COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203	DATE FILED May 8, 2026 5:57 PM
Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #256 **Petitioners:** Valerie Beck and Curtis Hubbard **v.** **Title Board**: Theresa Conley, Michael Dohr, and Kurt Morrison. and **Initiative #256 Proponents:** Suzanne Taheri & Elizabeth Caven	▲ **COURT USE ONLY** ▲ Case No. 2026SA146
PHILIP J. WEISER, Attorney General KOLYA D. GLICK,* 26PPA1371** Senior Assistant Attorney General JOSEPH G. MICHAELS,* #40403 Assistant Solicitor General 1300 Broadway Denver, CO 80203 Telephone: (720) 508-6187 E-Mail: kolya.glick@coag.gov; joseph.michaels@coag.gov *Counsel of Record *Attorneys for the Title Board*	

THE TITLE BOARD'S OPENING BRIEF

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 3,594 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/ Kolya D. Glick

KOLYA D. GLICK,
Senior Assistant Attorney General

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STATEMENT OF THE CASE

Under existing law, congressional redistricting in Colorado occurs every 10 years, after the federal census is conducted. Colorado law currently has no provision allowing redistricting maps to be drawn outside of the once-a-decade redistricting year. A mid-cycle redistricting is nonetheless possible in unusual circumstances, such as if a federal court were to hold that Colorado's congressional maps are unconstitutionally discriminatory under the Voting Rights Act. In addition, sponsors have submitted various other redistricting proposals to the Title Board as voter initiatives this term that could change the availability of mid-cycle redistricting.

Proposed Initiative 2025-2026 #256 ("Initiative #256") seeks to modify the redistricting criteria under the Colorado Constitution,

setting forth a process for modifying any congressional redistricting map (including a mid-cycle redistricting map), and announcing criteria for what constitutes permissible modifications to any existing congressional map. *See* Record, p. 16.

Initiative #256 is similar to Proposed Initiative 2025-2026 #251 (No. 2026SA125, Opening Briefs filed April 22, 2026) and #252 (no petition filed), and it may serve judicial economy for this Court to consider the two cases in tandem. The principal difference between this Initiative #256 and Initiatives #251 and #252 is that the criteria set forth in Initiative #256 applies to modifications to "any" congressional map created after 2028, Record, p. 16, not exclusively to maps that are drawn through a mid-cycle redistricting process.

At its April 15, 2026 meeting, the Title Board concluded that the measure contained a single subject and set a title. *Id*. at 14.

Petitioners Valerie Beck and Curtis Hubbard each filed separate motions for rehearing. *Id*. at 2-13. Petitioner Beck argued that Initiative #256 (1) did not contain a "single subject" because the approval and adoption of modifications to maps by the congressional

committee and Colorado Supreme Court was a separate subject from adding the criteria that the maps may not be drawn "purposefully favoring one political party," *id.* at 3-4; (2) failed to "clearly express" that the initiative "introduces new criteria for congressional maps," *id.* at 4-5; and (3) contained the impermissible catch phrase, "purposefully favoring one political party," *id.* at 5-7.

Petitioner Hubbard separately argued that Initiative #256 violated the single-subject requirement, asserting that the two subjects were: (1) amending the Constitution to limit mid-decade redistricting; and (2) "changing substantive considerations for approval of plans or, at the least, eliminating the requirement that no redistricting map dilute the impact of racial groups' electoral influence"; and (3) "reenacting the currently applicable constitutional provision." *Id.* at 8-11.

The Board considered the motions for reconsideration at its April 23, 2026 meeting. *Id.* at 15. The Board granted the motions for rehearing to the extent it made changes to the text of the title, but it otherwise denied the motions and set title. *Id.*

In full, the title ultimately fixed by the Board after rehearing for Initiative #256 reads:

> An amendment to the Colorado Constitution concerning congressional redistricting, and, in connection therewith, reenacting the current process for congressional redistricting in the Colorado Constitution and prohibiting modifications to a final map unless at least three public meetings are held, the modifications do not have the effect of dividing communities of interest or purposefully favoring one political party, and are approved by the congressional redistricting commission and the Colorado Supreme Court.

