

1 THE HONORABLE MARY SUE WILSON

2 SEPTEMBER 22, 2023 at 9:00 a.m.  
3 WITH ORAL ARGUMENT

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7 SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

8 TRACY DORIoT, DORIoT  
9 CONSTRUCTION LLC, and OAK HARBOR  
10 FREIGHT, INC.,

11 Plaintiffs,

12 v.

13 STATE OF WASHINGTON, JAY INSLEE,  
14 in his official capacity as Washington State  
15 Governor, WASHINGTON STATE  
16 LEGISLATURE,

17 Defendants.

Case No. 23-2-00302-34

**PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT**

18 Plaintiffs Tracy Doriot, Doriot Construction LLC, and Oak Harbor Freight, Inc. move for  
19 summary judgment and declaratory relief against Defendants the State of Washington, Jay Inslee  
20 in his official capacity as Washington State Governor, and the Washington State Legislature on  
21 the grounds that Engrossed Substitute Senate Bill 5974 ("ESSB 5974" or "the Act") violates  
22 Article II, Section 19 of the Washington Constitution. Defendants overstepped their constitutional  
23 authority and violated the single-subject rule and subject-title rule in passing and enacting ESSB  
24 5974. Summary judgment should be granted in favor of Plaintiffs, and the Court should enter a  
25 declaratory judgment that ESSB 5974 is unconstitutional and void.  
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1 **I. STATEMENT OF RELEVANT FACTS**

2 **A. Factual Background**

3 **1. Bill Passage**

4 On March 10, 2022, the Washington State Legislature passed Engrossed Substitute Senate  
5 Bill 5974 as the revenue portion of the “Move Ahead Washington” transportation package. Laws  
6 of 2022, ch. 182; *see also* Compl. Ex. A. On March 25, 2022, Governor Inslee signed ESSB 5974  
7 into law. Laws of 2022, ch. 182. The subject of the Act is “Transportation Resources–Various  
8 Provisions” and the Act title and description reads:

9 AN ACT Relating to transportation resources; amending RCW 70A.65.240,  
10 70A.65.030, 70A.65.040, 82.42.020, 46.17.200, 46.17.120, 46.17.400, 46.52.130,  
11 46.17.015, 46.17.025, 46.20.200, 46.68.041, 46.70.180, 82.32.385, 82.08.993,  
12 82.12.817, 82.08.9999, 82.12.9999, 82.04.4496, 82.16.0496, 82.08.816, 82.12.816,  
13 82.70.040, 82.70.050, 82.21.030, 43.84.092, 43.84.092, 82.47.020, 36.73.065,  
14 82.14.0455, 70A.535.010, 70A.535.030, 70A.535.040, 70A.535.050,  
15 70A.535.120, 46.63.170, 46.63.170, 70A.65.230, 46.68.480, 46.68.060, 46.68.396,  
16 47.01.480, 81.104.160, and 47.66.120; amending 2020 c 224 s 3 (uncodified);  
17 reenacting and amending RCW 46.20.202 and 43.155.050; adding new sections to  
18 chapter 46.68 RCW; adding a new section to chapter 70A.535 RCW; adding new  
19 sections to chapter 47.66 RCW; adding new sections to chapter 47.04 RCW; adding  
20 a new section to chapter 47.24 RCW; adding new sections to chapter 47.60 RCW;  
21 adding a new section to chapter 47.56 RCW; adding a new section to chapter  
22 47.06A RCW; adding a new chapter to Title 43 RCW; creating new sections;  
23 repealing RCW 70A.535.020; prescribing penalties; providing effective dates;  
24 providing expiration dates; and declaring an emergency.

