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| **SUPREME COURT, STATE OF COLORADO**<br>2 East 14th Avenue<br>Denver, CO 80203 | |
| Original Proceeding Pursuant to C.R.S. § 1-40-102(2)<br>Appeal from the Ballot Title Board | ~~DATE FILED~~<br>May 8, 2026 11:42 PM |
| In the Matter of the Ballot Title of Proposed Initiative 2025-2026 #328<br><br>**JACK BRACKNEY** and **ROBYN CARNES,**<br>Petitioners,<br><br>v.<br><br>**COLORADO BALLOT TITLE SETTING BOARD**: Michael Dohr, Theresa Conley, and Kurt Morrison<br>**Respondents**. | ▲ COURT USE ONLY ▲ |
| *Attorneys for Petitioners:*<br>Scott E. Gessler (28944)<br>Geoffrey N. Blue (32684)<br>Gessler Blue LLC<br>7350 E. Progress Place, Suite 100<br>Greenwood Village, CO 80111<br>Tel. (720) 839-6637 or (303) 906-1050 | Case Number: 2026SA157 |
| **PETITIONERS' 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) or C.A.R. 28.1(g).**

**X** It contains 4,407 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 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).**

**X** **For each issue raised by the appellant**, 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/Scott E. Gessler*
Scott E. Gessler

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## I. INTRODUCTION

This is an unusually important Title Board appeal to appear before this Court.

Proposed Initiative 2025-2026 #328 is substantively identical to Proposed Initiative 2005-2006 #242, for which the Title Board approved a title on March 18, 2026, and again approved a title following a motion for rehearing on March 25, 2026. That matter is currently under review by this Court in Case No. 26SA123.

Initiative #242 creates a new Congressional map by adding a new statutory provision that describes the new districts. Likewise, this Initiative #328 creates a new (but different) Congressional map by adding a new statutory provision that describes the new districts. Except for the map descriptions and some very minor differences in wording in the declarations contained in Proposed C.R.S. § 2-1-100.5, Proposed Initiatives #242 and #328 are identical. Same structure. Same wording. Same changes to statute. And the *exact* same "Effective Date" clauses, which formed the basis for the Title Board's decisions in each case.

Despite these identical features, the Title Board found jurisdiction to set a title for Proposed Initiative #242, while rejecting jurisdiction to set a title in Proposed Initiative #328.

There is no principled legal basis for granting the #242 proponents a single subject and allowing them to collect signatures and qualify #242 for the ballot, while denying the Petitioners-proponents in this case the same right to qualify #328 for the ballot. Needless to say, this disturbing and unfair behavior runs afoul of the Equal

Protection Clause. The Petitioners recognize this Court's jurisdiction is limited to reviewing the Title Board's jurisdiction to set a ballot title and submission clause.[1] But as a matter of fairness and equal protection under the law, this Court should treat the proponents of both initiatives the same and issue a decision that comports with the Equal Protection Clause.

In addition to the legal issues raised by the Title Board's disparate treatment, this Court should also be mindful that treating the proponents of the two measures differently undermines public faith in the fairness of the initiative and judicial process. It is no secret that Congressional redistricting arouses intense passion and controversy both in Colorado and nationwide. Disparate and unequal treatment that allows Colorado voters the opportunity to vote on one congressional map, yet denies voters the same opportunity to vote on a different map, will draw widespread—and perhaps justified—accusations that the Title Board has tilted the political playing field to give partisan advantage to one group over another.

Accordingly, this Court should consider #242 and #328 as a pair and render a decision that treats both initiatives (and both sets of proponents) the same. This approach will restore credibility to the process and produce a decision that comports with constitutional protections under the Equal Protection Clause.

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[1] *In re Title, Ballot Title, Submission Clause for 2007-2008 162*, 184 P.3d 52, 58 (Colo. 2008).

In its *Answer Brief* in Case No. 26SA123 (involving Initiative #242), the Title Board suggests that due to the compressed timeframe this Court should promptly announce its decision, with a written opinion to follow. The Petitioners do not object to that approach.

## II. ISSUES PRESENTED FOR REVIEW

A. The proposed measure establishes a new Congressional district map in Colorado statute, and it also contains a clause that states it will only go into effect if another, separate proposed ballot measure is also approved by Colorado voters. Does this clause create a second subject, separate from the proposed map?

