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INITIATIVE 378

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. 378 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.72.250, 29A.72.290, 29A.32.031, 29A.32.070, and 43.135.055; adding a new section to chapter 43.135 RCW; adding new sections to chapter 29A.72 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 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 RCW 43.88A.020: 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.

The intent of section 5 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 any new tax, tax increase, or tax extension, inside and outside the general fund, be subject to the two-thirds threshold. 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. The people expect the legislature to respect, follow, and abide by the law, on the books for 13 years, to not raise taxes in excess of the state expenditure limit without two-thirds legislative approval and a vote of the people. Intent of RCW 43.135.035(5): 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. RCW 43.135.035(5) 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.

The intent of sections 6 through 13 of this act: 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. The Courts' reviews of emergency clauses have resulted in inconsistent decisions regarding the legality of them in individual cases. The people find that, if they are not allowed to vote on a tax increase, good public policy demands that at least the legislature should be aware of the voters' view of individual tax increases. An advisory vote of the people at least gives the legislature the views of the voters and gives the voters information about the bill increasing taxes and provides the voters with legislators' names and contact information and how they voted on the bill. The people have a right to know what's happening in Olympia. Intent of section 6(4) of this act: If there's a binding vote on the ballot, there's no need for a non-binding vote.

The intent of section 14 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.

**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 increases fees under RCW 43.135.055, 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 increases fees under RCW 43.135.055, 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 increases fees under RCW 43.135.055 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.

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

Sec. 5. 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, tax increases 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 act, "raises taxes" means any action or combination of actions by the legislature that increases state revenue that is deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean the receipt of federal funds.

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

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.135 RCW and reads as follows:

(1) If legislative action raising taxes under RCW 43.135.035 is blocked from a citizen referendum or is not referred to the voters by a citizen referendum, an advisory vote of the people shall be placed on the next general election ballot under this act.

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

(2) No later than the thirtieth of September, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this section. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for an advisory vote of the people, as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot.

(3) For the purposes of this section, "blocked from a 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.

(4) If legislative action raising taxes is referred to the voters by a citizen initiative or by the legislature under RCW 43.135.035(1) or (2), then the tax increase is exempt from an advisory vote of the people under this act.

Sec. 7. 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."

NEW SECTION. **Sec. 8.** A new section is added to RCW 29A.72 and shall read as follows:

Within five days after the receipt of an advisory vote of the people from the secretary of state under RCW 29A.72.040 the attorney general shall formulate a short description not exceeding thirty words and not subject to appeal, of each tax increase and shall transmit a certified copy of such short description meeting the requirements of this section to the secretary of state. The description must be formulated 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 . . . []"

Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this section. The words "The people recommend this tax increase be: Repealed . . . [] Maintained . . . []" are not counted in the thirty-word limit for a short description under this section.

NEW SECTION. **Sec. 9.** A new section is added to RCW 29A.72 and shall read as follows:

When the short description is finally established under section 8 of this act, the secretary of state shall file the instrument establishing it with the proposed measure and transmit a copy thereof by mail to the chief clerk of the house of representatives, the secretary of the senate, and to any other individuals who have made written request for such notification. Thereafter such short description shall be the description of the measure in all ballots and other proceedings in relation thereto.

Sec. 10. RCW 29A.72.250 and 2003 c 111 s 1825 are each amended to read as follows:

If a referendum or initiative petition for submission of a measure to the people is found sufficient, the secretary of state shall at the time and in the manner that he or she certifies for the county auditors of the various counties the names of candidates for state and district

officers certify to each county auditor the serial numbers and ballot titles of the several initiative and referendum measures and serial numbers and short descriptions of advisory votes of the people, if any, to be voted upon at the next ensuing general election or special election ordered by the legislature.

Sec. 11. 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 and 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 RCW 29A.72.040 will be under the heading, "Advisory Vote of the People".

Sec. 12. RCW 29A.32.031 and 2004 c 271 s 121 are each amended to read as follows:

The voters' pamphlet must contain:

(1) Information about each ballot measure and each advisory vote of the people initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, advocating the candidacies of nominees for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit a campaign mailing address and telephone number and a photograph not more than five years old and of a size and quality that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) In even-numbered years, a section explaining how voters may participate in the election campaign process; the address and telephone number of the public disclosure commission established under RCW 42.17.350; and a summary of the disclosure requirements that apply when contributions are made to candidates and political committees;

(5) In even-numbered years the name, address, and telephone number of each political party with nominees listed in the pamphlet, if filed with the secretary of state by the state committee of a major political party or the presiding officer of the convention of a minor political party;

(6) In each odd-numbered year immediately before a year in which a president of the United States is to be nominated and elected, information explaining the precinct caucus and convention process used by each major political party to elect delegates to its national presidential candidate nominating convention. The pamphlet must also provide a description of the statutory procedures by which minor political parties are formed and the statutory methods used by the parties to nominate candidates for president;

(7) An application form for an absentee ballot;

(8) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(9) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

Sec. 13. RCW 29A.32.070 and 2003 c 111 s 807 are each amended to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Federal and state offices must appear in the pamphlet in the same sequence as they appear on the ballot. Measures and arguments and advisory votes must be printed in the order specified by RCW 29A.72.290.

The voters' pamphlet must provide the following information for each statewide issue on the ballot except advisory votes of the people whose requirements are provided in subsection (11) of this section:

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The fiscal impact statement prepared under *RCW 29.79.075;

(6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of the measure;

(11) Two pages shall be provided in the general election voters' pamphlet for each advisory vote of the people under section 6 of this

act and shall consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description formulated by the attorney general under section 8 of this act, the tax increase's most up-to-date ten-year cost projection, including a year-by-year breakdown, by the office of financial management under 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. For the purposes of this subsection, "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.

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

Sec. 14. 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.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 15.** 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. 16.** 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. 17.** Subheadings and part headings used in this act are not part of the law.

NEW SECTION. **Sec. 18.** This act shall be known and cited as the Taxpayer Protection Act.

NEW SECTION. **Sec. 19.** This act takes effect December 6, 2007.

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