19 Laws of 2022, ch. 182. The body of the Act contains multiple, discrete, and unrelated subjects  
20 including: (1) appropriations to reduce stormwater runoff from roads and existing infrastructure;  
21 (2) creation of specific climate-related transportation accounts, including the move ahead  
22 Washington account created in the motor vehicle fund; (3) increases to aircraft fuel excise taxes;  
23 (4) increases to stolen vehicle check, dealer temporary permits, drivers’ license, license plate, and  
24 other driver and vehicle fees; (5) amendments to certain special transportation districts’ authority  
25 to impose motor vehicle and sales taxes; (6) grant of authority to the Department of Ecology to  
26 adopt carbon intensity standards via rulemaking for certain transportation fuels used in  
27 Washington; (7) a prohibition on the sale, purchase, or registration of gas-powered passenger and

1 light duty vehicles of model year 2030 or later; (8) creation of certain statewide transportation  
2 programs; (9) a requirement that Washington state ferries allow all riders 18 years and younger to  
3 ride free of charge; (10) creation of state grants to be issued to public transit agencies creating  
4 zero-fare policies for persons 18 years and younger; (11) revisions to local pilot programs allowing  
5 use of automated traffic safety cameras; (12) creation of an interagency electric vehicle  
6 coordinating council; (13) creation of safety improvement projects for highway systems; and  
7 (14) creation of other miscellaneous programs.<sup>1</sup> See Laws of 2022, ch. 182.

## 8           **2.       Parties**

9           Plaintiffs are individual and corporate taxpayers of the State of Washington. Plaintiff Tracy  
10 Doriot is a Washington State resident who lives in Clark County. He is a taxpayer in Washington  
11 State who personally pays state taxes and fees as required by law. Declaration of Tracy Doriot  
12 ¶¶ 2–3. Mr. Doriot is also the Founder and Managing Partner of Plaintiff Doriot Construction LLC.  
13 *Id.* ¶ 4. Plaintiff Doriot Construction, LLC (“Doriot Construction”) is a Washington State Limited  
14 Liability Company located in Vancouver, Washington. *Id.* Doriot Construction builds custom  
15 homes for residents throughout Clark County. *Id.* Doriot Construction pays a variety of taxes and  
16 fees in Washington, including license plate fees, transfer fees, and registration fees on its small  
17 fleet of company vehicles and trailers. *Id.* ¶ 5.

18           Plaintiff Oak Harbor Freight Lines, Inc. (“Oak Harbor Freight”) is a privately held  
19 Washington Corporation located in Auburn, Washington. Declaration of Dan Vander Pol ¶ 2. Oak  
20 Harbor Freight employs more than 2,000 people, including its drivers, and has a fleet of passenger  
21 and light-duty vehicles. *Id.* ¶ 3. Oak Harbor Freight pays a variety of taxes and fees in Washington,  
22 including regularly paying license plate fees, transfer fees, and registration fees for the vehicles it  
23 owns or leases. *Id.* ¶ 4.

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26 <sup>1</sup> The Senate later introduced a bill to correct the Act. S.B. 5743, 68th Leg., Reg. Sess. (2023)  
27 (introduced in committee). The bill did not pass the House.

1 **B. Procedural Background**

2 On January 10, 2023, Plaintiffs sent a letter to Attorney General Robert Ferguson pointing  
3 out the unconstitutionality of ESSB 5974 and asking the Attorney General to investigate the Act  
4 and to initiate legal proceedings on behalf of Washington taxpayers. Doriot Decl. ¶ 7, Ex. A. On  
5 January 19, 2023, Attorney General Ferguson wrote back to Plaintiffs and declined to investigate  
6 or initiate legal proceedings. Doriot Decl. ¶ 8, Ex. B. Consequently, on January 31, 2023, Plaintiffs  
7 filed an action against Defendants seeking declaratory relief that ESSB 5974 violates Article II,  
8 Section 19 of the Washington Constitutional and is therefore unconstitutional and void. Plaintiffs  
9 now move for summary judgment as a matter of law.

10 **II. ISSUE PRESENTED**

11 Whether the Court should grant summary judgment in favor of Plaintiffs and enter a  
12 declaratory judgment that ESSB 5974 violates Article II, Section 19 of the Washington  
13 Constitution and is therefore unconstitutional and void.

