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PURPOSE AND INTEREST OF AMICI CURIAE

The National Employment Law Project (“NELP”) is a national research, legal, and policy organization with more than forty-five years of expertise on the employment and labor rights of low-wage and unemployed workers. NELP’s areas of expertise include wage and hour rights, and it has litigated directly and participated as *amicus* in numerous State Appellate, Circuit, and U.S. Supreme Court cases addressing workers’ rights under federal and state employment laws. NELP has also worked with many of the states and cities that have adopted higher minimum wages, including efforts in Arizona to raise the minimum wage since 2005. This case is important to NELP and its constituents because NELP has an interest in ensuring that low-paid workers in Arizona receive the wages to which they are under Proposition 206, and it, therefore, has an interest in ensuring that Proposition 206 is fully enforced according to its terms, and that the constitutional and other challenges to its implementation be rejected.

A Better Balance (“ABB”) is a national legal advocacy organization dedicated to promoting fairness in the workplace and helping employees meet the conflicting demands of work and family. Through legislative advocacy, litigation, research, public education, and technical assistance to state and local campaigns, ABB is committed to helping workers care for their families without risking their economic security. ABB has drafted model sick time legislation that has been used

in all forty jurisdictions that have enacted paid sick leave laws, including Arizona. In addition, ABB serves as legal counsel in campaigns for paid sick time, paid family leave, and pregnancy discrimination throughout the country. ABB has served as co-counsel or filed *amicus* briefs in litigation challenging paid sick time legislation in Wisconsin and Massachusetts, cases which affirmed the right of states and localities to enact paid sick time laws. ABB's interest is in seeing that the paid sick time laws which it has helped draft and defend have their intended effect of improving the health and welfare of all workers.

STATEMENT OF THE CASE

Intervenor Arizonans for Fair Wages and Healthy Families Supporting Proposition 206 (“Intervenor”) is asking this Court to deny Plaintiffs’ Joint Petition for Special Action and find that Proposition 206, approved by Arizona voters on November 8, 2016, is valid under state law and should be implemented according to the language approved by voters. *Amici Curiae* submit this brief in support of the position of both Intervenor and the State of Arizona (the “State”). Contrary to Plaintiffs’ allegation, Proposition 206 does not violate the Revenue Source Rule set forth in Ariz. Const. Art. 9, § 23.

As *amici* detail in Part I, Proposition 206 does not mandate an increase in State expenditures for the implementation or enforcement of the measure. Such implementation can be carried out with existing State staff, budget, and systems. In the event the State elects to add additional resources, that action would be a policy choice not mandated by the proposition. Part II similarly explains that Proposition 206 does not mandate that the State increase expenditures for State employee wages or for wages under any contracts entered into by the State. Moreover, it shows that Plaintiffs have significantly overstated the economic cost of Proposition 206 for State contractors. Research shows that much of the cost for employers of paying a higher minimum wage is offset by savings from reduced employee turnover and productivity gains. Finally, Part III shows that rather than

costing the State money, once it is phased in, Proposition 206 is likely to generate as much as \$100 million dollars each year for the Arizona State budget in the form of increased tax revenue, decreased safety net costs, and health care savings. Thus, this Court should reject Plaintiffs' claim that Proposition 206 runs afoul of the Revenue Source Rule. Whether the State will *choose* to increase its spending as a result of Proposition 206 will ultimately depend on a variety of complex factors and political decisions. But nothing in Proposition 206 mandates such expenditures and accordingly this Court should not enjoin the Proposition from continuing to benefit Arizona's workers and the State's economy.

ARGUMENT

I. PROPOSITION 206 DOES NOT MANDATE INCREASED STATE EXPENDITURES FOR ENFORCEMENT, INCLUDING RULEMAKING

Nothing in Proposition 206 mandates increased State expenditures for implementation or enforcement of either the increased minimum wage rate or the paid sick days requirement. The Industrial Commission of Arizona ("ICA") has an existing staff, budget, and systems for announcing, implementing, and enforcing state employment laws. There is no reason to believe that implementation and enforcement of Proposition 206 cannot be accomplished by its existing staff and budget. There is precedent for this statement. When Arizona voters approved Prop 202, the existing staff of the ICA wrote all of the necessary implementation

and governance regulations without incurring any additional costs. Moreover, even if the ICA were to request additional funds, nothing in the Proposition compels the State to grant these funds.

