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TO: Mayor Robinson and City Councilmembers

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SUBJECT: State Legislative Update

November-December State Legislative Summary

Democrats Gain Seats in State House of Representatives and Senate

Democrats will continue to hold the majority in the House of Representatives (58-40) and in the Senate (29-20). Democrats added one additional seat in each chamber with the November 8 election. With these strong majorities, Democrats will set the agenda for the upcoming state legislative session, which begins on January 9. In addition to an adjustment in party make-up, over two dozen new individuals were elected to the Washington State Legislature.

Reorganization Underway

Every two years, the legislature goes through a reorganization process where it determines its committee structure and which legislators will service on which committees. The legislature is mid-way through that process. Notably, in both the House and the Senate, new committee structures have been announced which govern legislation pertaining to residential land use policy to be heard and discussed by the housing committees, rather than the local government committees.

Development of Governor's Proposed Budgets

The Office of Financial Management and staff in the Governor's Office are just completing budget preparation. The governor's proposed 2023-25 state operating, capital and transportation budgets will be released in mid-December. Traditionally, the Legislature holds public hearings on the governor's budget proposals early in the legislative session and will then begin their own budget process to develop final 2023-25 budgets to submit the governor to be signed into law at the end of the legislative session.

Transportation Revenues Update

Since November, transportation revenue projections have decreased by \$114 million. This means that the revenue projections upon which 2022's Move Ahead Washington package was structured have since declined. It's unclear whether there is adequate revenue available to meet all the commitments made within the Move Ahead Washington package. One of the revenue sources that Move Ahead Washington relied upon was the Climate Commitment Act. However, while Climate Commitment Act funds are projected to be higher than anticipated, the amount of funding from that Act that the Legislature as dedicated to transportation is a fixed amount: \$723 million had been dedicated for the 2023-25 transportation budget. The Legislature would need



to dedicate more funding to transportation for the transportation budget to benefit from the increased Climate Commitment Act funds.

Tax Structure Work Group

In 2017, the Legislature established the Tax Structure Work Group to identify options to make the Washington state tax code more fair, adequate, stable, and transparent. The Work Group is tasked with providing guidance to the Washington State Department of Revenue on final rate setting and any necessary fine tuning to approve a policy recommendation and legislation by the end of this year.

The Work Group's discussions have focused on three potential policy concepts: replacing the current Business and Occupation tax with a margin tax, property tax limit factor (also known as the "one percent growth limit"), and a wealth tax. At their November meeting, The Work Group voted to advance discussions on the margin tax concept, with members highlighting the potential benefit for small businesses. Members also voted on whether the wealth tax policy option should advance, and that was narrowly rejected. Finally, the Work Group addressed the property tax limit factor, and decided to only advance modeling for local governments. One reason given for moving forward with the local property tax only was that including state property tax revenues would prevent the proposal from being revenue neutral. The next meeting of the Tax Structure Work Group is scheduled for December 13.

Capital Gains Tax

In 2021, the Legislature approved a seven percent tax on most capital gains greater than \$250,000. The tax quickly faced two lawsuits, one filed by the Freedom Foundation and the other by former Attorney General Rob McKenna, which were later consolidated. The Douglas County Superior Court ruled that the tax was in violation of the Washington State Constitution because it is structured more like an income tax than an excise tax.

Attorney General Bob Ferguson then appealed the ruling directly to the Washington State Supreme Court, which agreed to take up the case. The Supreme Court recently granted the motion for a "stay" of the Douglas County Superior Court ruling, allowing the Department of Revenue to continue its rule-making efforts in preparation for collecting the tax next year. The Supreme Court will begin hearing arguments on the case on January 26, 2023. If the tax is ruled unconstitutional, any payments made prior to the ruling would be refunded.

