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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 #242

Petitioner: ROBERT BALINK

v.

Respondents: TANYA NATHAN AND
LINDSEY RASMUSSEN

and

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

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Case No.: 2026SA123

**ANSWER BRIEF OF RESPONDENTS TANYA NATHAN AND
LINDSEY RASMUSSEN IN SUPPORT OF
PROPOSED INITIATIVE 2025-2026 #242**

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 1,926 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

TABLE OF CONTENTS

SUMMARY OF ARGUMENT.....1

ARGUMENT.....2

 I. The Title Board Correctly Concluded the Initiative Has a Single
Subject2

 A. This Court Should Evaluate Initiative #242 on Its Own Merits ...3

 B. The Effective Date Clause Does Not Amend the Constitution.....4

 C. The Effective Date Clause Is Not Logrolling and Does Not Violate
the Single Subject Requirement6

 II. The Title Board Set a Clear Title8

CONCLUSION.....9

TABLE OF AUTHORITIES

Page(s)

CASES

<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #63,</i> 2016 CO 34.....	3
<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #132</i> 2016 CO 55.....	4
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #90</i> 2014 CO 63.....	5
<i>People ex. rel. Salazar v. Davidson,</i> 79 P.3d 1221 (Colo. 2003).....	5, 6
<i>In re Title, Ballot Title & Submission Clause for 1997-1998 #74,</i> 962 P.2d 927 (Colo. 1998).....	6
<i>In re Title, Ballot Title & Submission Clause for 2017-2018 #4,</i> 2017 CO 57.....	6, 7
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #76,</i> 2014 CO 52.....	7
<i>In re Title, Ballot Title & Submission Clause for 2009-2010 #45,</i> 234 P.3d 642, 646 (Colo. 2010).....	7
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #89,</i> 2014 CO 66.....	7
<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #73,</i> 2016 CO 24.....	8
<i>In re Title, Ballot Title & Submission Clause for 1999-2000 #256,</i> 12 P.3d 246 (Colo. 2000).....	9

STATUTES

§ 1-40-106(3)(b), C.R.S.9

CONSTITUTIONS

Colo. Const. Art. V, §1(4)(a)4

Colo. Const. Art. V, §1(4)(b).....4

OTHER AUTHORITIES

C.A.R. 35 (a)3

Respondents Lindsey Rasmussen and Tanya Nathan, designated representatives of the proponents of Proposed Initiative 2025-2026 #242 (the “Proposed Initiative”), through undersigned counsel, respectfully submit their Answer Brief as follows:

SUMMARY OF THE ARGUMENT

The Title Board properly exercised its broad discretion in setting title on the Proposed Initiative. The Proposed Initiative contains a single subject: creating a new temporary congressional district map to be used in 2028 and 2030 congressional elections.

Petitioner now raises two single subject objections: that in addition to the single subject the Proposed Initiative amends the constitutional standards that govern how the ballot measure must be approved, and that its effective date constitutes logrolling by trying to garner support for different or even conflicting interests. Concerns about the effects that Initiative #242 could have on other laws, however, are not appropriate for review at this stage, and the Proposed Initiative does not combine subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions.

Petitioner objects to the title on the basis that it does not inform voters that the new measure will apply to all elections prior to post-census redistricting, such

as special or vacancy elections. To the contrary, the title makes clear that the Proposed Initiative’s new district maps apply to “2028 and 2030 congressional elections,” with no limitation on whether those elections are special or vacancy elections.

The Title Board is only obligated to fairly summarize the central points of a proposed measure and need not refer to every nuance and feature of the proposed measure. While a title must be fair, clear, accurate and complete, it is not required to set out every detail of an initiative or Petitioner’s conjecture about the elections that may be held during 2028 and 2030.

Accordingly, there is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. The Title Board Correctly Concluded the Initiative Has a Single Subject.

The Title Board properly found that Initiative #242 contains a single subject. Petitioner Balink contends that the Proposed Initiative violates the single subject requirement because it creates new congressional district maps to govern congressional elections in 2028 and 2030, and it “modifies the procedures by which an initiative must be approved.” *Petitioner’s Opening Brf.*, p. 9. On a petition from the Title Board, however, this Court should not “determine the

initiative's efficacy, construction, or future application, as these are matters properly considered if and after the voters approve the initiative.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 7.

A. This Court Should Evaluate Initiative #242 on Its Own Merits.

At the outset, Petitioner Balink argues that this Court must write an opinion because the Title Board determined that it had jurisdiction and set title on a two-one vote, and because there was another similar measure before the Title Board at a later Title Board hearing upon which it reached a different single subject decision. This Court should not be persuaded by these arguments. First, a two-one vote is very common at the Title Board and is not grounds to write an opinion. Second, given that this issue comes before the Court at the very end of the Title Board cycle, Proponents request that even if this Court determines that a written opinion is appropriate, it should announce its decision and then a written opinion can follow. C.A.R. 35 (a) (“The appellate court may dismiss an appeal or affirm a lower court judgment without opinion, but it must issue a written opinion when vacating, modifying, reversing, setting aside, or remanding any portion of the lower court judgment”).

Third, whatever the decision is about other measures, this Court should evaluate each measure on its own merits. 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.

