

1 An Order Granting Declaratory Judgment – Findings of Facts and Conclusions of
2 Law [proposed] is attached hereto.

3 1.0 INTRODUCTION

4 Initiative Measure No. 976 was filed on March 19, 2018, with the Secretary of
5 State and was sponsored by Tim Eyman and co-sponsored by Leo J. Fagan and M.J.
6 Fagan. The ballot title and ballot measure summary were written by the Attorney General
7 and assigned to the measure on March 26, 2018.

8 The Voters Pamphlet of 2019 for Thurston County, p. 13, provided the following
9 information: Initiative Measure No. 976 concerns motor vehicle taxes and fees. This
10 measure would repeal, reduce, or remove authority to impose certain vehicle taxes and
11 fees; limit annual motor-vehicle license fees to \$30, except voter-approved charges; and
12 base vehicle taxes on Kelley Blue Book value. Should this measure be enacted into law?

13 Explanatory Statement14

14 Fiscal Impact Statement 15

15 Arguments For and Against18

16 The Voters Pamphlet of 2019, pages 14 and 15 contained the “Explanatory
17 Statement – Written by the Office of the Attorney General,” on pages 15-17 was the
18 “Fiscal Impact Statement - Written by the Office of Financial Management. For more
19 information, visit www.ofm.wa.gov,” on page 18 were the “Argument for” and “Argument
20 against” written by proponents and opponents of I-976, and on pages 111-116 was the
21 “Complete Text – Initiative Measure No. 976”. See Declaration of Tim Eyman, Exhibit C,
22 attached thereto.

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1 In the November general election, Initiative 976 (I-976) was passed by the people
2 of this state, 1,055,749 (52.99%) voting in favor, and 936,751 (47.01%) voting against.
3 66% of Pierce County voters voted yes, 58% of Snohomish County voters voted yes, 52%
4 of non-Seattle King County voters voted yes, and 59% of voters in the 38 counties outside
5 King voted yes (in 9 counties the yes vote exceeded 70%). 74% of Seattle voters voted no.
6 See Declaration of Tim Eyman, Appendix A attached thereto.

7 Plaintiff asks this Court to declare that Initiative 976 complies with the single
8 subject and subject-in-title requirements of Article II, section 19 of the Constitution; that
9 the policies contained in I-976 are rationally unified to carry out the purpose of the
10 initiative which is set forth in the bill title: "AN ACT Relating to limiting state and local
11 taxes, fees, and other charges related to vehicles"; and that voters were given notice of
12 these policies with the ballot title and voters pamphlet that every voter received and to
13 which every voter had access.

14 Notwithstanding the concurrent litigation in King County, the appeals court and
15 state supreme court will benefit from having more than one court examining the
16 constitutionality of this initiative.

17 Plaintiff has taxpayer standing to seek Declaratory Judgment to determine the
18 constitutionality of I-976.

19 2.0 STANDING

20 Petitioner is not only the initiative's sponsor but also significantly funded the
21 initiative's signature collection effort (\$500,000 was loaned to the political action
22 committee of which \$494,000 is still owed. See Declaration of Tim Eyman, Exhibit B,

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1 attached thereto). Petitioner is therefore a real party in interest to this action, pursuant to
2 CR 19 (a)(2) as Petitioner claims an interest relating to the subject of the action and is so
3 situated that the disposition of the action in the person's absence may as a practical matter
4 impair or impede Petitioner's ability to protect that interest.

5 Petitioner also asserts taxpayer standing which is frequently recognized for these
6 purposes. *State ex rel. Tattersall v. Yelle*, 52 Wn.2d 856, 859, 329 P.2d 841 (1958). A
7 taxpayer need not allege a personal stake in the matter but may bring a claim on behalf of
8 all taxpayers. *Tacoma v. O'Brien*, 85 Wn.2d 266, 269, 534 P.2d 114 (1975). Standing has
9 long been recognized to challenge governmental acts on the basis of status as a taxpayer.
10 See, e.g., *Tacoma v. O'Brien*, 85 Wn.2d 266, 269, 534 P.2d 114 (1975); *Calvary Bible*
11 *Presbyterian Church v. Board of Regents*, 72 Wn.2d 912, 917-18, 436 P.2d 189 (1967),
12 *cert. denied*, 393 U.S. 960 (1968); *Fransen v. Board of Natural Resources*, 66 Wn.2d 672,
13 404 P.2d 432 (1965). Generally, the taxpayer is required first to request action by the
14 Attorney General and refusal of that request before action is begun by the taxpayer. See,
15 e.g., *Tacoma v. O'Brien*, *supra*; *Citizens Coun. Against Crime v. Bjork*, 84 Wn.2d 891,
16 893, 529 P.2d 1072 (1975). Even that requirement may be waived when "such a request
17 would have been useless." *Farris v. Munro*, 99 Wn.2d 326, 329-30, 662 P.2d 821 (1983).

18 3.0 JURISDICTION AND VENUE

19 Jurisdiction is appropriate in Thurston County pursuant to RCW 2.08.010, and
20 RCW 4.12.025. Thurston County exercised prior jurisdiction over the initiative's Ballot
21 Title, and therefore has ongoing and continuous jurisdiction over challenges to the Ballot
22 Title. See Declaration of Tim Eyman, Exhibit D attached thereto.

