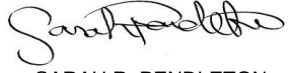


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CHIEF JUSTICE

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SARAH R. PENDLETON
SUPREME COURT CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CLIMATE SOLUTIONS;
WASHINGTON CONSERVATION
ACTION; FRONT AND CENTERED;
WASHINGTON SOLAR ENERGY
INDUSTRIES ASSOCIATION; THE
SIERRA CLUB; WASHINGTON
PHYSICIANS FOR SOCIAL
RESPONSIBILITY; KING COUNTY, a
Washington municipal corporation; CITY
OF SEATTLE, a Washington municipal
corporation; ANTHONY
MASCHMEDT; DWELL
DEVELOPMENT,

Respondents,

v.

STATE OF WASHINGTON;
BUILDING INDUSTRY ASSOCIATION
OF WASHINGTON; ASHLI PENNER,

Appellants.

NO. 104240-0

EN BANC

Filed: September 17, 2026

STEPHENS, C.J.—The people of Washington have the authority to propose and pass legislation through initiative, subject to constitutional limitations. WASH. CONST. art. II, §§ 1, 19. This case concerns Initiative 2066 (I-2066), which was approved by Washington voters in the November 2024 general election. I-2066

impacts Washington law in several ways. It prevents all local governments, and some utilities, from taking any action that discourages or prohibits natural gas; it broadly inhibits the authority of local air quality regulators; it removes several specific zero-emission goals from state law; it rolls back certain decarbonization efforts while also amending the Washington Decarbonization Act for Large Combination Utilities, ch. 80.86 RCW; and it prevents the state building council from taking any action to discourage gas usage or from taking certain actions to promote the transition away from all fossil fuels.

A group called Climate Solutions, joined by several organizations and government entities, challenged the constitutionality of I-2066 under article II, sections 19 and 37 of the Washington Constitution. The King County Superior Court invalidated the initiative in its entirety, holding that it impermissibly encompasses more than one subject, fails to include its subjects in the title, and fails to set forth the laws it amends.

We affirm on narrower grounds. We hold that I-2066 violates the single-subject requirement contained in article II, section 19. Because the provisions that introduce distinct subjects are not severable, I-2066 is unconstitutional in its entirety.

BACKGROUND

In November 2024, Washington voters approved I-2066 with the following ballot title:

Initiative Measure No. 2066 concerns regulating energy services, including natural gas and electrification. This measure would repeal or prohibit certain laws and regulations that discourage natural gas use and/or promote electrification, and require certain utilities and local governments to provide natural gas to eligible customers.

Clerk's Papers (CP) at 636.

The legislative title for I-2066 describes the measure as “AN ACT Relating to promoting energy choice by protecting access to gas for Washington homes and businesses.” CP at 654. I-2066 is 21 pages long and contains 13 sections, which may be grouped into several categories.

First, some sections enact new requirements for entities primarily responsible for delivering and regulating the demand and supply of natural gas—local governments, utility providers, and the Utilities and Transportation Commission (UTC). I-2066 requires these entities to ensure consumers have access to natural gas, regardless of the availability of other energy sources. I-2066, §§ 2-5. It achieves this by enacting new requirements and repealing sections of the Decarbonization Act that would have mandated or incentivized the electrification of Washington's energy infrastructure. *Id.*

Second, some sections regulate the goals and standards governing the Washington State Building Code Council and all new construction across the state. *Id.* §§ 6-8. For example, section 6 removes a stated construction goal from Washington's energy code that was aimed at achieving zero greenhouse gas

emission homes and buildings by 2031. *Id.* § 6(2)-(3). Sections 6, 7, and 8 prevent the state building code council from amending the state energy code or the state building code in any way that would prohibit, penalize, or discourage the use of gas as a form of heating or for appliance or equipment uses. *Id.* §§ 6-8.

Third, I-2066 places broad restrictions on the authority of cities, towns, counties, and local air pollution control agencies. It prevents these local entities from taking any action to prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building. *Id.* §§ 9-11.

Finally, I-2066 amends several existing laws, repealing, for example, the Decarbonization Act's severability clause as well as legislative findings on clean energy, emissions reductions, and electrification. *Id.* § 12.

Climate Solutions and several other entities (collectively Climate Solutions) filed this action in King County Superior Court, alleging that I-2066 is unconstitutional on several grounds. Climate Solutions argued that I-2066 violates the "single-subject" and "subject-in-title" requirements contained in article II, section 19 and silently amends other laws in violation of article II, section 37. The State of Washington, joined by intervenors the Building Industry Association of Washington and Ashli Penner (collectively BIAW), defended the constitutionality of the initiative. The parties filed cross motions for summary judgment.

The trial court granted Climate Solutions’ motion for summary judgment, declaring I-2066 unconstitutional in its entirety on all grounds presented. The State and BIAW appealed directly to our court, and we granted review.¹

ANALYSIS

Unlike Congress, whose powers must be enumerated in the United States Constitution, state legislatures possess broad, plenary police power, with our state constitution placing express restraints on that power. THOMAS M. COOLEY, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION 207 (5th ed. 1883); *State v. Gunwall*, 106 Wn.2d 54, 66, 720 P.2d 808 (1986) (“[O]ur state constitution imposes *limitations* on the otherwise plenary power of the state to do anything not expressly forbidden by the state constitution or federal law.”). The people’s legislative power to enact law through popular initiative is subject to the same constitutional restraints as applied to bills passed by the legislature. WASH. CONST. art I, § 1 (“All political power is inherent in the people.”); *City of Burien v. Kiga*, 144 Wn.2d 819, 824, 31 P.3d 659 (2001) (“In approving an initiative measure, the

¹ We accepted amici briefs from several organizations and elected officials: Associated Builders and Contractors of Western Washington et al.; former Governor Jay Inslee, Senator Rebecca Saldaña, Representative Beth Doglio, and Representative Joe Fitzgibbon (collectively Officials); Heating, Air Conditioning, and Refrigeration Distributors International; Master Builders Association of King and Snohomish Counties; Northwest Hearth, Patio & Barbecue Association; Physicians for Social Responsibility et al.; Washington Aggregates & Concrete Association; Washington Food Industry Association et al.; Association of Washington Business; and Washington State Building Code Council.

people exercise the same power of sovereignty as the Legislature when enacting a statute.”).

Article II, section 19 is among the constitutional provisions that operate to restrain the legislature’s otherwise plenary power. *Union High Sch. Dist. No. 1 v. Taxpayers of Union High Sch. Dist. No. 1*, 26 Wn.2d 1, 7, 172 P.2d 591 (1946). It provides that “[n]o bill shall embrace more than one subject, and that shall be expressed in the title.” WASH. CONST. art II, § 19. This provision contains “two distinct prohibitions.” *Amalg. Transit Union Loc. 587 v. State*, 142 Wn.2d 183, 207, 11 P.3d 762 (2000). The first is that “no bill shall embrace more than one subject,” and the second is that “no bill shall have a subject that is not expressed in the title.” *Lee v. State*, 185 Wn.2d 608, 620, 374 P.3d 157 (2016). We generally refer to the first as the “single-subject” requirement and the second as the “subject-in-title” requirement.

This limitation on legislative power “protect[s] serious constitutional interests,” and its purposes are “threefold.” *Patrice v. Murphy*, 136 Wn.2d 845, 851, 966 P.2d 1271 (1998); *State ex rel. Wash. Toll Bridge Auth. v. Yelle*, 32 Wn.2d 13, 24, 200 P.2d 467 (1948). First, it prevents “logrolling,” the impermissible practice of attaching unpopular provisions addressing one subject to more popular, but unrelated, provisions to increase their likelihood of enactment. *Garfield County Transp. Auth. v. State*, 196 Wn.2d 378, 387, 473 P.3d 1205 (2020); *see also* COOLEY,

supra, at 172 (describing the practice of “logrolling” as “one both corruptive of the legislator and dangerous to the State”). Second, it prevents hidden subjects from being enacted into law without being properly scrutinized by those responsible for their enactment. *Garfield*, 196 Wn.2d at 387. Relatedly, it serves the broader interest of political transparency by allowing the public to understand and engage with the contents of proposed laws, whether they be initiatives or bills introduced in the legislature. *Id.*

I. The Constitutionally Permissible Scope of a Legislative “Subject” Is Broad but Not Unlimited

Our constitutional single-subject inquiry begins by determining whether a measure’s title is “general or restrictive,” and the subsequent analysis of its subject is guided by this determination. *Filo Foods, LLC v. City of SeaTac*, 183 Wn.2d 770, 782, 357 P.3d 1040 (2015). We look first at the wording of the ballot title, but we examine the measure in its entirety to ensure it embraces only a single subject. *State ex rel. Wash. Toll Bridge Auth. v. Yelle*, 61 Wn.2d 28, 32, 377 P.2d 466 (1962) (examining whether legislation contained only its “general subject in *both* the title . . . and in the body of the act” (emphasis added)). A general title is “broad, comprehensive, and generic as opposed to a restrictive title that is specific and narrow.” *Kiga*, 144 Wn.2d at 825. We liberally construe general titles, recognizing the need for legislation to encompass incidental topics so long as there is ““some

rational unity between the general subject and the incidental subdivisions.” *Wash. Ass’n for Substance Abuse & Violence Prevention v. State*, 174 Wn.2d 642, 656, 278 P.3d 632 (2012) (internal quotation marks omitted) (quoting *State v. Grisby*, 97 Wn.2d 493, 498, 647 P.2d 6 (1982)). Still, liberal construction is not a rubber stamp, and we have invalidated several enactments with general titles when they encompassed more than one subject. *Amalg. Transit Union*, 142 Wn.2d at 217 (holding that an initiative with a general title violated article II, section 19 because “there is no rational unity between the subjects”); *Garfield*, 196 Wn.2d at 387 (“[W]e do not shirk from our responsibility to enforce the constitution’s mandates.”).

