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NO. 92708-1

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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TONY LEE, an individual taxpayer; ANGELA BARTELS, an individual taxpayer; DAVID FROCKT, an individual taxpayer and Washington State Senator; REUVEN CARLYLE, an individual taxpayer and Washington State Representative; EDEN MACK, an individual taxpayer; PAUL BELL, an individual taxpayer; and THE LEAGUE OF WOMEN VOTERS OF WASHINGTON

Respondents,

v.

STATE OF WASHINGTON;  
and TIM EYMAN; LEO F. FAGAN; and M.J. FAGAN,

Appellants.

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**STATE OF WASHINGTON'S RESPONSE TO AMICUS CURIAE**

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ROBERT W. FERGUSON  
*Attorney General*

CALLIE A. CASTILLO, WSBA 38214  
REBECCA R. GLASGOW, WSBA 32886  
*Deputy Solicitors General*  
PO Box 40100  
Olympia, WA 98504-0100  
360-753-6200  
OID No. 91087

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## I. INTRODUCTION

Despite the arguments made by the Association of Washington School Principals, the merits of Initiative 1366's fiscal policy or impact are not before this Court. Instead, the issue is whether the people of the State of Washington validly exercised their constitutional legislative power when they adopted Initiative 1366. They did. The Association's arguments ignore that the Legislature has numerous options for reacting to the Initiative, some of which would prevent the budget impact that the Association laments.

## II. ARGUMENT

Without citing to a single constitutional provision other than article IX, section 1, which is not at issue in this matter, the Association asks this Court to hold Initiative 1366 unconstitutional. Amicus Br. at 2-3. But the people's power to "enact all reasonable laws is unrestrained" unless it is expressly or implicitly prohibited by the constitution. *See Brower v. State*, 137 Wn.2d 44, 55, 969 P.2d 42 (1998); *Fritz v. Gorton*, 83 Wn.2d 275, 281, 517 P.2d 911 (1974). Nothing in the Washington Constitution restrains the people from enacting conditional legislation—as they did with Initiative 1366—that reduces the state sales tax rate in the absence of the Legislature proposing a constitutional amendment that is neither demanded nor required by the Initiative.

The Association primarily argues that Initiative 1366's reduction to the state sales tax rate puts undue pressure on the Legislature and the state budget. Amicus Br. at 3-10. But, as equal sovereigns with the Legislature,

it is within the people's legislative power and prerogative to reform the tax system by reducing the sales tax rate. *See Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 200, 204, 11 P.3d 762 (2001). It is also within the people's legislative power and prerogative to make that reduction contingent on a constitutional amendment that may or may not be taken up by the Legislature. *See, e.g., Brower*, 137 Wn.2d at 55-56; *State v. Storey*, 51 Wash. 630, 632, 99 P. 878 (1909).

Exercising the people's legislative powers in this conditional manner does not bind the Legislature or infringe upon the Legislature's power to enact a state budget. There is no constitutional requirement for how the Legislature must meet the State's financial obligations, only that it must meet those obligations. If the Legislature has concerns regarding Initiative 1366's budgetary effects, myriad options are available to it. The Legislature could propose a constitutional amendment as set forth in the Initiative, and thus avoid the Initiative's state sales tax reduction. The Legislature could amend the Initiative's provisions by a two-thirds vote. The Legislature could do nothing under the Initiative, allow the people's sales tax rate reduction to go into effect, and replace any lost revenue through other financial sources, for example by increasing revenue from another, less regressive, type of tax or eliminating tax preferences or loopholes.

In enacting Initiative 1366, the people expressed their desire for a significant change to the State's tax system. They achieved that goal by passing legislation that reduces the sales tax rate unless the Legislature

alternatively proposes a constitutional amendment that would also affect the tax system. While the Association claims the people exercised their legislative powers to coerce the Legislature into proposing a constitutional amendment, this argument ignores the Legislature's options. Amicus Br. at 12-15. The Legislature has alternatives that would allow it to avoid both the suggested constitutional amendment and the budget impact of a sales tax reduction.

