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### INITIATIVE 883

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. 883 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to reducing traffic congestion by making road construction to reduce traffic congestion the top priority of the state transportation system; amending RCW 36.120.160; adding new sections to chapter 47.10 RCW; adding a new section to chapter 47.01 RCW; adding a new section to chapter 47.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 43.09 RCW; adding new sections to chapter 46.68 RCW; adding a new section to chapter 47.05 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 47.10 RCW to read as follows:

LEGISLATIVE INTENT--TRANSPORTATION PROJECT FUNDING MUST REDUCE TRAFFIC CONGESTION AND IMPROVE MOBILITY. Traffic congestion costs Washington billions of dollars and thousands of jobs and is a drain on our state economy. Since 1990, vehicular travel growth has been at a rate more than triple the growth of lane-miles of freeways and arterials serving that travel. Projects constructed in Washington have generally exceeded costs of comparable construction in the rest of the

country. The Puget Sound region is among the worst in the United States measured by delay per driver, fuel consumed per person, and annual congestion cost per person. This congestion continues to worsen with serious economic effects reducing economic development, hurting businesses, and costing jobs. Dedicating some of existing revenues to complete priority projects will reduce traffic delay to significantly and substantially improve Washington's economic climate. Long-term implementation of this Traffic Congestion Relief Initiative will reduce traffic congestion significantly below today's level. In order to create jobs and economic growth, it is necessary to act to reduce traffic delay by requiring dedication of some existing funds as provided in this act to construct the most cost-effective projects, controlling costs and exempting congestion relief projects from sales tax. The people direct that the provisions of this initiative be implemented without impact on education funding.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.10 RCW to read as follows:

CRITERIA FOR HIGHWAY PROJECT FUNDING AND CONSTRUCTION--STATE AND REGIONAL EFFORTS. (1) The department of transportation, a county, a regional transportation investment district, or other entity proposing to construct freeways or principal arterial projects defined as highways of statewide significance with costs over ten million dollars shall first conduct a traffic congestion relief and cost-effectiveness analysis of the proposed project.

(2) Expenditures from the traffic congestion relief account created by section 8 of this act may be made only for freeway and principal arterial improvements certified after the traffic congestion relief analysis shows those improvements to be the best in the state or in each region of the state, as specified in subsection (5) of this section. The analysis by the department or entity set forth in subsection (3) of this section must:

(a) Be based on commonly accepted transportation planning procedures;

(b) Recognize regionally adopted population and employment projections;

(c) Estimate current afternoon/evening peak period vehicle-hours of delay for the project area or corridor;

(d) Estimate projected afternoon/evening peak vehicle-hours of delay for the project area or corridor for the tenth year in the future without project improvements;

(e) Estimate projected afternoon/evening peak vehicle-hours of delay for the project area or corridor for the tenth year in the future with the project completed and in operation; and

(f) Prepare an estimated present-value capital cost of the project.

(3) The calculated savings in vehicle-delay hours per million dollars of capital investment becomes the traffic congestion relief score. The score establishes priority ranking for projects that must be funded in descending order of delay reduction per million dollars of capital investment.

(4) No more than sixty percent of the funds dedicated through section 8 of this act may be committed for projects in any three-county area.

(5) In any region of the state, as determined by the department of transportation pursuant to chapter 47.01 RCW, at least one project with the highest traffic congestion relief rating after analysis under subsections (2) and (3) of this section may be funded and constructed in each biennium. For purposes of this section, the Northwest and Olympic regions will be redefined to exclude King, Pierce, and Snohomish counties. A single county or other cooperative operating agency formed between counties or counties and cities under chapter 39.34 RCW may apply for and receive an appropriation of traffic congestion relief funds to construct the projects. A regional transportation investment district created under chapter 36.120 RCW may apply for and receive matching funds for such projects on a one-to-one basis.

(6) The minimum threshold for a project qualifying for funding from the Congestion Relief Fund shall be a projected 10-year roadway or corridor Travel Time Index of 1.1 or worse. Travel Time Index is the ratio of peak period travel time to free-flow travel time for a project or highway segment. If in any Region no projects meet this minimum threshold, then one safety-related or major maintenance-related project from that Region may qualify for funding. The projects so selected shall be those with the highest benefit/cost ratio.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.01 RCW to read as follows:

DEPARTMENT OF TRANSPORTATION REQUIRED TO IMPLEMENT. (1) The department shall designate an office or division of dedicated staff and services whose primary responsibility is the analysis, design, permitting, and construction of transportation projects and conversion of existing high-occupancy vehicle lanes to general purpose lanes,

which will reduce traffic congestion as determined to be necessary and appropriate as provided in section 2 of this act and in this section.

(2) As an immediate action, all high-occupancy vehicle lanes will be opened for off-peak and weekend hours and each lane analyzed for capacity to reduce traffic congestion through conversion to general purpose vehicle lanes. A maximum of three consecutive A.M. hours per weekday and three consecutive P.M. hours per weekday may be designated as "peak" for this purpose. Each lane must be immediately converted to a general purpose lane unless peak period congestion is not reduced by opening a high-occupancy vehicle lane to general purpose traffic. Future high-occupancy vehicle lanes may be implemented only if their projected use would carry more person-trips than would a general purpose lane in its place. In performing this analysis, the average car occupancy (ACO) of vehicles using the high-occupancy vehicle lane must be assumed to be constant when converted to a general purpose lane. This section does not affect RCW 46.44.080, 46.61.110, or 46.61.135 as relates to truck traffic.

