

**IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE
FOR INITIATIVE 2025 -2026 #327
("CONGRESSIONAL REDISTRICTING")**

Initiative Proponents: John Brackney and Robyn Carnes

&

Objector: 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 #327, 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 #327:

Shall there be 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?

I. The Title Board lacks jurisdiction to set a ballot title for Initiative #327 because this measure comprises multiple subjects.

A. The first subject: resetting congressional district lines for the 2028 and 2030 elections.

Initiative #327 purports to set new district lines in Proposed Section 2-1-101.7. “[T]he foundational goal of congressional redistricting under the United States Constitution [is] ‘fair and effective representation for all citizens.’” *Hall v. Moreno*, 2012 CO 14, ¶ 43 (citation omitted). As important and meaningful an undertaking as it is, Congressional redistricting is nonetheless an “inherently political process.” *Id.* at ¶ 105.

The topic of changes in district lines and congressional representation will be a great motivator for voters, depending on whether they are seeking the partisan advantage (or hoping to avoid the partisan disadvantage) resulting from their new districts. Thus, this subject will be a

prime – if not the sole – motivating factor for voters in deciding whether to support or oppose Initiative #327. It is certain to be the consideration that pushes voters to a “yes” or “no” vote.

B. *The second subject: reallocating legal authority for setting congressional districts to the Colorado General Assembly.*

Currently, districts are set by the Independent Congressional Redistricting Commission pursuant its constitutional authority to act for this sole purpose. *See* Colo. Const., art. V, sec. 44. The legislature does not have any legal capacity to dictate redistricting standards, much less draw a new district map. “[I]n light of the commissions’ independent constitutional authority and purposefully independent design, coupled with the limited role carved out for the legislature, the General Assembly does not have the authority to compel the commissions or their nonpartisan staff to take any action beyond what Amendments Y and Z already require.” *In re Interrogs. on Senate Bill 21-247 Submitted by the Colo. Gen. Assembly*, 2021 CO 37, ¶ 34. But for purposes of argument (and to avoid arguing about the illegality of this measure at this preliminary point in the initiative process), we can assume that the voters can restore the legislature’s ability to draw district lines for temporary periods.

With that assumption in mind, the second subject becomes apparent. The initiative restores districting to the legislature. As the Colorado Supreme Court has expressly held, transferring the authority to draw congressional district lines from one entity to another is its own subject. In *In re Title, Ballot Title, & Submission Clause for 2015-2016 #132*, 2016 CO 55, 374 P.3d 460, a proposed initiative sought to combine all legislative and congressional redistricting in one commission. An essential element of that measure was the transfer of congressional districting from the legislature to an independent commission. “[T]he objective of this aspect of the proposed Initiative is to reallocate constitutional authority and control over congressional redistricting. **Such a reallocation of constitutional power is a separate and discrete objective, and its inclusion in Initiative #132 therefore violates the single subject requirement.**” *Id.* at ¶29 (emphasis added).

Initiative #327 achieves the same objective. It simply does it in reverse by giving the legislature back the power that had been delegated to the Independent Congressional Redistricting Commission. And it does so in tandem with redrawing district lines for the 2028 and 2030 elections.

This is important because, if #327 was adopted at the 2026 election with new district lines specified in statute, the General Assembly could simply amend that statute in the 2027 legislative session to redraw those lines for partisan or any other purposes for the 2028 election. The legislature could redraw district lines to make them very different than the districts that are part of this initiative, given that the power to draw lines would be subject to statutory amendments.

Alternatively, whether it redraws the district map for 2028 or fails to do so, the legislature could amend the statute in 2029 in advance of the 2030 election. It could make close districts in 2028 landslide districts in 2030. Or it could shift the advantage from one party to the other – in a single districts or throughout the state. Either way, legislators, as political insiders, could respond

to political desires of political parties rather than constituent needs. Thus, even a temporary reallocation of this constitutional power is a distinct subject that is inconsistent with the single subject requirement.

Therefore, given the Supreme Court's binding precedent on this point in *In re Title for 2015-2016 #132, supra*, no title can be set for this measure.

C. The third subject: amending the Constitution to allow for mid-decade redistricting.

The question of whether voters want district lines changed at all is a separate subject in this initiative. This is not a prerogative that has been recognized in Colorado to be consistent with then-applicable law. *See generally People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1238-39 (Colo. 2003).

Further, some voters may prize consistency in representation over the possibility of obtaining partisan advantage. Others may prefer the political gamesmanship that even a single mid-decade redistricting facilitates. That fundamental debate is distinct from the questions raised above concerning the specific district lines provided in #327 and the shift back to legislative decision-making as opposed to reliance on the independent redistricting commission.

Put differently, whether there should be mid-cycle redistricting is distinct from the question of what map a voter would approve. A voter could certainly support mid-cycle redistricting but object fundamentally to the map being proposed. Alternatively, a voter could approve of the map being proposed but object vociferously to permitting the General Assembly to pass a different map during the period (2028 and 2030) in which the Commission loses its exclusive jurisdiction over redistricting. These types of differences are even more fundamental than, for example, the questions of whether to allow alcohol delivery and wine in grocery stores that the Supreme Court held to be separate subjects in 2022. *See In the Matter of the Titles, Ballot Titles, and Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, and #128, 2022 CO 37*. That voters can have such fundamental differences over the provisions of #327 demonstrates its multi-subject nature.

Thus, this measure violates the single subject requirement.

II. The title set by the Board violates the clear title requirement.

Initiative #327 asks voters to approve one of the most fundamental components of representative government in America: determining the contours of how their congressional districts are drawn. This boundary-setting process is imbued with complex weighing of competing considerations: how to maintain geographic communities; what communities of interest matter and, once you decide on the communities, how do you weigh their interests; what role should competitiveness or partisan advantage play; how will districts protect minority voting rights; etc. The outcome of this process has significant impacts on national policy, the State of Colorado, and individual voters.

Yet, in asking voters to approve the congressional map in #327, the title tells voters *nothing* about the districts that will be redrawn. There is a complete absence of meaningful information that would permit a voter to decide whether they support or oppose the proposed congressional districts. A voter would not know: in what district they reside, what other parts of the State are in the same district, what is the composition of other districts (i.e., does their district make sense compared to other districts), what the population disparity is between districts, do the districts protect minority voting rights, do the districts reflect any communities of interest, etc. None of the information that voters decided was necessary for the Commission to make informed decisions under Amendment Y or for judicial review is provided to voters by this title. Clearly, the nature of each district is a “central feature” of this proposal, but the title provides no hint to the average voter about what it means for him or her. How, then, is a voter to decide to sign this petition or cast a ballot on this measure? And this matter is no minor detail of the measure; instead, it is its most significant element.

In cases affecting elections in particular, this type of superficial title has been rejected. For example:

[G]enerally stating in a title that the initiative specifies recall and successor election procedures without in any way describing those procedures does not provide sufficient information to allow voters to determine intelligently whether to support or oppose the proposal. This is particularly true when, as here, the initiative proposes to alter existing procedures significantly. So general a title does not allow a voter to understand the effect of a ‘yes/for’ or ‘no/against’ vote and thus does not satisfy the clear title requirement.

In re Title, Ballot Title and Submission Clause for 2015-2016 #73, 2016 CO 24, ¶ 32 (citations omitted). Thus, this title is fundamentally flawed and does not meet the Supreme Court’s test for a legally adequate title.

WHEREFORE, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #327 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 #327** was sent this day, April 22, 2026, via email to:

Scott Gessler
Counsel for proponents

Kyle Holter
Assistant Attorney General

s/ Erin Mohr