In examining the relationship among the provisions of a bill or initiative, our “rational unity” inquiry requires there be unity “among *all* matters included within the measure and the general topic expressed in the title.” *Kiga*, 144 Wn.2d at 826 (emphasis added); *Amalg. Transit Union*, 142 Wn.2d at 212 (“[R]egardless of what is in the *Voters Pamphlet* or the history of the initiative, the rational relationship inquiry centers on what is in the measure itself, i.e., whether the measure contains unrelated laws.”). It is not sufficient that all provisions rationally relate to the general title; there must also be rational unity among the provisions. Stated differently, the single-subject requirement in article II, section 19 demands both horizontal rational unity, i.e., all provisions rationally relate to one another, and vertical rational unity, i.e., each provision rationally relates to the general title. *See*,

e.g., *Barde v. State*, 90 Wn.2d 470, 472, 584 P.2d 390 (1978) (holding a legislative enactment violated article II, section 19 because two provisions did not share rational unity despite nominally appearing to “both relate to personal property”); *Amalg. Transit Union*, 142 Wn.2d at 217 (invalidating an initiative because it contained “no rational unity between the subjects” and “neither subject is necessary to implement the other”).

Here, the parties do not dispute that I-2066’s title is general in nature. CP at 640; Resp’ts’ Br. at 20; Br. of Appellants-Intervenors BIAW at 20; Br. of Appellant State of Wash. at 17-19. We agree, as the title is sufficiently “broad, comprehensive, and generic” to be categorized as general. *Kiga*, 144 Wn.2d at 825. To satisfy the requirements of article II, section 19, all of I-2066’s provisions must have horizontal rational unity with one another and vertical rational unity with its general title. Rational unity involves a fact-specific inquiry, and our prior applications of the rule are instructive.

We have often found it permissible for legislation containing a general title to regulate incidental subjects within a larger subject. For example, an initiative did not violate the single-subject requirement when it addressed two distinct methods of “trapping and killing mammals” because each method had rational unity with the others and with the general title. *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 639, 71 P.3d 644 (2003). Another initiative permissibly contained

a provision repealing a law that authorized certain deductions by state employees for political committee donations. *Wash. Fed’n of State Emps. v. State*, 127 Wn.2d 544, 548, 901 P.2d 1028 (1995). We found a “rational nexus” between this provision and the ballot’s general title² because its primary purpose was to “eliminate[] one method of making contributions to political committees” and, by extension, political campaigns. *Id.* at 557. We determined that repealing this authorization was reasonably related to the subject of limiting campaign contributions. More generally, we have reasoned that provisions necessary to the implementation of one another are generally rationally related. *See Wash. Ass’n of Neigh. Stores v. State*, 149 Wn.2d 359, 370, 70 P.3d 920 (2003), *abrogated in part on other grounds by Filo Foods*, 183 Wn.2d at 782 n.4; *cf. Citizens for Responsible Wildlife*, 149 Wn.2d at 638 (“An analysis of whether the incidental subjects are germane to one another does not necessitate a conclusion that they are necessary to implement each other, although that may be one way to do so.”).

History and context matter. When the legislature has historically paired issues together in legislation, that past practice provides strong evidence of horizontal rational unity for single-subject purposes. *Wash. Ass’n for Substance Abuse*, 174 Wn.2d at 657. For example, this court found no single-subject violation in an

² The ballot title in that case asked, ““Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?”” *Wash. Fed’n of State Emps.*, 127 Wn.2d at 555 (quoting court papers).

initiative that earmarked general public safety funds for use by local governments as part of a broader enactment regulating liquor because “liquor has an obvious connection to broader public safety concerns than might feasibly be addressed by a more limited earmark.” *Id.* (determining that “the legislature’s recognition of the relationship between liquor regulation and public welfare supports [the] finding that these issues share rational unity”). Thus, while the subject of public safety could be seen as distinct from liquor regulation, in this historical context, rational unity was present because the legislature had long regulated those two subjects together.

Finally, our rational unity analysis considers the substance of legislation. We give latitude to precatory language in policy expressions (“policy fluff”), even when it is unrelated to the title or to other provisions because such provisions are not legally operative. *Pierce County v. State*, 150 Wn.2d 422, 435-36 78 P.3d 640 (2003) (“[P]recatory language cannot yield additional ‘subjects’ for article II, section 19 purposes.”).

In considering past bills and initiatives, we have consistently concluded that enactments violate the single-subject requirement when their provisions have distinct regulatory effects because of the lack of rational unity between such provisions. For example, we invalidated an initiative that contained separate provisions for both a one-time action (authorization to build a road) and a broader systematic change in the law (establishing and operating a system of toll roads).

Wash. Toll Bridge Auth. v. State, 49 Wn.2d 520, 521-25, 304 P.2d 676 (1956). Similarly, in *Kiga*, we invalidated an enactment that combined a one-time nullification and refund of taxes with systematic changes to the property tax assessment system. 144 Wn.2d at 827. We noted that “[t]he broad language of the repeal and refund provision effectively implicates utility charges, hospital charges, housing authority rents, city moorage rates, park district admissions, port district cold storage charges, and numerous other ‘monetary charges.’” *Id.* Though the provision was a one-time action, its effects were far more widespread than the ongoing, focused changes the initiative made to the way in which property taxes were to be assessed. *Id.*; see also *Citizens for Responsible Wildlife*, 149 Wn.2d at 637 (noting that when one provision is “more broad, long term and continuing than the other, [it] suggests logrolling may be at issue”).

Our analysis further considers purpose in identifying legislative subjects. In *Amalgamated Transit Union*, we invalidated an initiative that had “two purposes: to specifically set license tab fees at \$30 and to provide a continuing method of approving all future tax increases.” 142 Wn.2d at 217. One provision repealed a tax as the means through which to implement \$30 license tab fees while the other created a voter approval requirement for future taxes. Both provisions nominally involved taxes, but we recognized that the enactment’s two purposes lacked what may be called horizontal rational unity because their primary purpose differed substantially.

See id. at 216-17 (“Further, neither [provision] is necessary to implement the other.”).

Finally, in *Garfield*, we held that enactments joining together separate provisions with unrelated local and statewide effects lack horizontal rational unity. 196 Wn.2d at 397. Specifically, we determined that an initiative limiting vehicle taxes and fees violated the single-subject rule by also including an errant specific directive requiring Sound Transit to retire, refinance, or sell certain bonds. *Id.* at 393. We concluded that the specific directive to a “single regional transportation district” added a separate subject to provisions with otherwise statewide effects on motor vehicle excise taxes. *Id.* at 396-97 (describing the single-subject problem as “combining a requirement to retire, defease, or refinance existing bonds that secure a specific existing project with more general statutory changes”).

II. I-2066 Violates the Single-Subject Requirement Contained in Article II, Section 19 of the Washington Constitution

This matter is before us on review of the superior court’s order granting summary judgment to Climate Solutions and invalidating I-2066. We review a trial court’s grant of summary judgment de novo. *Id.* at 386. We presume initiatives, as legislative enactments, are constitutional and the challenger must convince the court with “argument and research” that “after a searching legal analysis, . . . the statute

violates the constitution.”³ *Island County v. State*, 135 Wn.2d 141, 147, 955 P.2d 377 (1998); *Garfield*, 196 Wn.2d at 386. Rules of statutory construction apply to initiatives, and the court’s purpose is to discern and effectuate the intent of the voters “acting in their legislative capacity.” *Amalg. Transit Union*, 142 Wn.2d at 205. We read initiatives to the people “as the average informed lay voter would read them,” giving words their ordinary meaning and avoiding technical or specialized legal constructions. *Garfield*, 196 Wn.2d at 386. As with statutes enacted by the legislature, it is not our role to substitute our perceived “‘better judgment’” for that of the voters, and, just as importantly, we will not strain to construe otherwise unconstitutional enactments as valid based on policy preferences. *Amalg. Transit Union*, 142 Wn.2d at 206 (quoting *Fritz v. Gorton*, 83 Wn.2d 275, 287, 517 P.2d 911 (1974)).

