

**IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE  
FOR INITIATIVE 2025-2026 #242  
("Congressional Redistricting")**

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Initiative Proponents: Tanya Nathan and Lindsey Rasmussen

v.

Objector: Republican National Committee

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**MOTION FOR REHEARING**

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By undersigned counsel, Robert Balink, a registered voter of El Paso County, Colorado objects to the titles set for Initiative #242, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On March 18, 2026, the Title Board Set the following ballot title and submission clause for Initiative #242:

Shall there be a change to the Colorado Revised Statutes creating a new temporary congressional district map to be used in 2028 and 2030 congressional elections if a ballot measure replacing the constitutional independent congressional redistricting commission with an identical statutory independent congressional redistricting commission is approved by a vote of the people?

In so doing, the Board erred for the following reasons:

**1. The Board should make a finding that the measure adds to the Colorado Constitution.**

The Colorado constitution requires that “[f]or every proposed constitutional amendment, the title board shall determine whether the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of section 1(4)(b) of article V of the state constitution.”<sup>1</sup> The Title Board made a finding that the initiative does not require a 55% approval threshold. But it erred, as discussed below.

**2. The measure contains two separate and distinct subjects that are not necessarily connected to one another.**

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<sup>1</sup> Colo. Rev. Stat. Ann. § 1-40-106(3.5).

Under well-trod standards, proponents may not combine “subjects into a single initiative in the hope of attracting support from various factions that may have different or even conflicting interests.”<sup>2</sup> Most importantly, this requirement “is intended to ensure that each proposal depends upon its own merits for passage.”<sup>3</sup> Thus, a court (and Title Board) must ask “whether there is a danger of logrolling: Have measures been combined to secure the enactment of one that could not be carried out on its own.”<sup>4</sup> Logrolling is the “practice of combining subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions—that may have different or even conflicting interests—[in order to] lead to the enactment of measures that would fail on their own merits.”<sup>5</sup>

**A. The proposed initiative creates a new congressional electoral map.**

The first subject is the creation of a new congressional electoral map. Here, the proposed measure removes the current electoral district for all Colorado members of Congress and replaces it with a new electoral map for the 2028 and 2030 general elections, and any special election prior to the creation of new maps following the 2030 decennial census. This is no small thing: it represents a massive shift in the source of electoral power and Colorado’s representation in the U.S. Congress.

**B. The measure amends the 50% constitutional requirement for passage of an initiative.**

Under the Colorado Constitution,

All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and *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*.<sup>6</sup>

Accordingly, the Colorado Constitution very clearly identifies the requirements to enact an initiative. Namely, a majority vote. And the Colorado Constitution states this is the only requirement, and that this requirement applies to all initiatives and referenda.

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<sup>2</sup> *In Matter of Title, Ballot Title*, 2016 CO 55, ¶ 13, 374 P.3d 460, 465.

<sup>3</sup> *Id.*

<sup>4</sup> *Matter of Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128*, 2022 CO 37, ¶ 15, 526 P.3d 927, 930.

<sup>5</sup> *Matter of Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57, ¶ 7.

<sup>6</sup> Colo. Const. art. V, § 1(4) (emphasis supplied).

In contrast, Proposed Ballot Initiative 2025-2026 #241 has a provision that amends this constitutional requirement, by adding a requirement for passage. It states:

**SECTION 4. Effective Date.**

*This measure takes effect only if, at the November 2026 statewide election, a ballot issue repealing sections 44, 44.1, 44.2, 44.3, 44.4, 44.5, and 44.6 of article V of the Colorado constitution is approved by the people*

(emphasis supplied). Thus, even if a majority of voters approve of the initiative, it will not go into effect unless another condition is met; voters must approve a separate initiative.

Creating a new requirement for passage of an initiative changes the constitutional threshold. Legally, this new section, couched within the “Effective Date” language, is no different than a statement that the initiative will only go into effect if 60% of voters approve of the initiative, or if Congress takes some action, or even if 39% of voters approve of the initiative. In all cases, it is an amendment to the constitution that creates another legal requirement for passage of an initiative.

**C. Creating a new map and increasing the requirements for the initiative’s passage are two separate subjects.**

Creating a new map, and changing the constitutional threshold for passage of the initiative, are not necessarily connected to one another. The implementation of a new congressional map does not require a change to the procedure by which voters can enact an initiative, and vice versa. One governs which districts Colorado’s members of Congress represent, while the other governs the requirements for passage of an initiative. The two are plainly separate.

Furthermore, the combination of the two creates a classic case of logrolling. Any voter who supports the new congressional map but does not like the change to the redistricting process in another initiative faces a difficult choice. If she votes in favor of this this proposed initiative, her vote will not matter if the other initiative fails. Therefore, she must choose whether to vote for a new congressional redistricting process, even if she opposes that new process. By tying this initiative to a change in the redistricting process, the initiative explicitly engages in a form of logrolling, whereby one must vote for a separate initiative, in order to gain passage of this initiative.

**3. The ballot title and submission clause is misleading and incomplete.**

Here, the ballot title and submission clauses are misleading and incomplete, because the new map also applies to special elections. As the Title Board recognized, the new congressional maps apply to special elections. Accordingly, the title is incomplete and inaccurate. The title should adopt language similar to the initiative itself, which states that the

new map applies to “*every* Colorado Congressional election” until the new commission creates redistricting maps.”

FOR THESE REASONS, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #242 for lack of jurisdiction, and if the Board does not dismiss, it should revise the titles so that they are fairer, more accurate and not misleading.

Respectfully submitted this 25<sup>th</sup> day of March 2026,

GESSLER BLUE LLC

s/ Scott E. Gessler

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### **CERTIFICATE OF SERVICE**

I certify that on March 25, 2026, a true and correct copy of the **MOTION FOR REHEARING** was sent via email to counsel for the proponents at:

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