14 **III. EVIDENCE RELIED UPON**

15 This motion is supported by the Declaration of Tracy Doriot and the Declaration of Dan  
16 Vander Pol and exhibits attached thereto, legislative history publicly available through the  
17 Washington State Legislature’s website, and all documents and pleadings on file with the Court in  
18 this matter.

19 **IV. AUTHORITY**

20 **A. Summary Judgment is Appropriate Here.**

21 “Summary judgment is appropriate ‘if the pleadings, depositions, and admissions on file,  
22 together with the affidavits, if any, show that there is no genuine issue as to any material fact and  
23 that the moving party is entitled to a judgment as a matter of law.’” *Hartley v. Washington*, 103  
24 Wn.2d 768, 774, 698 P.2d 77 (1985) (quoting CR 56(c); *Herskovits v. Grp. Health Coop.*, 99  
25 Wn.2d 609, 613, 664 P.2d 474 (1983). “A material fact is one upon which the outcome of the  
26 litigation depends, in whole or in part.” *Vacova Co. v. Farrell*, 62 Wn. App. 386, 395, 814 P.2d  
27 255 (1991) (citing *Riste v. E. Wash. Bible Camp, Inc.*, 25 Wn. App. 299, 303, 605 P.2d 1294

1 (1980)). The moving party carries the burden “to prove there is no genuine issue as to a fact which  
2 could influence the outcome at trial.” *Hartley*, 103 Wn.2d at 774 (citation omitted).

3 Here, summary judgment is appropriate. There is no genuine dispute of material fact: ESSB  
4 5974 violates Article II, Section 19 of the Washington Constitution, both the single-subject rule  
5 and subject- in title rule, and is unconstitutional on its face. Accordingly, Plaintiffs are entitled to  
6 summary judgment in the form of declaratory relief and other relief that may follow from entry of  
7 a declaratory judgment and all other relief sought in Plaintiffs’ Complaint, including reasonable  
8 attorney’s fees, expenses, and costs.

9 **B. Plaintiff Taxpayers Have Standing to Challenge ESSB 5974.**

10 Washington courts grant taxpayers standing to challenge governmental acts in certain  
11 circumstances. *Huff v. Wyman*, 184 Wn.2d. 643, 649, 361 P.3d 727 (2015) (citing, *inter alia*, *State*  
12 *ex rel. Boyles v. Whatcom Cnty. Super. Ct.*, 103 Wn.2d 610, 614–15, 694 P.2d 27 (1985) (plurality  
13 opinion); *City of Tacoma v. O’Brien*, 85 Wn.2d 266, 269, 534 P.2d 114 (1975)). “The challenger  
14 must be a taxpayer, request that the attorney general take action, and have the request denied before  
15 commencing her own action.” *Boyles*, 103 Wn.2d at 614.

16 Here, Plaintiffs have taxpayer standing to bring this action. Plaintiffs are Washington  
17 taxpayers challenging the constitutionality of a government act—the passage of ESSB 5974—and  
18 had their request that the Attorney General take action denied. Doriot Decl. ¶¶ 2–8, Exs. A, B;  
19 Vander Pol Decl. ¶¶ 2-5; *Huff*, 184 Wn.2d. at 649.

20 **C. ESSB 5974 Violates the Single-Subject Rule and is Void.**

21 Article II, Section 19 of the Washington State Constitution provides that “[n]o bill shall  
22 embrace more than one subject, and that shall be expressed in the title.” This provision contains  
23 two checks against legislative abuse: (1) “no bill shall embrace more than one subject”—known  
24 as the “single-subject rule”—and (2) “no bill shall have a subject which is not expressed in the  
25 title”—known as the “subject-in-title rule.” *Amalgamated Transit Union Local 587 v. State*, 142  
26 Wn.2d 183, 207, 217, 11 P.3d 762 (2000); *State ex rel. Citizens Against Tolls v. Murphy*, 151  
27

1 Wn.2d 226, 249, 88 P.3d 375 (2004); *Power, Inc. v. Huntley*, 39 Wn.2d 191, 198, 235 P.2d 173  
2 (1951). Provisions of an act are unconstitutional if they violate either of these two requirements.