Drawing on our precedent and the principle expressed in the single-subject requirement of article II, section 19, we consider the specific provisions of I-2066. While the parties agree that I-2066 bears a general title, they do not agree on what

³ At times, we have described the standard of review as requiring a challenger to demonstrate that a statute is unconstitutional “beyond a reasonable doubt.” This is not an evidentiary standard but rather a “reflection of ‘respect for the legislature’” insofar as duly enacted legislation is a direct expression of the people’s will. *Quinn v. State*, 1 Wn.3d 453, 471 n.9, 526 P.3d 1 (2023) (quoting *Sch. Dists.’ All. for Adequate Funding of Special Educ. v. State*, 170 Wn.2d 599, 606, 244 P.3d 1 (2010)). “‘Beyond a reasonable doubt’ in this context merely means that . . . we will not strike a duly enacted statute unless we are ‘fully convinced, after a searching legal analysis, that the statute violates the constitution.’” *Sch. Dists.*, 170 Wn.2d at 606 (quoting *Island County v. State*, 135 Wn.2d 141, 147, 955 P.2d 377 (1998)).

constitutes the initiative's subject. The State formulates the subject as protecting natural gas access and use, while BIAW argues that the initiative has a broader subject, "preserving energy choice," which encompasses the State's formulation of the subject. The State and BIAW argue that both of their proposed subjects encompass incidental subjects designed to ensure demand for and supply of natural gas. Climate Solutions disagrees, arguing that "I-2066 combines at least six distinct subjects," which include natural gas access but also "air pollution regulation, building codes, and utility ratemaking, [while also] reshaping policies for fossil fuels of all types." Resp'ts' Br. at 22-23.

We have long recognized that though it is permissible for initiatives with general titles to encompass incidental subjects, this flexibility is not unlimited. I-2066 regulates several discrete subjects because it includes provisions with substantially distinct regulatory effects, e.g., requiring statewide natural gas access and use, limiting local authority over air quality standards, amending statewide building codes, and repealing the Decarbonization Act's severability clause. These distinct subjects encompass a wide range of issues through provisions with distinct regulatory effects, resulting in a lack of rational unity under article II, section 19.⁴

⁴ Justice Mungia's dissent describes the "first step in the rational unity analysis [as] examining the subject expressed in the initiative's title and its scope." Dissent at 7. Our precedent holds otherwise, recognizing that article II, section 19 requires all provisions of an enactment to share rational unity with one another *and* with the enactment's general title. *See, e.g., Barde*, 90 Wn.2d at 472 (finding that the provisions did not rationally relate to one another and thus the

First, I-2066 ensures that natural gas must be accessible to any consumer who wants to use it as an energy source. Sections 2, 3, and 4 of the initiative require gas companies, large combination utilities, and certain cities or towns to provide natural gas to eligible consumers in their service areas while simultaneously preventing UTC from approving rate plans that might act to restrict such access. This affirmative responsibility is broad in its application but narrow in its subject matter. Put simply, it seeks to ensure a steady supply of natural gas by directly regulating the entities responsible for its delivery to consumers.

Second, section 11 of I-2066 addresses the subject of air quality by adding a provision to Washington’s Clean Air Act, ch. 70A.15 RCW, that prohibits air pollution control agencies from “in any way prohibit[ing], penaliz[ing], or discourag[ing] the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.” CP at 674-75. The State and BIAW frame the changes to Clean Air Act emission goals as necessary to remove impediments to natural gas demand and supply, but this is belied by the fact that these amendments have distinct primary purposes and far-reaching effects. As amici point out, “Under the Initiative’s amendment, local authorities may no longer implement any of Ecology’s emissions standards relating to gas in buildings as any such standards may

enactment violated the single-subject rule); *Amalg. Transit Union*, 142 Wn.2d at 217 (same). Determining whether such rational unity exists necessitates looking at both the general title and the body of the law at issue.

be deemed to ‘discourage’ the use of gas.” Br. of Amici Curiae Offs. at 33-34. Another amici’s brief explains how “[a]ppliances that burn gas also release multiple other air pollutants, including nitrogen dioxide (NO₂), carbon monoxide (CO), fine particulate matter (PM_{2.5}), ultrafine particulate matter (UFP), and carcinogens such as formaldehyde, benzene, and toluene, which are hazardous air pollutants.” Amicus Curiae Br. of Physicians for Soc. Responsibility et al. at 7-8. Section 11’s primary effect is that an air pollution control agency is powerless to prevent the health effects of any emissions that are produced by any appliance, system, or building that might conceivably burn gas. This restraint creates a glaring loophole in the Clean Air Act by substantially limiting the authority of enforcement entities to regulate air quality in any manner that could “in any way” discourage the use of gas. While BIAW argues that the legislature has a long history of regulating the supply and demand of energy in one piece of legislation, they fail to identify examples of the legislature regulating the demand and supply of energy together with substantial restraints on the authority of air pollution control agencies. Instead, they rely on an overly broad construction of demand and supply to include such subjects in its ambit.

Air pollution control agencies are not, however, responsible for regulating or controlling the demand and supply of energy. Instead, their actions only incidentally affect an individual’s right to burn natural gas—and any other fossil fuel—through the imposition of regional air quality standards. Like in *Barde*, the fact that two

provisions are nominally related does not mean that they share the required horizontal rational unity. 90 Wn.2d at 472 (noting that while two provisions “both relate[d] to personal property” and thus shared a nominal similarity, there was no rational unity between them because the direct operative effect of each provision differed); *see also Amalg. Transit Union*, 142 Wn.2d at 217 (finding two provisions lacked rational unity because of their distinct regulatory effects even though both nominally dealt with taxes). We agree with Climate Solutions that if air quality standards fall within the scope of regulating demand and supply, then “virtually any provisions that inconvenience or increase the cost of natural gas—taxes on gas appliances, workplace or pipeline safety rules, consumer protection disclosures about carbon monoxide risks, or even zoning setbacks for gas infrastructure—could be swept into the same measure.” Resp’ts’ Br. at 26. Article II, section 19 demands rational unity among a measure’s provisions and does not contemplate so broad a scope. Because Section 11’s targeted and total restraint on the authority of local air quality regulators to regulate all fossil fuels has a distinct primary purpose from regulating the demand and supply of energy, as well as broader effects, it introduces a separate subject.

Third, I-2066 repeals zero-emissions goals in the state energy code and restricts the state building code council from taking any action to limit access to gas. Specifically, section 6 repeals sections of the “Washington State Energy Code” that

were designed to “help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings.” CP at 671 (striketrough omitted). It also prohibits statewide energy and building codes from enacting provisions or taking actions that “in any way prohibit, penalize, or discourage the use of gas.” *Id.* The primary regulatory effect of these provisions is to broadly limit the authority of Washington’s statewide building code council and to require statewide changes to construction standards, a constitutionally distinct subject from requiring local entities to provide natural gas and restricting the authority of local air quality regulators.

Finally, I-2066 amends the Decarbonization Act, including by repealing its severability clause. The State and BIAW argue that repealing a severability clause does not introduce a separate subject because such a change lacks any legal effect. We disagree. The repeal of a severability clause is not the same as mere “policy fluff,” which does not create a distinct subject. *Pierce County*, 150 Wn.2d at 435-36. A policy statement lacks legal effect by definition. *Id.* In contrast, a severability clause has a clear legal effect, and it is immaterial that “[s]everability clauses become relevant only after a court holds ‘invalid’ one or more provisions of a larger act.” Reply Br. of Appellants-Intervenors BIAW at 11 (quoting *Amalg. Transit Union*, 142 Wn.2d at 228). A severability clause plays a role in our assessment of whether a statute constitutes an integrated whole or comprises severable parts and thus has

legal effect. *El Centro De La Raza v. State*, 192 Wn.2d 103, 132, 428 P.3d 1143 (2018) (plurality opinion) (“[W]hen legislation includes a severability clause, it ‘provide[s] the necessary assurance that the Legislature would have enacted the appropriate sections of the legislation despite the unconstitutional sections.’” (second alteration in original) (quoting *Gerberding v. Munro*, 134 Wn.2d 188, 197, 949 P.2d 1366 (1998))). All provisions of an initiative must share horizontal rational unity with one another and vertical rational unity with the general subject. *Kiga*, 144 Wn.2d at 826. Repealing the Decarbonization Act’s severability clause lacks rational unity with the other subjects we have identified because it has a distinct regulatory purpose.

III. I-2066 Is Not the Unique Type of Comprehensive “Omnibus Legislation” Addressed in In Re Boot

In an effort to justify I-2066’s wide-ranging provisions, the State and BIAW point to cases where the “Legislature [has] found it necessary to combine diverse provisions into a single omnibus act to address *a single problem in a comprehensive way*.” *In re Boot*, 130 Wn.2d 553, 568, 925 P.2d 964 (1996) (emphasis added) (holding that a 213-page bill with 190 sections did not violate the single-subject requirement). We take this opportunity to clarify that article II, section 19 does not contain an explicit exception for omnibus legislation. Rather, all provisions of a bill or initiative must have “rational unity” to the general subject and to one another.

However, given the fact-specific nature of our single-subject inquiry, whether diverse provisions in omnibus legislation have rational unity depends on the breadth of the problem and the comprehensive nature of the effort required to address it.

