

## COLORADO TITLE SETTING BOARD

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**IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE  
FOR PROPOSED INITIATIVE 2025-2026 #251**

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**MOTION FOR REHEARING ON PROPOSED INITIATIVE 2025-2026 #251**

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On behalf of Lindsey Rasmussen, registered elector of the State of Colorado, the undersigned counsel hereby submits to the Title Board this Motion for Rehearing on Proposed Initiative 2025-2026 #251 (“Initiative #251”) and as grounds therefore states as follows:

**I. THE TITLE SET BY TITLE BOARD AT MARCH 18, 2026, HEARING**

On March 18, 2026, the Title Board set the following ballot title and submission clause for Initiative #251:

Shall there be an amendment to the Colorado Constitution limiting mid-cycle changes to the existing congressional districts, and, in connection therewith, prohibiting changes to the current congressional districts mid-cycle unless the independent congressional redistricting commission approves a new district plan after holding three public meetings and the Colorado Supreme Court adopts the plan, and prohibiting a plan that fails to preserve, as much as reasonably possible, whole communities of interest or was drawn purposefully to favor one political party or minimize politically competitive districts?

**II. GROUNDINGS FOR REHEARING****A. The Initiative Impermissibly Contains More Than One Separate and Distinct Subjects in Violation of the Single Subject Requirement.**

Pursuant to Colo. Const. art. V, §1(5.5),

no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title . . . . If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.

*See also* 1-40-106.5, C.R.S. “[T]he Board may not set the titles of a proposed Initiative, or submit it to the voters, if the Initiative contains multiple subjects.” *Aisenberg v. Campbell (In re Title, Ballot Title & Submission Clause 1990-2000 #104)*, 987 P.2d 249, 253 (Colo. 2000).

The single subject requirement serves two functions. First, the single subject requirement “is intended to ensure that each proposal depends upon its own merits for passage.” *Johnson v. Curry (In re Title, Ballot Title & Submission Clause for 2015-2016 #132)*, 2016 CO 55, ¶13. This function prevents proponents from engaging in “log rolling” tactics, that is, combining multiple subjects into a single initiative in the hope of attracting support from various factions that may have different or even conflicting interests.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 32.

Second, the single subject requirement is intended to “prevent surprise and fraud from being practiced upon voters caused by the inadvertent passage of a surreptitious provision ‘coiled up in the folds’ of a complex initiative.” *Mantell v. Fields (In re Title, Ballot Title, & Submission Clause for Proposed Initiative 2025-2026 #158)*, 2026 CO 13, ¶17. (internal citations omitted). “If an initiative advances separate and distinct purposes, the fact that they both relate to the same general concept or subject is insufficient to satisfy the single subject requirement.” 2016 CO 55, ¶15. “It does not matter if the initiative's purposes relate to the same general concept or subject, or if its provisions can be grouped under an overarching theme; an initiative that is susceptible to log rolling or that risks misleading voters will not satisfy the single subject requirement.” 2026 CO 13, ¶19.

Initiative #251 contains more than one subject in violation of article V, section 1(5.5) of the Colorado Constitution, and section 1-40-106.5, C.R.S. The Proponents contend that the single subject of the measure is “mid-year (or mid-term?) redistricting” that allegedly “fills a gap” in existing constitutional provisions regarding congressional redistricting. But the sparse language of the measure clearly omits other mandated criteria for maps adopted in a redistricting year, including contiguity, and this creates a separate subject.

#### Eliminating the Contiguity Criteria for Approving a Map Outside the Redistricting Year Is a Separate Subject.

Sections 7(c)(I) and (II) of the measure state that “outside the redistricting year, no map may be approved by the Commission or given effect by the Colorado supreme Court if it ... [f]ails to preserve, as much as reasonably possible, whole communities of interest or ... [h]as been drawn purposefully to favor one political party or to minimize politically competitive districts.” The measure does not list any other criteria that the Commission must consider when approving a map outside the redistricting year, or cross-reference Colo. Const. art. V, §4.3, which otherwise governs the criteria that the Commission must follow when approving a map in the redistricting year.

The measure appears to stand alone on what the Commission must do or not do when approving a map outside the redistricting year. For example, the measure requires the Commission to hold at least three public meetings. This differs from Colo. Const., art. V, §44.2(3)(b)’s requirement that the Commission hold “at least three hearings ... in each congressional district.” Counsel for Proponents, when asked at the Review and Comment hearing as to whether there was any geographic requirement for the public meetings or if all three public meetings could be held in Denver, responded that all three meetings could be held in Denver. *See Review & Comment Hearing for Proposed Initiatives 2025-2026 #251, #252, #254 and #255, March 6, 2026; audio at [Colorado](#) at 10:35:16-10:35:47.* Similarly, the measure does

not require that Colorado residents may present maps or testimony in person or in writing for the commission's consideration. This differs from Colo. Const., art. V, §44.2(3)(a) and (b)'s requirement that "[a]ll Colorado residents, ... may present proposed redistricting maps or written comments..." and that the Commission must, "to the maximum extent practicable, provide opportunities for Colorado residents to present testimony at hearings held throughout the state." Counsel for Proponents, when asked at the Review and Comment hearing as to whether the measure required that members of the public be allowed to present testimony, in person or in writing, at the public meetings, responded that there was no requirement to do so. *See id.*, at 10:36:05-10:36:16. The language of the measure, combined with the responses from the Proponents as to their intent, make clear that this measure constitutes all of the criteria that apply to maps approved outside the redistricting year, absent a federalism override.

