

**SUPREME COURT,
STATE OF COLORADO**

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Denver, Colorado 80203

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ORIGINAL PROCEEDING
PURSUANT TO C.R.S. § 1-40-107(2),
(2025-2026)
Appeal from the Ballot Title Board

Petitioner:
Valerie Beck,

v.

Respondents:
Suzanne Taheri and Elizabeth
Caven,

and

Title Board:
Michael Dohr, Teresa Conley, Kurt
Morrison.

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2026SA146

PETITIONER BECK'S OPENING BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, 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) - the principal brief does not exceed 9,500 words; it contains 3,667 words.

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

I acknowledge that this brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28, 28.1 or 32.

/s/ Mario Nicolais
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TABLE OF CONTENTS

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW 1

STATEMENT OF THE CASE..... 1

 A. Procedural History.....2

 B. Summary of Argument 3

ARGUMENT 3

 A. Standard of Review and Preservation of Issue. 3

 B. Initiative #256 contains multiple subjects. 5

 C. The phrase “purposefully favoring one political party” in the title for Initiative #256 is an impermissible catch phrase..... 10

CONCLUSION 16

TABLE OF AUTHORITIES

Cases

<i>In re Amend Tabor No. 32</i> , 908 P.2d 125 (Colo.1995)	10
<i>In re Ballot Title 1999-2000 #104</i> , 987 P.2d 249 (Colo.1999)	6
<i>In re Ballot Title 1999-2000 No. 258(A)</i> , 4. P.3d 1094 (Colo. 2000) ..	10, 14, 15, 16
<i>In re Ballot Title 2011-2012 No. 45</i> , 2012 CO 26.....	5
<i>In re Title, Ballot Title & Submission Clause for 2019-2020 #315</i> , 2020 CO 61	4, 12
<i>In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025- 2026 #158</i> , 2026 CO 13.....	6, 8
<i>In the Matter of the Title v. Gorman</i> , 234 P.3d 643 (Colo. 2010)	11
<i>In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63</i> , 2016 CO 34	6
<i>In the Matter of the Title, Ballot Title, and Submission Clause for 2007-2008 #62</i> , 184 P.3d 52 (Colo.2008)	15
<i>In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128</i> , 2022 CO 37	4, 5

Statutes

§ 1-40-106, C.R.S.	2
§ 1-40-107(2), C.R.S.....	3
§ 1-40-107, C.R.S.	2

Other Authorities

<i>Black’s Law Dictionary</i> (8th ed. 2004)	12
--	----

Constitutional Provisions

Colo. Const. art. V § 1(5.5).....	5, 14
Colo. Const. art. V § 44.3	8
Colo. Const. art. V § 44.3(2)(a)	9, 15
Colo. Const. art. V §§ 44 and 44.1 thru 44.6.....	7

Petitioner Valerie Beck (“Petitioner” or “Beck”), through undersigned counsel, respectfully *Petitioner Beck’s Opening Brief* regarding the title, ballot title, and submission clause set by the Colorado Title Setting Board (the “Title Board”) for Proposed Initiative 2025-2026 #256 (“Initiative #256”). At the outset, Beck notes that the issues presented and arguments made in this brief are substantially similar to those made Beck made in Case 2026SA125 regarding Proposed Initiative 2025-2026 #251. Consequently, it is possible that a decision in that matter will effectively resolve this matter as well.

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

Petitioner presents two issues for review before this Court:

- (1) Whether an initiative that (1) repeals and reenacts multiple constitutional sections, (2) creates an approval and adoption process for modifications to congressional maps, and (3) creates a new criteria for congressional maps constitute separate subjects, and consequently the Title Board erred by finding it had jurisdiction and set title?
- (2) Whether the phrase “purposefully favoring one political party” constitutes an impermissible catch phrase or slogan in the title set by the Title Board?

STATEMENT OF THE CASE

A. Procedural History

Under § 1-40-106, C.R.S. (2026), proponents for Initiative 256 filed with the Title Board on April 3, 2026. The initiative received an initial hearing on April 15, 2026, and the Title Board (1) approved Initiative #256 as a single subject; (2) held that Initiative #256 proposed the addition of language to the Colorado Constitution and, therefore, required approval by fifty-five percent of the votes cast; and, (3) set title and ballot title and submission clauses for Initiative #256. On April 21, 2026, Petitioner timely filed a motion for rehearing with the Title Board under § 1-40-107, C.R.S. (2026). In addition to Beck's motion for rehearing, Curtis Hubbard ("Hubbard") also filed a timely motion for rehearing on April 22, 2026. A rehearing before the Title Board was held on April 23, 2026. At the rehearing, the motions by Beck and Hubbard were partially granted to the extent that the Title Board made changes to the title and ballot title and submission clauses.