In re Boot examined an amendment to the Basic Juvenile Court Act, enacted as part of the omnibus violence prevention act of 1994. LAWS OF 1994, 1st Spec. Sess., ch. 7. This enactment covered “a number of issues, including public health, community networks, firearms and other weapons, public safety, education, employment, and media.” *In re Boot*, 130 Wn.2d at 565-66. We held that while the Act “covers a variety of subjects,” these subjects share rational unity because the “Legislature found it necessary to combine diverse provisions into a single omnibus act to address a single problem,” violence prevention, “in a comprehensive manner.” *Id.* at 566, 568. Because the problem to be addressed was broadly described and comprehensively addressed, the bill was consistent with the single-subject requirement of article II, section 19. Similarly, in *Doriot v. State*, the Court of Appeals held that in crafting legislation in the face of a complex, multifaceted problem such as transportation resources, the legislature could rationally use a comprehensive approach incorporating diverse incidental subjects aimed at directly addressing that problem. 32 Wn. App. 2d 770, 774, 783, 561 P.3d 1208 (2024) (finding a 121-page omnibus transportation bill did not violate article II, section 19, because it “reflects the legislature’s effort to address a single problem, transportation

resources, in a comprehensive manner”). Indeed, we have found omnibus legislation to be consistent with the single-subject requirement precisely because it *comprehensively* tackles a single problem in contrast to legislation addressing *only a specific part of a problem* that does not rationally incorporate such diverse and attendant subjects.

I-2066 is not omnibus legislation under our precedent because it does not address “a single problem . . . in a comprehensive manner.” *In re Boot*, 130 Wn.2d at 568. Even if we accept BIAW’s contention that the broad issue I-2066 seeks to address is “preserving energy choice,” Br. of Appellants-Intervenors BIAW at 1, the measure is nowhere near as comprehensive as the violence prevention enactment in *In re Boot* or the transportation legislation in *Doriot*. Rather, in patchwork fashion, I-2066 sets out several discrete policy measures, with sections that govern the provision and use of natural gas by utilities, remove zero-emission goals, restrict local government authority, and enact statewide reforms to building and energy codes. These sections operate separately and do not comprehensively regulate energy choice for the people of Washington. Even if we were to narrow the scope of the issue I-2066 addresses and accept the State’s contention that the initiative seeks only to protect natural gas access and use, I-2066 still does not comprehensively address this issue. For example, I-2066 restricts local government, utility, and local air pollution control authority over natural gas supply and

emissions, but it does not address the statewide regulation of natural gas supply and demand.

Instead, I-2066’s diverse provisions enact distinct policies with discrete regulatory effects and therefore do not share rational unity as “omnibus legislation.” Because I-2066 combines them in one initiative, we find that it violates the single-subject rule contained in article II, section 19.

IV. It Is Impossible To Sever the Provisions of I-2066 That Violate the Single-Subject Rule, and Therefore the Entire Initiative Is Unconstitutional Under Article II, Section 19

I-2066 is not amenable to severance, despite the initiative drafters’ inclusion of a severability clause. I-2066, § 13. The situation presented is similar to prior cases in which we have recognized that the constitution does not allow courts to choose between subjects lacking rational unity and the single-subject violation required invalidating the measure in its entirety.⁵ For example, in *Power, Inc. v. Huntley*, we examined legislation that made a variety of new appropriations while

⁵ In dissent, Justice Mungia agrees that subsection 12(5) is a constitutionally distinct subject but would sever it from the rest of I-2066. It is unclear on what basis the dissent can confidently conclude that the constitutionally distinct subject located in subsection 12(5) is not “equal and distinct” such that “a court can clearly tell that the bulk of the initiative would have passed absent subsection 12(5).” Dissent at 29. The dissent’s choice to elevate one constitutional subject over another places the court in the position of supplanting the role of voters based on its own assessments of a subject’s primacy, despite the fact that “[i]t is still impossible to determine how many people voted for one provision and how many for the other.” *Lee*, 185 Wn.2d at 627.

also enacting a new corporate income tax. 39 Wn.2d 191, 192-93, 235 P.2d 173 (1951). We found the legislation void in its entirety because “both the title and the body of the act embrace[d] two unrelated subjects” and it was impossible to determine which of the two subjects the legislature would have enacted on their own merits. *Id.* at 198-201 (quoting *Jackson v. State ex rel. S. Bend Motor Bus Co.*, 194 Ind. 248, 259, 142 N.E. 423 (1924)) (“We have here a situation in which neither the appropriation bill . . . nor the corporation income tax bill . . . standing on its own merits, could pass the legislature in the special session.”). This conclusion made it unnecessary to decide whether either of the bill’s two subjects could be severed if they did not share rational unity with the title.

Similarly, in *Kiga*, we declined to examine the title to determine whether either of the initiative’s separate subjects could be severed and saved, noting that it was “impossible for the court to assess whether either subject would have received majority support if voted on separately[, and so] the entire initiative must be voided.” 144 Wn.2d at 825; *accord Lee*, 185 Wn.2d at 627 (finding a single-subject violation rendered the initiative void in its entirety without reaching additional constitutional arguments because “[i]t is . . . impossible to determine how many people voted for one provision and how many for the other”). This line of reasoning applies here and accords with our general approach to severability that is faithful to the antilogrolling principles underpinning article II, section 19.

Kiga did not conduct a severability analysis, however, and we conduct one here to demonstrate why it is impossible to determine which of I-2066’s distinct subjects would have received majority support from the voters. In conducting this analysis, we carefully examine invalid provisions to determine whether they can be severed from the remainder of the enactment. We ask whether “the legislative body would have passed one without the other,” and if the “elimination of the invalid part would render the remaining part useless to accomplish the legislative purposes.” *Amalg. Transit Union*, 142 Wn.2d at 227-28; *League of Women Voters of Wash. v. State*, 184 Wn.2d 393, 410-11, 355 P.3d 1131 (2015). A severability clause provides some assurance that a law is intended to be severable, but it is not dispositive in our analysis. *Amalg. Transit Union*, 142 Wn.2d at 228. We may sever unconstitutional provisions when “(a) the objectionable portions are severable in a way that a court can presume the enacting body would have enacted the valid portion without the invalid portion, and (b) elimination of the invalid part would not render the remainder of the act incapable of accomplishing the legislative purpose.” *State v. Broadaway*, 133 Wn.2d 118, 128, 942 P.2d 363 (1997); *El Centro De La Raza*, 192 Wn.2d at 133 (finding a provision that violated article II, section 37 severable because it “stands alone as a separate section of the [a]ct, it is the only provision that addresses the collective bargaining rights of noncertified employees, and there is no evidence the legislature would not have passed the [a]ct without it”). Applying these

principles, we have found legislative purpose is frustrated if severing the violative provisions would require the court to conduct a “drastic rewrite of the statute” as that is a “legislative task.” *In re Parentage of C.A.M.A.*, 154 Wn.2d 52, 67-69, 109 P.3d 405 (2005); *see also Amalg. Transit Union*, 142 Wn.2d at 256 (striking down an initiative in its entirety, in part because it violated “several state constitutional provisions”).

Here, I-2066 contains four constitutionally distinct subjects and a severability clause. It is impossible for us to assess which of these four subjects, if any, would have received majority support had they been presented alone at the November 2024 general election. The title does not provide much guidance and moreover, the title is not dispositive in this determination because we must presume voters read and enacted the measure in its entirety. *Sane Transit v. Sound Transit*, 151 Wn.2d 60, 71, 85 P.3d 346 (2004). I-2066’s severability clause does not aid our analysis because deciding which subject or subjects to sever from the initiative would improperly require us to characterize one of I-2066’s several subjects as primary and others as secondary. Such an exercise goes beyond the bounds of judicial construction and constitutional interpretation.

As we have repeatedly affirmed in our severability jurisprudence, “unless we conclude the legislature would have passed the statute absent the unconstitutional provisions, the proper remedy is complete . . . invalidation.” *C.A.M.A.*, 154 Wn.2d

at 67. In this case, it is impossible to determine which of I-2066’s distinct subjects, if any, the voters would have passed standing on their own merits. Therefore, to avoid “a drastic rewrite of the statute by the court,” we hold I-2066 unconstitutional in its entirety. *Id.* at 69.

CONCLUSION

Article II, section 19 forbids combining separate subjects in a single bill or initiative, requiring instead that distinct subjects be enacted separately to protect against unconstitutional logrolling and to ensure transparency in the legislative process. I-2066 violates this single-subject rule because it includes several provisions with markedly distinct purposes and regulatory effects, embracing four distinct subjects. It is not possible by judicial construction to sever and save any of the separate provisions and therefore I-2066 is unconstitutional in its entirety. We affirm the superior court on this narrow ground under the single-subject rule contained in article II, section 19 and decline to reach the additional constitutional arguments raised by the parties.

Stephens, C.J.
Stephens, C.J.

WE CONCUR:

Whitener J.
Whitener, J.

González, J.
González, J.

Melody, J.
Melody, J.

Montoya-Lewis, J.
Montoya-Lewis, J.

Madsen, J.P.T.
Madsen, J.P.T.

No. 104240-0

MUNGIA, J. (dissenting)—The first power that the people of this state reserved for themselves was the power to enact laws through the initiative process. CONST. art. II, § 1. The sanctity of this power is not something courts should simply give lip service to or gloss over. It is an important, fundamental, and cherished constitutional right that Washingtonians hold.

When the people of this state disagree with a law that the legislature has enacted, they have the power to restrict the legislative act so long as the restriction complies with our state constitution. Our courts have an obligation to interpret initiatives in a way that sustains their validity when possible, and not in a way that will render them unconstitutional.

That is the dispute here.

In 2024, the legislature enacted the Washington Decarbonization Act for Large Combination Utilities, ch. 80.86 RCW. The Act would begin to phase out the use of natural gas in this state. Shortly after the Act took effect, the people gathered sufficient signatures to put Initiative 2066 (I-2066) on the ballot. The initiative passed.

