

SUPREME COURT OF COLORADO
2 East 14th Avenue
Denver, Colorado 80203

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Petition for Review Pursuant to Colo. Rev. Stat.
§1-40-107(2)
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2025-2026 #256

Petitioners: CURTIS HUBBARD and
VALERIE BECK

v.

Respondents: ELIZABETH CAVEN and
SUZANNE TAHERI, Proponents

and

Ballot Title Board: MICHAEL DOHR,
THERESA CONLEY, and KURT
MORRISON

▲ COURT USE ONLY ▲

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Case Number: 25SA146

RESPONDENTS' ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the 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 C.A.R. 28(g).

Choose one:

It contains 1,532 words.

It does not exceed 30 pages.

The brief complies with C.A.R. 28(k):

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

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.

/s/ Suzanne Taheri
Suzanne Taheri
Attorney for the Petitioner

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Elizabeth Caven and Suzanne Taheri (“Respondents/Proponents”) hereby respectfully submit this Answer Brief in support of the Title Board’s decision for Proposed Initiative 2025-2026 #256 (the “Initiative” or “Measure”).

ARGUMENT

Petitioners argue that the measure’s single subject of mid-cycle redistricting is not necessarily or properly connected to the mid-cycle criteria and process established in the measure. *Petitioner Hubbard’s Opening Brief, pp. 5-14; Petitioner Beck’s Opening Brief, pp. 5-10.*

First, Petitioner Hubbard argues the language in “proposed constitutional amendment authorizes modifications of district maps after every census, in perpetuity.” *Id., p.8.* This is not an accurate reading of the initiative language. The initiative does not authorize the mid-cycle redistricting process. It only states what the criteria will be if there is one.

The current redistricting process sets forth the trigger in the redistricting year. (“Redistricting year” means the year following the year in which the federal Decennial census is taken. *Colo. Const. Art V, § 44 (3).*) There is no similar language in the mid-term redistricting section to trigger the process.¹

¹ UPON ADOPTION AND APPROVAL OF THE FINAL PLAN, NO PLAN MAY BE MODIFIED FOR THE 2028 CONGRESSIONAL ELECTION OR THEREAFTER EXCEPT WITH THE APPROVAL OF THE CONGRESSIONAL COMMISSION AND ADOPTION OF THE COLORADO SUPREME COURT.

The point of the mid-cycle process is set criteria only in the event that the current political gerrymandering games are brought to Colorado. It is to provide independence and certainty as opposed to partisanship and chaos. The majority of Petitioner Hubbard's argument is tethered to this incorrect reading of the initiative language and must therefore fail.

Next, Petitioner's argue the measure does several things that violate single subject including repealing and reenacting the current redistricting, setting a mid-cycle redistricting process and establishing criteria for the process. But, all these things are connected to redistricting. There is nothing in the measure that is disconnected from the redistricting process. The new section is a detail of the measure that describes a process outside the redistricting year.

Petitioners' arguments that mid-cycle redistricting must follow the current process is logistically impractical and legally impossible. In a regular redistricting year, the commission begins by considering a plan created by nonpartisan staff. *Colo. Const. art. V § 44.3*. The commission is convened no later than March 15 of the redistricting year. *Colo. Const. art. V § 44.2*. By July 7 they must have finished at least eight public hearings, one in each congressional district, and no later than September 1, they must adopt a "final plan". *Colo. Const. art. V § 44.4*.

A mid-cycle redistricting cannot by its nature comply with the deadlines established for the redistricting year. From a policy perspective, mid-cycle redistricting will happen only in an exceptional circumstance and need not take six months. The mid-cycle process created by the measure is limited and does not change any process for the regular redistricting year. Under Petitioners' argument, this gap in the law regarding mid-cycle redistricting must remain unfilled because any necessary deviation from the process creates a second subject.

Here, Petitioners appear to only have complaints about the policy choices made by Proponents. But the policy choices for the mid-cycle process are left to the Proponents.

To satisfy single-subject, the subject matter must only be, "necessarily and properly connected rather than disconnected or incongruous." *Hayes v. Spalding (In re Title, Ballot Title, & Submission Clause for 2013-2014 #76)*, 333 P.3d 76, 79 (Colo. 2014). "An initiative proposing a comprehensive framework contains a single subject if all of its provisions relate directly to its single subject." *Howes v. Brown*, 235 P.3d 1071, 1076 (Colo. 2010).

Other Initiatives in front of the Court this session adopt the same structure. Initiative #240 replaces the process and the criteria through a vote of the people (*See 2025-2026 #240*). Under the process proposed in Initiative #240, there are no

public meetings, no public testimony, the public cannot present alternative maps and the deadlines differ from the redistricting year. The criteria also differ substantially from the redistricting year—the sole criteria is a “In Response to the mid-decade congressional redistricting threatened or undertaken” in other states.²