Subsequent to the rehearing, on April 29, 2026, Petitioner timely filed her *Petition for Review of Final Action of the Ballot Title Setting Board Concerning Proposed Initiative 2025-2026 #256* under § 1-40-

107(2), C.R.S. (2026). The petition attached certified copies of documentation from the Secretary of State as required by the statute.

B. Summary of Argument

Initiative #256 and its title violate multiple constitutional mandates for ballot initiatives. First, the Title Board should not have accepted jurisdiction because the initiative has more than a single subject. Initiative #256 both creates a process of adoption and approval of mid-cycle modifications to congressional maps and also creates new criteria to which congressional maps must conform. Because the two subjects necessarily attract support from various factions with differing interests, Initiative #256 and its title present a classic case of unconstitutional “log rolling.” Second, Initiative #256 and its title leverage an unconstitutional “catch phrase” (“purposefully favoring one political party”) intended to evoke an emotional response from voters rather than focusing on the merits of the initiative. For those reasons, this Court should reverse the decision of the Title Board to set title.

ARGUMENT

A. Standard of Review and Preservation of Issue.

While this Court accords “all legitimate presumptions in favor of the propriety of the Board’s actions ... our deference here is not absolute; we have an obligation to ‘examine the initiative’s wording to determine whether it comports with the constitutional requirements.’” *In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128*, 2022 CO 37, ¶ 9 (internal quotations omitted), quoting *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶8. In conducting its review, the Court must “use general rules of statutory construction, ‘giving words and phrases their plain and ordinary meanings’ and it should “not consider the merits of the proposed initiatives nor their validity or efficacy if approved by voters and enacted.” *Id.* at ¶ 10 (internal quotations omitted).

Petitioner preserved the issues presented for this Court’s review in her *Motion for Rehearing*. Petitioner both argued that Initiative #256 violated the single subject requirement (*Motion for Rehearing*, p. 2-4) and that the title included a catch phrase (*Motion for Rehearing*, p. 4-6). Petitioner also presented these arguments before the Title Board at the rehearing on April 23, 2026. While the Title Board partially granted

Petitioner's motion to revise the title, ultimately the Title Board denied the motion related to both single-subject and catch phrase objections.

B. Initiative #256 contains multiple subjects.

The Colorado Constitution mandates that “No measure shall be proposed by petition containing more than one subject.” Colo. Const. art. V § 1(5.5). “When a proposed initiative comprises multiple subjects, the Board lacks jurisdiction to set its title.” *In the Matter of Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128*, 2022 CO 37, ¶ 8, citing Colo. Const. art. V §1(5.5).

The single-subject rule is intended to prevent two dangers: (1) combining subjects with no necessary or proper connection for the purposes of garnering support for an initiative from various factions, and (2) to help avoid voter surprise or fraud due to passage of a surreptitious provision coiled up in the folds of an initiative. *In re Proposed Initiative on “Public Rights in Waters II,”* 898 P.2d 1076, 1078-79 (Colo.1995); *In re Ballot Title 2011-2012 No. 45*, 2012 CO 26; *In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63*,

2016 CO 34. The single-subject rule prevents proponents from joining two distinct and separate purposes that are not dependent upon or connected with each other in order to garner support for the initiative. *In re Ballot Title 1999-2000 #104*, 987 P.2d 249, 253 (Colo.1999). For example, the “single subject requirement prevents proponents from engaging in ‘log rolling’ tactics combining multiple subjects in hopes of attracting support from various factions with different or conflicting interests.” *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158*, 2026 CO 13, ¶ 16.

Initiative #256 fails the single subject test. It contains at least two separate subjects that are not dependent on one another nor necessarily connected.¹ Specifically, Initiative #256 contains the following subjects:²

1. Approval and adoption by the congressional commission and Colorado Supreme Court of plans modified for the 2028 congressional election or thereafter.

¹ While most Initiative #256’s body is dedicated to repeal and reenactment of the current constitutional provision (Initiative Sections 1, 2, 4, 5, 6, & &7), the only new provisions added to the Colorado Constitution are contained in Initiative Section 3.

² Hubbard contends that Initiative #256 also includes a third subject: “reenacting the currently applicable constitutional provision.” Beck did not make this argument below, but believes Hubbard is correct.

2. Adding new constitutional criteria for congressional maps, barring any “purposefully favoring one political party.”

Congressional redistricting encompasses the process of redrawing the boundaries of districts for the United States House of Representatives. The standard process for congressional redistricting is set forth in Colo. Const. art. V §§ 44 and 44.1 thru 44.6. The standard process takes place once every ten years after the decennial U.S. census. However, over the past year the country has been engaged in heated debate about mid-cycle redistricting with several states redrawing congressional maps outside the normal ten-year period through state legislative action or statewide votes. Currently, Colorado has multiple proposed initiatives that would redraw congressional district maps outside the decennial window or change the criteria used for drawing those maps. *See for example* proposed 2025-2026 initiatives #241, #242, #243, #252, #256, #325, #326, and #327. It is against that backdrop that Initiative #256 has been proposed.

