

City of Redmond 2021 Legislative Session Report

Dear Mayor Birney, City Councilmembers and City Staff,

It was a pleasure to advocate for the City of Redmond throughout the 2021 legislative session, which will go down in the history books as unlike any other. The legislature met in a virtual format for the entire session, keeping the capitol campus closed to everyone except a handful of staff and legislative leaders. This made the 105-day "long" session especially long as video screens, text messages, phone calls and emails replaced face-to-face meetings.

Despite these challenges, we are pleased that the City of Redmond was successful in advancing its legislative priorities, including securing \$1.25 million for the Redmond Senior and Community Center. This would not have been possible without an active and supportive legislative delegation; Sen. Manka Dhingra, Sen. Patty Kuderer, Rep. Larry Springer, Rep. Roger Goodman, Rep. Vandana Slatter, and Rep. Amy Walen. We encourage you to express great thanks to the delegation.

Now that session is over, attention will turn to implementing the actions of the legislature including discussion regarding a potential special session later this year to enact a transportation revenue package.

Looking ahead, the 2022 legislative session will be the second of the two-year legislative biennium. Democrats will retain control of the House, Senate, and Governor's Office, and the legislature will consider supplemental budgets that adjust the biennial budgets adopted this session. In addition to new policy proposals, any bills that were not adopted by the legislature in 2021 can be considered again. The 2022 legislative session will be followed by the 2022 November elections. Members to the State Redistricting Commission have been appointed by the legislature and will be submitting their proposed redistricting plan to the legislature in 2022. The legislature will consider and adopt a redistricting plan for use in the 2022 election.

The ever-changing political climate requires adaptive and consistent advocacy. We look forward to working with the City of Redmond throughout the interim months to continue advancing the City's priorities and preparing for the 2022 legislative session.

Thank you,

Briahna Muvray

Overview of the 2021 Legislative Session

The 2021 Legislature convened for a 105-day session that was conducted almost entirely virtually. Due to the virtual format, legislators were encouraged to limit the number of bills introduced. Legislators considered 1,075 bills this session and approved 334. By comparison, this is about half as many bills introduced, and about 100 fewer to get approved, than would occur in an average year.

As the first year of the two-year legislative biennium, the Legislature was tasked with developing biennial operating, capital, and transportation budgets. This task became even more monumental when the federal government approved the American Rescue Plan Act, providing the state with \$4.25 billion in federal assistance that must be spent by December 31, 2024.

As the majority party, Democrats set the policy agenda for the 2021 session, indicating that they were focused on four main areas: 1) respond to the COVID-19 pandemic; 2) address economic recovery; 3) address racial equity; and 4) address climate change. Significant legislation passed in all four areas. Significant policy changes included approving a capital gains tax, a working family tax credit, a low carbon fuel standard, a cap-and-trade system, a slate of a dozen police reform bills, a new approach to prosecuting and treating controlled substance addiction, modification of the "three strikes you're out" sentencing policy, a new 9-8-8 mental health system... and more.

2021- 2023 Operating Budget: The state's operating budget funds all state agency operations, including K-12, higher education, human service programs, and more. Leading up to the beginning of the legislative session, there were concerns that the operating budget would face a significant revenue shortfall. However, the March economic revenue forecast reflected a rebound from the pandemic. This, combined with revenue from the federal government, provided the state with revenue to have one of the largest increases in state budgeting in recent history. The 2021-23 operating budget appropriates \$59.2 billion – a \$3.2 billion increase over last biennium. The budget also assumes \$415 million in capital gains revenue (Senate Bill 5096). \$1 billion in federal funds are transferred to the Washington Rescue Plan Transition Account to be later appropriated to respond to COVID-19 impacts, and \$1.8 billion is transferred from the Budget Stabilization Account to the state general fund. The four-year budget outlook projects that the state will end the 2023-2025 biennium with over \$1 billion in reserves.

2021-2023 Capital Budget: The biennial capital budget funds bricks and mortar construction, excluding transportation. The Legislature allocated \$6.3 billion for the 2021-23 biennial capital budget, in which \$3.9 billion is from general obligation funds, making it the largest capital budget in recent history. The remaining \$2.4 billion consists of \$589 million in federal stimulus funds, \$275 million in Model Toxics Control Accounts, \$255 million in alternative financing, and \$1.2 billion in other funds. Due to the passage of the federal American Rescue Plan Act, the budget appropriates \$189 million from the Coronavirus Capital Projects Fund for projects that support work, education, and health monitoring, including remote options in response to the pandemic. Additionally, \$400

million is allocated to the Coronavirus State Fiscal Recovery Fund to make necessary investments in water, sewer, and broadband infrastructure.

2021-2023 Transportation Budget: Transportation revenues were hit hardest throughout the COVID-19 pandemic and have been slow to rebound. Prior to the beginning of the legislative session, the Washington State Supreme Court overturned I-976, which would have limited car tabs to \$30. This meant that the state could budget car tab revenues that it had otherwise not planned to receive. Even with this additional revenue, a revenue shortfall due to the impacts of the pandemic remained, and a need to invest significant funding in replacing state-owned culverts. This shortfall combined with significant statewide demand for transportation investments in preservation and maintenance and new projects prompted a great deal of discussion about a transportation revenue package.

During the 2021 legislative session, there was discussion of a "grand bargain" where legislators would approve a transportation revenue package, a low carbon fuel standard, and a cap and invest system. While the Legislature reached agreement on a low carbon fuel standard and cap and invest system, they did not reach agreement on a transportation revenue package.

There were several transportation revenue package proposals released; however, the two with the most momentum came from the House Transportation Committee Chair, Rep. Jake Fey (D-Tacoma) who released a framework for the *Miles Ahead* proposal, and the Senate Transportation Committee Chair, Sen. Steve Hobbs, who introduced bills proposing the *Forward Washington* plan. The notable differences between these two proposals that prevented an agreement on a single proposal included: 1) how high the gas tax should be increased; 2) whether cap-and-invest revenues should be spent only on projects that reduce carbon in the transportation sector, or all transportation projects; 3) the level of investment in preservation and maintenance.

