

COLORADO TITLE SETTING BOARD

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR INITIATIVE 2023-2024 #282

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**MOTION FOR REHEARING**

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On behalf of Sara Lynn Blackhurst, registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing for Initiative 2023-2024 #282 (“Proposed Initiative 282”) pursuant to C.R.S. § 1-40-107, and as grounds therefore states as follows:

**I. INTRODUCTION**

Proposed Initiative #282 attempts to regulate, cap, or track the emissions of nearly every car, road, and building on the Front Range. If passed, Proposed Initiative #282 would regulate the emissions of any building that people may drive their car to, create a database that tracks the emissions of oil and gas producers, limit the emissions produced by oil and gas producers, and cap the emissions of nearly every vehicle in the Front Range.

This scatter-shot approach is apparent from the face of the measure. Indeed, unlike other measures under Title Board’s review, Proposed Initiative #282 does not propose seemingly modest changes to any existing regime. Instead, it proposes three entirely new statutes, which bear no relation to one another.

When asked what single subject Proposed Initiative #282 covered, one proponent responded that the measure 1) imposed a timeout for oil and gas production, 2) permitted new rulemaking by the Air Quality Control Commission (AQCC), and 3) set annual motor vehicle emissions budget.<sup>1</sup>

The fact that the proponent cannot themselves describe the measure’s single subject is telling. And a closer review of the measure reveals even more subjects coiled in the folds.

In some cases, it is difficult to evaluate whether a measure meets the single-subject requirement. This is not one of those cases. Title Board should find that the measure does not meet the single-subject requirement and decline to set title.

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<sup>1</sup> Title Board Hearing Audio (10:16:50)

[https://csos.granicus.com/player/clip/450?view\\_id=1&redirect=true](https://csos.granicus.com/player/clip/450?view_id=1&redirect=true).

## II. INITIATIVE #282 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

The measure's true nature, as described above, highlights that there are several separate subjects improperly coiled in the folds that would lead to significant voter surprise and result in impermissible logrolling. The single-subject requirement is designed to prevent just that. *In re Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 442 (Colo. 2002) (the single subject rule helps avoid "voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled up in the folds' of a complex initiative"); *In re Title, Ballot Title & Submission Clause, for 2007-2008, #17*, 172 P.3d 871, 875 (Colo. 2007) ("We must examine sufficiently an initiative's central theme to determine whether it contains hidden purposes under a broad theme.").

Initiative #282 contains multiple separate subjects, including at least:

1. Requiring the AQCC to adopt rules to control emissions from all highways; roads; parking facilities; residential, retail, commercial, and industrial developments; construction sites; warehouses; airports; and medical and educational facilities, within the Front Range. (Proposed Initiative #282, Section 1, § 25-7-146(2)).
2. Requiring such rules to enforce emissions targets through regulations, source-specific plans, or alternative approaches. (Proposed Initiative #282, Section 1, § 25-7-146(2)(a)).
3. Permitting the AQCC to adopt additional rules to regulate all highways; roads; parking facilities; residential, retail, commercial, and industrial developments; construction sites; warehouses; airports; and medical and educational facilities, within the Front Range, with no limitation on the subject matter of those regulations. (Proposed Initiative #282, Section 1, § 25-7-146(3)).
4. Permitting the AQCC to charge fees to the owners of highways; roads; parking facilities; residential, retail, commercial, and industrial developments; construction sites; warehouses; airports; and medical and educational facilities, within the Front Range, to cover the costs of the AQCC's programs. (Proposed Initiative #282, Section 1, 25-7-146(4)).
5. Imposing a time-out on oil and gas exploration from June 1 to August 31 of each year. (Proposed Initiative #282, Section 1, 25-7-147(2)).

6. Capping ozone and nitrogen oxide emissions by oil and gas operators. (Proposed Initiative #282, Section 1, 34-60-140(2–3)).
7. Capping nitrogen oxide and volatile organic compound emissions for cars in the nonattainment area and requiring that cap decrease by set increments. (Proposed Initiative #282, Section 1, 27-7-306(2)(a–b)).

Proposed Initiative #282 would allow the state to regulate nearly every large object (from cars to hospitals), of every industry (from malls to hydrocarbon exploration), in every conceivable way (from emissions caps to data tracking).

Despite the breadth of the subjects that appear on the face of the measure, there are even more subjects coiled in the folds. For instance, Proposed Initiative #282 would allow the AQCC to “adopt additional rules regulating indirect sources within the covered nonattainment area at the commission’s discretion.” (Proposed Initiative #282, Section 1, § 25-7-146(3)). There is seemingly no limit on the type of regulations the AQCC could impose. And “indirect sources” has been defined to include all highways; roads; parking facilities; residential, retail, commercial, and industrial developments; construction sites; warehouses; airports; and medical and educational facilities, within certain parts the Front Range. So Proposed Initiative #282 would appear to give the AQCC carte blanche to regulate every road and building in the Front Range, without limitation. That expansive power would undoubtedly promote voter surprise.

The measure also engages in logrolling by attempting to garner votes from those who want to support the adoption of electric vehicles. Such a proponent might support Proposed Initiative #282’s caps of vehicle emissions (which make electric cars more desirable), but oppose the time-out on gas production (which will make energy more costly, therefore increasing the cost of charging electric cars in the home). Under Proposed Initiative #282, such electric car proponents would be forced to vote against their interests, regardless of how they decided to vote.

### **CONCLUSION**

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 24th day of April, 2024.

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