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1 An appeal of a ballot title was filed in Thurston County Superior Court under RCW
2 29A.72.080. The court's decision on the ballot title and summary "shall be final," is heard
3 without costs to either party and is not subject to appeal. RCW 29A.72.080; *Kreidler v.*
4 *Eikenberry*, 111 Wn.2d 828, 834, 766 P.2d 438 (1989).

5 The ballot title and summary must satisfy the statutory standards in RCW
6 29A.72.050(1) and .060, as set out in Section II.A. above. The Attorney General's
7 formulation of the ballot title and summary will stand unless a challenger timely
8 demonstrates that the formulation is statutorily deficient.

9 The ballot title "need not be an index to the contents, nor must it provide details of
10 the measure." *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 217, 11
11 P.3d 762 (2000); *Wash. Fed'n of State Emps. v. State*, 127 Wn.2d 544, 555, 901 P.2d 1028
12 (1995). Where the ballot title would lead to an inquiry into the body of the act, it has given
13 notice to the voter about what he or she is asked to decide. *Wash. Fed'n of State Emps.*,
14 127 Wn.2d at 555.

15 **4.0 DECLARATORY JUDGMENT**

16 Plaintiff seeks declaratory judgment pursuant to RCW 7.24.020, as a person whose
17 rights, status or other legal relations are affected by the injunction preventing I-976 from
18 becoming law, and who is aggrieved as a taxpayer with the burden of being forced to pay
19 taxes and fees repealed, reduced, or eliminated by the newly enacted I-976. This
20 complaint for Declaratory Judgment is supported by the Declaration of Tim Eyman which
21 illustrates that Mr. Eyman did contact the Attorney General prior to bringing this
22

1 complaint to seek redress for this grievance and was rebuffed. As a consequence, the
2 action is ripe for review. See Declaration of Tim Eyman, Exhibit E attached thereto.

3 Justiciability is a threshold requirement that must be satisfied before we may
4 address a claim on Declaratory Judgment. See *Lee v. State*, 185 Wash.2d 608, 616, 374
5 P.3d 157 (2016). Under the Uniform Declaratory Judgments Act (UDJA), chapter 7.24
6 RCW, and in the absence of issues of “broad, overriding, public import,” there must be a
7 justiciable controversy

8 “(1) which is an actual, present and existing dispute, or the mature seeds of one, as
9 distinguished from a possible, dormant, hypothetical, speculative, or moot
10 disagreement, (2) between parties having genuine and opposing interests, (3) which
11 involves interests that must be direct and substantial, rather than potential,
12 theoretical, abstract or academic, and (4) a judicial determination of which will be
13 final and conclusive.”

14 *Lee*, 185 Wash.2d at 616, 374 P.3d 157 (quoting *Diversified Indus. Dev. Corp. v. Ripley*,
15 82 Wash.2d 811, 815, 514 P.2d 137 (1973)). Each of these four requirements must be met.
16 Otherwise, the court “steps into the prohibited area of advisory opinions.” *Diversified*, 82
17 Wash.2d at 815, 514 P.2d 137.

18 However, the court may, in its discretion, retain and decide a declaratory judgment
19 action when it can be said that matters of continuing and substantial public interest are
20 involved. *Sorenson v. Bellingham*, 80 Wash.2d 547, 558, 496 P.2d 512 (1972). In deciding
21 whether a case presents matters of continuing and substantial public interest, three factors
22 are particularly determinative:

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1 “(1) [W]hether the issue is of a public or private nature; (2) whether an
2 authoritative determination is desirable to provide future guidance to public
3 officers; and (3) whether the issue is likely to recur.” A fourth factor may also play
4 a role: “the level of genuine adverseness and the quality of advocacy of the issues.”
5 Lastly, the court may consider the “likelihood that the issue will escape review
6 because the facts of the controversy are short-lived.”

7 *Satomi Owners Ass’n v. Satomi, LLC*, 167 Wash.2d 781, 796, 225 P.3d 213 (2009);
8 (quoting *In re Marriage of Horner*, 151 Wash.2d 884, 892, 93 P.3d 124 (2004)).

9 Petitioner’s claim for declaratory judgment is therefore ripe for adjudication.

10 **5.0 POINTS AND AUTHORITIES**

11 **a. Analyzing an Initiative**

12 “An exercise of the initiative power is an exercise of the reserved power of the
13 people to legislate.” *Amalgamated Transit Union Local 587 v. State*, 142 Wash.2d 183,
14 204, 11 P.3d 762 (2000), opinion corrected, ___ Wash.2d ___, 27 P.3d 608 (2001). “In
15 approving an initiative measure, the people exercise the same power of sovereignty as the
16 Legislature does when enacting a statute.” *Id.*

17 Interpretation of an initiative is a question of law that is reviewed de novo by the
18 Courts of Appeal. *Washington Citizens Action of Washington v. State*, 162 Wash.2d 142,
19 151, 171 P.3d 486 (2007). The Court applies the rules of statutory construction to
20 initiatives. *Roe v. Tele-Tech Customer Care Mgmt. (Colorado) LLC*, 171 Wash.2d 736,
21 746, 257 P.3d 586 (2011). Thus, when interpreting the meaning of a statute enacted
22 through the initiative process, the purpose is to ascertain the intent of the voters who,

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1 acting in their legislative capacity, enacted the measure. *Id.* Where the voters have clearly
2 expressed their intent in the statute, the Courts are not required to look any further.
3 *Amalgamated*, 142 Wash.2d at 205, 11 P.3d 762.