Proposition 206 simply increases the existing minimum wage rate—something that Arizona has already been doing each year for ten years. On November 7, 2006, Arizona voters approved Proposition 202, referred to as the “Raise the Arizona Minimum Wage for Working Arizonans Act.” Under A.R.S. §23-364(A), which became effective January 1, 2007, the ICA was given the authority to enforce and implement the Act. For the past ten years, the ICA has calculated and announced a new minimum wage rate each year adjusted to the cost of living, as Proposition 202 required. Proposition 206 adds no new requirements associated with the State’s minimum wage rate; it simply increases this rate. There is no reason to believe that the ICA cannot use its existing systems and resources to calculate and announce new minimum wage rates under Proposition 206, as it has done every year since January 2007.

Proposition 206 also requires that employers in the State of Arizona provide earned paid sick days to their employees. It does not apply to employees of the State of Arizona and so does not impose direct costs for earned paid sick days on

the State.¹ In fact, nowhere does the Proposition require any additional State expenditures in conjunction with these standards. The only affirmative requirements for action by the State that are included in Proposition 206 involve the requirement that: 1) model notices be developed (A.R.S. § 23-375 (C)); and 2) that the ICA develop guidelines or regulations to implement Proposition 206 (A.R.S. § 23-376). These are the only “shall” requirements contained in the Proposition. An outreach program is authorized but not required (“The Commission *may* develop and implement a multilingual outreach program” (A.R.S. § 23-380 (emphasis supplied))). The Proposition does not mandate additional expenditures from the State to develop model notices and regulations, and there is no reason to believe that the ICA cannot develop model notices and regulations concerning paid sick days with existing staff.

With respect to enforcement of earned paid sick days requirements under Proposition 206, the mechanism for enforcement is the same as that for enforcing the minimum wage. No additional requirements are imposed on the ICA. The language in A.R.S. § 23-364, the enforcement section, has not been modified or enhanced except to add earned paid sick days as something the ICA may enforce. Complaints *may* be filed and records *may* be sought; the Commission *may* review

¹ The Proposition applies to “employers,” as defined in A.R.S. § 23-362, and this term expressly excludes the State of Arizona. *Id.* (“Employer” . . . does not include the state of Arizona, the United States, or a small business.”).

all records at a workplace when a complaint is received. (A.R.S. §23-364 (B)).

And, as with the State's minimum wage, employees who believe their earned paid sick days rights have been violated by their employer can ultimately bring an action to vindicate their rights in state court. (A.R.S. § 23-364 (E)).

II. PROPOSITION 206 DOES NOT MANDATE INCREASED STATE EXPENDITURES FOR STATE EMPLOYEE PAYROLLS OR FOR STATE CONTRACTS

Nor does Proposition 206 mandate that the State increase expenditures for State employee wages and benefits, or for wages and benefits of private sector employees performing services under State agency contracts. As noted above, the Proposition entirely exempts State employees from its minimum wage and earned paid sick day requirements, and State contracts do not require the State to increase its spending to cover an increase in labor costs for private contractors subject to Proposition 206. Moreover, Plaintiffs' effort to paint Proposition 206 as a policy that will bring about "calamitous results," Joint Pet. for Special Action at 2, for the State through millions of dollars in increased labor costs for State contractors is misplaced. Plaintiffs' claim ignores extensive research showing that much of the costs associated with higher wages and paid sick leave protections are offset by significant savings from reduced employee turnover and increased productivity. This Court should therefore reject Plaintiffs' claim that Proposition 206 violates the Revenue Source Rule.

As the trial court found, neither federal nor state law requires the State to adjust existing State contracts in a manner that would increase State spending. Plaintiffs attempt to establish that the Arizona Health Care Cost Containment System (“AHCCCS”) interprets Proposition 206 to require increased spending by State contractors. *See* Joint Pet. for Special Action at 21–23. However, the trial court correctly concluded that AHCCCS has, in fact, recognized that

“[n]either federal nor state law specifically require adjustments to health care provider or managed care contracts whenever contractors’ labor costs increase’ because ‘there is no legal requirement or contractual mechanism...that requires AHCCCS to pass through cost increases in the rates it pays, especially in any dollar-for-dollar relationship.”

Under Advisement Ruling at 9 (citation omitted).