Without a revenue package, the Legislature adopted a 2021-23 Transportation Budget that used federal funds to continue projects that have already been allocated funds and to fund the replacement of state-owned culverts. The total 2021-23 Transportation Budget was \$11.7 billion, with \$1.126 billion allocated to fish barrier correction using a watershed approach.

Notably, the two bills authorizing a low carbon fuel standard and the cap-and-invest systems included language delaying the effective date of enforcing compliance with the programs until the Legislature enacts a state a gas tax increase of at least five cents. These provisions were included to provide motivation for legislators to reach an agreement on a transportation revenue package in a special session, or in the 2022 session. Governor Inslee vetoed these provisions. This makes the prospects of a future transportation revenue package uncertain – that said, since the veto, legislators have been indicating that they still intend to continue discussions of a transportation revenue package.

Redmond Legislative Priorities

Redmond Community and Senior Center: The City requested \$5 million for the Redmond Community and Senior Center. The City requested this amount knowing that it would likely not receive the fully amount requested, but that strategically asking for a bold amount of funding would lead to a significant state investment. Due to strong legislative leadership and city advocacy efforts, the 2021-23 Capital Budget allocates \$1.25 million in funding for the Redmond Senior and Community Center. This is a significant contribution, and significantly higher than the average appropriation of \$724,000 provided to a single project within the Capital Budget's local and community project account.

Additional Capital Budget Investments in Redmond: The 2021-23 Capital Budget also allocated funding to the following projects in the Redmond community:

Project	Final 2021-2023 Capital Budget
Together Center Redevelopment	\$1.03 million
The Landing	\$258,000
Marymoor Park Dock Replacement (RCO –	\$500,000
Aquatic Lands Enhancement Account)	

148th Transportation Improvements: The City requested \$51 million in any transportation revenue package to improve 148th Ave NE to increase the flow of traffic on to SR 520 and construct a bicycle/pedestrian path over SR 520. Prior to the beginning of the legislative session, the City did substantial outreach to the 45th and 48th district legislators and legislators that serve on the transportation committees. This outreach effort continued in earnest throughout the legislative session, with the City providing testify before both the House and Senate Transportation Committees on several occasions. This advocacy culminated in the inclusion of \$27 million dollars for the 148th Ave NE bicycle/pedestrian path over SR 520 in the Senate's Forward Washington Proposal. This is a significant investment and is reflective of the state's emphasis on funding multimodal projects throughout the state. Given this, the City is well-positioned to receive funding for this project if/when a state transportation revenue package is adopted.

As described in the session overview above, the Legislature did not reach an agreement on a transportation revenue package however it is anticipated that the legislature will continue to work on a transportation revenue package with potential action either in a special session or during the 2022 Legislative Session.

Affordable Housing and Preventing Homelessness: Redmond has identified affordable housing as a top legislative priority for several years. Each year, the Legislature makes incremental progress on the issue. Below are notable budget appropriations and bills that passed the legislature pertaining to affordable housing and preventing homelessness:

Notable Budget Appropriations:

- \$1 billion for rental and utility assistance, including funding generated by House Bill 1277 (see below)
- \$187 million for foreclosure prevention assistance (to implement House Bill 1108, see below)
- \$130.7 million for the Housing Essential Needs program
- \$58 million for grants to support the operations and maintenance of permanent supportive housing
- \$35 million for grants to local governments to increase shelter capacity
- \$31.3 million in eviction prevention services to implement Senate Bill 5160 (see below)
- \$23 million to expand the HOME Investment Partnership Program to house homeless or those at-risk of becoming homeless
- \$15 million to support unhoused youth and young adults
- \$10 million for housing needs of those with intellectual and developmental disabilities
- \$7.5 million for consolidated homeless grant program
- \$6 million for grants to local government for costs in providing emergency noncongregate sheltering through September 2021
- \$6 million for homeless families and youth services
- \$4 million for community beds, permanent and temporary, for those with mental illness
- \$2 million for transitional housing pilot for homeless youth
- \$175 million allocated to the Housing Trust Fund
 - \$20 million for competitive preservation grants or loans
 - \$10 million for community housing and cottage communities for shelters
 - \$5 million for housing for those with developmental disabilities
 - \$15 million for specified projects
- \$10.9 million for contaminated property redevelopment grants for affordable housing
- \$93.8 million for rapid housing acquisition grants to purchase or rent real property for shelters, permanent supportive housing, or low-income housing
- \$25.7 million for rapid capital housing and homelessness projects
- \$42 million in utility improvement or connection grants to local government and PUDs to new affordable housing projects

Local Tax Revenues Authorized to be Spent on Acquisition: House Bill 1070, sponsored by Rep. Cindy Ryu (D-Shoreline), modifies legislation passed during the 2020 Legislative Session (House Bill 1590) that authorized a county or city, by councilmanic action, to impose a local sales and use tax for affordable housing. Under this bill, the portion of the funds raised from HB 1590 dedicated to housing can be used for the acquisition of affordable housing, facilities providing housing-related services, behavioral health-related facilities, or land for these purposes. Affordable housing includes emergency, transitional, and supportive housing. Prior to acquiring a facility, a

county must consult with the city in which the facility is located. A county must provide an opportunity for 15 percent of the units in an acquired facility to be provided to individuals living in or near the city in which the facility is located or otherwise have ties to that community. Such prioritization must not jeopardize the United States Department of Housing and Urban Development funding for the Continuum of Care Program. King County state-shared lodging tax revenues may be used for housing or facilities for homeless youth. Additionally, the definition for affordable workforce housing is modified to include housing for a single person, family, or unrelated persons living together whose income is at or below 80 percent of the median income, adjusted for household size, for the county where the housing is located. The bill became effective on April 14, 2021 when the Governor signed the bill into law. The final bill can be found here and a summary can be found here.

Foreclosure Support: House Bill 1108, sponsored by Rep. Tina Orwall (D-Des Moines), will provide additional funding to the Foreclosure Fairness Program to provide mediation services to those homeowners facing foreclosure. The 2021-23 Operating Budget allocates \$187 million to the program. Additionally, this bill expands eligibility for the program by removing the requirement that residential real property of up to four units be owner-occupied for purposes of the program. The final bill can be found here and a summary can be found here.

