IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR THURSTON COUNTY

ARTHUR WEST, **plaintiff,** **Vs.** **STEVE HOBBS, in his official capacity as Secretary of State of the State of Washington; NICHOLAS W. BROWN, in his official capacity as Attorney General of the State of Washington; and THE STATE OF WASHINGTON, defendants.**	)	**No. 26-2-04498-34** **DECLARATION OF PAUL JACOB**

I, Paul Jacob, make this declaration under penalty of perjury, am over the age of 21 years, and based on my decades of experience with the initiative and referendum process and extensive research, I set forth matters and material below that is true and correct to the best of my knowledge, and is admissible in evidence.

I am the president of Citizens In Charge Foundation, a non-profit, non-partisan organization dedicated to advocating for direct democracy and protecting initiative and referendum rights across the United States. Our website displays this quote by President Teddy Roosevelt: "I believe in the Initiative and Referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative."

I have been involved with ballot measure campaigns in all 24 initiative states and **not one** has ever allowed the government to, ex post facto, rewrite an initiative's ballot presentation to include hypothetical service cuts the way Washington state's RCW 29A.72.027 does.

There is no other state whose fiscal-impact requirement is limited to tax-and-fee measures in the way RCW 29A.72.027 is, and no other state singles out only tax measures. Washington's statute is unusual because it applies only after examining the measure's substantive subject — whether it "repeals, levies, or modifies" a tax or fee — and then converts the resulting revenue change into a statement about hypothetical funding impacts upon selected public services-fundng impacts that may never materialize in the real world.

RCW 29A.72.027 is not textually limited only to measures that propose to reduce taxes. It covers both:

* measures decreasing revenue by repealing or reducing a tax or fee; and
* measures increasing revenue by levying or increasing a tax or fee.

But that formal symmetry does not make it content neutral. Its application depends entirely on the initiative's subject matter, and its mandated framing systematically favors the revenue-increasing side:

* Tax reduction: "This measure would decrease funding for [valued services]."
* Tax increase: "This measure would increase funding for [valued services]."

Thus, the statute is plainly subject-matter based and embodies an asymmetrical or pro-revenue framing, even though it does not expressly say "anti-tax initiatives only."

STATE COMPARISONS

Florida: wording is close but applies only to constitutional amendments and is not limited to tax related measures

Florida now requires a bold warning if any proposed ***constitutional amendment*** has a net negative budget impact:

"THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO HAVE A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS IMPACT MAY RESULT IN HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES …."

For measures with a net positive impact from additional tax revenue, Florida requires:

"THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO HAVE A NET POSITIVE IMPACT ON THE STATE BUDGET. THIS IMPACT MAY RESULT IN GENERATING ADDITIONAL REVENUE OR AN INCREASE IN GOVERNMENT SERVICES."

For positive effects arising from other causes, the statement says the measure may result in lower taxes or increased services. Fla. Stat. § 101.161.

Florida therefore uses language about taxes and loss of government services that resembles Washington's framing. But there are major distinctions:

* Florida's law applies to only to **initiative constitutional amendments with a positive or negative budget impact**, not merely measures addressing taxes or fees.

* Negative effects receive the same predetermined treatment regardless of whether caused by a tax reduction, spending mandate, regulatory program, or other proposal.

* The actual financial-impact statement is prepared for **every** qualifying initiative.

* The statement must be separately presented after the ballot summary.

* Most importantly, the financial-impact statement is separately contained on both **the petition and the ballot**. Signers therefore see the statement before signing. Fla. Stat. § 100.371.

Florida is content-sensitive in the ordinary sense that the prescribed statement depends on whether the fiscal effect is positive, negative, or indeterminate. But it is not anti-tax-measure specific.

Utah: expressly singles out tax increases—the opposite viewpoint

Utah has a genuinely subject-specific disclosure. If an initiative proposes a tax increase, *the petition* must carry a prominent statement such as:

"This initiative seeks to increase the current [tax] rate by [amount] …."

Utah's abbreviated petition materials must disclose either that the measure proposes a tax increase or that it does not propose one. Utah Code § 20A-7-203.