B. The Title Board declined to exercise jurisdiction to set a title, in part because one member decided that the proposed initiative's reference to new, proposed statutory language in a separate initiative rendered the proposed measure incomprehensible. Could the Title Board consider this issue for the first time at a motion for rehearing, and did the newly-identified statutory references in fact render the proposed measure incomprehensible?

## III. NATURE OF THE CASE

The posture of this case is very unusual. This case is an appeal of the Title Board's recent decision to decline to set a title and submission clause for Proposed Ballot Initiative 2025-2026 #328.

Following Review and Comment hearing, the Legislative Council Staff and Office of Legislative Legal Services at the General Assembly issued their Review and

Comment Memorandum on April 1, 2026. Proponents Brackney and Carnes filed their initiative text with the Title Board and subsequently appeared before the Title Board on April 15. At that time, the Board denied setting a title, 2-1. Two members (Kurt Morrison and Michael Dohr) determined that the effective date clause, by requiring voters to simultaneously approve of Initiative #328 and Initiative #241, violated the single subject requirement. The other member, Theresa Conley, voted to approve single subject and exercise jurisdiction to set a ballot title and submission clause.

Petitioners Brackey and Carnes filed a *Motion for Rehearing* on April 21, 2026, which the Title Board considered on April 23, 2026. The Title Board denied the *Motion for Rehearing* in its entirety, again finding that the Board did not have jurisdiction, but with a different 2-1 majority. Michael Dohr, who voted against finding a single subject in #242, likewise voted against finding a single subject in #328.[2] But Kurt Morrison, who had previously voted against finding a single subject in at the initial hearing on April 15, stated that he had further researched the matter and changed his vote,[3] in favor of finding a single subject. His vote was consistent with his vote in #242.

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[2] Title Board Hearing, 6:58:19 (April 23, 2026), https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

[3] Title Board Hearing, 6:58:17(April 15, 2026), https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

Board member Conley previously voted in favor of single subject for #242 and voted in favor of a single subject for #328 at the hearing on April 15, 2026. But at the rehearing for #328 on April 23, 2026, she decided that the Board did not have jurisdiction to set a title in #328. In reversing her vote, she identified a new reason (that she did no longer understood what the initiative did), which had not been discussed in the hearing on April 15th or raised in the *Motion for Rehearing* filed on April 21st.[4] As a result, the Title Board declined to exercise jurisdiction by a 2-1 majority

Petitioners Brackney and Carnes appealed on April 30, 2026.

## IV. SUMMARY OF ARGUMENT

For the same reasons articulated by the Title Board in its briefing in Case No. 26SA123, Proposed Initiative #328 contains a single subject. It creates in Colorado statute a new Congressional redistricting map. To be sure, the measure is connected to another initiative, in that the measure will not become effective unless Colorado voters also approve a companion measure. This connection does not create a separate subject; it constitutes an implementation measure that is properly connected to the single subject of establishing a new map. Further, requiring approval of a second initiative does not contradict or amend the Colorado Constitution's requirement for

[4] Title Board Hearing, 6:53:26 (April 23, 2026), https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

majority approval, because majority approval is necessary, but not always sufficient. Finally, logrolling concerns are not present, because this measure stands on its own. And in any event, a voter that approves of a new congressional map would also approve of moving the redistricting commission to statute, in order to allow a new map to go into effect.

The Title Board also declined to set a title and submission clause, because one member decided that she could not understand all aspects of #328. Specifically, the measure refers to statutory provisions that do not currently exist in Colorado statute, but that exist in a proposed companion initiative. But the Title Board had no legal authority to consider an entirely new reason to decline jurisdiction at the rehearing stage. Further, the Board employed the wrong legal standard. To decline jurisdiction, the Title Board must find that it cannot comprehend the measure. This requires far more than identifying references to statutory provisions that do not yet exist. Finally, one can easily comprehend #328. To understand the new statutory references, one need only read the proposed language in the companion measure. Indeed, all Title Board members had already reviewed the language in the companion measure #241. The Title Board certainly comprehended the identical measure #242 at that measure's hearing and rehearing, and in briefings before this Court. And the Title Board easily comprehended the meaning of this proposed initiative #328 at the hearing on April 15th.

