No. 1042400

SUPREME COURT OF THE STATE OF WASHINGTON

CLIMATE SOLUTIONS, et al.,

Respondents

v.

STATE OF WASHINGTON,

Appellant,

BUILDING INDUSTRY ASSOCIATION OF WASINGTON; and ASHLI PENNER,

Appellants-Intervenors.

ON APPEAL FROM KING COUNTY SUPERIOR COURT

BRIEF OF APPELLANTS-INTERVENORS BUILDING INDUSTRY ASSOCIATION OF WASHINGTON AND ASHLI PENNER

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I. INTRODUCTION

This matter involves the constitutionality of Initiative 2066 (I-2066 or Initiative), which Washington voters enacted in November 2024 to preserve available sources of energy for their homes and appliances.

I-2066 concerns a single subject—preserving energy choice. Its title, which Respondents, the Initiative's sponsor, and a superior court crafted together, puts voters on notice of its provisions. None of those provisions amend other statutes, except by setting out any amendments at length. But another superior court held that I-2066 violated the single-subject rule, the subject-in-title rule, and the complete act rule of the state constitution.

The superior court erred, and in so doing thwarted the will of Washington voters. I-2066 complies with the constitution and is a valid exercise of the people's power to change state policy through the initiative process. This Court should hold that I-2066

is constitutional as a matter of law and reinstate the voters' choice.

II. ASSIGNMENTS OF ERROR

1. The Superior Court erred in holding that I-2066 contains more than one subject in violation of article II, section 19 of the Washington Constitution.

2. The Superior Court erred in holding that I-2066's subject was not expressed in the ballot title in violation of article II, section 19 of the Washington Constitution.

3. The Superior Court erred in holding that I-2066 violated article II, section 37 of the Washington Constitution.

III. STATEMENT OF THE ISSUES

1. Did the superior court err in holding that I-2066 contains more than one subject in violation of article II, section 19 of the Washington Constitution, where the initiative broadly sought to preserve energy choice, and all provisions relate to that purpose? (Assignment of Error No. 1)

2. Did the superior court err in holding that I-2066 failed

to notify the public as to the contents of the Initiative in violation of article II, section 19 of the Washington Constitution where the title says it would "repeal or prohibit" laws "discourag[ing] natural gas use and/or promot[ing] electrification" and "require certain utilities and local governments to provide natural gas"? (Assignment of Error No. 2)

3. Did the superior court err in holding that I-2066 is not a "complete act" in violation of article II, section 37 of the Washington Constitution where the measure plainly identifies every entity subject to the law and specifies their duties and does not render erroneous the scope of rights or duties set forth in any other laws? (Assignment of Error No. 3)

IV. STATEMENT OF THE CASE

A. I-2066's Provisions

I-2066 preserves energy choice. CP 319. The Initiative's 13 sections do this by protecting energy users' access to natural gas and by protecting energy users' access to the appliances and equipment that natural gas and other gasses power. *Id.* Section 1

articulates the policy statement that "access to natural gas enhances the safety, welfare, and standard of living of all people in Washington" and that "access to gas and gas appliances must be preserved for Washington homes and businesses by strengthening utilities' obligations to provide natural gas to customers who want it, and by preventing regulatory actions that will limit access to gas." Laws of 2025, ch. 1, § 1. The remaining 12 sections implement these two closely entwined goals of strengthening utilities' obligations to provide natural gas and preventing regulations and laws limiting access to gas for heating, appliances, and equipment.

Section 2 amends RCW 80.28.110 to require that utilities provide natural gas to customers that request and are reasonably entitled to receive natural gas, even if other energy sources are available.

Section 3 amends RCW 35.92.050 to do the same for local governments acting as utilities—requiring those that furnish natural gas to provide it to customers that request it, even if other

energy sources are available.

Sections 4 and 5 amend RCW 80.28.425 and RCW 80.86.020, respectively, to prohibit the Utilities and Transportation Commission (UTC) from approving any plans that "require[] or incentivize[]" utilities "to terminate natural gas service to customers" or "authoriz[ing] a gas company or large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive." Section 5 also amends RCW 80.86.020 to delete provisions that require or encourage transitioning to electrification.

Sections 6, 7, and 8 amend RCW 19.27A.020, RCW 19.27A.025, and RCW 19.27A.045, respectively, to prohibit the State Building Code Council from amending the Energy Code to discourage the use of gas.

Sections 9, 10, and 11 add new sections to chapter 35.21 RCW, chapter 36.01 RCW, and chapter 70A.15 RCW,

respectively, to prohibit cities, counties, and air pollution control authorities from discouraging the use of gas.

Section 12 repeals provisions of Laws of 2024, chapter 351 related to large combination utilities, that are inconsistent with preserving energy choice.[1] First, it repeals a policy statement favoring electrification. Second, it repeals a requirement that utilities depreciate gas plants on an accelerated basis to "reduce the rate base for any gas plant" to zero by 2050 and eliminate much of the rate base for gas provision after 2050.[2] Third, it repeals a bar on providing incentives or rebates for

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[1] A "large combination utility" is a utility company that provides electricity to at least 800,000 customers and gas to at least 500,000 customers, in Washington. Laws of 2024, ch. 351, § 2(20). Only Puget Sound Energy services counties populous enough to allow it to meet this definition. Wash. Transp. & Utils. Comm'n, Investor Owned Utilities – Gas Service Areas, https://wutc.maps.arcgis.com/apps/instant/basic/index.html?appid=336a5d97a5e440c48d35182cc2ba7b70.

[2] A "gas plant" is a statutorily defined term. It broadly "includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power." RCW 80.04.010(15)

natural gas appliances. Fourth, it repeals a requirement to promote geographically targeted electrification. Fifth, in light of these changes, it strikes an uncodified severability clause.

Section 13 provides that any provision of I-2066 held invalid is severable from the rest.

* * *

The relationship among I-2066's provisions mirrors the relationship between supply and demand. Sections 2, 3, 4, 5, and 12 ensure customers will have supply. And sections 6, 7, 8, 9, 10, and 11 ensure that providers will have customer demand untrammeled by penalizing regulations. Customer growth "is a crucial component of the utility business model." CP 257–58. Utilities must make "significant and necessary investments in [their] system[s] to ensure safety, reliability, and resiliency." *Id.* Customer demand "helps to ensure that those costs can be spread over a growing customer base and helps to keep costs for all . . . customers more affordable." *Id.* If utilities are to be required to provide gas, customers must be empowered to use it. I-2066

ensures they are. And, likewise, the Initiative limits laws that interfered with Washingtonians' access to gas service.

B. The November 2024 General Election

I-2066 appeared on the November 2024 ballot with the following title:

> Initiative Measure No. 2066 concerns regulating energy services, including natural gas and electrification.
>
> This measure would repeal or prohibit certain laws and regulations that discourage natural gas use and/or promote electrification, and require certain utilities and local governments to provide natural gas to eligible customers.
>
> Should this measure be enacted into law?
>
> Yes.
>
> No.

CP 253. This title was the product of a contested proceeding in which the same counsel representing Respondents in this matter urged the word "gas" to be changed to "natural gas" to avoid confusion with automobile gasoline. CP 285:17–25.

Washington voters passed I-2066 roughly 52% to 48%.

Passage of the Initiative gave Washingtonians continued access to natural gas and to gas-fueled appliances, a low-cost and reliable source of home heating. *See* CP 318. This was extremely important to I-2066's sponsor, who sought to ensure continued access to a low-cost energy source and to keep appliances available and affordable. CP 317–18. Each section of the Initiative serves these purposes. *See* CP 319–20.