Tenant Protections and Landlord Assistance: Senate Bill 5160, sponsored by Sen. Patty Kuderer (D-Bellevue), establishes a plan, including mediation, for when the eviction moratoria ends. On March 18, 2020, Governor Inslee issued Proclamation 20-19 to prohibit a number of activities related to evictions by all residential landlords operating residential rental property in the state. Since then, the Governor has issued multiple extensions of the eviction moratorium with the current variation, Proclamation 20-19.6, set to expire June 30, 2021. The bill requires landlords to offer a repayment plan to tenants six months following the end of the moratoria, and payments may not be more than 1/3 of the tenant's monthly rent; allows landlords to claim up to \$15,000 in reimbursement from the Landlord Mitigation Program for unpaid rent if a tenant defaults on a repayment plan; dispute resolution centers are authorized to establish a two-year, statewide eviction resolution program. A landlord may be liable for violations of the tenant protections up to 2.5 times the monthly rent. At the request of legislative leadership, Governor Inslee vetoed sections 12 and 13 of the bill, which directed the Department of Commerce to provide financial relief to landlords through various grant programs. The reasoning for the removal of previous funding requirements within the bill were due to insufficient funding within the final operating budget and duplicative grant opportunities provided within House Bill 1368, which stemmed from federal funding and went into effect on February 19, 2021. The partially vetoed bill was signed on April 22 and went into effect on the same day. The final bill can be found here and a summary can be found here.

Eviction Prevention Assistance: <u>House Bill 1277</u>, sponsored by Rep. Timm Ormsby (D-Spokane), would increase the document recording fee by \$100. The funds collected must be fully remitted to the state to be distributed as follows: 20 percent of funds must be deposited into the Affordable Housing for All Account for the operations, maintenance, and service costs for permanent supportive housing. From July 1, 2021,

through June 30, 2023, 4 percent of funds must be deposited into the Landlord Mitigation Program Account (LMPA). After June 30, 2023, 2 percent of funds must be deposited into the LMPA. The remainder of funds must be distributed to the Home Security Fund Account, with 60 percent of the funds to be used for project-based voucher for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, or acquisition. Priority for use must be given to project-based vouchers and related services, housing acquisition, or emergency housing for individuals who are chronically homeless, including families with children, and at least 50 percent of clients served must be living unsheltered at the time of initial engagement. In addition, funds may be used for the Eviction Prevention Rental Assistance Program (EPRAP), foreclosure prevention services, rental assistance for people experiencing homelessness, and tenant education and legal assistance. The final bill can be found here and a summary can be found here.

<u>Environmental Sustainability</u>: New this year, the City established a legislative priority in support of policies to reduce greenhouse gas emissions and advance environmental health, including decarbonizing the economy, green building codes, energy efficiency requirements, renewable energy, electric vehicle infrastructure, climate resiliency and planning, reducing the waste stream, and habitat restoration. Below are notable bills that passed the legislature that are related to environmental sustainability:

Low Carbon Fuel Standard: House Bill 1091, sponsored by Rep. Joe Fitzgibbon (D-Buren), will enact a statewide low carbon fuel standard that aims to decrease the carbon intensity of transportation related fuels by 20% below 2017 levels by 2038. Traditional fuel producers will need to either decrease the carbon intensity of their fuels or purchase clean fuel credits which may increase the cost of gasoline. Clean Fuel producers will generate credits that can be monetized to further support decarbonization efforts such as electric vehicle infrastructure like public and fleet charging. The final bill can be found here and a summary can be found <a href=here. The Governor <a href=here provisions of the bill linking the implementation of the low carbon fuel standard to the development of a transportation revenue package. This controversial veto is likely to be challenged legally.

Cap-and-Invest: Senate Bill 5126, sponsored by Sen. Reuven Carlyle (D-Seattle), would establish a cap-and-invest program in Washington state which places an economy wide charge on carbon emissions in an effort to reduce carbon over time. Those who are regulated entities either need to reduce carbon emissions or pay a fee. Unlike a Low Carbon Fuel Standard, this policy raises direct revenue for projects in the state's transportation budget (that must be tied to decarbonization). Examples of projects that could be funded from this pot of money include electric ferries, transit, and various multimodal projects. The Governor vetoed provisions of the bill linking the implementation of the low carbon fuel standard to the development of a transportation revenue package. This controversial veto is likely to be challenged legally. The final bill can be found here and a summary can be found here.

Phase-out of Hydrofluorocarbons (HFCs): <u>House Bill 1050</u>, sponsored by Rep. Joe Fitzgibbon (D-West Seattle), authorizes the Department of Ecology to strengthen

standards to phase out hydrofluorocarbons (HFCs), which are industrial chemicals primarily used for cooling and refrigeration. Ecology is tasked with providing recommendations to the Legislature by December 1, 2021, regarding the design of the program and to address end-of-life management and disposal of refrigerants. The final bill can be found here, and a summary can be found here.

Electric Vehicle Forecasting: House Bill 1287, sponsored by Rep. Alex Ramel (D - Bellingham), will require the Department of Transportation to develop and maintain a publicly available mapping and forecasting tool to support electric vehicle adoption and requires the state building code council to adopt rules to require electric vehicle charging capability in certain, new, residential buildings. Notably, the bill also contains provisions that tie electric vehicle goals to a road usage charge. The Governor vetoed provisions of the bill that would require that all publicly and privately owned passenger vehicles of a model year 2030 or later that are sold, purchased, or registered in Washington be electric if 75% of the registered vehicles in the state are participating in a road usage charge. The final bill can be found here, and a summary can be found here.

Environmental Justice Task Force Recommendations: Senate Bill 5141, sponsored by Senator Rebecca Saldaña (D- Seattle), implements several of the state's Environmental Justice Task Force's recommendations including, codifying the definition of environmental justice and requiring state agencies to incorporate environmental justice principles when implementing policies and programs. The final bill can be found here and a summary can be found here.