Id.

In full, the ballot title and submission clause as designated and fixed by the Board after rehearing reads:

> Shall there be an amendment to the Colorado Constitution concerning congressional redistricting, and, in connection therewith, reenacting the current process for congressional redistricting in the Colorado Constitution and prohibiting modifications to a final map unless at least three public meetings are held, the modifications do not have the effect of dividing communities of interest or purposefully favoring one political party, and are approved by the congressional redistricting commission and the Colorado Supreme Court?

Id.

In substance, the Initiative proposes to repeal and reenact article V, sections 44, 44.1, 44.2, 44.3, 44.4, 44.5, and 44.6, *id.* at 22-29, and to

add the following section (1.5) to section 44 of article V of the Colorado Constitution:

> (1.5) 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 by the Colorado Supreme Court. In reviewing the plan, the Commission must hold at least three public meetings and must not adopt any plan that has the effect of dividing communities of interest or purposefully favoring one political party.

Id. at 22.

Petitioner Beck now challenges whether the Board had jurisdiction to set a title for Initiative #256 (Issue 1 in the petition) and whether the title it set contained an impermissible catch phrase (Issue 2 in the petition). Beck Pet. at 3. Petitioner Beck does not argue that the title set by the Board is otherwise unclear or misleading. *Id.*

Petitioner Hubbard asserts that Initiative #256 violates the single-subject rule "by authorizing, for the first time, mid-decade congressional redistricting, but then also coiling in the folds of Initiative #256 the elimination of voter-approved, non-federal protections in the Colorado Constitution for minority voters in the adoption of 'any plan' including during a mid-decade redistricting." Hubbard Pet at 3.

SUMMARY OF ARGUMENT

The Title Board set an appropriate title for Initiative #256. The title contains a single subject, and neither the title nor the submission clause contains any impermissible catch phrase. This Court should deny the petitions and affirm the Title Board.

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, [this 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 "Board's actions are presumptively valid[,] and this presumption precludes [this Court] from second-guessing every decision the Board makes in setting titles." *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #245(b), 245(c), 245(d) & 245(e)*, 1 P.3d 720, 723 (Colo. 2000).

The Title Board agrees that Petitioners preserved their single-subject objections in their motions for rehearing.

B. Initiative #256 has a single subject.

The single subject of Initiative #256 is the criteria for modifying congressional redistricting maps. Specifically, the measure sets forth a process for the modification of any congressional maps (including mid-cycle modifications) and criteria to guide that process, requiring that to approve any modification to a redistricting plan: the commission hold at least three public meetings; and the plan not have the effect of "dividing communities of interest or purposefully favoring one political party." Record, p. 22.

The single-subject rule serves to prevent both the joinder of multiple subjects to secure the support of various factions, and voter fraud and surprise. *In re Title, Ballot Title & Submission Clause for 2001-2002 #43*, 46 P.3d 438, 442 (Colo. 2002). The single-subject requirement prevents "attracting support from various factions which may have different or even conflicting interests." *In re Proposed Initiative "Pub. Rts. in Waters II,"* 898 P.2d 1076, 1079 (Colo. 1995).

To set a proper title, the "Board need not consider and resolve potential or theoretical disputes or determine the meaning or

application of the" measure. *In re Title, Ballot Title & Submission Clause & Summary for a Pet. on Sch. Fin.*, 875 P.2d 207, 210 (Colo. 1994). Nor does the potential need for future judicial interpretation of a measure render the Board unable to set a title. For instance, this Court has held that to the extent an initiative's use of the term "nonexempt well" was unclear, the Board could still set a title even though the term's "definition must await future legislative and judicial construction and interpretation." *In re Title, Ballot Title & Submission Clause for 1997-1998 #75*, 960 P.2d 672, 673 (Colo. 1998).