C. Respondents' Challenge

Following I-2066's passage, Respondents sued to block its enactment. Ashli Penner, the sponsor of I-2066, and her employer Building Industry Association of Washington, a non-profit trade association of over 8,000 members, intervened in the action. CP, 50¶¶ 1–4, 61–63.

The parties cross-moved for summary judgment. The court granted appellees' cross-motion and denied appellants' motions, holding that I-2066 offended the single-subject rule, the subject-in-title-rule, and article II, section 37's bar against silent amendment of statutes. Tr. 46:5–14. The superior court set forth

its decision in: (1) an oral ruling on the afternoon of the hearing, Tr. 34:15–35:22, and (2) a written ruling filed seven weeks later, CP 636–79.

1. The superior court's oral ruling

The superior court stated from the bench that I-2066 offended the single-subject requirement of article II, section 19. The court concluded that I-2066 was "so broad and free-ranging" that it was "hard to say, with any precision, what the general topic is." Tr. 38:21–23. The court nonetheless determined that the topic was "both protecting and promoting access to natural gas and regulating gas and electrification services." Tr. 38:25–39:2. The court then held that I-2066's sections requiring utilities to provide natural gas were not germane to I-2066 sections barring the State Building Code Council and local pollution control authorities from "prohibit[ing], penaliz[ing], or discourag[ing] the use of gas for any form of heating, or for uses related to any appliance or equipment in any building." *Compare* Tr. 40:4–23, *with* Laws of 2025, ch. 1, §§ 6, 7, 8. The court concluded that

"[a] voter may very well want access to natural gas" but still wish natural gas to be prohibited, penalized, or discouraged by regulation. *See* Tr. 40:11–13, 40:20–23.

To determine that I-2066 violated article II, section 19's subject-in-title rule, the court stated that I-2066's title, which includes the phrase, "[t]his measure would repeal or prohibit certain laws and regulations that discourage natural gas use and/or promote electrification," failed to alert a voter "that the initiative would impact local government[s'] authority under the Clean Air Act, or preempt local building code guidance regard gas appliances." Tr. 41:13–15, 41:19–22.

The court held that I-2066 offended both prongs of the article II, section 37 inquiry about silent amendment. First, the court concluded, without explanation, that "the initiative is not a complete act because all of its effects cannot be determined just by reading the initiative." Tr. 43:15–16. Second, the court determined that sections 6 and 7's bars on the State Building Code Council's discouragement of natural gas conflicted with

RCW 19.27A.150's requirement that the Department of Commerce develop and implement a plan for reducing greenhouse gas emissions. Tr. 44:1–21. This was an example in the court's view of how I-2066 "is so broad that to understand its effects, it requires a thorough searching and examination of statutes not identified in the initiative to determine if other laws are impacted." Tr. 45:16–19.

2. <u>The superior court's later, written ruling</u>

The superior court asked Respondents to submit a written order that "contains a full legal analysis, plus the basis for my determination which I gave in court today." Tr. 46:23–25. The 17-page written ruling, filed seven weeks later, recited the superior court's oral ruling and added to it.

Addressing the single-subject challenge, the superior court again contrasted I-2066's requirement that utilities provide natural gas to customers with its bar on state and local prohibitions on natural gas use. The court held that "amendments to the utility regulatory process (some of which concern all types

of energy sources, not just natural gas or even just fossil fuels) presented voters with a distinct policy choice from I-2066's requirement that utility companies, cities, and towns provide natural gas to homes and businesses." CP 643. And the court stated, "there is no legislative precedent for addressing all the subjects covered by I-2066 in a single piece of legislation." CP 644. The court also held without detailed explanation that certain I-2066 provisions are not germane to the general subject the court identified of "protecting and promoting access to natural gas and regulating access to gas and electrification services." CP 644–45.

The court also repeated its oral statements about the subject-in-title challenge. The court noted that "several sections of the Initiative require local authorities not to discourage the use of 'gas' heating, appliances, or equipment." CP 646. The court noted that other sections could impact the Energy Codes' treatment of "appliances other than natural gas." CP 646. These changes were not encompassed within the meaning of the words "energy services, including natural gas and electrification," the

court stated. The court did not address the ballot title's words, "[t]his measure would repeal or prohibit certain laws and regulations that discourage natural gas. . . ." *See* CP 646.

The court also repeated its oral ruling about article II, section 37's bar on silent statutory amendment. For the first part of the section 37 inquiry, the court repeated the unexplained conclusion that "I-2066 is not a complete act because its effects cannot be determined just by reading the initiative." CP 649. For the second part of the inquiry the court pointed to several statutes.

First, it cited RCW 19.27A.150's requirement that the Department of Commerce develop a plan for reducing greenhouse gas emissions. CP 649. This statute, the court said, conflicts with I-2066's restrictions on the State Building Code Council.

Second, the court held the same for RCW 39.35.020's declaration of "public policy" that "all-electric energy systems and at least one renewable energy or combined heat and power system [be] considered" for certain public buildings. CP 650.

Third, the court pointed to the legislative findings in RCW 36.165.005 and to RCW 36.165.020's authorization of a Department of Commerce program coordinating private financing for projects reducing, among other things, seismic risks, stormwater pollution, wildfire risk, or greenhouse gas emissions. CP 650. This, the court said, conflicted with I-2066's bar on counties prohibiting, penalizing, or discouraging natural gas use. CP 650.

Fourth, the court held that I-2066's bar on cities and towns penalizing natural gas use conflicted with RCW 36.70A.070(9)(b)(i)'s requirement that local governments generate comprehensive plans with "[a] greenhouse gas emissions reduction sub[-]element" intended to reduce "overall greenhouse gas emissions generated by transportation and land use" by among other things, reducing "per capita vehicle miles traveled." CP 650–51.

Fifth, the court held I-2066's bar on the UTC's approval of multi-year rate plans requiring or incentivizing utility

companies to terminate natural gas service conflicted with RCW 80.28.460's authorization of UTC approval of thermal energy network pilot projects. CP 651.

Sixth, the court held that I-2066 allows Department of Ecology to continue regulating natural gas emissions, while restricting local authorities from discouraging use of natural gas. This, the court said, conflicts with RCW 70A.15.3050's requirement that local air pollution authorities get approval for any emissions controls less stringent than Department of Ecology's. CP 651.

Appellants timely appealed to this Court. CP 680–73.

V. ARGUMENT

This Court reviews a grant of summary judgment *de novo*. *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 206, 11 P.3d 762 (2000). Appellants ask this Court to reverse the decision below and hold that I-2066 is constitutional.

"A statute enacted through the initiative process is . . . presumed to be constitutional." *Amalgamated Transit Union*

Local 587, 142 Wn.2d at 205; *see also Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 631, 71 P.3d 644 (2003). Accordingly, "[a]ny reasonable doubts" must be "resolved in favor of constitutionality." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 631. Resolution of doubts in favor of constitutionality "applies with particular force when the issue relates to constitutional form, because legislative procedure is involved . . . and not those constitutional guaranties of personal rights which it is the peculiar province of the courts to protect." *Wash. Fed'n of State Emps. v. State*, 127 Wn.2d 544, 556, 901 P.2d 1028 (1995).

I-2066 is constitutional because: (A) it concerns the single subject of preserving energy choice, (B) it complies with the subject-in-title rule, and (C) it amends other statutes only by setting them out in full.

A. I-2066 Concerns the Single Subject of Preserving Energy Choice.

Article II, section 19 of the Washington Constitution provides that "[n]o bill shall embrace more than one subject."

Yet this constitutional command does not "contemplate a metaphysical singleness of idea or thing." *State ex rel. Wash. Toll Bridge Auth. v. Yelle*, 61 Wn.2d 28, 33, 377 P.2d 466 (1962). This Court "has never favored a narrow construction of the term 'subject'" in article II, section 19. *Wash. Fed'n of State Emps.*, 127 Wn.2d at 556 (quotations omitted).