Minimum Recycled Content and Expanded Polystyrene Ban: Senate Bill 5022, sponsored by Sen. Mona Das (D-Kent), will establish a minimum recycled content for certain plastic containers (beverage, household cleaning, and personal care products) and plastic trash bags, bans certain expanded polystyrene products, and requires certain foodservice items (utensils, straws, condiments, and beverage cup lids) to be made available only by request. The final bill can be found here and a summary can be found here.

<u>Social and Criminal Justice Reform</u>: Redmond adopted a legislative priority expressing support for statewide reforms to policing and corrections that are timely, reasonable, effective, and provide greater safety for communities that historically have been harmed by existing systems while maintaining public safety. Below are notable budget appropriations and bills that passed the legislature pertaining to social and criminal justice reform:

Funding to Cities for Implementation: Cities are allocated \$20 million on a one-time basis, distributed based on population for costs to cities related to police reform bills passed in 2020-21.

Office of Independent Investigations: <u>House Bill 1267</u>, would establish the Office of Independent Investigations within the Office of the Governor for conducting fair and

competent investigations of police use of force incidents. The Office has jurisdiction to investigate any incident involving a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody. The Office may investigate prior incidents if new evidence is brought forth that was not included in the initial investigation. An involved law enforcement agency must notify the Office immediately upon rendering the scene safe and providing aid to those with life-threatening injuries of any incident involving a use of deadly force resulting in death, substantial bodily harm, or great bodily harm. The Office may investigate any incident it selects for investigation and must complete its investigation within 120 days. An 11-member Advisory Board will oversee the Office. \$22.1 million is included in the budget to implement the bill. The final bill can be found here and a summary can be found here.

Audits of Use of Force Investigations: House Bill 1089, sponsored by Rep. Bill Ramos (D-Issaquah), will establish compliance audits of law enforcement agencies through the State Auditor's Office (SAO). The SAO is required to conduct a process compliance audit of any completed deadly force investigation to determine whether the involved law enforcement agency, investigative body, and prosecutor's office acted in compliance with specific statutory and administrative rules for conducting deadly force investigations. Upon the request of the Commission, the SAO may audit any law enforcement agency to ensure the agency is in compliance with all rules and procedures governing the training and certification of the agency's peace officers. A copy of the audit must be sent to the Commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the Legislature. Law enforcement agencies do not pay any costs or fees for either type of audit. The final bill can be found here and a summary can be found here.

Impeachment Disclosures: House Bill 1088, sponsored by Rep. John Lovick (D-Mill Creek), would update policies and procedures for addressing potential impeachment disclosures in law enforcement pursuant to Brady v. Maryland. Each county prosecutor must develop and adopt written protocols to address potential impeachment disclosures. The Criminal Justice Training Commission (CJTC) must provide online training for potential impeachment disclosures. Law enforcement agencies shall report to prosecuting authorities within 10 days of discovery, any act that could potentially be exculpatory to a criminal defendant. Prior to hiring an officer, an agency must inquire whether the office has previous impeachment disclosures (prosecuting authorities have 10 days to response to a request from any agency regarding hiring an officer). Additionally, it establishes limited immunity from civil liability for a public agency, official, or employee who shares impeachment information about an officer with a prosecuting authority, the officer's employer, or potential employer. The final version of the bill can be found here and a summary can be found here. The budget allocates \$62,000 to the CJTC to implement the bill.

Data Collection: Senate Bill 5259, sponsored by T'wina Nobles (D-Fircrest), directs the Office of Attorney General to establish an advisory group to assist with the design, development, and implementation of a statewide use of force data program. The Advisory Group should submit recommendation by April 1, 2022. In the meantime, law enforcement agencies are required to report on a delineated list of use of force

instances. The 2021-23 Operating Budget allocates \$5.8 million to implement the bill. The final bill can be found here and a summary can be found <a href="https://here.com/he

Arbiter Selection: Senate Bill 5055, sponsored by Sen. Joe Nguyen (D-Seattle), establishes an arbiter selection procedure for grievance arbitrations involving law enforcement personnel regarding disciplinary actions, discharges, and terminations on or after January 1, 2022. The Public Employment Relations Commission (PERC) would manage a roster of 9-18 specialized law enforcement grievance arbitrators with training in resolving police discipline disputes. PERC's executive director assigns an arbiter, or a panel of arbiters, to grievance arbitrations in alphabetical order on a rotating basis. The parties to the arbitration may not participate in, negotiate for, or agree to the selection of a particular arbiter. PERC is required to publish the final decisions on its website. The final bill can be found here, and a summary can be found here.

Reforming the "Felony Bar" Statute: Senate Bill 5263, sponsored by Sen. David Frockt (D-Seattle), amends the "felony bar" statute that bans a person who sustains injury or death while committing a felony from being able to bring a civil action. The bill states that in actions arising out of law enforcement activities resulting in personal injury or death, the law enforcement officer has a complete defense to the action if a finder of fact (a jury rather than a judge) determines beyond a reasonable doubt that the person injured or killed was engaged in the commission of a felony at the time of the occurrence causing the injury or death, the commission of which was a proximate cause of the injury or death. If this defense is brought forward, it cannot be done on summary judgment. However, this defense does not affect the right to bring a lawsuit under the federal Civil Rights Act of 1983. The final bill can be found here, and a summary can be found here.

Changes in Police Tactics: <u>House Bill 1054</u>, sponsored by Rep. Jesse Johnson (D-Federal Way) makes changes to the various police tactics that peace officers may utilize. The final bill can be found <u>here</u> and a summary can be found <u>here</u>.

<u>Neck Restraints and Chokeholds</u>: A peace officer may not use a chokehold or neck restraint on another person.

Military Equipment and Military Surplus Program: A law enforcement agency may not acquire or use any military equipment, including firearms and ammunition of .50 caliber or greater, machine guns, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, long range acoustic hailing

devices, rockets, rocket launchers, bayonets, explosive grenades, incendiary grenades, missiles, directed energy systems, and electromagnetic spectrum weapons. Each law enforcement agency must compile an inventory of military equipment possessed by the agency, including the proposed use of the equipment, estimated number of times the equipment has been used in the prior year, and whether such use is necessary for the operating and safety of the agency or some other public safety purpose. The agency must provide the inventory to the Washington Association of Sheriffs and Police Chiefs by November 1, 2021. The Washington Association of Sheriffs and Police Chiefs must summarize the inventory information from each law enforcement agency and provide a report to the Governor and the Legislature by December 31, 2021. Any law enforcement agency in possession of military equipment must return the equipment to the federal agency from which it was acquired, if applicable, or destroy the equipment by December 31, 2022. However, the restrictions on military equipment do not prohibit a law enforcement agency from participating in a federal military equipment surplus program, provided that any equipment acquired through the program does not constitute military equipment.