While the two subjects of Initiative #256 may share the general topic of congressional redistricting, they carry out separate objectives or purposes. Recently this Court addressed a similar situation in *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-*

2026 #158, 2026 CO 13. In that case the Court analyzed an initiative that combined voter approval requirements for fees while also changing the definition of “fee.” In holding that the initiative contained separate subjects, the Court explained that “It does not matter if the initiative’s purposes relate to the same general concept or subject, or if its provisions can be grouped under an overarching theme; an initiative that is susceptible to log rolling or that risks misleading voters will not satisfy the single subject requirement.” *Id.* at ¶ 19.

Here, Initiative #256 performs two separate objectives that in turn make it susceptible to log rolling and misleading voters. First, it creates an adoption and approval process for congressional maps made outside normal redistricting years. Second, it introduces new criteria for congressional maps, effectively redefining the already existing criteria for congressional maps. The dangers of combining these two subjects mirror the dangers the Court raised in *In Re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158*. Voters who support the concept of an approval process for mid-cycle redistricting may not support changing the existing criteria for congressional maps currently encompassed in Colo. Const. art. V § 44.3. Similarly, some

voters may want to change the constitutional criteria for congressional maps, but may disagree with an approval process, especially when new maps have been adopted by a vote of the people. This is a classic case of log rolling: Initiative #256 would cobble together support from various factions with different interests.

Similarly, voter surprise presents a significant danger in Initiative #256. The new criteria added by Initiative #256 – “purposefully favoring one party” – is wrapped within the coils of both the initiative and the title. Specifically, the new criteria appears alongside existing criteria which may make it seem as if the initiative does not change the existing constitutional framework. In both the initiative and the title, the new criteria is preceded by the existing criteria that congressional maps must not divide “communities of interest.” *See* Colo. Const. art. V § 44.3(2)(a) (“plan must preserve whole communities of interest”). Effectively, Initiative #256 and its title cloak new criteria for congressional maps with existing criteria. That is a recipe for misleading voters who may already be familiar with the roles played by preservation of communities of interest under the existing structure. It creates an inference or potential presumption that the new

criteria may also already exist under the current framework.

Consequently, the potential for voter surprise is significant.

C. The phrase “purposefully favoring one political party” in the title for Initiative #256 is an impermissible catch phrase.

“It is well established that the use of catch phrases or slogans in the title, ballot title and submission clause, and summary should be carefully avoided by the Board.” *In re Ballot Title 1999-2000 No. 258(A)*, 4 P.3d 1094,1100 (Colo. 2000), quoting *In re Amend Tabor No. 32*, 908 P.2d 125, 130 (Colo.1995). Such catch phrases prejudice electors to vote for an initiative “merely by virtue of those words’ appeal to emotion.” *Id.* Such catch phrases are “words that work to a proposal’s favor without contributing to voter understanding” and that “generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase.” *Id.* They may also form the basis of a slogan or campaign to support an initiative. *Id.* Catch phrases must be determined in the “context of contemporary political debate.” *Id.*

The purpose of barring catch phrases from an initiative title “is not to prevent voters from making a choice, but rather to guard against

inflammatory catch words or phrases that promote prejudice in place of understanding what is really being proposed.” *In the Matter of the Title v. Gorman*, 234 P.3d 643, 649 (Colo. 2010). Petitioner’s must prove “the phrase provokes emotion such that it impermissibly distracts from consideration of the initiative’s merits” or confuses voters. *Id.* at 650.

That is precisely what the phrase “purposefully favoring one political party” does: it provokes emotion in voters that both distracts from the initiative’s merits and confuses voters. As mentioned above, Initiative #256 has not been proposed in a political vacuum.

Congressional redistricting is not just a central political question for Colorado, but across the whole nation. The catch phrase used in the title for Initiative #256 leverages that environment.

As already discussed, Initiative #256 contains two subjects. The second subject, adding criteria that congressional maps must meet, helps bolster the first subject, creating an approval process for mid-cycle redistricting modifications, by employing an emotion evoking catch phrase. Anything other than a cursory analysis makes that clear.