(3) All of the powers granted the department under this title relating to highway construction must be used to implement this act and to construct, convert, or aid and facilitate these traffic congestion relief projects, including those projects proposed by counties, cooperative operating agencies, or regional transportation investment districts if meeting the criteria in section 2 of this act.

(4) At the request of a county, cooperative operating agency, or regional transportation investment district, the department shall perform the traffic congestion relief analysis specified in section 2 of this act for each proposed project and report the results within six months to the requesting entity and to the legislature.

(5) In an application for federal funding made by or through the department, each project costing over ten million dollars must be analyzed for traffic congestion relief cost-effectiveness and the results, and a cumulative summary of all state projects, submitted with any funding proposal or report made to federal agencies or to the United States Congress. The department shall prioritize these projects and seek maximum federal funding to implement this act and match the funds dedicated by this act to traffic congestion reduction.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.06 RCW to read as follows:

COST CONTROLS AND WAIVER OF SALES AND USE TAXES ON TRAFFIC CONGESTION RELIEF PROJECTS. Capital costs of major roadway projects of

the department have exceeded national costs. To be eligible for funding under this act, project costs must be controlled to meet the following requirements:

(1) Added lane-mile costs must be no more than fifty percent above prevailing national costs for roads of a similar type and in locations of comparable density by location (central city, urban, suburban, exurb, and rural);

(2) Prevailing national costs must be determined from average lane-mile costs by roadway type and location type provided by the federal highway administration or United States congressional committee reports. If these are unavailable, prevailing national costs may be calculated from the most recently completed or projects contracted and under construction in a sample of at least ten comparison states, including states subject to significant seismic design requirements and states with variable terrain. The comparison states must be geographically distributed around the United States.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW to read as follows:

The taxes levied by RCW 82.08.020 do not apply to materials and labor used in the construction or maintenance of publicly owned roads, streets, and highways where funded by this act or by federal funding and meeting the traffic congestion relief criteria in section 2 of this act. This exemption includes project construction from matching funds.

NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW to read as follows:

The taxes levied by RCW 82.12.020 do not apply to materials and labor used in the construction or maintenance of publicly owned roads, streets, and highways where funded by this act or by federal funding and meeting the traffic congestion relief criteria in section 2 of this act. This exemption includes project construction from matching funds.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.09 RCW to read as follows:

**ACCOUNTABILITY AND PERFORMANCE AUDITS.** (1) The state auditor shall conduct a performance audit of any constructing agency, including the department of transportation, and any county, regional transportation investment district, or other public agency that has constructed traffic congestion relief funded projects costing in excess of ten million dollars. The funds from sections 8 and 9 of this act must be

used for the cost of the audit. The first audit report for each agency must be submitted to the legislature and made available to the public on or before December 31, 2006. Subsequent performance audits must be conducted by the state auditor and made available at least one year after the completion of any project or payment of over ninety percent of contracted costs for any project. For counties and cities, the audit may be conducted as part of audits otherwise required by state law.

(2) The state auditor shall also conduct a performance audit of the department of transportation administration and support of the traffic congestion relief program at least each fiscal biennium. Each audit must also include a summary and comparison of all highway and road construction under other funding sources of the department analyzed under the criteria set forth in section 2 of this act in order to allow comparison of the congestion relief effectiveness per million dollars spent of all department of transportation projects.

NEW SECTION. **Sec. 8.** A new section is added to chapter 46.68 RCW to read as follows:

TRAFFIC CONGESTION RELIEF ACCOUNT CREATED. (1) The traffic congestion relief account is created in the motor vehicle fund. Money in the account may be appropriated and spent in accordance with this act. Expenditures from the account must be used only for projects or improvements identified as traffic congestion relief projects and to pay the principal and interest on the bonds authorized for traffic congestion relief projects or improvements.

(2) That portion of fuel tax, weight fees, and sales and use tax specified in section 11 of this act must be transferred to the traffic congestion relief account in accordance with this Initiative.

(3) The proceeds from the sale of bonds authorized by sections 9 and 10 of this act must also be deposited in the traffic congestion relief account of the motor vehicle fund. The proceeds are available only for the purposes enumerated in this act and for the payment of anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting.

(4) Any earnings on surplus balances in this fund will be invested and credited to the fund in accordance with RCW 43.84.092.

NEW SECTION. **Sec. 9.** A new section is added to chapter 47.10 RCW to read as follows:

TRAFFIC CONGESTION RELIEF BONDS AUTHORIZED. In order to provide funds necessary for the immediate design and construction of selected traffic congestion relief highway and road projects under this act, there shall be issued and sold a total of ten billion dollars of general obligation bonds of the state of Washington, which must be appropriated in accordance with this act.