<u>Tear gas:</u> A law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation. Prior to deploying tear gas, the officer or employee must: exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances; obtain authorization to use tear gas from a supervising officer; announce the intent to use tear gas; and allow sufficient time and space for the subject or subjects to comply. In addition, if the riot is occurring outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after receiving authorization from the highest elected official in the jurisdiction.

<u>Vehicular Pursuits:</u> A peace officer may not engage in a vehicular pursuit, unless: there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense or an escape offense, or there is reasonable suspicion that a person in the vehicle has committed or is committing a driving under the influence offense; the pursuit is necessary for the purpose of identifying or apprehending the person; and the person poses an imminent threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances. An officer must receive authorization to engage in any vehicular pursuit from a supervising officer.

<u>Firing upon Vehicles:</u> A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon.

<u>No-Knock Warrants:</u> An officer may not seek, and a court may not issue, a search or arrest warrant granting an express exception to the "knock and announce" rule.

<u>Identification:</u> Law enforcement agencies must adopt policies and procedures to ensure that uniformed peace officers while on duty and in the performance of their official duties are reasonably identifiable.

<u>Canine Teams</u>: The CJTC must convene a work group to develop a model policy for the training and use of canine teams. The CJTC must publish the model policy on its website by January 1, 2022.

Civil Use of Force Standard: House Bill 1310, sponsored by Rep. Jesse Johnson (D–Federal Way), establishes civil standards for use of force by a peace officer. When using physical force, peace officers must use the least amount of physical force necessary and use the least amount of force possible to affect a lawful purpose. Additionally, it requires the attorney general to develop model policies on law enforcement's use of force and de-escalation tactics and requires individual law enforcement agencies to adopt policies consistent with the model policies. The final bill can be found here and a summary can be found here. The budget allocates \$605,000 to develop a use of force model policy as described in the bill.

Duty to Intervene: Senate Bill 5066, sponsored by Sen. Manka Dhingra (D-Redmond), would create a duty for all peace officers to intervene if another officer is engaging in excessive use of force against another person. The Criminal Justice Training Commission is the primary entity responsible for developing model policy on duty to intervene. The bill also contains provisions to prohibit retaliation. The final bill can be found here and a summary can be found <a href=here. \$920,000 in the budget is appropriated to the CJTC to implement the bill.

Decertification of Officers for Misconduct: Senate Bill 5051, sponsored by Sen. Jamie Pederson (D-Seattle), would expand background investigations for of law enforcement applicants and creates a new process to decertify peace and corrections officers through the Criminal Justice Training Center (CJTC). Notable provisions include: requiring employing agencies to complete—rather than only conduct—an investigation when there is an indication that an officer was laid off pending a disciplinary investigation or resigned or retired in anticipation of discipline that would likely lead to suspension or discharge; requires the CJTC, in collaboration with interested parties, to develop a set of policies, procedures, and rules by June 30, 2022, to ensure that the goals of the act are fully implemented, and to provide clarity as to how the CJTC will process complaints, investigations, and hearings, and impose sanctions; and modifies background check requirements to include a review of social media accounts and membership in extremist organizations as defined by the CJTC. The final bill can be found here and a summary can be found here.

<u>Fiscal Sustainability:</u> City fiscal sustainability has been a Redmond legislative priority for several years. The City encourages the state to identify reforms to the tax system that provide a progressive, equitable, stable, and reliable revenue source to meet the needs of state and local government. The City also asks that the state protect and enhance state-shared revenues, authorize flexibility with existing revenues, and provide

revenue replacement to help cities balance significant budget shortfalls resulting from the COVID-19 pandemic. Below are notable actions on fiscal sustainability this session.

State-shared Revenues: All traditional state-shared revenue accounts were funded (liquor profits, liquor taxes, cannabis revenue, municipal criminal justice assistance, city-county assistance, fire insurance premium tax, etc.). Additionally, there was an increase in state-shared revenues in two accounts:

- Cannabis revenue sharing was increased by \$10 million, bringing the amount cities and counties share up to \$40 million. This additional \$10 million will be distributed by the same criteria as existing revenues.
- New city assistance funds of \$20 million are appropriated to be distributed on a per capita basis to cover the costs of police reform legislation.

Revenue Replacement: A priority for the City was to ask the state to provide funding to assist in the recovery of costs associated with COVID-19. Notably, during the 2021 Legislative Session the American Rescue Plan passed congress which will provide more than \$1.1 billion in federal funding directly to Washington Cities and over \$10 million to the City of Redmond. A comprehensive overview from AWC can be found here.

Fiscal Flexibility: House Bill 1069, sponsored by Rep. Gerry Pollet (D-Seattle), provides cities with the option to temporarily have more flexibility in the use of existing revenues. This bill allows criminal justice sales tax dollars to be used toward reducing homelessness or improving behavioral health; allows REET 2 to be used toward the provision of services to residents of affordable housing or shelters, allows up to \$100k or 35% of REET 2 funds to be used for operations and maintenance of existing capital projects; removes supplanting limitations on voter-approved levies that are adopted in 2019; provides flexibility for use of lien authority for collection on city-owned utilities, and allows mental health and chemical dependency sales tax revenues collected by cities to spent on minor improvements to protect health and safety. Most of these provisions would end on December 31, 2023. The final bill can be found here and a summary can be found here. The Governor vetoed a section that was requested by Department of Revenue clarifying how lodging taxes are applied to vacation rentals because the same statute was amended in another bill.

1% Property Tax Cap: year. The City has long supported efforts lifting the 1% cap on property tax increases and other actions to create a sustainable fiscal structure for cities. While legislation (House Bill 1362), was introduced by Rep. Davina Duerr (D-Bothell), the bill had a hearing in the House Finance Committee and did not otherwise advance.