The constitution "aims to prevent . . . logrolling"—pushing unpopular legislation through at the ballot box or in the legislature by lumping it with popular and "unrelated" legislation. *Wash. Ass'n for Substance Abuse & Violence Prevention* (*WASAVP*) *v. State*, 174 Wn.2d 642, 655, 278 P.3d 632 (2012); *see also Amalgamated Transit Union*, 142 Wn.2d at 207. This "aim" should not be confused with the test to determine "whether legislation contains multiple subjects," however. *WASAVP*, 174 Wn.2d at 655; *see also City of Burien v. Kiga*, 144 Wn.2d 819, 825, 31 P.3d 659 (2001). The test asks whether the title is general, "whether the matters within the body of the initiative are germane to the general title[,] and whether they are

germane to one another." *Kiga*, 144 Wn.2d at 826. I-2066 (1) has a general title, and consequently (2) concerns a single subject because all its provisions relate to its general subject and to each other.

1. I-2066 Has a General Title.

Determining whether a ballot measure, such as an initiative, concerns a single subject "begin[s] with the title of the measure" and the determination whether the title is "general or specific." *WASAVP*, 174 Wn.2d at 655. "General titles are given a liberal construction" and "any subject reasonably germane to such title may be embraced within the body of the bill." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 633 (quotations omitted). Conversely, "[r]estrictive titles are not given the same liberal construction as general titles and provisions which are not fairly within such restricted title will not be given force." *Id.* (quotations omitted).

An initiative's title consists of the subject, the concise description, and the question whether the measure should be

enacted into law." *WASAVP*, 174 Wn.2d at 655. The relevant text of I-2066's title is therefore:

> Initiative Measure No. 2066 concerns regulating energy services, including natural gas and electrification.
>
> This measure would repeal or prohibit certain laws and regulations that discourage natural gas use and/or promote electrification, and require certain utilities and local governments to provide natural gas to eligible customers.

Everyone agrees I-2066 has a general title. CP 640. And rightly so because the title's structure "indicate[s] a general topic and then list[s] some but not all of its substantive measures." *Filo Foods, LLC v. City of SeaTac*, 183 Wn.2d 770, 784, 357 P.3d 1040 (2015) (applying article II, section 19 principles to RCW 35A.12.130's requirement that city ordinances passed by initiative contain a single subject expressed in the title). The words "concerns regulating energy services" resemble other approved general titles such as "relating to violence prevention," "relating to capital projects," and "relating to industrial insurance." *Amalgamated Transit Union*, 142 Wn.2d at 208.

I-2066's title like these other general titles deals with one overarching subject—preserving energy choice. That it does not use those precise words is irrelevant. "[I]t is not necessary that the title contain a general statement of the subject of an act; a few well-chosen words, suggestive of the general subject stated, is all that is necessary." *Amalgamated Transit Union*, 142 Wn.2d at 209 (brackets omitted).

Nor does it matter that elements of I-2066's title are more specific than its general subject. This is often the case with general titles. *See Filo Foods*, 183 Wn.2d at 784–85; *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 634; *Amalgamated Transit Union*, 142 Wn.2d at 208. General titles may contain "topics . . . merely incidental to the general topic reflected in the title." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 636. The superior court erred in assigning I-2066 a different subject.

The superior court's first—and foundational—error was divining the subject of I-2066 not from the title of the Initiative,

but from what the court called its "broad and free ranging" provisions. CP 640. This error begins with the assumption that the Initiative is "broad and free ranging" rather than the analytical question of what subject it contemplates. The subject of the Initiative is "expressed in the title." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 635; *see also Garfield Cnty. Transp. Auth. v. State*, 196 Wn.2d 378, 391–93, 473 P.3d 1205 (2020) (surveying cases deriving general subject from ballot titles).

The superior court's next error was to give I-2066 a double-barreled general subject—"protecting and promoting access to natural gas, and regulating access to gas and electrification services." CP 640. This is an unnecessarily specific subject, rather than one couched at a "moderate" level of specificity. *See Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 636. It ignores that "access" to gas appears in both prongs of the court's formulation. And it is more unwieldy than

either general subject the parties urged—"protecting access to natural gas" or "preserving energy choice." CP 99, 199, 206, 338.

In any event, even the subject "protecting access to natural gas" is too specific because it ignores "well-chosen words, suggestive of the general subject stated." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 633. It ignores that the title prominently features the words "including natural gas and electrification" in the statement of the subject. CP 253. The word "'including' is one of enlargement, not restriction." *City of Edmonds v. Bass*, 16 Wn. App. 2d 488, 499, 481 P.3d 596 (2021). The title is not restricted to "natural gas," and the appropriate subject is "preserving energy choice."[3]

2. <u>All of I-2066's Provisions Relate to its General Subject and to Each Other.</u>

[3] Subjects rejected as too broad are of a different category from "preserving energy choice." *See Wash. Fed'n of State Emps. v. State*, 127 Wn.2d 544, 576, 901 P.2d 1028 (1995) (Talmadge, J., concurring) (describing "fiscal affairs," "government," or "public welfare" as excessively broad)); *Kunath v. City of Seattle*, 10 Wn. App. 2d 205, 230, 444 P.3d 1235 (2019) (holding general subject of "local government" was "so expansive" as to "undermin[e] the purpose of the single subject rule").

When legislation has a general title, "great liberality will be indulged to hold that any subject reasonably germane to such title may be embraced within the body of the [legislation]." *Amalgamated Transit Union*, 142 Wn.2d at 207. Legislation complies with the single-subject rule "even if a general subject contains several incidental subjects or subdivisions." *Id.* "Only rational unity among the matters need exist." *Filo Foods*, 183 Wn.2d at 782.

Rational unity analysis proceeds in two steps: the court first evaluates rational unity between the general subject and the incidental subdivisions and second evaluates whether the incidental subjects "bear some rational relation to one another." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 637; *see also Filo Foods*, 183 Wn.3d at 782. All of I-2066's provisions are germane (a) to the general title and (b) to each other, and (c) I-2066's provisions rationally and reasonably relate.

a. I-2066's Provisions Are Germane to the Subject in its General Title.

Each of I-2066's provisions concerns the subject in its general title—preserving energy choice. Certain sections require private and public utilities to provide gas service under specified circumstances. Laws of 2025, ch. 1, §§ 2, 3. Other sections restrain the UTC from permitting rate plans that incentivize cessation of gas service or from incentivizing utilities to cease providing gas. *Id.* §§ 4, 5, 12. Additional sections ensure that consumers are assured access to natural gas may install and use natural gas appliances by barring certain government regulation of gas appliances. *Id.* §§ 6, 7, 8, 9, 10, 11.

The superior court erred in finding that the provisions were not germane to the general subject. CP 645. This was error because there is "rational unity" between the provisions and subject, which is all that is required under the Constitution. CP 645. The provisions preventing governments from discouraging use of gas through regulation are rationally related to preserving energy choice. So too with I-2066's section 12, which eliminates

incentives for Puget Sound Energy, the State's sole large combination utility to phase out natural gas service by 2050.

b. I-2066's Provisions Are Germane to Each Other.

I-2066's provisions fall into two categories—those that assure utilities continue to provide gas to consumers and those that assure consumers may continue to access natural gas to heat their buildings and fuel their appliances. There is nothing disjointed about these incidental subjects. They concern supply and demand for the same thing.