In a political environment polarized along party lines, invoking a fairness argument such as “purposefully favoring one party” over

another is an appeal to emotion. By its very definition, “favor” means “bias” or “inclination, prejudice, predilection.” *Black’s Law Dictionary* 641 (8th ed. 2004). Employing it in the context of political parties is an attempt to curry an emotional reaction from voters who either believe their political party has been treated unfairly in the past or worry they may be subject to such treatment in the future. However, the emotional pull is further charged by employing it in conjunction with the word “purposefully.” Use of that adverb indicates there is intent and forethought behind the favor toward one political party, or conversely, the bias or prejudice toward another. The seeds of political strife in our country have been sown by such assertions.

The emotional aim of the catch phrase is further emphasized by trying to distill what the criteria actually means. While the Court should not engage in determining the merits of an initiative, it should analyze its wording for constitutional conformity, including whether it creates voter confusion. *In re Title, Ballot Title & Submission Clause for 2019-2020 #315*, 2020 CO 61, ¶ 8, 10. Here the vagueness of both “purposefully” and “favor” both lend themselves to evoking emotion

from a broad segment of voters yet lead to significant confusion over the actual meaning of the initiative.

For example, every map is necessarily “purposefully” drawn, yet every map also favors one party or another in every congressional district. Just considering the two major parties, drawing lines that move even a single voter from one party to a new district will favor the voter’s party in the new district they are moved to by increasing the party voter registration by one while simultaneously disfavoring the other party in that new district. Furthermore, the situation of the parties will be reversed in the congressional district the voter was removed from – the voter’s party will be disfavored by losing that voter while the other party will be favored. The problem becomes exponentially more confusing when considering minor parties, the interaction between every congressional district in the state, and whether or not “favor” applies to each congressional district individually, to the state’s contingent of congressional districts, or based on the national balance as a whole. The vagueness of the catch phrase makes it almost impossible for voters to understand what the criteria actually does, much less capable of casting an informed vote.

In reality, because “purposefully favoring one political party” is a catch phrase meant to play on voters’ emotions, its meaning is entirely subjective. There is no single objective goal or aim that can be expressed or understood by voters as a whole. That means it cannot be clearly expressed as required by Colo. Const. art. V § 1(5.5) and leads to voter confusion and surprise. This Court should not countenance such an outcome.

Furthermore, just because “purposefully favoring one political party” appears in Initiative #256 itself does not automatically render it merely descriptive and beyond the Court’s review. Comparing two instances where the Court examined words that appeared in initiatives and titles both as catch phrases – one where it held the words constituted a catch phrase and a second where they did not – may be instructive. In *In Re Ballot Title 1999-2000 No. 258(A)*, 4 P.3d 1094 (Colo. 2000), the Court analyzed the words “as rapidly and effectively as possible” to determine whether they constituted a catch phrase or slogan despite appearing in the actual initiative. The Court found that the “words operate as both a catch phrase and a slogan” and that though “the initiative contains this language, the Title Board is not free

to include this wording in the titles if, as here, it constitutes a catch phrase.” *Id.*, at 1100. The Court applied a similar analysis when it reviewed the phrase “just cause” used in both the title and the initiative in *In the Matter of the Title, Ballot Title, and Submission Clause for 2007-2008 #62*, 184 P.3d 52, 61 (Colo.2008). Again, the Court did not end its analysis solely because the initiative included the phrase. The Court highlighted that “just cause” did not just appear in the initiative but was defined within it. Furthermore, the Court noted that the term also “sets forth a legal standard commonly used in the law.” *Id.*

Unlike “just cause” which was defined in the initiative, Initiative #256 does not define any part of the catch phrase “purposefully favoring one political party.” Not only does this stand in contrast to “just cause,” but it also stands in stark contrast to the already existing criteria (Colo. Const. art. V § 44.3(2)(a)) the catch phrase appears alongside in Initiative #256. Furthermore, “purposefully favoring one political party” does not constitute a commonly used legal standard.

In both regards, “purposefully favoring one political party” is closer to the words “as rapidly and effectively as possible” which the Court held to constitute both a catch phrase and slogan. In the same

way the later would “mask the policy question regarding whether the most rapid and effective way to teach English to non-English speaking children is through an English immersion program,” *In Re Ballot Title 1999-2000 No. 258(A)*, 4 P.3d at 1100, the words “purposefully favoring one political party” mask the policy question about the proper criteria for reviewing congressional maps.

CONCLUSION

The title set for Initiative #256 violates the Colorado Constitution’s: prohibition against multiple subjects, requirement to clearly express the initiative’s subject, and mandate to avoid catch phrases. As such, this Court should reverse the decision of the Title Board, find that it did not have jurisdiction to set title, and strike the title that has been set.

Respectfully submitted this 8th day of May 2026.

KBN LAW, LLC

s/ Mario Nicolais

Mario Nicolais
Attorney for Petitioner Valerie Beck

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May 2026, a true and correct copy of the foregoing *Petitioner Beck's Opening Brief* was filed and served upon the following via the Court's e-filing system:

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