Capital Gains Tax: Similarly, the state has explored more sustainable revenue streams. This session, the Legislature enacted Senate Bill 5096, sponsored by Sen. June Robinson (D-Everett), which establishes a 7% tax on capital gains that exceed \$250,000 in a given year (earnings from retirement accounts and home sales would be

exempt). Under the legislation, \$350 million per year of capital gains tax revenue would be reserved for investments in early education programs, and the remainder of the revenue, an estimated \$200 million, would go into a new taxpayer relief fund. The bill contains language that prevents a referendum on the bill. It will likely be challenged and determined by the court whether it is constitutional. The final bill can be found here and a summary can be found <a href=here.

Working Families Tax Credit: In an effort to create a more equitable tax system, the Legislature also enacted the Working Families Tax Credit. House Bill 1297 sponsored by Rep. My-Linh Thai (D-Bellevue) will implement the Working Families Tax Credit which was established several years ago but never funded. The Department of Revenue will administer the program, which is set to begin in 2023, and will provide a cash benefits to approximately 400,000 Washington residents. The amount will be based on household and income level and ranges from a onetime amount of \$300-\$1200. The final bill can be found here and a summary can be found here.

Local Control: There were several bills that would have preempted local control over land use planning, the siting of telecommunications facilities, and more. Fortunately, the Legislature chose not to advance the bulk of these proposals. There are, however, two proposals that impeded on local control at some level. When it is evident that a bill is going to advance that impedes local control, we advocate to retain as much local control as possible. Both cases below reflect significant compromise with bill proponents:

Regulation of Number of Unrelated Persons per Home: Senate Bill 5235, sponsored by Sen. Marko Liias (D-Lynnwood), will change cities' authority to limit the number of unrelated persons living in a home. Cities may now only limit the number of unrelated persons living in a home based on square footage and health and safety regulations. Many cities will need to update local codes to comply with this section of the bill.

The Governor vetoed sections of the bill that would have limited cities' ability to have an owner-occupancy requirement. As the bill passed the Legislature, cities would only be able to require that a dwelling on the property be owner-occupied if 1) the ADU is used as a short-term rental; 2) for one year after an ADU is constructed; 3) if the city adopts an ordinance responding to community feedback requesting an owner-occupancy requirement; and that requirement cannot be the entirety of the city. If a city has an owner-occupancy requirement, they must continue to offer a hardship exemption when the owner no longer occupies the primary residence due to age, illness, financial hardship due to the death of a spouse, domestic partner, or co-owner of the property, disability status, the deployment, activation, mobilization, or temporary duty, as those terms are defined in RCW 26.09.004, of a service member of the armed forces, or other such reason that would make the owner-occupancy requirement an undue hardship on the owner. The Governor vetoed these sections of the bill, finding them problematic to jurisdictions that want to expand the use of accessory dwelling units. The effect of the vetoed sections means there is no limitation on owner-occupancy requirements. Sightline, the Master Builders Association, and AARP requested that these sections be vetoed.

Development Regulations for Shelters and Housing: House Bill 1220, sponsored by Rep. Strom Peterson (D-Edmonds), updates the GMA to include planning for and accommodating affordable housing and also includes language preempting local control on the siting of certain types of housing. The bill requires jurisdictions to amend the housing element of the GMA comprehensive plan. However, the bill contains language that states that any new requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130. The Legislature did not appropriate funds within the 2021-23 Operating Budget for local governments to perform this work, meaning jurisdictions do not need to perform this work currently. The Legislature is likely to consider funding this work during the 2022 legislative session as part of its supplemental budget.

The bill also includes language preempting local control on the siting of certain types of housing. Cities must allow transitional housing and permanent supportive housing in any zone where residential units or hotels are allowed. Indoor emergency shelter and emergency housing must be allowed in any zones where hotels are allowed or in a majority of zones within a one-mile proximity to transit. Cities retain the authority to require reasonable occupancy, spacing, and intensity of use requirements to protect health and safety. The Governor vetoed sections of the bill that would have encouraged jurisdictions to allow accessory dwelling units both within and outside urban growth areas.

Redmond Support/Oppose Issues

In addition to the City's top legislative priorities, the City identified several issues that it would also support, oppose, and monitor throughout the legislative process. Below are notable budget appropriations and bills:

General Government

Public Records Act (PRA): There were no notable actions on the Public Records Act during the 2021 Legislative Session.

Open Public Meetings Act (OPMA) Proposal: Two bills were introduced during the 2021 Legislative Session aimed at updating the Open Public Meetings Act (OPMA). Both proposals passed the House but failed to pass the Senate. Next year, the following bills will start out in the House Rules Committee:

o <u>House Bill 1056</u>, sponsored by Rep. Gerry Pollet (D-Seattle), would allow local governments to hold virtual meetings during any emergency where it is reasonably unsafe to meet in-person (e.g. current pandemic, or a snowstorm), without having to wait for the Governor to make a proclamation and/or for the proclamation to be continuously extended by the Legislature. The bill does not allow for an in-person meeting option when the Governor has ordered otherwise; only the reverse – a virtual meeting when the Governor has NOT issued a proclamation specifically authorizing a virtual format. The last version of the bill

can be found here and a summary can be found here.

Mouse Bill 1329, sponsored by Rep. Emily Wicks (D-Everett), as amended, encourages, rather than requires, remote access and recording of all meetings. The bill does require local governments to provide an opportunity for written or oral public comment at every regular meeting where final action is taken and would require, upon request of an individual, to provide an opportunity for remote oral comment for that individual when feasible. The last version of the bill can be found here and a summary can be found here.

FEMA Reimbursement: Prior to the beginning of the legislative session, the City was concerned that the state would alter the FEMA reimbursement percentage. On January 21, President Biden issued an executive order that directed FEMA to fully reimburse state and local governments for previously approved costs related to COVID-19 – a City that otherwise paid the local cost-sharing contribution is eligible for full reimbursement under this executive order. This executive order rendered any state legislative action unnecessary.

