

1 **Resolution Challenging the Constitutionality of Initiative 1366**

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3 **WHEREAS** Washington voters, on November 3, 2015, narrowly adopted Tim Eyman's
4 Initiative 1366 ("I-1366"), a ballot measure containing serious flaws that have led to a
5 substantive challenge of its validity under our State Constitution, and the King County
6 Superior Court has found Initiative 1366 to be unconstitutional;

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8 **WHEREAS** that decision has been appealed to the State Supreme Court;

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10 **WHEREAS** the fundamental purpose of I-1366, as demonstrated by its text, its title
11 ("2/3 Constitutional Amendment"), and its promotional advertising, was and is to
12 initiate amendment of the State Constitution to require (1) either a two-thirds legislative
13 supermajority or a public vote on any measure that "raises taxes," and (2) legislative
14 approval of any increase in state fees;

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16 **WHEREAS** use of an initiative to commence a constitutional amendment process is
17 beyond the scope of the limited legislative power conferred upon the people by Article
18 II, Sec. 1 of our State Constitution;

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20 **WHEREAS** Article XXIII of our State Constitution prescribes the sole method for its
21 amendment; namely, by a proposal initiated by a two-thirds vote in each house of the
22 State Legislature and subsequently ratified by a vote of the people;

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24 **WHEREAS** I-1366, taken as a whole, would turn that prescribed method on its head by
25 impermissibly initiating a specific mandatory amendment by a vote of the people on I-
26 1366 itself;

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28 **WHEREAS** I-1366, by providing for both a sales tax decrease and contingent referral of
29 a constitutional amendment that would require both supermajority approval of any tax
30 increase and legislative approval of any fee increase, violates the State Constitution's
31 Article II, Sec. 19 "single-subject" requirement in both respects;

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33 **WHEREAS** I-1366 is also unconstitutional in constraining the power of our Legislature
34 to act, by requiring it to choose between an unsupportable reduction in taxes needed to
35 support public education, and the unconstitutional submission of a supermajority
36 amendment that would empower a 34% minority to exercise negative control over each
37 and every proposed tax increase;

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39 **WHEREAS** our State has already been found in contempt of court for failing to
40 adequately fund public education as required by Article IX of the State Constitution
41 (McCleary v. State, Order dated 9/11/14), and remains in that contumacious status
42 even today (see, e.g., McCleary Order dated 8/13/15);
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44 **WHEREAS** any action by the Legislature to reduce present tax collections, or to refer
45 for voter approval a constitutional amendment requiring a two-thirds legislative
46 supermajority for approval of any tax increase, would exacerbate the State's present
47 contempt-of-court status; and
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49 **WHEREAS** a judicial failure to invalidate I-1366 would make our courts complicit in
50 the State's ongoing unconstitutional failure to adequately fund public education, and
51 thereby undermine their ascription of responsibility to other entities of State
52 government;
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54 **THEREFORE BE IT RESOLVED** that the Washington State Democratic Central
55 Committee urges the Washington State Supreme Court to affirm the unconstitutionality
56 of I-1366.
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59 Submitted by the 32nd LD Democrats to the WSDCC. (Date Submitted 1/15/2016)

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61 The Resolutions Committee amended this resolution and recommended that it be
62 "PASSED" at its January 30, 2016 meeting in Lynnwood.

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64 The WSDCC "PASSED" this resolution at its January 30, 2016 meeting in Lynnwood.