AHCCCS may feel that an increase in payments is appropriate under “‘the present circumstances’ in light of the ‘financial stress’ on service providers resulting from ‘rate reductions AHCCCS was forced to make during the Great Recession’ and ‘other cost pressures,’ including, but not limited to, those created by [Proposition 206].” *Id.* (citation omitted). Nevertheless, whether or not AHCCCS may as a matter of discretion or policy elect to advocate for any increase in payments does not mean that Proposition 206 mandates such increased spending. It does not.

Moreover, even if any individual contract entered into by AHCCCS or another State agency could arguably be interpreted as requiring the State to

increase the rate or price when labor costs rise, state law expressly protects the State from any such obligation, absent an authorized appropriation by the legislature. For example, A.R.S. §35-154 provides that “any obligation against the state or [] any expenditure not authorized by an appropriation and an allotment. . . . shall not be binding upon the state.” A.R.S. §35-154. Separately, A.R.S. §1-254 provides that

“[n]o statute may be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation made for that specific purpose.”

Under the express language of these provisions, neither Plaintiffs nor AHCCCS can argue that Proposition 206 mandates increased spending by the State to cover increased labor costs. While AHCCCS and Plaintiffs may ultimately *choose* to revise existing contracts to address an increase in labor costs, the State is not mandated to increase its spending beyond what the State has already appropriated.

Finally, Plaintiffs’ efforts to establish that Proposition 206 will lead to “calamitous results,” *see* Joint Pet. for Special Action at 2, from an increase in labor costs for State contractors flies in the face of extensive research and evidence concerning the actual impact of wage increases and employment benefits. Economic research and other jurisdictions’ experiences show that a significant

portion of the costs associated with minimum wage increases and policies like paid sick leave are offset by savings from reduced employee turnover and increased productivity.

Low-wage industries are plagued by high turnover rates. Turnover rates in the restaurants-and-accommodations sector, for example, exceed 60 percent per year, according to the National Restaurant Association.² For home-aide workers, the turnover rates are 40 to 65 percent per year.³

The Washington Center for Equitable Growth estimates that it costs an employer “about one-fifth of a worker’s annual salary to replace that worker regardless of the salary paid on the income spectrum.”⁴ *The Wall Street Journal* has referred to turnover in the low-wage sector as “a special scourge of retail and service companies” that costs a company \$4,275 in staffing and retraining costs

² National Restaurant Association, *Economist's Notebook: Hospitality employee turnover rose slightly in 2013* (Mar. 2014), available at <http://www.restaurant.org/News-Research/News/Economist-s-Notebook-Hospitality-employee-turnover>.

³ Sarah Portlock, “*Help Wanted (a Lot): Home-Health Aides: Fast-Growing Industry Experiences High Turnover Amid Low Pay and Demanding Duties*,” *Wall Street Journal*, Aug. 22, 2014, available at <http://www.wsj.com/articles/help-wanted-a-lot-home-health-aides-1408721457>.

⁴ Washington Center for Equitable Growth, *Working by the hour: The economic consequences of unpredictable scheduling practices* (Sept. 2016) at 8, available at <http://equitablegrowth.org/research-analysis/working-by-the-hour-the-economic-consequences-of-unpredictable-scheduling-practices/>. Accord: Heather Boushey and Sarah Jane Glynn, Center for American Progress, *There Are Significant Business Costs in Replacing Employees* (Nov. 16, 2012), available at <https://www.americanprogress.org/issues/economy/reports/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

each time it replaces an employee.⁵ According to the Paraprofessional Healthcare Institute, employee turnover costs the home care sector about \$6 billion annually.⁶

The economic evidence shows that a minimum wage increase can reduce turnover costs and improve productivity. According to the Center for Economic and Policy Research, there exists “[a] strong theoretical and empirical basis . . . for the idea that wages set above the competitive market rate can induce workers to work harder, either to ensure that they keep their job or in reciprocity for the higher wages paid.”⁷ Wage increases “give[] new incentives to employers to undertake additional productivity-improving practices.”⁸ In the homecare context, a study examining the impact on workforce retention of nearly doubling the wages for homecare workers in San Francisco County over a 52-month period found that “the annual retention rate of new providers rose from 39 percent to 74 percent following

⁵ Lauren Weber, “*One Reason Wal-Mart Is Raising Pay: Turnover*,” The Wall Street Journal, Feb. 19, 2015, available at <http://blogs.wsj.com/atwork/2015/02/19/one-reason-wal-mart-is-raising-pay-turnover/>.