Mental Health and Human Services

Moving to Community-Based Behavioral Health: Several years ago, the state made the decision to move to a community-based behavioral health treatment system that integrates related health care services in treating patients. The state continues to fund this approach, making several operating and capital investments:

- \$138.6 million to continue to implement the community-based behavioral health treatment system.
- \$71.4 million for community-based behavioral health services facilities competitive grant program, including:
 - o \$11.6 million for six enhanced, long-term placement facilities
 - \$10 million for enhanced, long-term placement residential care facilities for adults with dementia
 - \$2 million for one withdrawal management and stabilization facility
 - \$2 million for one crisis triage and stabilization facility
 - \$12 million for two 16-bed crisis triage and stabilization facilities in King county
 - \$2 million for two mental health peer respite centers
 - \$18 million for developing bed capacity for 90-day or 180-day civil commitments
 - \$2.4 million for behavioral grants to address regional needs
 - \$9.4 million for three intensive, long-term placement behavioral health treatment centers

Co-Responder/Mental Health Field Response Funding: There are several pots of funding available for co-responder/diversion programs:

- Mental Health Field Response Grants: \$10 million, with \$7 million for *Trueblood* phase one and phase two regions.
- <u>Law Enforcement Diversion Grants</u>: (<u>HB 1767</u>) Previously, \$2.4 million was appropriated to the Washington Association of Sheriffs and Police Chiefs to implement a diversion grant program. This year, \$2 million was instead allocated to the Health Care Authority to implement a memorandum of understanding with the Criminal Justice Training Commission to provide funding for community grants.
- Behavioral Health & Suicide Prevention Grants: The Washington Association of Sheriffs and Police Chiefs was appropriated \$814,000 for three pilot programs.

Funding for Opioid Epidemic/Substance Abuse Treatment: In the middle of the legislative session, the Washington State Supreme County ruled in the Blake decision that the statute stating that the possession of controlled substances is illegal is unconstitutional. The Legislature responded by approving Senate Bill 5476, which recriminalized the possession of controlled substances, making it a misdemeanor rather than a felony until July 1, 2023. Notably, misdemeanors are handled through municipal/district court, rather than superior court. It is possible, if not likely, that there will be a shift in costs from superior court to municipal/district court. Click here to view AWC's summary of this issue.

For such violations, law enforcement officers can confiscate the controlled substances but must offer a referral to available assessment and services in lieu of jail booking and referral to the prosecutor. If law enforcement records indicate that a person has previously been diverted to referral for assessment and services at least twice, the officer may then arrest. Prosecutors are not precluded from exercising discretion to divert or decline to file charges when referred drug possession cases, and are encouraged to divert such cases for assessment, treatment, or other services. Unlike previous drafts, there are no provisions that contain legalized personal use amounts, nor a reduction from a misdemeanor to a civil infraction at a later date.

The Washington State Health Care Authority (HCA) is charged with establishing a recovery services advisory committee to create a substance use recovery services plan. The purpose of the plan is to implement measures to assist those with a substance use disorder in accessing outreach, treatment, and recovery support services that are low-barrier, person-centered, informed by people with lived experience, and culturally and linguistically appropriate. Additionally, the committee must make recommendations regarding the appropriate criminal legal system response, if any, to possession of controlled substances. It must also make recommendations regarding the collection and reporting of data that identifies the number of people law enforcement officers and prosecutors engage with regarding drug possession, and the design of a mechanism for referring people with a substance use disorder, or who display problematic behaviors resulting from substance use, to supportive services. A final plan is due to the Legislature by December 1, 2022.

The HCA will also establish several other plans and programs, including:

- A comprehensive statewide substance misuse prevention plan. As a part of this plan, the HCA must administer a competitive grant process for existing local community efforts to prevent substance misuse. The plan must be completed by January 1, 2024.
- A grant program to provide treatment for low-income individuals with substance use disorder who are not eligible for Medicaid. Grant distribution must begin by March 1, 2022.
- A grant-based homeless outreach stabilization transition program. Grant distribution must begin by March 1, 2022.
- Funding for behavioral health administration services organizations to establish recovery navigator programs. These programs will provide community-based outreach, intake, assessment, connection to services, and, as needed, long-term intensive case management and recovery coaching services to individuals with substance use disorders.
- An expanded recovery support services program that increases regional access to recovery services for substance use disorder such as housing, employment training, recovery coaching, and legal support.

By July 1, 2022, the Criminal Justice Training Commission must develop new training for law enforcement officers on how to manage interactions with people they encounter with substance use disorders, including referral to treatment and recovery services. The training will be incorporated into the curriculum at the Basic Law Enforcement Academy.

In addition to the \$83.5 million in the state's budget to help the state and counties manage the legal impacts of the *Blake* decision, **an additional** \$88.4 million is provided to help establish the new programs outlined above. Of that \$88.4 million, \$4.5 million will go to the Administrative Office of the Courts to help enhance municipal and district therapeutic courts. There are no direct appropriations to cities to offset the costs of diversion and prosecution. The final bill can be found here.

Environment

Culvert, Fish & Habitat Funding: The 2021 Legislature made significant investments in fish barrier removal, appropriating \$1.1 billion using a watershed approach which should support removal of state, but also local culverts. Additionally, \$26.8 million was appropriated to the Fish Barrier Removal Board to continue to identify projects and \$400,000 was provided to the Department of Fish and Wildlife to contract with AWC to inventory and assess city owned culverts.

Stormwater Funding: The 2021 Legislature appropriated \$75 million in stormwater assistance funds. This is \$25 million more than was appropriated last biennium.

Planning

Multifamily Property Tax Exemption: <u>Senate Bill 5287</u>, sponsored by Sen. Mona Das (D-Kent), makes changes to state law regarding the multifamily property tax exemption

program, and sunsets the entire program on December 31, 2026 – at which time, no new exemptions may be issued.

Under current law, jurisdictions may offer the multifamily property tax exemption for either 8-years for market-rate housing, or 12-years for low-income housing. The bill as approved by the Legislature allows local governments to extend existing 8-year and 12-year exemptions that are set to expire. If a project is in the final 18 months of expiration may apply to the local government that granted the initial exemption for an extension. The local government may grant an extension for 12-years, if locally adopted requirements affordability are met, and if the taxpayer commits to rent or sell 20% of the housing units to low-income households.