Republicans Introduce "Power Washington" Energy Plan

At a press conference held on December 1, Senators Curtis King (R-14, Yakima), Shelly Short (R-7, Addy), and John Braun (R-20, Centralia) introduced a Republican-developed energy plan for the 2023 legislative session called "Power Washington." Senator King highlighted three of the plan's seven components:

- Incentivizing hydrogen vehicles to reduce demand for electricity



- Promoting the expansion of hydrogen technology through research and development of hydrogen production
- Prioritizing carbon sequestration through forestry management and other natural options for capturing carbon, such as hemp and bamboo plants

Senator King noted that there is a need for a comprehensive energy plan for Washington State to respond to climate challenges and that the plan must be reasonable and rational. Senator Short commented that there should be greater focus on reliability and flexibility when evaluating energy options. Senator Braun noted concern for energy affordability for ratepayers, stating that high energy costs could drive residents out of the state. In a majority Democrat legislature, it is unlikely that this partisan proposal will advance; however, concepts within the proposal may be integrated into other Democrat-driven initiatives.

Legislative Committee Assembly Days

The State House of Representatives and State Senate legislative committees convened in early December for “Committee Assembly Days.” Committees met in work sessions on key issues heading into the 2023 legislative session. Here is a summary of the emerging themes from those proceedings.

Budget and Finance

The **House Capital Budget Committee** held a work session on behavioral health facilities and psychiatric hospital bed needs and challenges. Office of Program Research staff shared that there are currently 747 funded beds at Western State Hospital and 367 funded beds at Eastern State Hospital. They provided updates on future planned bed capacity, and listed several facilities where additional capacity will be available as well as the projected timeline for opening, available [here](#). The 2023-25 Capital Budget is anticipated to make a significant investment to make improvements at Western State Hospital.

The **House Finance Committee** work session focused on the Tax Structure Workgroup’s efforts with the Department of Revenue and the November economic forecast. The Committee received a briefing on the three potential policy pathways being discussed by the Tax Structure Work Group (as noted above), any of which may be introduced as legislative proposals during the 2023 session, including those that do not advance from the Work Group.

The **Senate Ways and Means Committee** received a briefing on the work of the Legislative Task Force on Paid Family Medical Leave (PFML) Insurance Premiums and Long-term Services and Supports Trust Commission (WA Cares Fund).

An actuarial report conducted for the PFML Task Force recommended that a three-month reserve be established. Legislation is expected to implement the recommendations of the Task Force, including a plan for achieving the three-month



reserve, utilizing the \$350 million appropriated in the budget up to the fund's deficit, removing the solvency surcharge, and capping the rate at 1.2 percent.

Several recommendations were shared regarding the WA Cares Fund related to portability, supplemental private long-term care insurance, and recertification for those individuals granted an exemption from contributions for obtaining private long-term care insurance. Recommendations included allowing anyone with one year of qualifying coverage who leaves the state to elect portable benefits coverage by continuing their contributions under Normal Retirement Age, requiring all individuals who were exempted prior to November of 2021 to have maintained their private policy through present day to keep their exemption, requiring recertification for exemption every one-to-three years for up to 10 years, among others.

Transportation

The **Senate Transportation Committee** received a briefing from the Department of Transportation about escalating project costs and contributing factors impacting the Department's ability to deliver projects on-time and within budget. Factors included inflation, construction industry workforce shortages, increasing costs of construction materials, and contractor competition from public agencies competing against each other for contracts. There will be further discussion about project budgets as part of the 2023-2025 budget process next session.

The Traffic Safety Commission reported on their work on the "Move Over, Slow Down" campaign to remind motorists to move over when a vehicle is pulled over to reduce traffic injuries and fatalities. The Commission also created an Automated Speed Enforcement Readiness Guide outlining where speed cameras can be used and best practices for community engagement, equity, and evaluation.

The Washington State Ferry System shared an update on ridership, workforce development, and efforts to restore services. This year's ridership is on a similar level to last year and has not yet returned to pre-pandemic levels. Several initiatives are underway to shore up the workforce so that services can be restored. Additionally, the first hybrid electric ferry will begin service in mid-2027 on the Mukilteo/Clinton route.