3 An act violates the single-subject rule either if it has a general title and its provisions lack  
4 rational unity or if it has a restrictive title and contains provisions not fairly within the scope of  
5 that title. *Amalgamated Transit Union Local 587*, 142 Wn.2d at 209–10; see *City of Burien v. Kiga*,  
6 144 Wn.2d 819, 825–26, 31 P.3d 659 (2001); *Citizens for Resp. Wildlife Mgmt. v. State*, 149 Wn.2d  
7 622, 632–33, 635, 71 P.3d 644 (2003). An act violates the subject-in-title rule if either the plain  
8 language of its legislative title does not indicate the scope and purpose of the bill to an inquiring  
9 mind or it does not give notice to parties whose rights and liabilities are affected by the legislation.  
10 *Amalgamated Transit Union Local 587*, 142 Wn. 2d at 217; *Wash. State Grange v. Locke*, 153  
11 Wn. 2d 475, 491–92, 105 P.3d 9 (2005). The purpose of this constitutional provision is “(1) to  
12 prevent ‘logrolling’ or pushing legislation through by attaching it to other necessary or desirable  
13 legislation and (2) to assure that the members of the legislature and the public are generally aware  
14 of what is contained in proposed new laws.” *Lee v. State*, 185 Wn. 2d 608, 620, 374 P.3d 157  
15 (2016). A bill that violates Article II, Section 19 is void in its entirety because it is impossible to  
16 determine whether any one subject would have received majority support if voted on separately.  
17 *Id.* at 629.

18 When determining whether an act violates the single-subject rule, courts first classify a bill  
19 title as general or restrictive. See *Amalgamated Transit Union Local 587*, 142 Wn.2d at 207–11.  
20 General titles are all encompassing, and embrace an entire subject area rather than carving out a  
21 particular subsection. See, e.g., *In re Boot*, 130 Wn.2d 553, 566, 925 P.2d 964 (1996) (“AN ACT  
22 Relating to violence prevention”); *State Fin. Comm. v. O’Brien*, 105 Wn.2d 78, 79–81, 711 P.2d  
23 993 (1986) (“[A]n act relating to capital projects”). “If a title is general, the [law] may embrace  
24 several incidental subjects *so long as* there is a rational unity *between* the operative provisions  
25 themselves *as well as* the general topic.” *Lee*, 185 Wn.2d at 621 (emphasis added).

26 In *City of Burien v. Kiga*, the Supreme Court considered the constitutionality of Initiative  
27 722 and found that the initiative violated the single-subject rule because it lacked rational unity

1 among the provisions. 144 Wn.2d at 826–28. Initiative 722 “embrace[d] at least two purposes”: to  
2 nullify specific tax increases and to change the method of assessing property taxes. *Id.* at 827. Both  
3 provisions related to the general topic of tax relief, but the Court found that they were not germane  
4 to one another. *Id.* The first provision would reverse various tax increases and provide a one-time  
5 refund, implicating a number of different types of charges—including utility charges, hospital  
6 charges, housing authority rents, and park district admissions—while the change in tax assessment  
7 would be permanent and restricted to property taxes. *Id.* Thus, the Court found, the Initiative  
8 improperly employed “logrolling” of unrelated measures in violation of Article II, Section 19 and  
9 was unconstitutional. *Id.* at 828.

10 Similarly, in *Washington Toll Bridge Authority v. State*, the Supreme Court concluded that  
11 rational unity was lacking in legislation passed about toll roads because the legislation embraced  
12 two subjects: one provision created a state agency that was long-term and continuing in nature to  
13 establish and operate all toll roads, while another provision provided one-time funding of a specific  
14 toll road linking Tacoma, Seattle, and Everett. 49 Wn.2d 520, 523–24, 304 P.2d 676 (1956). Thus,  
15 the legislation was unconstitutional. *Id.* at 524–25.

