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INITIATIVE 376

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 376 to the Legislature is a true and correct copy as it was received by this office.

AN ACT Relating to enactment of tax and fee increases imposed by state government; amending RCW 43.88A.020, 43.88A.030, 43.135.035, 29A.72.040, 29A.72.290, and 43.135.055; adding new sections to chapter 43.135 RCW; creating new sections; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

INTENT

NEW SECTION. **Sec. 1.** Washington has a long history of public interest in tax increases. The people have clearly and consistently illustrated their ongoing and passionate desire to ensure that taxpayers are protected. The people find that even without raising taxes, the government consistently receives revenue growth many times higher than the rate of inflation every year. With this measure, the people intend to protect taxpayers by creating a series of accountability procedures to ensure greater legislative transparency, broader public participation, and wider agreement before state government takes more of the people's money. This measure protects taxpayers and relates to the enactment of tax and fee increases imposed by state government. This measure would require publication of cost

projections, information on public hearings, and legislators' sponsorship and voting records on bills increasing taxes and fees, allow either two-thirds legislative approval or voter approval for tax increases, and require advisory votes on tax increases blocked from citizen referendum. The people want taxpayers protected by ensuring greater transparency and better access to information regarding bills increasing taxes and fees. Elected officials need to know the costs to the taxpayers for their tax and fee increases and to provide citizens with the opportunity to ask questions and give input. The people want taxpayers protected by providing a user-friendly method to track the progress of bills increasing taxes and fees, finding that transparency and openness leads to more public involvement and better understanding. The people want to know about legislators' sponsorship and voting records on bills increasing taxes and fees and want easy access to contact information of legislators so the people's voice can be heard.

**PROTECTING TAXPAYERS BY REQUIRING PUBLICATION OF
COST PROJECTIONS, INFORMATION ON PUBLIC HEARINGS,
AND LEGISLATORS' SPONSORSHIP AND VOTING RECORDS
ON BILLS INCREASING TAXES AND FEES**

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.135 RCW and reads as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes under RCW 43.135.035 or section 6 of this act or increases fees under RCW 43.135.055 or section 12 of this act, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via email to each member of the house of representatives, each member of the senate, the media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and co-sponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes under RCW 43.135.035 or under section 6 of this act or increases fees under RCW 43.135.055 or under section 12 of this act, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection 1 of this section and the date, time, and location of the hearing by public press release via email to each member of the house of representatives, each member of the senate, the media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection 1 of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes under RCW 43.135.035 or under section 6 of this act or increases fees under RCW 43.135.055 or under section 12 of this act is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously re-examine and re-determine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via email to each member of the house of representatives, each member of the senate, the media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (Senator or Representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office email address.

(5) For the purposes of this section, "the media" means any member of the press or media organization that signs up with the office of financial management to receive the public press releases by email.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by email.

Sec. 3. RCW 43.88A.020 and 1994 c 219 s 3 are each amended to read as follows:

The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected.

The preparation and dissemination of the ongoing cost projections and other requirements of section 2 of this act for bills increasing taxes and fees shall take precedence over fiscal notes.

Sec. 4. RCW 43.88A.030 and 1986 c 158 s 16 are each amended to read as follows:

When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

- (1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means, or its successor; and
- (3) The house committees on revenue and appropriations, or their successors.

Whenever possible, such fiscal note and, in the case of a bill increasing taxes or fees, the cost projection and other information required under section 2 of this act shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. For bills increasing taxes or fees, the cost projection and other information required by section 2 of this act shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible.

THE PEOPLE'S INTENT RELATING TO SECTIONS 2, 3, AND 4 OF THIS ACT

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.135 RCW and reads as follows:

The intent of sections 2, 3, and 4 of this act: The people want a thorough, independent analysis of any proposed increase in taxes and fees. The people find that legislators too often do not know the costs to the taxpayers for their tax and fee increases and this fiscal analysis by the office of financial management will provide better, more accessible information. The people want a user-friendly method to track the progress of bills increasing taxes and fees, finding that transparency and openness leads to more public involvement and better understanding. The people want to know about information on public hearings and legislators' sponsorship and voting records on bills increasing taxes and fees and want easy access to contact information of legislators so the people's voice can be heard. Section 2 (5) and (6) of this act are intended to provide active, engaged citizens with the opportunity to be notified of the status of bills increasing taxes and fees. Such a notification system is already being provided by the state supreme court with regard to judicial rulings. Intent of section 3 of this act: The cost projection reports required by section 2 of this act will simplify and facilitate the creation of fiscal notes. The people want the office of financial management to fully comply with the cost projections and other requirements of section 2 on bills

increasing taxes or fees before fiscal notes. Cost projections and the other information required by section 2 are critically important for the Legislature, the media, and the public to receive before fiscal notes.