I-2066 did not seek to repeal the Decarbonization Act. Instead, the goal was to ensure that Washingtonians' access to natural gas would continue. Whether the courts agree that the people made a prudent policy choice or not does not factor into the analysis as to whether I-2066 complies with constitutional requirements. What does enter the analysis and, in fact, should be the lens through which courts determine whether an initiative is constitutional, is that our review starts with the presumption that the law is constitutional and that its language will be construed to uphold its validity, if possible.

I would hold that I-2066 meets constitutional requirements so long as sections 9, 10, 11, and subsection 12(5) are severed.

I accordingly dissent.

I

A LAW PASSED BY INITIATIVE MUST MEET CONSTITUTIONAL REQUIREMENTS. COURTS WILL CONSTRUE THE INITIATIVE IN FAVOR OF FINDING IT CONSTITUTIONAL

In our constitution, the people of this state kept for themselves the power to directly pass laws and to overturn laws passed by the legislature.

[T]he people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

CONST. art. II, § 1.

When analyzing the constitutionality of a law enacted through the initiative process, courts start with the presumption that the law satisfies those requirements. *Lee v.*

State, 185 Wn.2d 608, 619, 374 P.3d 157 (2016). To overcome that presumption, a party challenging the constitutionality of a law has the burden of demonstrating that the law violates the state constitution. *Amalg. Transit Union Loc. 587 v. State*, 142 Wn.2d 183, 205, 11 P.3d 762 (2000) (*ATU*). In fact, we have held that the challenging party must prove beyond a reasonable doubt that the law is unconstitutional.¹ *Id.* While we have used the term “beyond a reasonable doubt” in our prior cases when analyzing the constitutionality of initiative-passed law, that term is more aptly used to describe the burden of proof the State bears when seeking a criminal conviction. Even though the phrase itself likely should not be used here, the essence of what is being conveyed should. In short, any challenger has the burden of clearly and definitively proving that the challenged initiative does not meet constitutional requirements while all presumptions and interpretations go in favor of maintaining the constitutionality of the initiative.

All laws, whether enacted legislatively or by initiative, must comply with Washington Constitution article II, sections 19 and 37. Section 19 requires:

No bill shall embrace more than one subject, and that shall be expressed in the title.

CONST. art. II.

¹ We have held that a challenger proves a statute is unconstitutional “beyond a reasonable doubt” by fully convincing the court with legal analysis that the statute violates the constitution. *Sch. Dists. ’All. for Adequate Funding of Special Educ. v. State*, 170 Wn.2d 599, 606, 244 P.3d 1 (2010). The meaning of the phrase “beyond a reasonable doubt” is much different in this context than it is in the context of the State’s burden of proof in a criminal case. In this context, the standard is not evidentiary. *Quinn v. State*, 1 Wn.3d 453, 471 n.9, 526 P.3d 1 (2023).

Section 37 provides:

No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length.

Id.

Climate Solutions challenges the constitutionality of I-2066 by asserting that it violates article II, sections 19 and 37. The majority does not opine as to whether I-2066 violates article II, section 19's subject-in-title requirement or article II, section 37's silent amendment provision. Instead, the majority concludes that I-2066 violates article II, section 19's single-subject rule, and, therefore, it strikes down the entire initiative as unconstitutional.

I would hold that all of I-2066 complies with article II, section 19's requirements (except subsection 12(5)) and that most of the sections comply with article II, section 37. For the sections that do not comply with the constitutional requirements, they can be severed and the remainder of I-2066 can be upheld as constitutional.

II

I-2066 COMPLIES WITH ARTICLE II, SECTION 19'S SUBJECT-IN-TITLE REQUIREMENT BY GIVING VOTERS NOTICE OF THE CONTENTS OF THE INITIATIVE

Article II, section 19 has two prohibitions: (1) the title cannot contain more than one subject and (2) the act cannot contain subjects that are not expressed in the title. *Lee*, 185 Wn.2d at 620. The first is known as the "single-subject requirement" and the second is known as the "subject-in-title requirement."

Starting with the subject-in-title requirement, an initiative's ballot title should include a subject statement, concise description, and the question of whether the measure should be enacted into law. RCW 29A.72.050(1). To comply with article II, section 19, the title must give voters notice of the scope and purpose of the law or prompt voters to inquire into the body of the act. *Garfield County Transp. Auth. v. State*, 196 Wn.2d 378, 398, 473 P.3d 1205 (2020). However, given there is a 30-word limit for ballot titles and an even more restrictive 10-word limit for the subject statement, the title is not required to be an index or to give details about the proposed act. *Id.*; RCW 29A.72.050(1).

In determining the constitutionality of an initiative, courts will liberally construe the initiative's title. *Pierce County v. State*, 150 Wn.2d 422, 436, 78 P.3d 640 (2003). Courts will hold that an act is unconstitutional based on a subject-in-title challenge only if the issue involving the title is consequential. *Id.*

In this case, the Washington State Attorney General's Office prepared I-2066's title. That title was challenged. As a result, the superior court drafted the following substitute ballot title:

Initiative Measure No. 2066 concerns regulating energy services, including natural gas and electrification.

This measure would repeal or prohibit certain laws and regulations that discourage natural gas use and/or promote electrification, and require certain utilities and local governments to provide natural gas to eligible customers.

Should this measure be enacted into law?

Clerk's Papers at 138 (formatting omitted). By its terms, the title informs voters that the measure would

- repeal certain laws and regulations that discourage the use of natural gas;
- prohibit certain laws and regulations that discourage the use of natural gas;
- repeal certain laws and regulations that promote electrification;
- prohibit certain laws and regulations that promote electrification; and
- require certain utilities, companies, and local governments to provide natural gas to eligible users.

The ballot title is adequate to inform the average voter of the scope and purpose of the law or, at the very least, lead inquiring minds to look further into the body of the act. The title captures the subject of the act and its contents. I would hold that I-2066 meets the subject-in-title requirements.

III

IN ANALYZING WHETHER AN INITIATIVE COMPLIES WITH ARTICLE II, SECTION 19'S SINGLE-SUBJECT RULE, COURTS MUST EXAMINE WHETHER THE SUBJECTS INCLUDED IN AN INITIATIVE HAVE SOME RATIONAL CONNECTION TO THE INITIATIVE'S TITLE AND SOME RATIONAL CONNECTION WITH EACH OTHER

Looking next to article II, section 19's single-subject requirement, the majority correctly notes that an initiative's provisions must have some rational connection to the initiative's title (vertical rational unity) and some rational connection to each other

(horizontal rational unity).² The majority, while not clearly delineating its rationale, apparently concludes that I-2066 lacks both. I disagree. Applying the presumption in favor of finding an initiative constitutional, I-2066 meets both vertical and horizontal rational unity requirements.

The first step in the rational unity analysis is examining the subject expressed in the initiative's title and its scope. When a title is ambiguous or there are reasonable doubts as to how to construe the title, a court must adopt the interpretation that would render the law constitutional. *Wash. Fed'n of State Emps. v. State*, 127 Wn.2d 544, 556, 901 P.2d 1028 (1995). This is particularly true when a court is analyzing a challenge to an initiative based on title requirements. *Id.*

Courts treat general and restrictive titles differently in their analyses. General titles are broad and comprehensive. *ATU*, 142 Wn.2d at 207. A title may be general if it contains well-chosen phrasing that is suggestive of the general subject, even if it does not explicitly state the subject. *Id.* at 209. Courts will liberally construe general titles to include any subject reasonably germane to the title within the measure. *Id.* at 207. An initiative with a general title does not violate article II, section 19 so long as there is rational unity, even if it contains several incidental subjects. *Id.*

² While not previously used in our case law, I agree with the majority's adoption of the terms "horizontal rational unity" to refer to whether all provisions rationally relate to one another and "vertical rational unity" to refer to whether each provision rationally relates to the general subject. Majority at 9.

In contrast, a restrictive title has a narrower focus and will not be regarded as liberally as a general title. *Id.* at 210.

Here, I-2066's title is general. The majority agrees with this assessment. However, the majority fails to declare what it believes is the scope of the title. Without identifying the title's scope, it is impossible for the majority to determine whether the subjects comply with the vertical rational unity requirement.

The State characterizes the title's subject as protecting consumers' access to natural gas. In contrast, the Building Industry Association of Washington (BIAW), characterizes the title's subject as preserving energy choices. I conclude that the State's characterization is more accurate. Accordingly, that is the lens through which I analyze this dispute.

The next two steps are examining whether the subjects within the initiative have some rational connection to the title and whether they have some rational connection with each other.

A. The Subjects Within I-2066 Have Some Rational Connection to the Title. In Other Words, There Is Vertical Rational Unity

Because I-2066's title is general, any subject reasonably related to that title may properly be included within the initiative. *Wash. Fed'n of State Emps.*, 127 Wn.2d at 555-56. Incidental subjects or subdivisions can be included within the initiative without violating this constitutional requirement so long as they have rational unity with the

general subject. *Id.* at 556. Courts determine what subject and incidental subjects an act embraces by looking at the measure itself—at the title of the act and the body. *ATU*, 142 Wn.2d at 214. Accordingly, incidental impacts do not equate to incidental subjects for the single-subject analysis.