## V. STANDARD OF REVIEW AND PRESERVATION OF ISSUES

In reviewing Title Board action, this Court "draw[s]" all legitimate presumptions in favor of the propriety of the Title Board's decision and will only overturn the Board's decision in a clear case.[5] At the same time, this Court's "deference . . . is not absolute; [it has] an obligation to examine the initiative's wording to determine whether it comports with the constitutional requirements."[6] "In conducting this limited inquiry, [this Court] employ[s] the general rules of statutory construction and give words and phrases their plain and ordinary meaning."[7]

The issues in this appeal were set forth and preserved in Petitioners' *Motion for Rehearing* and oral argument before the Title Board.

## VI. ARGUMENT

### A. Under the Title Board's own reasoning, the measure contains a single subject.

The Title Board has defended its single-subject determination for Proposed Initiative #242. Accordingly, the following argument is nearly identical to the Title

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[5] *Smith v. Hayes (In re Title, Ballot Title & Submission Clause for 2017-2018 #4),* 2017 CO 57, 20.

[6] *Fine v. Ward (In re Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128)*, 2022 CO 37, ¶ 9 (internal quotations and citations omitted).

[7] *Johnson v. Curry (In re Title, Ballot Title, & Submission Clause for 2015-2016 #132),* 2016 CO 55, ¶ 11.

Board's arguments in Case No. 26SA123. Except for minor editing, the argument below employs the Title Board's exact words.

The single subject of #328 is the establishment of a new congressional district map that will be used for any congressional election between the effective date of the measure and when new maps are drawn following the decennial census. Under current law, congressional maps are drawn by the Colorado Independent Redistricting Commission every ten years, following the decennial census.[8] That process is entrenched in the Colorado Constitution, put there by voters just under a decade ago in Amendment Y.[9] If Amendment Y is repealed at the November 2026 general election, #328 would establish a new map to be used until the next map is drawn.

Any allegation that the measure violates the single subject requirement because it amends the constitutional standards that govern how the ballot measure must be approved is incorrect. Approval of the measure remains the same as for any other proposed initiative: it is approved "by a majority of the votes cast thereon[.]"[10]

One member of the Title Board was swayed by the argument that subsection 1(4) of article V of the Colorado Constitution prohibits voters from placing conditions on whether a measure that has been *approved* by voters can become law.

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[8] *See* Colo. Const. art. V, §§ 44-44.6.

[9] *Id.*

[10] Colo. Const. art. V, § 1(4)(a).

That subsection reads in relevant part: ". . . all such measures shall become the law or a part of the ***constitution***[] when approved by a majority of the votes cast thereon . . . and not otherwise."[11] The Petitioner understands that argument to be that "and not otherwise" in this sentence means that every measure which receives a majority of votes must become the law. But that is not what the clause says. "In interpreting a constitutional provision . . . [the Court's] starting post . . . is the ordinary and popular meaning of the plain language of the constitutional provision."[12] When it does so, it must also read the law's "words and phrases in context and in accordance with the rules of grammar and common usage."[13]

Here, "and not otherwise" refers to the conditions under which a proposed initiative can become law. It can only become law if it is "approved by a majority of the votes cast thereon."[14] In other words, it is necessary for a majority of voters to have supported the measure. But it does not mean that bare approval by a majority of voters is *sufficient*. "And not otherwise" modifies only the preceding clause ("when approved by a majority of the votes cast thereon,"). There is no possibility for a measure to become law if it does not receive a majority of the votes cast.

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[11] Colo. Const. art. V, § 1(4)(a) (emphasis supplied).

[12] *Markwell v. Cooke*, 2021 CO 17, ¶ 33 (citations and quotations omitted).

[13] *In re People ex rel. S.G.H.*, 2025 CO 59, ¶ 24.

[14] Colo. Const. art. V, § 1(4)(a).

The constitution itself makes clear that a majority of votes is necessary, but not sufficient, for a proposal to become law. In the very next subsection, the constitution states that "an initiated constitutional amendment shall not become part of this constitution unless the amendment is approved by at least fifty-five percent of the votes cast thereon."[15] This limitation is incompatible with an interpretation of subsection 1(4)(a), which would hold that a measure is automatically law once it is approved by a majority of voters. The only way to harmonize these two provisions is to recognize that subsection 1(4)(a) provides a condition that is necessary, but not sufficient, for enactment.[16]

Against this backdrop, proposed initiative #328's "trigger" provision is not a second subject. Rather, it is an "[i]mplementing provision[] . . . directly tied to the initiative's central focus."[17] Such provisions are not separate subjects.[18]

Nor is this provision likely to result in "logrolling." The anti-logrolling concern exists to prevent "combining subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions—that may have

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[15] Colo. Const. art. V, § 1(4)(b).