**PROTECTING TAXPAYERS BY ALLOWING TWO-THIRDS LEGISLATIVE APPROVAL
OR VOTER APPROVAL FOR TAX INCREASES**

Sec. 6. RCW 43.135.035 and 2005 c 72 s 5 are each amended to read as follows:

(1) After July 1, 1995, any action or combination of actions by the legislature that raises (~~((state revenue or requires revenue-neutral tax shifts))~~) taxes may be taken only if approved by a (~~((two-thirds))~~) two-thirds vote of each house of the legislature, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, increases in taxes approved by a majority vote of each house of the legislature may be referred to the voters for their approval or rejection at an election.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for inflation and population increases?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and

signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund or a related fund to another source of funding, or if moneys are transferred from the state general fund or a related fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund or a related fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund or a related fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to the dedication or use of lottery revenues under RCW 67.70.240(3) or property taxes under RCW 84.52.068, in support of education or education expenditures.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund or a related fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue came from the general fund or a related fund.

(6) For the purposes of this section, "raises taxes" means increases in any taxes regardless of whether the revenues are deposited into the general fund, including, but not limited to, enacting or imposing any new tax, expanding the base of any tax, increasing the rate of any tax, or extending any expiring tax.

THE PEOPLE'S INTENT RELATING TO SECTION 6 OF THIS ACT

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.135 RCW and reads as follows:

The intent of RCW 43.135 and section 6 of this act: The two-thirds requirement for raising taxes has been on the books since 1993 and the people find that this policy has provided the legislature with a much stronger incentive to use existing revenues more cost effectively rather than reflexively raising taxes. The people want this policy continued and want it to be clear that they intend to include tax increases inside and outside the general fund. If the legislature cannot receive a two-thirds vote in the house of representatives and senate to raise taxes, the Constitution provides the legislature with the option of referring the tax increase to the voters for their approval or rejection at an election using a referendum bill. Intent of section 6(5) of this act: When it comes to enactment of tax increases exceeding the state expenditure limit, the legislature has, in recent years, shifted money between funds to get around the voter approval requirement for tax increases above the state expenditure limit. Subsection (5) of section 6 of this act is intended to clarify the law so that the effective taxpayer protection of requiring voter approval for tax increases exceeding the state expenditure limit is not circumvented.

**PROTECTING TAXPAYERS BY REQUIRING AN ADVISORY VOTE OF THE PEOPLE
FOR ANY TAX INCREASE BLOCKED FROM A CITIZEN REFERENDUM**

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.135 RCW and reads as follows:

(1) If the legislative action raising taxes under RCW 43.135.035 or section 6 of this act is blocked from a citizen referendum, an advisory vote of the people shall be placed on the next general election ballot, be printed on election ballots, be included in the voters' pamphlet as

required by subsection (3) of this section, and votes for and against be officially tabulated and reported by the secretary of state.

(a) If the legislative action raising taxes under section 6 of this act involves more than revenue source, each tax being increased shall receive a separate advisory vote of the people under the requirements of this act.

(2) After an advisory vote of the people under this section is assigned a serial number by the secretary of state and transmitted to the attorney general under section 9 of this act, the attorney general shall draft a short description, not exceeding thirty words and not subject to appeal, of each tax increase. The description must be drafted and displayed on the ballot substantially as follows:

"The legislature imposed, without a vote of the people, (description of the tax increase), costing (most up-to-date ten-year cost projection) in its first ten years, for government spending. The people recommend this tax increase be:

Repealed . . . []
Maintained . . . []"

(3) Two pages shall be provided in the general election voters' pamphlet for each advisory vote of the people and shall consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description required by subsection (2) of this section, the most up-to-date ten-year cost projection, including a year-by-year breakdown, of the tax increase by the office of financial management as provided by section 2 of this act, and the names of the legislators, and their contact information, and how they voted on the increase upon final passage so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (Senator or Representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office email address.

(5) For the purposes of this section, "blocked from citizen referendum" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(6) If the legislative action raising taxes under section 6 of this act is referred to the voters by a legislative referendum bill or a citizen initiated referendum or initiative, then the tax increase is exempt from an advisory vote of the people under this act.