It is important to remember that the subjects within the initiative need only to have “some” rational relationship to the title. *Id.* This is a very low bar. While we have not analogized the term “rational unity” used in this setting to the term “rational basis” used in an equal protection analysis, I would hold that the same level of scrutiny applies. This is a highly deferential standard. Here, if there is some connection to the subject of the initiative and the broad, general title of I-2066, it meets constitutional requirements.

I-2066 has 13 sections. The State argues that each section serves the goal of protecting consumers’ access to natural gas through measures that (1) protect access to a natural supply of gas and (2) protect the use of natural gas in heating, appliances, and equipment. The State characterizes these two purposes of the measure as incidental subjects related to the general subject and, therefore, argues there is vertical rational unity. I agree. Laws and regulations that protect access to natural gas and the use of natural gas are interrelated. The provisions in the initiative all work together to protect consumers’ access to natural gas in Washington State. Therefore, there is vertical rational unity.

Indeed, taking each section in turn, all but one has some rational relationship with the general subject, satisfying vertical rational unity.

1. Supplying Natural Gas

Sections 2, 3, 4, and 5, and subsections 12(2) and 12(4) all involve protecting consumers' access to natural gas.

Sections 2 and 3 protect access by requiring Puget Sound Energy (PSE), gas companies, and cities and towns that furnish natural gas to provide it to those who are reasonably entitled to receive it. LAWS OF 2025, ch. 1, §§ 2-3.

Sections 4 and 5 protect consumers' access to natural gas by limiting the Utilities and Transport Commission (UTC) and PSE from taking certain actions that would terminate or disincentivize access to natural gas for customers who want it. *Id.*, §§ 4, 5(4)-(5), 5(11)-(13). These measures include prohibiting the UTC from approving multiyear rate plans that restrict customers' access to natural gas, removing requirements that the UTC consider replacements for natural gas, prohibiting PSE from terminating natural gas services to customers, and preventing PSE from artificially increasing the cost of natural gas services in its planning. *See id.*, §§ 4, 5(11)-(13), 5(5).

Finally, subsections 12(2) through (4) protect consumers' access to a supply of natural gas by repealing certain provisions of the Decarbonization Act that discourage and reduce natural gas services being provided. Subsection 12(2) repeals a provision that would have allowed for depreciation schedules that reduce the rate base for any gas plant

and for the merger of electric and gas rates. That provision disincentivized PSE from providing natural gas services to customers. Subsection 12(3) repeals a provision that prohibited PSE from providing incentives or inducements to purchase natural gas appliances or equipment. Subsection 12(4) repeals other provisions that would lead to the replacement of natural gas services with electricity.

2. Allowing Consumers To Use Natural Gas

Sections 6 through 11 and subsection 12(3) all protect consumers' ability to use natural gas, supporting the overarching goal of protecting consumers' access to natural gas.

Sections 6 through 8 place limits on the Washington State Building Code Council's ability to change the "Washington State Energy Code" in ways that would prohibit, penalize, or discourage consumers' use of gas for heating, appliances, or equipment in any building. Subsection 6(2)(a) repeals the requirement that the code help achieve zero fossil fuel greenhouse gas emissions as such a requirement would conflict with the other amendments.

Sections 9 through 11 prevent cities, towns, counties, and air pollution control authorities from restricting consumers' access to natural gas by preventing them from prohibiting, penalizing, or discouraging the use of natural gas for heating or for uses related to appliances or equipment.

3. Subsection 12(5)

In contrast to the above, subsection 12(5) does not have even some relationship to I-2066's title. Subsection 12(5) repeals the severability clause of the Decarbonization Act. On this point I agree with the majority: this section does not have any reasonable relationship to I-2066's title. Eliminating the severability clause of the Decarbonization Act would not protect consumers' access to natural gas in any way. In addition, this provision is different from a mere policy expression, as the State argues. It would have some legal effect, and, therefore, it is subject to the article II, section 19 analysis.

Since subsection 12(5) is not rationally related to protecting consumers' access to natural gas, the question then becomes whether this section can be severed from the remaining portions of I-2066 in order to preserve the initiative. I will address this further along in this opinion because three other sections of I-2066 must face that same question.

4. Section 1 and Subsection 12(1)

Section 1 and subsection 12(1) both relate to the Act's statement of intent and therefore are not considered in the single-subject analysis. *Pierce County*, 150 Wn.2d at 433 (an initiative's policy expression is not considered an additional subject). Section 1 is a statement of intent. Subsection 12(1) repeals a statement of intent in the Decarbonization Act. By definition, these are not additional subjects.

B. The Provisions of I-2066 Have Some Rational Connection to Each Other. In Other Words, There Is Horizontal Rational Unity

As demonstrated above, all the provisions, except subsection 12(5), have some rational relationship to each other in that they all protect consumers' access to natural gas by promoting the access to, and use of, natural gas. The provisions each implement different protections to ensure that consumers can continue to access natural gas, whether it be by limiting authorities' abilities to discourage such use, requiring utilities and companies to provide natural gas, or preventing rules and regulations that would lead to significant decreases in access to natural gas. The provisions within I-2066 have horizontal rational unity.

C. The Majority's Conclusion That I-2066 Violates Article II, Section 19 Is Not Faithful to our Principles To Uphold the Constitutionality of an Initiative When Possible

The majority does not give I-2066 the presumption of constitutionality. It does not interpret the title liberally to save the constitutionality of the initiative. It does not interpret the provisions to save the constitutionality of the initiative.

For example, the majority gives section 11 an extreme interpretation to conclude there is a single-subject violation. The majority argues that disallowing air pollution control authorities from prohibiting, penalizing, or discouraging the use of natural gas introduces the broader, separate subject of regulating all fossil fuels. Majority at 18. This is a leap that, first, is not true, and, second, is not allowed under our rules requiring us to

construe provisions liberally in favor of constitutionality. Section 11 does not encompass all fossil fuels; instead, it seeks to protect consumers' access to natural gas. Even if there could be incidental impacts on other fossil fuels, that does not mean the provision fails rational unity.

Similarly, the majority concludes that section 6 violates the single-subject requirement because its effect "is to broadly limit the authority of Washington's statewide building code council and to require statewide changes to construction standards, a constitutionally distinct subject requiring local entities to provide natural gas and restricting the authority of local air quality regulators." Majority at 19. However, the majority does not show how section 6 fails rational unity. Indeed, this subject has a reasonable relationship with both the title and with the other subjects. Disallowing the Washington State Building Code Council from changing the Washington State Energy Code in ways that would prohibit, penalize, or discourage natural gas use in buildings directly relates to protecting consumers' access to natural gas. Removing the requirement that the Washington State Energy Code help achieve zero fossil fuel greenhouse emissions makes it so the council can act without prohibiting, penalizing, or discouraging natural gas use. Like with section 11, while the provision may have incidental impacts on other issues, this does not create separate, distinct subjects that fail rational unity.

These are just some of the instances where the majority fails to give I-2066 a constitutionally favorable construction where it could reasonably do so. Giving the

majority the benefit of the doubt, it is interpreting the initiative's language in a neutral manner. Removing that benefit, the majority's construction is a conservative, and not liberal, one. That is not what our constitution requires. That is not what our case law requires. In reviewing the language of an initiative, courts will use an interpretation that will satisfy constitutional requirements when possible. *Lee*, 185 Wn.2d at 619.

In addition, contrary to the majority's reasoning, the test for whether provisions comply with article II, section 19 does not depend on whether a provision is broad reaching or has incidental effects on other laws. As stated above, the test is whether there is rational unity between the title and provisions and between the provisions themselves.

My concern with the majority's article II, section 19 analysis is that if we begin to use the incidental impacts that initiatives have on other laws as a measure of rational unity, almost every piece of legislation would fail—almost every law has some impact on another. *Holzman v. City of Spokane*, 91 Wash. 418, 426, 157 P. 1086 (1916) (“Nearly every legislative act of a general nature changes or modifies some existing statute, either directly or by implication.” (quoting *Spokane Grain & Fuel Co. v. Lyttaker*, 59 Wash. 76, 82, 109 P. 316 (1910))). Our case law has never gone so far as to hold that a measure violates the single-subject rule because it may have broad-reaching impacts. Indeed, the majority takes our holdings in cases such as *Washington Toll Bridge Authority v. State*, 49 Wn.2d 520, 304 P.2d 676 (1956), *ATU*, 142 Wn.2d 183, and *City of Burien v. Kiga*, 144

Wn.2d 819, 31 P.3d 659 (2001), too far in reasoning that an enactment having widespread effects indicates that there is a single-subject violation.

Each of these cases involved enactments that contained both one-time, short-term changes and long-term, systemic changes to issues that were unrelated. *See Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 637, 71 P.3d 644 (2003) (“In those cases, those subjects were so disjointed as to bear no relation to each other [E]ach contained dual subjects, but one was more broad, long term and continuing than the other, a characteristic that suggests logrolling may be at issue.”). This created distinct subjects and suggested logrolling was at issue. While the court discussed the broad impact of some of the provisions, the widespread impact of the provisions was not what made the measures fail rational unity. Instead, the combination of short-term, one-time changes and longer-term, systemic changes with subjects unrelated to one another resulted in the provisions failing rational unity.

In contrast, each of the provisions in I-2066 (except subsection 12(5)) involve similar ongoing, systemic changes to natural gas regulations. Each has the primary purpose and effect of protecting consumers’ access to natural gas. The changes require entities to provide consumers with natural gas when they are reasonably entitled to it and also prohibit entities from discouraging such use. The provisions are each integral to protecting consumers’ access to natural gas.