4 Analysis is to focus on the **language of the initiative** as the average informed
5 voter, voting on the initiative, would read it. *Roe*, 171 Wash.2d at 746, 257 P.3d 586. If the
6 language of an initiative enactment is plain and unambiguous, and in harmony with its
7 natural and ordinary meaning, the enactment is not subject to judicial interpretation. *Id.*;
8 *Amalgamated*, 142 Wash.2d at 205, 11 P.3d 762. **However, if there is ambiguity in the**
9 **enactment, the Court may examine statements in the voters' pamphlet in order to**
10 **ascertain the collective intent of the voters.** *Amalgamated*, 142 Wash.2d at 205-06, 11
11 P.3d 762.

12 An initiative must be read in light of its various provisions, and in light of the
13 surrounding statutory scheme, rather than in a piecemeal approach. *Am. Legion Post #149*
14 *v. Dep't of Health*, 164 Wash.2d 570, 585, 192 P.3d 306 (2008). The Court must, when
15 possible, give effect to every word, clause, and sentence of a statute enacted through the
16 initiative process. *Id.*

17 **b. The Policies in Initiative 976 are clearly set forth in the voters' pamphlet**

18 As stated earlier, on page 111 of the voters' pamphlet, the first thing voters see is:
19 Complete Text Initiative Measure No. 976. Next is the title of the act: BRING BACK
20 OUR \$30 CAR TABS. Next is the initiative's bill title: AN ACT Relating to limiting state
21 and local taxes, fees, and other charges relating to vehicles; amending RCW 46.17.350,
22 46.17.355, 46.17.323, 82.08.020, 82.44.065, 81.104.140, and 81.104.160; adding a new

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1 section to chapter 46.17 RCW; adding a new section to chapter 82.44 RCW; adding a new
2 section to chapter 81.112 RCW; creating new sections; repealing RCW 46.17.365,
3 46.68.415, 82.80.130, 82.80.140, 82.44.035, and 81.104.160; and providing an effective
4 date. Next is: BE IT ENACTED BY THE PEOPLE OF THE STATE OF
5 WASHINGTON:

6 Next is Section 1 entitled POLICIES AND PURPOSES. This is often referred to as
7 the intent section and has been determined to have no legal effect. As the court reasoned in
8 *Pierce County v. State*, 78 P. 3d 640, 648 (Wash: Supreme Court 2003): "The distinction
9 between a proposed measure's legal substance and its policy fluff was tersely drawn in an
10 early opinion of this court: "A law is a rule of action. An argument is not.... [A] preface or
11 preamble stating the motives and inducement to the making of [the law] is without force
12 in a legislative sense.... It is no part of the law." *State ex rel. Berry v. Superior Court for*
13 *Thurston County*, 92 Wash. 16, 30-32, 159 P. 92 (1916). Just as the common inclusion of
14 dicta in judicial opinions does not compromise the legal effect of a decision, policy
15 expressions in a bill or initiative are "no part of the law." Because I-776's "rule of action"
16 was \$30 license tabs and because its policy statements were "no part of the law," I-776 did
17 not embrace two unrelated laws or enactments. Its "operative and relevant sections," as the
18 superior court termed them, were all rationally related to the enactment of a \$30 ceiling on
19 license tab fees.

20 Section 2 limited certain vehicle fees to \$30 per year and it specifically set forth
21 certain charges that were not affected by this limit ("do not include charges approved by
22

1 voters after the effective date of this section”). Such a provision is a provision to “limit
2 state and local taxes, fees, and other charges relating to motor vehicles.”

3 Section 3 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
4 state and local taxes, fees, and other charges relating to motor vehicles.”

5 Section 4 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
6 state and local taxes, fees, and other charges relating to vehicles.”

7 Section 5 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
8 state and local taxes, fees, and other charges relating to vehicles.”

9 Section 6 repeals the authority for certain local governments to impose certain
10 vehicle taxes and fees, which is a provision to “limit state and local taxes, fees, and other
11 charges relating to vehicles.”

12 Section 7 repeals a certain tax on motor vehicles, which is a provision to “limit
13 state and local taxes, fees, and other charges relating to vehicles.”

14 Section 8 requires a taxing district to use Kelley Blue Book value for vehicles to
15 calculate a vehicle tax “so the burden on vehicle owners is not artificially inflated,” which
16 is a provision to “limit state and local taxes, fees, and other charges relating to vehicles.”

17 Section 9 amends the existing appeal process for vehicle valuations to reflect the
18 change in section 8 (“Using Kelley Blue Book value ensures an honest and accurate
19 calculation.”), which is a provision to “limit state and local taxes, fees, and other charges
20 relating to vehicles.”

21 Section 10 eliminates the authority granted under RCW 81.104.140 to exact a
22 special motor vehicle excise tax under RCW 81.104.140(3)(f)(ii) and RCW

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1 81.104.140(10)(b), which is a provision to “limit state and local taxes, fees, and other
2 charges relating to vehicles.”

3 Section 11 repeals the current dishonest vehicle valuation schedule in RCW
4 82.44.035 and repeals certain vehicle taxes, which are provisions to “limit state and local
5 taxes, fees, and other charges relating to vehicles.”

6 Section 12 provides as follows:

7 In order to effectuate the policies, purposes, and intent of this act and to ensure that
8 the motor vehicle excise taxes repealed by this act are no longer imposed or
9 collected, an authority that imposes a motor vehicle excise tax under RCW
81.104.160 must fully retire, defease, or refinance any outstanding bonds issued
under this chapter if:

10 (1) Any revenue collected prior to the effective date of this section
from the motor vehicle excise tax imposed under RCW 81.104.160 has been
pledged to such bonds; and

11 (2) The bonds, by virtue of the terms of the bond contract,
covenants, or similar terms, may be retired or defeased early or refinanced.

