

No. 81287-0

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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LISA BROWN, Washington State Senator and Majority Leader of the  
Washington State Senate,

Petitioner,

v.

BRAD OWEN, Lieutenant Governor of the State of Washington,

Respondent.

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**PETITIONER'S REPLY BRIEF**

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## I. INTRODUCTION

We all see the elephant.<sup>1</sup> It's the straightforward question of whether the 2/3 supermajority provision in RCW 43.135.035(1) is constitutional. It either is or isn't.

Senate Bill 6931 received the simple majority vote specified for passage by Article II, §22 of our State Constitution. The Lieutenant Governor nonetheless pronounced that Bill "lost" because it did not receive the 2/3 supermajority specified by RCW 43.135.035(1). His submissions to this Court state that he "did not forward SB 6931 to the House of Representatives because it did not receive a two-thirds vote."<sup>2</sup>

But if the statute's 2/3 supermajority provision is unconstitutional, the Lieutenant Governor had no lawful authority or discretion in our Constitutional democracy to do anything other than declare that Bill "passed" for forwarding on to the House.

This Court should not ignore the elephant. It is the exclusive province and duty of this Court to decide whether a statutory provision is constitutional. The Petitioner in this case simply asks that this Court fulfill that constitutional duty. And as outlined below, the Lieutenant Governor's Response does not refute the dispositive conclusion that the 2/3 supermajority provision in RCW 43.135.035(1) is unconstitutional.

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<sup>1</sup> "There is an elephant in the courthouse. The majority knows the elephant is there. \*\*\* It is an obvious elephant." *Washington State Farm Bureau Federation v. Gregoire*, 162 Wn.2d 284, 314, 174 P.3d 1142 (2007) (Chambers, J., concurring).

<sup>2</sup> ASF000139, ¶4.