There are three core methods of violating the single-subject requirement: (1) if the text relates to more than one subject; (2) if the Initiative has two or more distinct and separate purposes that are not dependent on or corrected to each other; or (3) if the Initiative is an impermissible umbrella topic. *See In re 2021-2022 #16*, ¶ 22; *In re Title, Ballot Title & Submission Clause & Summary Regarding (Petitions)*, 907 P.2d 586, 590 (Colo. 1995). This single-subject requirement seeks "[t]o prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and

fraud from being practiced upon voters." § 1-40-106.5(1)(e)(II), C.R.S. It exists to avoid "log rolling," where a measure would attempt to gain support from various factions by combining unrelated subjects into a single initiative for consideration—particularly where the initiative could attract a "yes" vote from voters who might otherwise vote "no" on one of the multiple subjects if presented individually. *In re 2013-2014 #76*, ¶ 32. Initiative #256 does not violate any of these principles.

In objecting to title, Petitioners each assert different purported "second" subjects. Neither one amounts to a second subject that divested the Title Board of jurisdiction.

First, Initiative #256 does not contain two subjects merely because it announces a process *and* criteria to guide that process, as Beck argued below. *See* Record, p. 3. Put simply, there is nothing different or conflicting about the interests Initiative #256 would attract. *See In re Pub. Rts. in Waters II*, 898 P.2d at 1079. Rather, as this Court has held, just because an initiative "encompasses *related* matters[,] it does not violate the single subject requirement." *In re Title, Ballot Title & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 12 (quotation

marks omitted) (emphasis in original); *see also In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 11 (where initiative tends to "carry out one general objective" or central purpose, "provisions necessary to effectuate [that] purpose . . . are properly included within its text") (quotation omitted). Indeed, this Court has consistently held that voter initiatives can impact multiple aspects of a central purpose without violating the single subject requirement. For instance, this Court concluded that the provisions of a voter initiative that sought to establish parental rights concerning children in four distinct areas—upbringing, education, values, and discipline—were sufficiently connected to satisfy the single subject requirement. *In re Proposed Ballot Initiative on Parental Rts.*, 913 P.2d 1127, 1131 (Colo. 1996).

Similarly, an initiative establishing a tax credit that applied to multiple taxes satisfied the single subject requirement because "[a]ll six taxes [we]re connected to the same tax credit and [we]re bound by the same limitations." *In re Title, Ballot Title & Submission Clause & Summary Regarding Amend Tabor #32*, 908 P.2d 125, 129 (Colo. 1995)

(upholding single subject for TABOR amendment that addressed tax credit across multiple tax concerns). And in a measure addressed to giving building and development control to voters instead of local government officials, this Court found no single-subject violation because, while the initiative was broad, its provisions were related to the purpose and management of the purpose of the initiative. *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #256*, 12 P.3d 246, 254 (Colo. 2000).

Likewise, in *In re Petitions*, 907 P.2d at 590-91, this Court approved the Title Board's action in setting title, finding that the title had a single subject that simply included various procedural formalities associated with the exercise of the right to petition. *Accord In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #255*, 4 P.3d 485, 496 (Colo. 2000) (upholding single subject title where initiative would impose background checks at gun shows and included multiple procedures for accomplishing that initiative); *accord In re 2013-2014 #89*, ¶¶ 14-15 (affirming single-subject title for proposed initiative involving the over-arching purpose of creating public right to

Colorado's environment along with mechanisms to carry out that purpose).

Here, the Initiative does not, on its own, allow parties to initiate a modification to a congressional redistricting map, whether mid-cycle or otherwise. *See* Record, p. 16. Nor does it create a new congressional commission for redistricting. Rather, the Initiative merely sets the process and criteria for the existing Commission and the Colorado Supreme Court to employ in the event that a modification to a final redistricting plan is triggered.