Housing

The **Senate Housing and Local Government Committee** convened a work session to hear about recent organizational changes at the Department of Commerce and to receive updates on various programs aimed at helping renters retain their housing. The Department of Commerce has reorganized to create two divisions—one for housing, which administers several grants and includes the homeownership unit and Office of Apple Health and Homes, and the other for community services.



A total of \$979 million was allocated for rental assistance across all programs, and \$609 million has been spent. The temporary program is winding down, and counties are transitioning to the permanent program. There is ongoing discussion on how much funding should be provided to support this program. There are also four landlord mitigation programs and an increase in claims following the conclusion of the eviction moratoria. There will be a legislative proposal introduced next session to create a Homes Board to coordinate between jurisdictions. Additional anticipated policy proposals aimed at creating more housing include streamlining permitting processes, existing buildings, sustainable construction, transit community enhancement, and anti-displacement.

The Committee also received an update on the Eviction Resolution Pilot (ERP) Program from the Administrative Office of the Courts. Of the nearly 47,000 ERP cases, 42% were resolved, resolution was not applicable in 45% of cases, and 13% of cases were not resolved. The Attorney General's Office addressed the legal challenge of the constitutionality of the ERP program and stated that the court has yet to issue a ruling on summary judgment. If the court grants the summary judgment, then the decision is eligible for appeal. The Committee received a [presentation](#) from the Bellevue Conflict Resolution Center on its efforts with the ERP program.

Lastly, it was noted that, in the past year since the right-to-counsel program was established, more than 4,500 tenants have received legal representation. The majority have been able to stay in their homes.

The **House Housing, Human Services, and Veterans Committee** held a work session on recommendations from the Homeownership Disparities Work Group. Recommendations for improving rates of homeownership for Black, Indigenous, and People of Color (BIPOC) communities included increasing affordable homeownership supply and direct homeownership assistance, improving lending products, adjusting existing assistance programs, and a focus on sustaining homeownership. The Governor's budget proposal will include \$50 million in the capital budget for manufactured housing and other housing for purchase, and \$25 million in the operating budget to help community-based organizations provide services to help households become homeownership-ready.

The **House Local Government Committee** held a work session that included a review of housing-related legislation enacted in the last legislative cycle and briefings related to middle housing from Futurewise and the Association of Washington Cities. Futurewise provided a policy outline that included a recommendation for cities over 6,000 in population and all cities within a contiguous Urban Growth Area (UGA) of cities over 200,000 in population to allow a minimum of four housing units per lot in all residential zones, and a minimum of six units per lot in all residential zones within a half-mile of a major transit stop.



The Association of Washington Cities briefed the Committee on the work of the Housing Solutions Group, including goals, process, actions cities are already taking to increase housing creation, and the Group's recommendations on a policy package. Notably, 151 cities currently allow middle housing in single-family zones, and 50 cities have up zoned 75 percent of the single-family land base. Policy recommendations included maximizing density around regional transit assets, using zoning to maximize utilization of community assets, regulatory streamlining, and funding for housing and infrastructure. The full presentation is available [here](#).

Planning and Land Use

The **House Local Government Committee** heard a presentation outlining recommendations from the Department of Commerce's Growth Management Act (GMA) Reform Task Force. There were 15 recommendations that received a consent from the Task Force, including integrating the planning of special purpose districts into the GMA, make permit data reporting easier and simpler so it can be readily collated by the Department of Commerce, modifying the Shoreline Management Act revision cycle from every eight to every 10 years, among others. The full slate of recommendations can be viewed [here](#).

Environment and Energy

The **Joint Committee on Energy Supply and Energy Conservation** held a work session for updates on distributed energy resource (DER) planning and electric vehicle planning. The Committee heard from the Northwest Energy Coalition and power utilities to receive an overview of how DERs such as renewable energy sources, batteries, and electric vehicle charging can optimize the distribution system and aid in compliance with the *Clean Energy Transformation Act (CETA)*. The utilities shared how they incorporate DERs into their Integrated Resource Plans as well as demand response considerations. Utilities are integrating DERs to help optimize distribution to manage pressure on the grid and meet customer demand at peak times.

