

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED May 7, 2026 8:58 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 #327 (“Congressional Redistricting”)</p> <p>Petitioner: Curtis Hubbard</p> <p>v.</p> <p>Title Board: Theresa Conley, Michael Dohr, and Kurt Morrison.</p> <p>And</p> <p>Initiative #327 Proponents: John Brackney and Robyn Carnes</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 2026SA153</p>
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<p style="text-align: center;">THE TITLE BOARD’S OPENING 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 1,497 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/ Peter G. Baumann

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ISSUES ON REVIEW

I. Whether #327 violates the single subject requirement for initiated measures.

STATEMENT OF THE CASE

Under existing law, congressional redistricting in Colorado occurs every 10 years, after the federal census is conducted. *In re Colo. Indep. Congressional Redistricting Comm’n*, 2021 CO 73, ¶¶ 3-10. In 2018, Colorado voters enacted Amendment Y, codified as article V, sections 44-44.6 of the Colorado Constitution, which established an independent redistricting commission to draw maps following the census. *Id.* ¶ 3. Proposed initiative 2025-2026 #327 (“#327”) is one of several measures that have been submitted to the Title Board this year to adjust the way Colorado enacts congressional district maps, when Colorado enacts those maps, or even the shape and structure of the maps themselves.

Specifically, #327 would establish new maps, in statute, for the 2028 and 2030 election cycles (including any special elections that occur during this period), but retain the Amendment Y process for redistricting following the 2030 census. Record at 9-41.

At its April 15, 2026 meeting, the Title Board determined that it had jurisdiction to set title and set title. *Id.* at 7. Petitioner Curtis Hubbard timely moved for rehearing on both single subject and clear title grounds, *id.* at 2-6, and the Board considered the Motion at its April 23, 2026 meeting, *id.* at 8. The Board denied the motion in its entirety. *Id.*; see also *Rehearing Before Title Board on Proposed Initiative 2025-2026 #327* (Apr. 23, 2026), 6:34:13-6:46:44, <https://tinyurl.com/ypsep2fj>. Specifically, the Board recognized that #327 operates similar to Proposed Initiative 2025-2026 #240 (“#240”), except with a different congressional map for the 2028 and 2030 elections. *Id.* at 6:42:40-6:46:44. Having determined that it had jurisdiction to set title for #240, the Board declined to reach a different result as to #327.

The full title set by the Board is:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes concerning congressional redistricting and adopting a new short-term congressional map, and, in connection therewith, adopting a new short-term map, that is unique to this measure, to be used in 2028 and 2030 congressional elections that replaces the current congressional district map drawn by the independent congressional redistricting commission and restoring the

commission’s authority to draw congressional district maps in 2031 and every ten years thereafter.

Record at 8.

Before this court, Petitioner advances only a single subject challenge. Pet. for Review at 4 (Apr. 30, 2026). Specifically, Petitioner alleges that #327 includes four separate subjects: (1) temporarily suspending “the Independent Congressional Redistricting Commission’s exclusive authority over Congressional redistricting,” (2) “authorizing mid-decade redistricting” and amending the standards that govern congressional redistricting, (3) establishing a new congressional district map in statute, and (4) “reallocating authority to the General Assembly for Congressional redistricting for the 2028 and 2030 elections[.]” *Id.*

SUMMARY OF ARGUMENT

Number 327 is identical in all respects material to this appeal to #240, which is currently pending before this Court in 2026SA126.

Therefore, the Title Board encourages the Court to affirm the Board’s determination in both cases. To the extent it believes the Board was without jurisdiction to settle Title, then that holding should be applied to both measures.

But the Court should not reach that conclusion. Number 327 creates new congressional district maps for the 2028 and 2030 elections (and any special elections that might occur during these cycles) and includes provisions necessary to effectuate that central purpose. Each of those provisions is necessarily and properly connected to #327's core purpose, and none trigger the concerns animating the single subject requirement. The Board's conclusion should be affirmed.