⁶ Paraprofessional Healthcare Institute (“PHI”), *Paying the Price: How Poverty Wages Undermine Home Care in America* (Feb. 2015) at 14, available at <http://phinational.org/sites/phinational.org/files/research-report/paying-the-price.pdf>.

⁷ John Schmitt, Center for Economic and Policy Research, *Why Does the Minimum Wage Have No Discernible Effect on Employment?* (Feb. 2013) at 12, available at <http://cepr.net/documents/publications/min-wage-2013-02.pdf>.

⁸ *Id.*

significant wage and benefit increases and that a \$1 increase in the wage rate from \$8 an hour . . . would increase retention by 17 percentage points.”⁹

Regarding earned sick time, studies have shown that the availability of paid sick days that enable workers to take time off when they or their children are sick enable workers to keep their jobs. Such policies therefore further reduce employee turnover, generating additional saving for employers.¹⁰ When workers come to work sick, their performance and productivity suffer with real costs to their employers.¹¹ Workers with paid sick days, such as those guaranteed by Proposition 206, are less likely to come to work sick and less likely to infect co-workers, improving productivity and contributing to economic growth. Before and after studies of economies where paid sick days laws have been passed have shown

⁹ Howes, C. (2005), *Living Wages and Retention of Homecare Workers in San Francisco*. *Industrial Relations: A Journal of Economy and Society*, 44: 139–163. <http://onlinelibrary.wiley.com/doi/10.1111/j.0019-8676.2004.00376.x/abstract;jsessionid=E5EF2D0E6EAB9FB0674DB166D5FAE71E.f02t03>

¹⁰ Heather Hill, “*Paid Sick Leave and Job Stability*,” *Work and Occupations* 40(2): 143-173 (2013).

¹¹ M. Keech et al., “*The impact of influenza and influenza like illness on productivity and health care resource utilization in a working population*,” *Occupational Medicine* 48 (2): 85-90 (1998); Walter F. Stewart et al., “*Lost Productive Work Time Costs From Health Conditions in the United States: Results from the American Productivity Audit*,” *American College of Occupational and Environmental Medicine* (Dec. 2003).

sustained job growth and reduced unemployment rates.¹²

To summarize, much of the higher labor costs that some State contractors may incur when they raise wages and begin providing earned sick days will be offset by a significant reduction in turnover costs and increased productivity that they are likely to enjoy. Accordingly, the Court should reject Plaintiffs' attempts to quantify the labor costs that will result from Proposition 206 as inflated estimates not grounded in actual economic evidence.

III. RATHER THAN COSTING THE STATE MONEY, PROPOSITION 206 IS LIKELY TO GENERATE AS MUCH AS \$100 MILLION EACH YEAR FOR THE ARIZONA STATE BUDGET IN THE FORM OF INCREASED TAX REVENUE, DECREASED SAFETY NET COSTS, AND HEALTH CARE SAVINGS

Not only does Proposition 206 not mandate the expenditure of State revenues but, in fact, once it is fully phased in, the measure is likely to generate significant savings each year for the State budget through a combination of increased tax revenue generated by workers with larger paychecks, and reduced safety net and health care expenditures. Such savings include approximately \$50

¹² Kevin Miller and Sarah Towne, Institute for Women's Policy Research, *San Francisco Employment Growth Remains Stronger with Paid Sick Days Law Than Surrounding Counties* (Sept. 2011), available at <http://iwpr.org/publications>; The Main Street Alliance of Washington, *Paid Sick Days and the Seattle Economy: Job Growth and Business Formation at the 1 Year Anniversary of Seattle's Paid Sick and Safe Leave Law* (Sept. 2013), available at http://www.seattle.gov/Documents/Departments/CivilRights/psst-report-main_street_alliance.pdf.

million in increased sales and income tax revenue, and well over \$40 million a year in savings in Medicaid and other safety net and health care programs. Thus, the estimated total savings could easily be \$100 million or more each year, once Proposition 206 phases in by 2020.

A. Larger Paychecks Resulting from a Higher Minimum Wage Will Generate Increased Sales Tax and Income Tax Revenue for the State.

The higher wages that workers will receive from Proposition 206's raising of the State's minimum wage will generate two forms of increased tax revenue for the State. First, workers with larger paychecks will spend a significant portion of their raises on taxable goods and services, generating millions of dollars in new State sales tax revenue. And second, the same workers will pay increased levels of income taxes on their higher wages, generating millions more in State tax revenue. These sales and income tax gains could total as much as \$50 million a year for the State, once Proposition 206 fully phases in.