I-2066 is part of long legislative practice in Washington of regulating both the "use" and the "distribution" of utility services in the same legislative act. *See* Laws of 2009, ch. 281, § 1 (permitting counties to "regulate and control the *use*, *distribution*, sale, and price of electricity" produced by biomass facilities (emphasis added)); Laws of 1931, ch. 1, § 6 (permitting public utility districts to "control the *use*, *distribution*, rates, service charges and price" of electricity generated by "water power, steam, or other methods" (emphasis added)); Laws of

1897, ch. 112, § 1 (permitting cities and towns to "regulate and control the *use*, *distribution*, and price" of water, water power, gas, and electricity (emphasis added). There is nothing new about combining in the same enactment I-2066's incidental subjects of energy demand and energy supply. Washingtonians have done it for more than a century.

Complex topics like energy often require "a comprehensive bill." *Doriot v. State*, 32 Wn. App. 2d 770, 783, 561 P.3d 1208 (2024) (addressing the "complex, multifaceted nature of transportation in Washington"). I-2066's combination of incidental subjects is well within the norm for legislation of complex topics that have been upheld under article II, section 19. *See, e.g.*, *WASAVP*, 174 Wn.2d at 656–59 (holding that I-1183 could within a single subject privatize liquor, earmark money for public safety, privatize wine distribution, impact liquor advertising, and modify state policy regarding liquor); *In re Boot*, 130 Wn.2d 553, 565, 925 P.2d 964 (1996) (upholding "AN ACT relating to violence prevention" covering topics including

"public health, community networks, firearms and other weapons, public safety, education, employment, and media" (quotations omitted)); *Fritz v. Gorton*, 83 Wn.2d 275, 517 P.2d 911 (1974) (upholding I-276 covering campaign financing, lobbying, public fund usage, and access to public records); *Kueckelhan v. Fed. Oil Line Ins.*, 69 Wn.2d 392, 404, 419 P.2d 443 (1966) (affirming constitutionality of act establishing an insurance code *and also* establishing the office of State Fire Marshall); *Doriot*, 32 Wn. App. 2d at 774, 783 (approving omnibus bill "addressing a variety of topics pertaining to the general topic of transportation resources").

Additionally, the provisions of I-2066 fail to resemble logrolling. *See Garfield Cnty. Transp. Auth.*, 196 Wn.2d at 396 (noting that combination of one-time action and "systematic change," "one-time refund of taxes with systematic changes," and combined "unrelated local and statewide effects" as categories of logrolling). They do not combine criminal penalties and civil remedies. *See Barde v. State*, 90 Wn.2d 470, 472, 584

P.3d 390 (1978). Nor do they combine a one-time subject such as a tax-cut or refund with a "more broad, long term and continuing" subject. *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 637. Whether an initiative does this is the key question in assessing the rational unity of legislative provisions. *Doriot*, 32 Wn. App. 2d at 781–82. The common pattern is a bill that combines a one-time tax cut or refund with a long-term change in the way that taxes are assessed or enacted. *See id.* (citing *Lee v. State*, 185 Wn.2d 608, 623–24, 374 P.3d 157 (2016); *City of Burien*, 144 Wn.2d at 827). I-2066 includes none of these problematic features.

c. I-2066's Provisions Rationally and Reasonably Relate.

I-2066 is constitutional because its sections relate to one another in the way sections in other constitutional laws do. And it looks very unlike the laws that Washington courts have held violate the single-subject rule. The superior court made four errors on this issue.

First, the superior court concluded I-2066's provisions were not germane to each other because "a voter may very well want to have access to natural gas," as protected by I-2066 sections two and three, but also "want the government to regulate natural gas air pollution," as prohibited by section 11. CP 642–43.

But the court acknowledged that firearms regulation and education were germane to each other in the context of an omnibus bill on violence prevention, and it is easy to imagine a voter who would want violence prevention education but not firearm regulation. CP 642–43. There is always a hypothetical voter who could want one part of an initiative but not the other. But that is not the standard for whether provisions are germane to each other. The question is only whether there is a "rational and reasonable" relationship between them. *Kueckelhan*, 69 Wn.2d at 404. It is rational and reasonable to combine protections for natural gas distribution or supply with rules

preventing governments from regulating away natural gas use or consumer demand for it.

The superior court was also wrong to say that "changes to building efficiency standards are unrelated and not germane to whether certain local governments should be required to provide natural gas service to homes and businesses." CP 643. One side of the policy coin concerns whether gas will run in pipes to homes and business. The other side concerns whether homes and business will be allowed to connect anything to those pipes. Saying there is no rational unity between buying gas and using it offends *Washington Association for Substance Abuse and Violence Prevention v. State*. There, this Court held rational unity existed between sale of intoxicating beverages and "broader public safety concerns" warranting a funding earmark. *WASAVP*, 174 Wn.2d at 657. It is not *buying* liquor that implicates public safety, it is *drinking* it. If a *follow-on* consequence of drinking is related to how intoxicants are sold, then, *a fortiori*, the ability to buy gas is related to the ability to use gas.

There can be rational unity among provisions addressing broad subjects like "transportation resources," *Doriot*, 32 Wn. App. 2d 770; "liquor regulation," *WASAVP*, 174 Wn.2d at 659; and "the insurance industry," *Kueckelham*, 69 Wn.2d at 402. So too with provisions addressing "preserving energy choice."

Second, the superior court was wrong to require "legislative precedent for addressing all of the subjects covered by I-2066 in a single piece of legislation." CP 644. Courts approve omnibus legislation without requiring a specific legislative precedent addressing the precise topic. *See In re Boot*, 130 Wn.2d at 566; *Kueckelhan*, 69 Wn.2d at 404; *Doriot*, 32 Wn. App. 2d at 783.

The superior court distinguished these cases on the untenable grounds that even though I-2066 is "broad and free ranging," CP 640, it is "not a broad omnibus bill," CP 642. And in any event Washington has legislated supply and demand—or distribution and use—of energy in the same bill for over a century. *See, e.g.*, Laws of 1897, ch. 112, § 1 (addressing "use"

and "distribution" of water, waterpower, gas, electricity, and "other means" of power for light, heat, and fuel); *compare* Laws of 2019, ch. 1, § 3 (requiring energy performance standards for covered buildings), *with id.* § 14 (requiring gas companies to offer certain natural gas services).

Third, the superior court relied, as Respondents did below, on cases about tax measures, which are inapposite. *Lee v. State* and *City of Burien v. Kiga* concerned one-time tax cuts with changes to the way taxes are assessed or enacted. *See Doriot*, 32 Wn. App. 2d at 781–82 (citing these cases to explain this). The superior court's reliance on *Garfield County Transportation Authority v. State* was similarly misplaced. *See Garfield Cnty. Transp. Auth.*, 196 Wn.2d at 396–70 ("A specific direction to Sound Transit to retire, defease, or refinance the bonds is *akin to a one-time refund* of taxes . . . the larger changes to the motor vehicle excise tax system are *akin to the systematic changes* to the property tax system . . .rendering it unconstitutional."

(emphasis added)). Logrolling is a recurring issue with tax measures. I-2066 does not concern taxes.

Fourth, the court concluded that "limiting the authority of air pollution control agencies is not necessary to requiring the provision of natural gas by local governments," and the provisions are therefore not germane to each other. CP 643. This is wrong. I-2066 requires utilities to provide service and ensures they will have customers to use it by barring gas bans. Customer growth "is a crucial component of the utility business model." CP 257–58. Requiring utilities to deliver gas to a dwindling customer base, or failing to stop governments from effectively banning it through regulation, would threaten the utilities' continued existence and be self-defeating.

Further, provisions necessary to implement one another are *sufficient* to show rational unity. But necessity is not *required* to show rational unity. *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 638–39 ("An analysis of whether the incidental subjects are germane to one another does not necessitate a

conclusion that they are necessary to implement each other, although that may be one way to do so."). It is provisions that are "unnecessary *and entirely unrelated*" to one another that doom an initiative. *City of Burien*, 144 Wn.2d at 827. All of I-2066's provisions rationally and reasonably relate to one another.