The Committee also received briefings from the Interagency Electric Vehicle Coordinating Council (EV Council) and utilities on progress toward transportation electrification. In 2023, there will be a combined \$94 million available for community electric vehicle charging infrastructure and alternative fuel vehicle incentives. The Department of Transportation outlined efforts to boost electric vehicle usage, including a plan for DC fast-charger stations every 50 miles along state highways and routes, new grant funding in the next biennium, and federal funding available for electric vehicle infrastructure.

Department of Ecology staff shared that a rule was just released for the state's Clean Fuel Standard, which aims to reduce carbon intensity of transportation fuels by 20 percent by 2034. Higher carbon fuels will create debits, while cleaner fuels will create credits. Electric vehicles will create credits for utilities. The Department of Commerce



noted that the Pacific Northwest is well-positioned in terms of resource adequacy and that utilities are building forecasted load increases into their plans.

Public Safety

The **Senate Law and Justice Committee** was briefed on a package of recommendations from the Substance Use and Recovery Services Advisory Committee (SURSAC) regarding controlled substances and substance use treatment in follow-up to the *Blake* decision that was issued in 2021. SURSAC's recommendations will likely be introduced as legislation in the 2023 session. Among these suggestions is decriminalization of controlled substances and paraphernalia, with no civil penalties or fines. The Committee's work emphasizes diversion and referral options for eligible charges. The full package of recommendations can be viewed [here](#).

Attachment: General Election Update

General Election Update

Below are the final outcomes of the closest races within the Washington State Legislature. In short, Democrats gained one seat in each chamber – the 42nd in the Senate, and the 10th in the House of Representatives.

Senate:

- **42nd Senate Seat – Republican Seat Switched to Democrat (Bellingham):** Representative **Sharon Shewmake**, a Democrat, prevailed over appointed-Senator Simon Sefzik for the 42nd Senate Seat. This seat was previously held by former Senator Doug Ericksen for many years before he passed away last year, and Simon Sefzik was appointed to the seat. Shewmake winning this seat reflects a significant political shift for the legislative district, and an additional seat for Democrats statewide.
- **26th Senate Seat (Bremerton) – Retained Democrat:** Incumbent **Emily Randall** (D) held her seat against challenger Representative Jesse Young (R). The 26th District will continue to be represented by a Democrat in the Senate, and two Republicans in the House of Representatives.
- **47th Senate Seat (Kent) – Retained Democrat: Claudia Kauffman (D)** prevailed over Bill Boyce (R) for the open 47th seat that was previously held by former Senator Mona Das (D) who chose not to seek re-election.

House of Representatives:

- **10th House Seat (Island County and parts of Snohomish and Skagit Counties) – Republican Seat Switched to Democrat:** In Position 1, Democrat challenger **Clyde Shavers** prevailed over incumbent Republican Greg Gilday. The 10th Legislative District is now a split district, with a Republican representing the district in the Senate, and two Democrats representing the district in the House of Representatives.
- **26th House Seat (Bremerton) – Retained Republican:** This position, previously held by Republican Representative Jesse Young, who decided to run for the Senate seat in the district, will now be held by Republican **Spencer Hutchins**, who narrowly defeated Democrat Adison Richards.
- **42nd House Seats (Bellingham) – Retained Democrat:** Position 1 incumbent Democrat **Alicia Rule** prevailed against Republican challenger Tawsha (Dykstra) Thompson. For Position 2, Representative Sharon Shewmake (D) pursued the Senate seat in the district and the Democratic candidate, **Joe Timmons** prevailed against Republican Dan Johnson. Combined with Shewmake winning the Senate race, this puts the 42nd legislative district as a solid Democrat district.

There was one statewide race on the ballot for **Secretary of State**. Incumbent **Steve Hobbs** (D) prevailed over Independent Julie Anderson, 49.8% over 45.8%, with 4.4% going to write-in candidates.