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, [the Supreme 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*, ¶ 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 Title Board agrees that Petitioner preserved his single-subject objection in his motion for rehearing.

B. The measure has a single subject.

The single subject of #327 is the establishment of a new congressional district map for the 2028 and 2030 election cycles. To accomplish that purpose, #327 amends the constitutional provisions

governing redistricting to state that a statutory map shall be used for any elections that occur between when the measure is adopted and when the Independent Congressional Redistrict Commission completes its work following the 2030 census. Record at 10. This section expressly reaffirms that the Commission “shall continue to engage in congressional redistricting” following the 2030 census “and every 10 years thereafter.” *Id.* Next, the measure establishes the statutory map contemplated by the constitutional change. *Id.* at 10-41.

Petitioner alleges that the combination of these efforts creates four separate subjects:

1. “[T]emporarily” suspending the commission’s authority to draw congressional districts;
2. “[A]uthorizing mid-decade redistricting;”
3. Establishing a new congressional district map for use between November 2026 and 2031; and
4. Transferring authority back to the General Assembly for redistricting the 2028 and 2030 elections.

Pet. for Review at 3. Petitioner is incorrect.

First, “authorizing mid-decade redistricting” and creating a new map are “necessarily and properly connected.” *In re 2013-2014 #76*, ¶ 8. The latter is not possible without the former. So too with “suspending” the Commission’s authority to draw maps. Pet. for Review at 3. Under current law, the Commission conducts its work in a “redistricting year,” which is defined in the Constitution as “the year following the year in which the federal decennial census is taken.” Colo. Const. art. V, § 44(3)(d). Thus, #327 does not “suspend” the Commission’s ability to draw maps but rather creates a new map during a period in which the Commission is prohibited from doing so.

Petitioner’s primary single subject arguments before the Board related to the alleged “transfer” of authority for redistricting back to the General Assembly. Record at 3-4. Petitioner argues that because the new map established by #327 is placed in statute, nothing would stop the General Assembly from adjusting it through legislation. *Id.* at 3.

As a threshold matter, if the Court concludes that this scenario constitutes a second subject, such a holding applies equally to #240, which is also on review before this court. *See* 2026SA126.

But the Court should not reach that conclusion because it relies on speculation that is beyond the purview of the limited question currently on review. Whether the General Assembly might someday enact other laws not currently on the books is a hypothetical that neither this Court nor the Board may consider in setting Title.

That distinguishes this case from *In re Title, Ballot Title, & Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶ 29, on which Petitioner relied before the Board, Record at 3. Unlike here, 2015-2016 #132 would have significantly altered how state legislative districts were drawn (by an existing independent commission) and transferred authority for congressional redistricting from the general assembly to a newly created independent redistricting commission. *Id.* ¶ 18. There, this Court held that expressly and permanently “reallocat[ing]” authority for Congressional redistricting from the legislature to an independent redistricting commission constituted a separate subject from modifying how *legislative* reapportionment occurs. *Id.* ¶ 29. It did so in part because some voters might support adjustments to the reapportionment process while opposing transferring redistricting

authority from the General Assembly to an independent commission.

Id. ¶ 34.

No such logrolling concerns exist here. The measure makes clear that the independent commission will continue its work following the 2030 decennial census. It does not permanently “reallocate constitutional authority and control over congressional redistricting.”

Id. ¶ 29.

To accomplish its purpose of creating a new map for the 2028 and 2030 election cycles, #327 places that map in statute. That choice is not a second subject that divests the Title Board of jurisdiction to set title.

CONCLUSION

For these reasons, this Court should affirm the title set by the Title Board on 2025-2026 #327.

Respectfully submitted on this 7th day of May, 2026.

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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 electronically via CCEF, at Denver, Colorado, this 7th day of May.

/s/ Carmen Van Pelt

Carmen Van Pelt