NEW SECTION. **Sec. 10.** A new section is added to chapter 47.10 RCW to read as follows:

As the bonds authorized by section 9 of this act are repaid, new bonds may be issued to the maximum of ten billion dollars as set forth in section 9 of this act, and the moneys appropriated to construct additional projects statewide that meet the traffic congestion relief criteria specified in section 2 of this act.

NEW SECTION. **Sec. 11.** A new section is added to chapter 46.68 RCW to read as follows:

FUNDING FOR BOND PAYMENTS--TAXES AND FEES DEDICATED. (1) The following taxes, fees, and tolls are transferred and dedicated to the traffic congestion relief account to directly fund projects or to be applied to the repayment of bonds sold to fund the traffic congestion relief projects authorized by this act:

(a) Beginning June 30, 2005, 2.8 cents per gallon of the motor fuel tax rate applied by RCW 82.36.025 to the sale, distribution, or use of motor vehicle fuel will be transferred to the traffic congestion relief account;

(b) Beginning June 30, 2005, the proceeds of the tax rate of 2.8 cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature imposed on special fuel users by RCW 82.38.030 will be transferred to the traffic congestion relief account;

(c) Beginning June 30, 2005, that portion of sales and use tax on motor vehicles specified in RCW 82.08.020 and 82.12.020 of three percent of the selling price, in the case of a sales tax, or three percent of the value of the motor vehicle used, in the case of a use tax, upon the occurrence of any taxable event will be transferred to the traffic congestion relief account;

(d) Beginning June 30, 2005, twenty percent of the license fees for motor buses and other trucks and tractor vehicles based on gross weight imposed by RCW 46.16.070 will be transferred to the traffic congestion relief account.

(2) Revenues from the taxes and fees specified in subsection (1) of this section may be used only to implement the traffic congestion relief projects as set forth in this act, including audits required by section 7 of this act. The department shall contract with the state department of revenue or other appropriate entities for administration and collection of the taxes or fees authorized in this section.

NEW SECTION. **Sec. 12.** A new section is added to chapter 46.68 RCW to read as follows:

DISTRIBUTIONS TO CITIES AND COUNTIES UNAFFECTED. The funds credited and distributed to cities and counties under RCW 46.68.090 through 46.68.120 and 35.76.050 and to the transportation improvement board under chapter 47.26 RCW and to the county road administration board pursuant to chapter 36.78 RCW, chapter 36.79 RCW, and chapter 46.68 RCW are not affected by the provisions of this act, and those payments must continue as otherwise provided by law. However, each such entity is encouraged to advance the purposes of this initiative and apply those funds to reduce congestion emphasizing improvement to principal arterials. Proof of such compliance for this section shall be shown by certification of compliance by the entity receiving and expending such funds subject to audit review.

NEW SECTION. **Sec. 13.** GAS AND VEHICLE TAXES AND WEIGHT FEES NOT TO BE RAISED. Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2004, and sales and use taxes on vehicles are not to be raised or altered by this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 47.10 RCW to read as follows:

TRAFFIC CONGESTION RELIEF BOND FUNDS. Bond issues under the authority of sections 9 and 10 of this act must distinctly state that they are a general obligation of the state of Washington, pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and contain an unconditional promise to pay the principal and interest as they become due. The principal and interest on the bonds are first payable from the portion of the state excise taxes on motor vehicle and special fuels and vehicle weight license fees and from the sales and use taxes transferred by section 11 of this act. Proceeds of these taxes transferred by section 11 of this act are pledged to the payment of any bonds and the interest



on them. The state agrees to continue to impose these excise taxes, vehicle weight fees, and sales and use taxes in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this act.

NEW SECTION. **Sec. 15.** A new section is added to chapter 47.10 RCW to read as follows:

Both principal and interest on the bonds issued for the purposes of section 9 of this act are payable from the traffic congestion relief funds. The state finance committee may provide that a special account be created to facilitate payment of the principal and interest of these bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the traffic congestion relief account in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account, such amounts, and at such times, as are required by the bond proceedings. Any funds required for bond retirement or interest on the bonds authorized by sections 9 and 10 of this act must be taken from the traffic congestion relief account in the motor vehicle fund. Funds required do not constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities, and towns unless the amounts arising from excise taxes on motor vehicle and special fuels distributed to the state in the traffic congestion relief account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

**Sec. 16.** RCW 36.120.160 and 2002 c 56 s 116 are each amended to read as follows:

**OWNERSHIP OF IMPROVEMENTS.** Any improvement to a state highway or road facility constructed under this chapter becomes and remains the property of this state.

NEW SECTION. **Sec. 17.** A new section is added to chapter 47.05 RCW to read as follows:

**NONAPPLICABILITY OF CHAPTER.** This chapter does not apply to the projects authorized under sections 1 through 15 of this act or to the process set forth therein for authorization and funding.

NEW SECTION. **Sec. 18.** LIBERAL CONSTRUCTION. The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act.

NEW SECTION. **Sec. 19.** CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 20.** 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. If the provisions transferring a portion of existing taxes and revenues to the traffic congestion relief account is held to impair any bond or other contract in existence at the time this act becomes effective, the provisions shall be applied prospectively and to all other persons and circumstances.