16 Likewise in *Lee v. State*, the Supreme Court held an initiative that coupled a one-time tax  
17 reduction with a permanent change to the way all taxes would be levied or assessed violated the  
18 single-subject rule. *Lee*, 185 Wn.2d 622-23. The Court found that the subjects related to the general  
19 title of “fiscal restraint or taxes,” but were not germane to each other. *Id.* at 623. “[A] reduction in  
20 the current sales tax rate is not necessary to implement a constitutional amendment or a change to  
21 the method or approving all future taxes and fees; quite the opposite, in fact, since one subject  
22 actually voids implementation of the other subject.” *Id.*

23 Here, ESSB 5974 violates the single-subject rule and is unconstitutional on its face. ESSB  
24 5974 has a general title: “An Act relating to transportation resources.” But ESSB 5974 contains  
25 multiple subjects in violation of Article II, Section 19 of the Washington Constitution. The Senate  
26 Bill Report Summary describes the enormous breadth of the impact of ESSB 5974:

- Provides direction and requirements on the spending for a portion of the funding generated under the Climate Commitment Act.
- Removes the requirement to consider and enact legislation dealing with compliance obligations for emissions-intensive and trade-exposed industries under the Climate Commitment Act.
- Repeals the current motor vehicle fuel tax exemption for exported fuel and replaces it with a credit system in which a \$0.06 per gallon tax would apply to some portion of exported fuel.
- Increases a variety of transportation taxes and fees and provides additional local government taxing authority.
- Removes language requiring passage of an additive transportation package before the Clean Fuel compliance and credit provisions go into effect.
- Makes transfers from the state general fund and other changes dealing with state general fund support.
- Makes a variety of other changes associated with financing and spending assumptions, and with certain transportation policies, as provided in the Move Ahead WA transportation package.

Senate Bill Report: ESSB 5974 (As Amended by House, Mar. 1, 2022)  
<https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5974-SE%20SBR%20HA%202022.pdf?q=20230626193225> (last visited June 25, 2023). As indicated by the list above and by the text of the Act, ESSB 5974 lacks rational unity among its provisions. *See Amalgamated Transit Union Local 587*, 142 Wn.2d at 209–10; *Citizens for Resp. Wildlife Mgmt.*, 149 Wn.2d at 632–33, 635.

For example, part II of ESSB 5974 sets forth increases to a variety of taxes and fees including on aircraft fuel, drivers’ licenses, motor vehicle plates, and other driver and vehicle fees collected by third-parties. *See* ESSB 5974, §§ 201-211. The Legislature imposed a seven cent per gallon tax increase on aircraft fuel set forth in section 201 that is collected and paid to the state for credit towards the general fund. ESSB 5974 § 201 (aircraft fuel excise); *see also* RCW 82.42.090. The Legislature increased from \$10 to \$50 the cost of license plates, from \$15 to \$50 to register a vehicle from out of state, and from \$32 to \$56 for the cost of an enhanced driver’s license. *See* ESSB 5974 §§ 202-210 (drivers’ license, motor vehicle plates, and other fees). It directed these significant fees increases on to the move ahead WA account also created by the Act for specific “move ahead WA projects or improvements in an omnibus transportation act.” *Id.* At the same



1 time, the Legislature also increased the amount of fees that motor vehicle dealers may charge  
2 purchasers of motor vehicles for performing documentary services and for collecting state motor  
3 vehicle excises and fees; none of which amounts are remitted to the state or local jurisdictions.  
4 ESSB 5974 § 211.