By the time Proposition 206's \$12 minimum wage is phased in by 2020, it will deliver raises for approximately 784,000 Arizonans, according to estimates by the Economic Policy Institute.¹³ The average worker's increased income by 2020

¹³ Economic Policy Institute, *Estimates of Impact of Prop. 206 Minimum Wage Provisions* (unpublished analysis on file with author).

will be approximately \$1,541 each year. As a result, total worker income in Arizona will increase annually by about \$1.2 billion by 2020.¹⁴

In terms of State sales tax revenue, U.S. Department of Labor, Bureau of Labor Statistics data on consumer expenditures show that approximately 30 percent of worker incomes are spent on goods that are typically subject to sales tax (including food, household goods and furnishings, gas, vehicle purchases, and entertainment).¹⁵ That means that roughly \$360 million of the \$1.2 billion in higher worker incomes is likely to be spent on taxable goods and services. Under Arizona's state sales tax rate of 5.6 percent, that \$360 million in higher spending on taxable items will annually generate roughly \$20 million in increased sales tax receipts for the State.

In terms of income tax revenue, Arizona's income tax rate for single-filers is 2.59 percent on their first \$10,000 of income, and 2.88 percent on income between \$10,001 and \$25,000. For married, joint filers, it is 2.59 percent on the first \$20,000 of income, and 2.88 percent on income over \$20,000.¹⁶ According to the Economic Policy Institute, the typical worker receiving a raise from Proposition

¹⁴ *Id.*

¹⁵ U.S. Dept. of Labor, Bureau of Labor Statistics, *Consumer Expenditure Survey-2015* (Aug. 30, 2016), available at <https://www.bls.gov/news.release/cesan.nr0.htm>

¹⁶ U.S. Tax Center at IRS.com, *Arizona State Taxes*, <https://www.irs.com/articles/arizona-state-taxes> (last viewed Jan. 9, 2017).

206 is a single worker who works roughly 1,693 hours per year and currently earns approximately \$10.32 per hour, translating to a current annual income of \$17,500.¹⁷

If one estimates that the average marginal income tax rate that Arizona workers will pay on their higher wages under Proposition 206 is somewhere around 2.75 percent—roughly halfway between 2.59 percent and 2.88 percent—then a \$1.2 billion increase in worker incomes could generate as much as \$30 million annually in increased State income tax receipts by 2020.

Taken together, increased sales tax and income tax revenue generated for the State could therefore total an additional \$50 million each year by 2020. These numbers are rough estimates offered by way of illustration. Regardless of the precise numbers, the tax revenue boost for the State resulting from Proposition 206 is likely to be substantial.

B. Workers with Higher Wages Will Be Less Dependent on State-Funded Safety Net Programs, Saving the State Money.

In addition to increased tax revenue, the higher incomes resulting from Proposition 206 will save the State money, as workers become better able to support themselves on their own earnings, and will be less dependent on taxpayer-funded safety net programs for their support.

¹⁷ Economic Policy Institute, *Estimates of Impact of Prop. 206 Minimum Wage Provisions* (unpublished analysis on file with author).

Arizona taxpayers currently spend at least \$686 million each year (in 2013 dollars) on safety net programs for low-wage workers in the State who do not currently earn enough to support themselves and their families without assistance.¹⁸ And federal taxpayers pay even more—an estimated \$3.7 billion per year to support safety net programs for low-wage workers and their families in Arizona.¹⁹

The largest State-paid portion of these costs results from Medicaid health insurance for low-wage working Arizonans, including children of low-wage workers. Under traditional Medicaid (not including Affordable Care Act expansion Medicaid), 30.76 percent of Medicaid costs are paid by the State (with the federal government covering the balance).²⁰

As Arizona workers' wages rise under Proposition 206, fewer will be dependent on the State's traditional Medicaid program for their health insurance and medical care, saving the State millions of dollars. Economists at the Center for

¹⁸ Ken Jacobs et al., University of California-Berkeley Center for Labor Research and Education, *The High Public Cost of Low Wages: Poverty-Level Wages Cost U.S. Taxpayers \$152.8 Billion Each Year in Public Support for Working Families*, at Table 6 (April 2015), available at <http://laborcenter.berkeley.edu/pdf/2015/the-high-public-cost-of-low-wages.pdf>.

