without eroding fair representation for all communities.” Record at 18.

Limiting a description of the measure to an intent to partisan gerrymander Colorado’s congressional districts would be incomplete. The measure does not reflect such an intent, but instead a suggestion that a new, temporary, map is in Colorado’s best interest. And the

measure expressly reflects the intent that the map not “erod[e] fair representation for all communities.” *Id.*

Against this backdrop, the Board could not describe the intent of the measure as being to “gerrymander Colorado congressional district lines.” Such a description would be inaccurate and incomplete. And a longer explanation would conflict with the Board’s obligation to minimize complexity and promote clarity. *See e.g., In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 26 (holding that Board “need not explain the meaning or potential effects of the proposed initiative” and “need only fairly summarize the central points of a proposed measure”) (citations and quotations omitted).

Finally, Petitioner faults the Board for not explaining that mid-cycle redistricting will “disenfranchise” voters in State Board of Education or CU Regent districts that will be represented by Board members elected prior to the creation of the new districts. Pet. for Review at 3. But, as explained above, such circumstance is endemic to redistricting in Colorado. It is not a result of this measure in particular. Describing that effect would only suggest that it is an intent of the

measure, rather than a byproduct of Colorado’s existing procedures for electing State Board of Education and CU Board of Regents members. *See In re 2013-2014 #90*, ¶ 36 (“In setting a title, the Title Board is only obligated to fairly summarize the central points of a proposed measure, and need not refer to every effect that the measure may have on the current statutory scheme.”) (quotations omitted). And in any event, the measure’s ancillary effect on Board of Education and Regent elections is not a “central” point of the measure. *Id.*

CONCLUSION

For these reasons, this Court should affirm the title set by the Title Board on 2025-2026 #240.

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

PHILIP J. WEISER
Attorney General

s/ Peter G. Bauman

PETER G. BAUMANN #51620*
Senior Assistant Attorney General
Colorado Department of Law
Ralph L. Carr Colorado Judicial Center
1300 Broadway
Denver, CO 80203
Telephone: (720) 508-6152
Email: peter.baumann@coag.gov;

Attorneys for the Title Board

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 electronically via CCEF, at Denver, Colorado, this 22nd day of April.

/s/ Carmen Van Pelt

Carmen Van Pelt