5 Comparatively, Part IV of ESSB 5974 enacts provisions unrelated to these state taxes and  
6 fees. Sections 405, 406, and 407 increase the amount of motor vehicle excise taxes and general  
7 sales and use taxes that local transportation benefit districts may impose after approval of a  
8 majority of the voters in the district. ESSB 5974 §§ 405-407. Section 408, in contrast, authorizes  
9 the Department of Ecology to adopt rules to establish air quality standards for all gasoline and  
10 diesel fuel used in Washington. ESSB 5974 § 408. Other sections of the Act amend the state Clean  
11 Fuel Program to accord for Ecology’s adopted rules, as well as require the Department of  
12 Transportation to identify and calculate credit revenues generated from “activities that support the  
13 reduction of greenhouse gas emissions associated with transportation in Washington.” ESSB 5974  
14 § 409-413. Section 415 creates a statewide “target” that “all publicly owned and privately owned  
15 passenger and light duty vehicles of model year 2030 or later that are sold, purchased, or registered  
16 in Washington state be electric vehicles.” ESSB 5974 § 415. Sections 419 establishes a “statewide  
17 school-based bicycle education grant program.” Sections 423 and 424 modify where automated  
18 traffic safety cameras can be used in specified local jurisdictions. ESSB 5974 § 423. And sections  
19 431 through 434 require the Department of Transportation to create a program to reduce traffic-  
20 related fatalities on two-lane rural roadways from funds from the highway safety fund.

21 As evidenced by these myriad examples, ESSB 5974 embraces multiple purposes. The Act  
22 purports to increase multiple forms of taxes and fees to fund various transportation projects and  
23 initiatives, while at the same time authorizing the Department of Ecology to impose carbon fuel  
24 standards and prohibiting gas-powered vehicles in Washington State by 2030. The Act’s multiple  
25 subjects are also neither related nor necessary to implement each other. Addressing safety issues  
26 related to automated traffic safety cameras and deaths on two-lane rural roadways are not rationally  
27 related or germane to the various tax and fee increases imposed by the Act to support climate

1 transportation initiatives. The Legislature reached too far with ESSB 5974. The Act must be  
2 stricken as unconstitutional under Article II, Section 19.

3 **D. ESSB 5974 Violates the Subject-In-Title Rule and is Void.**

4 Under the subject-in-title rule, a law is unconstitutional if its title fails to put the public,  
5 legislators, or voters on notice of its contents or if the plain language of its legislative title does not  
6 indicate the scope and purpose of the bill to an inquiring mind. Const. art. XIX, § 2; *Amalgamated*  
7 *Transit Union Local 587*, 142 Wn.2d at 217; *Power, Inc. v. Huntley*, 39 Wn.2d 191, 198, 235 P.2d  
8 173 (1951). Essentially, the rule requires legislators to be honest about what is contained in a law.  
9 *Wash. Ass’n for Substance Abuse & Violence Prev. v. State*, 174 Wn.2d 642, 665, 278 P.3d 632  
10 (2012) (Chambers, J. concurring) (citing *Seymour v. City of Tacoma*, 6 Wn. 138, 148–49, 32 P.  
11 1077 (1893)). Courts must determine whether the plain meaning of the title adequately reflects the  
12 contents of underlying legislation. *See Amalgamated Transit Union Local 587*, 142 Wn.2d at 217;  
13 *Wash. State Grange*, 153 Wn.2d at 491–92. The vast majority of American states have enacted  
14 such provisions. Buehler, Dustin, *Washington’s Title Match: The Single-Subject and Subject-in-*  
15 *Title Rules of Article II, Section 19 of the Washington State Constitution*, Wash. Law Review, Vol  
16 81:595, 602 (2006). Although courts liberally construe the subject-in-title requirement in favor of  
17 the legislation’s constitutionality, *see Wash. Fed’n of State Emps. v. State*, 127 Wn.2d 544, 555,  
18 901 P.2d 1028 (1995), “[a] court should not strain to interpret a statute as constitutional” if doing  
19 so requires an unreasonable construction of its plain meaning, *see Amalgamated Transit Union*  
20 *Local 587*, 142 Wn.2d at 225 (citing *Soundgarden v. Eikenberry*, 123 Wn.2d 750, 757, 871 P.2d  
21 1050 (1994)).