¹⁹ *Id.* at Table 5.

²⁰ Under Medicaid, the federal government pays 69.24 percent of Medicaid costs in Arizona, leaving the state paying for the 30.76 percent balance. Henry J. Kaiser Foundation, *Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier* (FY 2017), <http://kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=0> (last viewed Jan. 9, 2017).

American Progress and the University of California examined the Medicaid savings that would result across the nation if the minimum wage were raised to \$10.10.²¹ Their analysis found that raising the minimum wage in Arizona to \$10.10 would result in a 2.5 percent decline in the State's Medicaid enrollment among the non-elderly and non-disabled, and that the resulting budget savings for the state Medicaid program would be \$40 million a year.²²

While we do not have estimates for the Medicaid savings that will result from Proposition 206's larger increase in Arizona's minimum wage to \$12 by 2020, it is safe to say that it would be significantly greater than the \$40 million savings that would be generated by a \$10.10 minimum wage.

In addition to savings from moving workers off the Medicaid rolls, raising the minimum wage has been shown to improve a range of other public health outcomes, with resulting savings to state-funded public health programs.²³ To give just one example, each \$1 increase in the minimum wage translates to a 1 to 2

²¹ Rachel West and Michael Reich, Center for American Progress, *A Win-Win for Working Families and State Budgets: Pairing Medicaid Expansion and a \$10.10 Minimum Wage* (Oct. 2014), available at <https://www.scribd.com/document/243216799/A-Win-Win-for-Working-Families-and-State-Budgets>.

²² Rachel West, Center for American Progress, *Analysis of Arizona Medicaid Program Savings Under a \$10.10 Minimum Wage* (Oct. 2014) (unpublished analysis on file with author).

²³For a survey of recent research, see J. Paul Leigh, Economic Policy Institute, *Raising the minimum wage could improve public health* (July 28, 2016), available at <http://www.epi.org/blog/raising-the-minimum-wage-could-improve-public-health/>.

percent decrease in low birth weight babies and a 4 percent decrease in post-neonatal mortality—conditions that result in both significant human cost, and economic cost to the public health system.²⁴ Moreover, a higher minimum wage will likely generate similar budgetary savings in other safety net areas ranging from homelessness prevention to support for food pantries and soup kitchens, the need for which has been shown to drop as earnings increase and family economic need decreases.

Nor is there likely to be much increased demand for safety net programs as a result of workers losing their jobs as the minimum wage increases. As Goldman Sachs analysts summarized recently, “the economic literature has typically found no net effect on employment [when the minimum wage has increased].”²⁵ The latest research, released last month by the White House Council of Economic Advisors, examined states that have raised their minimum wages in recent years in the U.S. and found that they have enjoyed the same job growth rates in industries affected by the minimum wage as states that did not.²⁶ This is consistent with the

²⁴ Kelli A. Komro et al., American Journal of Public Health, *The Effect of an Increased Minimum Wage on Infant Mortality and Birth Weight* (Aug. 2016), available at

<http://ajph.aphapublications.org/doi/pdfplus/10.2105/AJPH.2016.303268>.

²⁵ Daan Struyven and Alec Phillips, *US Daily: Minimum Wage Hikes and Wage Growth*, Goldman Sachs Economic Research, April 2014.

²⁶ Sandra Black et al., VOX CEPR’s Policy Portal, *Minimum wage increases by US states fueled earnings growth in low-wage jobs* (Dec. 2016), available at <http://voxeu.org/article/minimum-wage-increases-and-earnings-low-wage-jobs>.

findings of the bulk of rigorous economic research on the minimum wage in the U.S., which has found that higher minimum wages have improved worker pay and well-being with little if any accompanying reduction in employment.²⁷

C. The Earned Paid Sick Day Protection in Proposition 206 Will Ensure Improved Earnings Stability Leading to Higher Payment of Taxes and Will Have Clear Public Health Benefits That Provide Significant Savings for Both the State and Employers in Arizona.

The nation has ten years of experience with paid sick day laws in seven states and thirty-one localities. The evidence shows that the economic benefits of such measures for workers and employers significantly outweigh any costs and, in fact, create real cost savings for states in the form of improved economic stability for workers, decreased public health expenditures, and an improved economy.

- 1. Paid sick days improve employment and earnings stability, leading to more tax revenues and less reliance on public safety net programs.*

Proposition 206 requires that workers be paid for a limited number of sick days and that their jobs are protected when they are out sick. Research has shown that when incomes are not interrupted by the need to take time off without pay, families experience greater financial stability and economic well-being and rely less on government programs such as unemployment insurance and welfare.