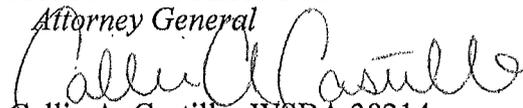
### III. CONCLUSION

The people of the state of Washington enacted Initiative 1366 in accordance with the constitution and as a valid exercise of their legislative power. The State of Washington asks this Court to uphold the people's legislative act.

RESPECTFULLY SUBMITTED this 9th day of March 2016.

ROBERT W. FERGUSON

*Attorney General*



Callie A. Castillo, WSBA 38214

Rebecca R. Glasgow, WSBA 32886

*Deputy Solicitors General*

PO Box 40100

Olympia, WA 98501-0100

360-753-6200

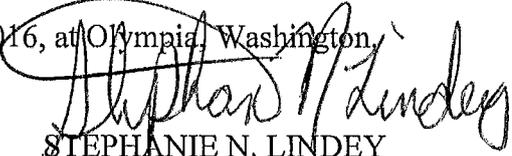
**Certificate of Service**

I certify, under penalty of perjury under the laws of the state of Washington, that I served, via email, a true and correct copy of the Appellant State of Washington's Reply Brief, upon the following:

Paul J. Lawrence	1191 Second Avenue, Suite 2000
Kymerly K. Evanson	Seattle, WA 98101-3404
Sarah S. Washburn	Paul.lawrence@pacificalawgroup.com
Pacifica Law Group, LLP	Kymerly.evanson@pacificalawgroup.com
	Sarah.Washburn@pacificalawgroup.com
	Sydney.henderson@pacificalawgroup.com

Richard M. Stephens	Plaza Center Bellevue
Stephens & Klinge LLP	10900 NE 8th Street, Suite 1325
	Bellevue, WA 98004
	stephens@sklegal.pro
	jills@sklegal.pro

DATED this 9th day of March 2016, at Olympia, Washington.

  
STEPHANIE N. LINDEY  
Legal Assistant

## OFFICE RECEPTIONIST, CLERK

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**To:** Lindey, Stephanie (ATG)  
**Cc:** 'Paul.Lawrence@pacificallawgroup.com'; 'Kymberly.Evanson@pacificallawgroup.com'; 'Sarah Washburn'; 'Sydney Henderson'; 'stephens@sklegal.pro'; 'jills@sklegal.pro'; Castillo, Callie (ATG); Glasgow, Rebecca (ATG); Jensen, Kristin (ATG)  
**Subject:** RE: Lee v. State; 92708-1; State's Response to Amicus Curiae

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**Sent:** Wednesday, March 09, 2016 3:56 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** 'Paul.Lawrence@pacificallawgroup.com' <Paul.Lawrence@pacificallawgroup.com>; 'Kymberly.Evanson@pacificallawgroup.com' <Kymberly.Evanson@pacificallawgroup.com>; 'Sarah Washburn' <Sarah.Washburn@pacificallawgroup.com>; 'Sydney Henderson' <Sydney.Henderson@pacificallawgroup.com>; 'stephens@sklegal.pro' <stephens@sklegal.pro>; 'jills@sklegal.pro' <jills@sklegal.pro>; Castillo, Callie (ATG) <CallieC@ATG.WA.GOV>; Glasgow, Rebecca (ATG) <RebeccaG@ATG.WA.GOV>; Jensen, Kristin (ATG) <KristinJ@ATG.WA.GOV>  
**Subject:** Lee v. State; 92708-1; State's Response to Amicus Curiae

Dear Clerk,

Attached in case number 92708-1, please find the following document:

1. Appellant State of Washington's Response to Amicus Curiae.

*Stephanie N. Lindey*  
Solicitor General Division  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 586-3114  
[StephanieL1@atg.wa.gov](mailto:StephanieL1@atg.wa.gov)