* * *

I-2066 concerns preserving energy choice. Its provisions promote gas delivery to consumers and ensure that consumers may use gas for heating and their appliances. These provisions relate to the general subject of I-2066 and to each other. They comprise a single constitutional subject—preserving energy choice.

B. I-2066 Complies with the Subject-in-Title Rule.

Article II, section 19 of the Washington Constitution also provides that a legislation's subject "shall be expressed in the title." "The purpose of this provision is to ensure . . . the public [is] on notice as to what the contents of the bill are." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 639. Because the

purpose of the subject-in-title rule is to put members of the legislature and the public on inquiry notice about the content of legislation, provisions not adequately noticed by the subject of the measure may be severed. *Amalgamated Transit Union*, 142 Wn.2d at 227–28, 256.

An initiative title need not "be an index to its contents" or "give the details contained in" it. *Wash. Fed'n of State Emps.*, 127 Wn.2d at 555. The title need only "give[] notice that would lead to an inquiry into the body of the act, or indicate to an inquiring mind the scope and purpose of the law." *Id.* "Any objections to a title must be grave, and the conflict between it and the constitution palpable, before [a court] will hold an act unconstitutional for violating the subject-in-title requirement." *Doriot*, 32 Wn. App. 2d at 784 (quotations omitted).

The superior court erred in finding I-2066 violated the subject-in-title requirement for three reasons.

First, while recognizing that the subject-in-title rule does not require the title to be an index, the superior court went on to

fault it for not being an index. The court explained that "the title does not provide sufficient notice that a voter would inquire" whether it limits an agency's ability to regulate air pollution, roll back building efficiency standards, stop discouraging the use of gas, or change Building Code standards related to gas appliances. CP 646.

This assertion ignores the words, "[t]his measure would *repeal or prohibit certain laws and regulations* that discourage natural gas use and/or promote electrification." CP 253 (emphasis added). These words suffice to give "the average informed voter" "notice that would lead to an inquiry into the body of the act" to discover that among I-2066's "repeale[d] or prohibite[d]" laws were laws addressing air pollution and energy efficiency. *Contrast Garfield Cnty. Transp. Auth.*, 196 Wn.2d at 398, *with* CP 646. Requiring more would require the index the superior court acknowledged is not required. *See, e.g.*, *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 640 (holding that voters were capable of understanding that a title making it a

crime to use certain animal traps also encompassed further criminalization of the trade in furs of animals captured with banned traps).

The superior court was also wrong to quibble that gas in the Initiative is not always natural gas in the title. CP 646. There are two reasons why. To begin, "[n]atural gas is primarily composed of methane, but also includes ethane, propane, butane, and other C2 through C4 hydrocarbons and other dilutant gasses." *Advocates for a Cleaner Tacoma v. Puget Sound Clean Air Agency*, 29 Wn. App. 2d 89, 540 P.3d 821 (2023) (quotations omitted). The implication that I-2066 strays too far in affecting Building Code standards pertaining to propane draws distinctions without differences. Next, it was Respondents who introduced the word "natural" into I-2066's title, to distinguish between fuels normally found in gas state-of-matter and liquid gasoline used in cars. CP 285:17–25.

Second, the supposed deficiencies in I-2066's title bear no resemblance to *actually* deficient titles. A title is deficient if it is

"palpably misleading or false." *WSASAVP*, 174 Wn.2d at 664. This is the case when the title contains a word that the text of an initiative defines in a surprising way. *See, e.g.*, *Amalgamated Transit Union*, 142 Wn.2d at 227 (holding a title was inadequate because it provided no "indication in the title that tax has a meaning broader than its common meaning"). The superior court did not find that I-2066's title was misleading, only that it could have said more.

Third, the court erred in not considering that a subject-in-title defect could be cured by severance. Severance is not necessary because the title is constitutional. But the superior court's conclusion that voters lacked notice of certain I-2066 provisions points to severability—if the superior court were right, no hidden provision was key to the passage of the Initiative, and the advertised provisions can be saved.

* * *

I-2066's title alerted voters that it would "repeal or prohibit certain laws and regulations that discourage natural gas

use and/or promote electrification." CP 253. Voters were on inquiry notice that more than one law or regulation concerning these issues would be repealed and might bear on climate change and air quality as it relates to natural gas or electrification. That is all that is required to satisfy article II, section 19's subject-in-title requirements.

C. I-2066 Complies with the Constitution in Amending Other Statutes by Setting them out in Full.

Article II, section 37 provides, "No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length." The provision protects against "fraud and deception" and ensures that those enacting an amendatory law are fully aware of the proposed law's impact. *Black v. Cent. Puget Sound Reg'l Transit Auth.*, 195 Wn.2d 198, 205, 457 P.3d 453 (2020). Courts, therefore, ask two questions: (1) Is the statute a "complete act" such that the rights or duties under the statute can be understood without referring to another statute? and (2) Is a straightforward determination of the scope of rights or duties under existing

statutes rendered erroneous by the new law? *Black*, 195 Wn.2d at 205. Because I-2066 is both a complete act and does not render any other provision of law erroneous, it satisfies the requirements of section 37.

1. I-2066 Is a Complete Act.

"Complete acts which (1) repeal prior acts or sections thereof on the same subject, (2) adopt by reference provisions of prior acts, (3) supplement prior acts or sections thereof without repealing them, or (4) incidentally or impliedly amend prior acts, are excepted from section 37." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 642; *accord Black*, 195 Wn.2d at 207; *see also Amalgamated Transit Union*, 142 Wn.2d at 248 ("A complete act, not revisory in character, is not rendered unconstitutional by article II, section 37, even though it may by implication operate to change or modify prior acts.").

A statute is a "complete act" when rights and obligations are "readily ascertainable from the words of the statute alone." *El Centro de la Raza v. State*, 192 Wn.2d 103, 129, 428 P.3d

1143 (2018). This Court's decisions *El Centro de la Raza* and *Black v. Central Puget Sound Regional Transit Authority* illustrate the point.

El Centro de la Raza deemed the Charter School Act "complete" because it stated what the law applied to—charter schools established under RCW 28A.710—and who the measure impacted—bargaining units of employees working in charter schools. *See id*. at 128–29. This was so even though the Charter School Act defined "bargaining units" differently from the Educational Employment Relations Act's definition of the same term. *See id*. at 128–29.

Similarly *Black* held a motor vehicle excise law was a "complete act" because the law specified the circumstances under which different depreciation schedules would apply, even though the statute made an existing depreciation inapplicable for a period of time. *Black*, 195 Wn.2d at 207.

Like the laws at issue in *El Centro de la Raza* and *Black*, each of I-2066's provisions explicitly set forth what it covers and

whom it applies to, as well as the exact provisions that have been repealed or amended. Nothing further is needed to understand the rights and obligations set forth in I-2066 than to read the text of the measure.

The superior court erred in concluding I-2066 is not "complete" because "its effects cannot be determined just by reading the initiative." CP 649. "[E]ffects" is not the proper inquiry under section 37's first question—"complete acts" may change the "scope and effect" of existing law without running afoul of section 37. *See Amalgamated Transit Union*, 142 Wn.2d at 251–52. The superior court "too broadly state[d] the test for whether the requirement of art[icle] II, [section] 37 must be followed is whether the later enactment changes [the] prior act in scope and effect. A later enactment which is a complete act may very well change the prior acts and is exempt from the requirement of art[icle] II, [section] 37." *Id.* Indeed, "complete acts may well result in a person reading an existing statute and being unaware there is new law on the subject." *Id.* at 253.