While the provisions have some differences in effect, that is to be expected—different provisions act in different ways. However, each of the provisions still deal with methods for protecting consumers’ access to natural gas in Washington State. As discussed above, all the single-subject test requires is rational unity between the subject of the title and the provisions and the provisions to one another. The majority does not specify whether it believes that certain subjects are not rationally related to the title (vertical rational unity) or to each other (horizontal rational unity) or both. The majority does not show how I-2066’s provisions fail rational unity. Indeed, all but subsection 12(5) are rationally related to the title and to the other provisions.

Overall, the majority primarily seems to take issue with the provisions’ incidental impacts. However, initiatives can impact and change existing laws without violating the single-subject rule. We determine what subject or incidental subjects an act contains by looking to the measure itself, not its incidental impacts on other laws. To the extent that the majority argues that the provisions have broad-reaching impacts on other laws without making those changes clear, those arguments are more appropriate for an article II, section 37 challenge than an article II, section 19 challenge. Maintaining the distinction between the two constitutional provisions is critical.

III

MOST OF I-2066 COMPLIES WITH ARTICLE II, SECTION 37, EXCEPT FOR SECTIONS 9, 10, AND 11

When an act revises another act, our constitution requires the revised portion to be set forth at full length. CONST., art. II, § 37. An act cannot be revised or amended by mere reference to its title. *Id.* In other words, new laws cannot silently amend other laws. The reason for this constitutional requirement is to ensure that people who pass amendatory laws are aware of the impact they will have on existing laws. *Wash. Citizens Action of Wash. v. State*, 162 Wn.2d 142, 152, 171 P.3d 486 (2007).

This court has adopted a two-part inquiry for an article II, section 37 challenge. *ATU*, 142 Wn.2d at 246. First, a court must consider whether a measure is a complete act in itself. Would a reader be able to determine a measure's impact on the scope of rights or duties created or affected without having to look at another statute or enactment? *Id.* In other words, is the effect of the new legislation clear from the proposal itself? *Wash. State Legislature v. Inslee*, 198 Wn.2d 561, 593, 498 P.3d 496 (2021). Even if a provision is complete in itself and survives step one, it may still be unconstitutional if it fails step two of the analysis.

Second, courts must consider whether the new enactment would render the scope of existing rights or duties erroneous under a plain reading of the law. *ATU*, 142 Wn.2d at 253. The purpose of step two is to make sure readers can understand the new provision's effect on other provisions without needing to thoroughly research existing

laws. *Wash. State Legislature*, 198 Wn.2d at 593. Although the two steps provide different inquiries, courts should consider each step in the context of the other, not taking either in isolation. *ATU*, 142 Wn.2d 183.

A. Most of I-2066 Complies with Article II, Section 37 by Providing Straightforward Amendments to the Law

Climate Solutions argues that most of I-2066's sections silently amend other laws, rendering the initiative unconstitutional under article II, section 37. Climate Solutions points to other laws and regulations that are impacted by I-2066 to support its arguments. However, this focus is misplaced.

As an initial matter, while I-2066 does amend existing laws, most of its sections do so explicitly. All the sections set out which laws they are amending and the changes made. In particular, voters can understand the scope of the rights and duties created and affected by sections 2 through 8 by reference to the initiative alone.

Section 2 amends RCW 80.28.110 and Laws of 2024, ch. 348, § 6 to require that gas companies and large combination utilities provide natural gas to consumers that are reasonably entitled to receive it. Reading this amendment in the context of RCW 80.28.110 gives voters complete information on gas companies' and large combination utilities' scope of duties for providing natural gas to reasonably entitled consumers.

Section 3 amends RCW 35.92.050 and Laws of 2022, ch. 292, § 405 to require cities or towns that furnish natural gas to provide natural gas to inhabitants who are reasonably entitled to receive it. Again, this amendment, when read with the rest of RCW

35.92.050, provides a complete look at cities and towns' baseline duties to provide natural gas to their inhabitants.

Section 4 amends RCW 80.28.425 and Laws of 2024, ch. 351, § 18 to provide that the commission cannot approve multiyear rate plans that require or incentivize companies and utilities to terminate natural gas services to customers or that would require a customer to involuntarily switch fuel use by restricting access to natural gas. RCW 80.28.425 sets forth the requirements for the commission in considering proposals for multiyear rate plans. Accordingly, voters can clearly tell how the amendments impact the existing rights and duties of the commission in reviewing multiyear rate plans in this context.

Similarly, section 5 amends parts of Title 80 RCW and Laws of 2024, ch. 351, § 3 by prohibiting the commission from approving integrated system plans that require or incentivize utilities to terminate natural gas services to customers or require customers to involuntarily switch fuel use by restricting access to natural gas. The amendment's impact on the commission's rights and duties regarding review of integrated system plans can be understood by reading this section alone.

Sections 6, 7, and 8 amend RCW 19.27A.020, .025, and .045, respectively, prohibiting the State Building Code Council from adopting rules or amending the Washington State Energy Code in ways that prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment. While

these sections restrict the State Building Code Council's rights and duties in overseeing the Washington State Energy Code, these restrictions are clearly set forth and are not hidden from voters. The amendments in this section can be understood by the initiative alone. Altogether, these sections are complete within themselves and survive step one of the analysis.

As to the second step of the inquiry, while these amendments might have incidental impacts on other laws or regulations, that does not render them unconstitutional. *ATU*, 142 Wn.2d at 248. Climate Solutions' disagreement with the amendments and their impacts on policy do not rise to the level of a constitutional problem. Indeed, nearly every legislative act will render some other parts of the law erroneous through amendment, but that does not inherently go against article II, section 37's purpose of protecting voters from fraud and deception. *Id.* Climate Solutions identifies existing laws that authorize or encourage local authorities, companies, or utilities to move away from natural gas and argues that I-2066 silently amends those statutes. However, I-2066 reflects new policy preferences adopted by the voters that whether the court agrees with or not, we must defer to. The amendments do not change or frustrate any existing rights or duties under the law. While the impacted entities may have had the authority to move away from natural gas under existing law, they were not required to do so. Accordingly, Climate Solutions does not identify how I-2066

unconstitutionally creates confusion about existing rights and duties but, instead, merely takes issue with the fact that law and policy have changed.

Next, to the extent that Climate Solutions argues that the amendments substantively limit related statutes, we have held that when an enactment is to be codified within the same RCW provision, the modification of the existing statute should be apparent. *Wash. Educ. Ass'n v. State*, 97 Wn.2d 899, 906, 652 P.2d 1347 (1982).

Altogether, while sections 2 through 8 might have some impacts on existing rights and duties, there is no constitutional issue since the amendments and their direct impacts were straightforward and clearly presented to voters. Sections 2 through 8 do not violate article II, section 37.³

B. Sections 9, 10, and 11 Create Confusion About Local Authorities' Rights and Duties Under Existing Statutes in Violation of Article II, Section 37

In contrast to the other sections, it is difficult to understand sections 9, 10, and 11's impact on existing rights and duties under the law without referring to other statutes. Sections 9, 10, and 11 amend chapters 35.21, 36.01, and 70A.15 RCW, respectively, to limit local authorities from prohibiting, penalizing, or discouraging the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

Unlike other sections of the initiative, these sections place broad restrictions on local

³ We do not need to consider the statement of intent, severability clause, or portions that repeal other provisions. The first two do not change existing law in a way that could lead to silent amendment. As for the provisions that repeal other laws, we have held that repealers are not subject to article II, section 37. *ATU*, 142 Wn.2d at 254.

authorities' power without much clarity, prohibiting them from discouraging the use of natural gas for heating, appliances, or equipment in any building. They add sections to chapters of the RCW that are generally about the power of cities, towns, counties, and authorities. However, those chapters do not really touch on natural gas access and use. Looking at sections 9, 10, and 11 alone, it is unclear in what ways local authorities' rights and duties are affected in terms of their abilities to regulate consumers' access to and use of natural gas. Accordingly, these sections silently amend other statutes by failing to disclose their effects on the rights and duties of local authorities under existing law.

For example, chapter 39.35 RCW requires local governments to include energy efficiency assessments in design plans for major public facilities and to consider all-electric energy and renewable energy systems. RCW 39.35.040, .050(2). Sections 9 and 10 undoubtedly conflict with this existing requirement because such assessments would discourage the use of gas in buildings. However, the average voter would not know about this substantive conflict unless they look beyond the initiative and the RCW chapters mentioned in it. While it is not unconstitutional to change existing rights and duties, it is unconstitutional to do so without adequately informing voters.

In addition, the Growth Management Act (GMA) requires some cities and counties to adopt comprehensive expansion and development plans that include emissions reduction elements. RCW 36.70A.070(9)(a). If a city or county included such elements in its plans, it would violate section 9 or 10's mandate that cities or counties "shall not

in any way prohibit, penalize, or discourage the use of gas.” LAWS OF 2025, ch. 1.

Although the State and BIAW argue that the localities could address emissions reductions while still allowing for the use of natural gas, at the very least sections 9 and 10 change the scope of the localities’ existing rights and duties in this regard. While it is debatable whether the rights and duties in the GMA provisions are rendered completely erroneous by these sections, I-2066 certainly does not disclose its impact in relation to the GMA’s requirements. Cities’ and counties’ duties are restricted through silent amendment, which is prohibited by article II, section 37.