[16] *See Zaner v. City of Brighton*, 917 P.2d 280, 286 (Colo. 1996) ("in construing all constitutional provisions, a court should endeavor to adopt a construction that harmonizes those provisions with other constitutional provisions").

[17] *In re Title, Ballot Title & Submission Clause for 2009-2010 #45*, 234 P.3d 642, 646 (Colo. 2010).

[18] *Id.*

different or even conflicting interests—in order to lead to the enactment of measures that would fail on their own merits."[19] This concern is not implicated under the premise that a voter who supports the new congressional map but does not like the change to the redistricting process in another initiative faces a difficult choice.

No direct authority exists, and undersigned counsel is aware of none, holding that the anti-logrolling concern applies not only within a measure but across multiple measures. The relevant question is whether voters who would normally support moving the redistricting process from the constitution to statute are likely to oppose the measure because of a provision adding a condition to whether that enactment takes effect, or vice-versa. Petitioner offers no reason why that would be the case.

If anything, the two provisions "point in the same direction."[20] A voter who is interested in moving the redistricting process from the constitution to statute presumably is in favor of a more flexible approach to redistricting. And such flexibility is reflected, in one way, by the adoption of a new map for the 2028 and 2030 election cycles.

In addition, the "Effective Date" clause does not amend the Constitution. It is incorrect to contend that the "and not otherwise" language in Colo. Const. art. V,

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[19] *In re Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57, ¶ 7 (quotations omitted).

[20] *In re Title, Ballot Title & Submission Clause for 2021-2022 #16*, 2021 CO 55, ¶ 33 (observing that in such cases, "[t]he risk of logrolling is low").

§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."[21] 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.[22] Or if, as here, it contains an effective date setting forth how and when the measure goes into effect.

The 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."[23] Proponents included the effective date clause to ensure that if a separate measure, proposed initiative 2025-2026 #241, which removes the prohibition on mid-decade redistricting from the Constitution, did not pass, then

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[21] Colo. Const. art. V, §1(4)(a).

[22] *See* Colo. Const. art. V, §1(4)(b).

[23] *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17 (internal citations omitted).

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*.[24]

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."[25]

The effective date clause in #328 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.[26] 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. The effective date clause is not designed to draw support for

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[24] *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).

[25] *In re Title, Ballot Title & Submission Clause for 1997-1998 #74*, 962 P.2d 927, 929 (Colo. 1998).

[26] *In re Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57, 14.

another ballot measure, Proposed Initiative 2025-2026 #241; 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,[27] 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. The 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." The Proposed Initiative passes the single subject test.[28]

The single subject requirement is satisfied when the subject matter is "necessarily and properly connected rather than disconnected or incongruous."[29] 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

[27] *People ex rel. Salazar v. Davidson*, 79 P.3d at 1231.

[28] *In re 2017-2018 #4*, 2017 CO 57, ¶ 7.

[29] *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8.

implementing provision directly tied to this central focus. "Implementing provisions that are directly tied to the initiative's central focus are not separate subjects."[30]

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.[31]

### B. The Title Board has jurisdiction, because any reasonable reader can comprehend the meaning of the ballot initiative.

This issue was preserved during argument for the *Motion for Rehearing* before the Title Board on April 23, 2026. An explanation of the rehearing is in order.

At the April 15, 2026, hearing, the Title Board determined that the measure did not have a single subject because of the Effective Date Clause, which stated that the measure would only go into effect if another measure also received voter approval. Logically, the *Motion for Rehearing* sought reversal of Title Board's April 15th decision. The *Motion for Rehearing* did not address whether the Title Board could comprehend Initiative #328 well enough to set a title, for the simple reason that no member of the Title Board raised this concern at the Title Board hearing on April 15, 2026. Therefore, the *Motion for Rehearing* could not seek a rehearing on an issue that was neither considered nor decided.

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[30] *In re Title, Ballot Title and Submission Clause for 2009-2010 # 45*, 234 P.3d 642, 646 (Colo. 2010).

[31] *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89,* 2014 CO 66, ¶ 8.