²⁷ National Employment Law Project, *Minimum Wage Basics: Employment and Business Effects of Minimum Wage Increases* (Oct. 2015), available at <http://www.nelp.org/publication/minimum-wage-basics-employment-and-business-effects-of-minimum-wage-increases/>.

Having paid sick days reduces the likelihood of job separation by at least 25 percent.²⁸ Protection of workers' jobs is extremely important in ensuring a stable tax base. According to a 2010 poll, 16 percent of workers surveyed had lost a job because they needed to take sick time.²⁹ The job protection in Proposition 206 guarantees that workers will not lose jobs because they are sick.

The important economic benefits of paid sick days for workers are most pronounced for those who are responsible for caring for family members. More than 1 in 6 working Americans report assisting with the care of an elderly or disabled family member and 69 percent of working caregivers report having to rearrange their work schedule, decrease their hours, or take an unpaid leave in order to meet their caregiving responsibilities.³⁰ A 2011 Gallup poll found that

²⁸ Heather Hill, "Paid Sick Leave and Job Stability," *Work and Occupations* 40(2): 143-173 (2013).

²⁹ Tom W. Smith and Jibum Kim, Public Welfare Foundation, *Paid Sick Days: Attitudes and Experiences* (June 2010), available at <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-attitudes-and-experiences.pdf>.

³⁰ Family Caregiver Alliance, *Selected Caregiver Statistics* (Dec. 31, 2012), <https://www.caregiver.org/caregiver-statistics-work-and-caregiving> (last viewed Jan. 9, 2017).

most caregivers, including parents, reported missing days at work—with an average of 6.6 days of work per year missed at a cost of \$25.2 billion to the U.S. economy.³¹ Without pay and job protection when a family member is sick, which are both provided by Proposition 206, these caregivers are at constant risk of losing income and possibly their jobs. The added income and job stability that comes from Proposition 206 will lead to a more stable workforce and a more stable tax base in Arizona.

2. *Paid sick days save the state—and all taxpayers—money by reducing health expenditures and improving public health.*

There are numerous ways in which the paid sick days requirement in Proposition 206 will lead to health cost savings and an improvement in the public health. In particular, Medicaid costs in Arizona are extremely high—almost a quarter of the State budget, exceeding \$10 billion total in State and federal dollars in the last fiscal year. In addition to moving workers and families off of the Medicaid rolls as discussed above, Proposition 206 is likely to generate additional cost savings for Arizona’s Medicaid program, and for other public health programs

³¹ Dan Witters, “*Caregiving Costs the U.S. Economy \$25.2 Billion in Lost Productivity*,” Gallup, July 27, 2011, available at <http://www.gallup.com/poll/148670/caregiving-costs-economy-billion-lost-productivity.aspx>.

in the State, by allowing workers to more readily access lower cost sources of health care, and by reducing the incidence of sickness and injury.³²

- i. Reduced use of the emergency room saves state and taxpayer medical costs.*

The National Institutes of Health (“NIH”) have established that those with paid sick days are less likely to use the hospital emergency room for routine treatment of health needs. The NIH study concluded that, based on the high cost of emergency room treatment, lack of paid sick days resulted in an estimated 1.3 million preventable emergency room visits in the U.S. at a cost of \$1.1 billion over the cost of doctors’ office visits. About \$500 million of this amount was a cost to public insurance programs such as Medicaid.³³ Clearly, Arizona with its significant Medicaid expenditures, will benefit greatly from a reduction in emergency room visits—funded with taxpayer dollars—by workers who will now have access to paid sick days they can use to see a doctor during normal hours.

³² See Henry J. Kaiser Health Foundation (KFF.org), *State Health Facts: Total Medicaid Spending* (FY 2015), <http://kff.org/medicaid/state-indicator/total-medicaid-spending/?currentTimeframe=0> (last viewed Jan. 9, 2017).