Utah is therefore not content neutral in the broad *Reed* sense: whether the compelled statement appears, and what it says, depends on the proposal's tax content.

But Utah differs sharply from Washington:

* It singles out **tax increases**, not tax reductions.

* It states the mathematical change in the tax rate.

* It does not identify government services that will supposedly benefit.

* The disclosure appears on the petition before signatures are gathered.

* It does not add a newly selected government message after certification.

Utah may therefore be useful to show that when another state adopts tax-specific compelled disclosure, it requires a factual disclosure during petition circulation rather than subsequently appending a policy-consequence message.

Oregon: content-triggered, but directed at unfunded spending

Oregon requires fiscal estimates for measures affecting expenditures, revenues, taxation, or indebtedness. It also requires the following bold warning when a measure will impose more than $100,000 in expenditures without a dedicated funding source:

"MEASURE SPENDS MONEY WITHOUT IDENTIFYING A FUNDING SOURCE."

But Oregon places that warning only in the **voters' pamphlet**, not on the ballot. Its ballot fiscal estimate must be impartial and ordinarily states dollar amounts, ranges, revenues, expenditures, or indebtedness. ORS 250.125.

Oregon thus singles out a particular substantive category — unfunded spending — but does so on the opposite side of the fiscal spectrum from Washington's apparent practical focus on revenue-repeal initiatives.

Other states

The general fiscal-impact statutes in Alaska, Arkansas, California, Colorado[1], Idaho, Maine, Mississippi, Montana, North Dakota, Oklahoma, South Dakota, Wyoming, and the remaining jurisdictions are not limited to anti-tax initiatives. They apply whenever a measure is expected to affect:

* governmental revenue;
* expenditures or costs;
* indebtedness;
* local-government finances; or
* implementation expenses.

Their applicability turns on whether there is a fiscal consequence, not whether the measure expresses an anti-tax position.

Content discrimination analysis

Three classifications should be kept separate.

1. Facially subject-matter based

RCW 29A.72.027 applies only if the measure:

* repeals, levies, or modifies a tax or fee; and
* produces a net change in state revenue.

An official must read the initiative and identify its subject matter before determining whether the compelled statement applies. An initiative reducing revenue by changing a tax receives the PIID; an initiative producing the identical revenue reduction through a regulatory or

[1] The particulars of the Colorado law are set forth at length in plaintiff's Reply.

appropriations provision may not.

That is a strong basis for characterizing the statute as **content based on its face** under ordinary First Amendment doctrine.

2. **Arguably viewpoint-skewed in its prescribed message**

Its mandatory format associates:

* increased taxation with increased funding for valued services; and
* reduced taxation with reduced funding for valued services.

It does not similarly require disclosure of:

* the amount taxpayers will retain;
* economic or distributional effects of the tax;
* administrative costs;
* whether the identified services have independent appropriations;
* whether the Legislature could reprioritize spending;
* whether the revenue is actually legally dedicated to the named programs; or
* other possible budgetary choices.

The government therefore selects one side of the policy equation: consequences for government programs. That provides a credible argument that the Washington law conceals a **systematic pro-revenue framing**.

CONCLUSION

No other initiative state confines its general fiscal-impact disclosure requirement to measures whose communicative content concerns the repeal, levy, or modification of taxes and fees, as Washington does. Florida prescribes warnings concerning lost services and higher taxes, but applies them to every initiative *constitutional amendment* producing a net negative budget impact and requires the financial statement to appear separately on both the petition and ballot. Utah singles out tax increases, but requires a mathematical tax-rate disclosure before signatures are gathered. Oregon singles out unfunded spending, but places its categorical warning only in the voters' pamphlet. Washington's law is unique in compelling, after petition circulation, a selected-services statement triggered specifically by the initiative's tax-or-fee content and placing it inside the proposition immediately before the enactment question.

The strongest constitutional characterization is therefore: **facially content based, not**

facially anti-tax-viewpoint exclusive, but structurally and predictably tilted against tax-reduction and tax-repeal initiatives.

There is no other initiative state that authorizes what RCW 29A.72.027 does — adding, after certification and signature gathering, a government-drafted statement identifying public services that supposedly will gain or lose funding and placing that statement inside the ballot proposition immediately before the voting question.