12 Unless Section 12 is included, the repeal of vehicle taxes and the current dishonest
13 vehicle valuation schedule in sections 10 and 11 fails, because it is necessary “to effectuate
14 the policies, purposes, and intent of this act and to ensure that the motor vehicle excise
15 taxes repealed by this act are no longer imposed or collected.” Rational unity between the
16 matters embraced in the act is achieved, because the unity being found in the general
17 purpose of the act is unified with the practical problems of efficient administration. *State ex*
18 *rel. Wash. Toll Bridge Auth.*, 61 Wash.2d at 33, 377 P.2d 466 (quoting *State ex rel. Test v.*
19 *Steinwedel*, 203 Ind. 457, 467, 180 N.E. 865, 868 (1932)).

20 Section 13 reduces a motor vehicle excise tax from 0.8% to 0.2%, which is a
21 provision to “limit state and local taxes, fees, and other charges relating to vehicles.”
22

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1 Section 14 requires liberal construction, consistent with existing precedent
2 governing the adjudication of the initiative.

3 Section 15 provides for severability, stating that “[i]f any provision of this act or its
4 application to any person or circumstance is held invalid, the remainder of the act or the
5 application of the provision to other persons or circumstances in not affected.”

6 Section 16 sets forth effective dates and contingency effective dates; and

7 Section 17 sets forth the title of the act.

8 **c. Ballot Title and Ballot Measure Summary**

9 RCW 29A.72.050 provides that “[t]he ballot title for an initiative to the people, an
10 initiative to the legislature, a referendum bill, or a referendum measure consists of: (a) A
11 statement of the subject of the measure; (b) a concise description of the measure; and (c) a
12 question in the form prescribed in this section for the ballot measure in question. The
13 statement of the subject of a measure must be sufficiently broad to reflect the subject of the
14 measure, sufficiently precise to give notice of the measure's subject matter, and not exceed
15 ten words. The concise description must contain no more than thirty words, be a true and
16 impartial description of the measure's essential contents, clearly identify the proposition to
17 be voted on, and not, to the extent reasonably possible, create prejudice either for or
18 against the measure.

19 **d. The title of I-976 is entirely sufficient under article II, section 19.**

20 The Attorney General’s Statement of Subject for I-976 reads as follows: “Initiative
21 Measure No. 976 concerns motor vehicle taxes and fees.” The Attorney General’s Concise
22 Description reads as follows: “This measure would repeal, reduce, or remove authority to

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1 impose certain vehicle taxes and fees; limit annual motor-vehicle license fees to \$30,
2 except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.” (Dec.
3 of Eyman, Ex. C - Voters Pamphlet, p. 13). This ballot title provides a comprehensive and
4 complete description of the initiative's policies as 33 words will permit.

5 The title of an initiative ““need not be an index to its contents; nor is the title
6 expected to give the details contained in the bill.” *Wash. Fed'n of State Employees*, 127
7 Wash.2d at 555, 901 P.2d 1028 (*quoting Treffry v. Taylor*, 67 Wash.2d 487, 491, 408 P.2d
8 269 (1965)). The contents of an initiative can constitutionally entail “any subject
9 reasonably germane” to its title. *DeCano v. State*, 7 Wash.2d 613, 627, 110 P.2d 627
10 (1941). A ballot title need not include a unifying “umbrella” term but, rather, “[i]f the
11 subject of the act can be reasonably gathered from reading the title as a whole, the subject
12 is sufficiently expressed therein.” *Fritz*, 83 Wash.2d at 291, 517 P.2d 911 (*quoting*
13 *Maxwell v. Lancaster*, 81 Wash. 602, 607, 143 P. 157 (1914)). In *Fritz*, the words
14 “openness in government” did not appear within the 100-word ballot title but was
15 determined to be the (single) subject of the act. *Fritz*, 83 Wash.2d at 290, 517 P.2d 911.

16 Moreover, when the words of a title may be given two interpretations, only one of
17 which renders the act constitutional, it is the constitutional interpretation which must be
18 adopted by the court. *Wash. Fed'n of State Employees*, 127 Wash.2d at 556, 901 P.2d 1028
19 (*quoting Treffry*, 67 Wash.2d at 491, 408 P.2d 269).

20 Here, with I-976, the Attorney General’s title starts with: “This measure would
21 repeal, reduce, or remove authority to impose certain vehicle taxes and fees; ...” This gives
22 voters clear notice that I-976 gets rid of certain vehicle taxes and fees – which ones can be

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1 ascertained by reading the initiative's bill title (AN ACT Relating AN ACT Relating to
2 limiting state and local taxes, fees, and other charges relating to vehicles; amending RCW
3 46.17.350, 46.17.355, 46.17.323, 82.08.020, 82.44.065, 81.104.140, and 81.104.160;
4 adding a new section to chapter 46.17 RCW; adding a new section to chapter 82.44 RCW;
5 adding a new section to chapter 81.112 RCW; creating new sections; **repealing RCW**
6 **46.17.365, 46.68.415, 82.80.130, 82.80.140, 82.44.035, and 81.104.160**; and providing an
7 effective date), as well as the initiative's text, specifically Section 6:

8 REPEAL AND REMOVE AUTHORITY TO IMPOSE CERTAIN VEHICLE
9 TAXES AND CHARGES

10 Sec. 6. The following acts or parts of acts are each repealed:

11 (1) RCW 46.17.365 (**Motor vehicle weight fee—Motor home vehicle weight fee**)
12 and 2015 3rd sp.s. c 44 s 202 & 2010 c 161 s 533;

13 (2) RCW 46.68.415 (**Motor vehicle weight fee, motor home vehicle weight**
14 **fee—Disposition**) and 2010 c 161 s 813;

15 (3) RCW 82.80.130 (**Passenger-only ferry service—Local option motor vehicle**
16 **excise tax authorized**) and 2010 c 161 s 916, 2006 c 318 s 4, & 2003 c 83 s 206; and

17 (4) RCW 82.80.140 (**Vehicle fee—Transportation benefit district—**
18 **Exemptions**) and 2015 3rd sp.s. c 44 s 310, 2010 c 161 s 917, 2007 c 329 s 2, & 2005 c
19 336 s 16.

20 The middle portion of the Concise Description reads: "... limit annual motor-
21 vehicle license fees to \$30, except voter-approved charges; ..." This gives voters clear
22 notice that certain annual fees are limited to \$30 and such a limit does not include voter-

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1 approved charges – which ones are specifically listed in section 2 of I-976: “do not include
2 voter-approved charges after the effective date of this section.” The words in this middle
3 section of the the Attorney Generals’ title for I-976 may be given two interpretations – one
4 where the limit does not affect future voter-approved charges and one where the limit does
5 not affect current and future voter-approved charges. It can be read either way but as set
6 forth in and established by *Wash. Fed'n of State Employees*, when the words of a title may
7 be given two interpretations, only one of which renders the act constitutional, it is the
8 constitutional interpretation which must be adopted by the court.

9 The last portion of the Attorney General’s title describes the policy change in
10 section 8 of I-976: “ ...and base vehicle taxes on Kelley Blue Book value.” Voters were
11 given notice of this policy change by its inclusion in the Attorney General’s title.

12 Objections to the title “must be grave and must present a palpable conflict between
13 the title and the constitution before the act will be held unconstitutional.” *Shea v. Olson*,
14 185 Wash. 143, 152, 53 P.2d 615 (1936). Differing meanings attributed to the term “tax”
15 are neither “grave” nor do they rise to the level of “a palpable conflict between the title and
16 the constitution.”

17 Most fundamentally an initiative title is constitutionally sufficient “if it gives
18 notice that would lead to an inquiry into the body of the act,” *Wash. Fed'n of State*
19 *Employees*, 127 Wash.2d at 555, 901 P.2d 1028 (*quoting YMCA v. State*, 62 Wash.2d 504,
20 506, 383 P.2d 497 (1963)).

21 Statements in the official voters’ pamphlet “may be considered to ascertain the
22 collective purpose and intent of the people,” *Thorne*, 129 Wash.2d at 763, 921 P.2d 514.

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1 Here, with I-976, the Explanatory Statement written by the Attorney General, the
2 Fiscal Impact Statement by the Office of Financial Management, the Argument For and
3 Against I-976 by proponents and opponents, and the initiative's text each contained
4 information that gave voters entirely sufficient notice as to which "state and local taxes,
5 fees, and other charges related to motor vehicles" were impacted by I-976's passage.

6 **e. The Single Subject of I-976 is limiting state & local taxes, fees,**
7 **and other charges relating to vehicles**

8 Initiative 976 was filed on March 19, 2018. The electorate has every right and
9 constitutional authority to adopt an initiative to impede taxing authority, and to enact in a
10 single measure all rationally related provisions designed to achieve the single objective of
11 the initiative – which is to, as disclosed in the initiative's bill title -- "limit[ing] state and
12 local taxes, fees, and other charges relating to vehicles."

13 "[T]here must be some rational unity between the matters embraced in the act,
14 the unity being found in the general purpose of the act and the practical problems of
15 efficient administration.... For purposes of legislation, 'subjects' are not absolute
16 existences to be discovered by some sort of *a priori* reasoning but are the result of
17 classification for convenience of treatment and for greater effectiveness in attaining the
18 general purpose of the particular legislative act." *State ex rel. Wash. Toll Bridge Auth.*, 61
19 Wash.2d at 33, 377 P.2d 466 (*quoting State ex rel. Test v. Steinwedel*, 203 Ind. 457, 467,
20 180 N.E. 865, 868 (1932).

21 The Attorney General's Statement of Subject for I-976 read "Initiative Measure No.
22 976 concerns motor vehicle taxes and fees." It is presumed that the average voter reading

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1 this statement of subject would be led to further inquiry to determine which motor vehicle
2 taxes and fees were impacted.

3 The Attorney General's Concise Description read that I-976 would "repeal, reduce,
4 or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-
5 license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue
6 Book value." Again, it is presumed that the average voter reading this concise description
7 would be led to further inquiry to determine which motor vehicle taxes and fees would be
8 repealed, reduced, or which authority to impose motor vehicle taxes and fees would be
9 repealed or reduced, and would seek out the mechanics of how the annual motor-vehicle-
10 license fees would be limited to \$30; and to understand the exceptions and the valuation
11 giving actual effect to the act.

12 It is presumed that the average voter would read the Complete Text of Initiative
13 Measure No. 976 set forth on page 111 of the voters' pamphlet. The Complete Text is
14 unambiguous.