Nonetheless, Board member Theresa Conley raised a new issue for the first time during consideration of the motion for rehearing, on April 23, 2026. Specifically, she noted (as set forth in the Review and Comment memorandum for #328) that the measure, exactly like #242, proposes a new section C.R.S. § 2-1-105(8), which states that "the congressional redistricting commission established pursuant to section 2-1-105.2 (1) shall engage in the redistricting process as specified in section 2-1-105.2 through 2-1-105.7 in 2031…".

Board member Conley noted that the Review and Comment Memo for #327-328, correctly identified the fact that C.R.S. §§ 2-1-105.2 through 2-1-105.7 do not currently exist in Colorado statute, and that #328 (like #242) does not propose to add those sections. And proposed C.R.S. § 2-1-105 (1.5)(b) refers to C.R.S. § 2-1-101.7, which also does not currently exist in statute and which the proposed initiative does not add.

Because #328 (like #242) referred to statutory sections that do not currently exist in Colorado statute, Conley stated that she did not understand what the initiative did, and therefore she could not set a title.[32] The Petitioners contested her approach and reasoning, arguing that the initiative was, in fact comprehensible, that #242

[32] Title Board Hearing, 6:53:26 (April 23, 2026) ("this is amending something that doesn't exist yet. And how do you understand that? How do you able to set a title and so I have that concern now."), https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

suffered from the same purported problem. Petitioners expressed surprise that the matter was being raised now, because the review and comment memo for #242 explained the same dynamic. But Conley remained unswayed and voted to decline jurisdiction to set a title.

This Court should overturn this reason for refusing to set a title and submission clause, for several compelling reasons.

*First*, it was improper for the Title Board to raise, for the first time at the rehearing, new concerns that the Board lacked jurisdiction. When considering a motion for rehearing, the scope of the Title Board's review is limited to the motion itself. The title board is only authorized to "hear a motion for rehearing at the next regularly scheduled meeting of the title board."[33] Colorado law does not grant the Title Board latitude to consider the title anew under theory it deems fit. The Title Board's approach not only exceeded its jurisdiction, but it also extinguished the Proponents' right to seek review of the decision through a motion for rehearing. In short, Title Board member Conley had no legal basis to search for new reasons to decline jurisdiction.

Second, Conley employed the wrong standard. She latched on to a reference to nonexistent statutory sections. But reference to a nonexistent statutory citation does not mean the measure is incomprehensible. Only "where the Board has acknowledged

[33] C.R.S. § 1-40-107(5).

that it cannot comprehend the initiatives well enough to state their single subject in the titles" can the title board decline to "forward[]" the initiative to the voters, and the initiative "must, instead, be returned to the proponent."[34] Here, one can easily comprehend initiative #328's general operation and central features.

Third, it is absurd to say that one cannot comprehend the meaning of Initiative #328. First, through use of the Effective Date clause, #328 is connected to a companion initiative—#241—that places the Independent Redistricting Commission in Colorado statute. To understand the references to new, proposed Colorado statutes, one can simply read Proposed Initiative #241. That initiative is no secret. The exact language of the proposed statutes is readily available. And in fact, the Title Board has already considered that language when setting a ballot title and submission clause for #242.

Indeed, all members of the Title Board managed to comprehend the meaning of #242—an identical measure, that contained the identical references to proposed statutes—at the hearing for #242 on March 13. All members of the Title Board again managed to comprehend #242 at the rehearing for that matter on April 1, 2026. The Title Board has defended the single subject of #242 in briefings before this Court in Case No. 26SA123, and the Title Board certainly comprehends the measure in those

[34] *In the Matter of the Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #25*, 974 P.2d 458, 469 (Colo. 1999); *see also In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 37*, 977 P.2d 845, 846 (Colo. 1999).

briefings. All Title Board members comprehended the meaning of #328 at the Title Board hearing on April 15, 2026. And of course, two of the three members of the Title Board comprehended the meaning of #328 at the rehearing on April 23, 2026. Petitioners respectfully submit that the third Title Board member fully comprehends what the #328 does, too.

## VII. CONCLUSION

The Court should reverse the Title Board's finding that it does not have jurisdiction to set a ballot title and submission clause for Proposed Initiative #327 and order the Title Board to immediately set a ballot title and submission clause.

Respectfully submitted this 8th day of May 2026,

GESSLER BLUE LLC

*s/ Scott E. Gessler*
Scott E. Gessler

## CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2026, I electronically filed the foregoing with the Clerk of the Court using the CCES system, which notified all parties and their counsel of record.

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