Once the extension is granted, an MFTE applicant must provide notice to tenants of rent-restricted units at the end of the 10th and 11th year of the 12-year exemption and must provide tenant relocation assistance equal to one month's rent at the time of the expiration. If a local ordinance requires affordability requirements to remain in place after the expiration of the exemption, relocation assistance must be provided at the time that any additional affordability requirements no longer apply.

To calculate median family income, city and metropolitan statistical area family median income may be used in addition to county family median income. References to high-cost areas are removed from the program. This will change how some jurisdictions calculate what qualifies as low-income in the program. An owner of a property receiving an exemption must file additional information with the city or county including unit size, annual income, and household size. All cities and counties that issue certificates of tax exemption must report annually by April 1st of each year. Reporting requirements expire January 1, 2058.A local jurisdiction may adopt a prevailing wage requirement or other additional contractual requirements.

The Department of Commerce must establish a program to audit or review that the owner or operator of each property receiving a tax exemption under the MFTE program is offering the number of units at rents as committed to in the approved application and that tenants are being properly screened to be qualified for income-restricted units. If a property is found to be out of compliance with program requirements, Commerce must notify the city or county and the city or county must impose a sliding scale penalty not to exceed an amount calculated by subtracting the amount of rents that would have been collected had the owner or operator complied with their commitments from the amount of rents that the owner or operator actually collected. A finding of continued noncompliance in a subsequent audit must result in cancellation of the exemption. Properties owned or operated by a nonprofit and properties receiving an exemption from a city or county that operates an independent audit or review program are not subject to the audit or review program administered by Commerce.

The bill also creates a new 20-year tax exemption is created for properties that sell or rent 25 percent of the units to non-profit organizations or local government partners that assure permanently affordable homeownership. Permanently affordable homeownership units must be sold to households earning no more than 80 percent of

the average median income for the city or local jurisdiction in which the unit is located. The final bill can be found here and a summary can be found here.

Early Learning Impact Fees: House Bill 1331, sponsored by Rep. Kirsten Harris-Talley (D-Seattle), allows a jurisdiction to exempt early learning facilities from impact fees without backfilling them with public funds in certain situations. A local government can exempt an early learning facility from up to 80 percent of impact fees without the local government being required to pay the impact fees from public funds other than impact fees. A local government can also exempt an early learning facility from 100 percent of impact fees without being required to pay the fee from public funds other than the impact fee account if the local government requires a developer to record a covenant requiring 25% of the children and families using the early learning facility qualify for state subsidized childcare. The bill also limits a local government from imposing an impact fee on an early learning facility that is greater than that imposed on a commercial retail or office development that generates a similar number, volume, type, and duration of vehicle trips. The final bill can be found here and a summary can be found here.

GMA Interim Work: While the Legislature considered half a dozen bills reforming the Growth Management Act (GMA), those bills did not pass into law. Instead, the Operating Budget directs three interim actions to occur this next interim:

- In lieu of the passage of <u>House Bill 1117</u>, the Office of Financial Management is directed to report to the Legislature on how to incorporate a net ecological grain standard into state land use, development, and environmental laws. A report is due by December 1, 2022 (page 81 of the 2021-23 Operating Budget).
- In lieu of the passage of <u>House Bill 1099</u>, the Department of Commerce is directed to create optional model climate elements for cities to consider.
- The Department of Commerce is directed to convene a task force to make recommendations regarding needed reforms to the state growth policy framework, including the growth management act, state environmental policy act, and other statutes related to growth, change, economic development, housing, social equity, and environmental conservation (page 64 of the 2021-23 Operating Budget).

Infrastructure

Public Works Assistance Account (PWAA): The Public Works Assistance Account was appropriated \$129 million, which is the largest amount appropriated to the Account in recent history.

Preservation & Maintenance of Local Roads: The need for state and local preservation and maintenance was a significant topic of conversation during the 2021 Legislative Session. Cities will continue to advocate that any future transportation revenue package includes additional funding and tools to support this growing problem. Additionally, the 2021 Legislature appropriated \$224 million to the Transportation Improvement Board (TIB).

Park & Recreation Funding: The 2021 Legislature appropriated \$100 million to Washington Wildlife and Recreation Program (WWRP), and \$11.2 million to Youth Athletic Facilities.

Alternative Public Works Contracting: Senate Bill 5032, sponsored by Sen. Bob Hasegawa (D-Seattle), reauthorizes alternative public works contracting procedures for another ten years. Additionally, the Capital Projects Advisory Review Board (CPARB)'s member is modified to add members. CPARB is tasked with developing and recommending to the Legislature policies to encourage competition and further enhance equitable participation in disadvantaged business enterprises in capital construction. Design-build is authorized for parking garages and pre-engineered metal buildings. Changes are made to general contractor/construction manager (GM/CM) contracting and job order contracting. Once signed, the bill will become effective immediately. The final bill can be found here and a summary can be found here.

Public Safety

Basic Law Enforcement Academy (BLEA) Funding: BLEA is Washington's mandated training academy for all city and county entry-level peace officers in the state. Currently, BLEA has enough funding to provide 10 classes per year, serving 300 students. \$3 million is appropriated to the Criminal Justice Training Commission for five additional BLEA classes in 2022 and 2023. A total of 15 classes per year will be held which will provide training to an additional 150 students annually.

Other Bills of Interest:

<u>Childcare Affordability: Senate Bill 5237</u>, "<u>The Fair Start for Kids Act,</u>" aims to make child care more affordable for families, stabilize and expand the diverse child care workforce, support the expansion of child care, and strengthen prevention and intervention services. The final bill can be found <u>here</u> and a summary can be found <u>here</u>. \$298 million in state and federal funds were allocated to fund this account.

Redmond Supports the Association of Washington Cities and Sound Cities Association

Redmond closely coordinates with the Association of Washington Cities on legislative efforts. To review legislative materials from the Association of Washington Cities regarding the 2021 Legislative Session, please utilize the links below:

- AWC End of Session Webinar
- AWC End of Session PowerPoint

- AWC Budget Matrix AWC Legislative Priorities & Outcomes