B. The Effective Date Clause Does Not Amend the Constitution.

The Proposed Initiative creates new congressional district maps for congressional elections in 2028 and 2030 to replace the district maps adopted by the Commission and this Court in 2021. This is the single subject of the Proposed Initiative. Petitioner Balink argues that Proposed Initiative violates the single subject requirement because the language in the effective date clause “modifies the procedures by which an initiative must be approved.” *Petitioner’s Opening Brf.*, p. 9. Specifically, Petitioner Balink contends that the “and not otherwise” language in Colo. Const. art. V, §1(4)(a) means that every initiative that gets a majority vote must necessarily be adopted. That language is more appropriately read to mean that a measure only passes if it is “approved by a majority of the votes cast thereon.” *Id.* An initiative does not become law if a majority of voters do not vote for it. But the alternative is not necessarily true. An initiative may not become law even if a majority of voters vote for it, if, for example, it modifies the constitution and requires fifty-five percent of the votes cast. *See* Colo. Const. art. V §1(4)(b).

Or if, as here, it contains an effective date setting forth how and when the measure goes into effect.

Petitioner Balink's suggestion that the Proposed Initiative amends the Colorado Constitution is unsupported by the language of the measure, which contains no language amending the constitution. Further, it is not a relevant consideration for this Court, because "the effects this measure could have on Colorado law if adopted by voters are irrelevant to [the Court's] review of whether the proposed initiative and its Titles contain a single subject." *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17 (internal citations omitted). Proponents included the effective date clause to ensure that if their companion measure, proposed initiative 2025-2026 #241, which removes the prohibition on mid-decade redistricting from the Constitution, did not pass, then there could be no new mid-cycle congressional district maps, because they would violate this Court's holding in *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1231 (Colo. 2003) (the language of Article V, section 44 of the Colorado Constitution prohibits congressional redistricting more than once per decade).

The effective date clause is merely an implementation feature of the Proposed Initiative and is not a separate subject. "An initiative with a single, distinct purpose does not violate the single-subject requirement simply because it

spells out details relating to its implementation.” *In re Title, Ballot Title & Submission Clause for 1997-1998 #74*, 962 P.2d 927, 929 (Colo. 1998).

C. The Effective Date Clause Is Not Logrolling and Does Not Violate the Single Subject Requirement.

The effective date clause in #242 is directly related to the central purpose of the initiative: creating new congressional district maps for congressional elections in 2028 and 2030. The logrolling concern is not implicated here, as both the new congressional district maps and the effective date provisions point in the same direction. *In re Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57, 14. Voters who favor mid-decade redistricting will be inclined to vote to approve new district maps for congressional elections in 2028 and 2030. And voters will still be able to choose whether to support or oppose the Proposed Initiative based on its merits alone. The effective date clause does not influence whether the Proposed Initiative passes or fails but rather specifies how and when the measure will become effective. Petitioner suggests that the effective date clause is designed to draw support for another ballot measure, Proposed Initiative 2025-2026 #241, but the contrary is true: the Proponents know that if the prohibition on mid-cycle redistricting in the constitution is not repealed, then any new congressional district maps will be unconstitutional per *People ex rel. Salazar v. Davidson*, 79 P.3d at 1231, and that is the very reason not to adopt new

congressional district maps. The effective date clause works to keep the Colorado redistricting process constitutional.

Finally, the Proposed Initiative and Initiative #241 are two separate initiatives. Petitioner Balink’s logrolling argument assumes that the single subject requirement applies across two separate measures, but this Court has never held that the single subject requirement applies across multiple measures. An initiative violates the single-subject requirement if it "relates to more than one subject and has at least two distinct and separate purposes." *In re 2017-2018 #4*, 2017 CO 57, ¶ 7. The Proposed Initiative passes the single subject test.

The single subject requirement is satisfied when the subject matter is “necessarily and properly connected rather than disconnected or incongruous.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8. The Proposed Initiative’s central purpose is to create new congressional district maps to govern congressional elections in 2028 and 2030, and the effective date language is an implementing provision directly tied to this central focus. “Implementing provisions that are directly tied to the initiative's central focus are not separate subjects.” *In re Title, Ballot Title and Submission Clause for 2009-2010 # 45*, 234 P.3d 642, 646 (Colo. 2010).

When “employing all legitimate presumptions in favor of the propriety of the Title Board’s action,” this Court should affirm the Title Board’s decision that the Proposed initiative contains a single subject. *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 8.

II. The Title Board Set a Clear Title.

Petitioner Balink raises one clear title argument arguing that the title is misleading or incomplete because it fails to describe every election to which the new congressional district maps apply. In particular, Petitioner Balink contends that the title must specify that the new maps would apply to vacancy and special elections, in addition to primary and general elections. “The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 24. The Title Board is “afforded discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and ballot title and submission clause.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 23.

The Proposed Initiative will establish new maps for the congressional elections that will happen in 2028 and 2030. And in the event that a vacancy occurs in any Colorado congressional districts between the measure’s effective date and when maps are next drawn, the Proposed Initiative’s map will govern the

special election for that congressional district. The Title Board’s decision not to speculate about that possibility in the measure’s title is well within its considerable discretion.

The Title Board exercised its discretion to craft a title that seeks to avoid “public confusion,” is “brief” and “unambiguously states the principle of the provision sought to be added, amended, or repealed.” §1-40-106(3)(b), C.R.S. This Court should defer to the Title Board’s discretion. *In re Title, Ballot Title, & Submission Clause for 1999-2000 #256*, 12 P.3d 246, 255 (Colo. 2000) (“In reviewing the actions of the Board, we grant great deference to the board’s broad discretion in the exercise of its drafting authority.”)

The title for Initiative #242 is legally sufficient and need not be altered by this Court.

CONCLUSION

The Proponents respectfully request the Court to uphold the actions of the Title Board regarding Proposed Initiative 2025-2026 #242.

Respectfully submitted this 6th day of May, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **ANSWER BRIEF OF RESPONDENTS TANYA NATHAN AND LINDSEY RASMUSSEN IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #242** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 6th day of May, 2026 to the following:

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