An act is complete if the rights and obligations are readily ascertainable under the text of the act at issue. *El Centro de la Raza,* 192 Wn.2d at 129. I-2066 plainly identifies every entity subject to the law and specifies their duties. *See* Laws of 2025, ch. 1, §§ 2–12. Because "no further search is required to know the law" that I-2066 amended, repealed, or enacted, *Amalgamated Transit Union*, 142 Wn.2d at 252, the act is "complete" under section 37. *See also Wash. State Legislature v. Inslee*, 198 Wn.2d 561, 593, 498 P.3d 496 (2021); *El Centro de la Raza*, 192 Wn.2d at 129.

2. <u>I-2066 Does not Render the Scope of Rights or Duties Created by Other Laws Erroneous.</u>

The second test under section 37 ensures that readers are "aware of the nature and content of the law which is being amended" and the legislation's "impact on existing laws." *Amalgamated Transit Union*, 142 Wn.2d at 246; *see Inslee*, 198 Wn.2d at 592. Because "nearly every legislative act of a general nature changes or modifies some existing statute, either directly or by implication," without necessarily violating the constitution,

the inquiry is "more a matter of degree than an absolute." *Inslee*, 198 Wn.2d at 59394 (quotations and brackets omitted); *see also El Centro De La Raza,* 192 Wn.2d at 129. And disclosed changes to other statutes are permissible, even if those statutes are not expressly referenced in an initiative. *Amalgamated Transit Union*, 142 Wn.2d at 255. Several of this Court's cases illustrate the principle that a statute does not offend section 37 by disclosing its effects or indirectly affecting other statutes.

Begin with cases addressing disclosed effects. *Washington Education Association v. State* upheld a law that changed the process for certain tenured faculty dismissals, even though it silently modified existing law governing faculty member dismissals. *See Wash. Educ. Ass'n v. State*, 97 Wn.2d 899, 904–05, 652 P.2d 1347 (1982). This was because the modifications would be apparent within the structure of the statutory chapter governing faculty dismissals and thus "not of constitutional magnitude." *Id.* at 906 (quotations omitted).

Amalgamated Transit Union also rejected a challenge to a section of I-695 repealing 44 statutes setting taxes and fees on vehicles and allocating funds from them. Challengers contended this "strip[ped] cities of their statutory authority to raise revenues, thus making a fundamental change in the authority of municipal governments." *Id.* at 256. But *Amalgamated Transit Union* brushed the contention aside to hold this change was "disclosed" and did not violate section 37 because the section made clear that *all* taxes were impacted, and any modification to the other laws was apparent. *Id.* at 254–56.

Next are cases addressing indirect effects. *Washington State Legislature v. Inslee* upheld a provision that "at most" supplemented prior legislative acts by prohibiting an agency's consideration of "fuel type" when issuing certain transportation-related grants. *Inslee*, 198 Wn.2d at 594–95. "To the extent that the fuel type condition remain[ed] silent" on "how it relates to the rest of RCW 47.66.040," *Inslee* held that the "silence is not of constitutional magnitude" because "its only impact on existing

laws is indirect." *Id.* at 595 (quotations, brackets, ellipses omitted). Similarly, *Citizens for Responsible Wildlife Management v. State* upheld an initiative prohibiting certain forms of animal trapping which modified—but did not fundamentally alter—existing statutory rights of landowners and ranches to trap certain animals. *See Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 643–44.

As with the laws that either disclosed effects or indirectly affected other laws, I-2066, too, plainly sets forth its amendments and "at most" indirectly or generally affects existing statutes without rendering them erroneous. None of the superior court's conclusions about I-2066 show otherwise. The court did not determine that I-2066 renders any other law wrong. It concluded only that I-2006 creates potential ambiguity or confusion. *See* CP 649–52. Any such ambiguity or confusion, however, falls short of constitutional magnitude. The superior court committed six errors on this issue.

First, the superior court cited RCW 19.27A.150 to say that I-2066 rendered erroneous a reading of a statute requiring study of renewable energy systems and targeting net-zero emissions by 2050. CP 649–50. The court ignored the aspirational nature of this statute. RCW 19.27A.150(3)(c) requires the Department of Commerce to "[c]onsider development of aspirational codes" that builders may elect to follow. In any event, nothing in I-2066 interferes with the completion of state agency *studies*. This is what RCW 19.27A.150 requires—a strategic plan that considers and recommends various things. I-2066 incidentally affects only *how* the state *might* choose to seek net-zero emissions in coming decades, not its goal to do so or its obligation to study the goal. Any conflict between I-2066 and RCW 19.27A.150 is vanishingly indirect.[4]

[4] The same would also be true of any conflict with RCW 19.27.195, which, again, requires "a study of the state building code" and moves toward "greater" use of renewable solar, wind, and biogas systems. *See* RCW 82.16.110(b)(iii)(7). I-2066 impedes no studies. And these energy sources suffer no direct conflict with I-2066.

Second, the superior court concluded that RCW 39.35.020 conflicts with I-2066. CP 650. The statute declares a "public policy" related to energy conservation and renewable energy systems in certain new public buildings. RCW 39.35.020. But its mandate is only that these things be "considered," *id.*, and "analyzed," *id.*; *see also* RCW 39.35.040. Nothing in I-2066 prevents consideration or analysis of energy conservation (which in any event may be achieved with gas appliances) or the selection of electrical heat for public buildings, where this is the best choice on the merits and not because of some penalty, prohibition, or discouragement aimed at natural gas. Any conflicts between the Initiative and the existing statute are hypothetical at best.

Third, the court detected conflict between I-2066 and RCW 36.165.005 and RCW 36.165.020. These statutes concern "voluntary" commercial property assessed clean energy and resiliency (C-PACER) programs, whereby "free and willing" property owners can obtain financing for certain qualified

investment projects such as those that replace nonrenewable energy systems with renewable energy, reduce stormwater or pollution, or reduce the risk of natural or human caused disasters. RCW 36.165.005, .020.

Qualifying C-PACER investments include energy efficiency improvements, improvements reducing seismic risks or wildfire risks, and energy-generating equipment installed on the consumer-side of the electrical meter. *See* RCW 36.165.010(11). Just because the statutory chapter uses the word "climate" or "renewable" does not mean it is rendered erroneous by I-2066's ban on penalties, prohibitions or discouragement of natural gas use. A beneficiary of the C-PACER program could make a gas meter connection seismically safe or could install solar panels to power summer air conditioning while enjoying gas heat during the winter.

Fourth, the court concluded that I-2066 conflicted with RCW 36.70A.070(9)(b)(i)'s requirement that local governments generate comprehensive plans with "[a] greenhouse gas

emissions reduction sub[-]element." This land use planning sub-element is supposed to "[r]esult in reductions in overall greenhouse gas emissions generated by transportation and land use," "[r]esult in reductions in per capita vehicle miles traveled," and "[p]rioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice." RCW 36.70A.070(9)(d)(i). All of this points to where buildings are located and how people travel between them, not what fuel source the buildings use. Natural gas is not incompatible with urban density. There is no conflict between growth management and I-2066.

Fifth, the court thought I-2066's bar on the UTC's approval of multi-year rate plans requiring or incentivizing utility companies to terminate natural gas service conflicted with RCW 80.28.460's authorization of the UTC's approval of thermal energy network pilot projects. CP 651.This ignores that the supposedly conflicting part of I-2066 is an amendment to the very same statutory chapter—RCW chapter 80.28. *See* Laws of

2025, ch. 1, § 4; *see also id.* § 2. It thus "will be codified within" the RCW chapter supplying the purported conflict, and thus any "modification of the existing statute should be apparent" *See Wash. Educ. Ass'n*, 97 Wn.2d at 906. It also ignores that a utility may provide thermal energy in its service area while also providing natural gas service. Any conflict is therefore both disclosed and indirect.