15 Neither is the title of the act unambiguous: BRING BACK OUR \$30 CAR TABS.
16 Nor is the initiative's bill title: AN ACT Relating to limiting state and local taxes, fees, and
17 other charges relating to vehicles; amending RCW 46.17.350, 46.17.355, 46.17.323,
18 82.08.020, 82.44.065, 81.104.140, and 81.104.160; adding a new section to chapter 46.17
19 RCW; adding a new section to chapter 82.44 RCW; adding a new section to chapter
20 81.112 RCW; creating new sections; repealing RCW 46.17.365, 46.68.415, 82.80.130,
21 82.80.140, 82.44.035, and 81.104.160; and providing an effective date.

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1 Finally, it is presumed that the average voter would read the conclusion of this
2 section which states as follows: BE IT ENACTED BY THE PEOPLE OF THE STATE
3 OF WASHINGTON:

4 Although the average voter would read the POLICIES AND PURPOSES, this
5 section is considered “policy fluff” and precatory language (likened to dicta) and has been
6 long determined to have no legal effect (*see Pierce County v State, supra*).

7 Thereafter, the remainder of the act is of a single subject.

8 Section 2 limited certain vehicle fees to \$30 per year and it specifically set forth
9 certain charges that were not affected by this limit (“do not include charges approved by
10 voters after the effective date of this section”). Such a provision is a provision to “limit
11 state and local taxes, fees, and other charges relating to motor vehicles.”

12 Section 3 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
13 state and local taxes, fees, and other charges relating to motor vehicles.”

14 Section 4 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
15 state and local taxes, fees, and other charges relating to vehicles.”

16 Section 5 reduces the fee to \$30 for certain vehicles, which is a provision to “limit
17 state and local taxes, fees, and other charges relating to vehicles.”

18 Section 6 repeals the authority for certain local governments to impose certain
19 vehicle taxes and fees, which is a provision to “limit state and local taxes, fees, and other
20 charges relating to vehicles.”

21 Section 7 repeals a certain tax on motor vehicles, which is a provision to “limit
22 state and local taxes, fees, and other charges relating to vehicles.”

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1 Section 8 requires a taxing district to use Kelley Blue Book value for vehicles to
2 calculate a vehicle tax “so the burden on vehicle owners is not artificially inflated,” which
3 is a provision to “limit state and local taxes, fees, and other charges relating to vehicles.”

4 Section 9 amends the existing appeal process for vehicle valuations to reflect the
5 change in section 8 (“Using Kelley Blue Book value ensures an honest and accurate
6 calculation.”), which is a provision to “limit state and local taxes, fees, and other charges
7 relating to vehicles.”

8 Section 10 eliminates the authority granted under RCW 81.104.140 to exact a
9 special motor vehicle excise tax under RCW 81.104.140(3)(f)(ii) and RCW
10 81.104.140(10)(b), which is a provision to “limit state and local taxes, fees, and other
11 charges relating to vehicles.”

12 Section 11 repeals the current dishonest vehicle valuation schedule in RCW
13 82.44.035 and repeals certain vehicle taxes, which are provisions to “limit state and local
14 taxes, fees, and other charges relating to vehicles.”

15 Section 12 provides as follows:

16 In order to effectuate the policies, purposes, and intent of this act and to ensure that
17 the motor vehicle excise taxes repealed by this act are no longer imposed or
18 collected, an authority that imposes a motor vehicle excise tax under RCW
81.104.160 must fully retire, defease, or refinance any outstanding bonds issued
under this chapter if:

19 (1) Any revenue collected prior to the effective date of this section
from the motor vehicle excise tax imposed under RCW 81.104.160 has been
pledged to such bonds; and

20 (2) The bonds, by virtue of the terms of the bond contract,
covenants, or similar terms, may be retired or defeased early or refinanced.

21 Unless Section 12 is included, the repeal of vehicle taxes and the current dishonest
22 vehicle valuation schedule in sections 10 and 11 fails, because it is necessary “to effectuate
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1 the policies, purposes, and intent of this act and to ensure that the motor vehicle excise
2 taxes repealed by this act are no longer imposed or collected.” Rational unity between the
3 matters embraced in the act is achieved, because the unity being found in the general
4 purpose of the act is unified with the practical problems of efficient administration. *State ex*
5 *rel. Wash. Toll Bridge Auth.*, 61 Wash.2d at 33, 377 P.2d 466 (*quoting State ex rel. Test v.*
6 *Steinwedel*, 203 Ind. 457, 467, 180 N.E. 865, 868 (1932)).

7 Section 13 reduces a motor vehicle excise tax from 0.8% to 0.2%, which is a
8 provision to “limit state and local taxes, fees, and other charges relating to vehicles.”

9 Section 14 requires liberal construction, consistent with existing precedent
10 governing the adjudication of the initiative.

11 Section 15 provides for severability, stating that “[i]f any provision of this act or its
12 application to any person or circumstance is held invalid, the remainder of the act or the
13 application of the provision to other persons or circumstances in not affected.”

14 Section 16 sets forth effective dates and contingency effective dates; and

15 Section 17 sets forth the title of the act.

16 Every provision in Initiative 976 is germane to and is rationally unified toward the
17 initiative’s overall mission which is to “limit state and local taxes, fees, and other charges
18 relating to vehicles.” There is no provision in I-976 that does not relate to limiting state and
19 local taxes, fees, and other charges relating to vehicles. From section 1 of I-976: “This
20 measure and each of its provisions limit state and local taxes, fees, and other charges
21 relating to motor vehicles.”