Contiguity, a criteria that is met if it is possible to travel between any two points in a district without crossing into a different district, is required in Colo. Const., art. V, §44.3 (1)(a) for maps approved by the commission in a redistricting year. But contiguity is not included in the criteria in Initiative #251 for maps approved outside the redistricting year. Unlike the one-person, one-vote doctrine created by the U.S. Supreme Court in *Wesberry v. Sanders*, 376 U.S. 1 (1964), or the Voting Rights Act of 1965, 52 U.S.C. sec. 10301, as amended, contiguity is not federally mandated and will not be required under Initiative #251 for Colorado congressional district maps approved outside the redistricting year.

By failing to include a requirement that maps approved outside the redistricting year must be contiguous, the measure creates a separate subject. Coiled up in the folds of the measure is this change in the contiguity requirement for maps approved outside the redistricting year. Voters would be surprised to learn that they thought they were voting on a measure to require congressional district maps outside the redistricting year to be approved by the commission and the Colorado Supreme Court, when they are also voting to allow a congressional district map that contains districts that are not contiguous, such that an island of voters in Craig, Colorado, may be lumped into a district with an island of voters in Denver, or an island of voters in Pueblo, may be lumped into a district with an island of voters in Commerce City. This change in the contiguity requirement for congressional maps approved outside the redistricting year is a separate subject.

Due to its sparse nature, Initiative #251 "run[s] the risk of surprising voters with a 'surreptitious' change," *see In re 2015-2016 #132*, 2016 CO ¶ 26, (quoting § 1-40-106.5(1)(e)(II)), because voters may focus on one change and overlook the other, *see In re 2013-2014 #89*, 2014 CO 66, ¶ 19 ("Th[e] danger [of surprise] exists where an initiative, although claiming to have a single subject, in reality has multiple purposes, and as a result, voters would not expect that passing the initiative would lead to one or more of the initiative's outcomes."). *VanWinkle v. Sage (In re Title, Ballot Title & Submission Clause for 2021-2022 #1)*, 2021 CO 55, ¶ 41

Because elimination of the contiguity requirement for all congressional district maps approved outside the restricting year is not necessary or proper to fill a gap on mid-cycle congressional redistricting, Initiative #251 runs the risk of surprising voters with a surreptitious, significant change to congressional districts in Colorado. This proposed change is an

impermissible second subject "coiled up in the folds" of its proposal. *Mantell v. Fields*, 2026 CO 13, P27, (internal citations omitted).

**B. The Ballot Title and Submission Clause Is Misleading and Does Not Correctly and Fairly Express Its True Intent and Meaning.**

The title of the Initiative is misleading and does not correctly and fairly express the initiative's true intent and meaning. Section 1-40-106(3)(b), C.R.S. provides:

In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes" or "no" vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof, together with the ballot title and submission clause. . . .

Titles and submission clauses should "enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal." *In re Title, Ballot Title & Submission Clause for Proposed Initiative on Parental Notification of Abortions for Minors*, 794 P.2d 238, 242 (Colo. 1990)). The purpose of reviewing an initiative title for clarity parallels that of the single-subject requirement: voter protection through reasonably ascertainable expression of the initiative's purpose. *See id.*

The Title for Initiative #251 is not a clear statement of what this measure actually does. First, the title omits any language informing voters that there is no contiguity requirement for all future mid-cycle congressional district maps.

Second, the title also misleads when it does not alert voters to the change in the *status quo* that outside the redistricting year, the commission does not have to allow Colorado residents to present proposed maps, written comments, or testimony at public meetings.

Third, the title makes no mention that commission hearings outside the redistricting year do not have to be held in each congressional district, but instead could all be held in one location.

Here, the title for Initiative #251 is one for which the general understanding of the effect of a "yes" or "no" vote will be unclear. *See* 1-40-106(3)(b), C.R.S. The title "does not contain sufficient information to enable voters to determine intelligently whether to support or oppose the initiative." *Hayes v. Spalding (In re Title, Ballot Title and Submission Clause for 2015-2016 #73)*, 2016 CO 24, ¶ 34; *see also Garcia v. Montero (In re Ballot Titles 2001-2002 #21 & #22)*, 44 P.3d 213, 222 (Colo. 2002) ("The titles, standing alone, should be capable of being read and understood, and capable of informing the voter of the major import of the proposal, but need not include every detail. They must allow the voter to understand the effect of a yes or no vote on the measure. When they do not, both the title board and this court fail in our respective functions."). The title for Initiative #251 does not enable voters to make an informed choice because it does not correctly and fairly express the measure's true intent and meaning.



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 25<sup>th</sup> day of March, 2026, a true and correct copy of **MOTION FOR REHEARING ON PROPOSED INITIATIVE 2025-2026 #251** was filed and served on Proponents Suzanne Taheri and Elizabeth Caven, via email to their counsel of record as follows:

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