Contrary to Petitioner Beck's contentions, *id*. at 3-4, Initiative #256's prohibition on maps that "purposefully favor[] one political party" simply guides the modification process and does not impermissibly contain hidden aspects "coiled up in the folds." *See In re 2013-2014 #76*, ¶ 32. Rather, including substantive criteria to guide modifications to the redistricting process is explicit and falls well within the scope of the Initiative's single subject.

Second, Petitioner Hubbard offers a different "second" subject, asserting that the *omission* of existing criteria protecting minority

voters constitutes a separate subject. Record, p. 10. But Initiative #256 expressly repeals and reenacts the precise provision that Hubbard claims is missing: Colo. Const., art. V, § 44.3(4)(b). *See id.* at 26. Initiative #256 therefore does not enact any substantive change to the existing constitutional criteria for redistricting by omission.

Instead, Initiative #256 sets forth new criteria for *modifications* to redistricting maps. As a matter of policy, the Initiative's proponents expressly declined to include those additional state protections for minority voters (similar federal protections would still apply). Because this Court does "not address the merits of the proposed initiative" or "suggest how it might be applied if enacted," *In re 2019-2020 #3*, 2019 CO 57, ¶ 8, Hubbard's objection to the omission of certain criteria in the Initiative does not present a single-subject problem.

Even if the Initiative changes the status quo, "[t]he mere fact that a proposed [initiative] may affect the powers exercised by government under preexisting [law] does not by itself demonstrate that the proposal embraces more than one subject." *In re Title, Ballot Title & Submission Clause for 2009-2010 #91*, 235 P.3d 1071, 1077 (Colo. 2010). Indeed,

"[a]ll proposed . . . laws would have the effect of changing the status quo in some respect if adopted by the voters." *In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1098 (Colo. 2000). Here, the fact that the Initiative *omits* a continuity provision does not somehow *add* a second subject, regardless of the fact that the Initiative departs from the process for approving a congressional map in a redistricting year.

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 2013-2014 #90*, ¶ 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 Initiative does not contain a "catchphrase" for purposes of this title.

As in his challenge to Initiative #251, Petitioner Beck asserts that the title for Initiative #256 contains an impermissible "catchphrase" by including the term "drawn purposefully to favor one political party." Record, pp. 5-7. Her challenge falls into two categories: (1) the phrase is ambiguous and therefore difficult to understand; and (2) the phrase appeals to emotion. *Id.* at 6. Neither argument holds water.

The principal thrust of Beck's argument below rested on the premise that the term "purposefully favoring one political party" is ambiguous and difficult to apply in practice. *Id*. at 4. But the fact that further legislative and judicial construction may be necessary to determine what it means for a congressional map to "purposefully favor one political party," does not obscure the meaning of the initiative to voters. *See In re 1997-1998 #75*, 960 P.2d at 673. Nor does the need for further interpretation somehow transform the Initiative's language into a "catchphrase."

Put differently, Petitioner Beck's arguments go to the practicability of interpreting and enforcing the Initiative's terms, not the "catchiness" of the title. And while the difficulties of defining and adjudicating what constitutes partisan gerrymandering may be difficult, they are not insurmountable, as courts in other jurisdictions have documented. *Compare Rucho v. Common Cause*, 588 U.S. 684, 691 (2019) ("This Court . . . has struggled without success over the past several decades to discern judicially manageable standards for deciding [partisan gerrymandering] claims"), *with id.* at 734 (Kagan, J., dissenting) ("Over the past several years, federal courts across the country—including, but not exclusively, in the decisions below—have largely converged on a standard for adjudicating partisan gerrymandering claims."), *and Lujan Grisham v. Van Soelen*, 539 P.3d 272, 285 (N.M. 2023) (holding egregious political gerrymander violates New Mexico Constitution).