Sixth, the court concluded that I-2066 creates confusion over RCW 70A.15.3000(2)(b) and RCW 70A.15.3050(1) in the Clean Air Act. CP 651–52. These statutes empower Department of Ecology to adopt state-wide emission standards and control requirements, RCW 70A.15.3000(2)(b), and empower local air pollution control authorities, to adopt standards equal to or more stringent than the Department of Ecology's, RCW 70A.15.3000(2)(b), .3050; *see also* RCW 70A.15.1030(5). The superior court faulted I-2066 for adding a section to RCW chapter 70A.15 specifying that authorities may not "prohibit, penalize, or discourage the use of gas" in adopting their

regulations, Laws of 2025, ch. 1, § 11, without extending the same prohibition to Ecology. Because of this, the court determined I-2066 creates "a conflict among provisions of the Clean Air Act" that renders "a straightforward understanding of this law erroneous." CP 651–52.

Not so. Local authorities may still adopt and enforce emission control requirements as authorized by RCW 70A.15.3050, so long as the regulatory requirements do not penalize, prohibit, or discourage the use of gas for heating or for appliances in any building. Laws of 2025, ch. 1, § 11. Such indirect modification to existing law is well within the limits of the constitution and excepted under section 37, as courts have long found. *See, e.g.*, *Black*, 195 Wn.2d at 207; *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 644; *Amalgamated Transit Union,* 142 Wn.2d at 248.

To the extent that there is conflict between I-2066 and RCW 70A.15.3000(2)(b), that conflict is disclosed. I-2066's section 11 is to be codified in RCW chapter 70A.15. Laws of

2025, ch. 1, § 11. The chapter is an intricate one, with numerous exceptions to its mandates. *See, e.g.*, RCW 70A.15.2540 (providing that local authority rules supersede municipal rules, excepting rules relating to the law of nuisance and workplace standards). Any conflict is accordingly adequately disclosed. *See Wash. Educ. Ass'n*, 97 Wn.2d at 906 (upholding a legislative bill because it "will be codified within [the same RCW chapter with which it conflicted] and its modifications of the existing statute should be apparent").

* * *

Respondents alleged below that I-2066 reflected a policy departure from existing statutes. *See, e.g.*, CP 1. Perhaps the superior court agreed when it cited apparent tension between I-2066 and various statutory statements of public policy to invalidate the measure. But the question is not whether I-2066 "threaten[s] the significant progress Washington . . . has made in addressing the climate crisis," as Respondents put it. CP 1. All statutes change existing law. The question is whether I-2066

changes the law in a way amounting to "fraud and deception." *Inslee*, 198 Wn.2d at 595. It does not. But to the extent that this Court disagrees and holds any I-2066 provision is constitutionally deficient under section 37, the remedy is to strike that provision and leave the remainder standing. *El Centro de la Raza*, 192 Wn.2d at 132–33.

VI. CONCLUSION

For these reasons, Appellants BIAW and Ashli Penner respectfully asks this Court to hold I-2066 is constitutional and to reverse the superior court.

Respectfully submitted this 28th day of July, 2025.

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This brief contains 9,043 words in compliance with Rule of Appellate Procedure 18.17(c).

APPENDIX

INITIATIVE 2066
To the People

Chapter 1, Laws of 2025

ENERGY SERVICES—NATURAL GAS AND ELECTRIFICATION
EFFECTIVE DATE: December 5, 2024

Approved by the
People of the State of
Washington
in the General Election on
November 5, 2024

ORIGINALLY FILED

April 5, 2024
Secretary of State

AN ACT Relating to promoting energy choice by protecting access to gas for Washington homes and businesses; amending RCW 80.28.110, 35.92.050, 80.28.425, 80.--.---, 19.27A.020, 19.27A.025, and 19.27A.045; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 70A.15 RCW; creating a new section; repealing RCW 80.--.---, 80.--.---, and 80.--.---; and repealing 2024 c 351 ss 1 and 21 (uncodified).

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The people find that having access to natural gas enhances the safety, welfare, and standard of living of all people in Washington. The people further find that preserving Washington's gas infrastructure and systems will promote energy choice, security, independence, and resilience throughout the state. Natural gas is a convenient and important necessity because it: Serves as a backup source of energy during emergencies; provides consumers with more options for heating,

sanitation, cooking and food preparation, and other household activities, helping to control their costs; and sustains essential businesses, such as restaurants.

(2) Unfortunately, due to recent policy and corporate decisions, the people's ability to make choices about their energy sources is at risk. Therefore, the people determine that access to gas and gas appliances must be preserved for Washington homes and businesses, by strengthening utilities' obligation to provide natural gas to customers who want it, and by preventing regulatory actions that will limit access to gas.

Sec. 2. RCW 80.28.110 and 2024 c 348 s 6 are each amended to read as follows:

(1) Every gas company, electrical company, wastewater company, or water company, engaged in the sale and distribution of gas, electricity, or water, or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and

furnish all available gas, electricity, wastewater company services, and water as demanded, except that: (((~~(1)~~))) (a) A water company may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70A.100 RCW; (((~~(2)~~))) (b) wastewater companies may not provide services contrary to the approved general sewer plan; and (((~~(3)~~))) (c) exclusively upon petition of a gas company, and subject to the commission's approval, a gas company's obligation to serve gas to customers that have access to the gas company's thermal energy network may be met by providing thermal energy through a thermal energy network.

(2) Every gas company or large combination utility shall provide natural gas to all persons and corporations in their service area or territory that demand, apply for, and are reasonably entitled to receive, natural gas under this section, even if other energy services or energy sources may be available.

Sec. 3. RCW 35.92.050 and 2022 c 292 s 405 are each amended to read as follows:

(1) A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, green electrolytic hydrogen as defined in RCW 54.04.190, renewable hydrogen as defined in RCW 54.04.190, and other means of power and facilities for lighting, including streetlights as an integral utility service incorporated within general rates, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing

business within the city or town and regulate and control the use and price thereof.

(2) A city or town that furnishes natural gas shall provide natural gas to those inhabitants that demand, apply for, and are reasonably entitled to receive, natural gas under this section, even if other energy services or energy sources may be available.

Sec. 4. RCW 80.28.425 and 2024 c 351 s 18 are each amended to read as follows:

(1) Beginning January 1, 2022, every general rate case filing of a gas or electrical company must include a proposal for a multiyear rate plan as provided in this chapter. The commission may, by order after an adjudicative proceeding as provided by chapter 34.05 RCW, approve, approve with conditions, or reject, a multiyear rate plan proposal made by a gas or electrical company or an alternative proposal made by one or more parties, or any combination thereof. The commission's consideration of a proposal for a multiyear rate plan is subject to the same standards applicable to other rate filings made under this title,

including the public interest and fair, just, reasonable, and sufficient rates. In determining the public interest, the commission may consider such factors including, but not limited to, environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company

regulated by the commission.

(2) The commission may approve, disapprove, or approve with modifications any proposal to recover from ratepayers up to five percent of the total revenue requirement approved by the commission for each year of a multiyear rate plan for tariffs that reduce the energy burden of low-income residential customers including, but not limited to: (a) Bill assistance programs; or (b) one or more special rates. For any multiyear rate plan approved under this section resulting in a rate increase, the commission must approve an increase in the amount of low-income bill assistance to take effect in each year of the rate plan where there

is a rate increase. At a minimum, the amount of such low-income assistance increase must be equal to double the percentage increase, if any, in the residential base rates approved for each year of the rate plan. The commission may approve a larger increase to low-income bill assistance based on an appropriate record.

(3)(a) If it approves a multiyear rate plan, the commission shall separately approve rates for each of the initial rate year, the second rate year and, if applicable, the third rate year, and the fourth rate year.