There are important qualifications because several states add neutral ballot summaries or fiscal information. But those procedures are materially different from Washington's "public investment impact disclosure."

Washington's procedure is structurally unusual

RCW 29A.72.027 requires the Attorney General to write:

"This measure would (increase or decrease) funding for (description of services)."

The statement:

* is written after the measure has qualified;

* was not presented to petition signers;

* identifies selected government programs or "investments" rather than merely stating estimated revenues or costs;

* is inserted after the certified concise description and immediately before "Should this measure be enacted into law?";

* is expressly declared not to be part of the ballot title, even though RCW 29A.72.050 places it in the middle of the ballot-title presentation; and

* is exempted from the ordinary statutory requirements governing ballot titles, especially using neutral wording that will not create prejudice either for or against the measure.

That combination appears unique.

Other states generally use one of three materially different models

A. Fiscal information appears on the petition before people sign

A substantial group requires the fiscal estimate or fiscal statement to be included in the circulated petition. This includes Alaska, California, Colorado, Florida, Idaho, Maine, Montana, Oklahoma, South Dakota, and Utah.

That procedure does not change the proposition after the petitioning act. A signer sees the government-prepared material before deciding whether to sign. The National Conference of State Legislatures' current comparison expressly observes that many states put fiscal-impact information on petitions so individuals can review it before signing.

This is a particularly important distinction for an Article I, section 4 petition argument: the informational package placed before voters is substantially the same package upon which the petitioners solicited the electorate's support.

B. Fiscal information is placed in a voter pamphlet or separate public notice

Arizona, Massachusetts, Missouri, Nevada, Ohio, and several others principally place fiscal material in a pamphlet, website, newspaper notice, sample ballot, or other explanatory publication.

These states do not interpose a service-loss warning between the description of the initiative and the yes-or-no question. The fiscal analysis remains visibly separate from the legal proposition submitted for enactment.

North Dakota is a particularly useful comparison. Its fiscal process begins after signed petitions have been submitted for ballot placement, but the Legislative Council submits an estimated fiscal-impact statement and the Secretary of State provides notice through separate measure analysis. The statute does not authorize the government to append a selected-program warning to the initiative's operative ballot proposition. N.D.C.C. § 16.1-01-17.

C. A neutral fiscal estimate appears separately on the ballot

Arkansas, California, Florida, Idaho, Mississippi, Montana, North Dakota, Oklahoma, Oregon, and Wyoming authorize some form of fiscal information on the ballot. But the ordinary formulation is an estimated change in:

* state or local revenue;
* governmental costs;
* expenditures;
* indebtedness; or
* overall budgetary impact.

Those statutes generally demand an estimate, fiscal statement, or fiscal note. They do not direct the drafter to select socially valued services and announce that the initiative will increase or decrease their funding.

Bottom line: there is no comparable statute permitting the State, after an initiative has been certified and the petitioning process completed, to insert immediately before the voting question a newly drafted statement identifying particular public programs that purportedly will gain or lose funding. Other jurisdictions authorize neutral titles, summaries, fiscal estimates, or voter-pamphlet analyses. Most states placing fiscal information on the ballot either disclose that information on the petition before signatures are gathered or confine the statement to estimated governmental revenues and costs. Florida—the closest analogue—requires the financial-impact statement to appear separately on both the petition and ballot and requires refiling if the statement is judicially revised.

RCW 29A.72.027 therefore is a national outlier. **It alters the proposition as presented to voters after certification**, by attaching government-authored substantive speech specifying alleged service impacts that are purely hypothetical, information that was neither contained in nor displayed on the petition signed by the electorate.

Attached to this declaration is a true and correct copy of an October 18, 2023 Change Research communication concerning polling conducted for SEIU and Washington Conservative Action that demonstrates the impact on the voters of these politically weighted PIIDs.

I certify the foregoing to be correct and true to the best of my knowledge under penalty of perjury of the laws of the State of Washington

Executed this 5th day of August, 2026 in Fairfax, Virginia.

PAUL JACOB
11166 Fairfax Blvd #1366
Fairfax, VA, 22030
paul@citizensincharge.org
703-651-1159