

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED May 6, 2026 2:52 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 #241 (“Congressional Redistricting”)</p> <p>Petitioner: Robert Balink</p> <p>v.</p> <p>Title Board: Theresa Conley, Michael Dohr, and Kurt Morrison.</p> <p>And</p> <p>Initiative #241 Proponents: Tanya Nathan and Lindsey Rasmussen</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 2026SA122</p>
<p>PHILIP J. WEISER, Attorney General</p> <p>PETER G. BAUMANN,* #51620 Assistant Solicitor 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 ANSWER 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 1,128 words.

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, 51620*
Assistant Solicitor General

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ARGUMENT

Petitioner Robert Balink raises several arguments for reversing the determination of the Title Board as to Proposed Initiative 2025-2026 #241 (“#241”). Among those is a single subject challenge to #241’s final provision, which indicates that the measure will only take effect if another measure passes at the November 2026 election. This issue—whether a provision stating that a measure will only take effect if another measure passes creates a second subject—is presented by several measures currently on review at this Court. The Title Board welcomes the Court’s analysis on that unanswered question and presents some arguments in favor of the decision the Board reached in this instance.

Apart from that, Petitioner’s arguments are unavailing, and the Board’s determinations and title should be affirmed for the reasons stated in the Title Board’s Opening Brief.

I. Whether a provision ensuring that a measure only takes effect if another measure is passed at the same election constitutes a second subject is an important question that has not yet been answered by this Court.

As the Title Board anticipated in its Opening Brief, Petitioner argues that #241’s effective date provision creates a second subject by establishing that #241 will only take effect if another measure is adopted at the November 2026 election. This issue is presented by several other measures currently on review before this Court, and the Title Board welcomes this Court’s analysis as to this question.

The single subject rule is a product of the Colorado Constitution, which states that “[n]o measure shall be proposed by petition containing more than one subject.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 10 (quoting Colo. Const. art. V, § 1(5.5)). In recognition of this charge, the General Assembly has found that “every constitutional amendment or law proposed by initiative and every constitutional amendment proposed by the general assembly [must] be limited to a single subject.” § 1-40-106.5(1)(a), C.R.S. (2025). The single subject requirement serves two functions: (1) to prevent proponents from “combining subjects with no necessary or proper

connection for the purpose of garnering support for the initiative from various factions,” also known as “logrolling,” and (2) to “help avoid voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision coiled up in the folds of a complex initiative.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 11 (quotations and alterations omitted).

What constitutes a single subject for the purposes of these constitutional and statutory provisions has been the subject of extensive litigation. However, this Court has never addressed whether a measure with a single subject nonetheless violates the single subject requirement if it includes a condition precedent to its effectiveness, such as the passage of a separate measure.

That is the question presented here. Number 241 includes a provision stating that it will take effect “only if, at the November 2026 statewide election, a ballot issue amending 2-1-105, Colorado Revised Statutes, to create temporary new congressional districts to be used in the 2028 and 2030 election cycles is approved by the people.” Record at 31. Thus, whether #241 takes effect is dependent on the passage of a

second measure.¹ Similar provisions are in several other measures currently under review before this Court. *See* No. 2026SA123 (#242); No. 2026SA157 (#328).

The Title Board’s consideration of this issue evolved over the course of this cycle. However, the Board agrees that any single subject determination made as to this issue should apply to all measures that include similar provisions. Accordingly, the Board welcomes this Court’s review and guidance.

With regards to #241, the Board determined that the provision did not create a second subject. Primary support for this holding is drawn from the constitutional and statutory text. Both provisions refer to a “measure,” or “law,” in the singular. Colo. Const. art. V, § 1(5.5) (“No measure shall be proposed by petition containing more than one subject[.]”); § 1-40-106.5(1)(a), C.R.S. (noting that the constitution

¹ Before this Court, Respondents identify #241’s “companion measure” as Proposed Initiative 2025-2026 #242, Resp’ts’ Opening Br. at 8 (Apr. 22, 2026), which is currently on review before this Court in No. 2026SA123. However, as the Board noted in its Opening Brief, the language in #241 is broad enough that it could apply to other measures. Title Bd.’s Opening Br. at 3 n.1 (Apr. 22, 2026).

requires “that every constitutional amendment or law proposed by initiative . . . be limited to a single subject”).

This plain language interpretation suggests that the Board’s determination as to whether a measure satisfies the single subject requirement is confined to the four corners of the measure itself. *See, e.g., In re Title, Ballot Title & Submission Clause for 2021-2022 #16*, 2021 CO 55, ¶ 13 (“[T]he single subject requirement is not violated unless *the text* of the measure relates to more than one subject” (emphasis added, quotation omitted)); *In re 2011-2012 #3*, ¶ 9 (same); *In re Title, Ballot Title, & Submission Clause for 2011-2012 #45*, 2012 CO 26, ¶ 10 (same).

This interpretation is apparently shared by the General Assembly, which is also subject to a single subject requirement, Colo. Const. art. V, § 21, but routinely includes conditions precedent in measures it enacts. *See* Resp’ts’ Opening Br. at 10-11 (collecting examples). And Colorado law already recognizes that ballot measures may relate to, or conflict

with one another, and includes provisions addressing what to do in the case of such conflicts. § 1-40-123(2), C.R.S.²

Finally, Petitioner alleges that this issue creates logrolling concerns. *See, e.g.*, Pet'r's Opening Br. at 7 (Apr. 22, 2026). But there is no freestanding prohibition on logrolling – rather, it is a justification for the single subject rule, which the constitutional text suggests applies only to a single measure. When applied to a single measure, the logrolling concern is that voters who may support one subject, but not another, will be forced into a difficult choice. Here, because the subjects are split across two measures, voters can vote their conscience as to each measure. Both measures will only become law if enough voters support each individually. If anything, then, this provision imposes an even greater barrier to an initiative's adoption than if the provision were not included.

² Imagine two measures that directly conflict. Even though those measures do not explicitly reference each other, each includes an implicit condition precedent to its effectiveness: that in addition to passage, the measure must also receive a greater percentage of the votes cast in its favor than the conflicting measure.

Regardless, the Title Board agrees with Petitioner that the issue merits careful consideration and this Court's review.

As to the remaining arguments raised in Petitioner's Opening Brief, the Title Board rests on its Opening Brief.

Respectfully submitted on this 6th day of May, 2026.

PHILIP J. WEISER
Attorney General

/s/ Peter G. Baumann

PETER G. BAUMANN, 51620*

Assistant Solicitor General

Public Officials Unit

State Services Section

Attorney for the Title Board

*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S ANSWER BRIEF** upon all counsel of record electronically via CCEF, at Denver, Colorado, this 6th day of May.

/s/ Carmen Van Pelt

Carmen Van Pelt