As for section 11, Washington’s Clean Air Act requires air pollution control agencies to adopt emissions regulations no less stringent than those adopted by the Department of Ecology. *Id.*, § 11; RCW 70A.15.3000(2)(b); .3050(1). Ecology is required to adopt emissions standards “which shall constitute minimum emission standards throughout the state.” RCW 70A.15.3000(2)(b). By the plain language of section 11, air pollution control agencies, which are “authorities” as defined by statute, *see* RCW 70A.15.1030(5), could not adopt Ecology’s regulations if they prohibit, penalize, or discourage the use of natural gas. I-2066 does not make this limit on the authorities’ duties clear, presenting an undisclosed substantive conflict between the mandatory duties in the initiative and existing law.

Sections 9, 10, and 11 fail step one of the article II, section 37 analysis because the direct effects of the proposal on existing law are not apparent.

Looking to step two of the analysis, it is less clear whether sections 9, 10, and 11 also render erroneous straightforward determinations of the scope of rights or duties under existing law. *ATU*, 142 Wn.2d at 246. As discussed above, almost all general legislation will create some conflict with existing laws. However, when provisions are not complete, courts will look more closely at undisclosed impacts as they are more likely to have deceived voters. *Id.* at 247.

Sections 9, 10, and 11 may have deceived voters. They make it difficult to determine the scope of local authorities' rights and duties under existing law. It is unclear in what ways those rights and duties are impacted and the extent to which I-2066 renders them erroneous.

Accordingly, I would hold that sections 9, 10, and 11 silently amend existing laws in violation of article II, section 37. As for the remaining sections, while they might limit the scope of certain entities' rights and duties, they do so transparently. While certain entities previously may have been encouraged or authorized to take certain actions to reduce the use of and access to natural gas, I-2066 clearly expresses a policy shift, making substantive changes apparent. Incidental impacts stemming from sections 2 through 8 do not rise to the level of a constitutional issue as such incidental impacts are almost always unavoidable in legislation. The bottom line is that those sections were not crafted in a way that would deceive or confuse voters in violation of article II, section 37.

IV

IN ORDER TO PRESERVE THE CONSTITUTIONALITY OF I-2066, SECTIONS 9, 10, 11, AND SUBSECTION 12(5) MUST BE SEVERED

We will not deem an entire initiative unconstitutional when invalid provisions can be severed. *ATU*, 142 Wn.2d at 227-28. If it can be reasonably believed that the voters would have passed the initiative without the invalid provisions, then we will uphold the remainder of the initiative. *Id.* If an initiative contains a severability clause, that supports finding that voters would have enacted remaining sections of the initiative even if some sections are found invalid. *Id.*

Here, I-2066 contains a severability clause in section 13: “If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.” LAWS OF 2025, ch. 1. While the severability clause is not dispositive on its own, it can be reasonably believed that the voters would have passed I-2066 even without sections 9, 10, 11, and subsection 12(5). Severing these sections does not render the remainder of I-2066 useless to accomplish the initiative’s purpose of encouraging natural gas use and availability. *Id.* Therefore, sections 9, 10, 11, and subsection 12(5) should be severed while the remainder of I-2066 is upheld as constitutional.

A. Severability of Sections 9, 10, and 11

Looking first at sections 9, 10, and 11, it can be reasonably believed voters would have passed I-2066 without these provisions. First, the existence of the severability

clause supports the conclusion that the voters wanted the initiative to survive if any of the provisions were found unconstitutional. *Gerberding v. Munro*, 134 Wn.2d 188, 197, 949 P.2d 1366 (1998). Second, those sections, while they satisfy the very low bar of rational relationship requirements, are less clear on how exactly they operate to promote the initiative's purpose. Because they silently amend other statutes, voters could not understand their true impact. Therefore, it can be reasonably believed that voters would have passed I-2066 without these provisions. This is not a situation like under article II, section 19, where there are multiple discrete subjects involved and the court cannot tell which subject the voters would have passed.

In addition, the remaining sections of I-2066 still accomplish the purpose of protecting consumers' access to natural gas. Removing sections 9, 10, and 11 would not render I-2066 incapable of accomplishing its intended purpose. *Id.*

Weighing all these considerations, the remainder of I-2066 should be upheld as constitutional. In any event, courts should construe initiatives in favor of constitutionality, which would mean severing sections 9, 10, and 11 to keep the rest of I-2066 alive.

B. Severability of Subsection 12(5)

As discussed above, subsection 12(5) repeals the Decarbonization Act's severability provision and violates article II, section 19 because it is not rationally related to I-2066's subject of protecting consumers' access to natural gas. In *Kiga*, we noted:

When an initiative embodies two unrelated subjects, it is impossible for the court to assess whether either subject would have received majority support if voted on separately. Consequently, the entire initiative must be voided.

144 Wn.2d at 825.

In that case, the initiative's subject related to systemic, ongoing changes in property tax assessments but also contained a repeal and refund provision that encompassed much more than property taxes. *Id.* at 827. Where there were two unrelated subjects, the court held, "Because we cannot know if either subject of I-722 would have garnered popular support standing alone, we must declare the entire initiative void." *Id.* at 828. *Kiga* relied on a 1951 case, *Power, Inc. v. Huntley*, 39 Wn.2d 191, 198-99, 235 P.2d 173 (1951), where the court also struck down an entire act that contained two distinct subjects relating to appropriation and corporation income tax. There, the unrelated measures were unable to pass the legislature in the special session on their own. *Id.* However, when the interests were combined into a single bill, both measures were enacted into law. *Id.* This was a classic case of logrolling, and it would also have been impossible for the court to determine which subject would have garnered popular support if the other subject did not pass. *Id.*

The situation here is different. While in *Kiga* it was impossible to tell if either subject would have passed on its own, here subsection 12(5) deals with the discrete issue of repealing a severability clause of a different act. Because the rest of I-2066 exclusively relates to protecting consumers' access to natural gas, there are not two equal

and distinct subjects of the initiative that the voters could not distinguish between. Instead, here, a court can clearly tell that the bulk of the initiative would have passed absent subsection 12(5). Striking down I-2066 in its entirety simply because subsection 12(5) fails under article II, section 19 would go against our policies of presuming an act's constitutionality and upholding the power of the people to pass initiatives.

Accordingly, I would hold that subsection 12(5) can be severed because a court can clearly assess that the remainder of I-2066 would have received majority support without that provision. I would uphold the rest of I-2066 for this reason.

V CONCLUSION

Courts are required to construe initiatives in favor of constitutionality when possible. This supports the right of the people to pass law by initiative, as enshrined in our state constitution. Although, as members of the judiciary, we at times may not agree with the policies behind an initiative, it is our job to maintain and uphold the law. Here, following our long-standing rules of constitutional interpretation, this court can uphold much of I-2066 as constitutional and should do so.

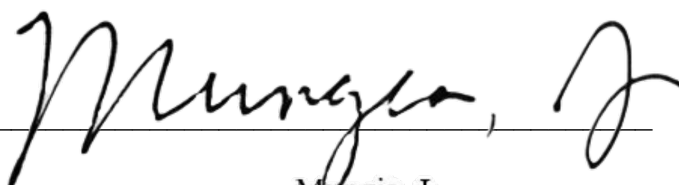
I want to reiterate my concerns about the majority's analysis. This court should not go so far as to hold that there are single-subject violations based on incidental impacts or policy changes. Our constitutional analysis requires a serious violation to strike down an act as unconstitutional. All that is required for a measure to survive under article II, section 19 is rational unity between the general subject and incidental subjects (vertical

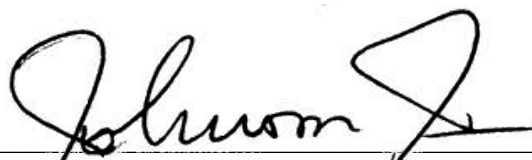
unity) and rational unity among the provisions (horizontal unity). This is a low bar, as courts are to construe general initiatives liberally in favor of constitutionality. I-2066 surpasses this bar. All the provisions (except subsection 12(5)) relate to the general subject of protecting consumers' access to natural gas. The provisions relate to each other by each containing some measure that advances the overarching goal, especially when considered together.

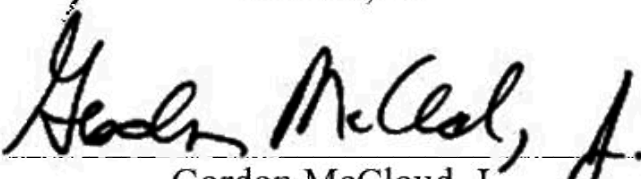
The majority's arguments that the sections have too broad of an impact on certain authorities goes to article II, section 37 and should not be confused with article II, section 19's distinct single-subject requirements. As discussed, only sections 9, 10, and 11 violate article II, section 37 by silently amending existing law.

Next, while sections 9, 10, 11, and subsection 12(5) do not pass constitutional muster, they can be severed to preserve the rest of I-2066. It can be reasonably believed that the voters would have passed the remaining sections without these measures.

I would uphold the remainder of I-2066 as constitutional. Accordingly, I dissent.


Mungia, J.


Johnson, J.


Gordon McCloud, J.