Sec. 9. RCW 29A.72.040 and 2003 c 111 s 1805 are each amended to read as follows:

The secretary of state shall give a serial number to each initiative, referendum bill, ~~((or))~~ referendum measure, or advisory vote of the people, using a separate series for initiatives to the legislature, initiatives to the people, referendum bills, ~~((and))~~ referendum measures, and advisory votes of the people, and forthwith transmit one copy of the measure proposed bearing its serial number to the attorney general. Thereafter a measure shall be known and designated on all petitions, ballots, and proceedings as "Initiative Measure No.," "Referendum Bill No.," ~~((or))~~ "Referendum Measure No." or "Advisory Vote No."

Sec. 10. RCW 29A.72.290 and 2003 c 111 s 1829 are each amended to read as follows:

The county auditor of each county shall print on the official ballots for the election at which initiative and referendum measures or advisory votes of the people are to be submitted to the people for their approval or rejection, the serial numbers and ballot titles certified by the secretary of state and the serial numbers and short descriptions of advisory votes of the people. They must appear under separate headings in the order of the serial numbers as follows:

(1) Measures proposed for submission to the people by initiative petition will be under the heading, "Proposed by Initiative Petition";

(2) Bills passed by the legislature and ordered referred to the people by referendum petition will be under the heading, "Passed by the Legislature and Ordered Referred by Petition";

(3) Bills passed and referred to the people by the legislature will be under the heading, "Proposed to the People by the Legislature";

(4) Measures proposed to the legislature and rejected or not acted upon will be under the heading, "Proposed to the Legislature and Referred to the People";

(5) Measures proposed to the legislature and alternative measures passed by the legislature in lieu thereof will be under the heading, "Initiated by Petition and Alternative by Legislature";

(6) Advisory votes of the people under section 8 of this act will be under the heading, "Advisory Vote of the People."

THE PEOPLE'S INTENT RELATING TO SECTIONS 8, 9, AND 10 OF THIS ACT

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.135 RCW and reads as follows:

The intent of section 8 of this act and RCW 29A72.040 and 29A.72.290: Our state constitution guarantees to the people the right of referendum. In recent years, however, the legislature has thwarted the people's constitutional right to referendum by excessive use of the emergency clause. In 2005, for example, the legislature approved five hundred twenty-three bills and declared ninety-eight of them, nearly twenty percent, "emergencies," insulating them all from the constitution's guaranteed right to referendum. Unfortunately, the courts have repeatedly refused to reign in this abuse, going so far as upholding the legislature's decision declaring a sports stadium an "emergency." Unfortunately, the people lack the power to stop the legislature and the courts from perpetuating this unfairness. However, the people find that it is well within their power to provide information about such instances of abuse to the public. When the people exercise their rights and are not blocked from a citizen referendum, as was the case with Referendum 53 in 2003 concerning unemployment taxes, then an advisory vote of the people is not needed. But when the people are blocked from citizen referendum on a bill increasing taxes, then an advisory vote of the people is needed to tell the voters about the legislation and provide the voters with legislators' names and contact information and how they voted on the bill. Although abuse of the emergency clause affects the full spectrum of bills in the legislature, section 8 of this act deals exclusively with and focuses only on tax increases blocked from citizen referendum.

(2) Intent of section 8(2) of this act: When determining the thirty word limit for a short description on an advisory vote of the people, the following words do not count: "The people recommend this tax increase be:

Repealed . . . []
Maintained . . . []"

(3) Intent of section 8(6) of this act: If there's a binding vote of the people, there's no need for a non-binding vote.

**PROTECTING TAXPAYERS BY REQUIRING FEE INCREASES TO BE VOTED ON
BY ELECTED REPRESENTATIVES, RATHER THAN IMPOSED BY
UNELECTED OFFICIALS AT STATE AGENCIES**

Sec. 12. RCW 43.135.055 and 2001 c 314 s 19 are each amended to read as follows:

(1) No fee may be imposed or increased in any fiscal year (~~((by a percentage in excess of the fiscal growth factor for that fiscal year))~~) without prior legislative approval and must be subject to the accountability procedures required by section 2 of this act.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

THE PEOPLE'S INTENT RELATING TO SECTION 12 OF THIS ACT

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.135 RCW and reads as follows:

Intent of section 12(1) of this act: The people want to return the authority to impose or increase fees from unelected officials at state agencies to the duly elected representatives of the legislature or to the people. The people find that fee increases should be debated openly and transparently and up-or-down votes taken by our elected representatives so the people are given the opportunity to hold them accountable at the next election.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 14.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

SEVERABILITY CLAUSE

NEW SECTION. **Sec. 15.** 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.

MISCELLANEOUS

NEW SECTION. **Sec. 16.** Subheadings and part headings used in this act are not part of the law.

NEW SECTION. **Sec. 17.** This act shall be known and cited as the Taxpayer Protection Act.

NEW SECTION. **Sec. 18.** This act takes effect December 6, 2007.

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