If Initiative #256 were passed, the Colorado judiciary undoubtedly would need to confront similar questions. But the possibility that the Initiative #256's terms *might* require further interpretation does not

mean they *necessarily* contain a second subject; rather, that possibility suggests its *single* subject could be challenged and interpreted in the future. *See In re Pet. on Sch. Fin.*, 875 P.2d at 210 (Board's duty is to summarize central features of initiated measure, not to "consider and resolve potential or theoretical disputes").

As this Court has held, the "effects th[e] measure could have on Colorado . . . law if adopted by voters are irrelevant" to the single subject inquiry. *In re 2013-2014 #90*, ¶ 17 (quotations omitted). Thus, while Petitioner Beck may disagree with the policy choices embodied in Initiative #256, that policy difference is the very reason to *allow* the initiative to be presented to voters to make a decision, not a reason to prohibit it.

Second, the phrase "purposefully favoring one political party" does not violate the requirement that the Board "avoid using catch phrases when setting a title." *In re Title, Ballot Title & Submission Clause for 2013-2014 #85*, 2014 CO 62, ¶ 31. "Phrases that merely describe the proposed initiative are not impermissible catch phrases." *Id.* Nor is a phrase a catchphrase "when it contributes to a voter's rational

comprehension and does not promote impulsive choices based on false assumptions about the initiative's purpose and its effects if enacted." *In re 2019-2020 #3*, 2019 CO 107, ¶ 28 (quotations omitted).

Here, the title introduces a new prohibition on partisan gerrymandering into Colorado law. But in doing so, its use of the term "does not purposefully favor one political party" is descriptive, not misleading. Indeed, the term traces "directly from the text of the Proposed Initiative[], and its inclusion in the title provides an accurate description of what the Proposed Initiative[] would do." *In re 2013-2014 #85*, ¶ 32. "The phrase is descriptive and informative based on the common understanding of the words used." *In re 2019-2020 #3*, 2019 CO 107, ¶ 29. Again, the fact that courts and legislatures may need to develop the precise metrics for satisfying the Initiative's criteria does not render its title invalid. *See supra* at 9, 16.

To the contrary, use of the phrase "does not purposefully favor one political party" meaningfully "contributes to a voter's rational comprehension" of Initiative #256 and "does not promote impulsive choices based on false assumptions about the initiative's purpose and its

effects if enacted." *In re 2019-2020 #3*, 2019 CO 107, ¶ 28 (quotations omitted). Indeed, even the language is neutral—it explicitly disclaims favoring any political party.

The Board thus acted within its considerable discretion when selecting words that accurately describe the meaning and purpose of Initiative #256. *Cf. In re Title, Ballot Title, Submission Clause & Summary Pertaining to the Proposed Initiative on Surface Mining*, 797 P.2d 1275, 1281 (Colo. 1999) (upholding phrase contained in the summary conveying that surface mining "may scar the land" as an accurate and fair repetition of the language in proposed initiative).

CONCLUSION

For these reasons, this Court should affirm the title set by the Title Board on Initiative #256.

Respectfully submitted on this 8th day of May, 2026.

PHILIP J. WEISER
Attorney General

/s/Joseph G. Michaels

JOSEPH G. MICHAELS,* #40403
Assistant Solicitor General
Public Officials Unit
State Services Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway
Denver, CO 80203
Telephone: (720) 508-6187
E-Mail: joseph.michaels@coag.gov

/s/Kolya D. Glick

KOLYA D. GLICK,* #26PPA1371**
Senior Assistant Attorney General
Public Officials Unit
State Services Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway
Denver, CO 80203
Telephone: 720-508-6159
E-Mail: kolya.glick@coag.gov

Attorneys for the Title Board

*Counsel of Record

** Practice temporarily authorized pending admission under C.R.C.P. 205.6.

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 by Colorado Courts E-filing (CCE), this 8th day of May, 2026.

/s/ Carmen Van Pelt
Carmen Van Pelt