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1 The unified vehicle cost limitation subject found in I-976 is clear. The provisions in
2 it are generically linked to achieve a singular purpose.

3 In *Wash. Toll Bridge Auth. v. State*, 49 Wash.2d 520, 304 P.2d 676 (1956), the
4 rational unity analysis invites the Court's inclusion as **necessarily related to the efficient**
5 **administration and accomplishment of an overall objective**. [Bold added].

6 The single subject of this initiative is to "limit state and local taxes, fees, and other
7 charges relating to vehicles" and includes provisions necessarily related to the efficient
8 administration and accomplishment of that overall objective. It is simply a democratic
9 effort to control state and local governments' effort to ever inflate vehicle costs.

10 I-976 embraces but a single subject addressed through complementary measures. It
11 therefore complies with Article II, Section 19's single subject rule.

12 **f. I-976 is Presumed to be Constitutional**

13 A statute enacted through the initiative process is, as are other statutes, presumed to
14 be constitutional. *Brower v. State*, 137 Wash.2d 44, 52, 969 P.2d 42 (1998); *Gerberding*,
15 134 Wash.2d at 196, 949 P.2d 1366; *State ex rel. O'Connell v. Meyers*, 51 Wash.2d 454,
16 458, 319 P.2d 828 (1957). A party challenging the statute's constitutionality bears the
17 heavy burden of establishing its unconstitutionality beyond a reasonable doubt. *State ex*
18 *rel. Heavey*, 138 Wash.2d at 808, 982 P.2d 611; *Gerberding*, 134 Wash.2d at 196, 949
19 P.2d 1366.

20 It is a presumption that a statute enacted through the initiative process is
21 constitutional unless its unconstitutionality appears beyond a reasonable doubt, and the
22 burden of proving its failure to meet constitutional scrutiny rests with the party challenging

1 its constitutionality. *Potelco, Inc. v. Dept. of Labor & Industries*, 191 Wn. App. 9, 361 P.
2 3d 767, 776 (2015); *Heesan Corp. v. City of Lakewood*, 75 P. 3d 1003, 1009 (2003); *City*
3 *of Seattle v. Eze*, 111 Wash.2d 22, 26, 759 P.2d 366 (1988). Impossible specificity
4 standards are not required. *Eze*, 111 Wash.2d at 26, 759 P.2d 366.

5 Rules of statutory construction apply to initiatives. *Seeber v. Wash. State Pub.*
6 *Disclosure Comm'n*, 96 Wash.2d 135, 139, 634 P.2d 303 (1981); *Gibson v. Dep't of*
7 *Licensing*, 54 Wash.App. 188, 192, 773 P.2d 110 (1989). Thus, in determining the
8 meaning of a statute enacted through the initiative process, the court's purpose is to
9 ascertain the collective intent of the voters who, acting in their legislative capacity, enacted
10 the measure. *Wash. State Dep't of Revenue v. Hoppe*, 82 Wash.2d 549, 552, 512 P.2d 1094
11 (1973). Where the voters' intent is clearly expressed in the statute, the court is not required
12 to look further. *Senate Republican Campaign Comm. v. Pub. Disclosure Comm'n*, 133
13 Wash.2d 229, 242, 943 P.2d 1358 (1997); *City of Tacoma v. State*, 117 Wash.2d 348, 356,
14 816 P.2d 7 (1991); see *Biggs v. Vail*, 119 Wash.2d 129, 134, 830 P.2d 350 (1992) (if
15 statutory meaning is clear from plain and unambiguous language, that meaning must be
16 accepted by the court).

17 In determining intent from the language of the statute, the court focuses on the
18 language in the initiative as the average informed voter would read it. *State v. Brown*, 139
19 Wash.2d 20, 28, 983 P.2d 608 (1999); *Senate Republican Campaign Comm.*, 133 Wash.2d
20 at 243, 943 P.2d 1358. Where the language of an initiative enactment is plain,
21 unambiguous, and well understood according to its natural and ordinary sense and
22 meaning, the enactment is not subject to judicial interpretation. *State v. Thorne*, 129

1 Wash.2d 736, 762-63, 921 P.2d 514 (1996). However, if there is ambiguity in the
2 enactment, the court may examine the statements in the voters' pamphlet in order to
3 determine the voters' intent. *Thorne*, 129 Wash.2d at 763, 921 P.2d 514; *see Lynch v. Dep't*
4 *of Labor & Indus.*, 19 Wash.2d 802, 812-13, 145 P.2d 265 (1944); *see Biggs*, 119 Wash.2d
5 at 134, 830 P.2d 350 (if there is ambiguity, extrinsic aids, such as legislative history, may
6 be used to determine legislative intent).

7 Here, the text of the initiative is clear. If this court were to determine there was any
8 ambiguity, the voters pamphlet contained the Explanatory Statement written by the Office
9 of the Attorney General, the Fiscal Impact Statement written by the Office of Financial
10 Management, and Argument for and Argument against the measure written by proponents
11 and opponents.

12 A statute is void for vagueness only if it is framed in terms so vague that persons of
13 common intelligence must necessarily guess at its meaning and differ as to its application.
14 *Faghih v. Dep't of Health, Dental Quality Assurance Comm'n*, 148 Wash.App. 836, 847,
15 202 P.3d 962 (2009) (*citing Haley v. Med. Disciplinary Bd.*, 117 Wash.2d 720, 739, 818
16 P.2d 1062 (1991)). Vagueness challenges are evaluated by inspecting the actual conduct of
17 the party challenging the rule and not by examining “hypothetical situations at the
18 periphery of the [rule's] scope.” *Am. Legion Post 149 v. Dep't. of Health*, 164 Wash.2d
19 570, 612, 192 P.3d 306 (2008) (*quoting City of Spokane v. Douglass*, 115 Wash.2d 171,
20 181-82, 795 P.2d 693 (1990)).

