

**IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE
FOR INITIATIVE 2025 -2026 #252
("CONGRESSIONAL REDISTRICTING")**

Initiative Proponents: Elizabeth Caven and Suzanne Taheri

&

Objectors: Curtis Hubbard

MOTION FOR REHEARING

By undersigned counsel, Curtis Hubbard, a registered voter of the County of Boulder, objects to the titles set for Initiative #252, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On April 15, 2026, the Title Board set the following ballot title and submission clause for Initiative #252:

Shall there be an amendment to the Colorado Constitution concerning mid-cycle congressional redistricting, and, in connection therewith, prohibiting congressional redistricting mid-cycle unless the following limited criteria is met: three public meetings regarding the new map are held, the map preserves whole communities of interest, and does not purposefully favor one political party or minimize politically competitive districts, and the map is approved by an independent congressional redistricting commission and the Colorado Supreme Court?

I. The Title Board lacks jurisdiction to set a ballot title for Initiative #252 because this measure comprises multiple subjects.

A. The first subject: amending the Constitution to limit mid-decade redistricting.

The ostensible subject of Initiative #252 is to limit mid-decade congressional redistricting. It accomplishes this by imposing new procedural requirements that apply to the never-before-used mid-decade redistricting in Colorado: an approval requirement (commission and Supreme Court approval) and hearing requirement (holding at least three public hearings).

- B. The second subject: 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.

Subsection (7)(c), which concerns the substance of plans, contains a noticeable change in verbiage. Instead of referring to plans considered mid-decade (or outside the redistricting year), the subsection applies to “any plan”: “The commission must not adopt *any plan* if it ...” And it then goes on to provide a different set of substantive considerations for the approval of a plan than the Constitution currently contains:

Current Language (Section 44.3)	Initiative #252
<p>(2)(a) As much as is reasonably possible, the commission’s plan must preserve whole communities of interest and whole political subdivisions, such as counties, cities, and towns.</p> <p>(b) Districts must be as compact as is reasonably possible.</p> <p>(3)(a) Thereafter, the commission shall, to the extent possible, maximize the number of politically competitive districts.</p> <p>...</p> <p>(4) No map may be approved by the commission or given effect by the supreme court if:</p> <p>(a) It has been drawn for the purpose of protecting one or more incumbent members, or one or more declared candidates, of the United States house of representatives or any political party; or</p> <p>(b) It has been drawn for the purpose of or results in the denial or abridgement of the right of any citizen to vote on account of that person’s race or membership in a language minority group, including diluting the impact of that racial or language minority group’s electoral influence.</p> <p>Colo. Const. Art. V, Section 44.3</p>	<p>(c) The commission must not adopt any plan if it:</p> <p>(i) fails to preserve, as much as reasonably possible, whole communities of interest or;</p> <p>(ii) has been drawn purposefully to favor one political party or to minimize politically competitive districts</p>

“Any plan” includes a plan that is adopted after the census—not just a mid-decade redistricting plan. “[T]he word ‘any’ means ‘all.’” *BP Am. Prod. Co. v. Colo. Dep’t of Rev.*, 2016 CO 23, ¶ 18, 369 P.3d 281, 286. The obligation to apply Initiative #252’s criteria instead of the current criteria is, moreover, mandatory given the use of “must.” *N.D. v. N.J.D.*, 2026 COA 18, ¶ 11 (“Under the canons of statutory construction, unless the context otherwise requires, courts interpret the word ‘shall’ or ‘must’ in a statute to be mandatory, not directory.”). Subsection

(7)(c) thus displaces for “any plan” the hierarchy of considerations that currently applies. Creating limiting procedures for mid-cycle redistricting is a separate subject from changing the criteria for plan approval in the ordinary course of redistricting after a census is conducted.

But even if subsection (7)(c) were interpreted to apply only to mid-decade redistricting, there is still a single subject violation. A key element of Amendment Y that created the Independent Congressional Redistricting Commission can be found in Colo. Const., art. V, sec. 44.3(4)(b) that protects minority voters, independent of the applicability of the federal Voting Rights Act. That provision, currently in the Constitution and applicable to Congressional redistricting in the year after the U.S. Census is conducted, states:

No map may be approved by the commission or given effect by the supreme court if... [i]t has been drawn for the purpose of or results in the denial or abridgement of the right of any citizen to vote on account of that person’s race or membership in a language minority group including diluting the impact of that racial or language minority group’s electoral influence.

As a result, any map that is “modified” for and after the 2028 general election is not required to meet racial protections that are authorized by Amendment Y. The resulting potential for under-representation of affected minority groups is a subject that is distinct from setting up procedural limitations on mid-decade redistricting. This is a legal change that is “coiled in the folds of the measure” such that voters would not understand that mid-decade maps would provide no Colorado constitutional protection for minority voting. *See In re Title, Ballot Title & Submission Clause, for 2007-2008 #17*, 172 P.3d 871, 875-76 (Colo. 2007) (establishing new natural resource agency could not be coupled with a change to a new legal standard that would surprise voters).

This is a marked departure from redistricting exercises that have occurred in recent years. For example, “Because the district court addressed the issue of dilution of minority voting strength repeatedly throughout its order, we can determine from the record that the... plan adopted by the district court, particularly with regard to District 1, but also with regard to the entire map, did not result in an unconstitutional dilution of minority voting strength.” *Beauprez v. Avalos*, 42 P.3d 642, 650 (Colo. 2002). Thus, the measure’s omission of protection for minority voters is a significant change in law from the substantive redistricting considerations that Coloradans have come to expect.

It is no defense for Proponents to argue that this is a mere effect of the measure. “The single-subject rule also serves to **prevent voter surprise by prohibiting proponents from hiding effects** in the body of a complex proposal.... Such subterfuge is precisely what the constitutional prohibition against multiple subjects was designed to prevent.” *In re Title, Ballot Title and Submission Clause for 2009-2010 # 91*, 235 P.3d 1071, 1079 (Colo. 2010) (emphasis added).

Thus, this measure violates the single subject requirement.

II. The ballot title is misleading, unfair, and inaccurate.

The ballot title states that the substantive considerations contained in subsection (7)(c) for plan approval applies only to mid-decade redistricting (“prohibiting congressional redistricting mid-cycle unless the following limited criteria is met: ... the map preserves whole communities of interest, and does not purposefully favor one political party or minimize politically competitive districts”). As explained above, those criteria actually apply to “any plan,” not just “redistricting mid-cycle.” “Any plan” necessarily includes those redistricting maps that are drawn after a decennial census. The Board should revise the title to inform voters that the approval criteria for all plans are being changed in a significant way by this initiative.

Additionally, there appears to be a typographical error in the title. The comma in the above quoted language before “and” should be removed, such that the title read, “...communities of interest and does not purposefully...”

WHEREFORE, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #252 for lack of jurisdiction.

RESPECTFULLY SUBMITTED this 22nd day of April, 2026.

RECHT KORNFELD, P.C.

s/ Mark Grueskin

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CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2025 -2026 #252** was sent this day, April 22, 2026, via email to:

Suzanne Taheri
Counsel for proponents

Emily Burke Buckley
Senior Assistant Attorney General

s/ Erin Mohr