22 For example, in *Swedish Hospital v. Department of Labor and Industries*, the Supreme  
23 Court examined a bill entitled “AN ACT giving workmen’s compensation benefits to persons  
24 engaged in hazardous and extrahazardous occupations in charitable institutions.” 26 Wn.2d 819,  
25 822, 176 P.2d 429 (1947). The Court first analyzed the meaning of the title, and concluded that it  
26 gave notice that the legislation affected charitable institutions only. *Id.* at 825–28, 831. However,  
27 the act’s provisions encompassed other non-profit institutions as well. *Id.* at 831–33. The Court

1 concluded that the title did not give adequate notice that the scope of the legislation included non-  
2 profit institutions more broadly. *Id.* at 833.

3 Further, in *Patrice v. Murphy*, the Supreme Court examined a bill titled “AN ACT Relating  
4 to court costs.” 136 Wn.2d 845, 847, 966 P.2d 1271 (1998). Sections of the bill imposed a duty  
5 upon law enforcement agencies to provide interpreters to deaf persons who are interviewed as  
6 victims, witnesses, or suspects. *Id.* at 848, 854. The Court held that a title mentioning only court  
7 costs provided inadequate notice to the law enforcement community about the expanded scope of  
8 its liabilities and duties under the law. *Id.* at. 854–55.

9 Here, ESSB 5974 violates the subject-in-title rule because its title does not indicate the  
10 scope and purpose of the law to an inquiring mind and does not give notice to the parties whose  
11 rights and liabilities are affected by the legislation. *See Wash. State Grange*, 153 Wn.2d at 491–  
12 92; *Patrice*, 136 Wn.2d at 854–55. The plain language of the Act’s legislative title, “transportation  
13 resources,” does not indicate the scope and purpose of the bill, including the impact on certain  
14 taxes and fees to individuals and business, and does not give notice to parties—namely Washington  
15 taxpayers—whose rights and liabilities are affected by the legislation. *See Amalgamated Transit*  
16 *Union Local 587*, 142 Wn.2d at 217; *Wash. State Grange*, 153 Wn.2d at 491–92. The vague  
17 “transportation resources” does not give notice of the ESSB 5974’s contents to the public or  
18 legislators because it could refer to (1) financial sources for Washington transportation projects or  
19 (2) natural sources of fuels as are used for transportation, or (3) another subject entirely. *See Laws*  
20 *of 2022, ch. 182; see also Doriot Decl.* ¶¶ 3, 6.

21 ESSB 5974 violates the subject-in-title rule. *See Const. art. XIX, § 2.* Accordingly, the Act  
22 is unconstitutional and should be void.

## 23 **V. CONCLUSION**

24 For these reasons, Plaintiffs respectfully request that the Court grant summary judgment in  
25 Plaintiffs’ favor and enter a declaratory judgment that ESSB 5974 violates Article II, Section 19  
26 of the Washington Constitution and is therefore unconstitutional and void. Plaintiffs further request  
27 any relief that follows from entry of the declaratory judgment and for such reasonable fees,

1 expenses, and costs to the extent allowed in law and equity.

2  
3 DATED: July 12, 2023

4 LANE POWELL PC

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1 **CERTIFICATE OF SERVICE**

2 I, Angela Craig, hereby certify under penalty of perjury of the laws of the State of  
3 Washington that on the 12th day of July, 2023, I caused to be served a copy of the foregoing  
4 document via electronic mail on the following:

5

<p>6 Jeffrey Todd Even, WSBA No. 20367 Alicia O. Young, WSBA No. 35553 PO Box 40100 7 Olympia, WA 98504 <a href="mailto:jeffrey.even@atg.wa.gov">jeffrey.even@atg.wa.gov</a> 8 <a href="mailto:alicia.young@atg.wa.gov">alicia.young@atg.wa.gov</a> <a href="mailto:stephanie.lindley@atg.wa.gov">stephanie.lindley@atg.wa.gov</a> 9 <a href="mailto:renae.smith@atg.wa.gov">renae.smith@atg.wa.gov</a> 10 <a href="mailto:SGOolyEF@atg.wa.gov">SGOolyEF@atg.wa.gov</a> 11 <i>Counsel for Defendants Jay Inslee and State of Washington</i></p>	
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12 DATED this 12th day of July, 2023.

13  
14 *s/Angela Craig*  
Angela Craig, Legal Assistant