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1 **g. Speculation as to Voter Understanding is Unlawful**

2 Generally speaking, the voter is presumed to have read the text of the act and the
3 disclosures set forth in the Voters Pamphlet; the voter is presumed to be informed.

4 *Sane Transit v. Sound Transit*, 151 Wash.2d 60, 85 P.3d 346 (2004), *Amalgamated Transit*
5 *Union Local 587 v. State*, 142 Wash.2d 183, 205, 11 P.3d 762, 27 P.3d 608 (2000); *State*
6 *ex rel. Evergreen Freedom Found. v. Wash. Educ. Ass'n*, 140 Wash.2d 615, 637, 999 P.2d
7 602 (2000); *City of Spokane v. Taxpayers of City of Spokane*, 111 Wash.2d 91, 98, 758
8 P.2d 480 (1988). The Court concluded as follows:

9 The court is not instructed to make an inquiry into the voter's subjective
10 understanding of what he or she thought he or she was enacting. *Amalgamated Transit*,
11 142 Wash.2d at 205, 11 P.3d 762 (inquiry into the voters' intent will not occur where the
12 text of an initiative is unambiguous); *City of Spokane*, 111 Wash.2d at 97, 758 P.2d 480
13 (court will avoid entering the realm of pure speculation about what individual voters were
14 thinking, nor will it assume voters do not read or understand the measure presented to
15 them).

16 It is constitutionally sufficient if a ballot title would lead to an inquiry into the body
17 of the act. If so, proper notice, as required by article II, section 19 of the Washington
18 Constitution, has been given to the voter about what he or she is deciding. *Wash. Fed'n of*
19 *State Employees v. State*, 127 Wash.2d 544, 555, 901 P.2d 1028 (1995). *See Sane Transit*
20 *v. Sound Transit*, 151 Wash.2d 60, 85 P.3d 346, 351-52 (2004).

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1 Rules of statutory construction apply to I-976. *Seeber v. Wash. State Pub.*
2 *Disclosure Comm'n*, 96 Wash.2d 135, 139, 634 P.2d 303 (1981); *Gibson v. Dep't of*
3 *Licensing*, 54 Wash.App. 188, 192, 773 P.2d 110 (1989).

4 Where the voters' intent is clearly expressed in the initiative, the court is not
5 required to look further. *Senate Republican Campaign Comm. v. Pub. Disclosure Comm'n*,
6 133 Wash.2d 229, 242, 943 P.2d 1358 (1997); *City of Tacoma v. State*, 117 Wash.2d 348,
7 356, 816 P.2d 7 (1991); *see Biggs v. Vail*, 119 Wash.2d 129, 134, 830 P.2d 350 (1992) (if
8 statutory meaning is clear from plain and unambiguous language, that meaning must be
9 accepted by the court).

10 In determining intent from the language of the initiative, the court focuses on the
11 language as the average informed voter voting on the initiative would read it. *State v.*
12 *Brown*, 139 Wash.2d 20, 28, 983 P.2d 608 (1999); *Senate Republican Campaign Comm.*,
13 133 Wash.2d at 243, 943 P.2d 1358.

14 Where the language of the initiative enactment is plain, unambiguous, and well
15 understood according to its natural and ordinary sense and meaning, the enactment is not
16 subject to judicial interpretation. *State v. Thorne*, 129 Wash.2d 736, 762-63, 921 P.2d 514
17 (1996).

18 However, in the event ambiguity may be present in the enactment, the court has
19 also examined the statements in the voters' pamphlet in order to determine the voters'
20 intent. *Thorne*, 129 Wash.2d at 763, 921 P.2d 514; *see Lynch v. Dep't of Labor & Indus.*,
21 19 Wash.2d 802, 812-13, 145 P.2d 265 (1944); *see Biggs*, 119 Wash.2d at 134, 830 P.2d

1 350 (if there is ambiguity, extrinsic aids, such as legislative history, may be used to
2 determine legislative intent).

3 The Concise Description of I-976 declares that the Initiative would “repeal, reduce,
4 or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-
5 license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue
6 Book value.”

7 There is rational unity found in all Sections of I-976 and the matters embraced in
8 the act, the unity being found in the general purpose of the act and the practical problems
9 of efficient administration. *State ex rel. Wash. Toll Bridge Auth.*, 61 Wash.2d at 33, 377
10 P.2d 466; *State ex rel. Test v. Steinwedel*, 203 Ind. 457, 467, 180 N.E. 865, 868 (1932).

11 I-976 embraces but a single subject addressed through complementary measures. It
12 therefore complies with Article II, Section 19's single subject rule, to wit: “No bill shall
13 embrace more than one subject, and that shall be expressed in the title.”

14 The Attorney General’s I-976 Ballot Title – the Statement of Subject and Concise
15 Description -- complies with the subject-in-title requirements of Article II, Section 19 of
16 the Constitution of the State of Washington.

17 Initiative 976 comports with the applicable provisions of the Constitution of the
18 State of Washington and is therefore “Constitutional”.

19 DATED this 30th day of December 2019.

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21 
22 TIM EYMAN, pro se Petitioner