³³ Kevin Miller et al., Institute for Women’s Policy Research, *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits* (Nov. 2011), available at <http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits>.

ii. *Increased use of preventive care and more timely treatment of illnesses save public health money.*

Preventive care and timely treatment of illnesses can also lead to public health savings. When preventive care is used, health issues are treated earlier and are less likely to lead to serious illnesses requiring hospitalization and expensive care. To the extent that public funds are expended to fund medical care, this can result in increased savings to taxpayers and the State. A 2012 study using National Health Interview Survey (“NHIS”) data found that after controlling for demographic factors, workers with paid sick days were significantly more likely than those with no paid sick days to have seen a doctor within the last year and to have had mammograms, pap tests, and endoscopies.³⁴ Similarly, workers without paid sick days are more likely to delay treatment for themselves and for their family members under their care leading to more serious and more prolonged illnesses.³⁵ Proposition 206 will positively impact the health of Arizona workers by reducing untreated illnesses, thereby saving the State public health dollars.

³⁴ Lucy A. Peipins et al., “*The lack of paid sick leave as a barrier to cancer screening and medical care seeking: results from the National Health Interview Survey*,” BMC Public Health 12:250 (2012).

³⁵ LeaAnne De Ringe et al., “*Workers Without Paid Sick Leave Less Likely to Take Time Off for Illness or Injury Compared to Those With Sick Leave*,” Health Affairs 35(3): 520-527 (2016).

- iii. *Reduced contagion in workplaces and in schools will lead to better public health and lower health care costs, especially with respect to contagious diseases like influenza.*

Workers without paid sick days are more likely to come to work with a contagious disease than workers who are provided paid sick days.³⁶ This connection has a particular effect on pandemics that hurt everyone and lead to hospitalizations and serious health repercussions. For example, research has established a clear correlation between lack of paid sick days and the spread of the flu, with one study estimating that providing paid sick days will reduce flu contagion in the U.S. by 6 percent.³⁷ Access to paid sick days is also a primary factor in whether or not parents keep their children home from school when they are sick with a contagious disease. Parents with paid sick days are significantly more likely to keep their children home when they are sick, reducing contagion

³⁶ Dr. Tom W. Smith and Jibum Kim, Public Welfare Foundation, *Paid Sick Days Attitudes and Experiences* (June 2010), available at <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-attitudes-and-experiences.pdf>.

³⁷ Supriya Kumar et al., “Policies to Reduce Influenza in the Workplace: Impact Assessments Using an Agent Based Model,” *American Journal of Public Health* 103 (8): 1406-1411 (2013); see also Stefan Pichler and Nicolas R. Ziebarth, DIW Berlin, *The Pros and Cons of Sick Pay Schemes* (2015), available at https://www.diw.de/documents/publikationen/73/diw_01.c.514633.de/dp1509.pdf; Robert Drago and Kenneth Miller, Institute for Women’s Policy Research, *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic* (Jan. 2010), available at <http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>.

among the entire school population.³⁸ Proposition 206 will help reduce the spread of contagious diseases like flu, thereby contributing to the health of all Arizonans and saving public health dollars.

- iv. Paid sick days have been shown to reduce workplace injuries, saving worker's compensation benefits—and lives.*

Working while sick puts employees at greater risk of injury on the job. An NHIS study found that workers with access to paid sick days were 28 percent less likely to be injured on the job than workers without that benefit.³⁹

CONCLUSION

For the foregoing reasons, *amici* respectfully request that this Court deny Plaintiffs' Joint Petition for Special Action and hold that Proposition 206 is valid and should not be enjoined.

RESPECTFULLY SUBMITTED this 11th day of January 2017.

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³⁸ *Supra* note 36.

³⁹ Pana Asfaw et al., “Paid Sick Leave and National Occupational Injuries,” *American Journal of Public Health* 102(9): e59-e64 (September 2012).

CERTIFICATE OF COMPLIANCE

1. This certificate of compliance concerns an amicus curiae brief, and is submitted under Rule 16(b)(4).
2. The undersigned certifies that the amicus curiae brief to which this Certificate is attached uses type of at least 14 points, is double-spaced, and contains 5,817 words according to the Word software used to create the brief, from the Purpose and Interest to the end of the Conclusion, well below the word limit set by the Rule 14(a)(4) of the Rules for Civil Appellate Procedure
3. The undersigned certifies that all parties to this action have consented to the submission of this brief.

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CERTIFICATE OF SERVICE

The undersigned *Amici Curiae* on the 11th day of January, 2017, electronically filed the Brief of *Amicus Curiae* National Employment Law Project and A Better Balance in the Arizona Supreme Court and served a copy to the following parties via email in compliance with Rule 5(c)(2) of the Arizona Rules of Civil Procedure .

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