² (1.5)(a) IN RESPONSE TO THE MID-DECADE CONGRESSIONAL REDISTRICTING THREATENED OR UNDERTAKEN IN TEXAS, FLORIDA, OHIO, INDIANA, MISSOURI, NEW HAMPSHIRE, NEBRASKA, NORTH CAROLINA, AND OTHER STATES IN 2025 AND 2026, AND NOTWITHSTANDING ANY OTHER PROVISION OF EXISTING LAW, THE SINGLE-MEMBER DISTRICTS FOR CONGRESS SET FORTH IN SECTION 2-1-101.7, COLORADO REVISED STATUTES, SHALL TEMPORARILY BE USED FOR EVERY COLORADO CONGRESSIONAL ELECTION FOR A TERM OF OFFICE COMMENCING ON OR AFTER THE DATE THIS MEASURE IS ADOPTED BY THE VOTERS OF COLORADO, AND BEFORE THE CERTIFICATION OF NEW CONGRESSIONAL BOUNDARY LINES DRAWN BY THE CONGRESSIONAL REDISTRICTING COMMISSION AFTER THE 2030 DECENNIAL CENSUS PURSUANT TO SUBSECTION (1.5)(C) OF THIS SECTION. THE TEMPORARY DISTRICTS SHALL BE CONTIGUOUS, COMPLY WITH THE “VOTING RIGHTS ACT OF 1965”, 52 U.S.C. SEC. 10301, AS AMENDED, AND COMPLY WITH THE FEDERAL ONE-PERSON, ONE-VOTE REQUIREMENTS.

(b) THE COLORADO SUPREME COURT SHALL REVIEW THE SINGLE-MEMBER DISTRICTS FOR CONGRESS SET FORTH IN SECTION 2-1-101.7, COLORADO REVISED STATUTES, AND DETERMINE WHETHER THE DISTRICTS SUBSTANTIALLY COMPLY WITH THE CRITERIA SET FORTH IN SUBSECTION (1.5)(a) OF THIS SECTION. THE COLORADO SUPREME COURT HAS ORIGINAL AND EXCLUSIVE JURISDICTION IN ALL PROCEEDINGS IN WHICH A CONGRESSIONAL DISTRICT MAP ADOPTED PURSUANT TO THIS SECTION IS CHALLENGED. THE COURT’S REVIEW AND DETERMINATION SHALL TAKE PRECEDENCE OVER OTHER MATTERS BEFORE THE COURT. THE COURT SHALL APPROVE THE CONGRESSIONAL DISTRICTS UNLESS IT FINDS THAT THE DISTRICTS DO NOT SUBSTANTIALLY COMPLY WITH THE CRITERIA SET FORTH IN SUBSECTION (1.5)(a) OF THIS SECTION.

<https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2025-2026/240Final.pdf>

Each of the Petitioners has acknowledged that the current political landscape creates a need for establishing rules regarding mid-cycle redistricting. Proponents are entitled to set their policy choices. For #256, those reasons should be obvious. It aims to stop this partisan gerrymandering.

Contrary to petitioners' arguments, voters deciding on the instant matter will not be surprised by any issues coiled up in the folds. The measure itself is not complicated, and voters are advised up front in the question that this relates to mid-cycle redistricting. The criteria are set forth in the title. Electors, whether familiar with the measure or not, will understand who must approve the plan, the process for approval and the criteria.

The Court examines a title to determine if it is fair, clear, accurate, and complete. *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 565 (Colo. 2012). But does not consider the merits of an initiative or review its efficacy, construction, or future application. *Robinson v. Dierking (In re Title, Ballot Title & Submission Clause for 2015-2016 #156)*, 413 P.3d 151, 155-56 (Colo. 2016). The fact that the Titles do not discuss all the potential impacts of the initiative is not improper, as the Title Board may not speculate on the potential effects of the initiative if enacted. *In re Proposed*

Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment, 873 P.2d 718, 720-21 (Colo. 1994).

Petitioner Beck argues that the title language “does not purposefully favor one political party” is a catch phrase. *Petitioner Beck Opening Brief*, pp.10-16. “Catch phrases” are words that work to a proposal’s favor without contributing to overall voter understanding. *Garcia v. Chavez (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 1094, 1100 (Colo. 2000). Here, that is the criteria used in the initiative. It certainly contributes to the overall voter understanding.

Petitioner Beck suggests that the phrase “purposefully favoring one political party” lacks a single objective that can be expressed or understood by voters as a whole. But, Beck also describes the current political landscape nationwide where there is a battle raging over mid-cycle redistricting. By specifying that the maps cannot purposely favor one political party and that they must not divide communities of interest, the ballot title informs voters that the intent of the initiative is to keep Colorado from being used as a political tool via mid-cycle redistricting. The Court should evaluate whether the titles include an impermissible catch phrase by considering the contemporary political debate. *Garcia v. Chavez (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 1094, 1100 (Colo. 2000).

Petitioner Beck argues the phrase is the equivalent to the catch phrase “as rapidly and effectively as possible” found to be impermissible in *In Re Ballot Title 1999-2000 No. 258(A)*, 4 P.3d 1094 (Colo. 2000). But in that case the catch phrase is distinguished because the term “effective” suggests an answer. Any voter would appreciate, and be more likely to vote for, something effective.

By contrast, many voters have shown they support drawing mid-cycle redistricting maps to support one party over another. That is exactly what the maps adopted throughout the country are trying to do and nobody is attempting to hide that fact. The title does not suggest an answer to this debate. Voters will either want to participate in this redistricting partisan exchange or they won't.

CONCLUSION

Proposed Initiative #256 is a single subject and the title set by the Board adequately and fairly describes the central purpose of the initiative. Proponents ask this Court to uphold the Title Board's actions regarding the initiative.

Respectfully submitted this 15th day of May, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2026, a true and correct copy of the **RESPONDENTS' ANSWER BRIEF** was served via the Colorado Court's E-Filing System to the following:

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Duly signed original on file at West Group