(b) The commission shall ascertain and determine the fair value for rate-making purposes of the property of any gas or electrical company that is or will be used and useful under RCW 80.04.250 for service in this state by or during each rate year of the multiyear rate plan. For the initial rate year, the commission shall, at a minimum, ascertain and determine the fair value for rate-making purposes of the property of any gas or electrical company that is used and useful for service in this state as of the

rate effective date. The commission may order refunds to customers if property expected to be used and useful by the rate effective date when the commission approves a multiyear rate plan is in fact not used and useful by such a date.

(c) The commission shall ascertain and determine the revenues and operating expenses for rate-making purposes of any gas or electrical company for each rate year of the multiyear rate plan.

(d) In ascertaining and determining the fair value of property of a gas or electrical company pursuant to (b) of this subsection and projecting the revenues and operating expenses of a gas or electrical company pursuant to (c) of this subsection, the commission may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates.

(e) If the commission approves a multiyear rate plan with a duration of three or four years, then the electrical company must update its power costs as of the rate effective date of the

third rate year. The proceeding to update the electrical company's power costs is subject to the same standards that apply to other rate filings made under this title.

(4) Subject to subsection (5) of this section, the commission may by order establish terms, conditions, and procedures for a multiyear rate plan and ensure that rates remain fair, just, reasonable, and sufficient during the course of the plan.

(5) Notwithstanding subsection (4) of this section, a gas or electrical company is bound by the terms of the multiyear rate plan approved by the commission for each of the initial rate year and the second rate year. A gas or electrical company may file a new multiyear rate plan in accordance with this section for the third rate year and fourth rate year, if any, of a multiyear rate plan.

(6) If the annual commission basis report for a gas or electrical company demonstrates that the reported rate of return on rate base of the company for the 12-month period ending as of the end of the period for which the annual commission basis

report is filed is more than .5 percent higher than the rate of return authorized by the commission in the multiyear rate plan for such a company, the company shall defer all revenues that are in excess of .5 percent higher than the rate of return authorized by the commission for refunds to customers or another determination by the commission in a subsequent adjudicative proceeding. If a multistate electrical company with fewer than 250,000 customers in Washington files a multiyear rate plan that provides for no increases in base rates in consecutive years beyond the initial rate year, the commission shall waive the requirements of this subsection provided that such a waiver results in just and reasonable rates.

(7) The commission must, in approving a multiyear rate plan, determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan. These performance measures may be based on proposals made by the gas or electrical company in its initial application, by any other party to the proceeding in its response

to the company's filing, or in the testimony and evidence admitted in the proceeding. In developing performance measures, incentives, and penalty mechanisms, the commission may consider factors including, but not limited to, lowest reasonable cost planning, affordability, increases in energy burden, cost of service, customer satisfaction and engagement, service reliability, clean energy or renewable procurement, conservation acquisition, demand side management expansion, rate stability, timely execution of competitive procurement practices, attainment of state energy and emissions reduction policies, rapid integration of renewable energy resources, and fair compensation of utility employees.

(8) Nothing in this section precludes any gas or electrical company from making filings required or permitted by the commission.

(9) The commission shall align, to the extent practical, the timing of approval of a multiyear rate plan of an electrical company submitted pursuant to this section with the clean energy

implementation plan of the electrical company filed pursuant to RCW 19.405.060.

(10) The provisions of this section may not be construed to limit the existing rate-making authority of the commission.

(11) The commission may require a large combination utility as defined in RCW 80.--.--- (section 2, chapter 351, Laws of 2024) to incorporate the requirements of this section into an integrated system plan established under RCW 80.--.--- (section 3, chapter 351, Laws of 2024).

(12) The commission shall not approve, or approve with conditions, a multiyear rate plan that requires or incentivizes a gas company or large combination utility to terminate natural gas service to customers.

(13) The commission shall not approve, or approve with conditions, a multiyear rate plan that authorizes a gas company or large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service

or by implementing planning requirements that would make access to natural gas service cost-prohibitive.

Sec. 5. RCW 80.--.--- and 2024 c 351 s 3 are each amended to read as follows:

(1) The legislature finds that large combination utilities are subject to a range of reporting and planning requirements as part of the clean energy transition. The legislature further finds that current natural gas integrated resource plans under development might not yield optimal results for timely and cost-effective decarbonization. To reduce regulatory barriers, achieve equitable and transparent outcomes, and integrate planning requirements, the commission may consolidate a large combination utility's planning requirements for both gas and electric operations, including consolidation into a single integrated system plan that is approved by the commission.

(2)(a) By July 1, 2025, the commission shall complete a rule- making proceeding to implement consolidated planning requirements for gas and electric services for large combination

utilities that may include plans required under: (i) RCW 19.280.030; (ii) RCW 19.285.040; (iii) RCW 19.405.060; (iv) RCW 80.28.380; (v) RCW 80.28.365; (vi) RCW 80.28.425; and (vii) RCW 80.28.130. The commission may extend the rule-making proceeding for 90 days for good cause shown. The large combination utilities' filing deadline required in subsection (4) of this section will be extended commensurate to the rule-making extension period set by the commission. Subsequent planning requirements for future integrated system plans must be fulfilled on a timeline set by the commission. Large combination utilities that file integrated system plans are no longer required to file separate plans that are required in an integrated system plan. The statutorily required contents of any plan consolidated into an integrated system plan must be met by the integrated system plan.

(b) In its order adopting rules or issuing a policy statement approving the consolidation of planning requirements, the commission shall include a compliance checklist and any

additional guidance that is necessary to assist the large combination utility in meeting the minimum requirements of all relevant statutes and rules.

(3) Upon request by a large combination utility, the commission may issue an order extending the filing and reporting requirements of a large combination utility under RCW 19.405.060 and 19.280.030, and requiring the large combination utility to file an integrated system plan pursuant to subsection (4) of this section if the commission finds that the large combination utility has made public a work plan that demonstrates reasonable progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and achieving equity goals. The commission's approval of an extension of filing and reporting requirements does not relieve the large combination utility from the obligation to demonstrate progress towards meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets approved in its most recent clean energy implementation plan. Commission approval of an

extension under this section fulfills the large combination ((~~utilities~~)) utility's statutory filing deadlines under RCW 19.405.060(1).

(4) By January 1, 2027, and on a timeline set by the commission thereafter, large combination utilities shall file an integrated system plan demonstrating how the large combination utilities' plans are consistent with the requirements of this chapter and any rules and guidance adopted by the commission, and which:

(a) Achieve the obligations of all plans consolidated into the integrated system plan;

(b) Provide a range of forecasts, for at least the next 20 years, of projected customer demand that takes into account econometric data and addresses changes in the number, type, and efficiency of customer usage;

(c) Include scenarios that achieve emissions reductions for both gas and electric operations equal to at least their

proportional share of emissions reductions required under RCW 70A.45.020;

(d) Include scenarios with emissions reduction targets for both gas and electric operations for each emissions reduction period that account for the interactions between gas and electric systems;

(e) Achieve two percent of electric load annually with conservation and energy efficiency resources, unless the commission finds that a higher target is cost-effective. However, the commission may accept a lower level of achievement if it determines that the requirement in this subsection (4)(e) is neither technically nor commercially feasible during the applicable emissions reduction period;

(f) Assess commercially available conservation and efficiency resources, including demand response and load management, to achieve the conservation and energy efficiency requirements in (e) of this subsection, and as informed by the assessment for conservation potential under RCW 19.285.040

for the planning horizon consistent with (b) of this subsection. Such an assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources.

(g) Achieve annual demand response and demand flexibility equal to or greater than 10 percent of winter and summer peak electric demand, unless the commission finds that a higher target is cost- effective. However, the commission may accept a lower level of achievement if it determines that the requirement in this subsection (4)(g) is neither technically nor commercially feasible during the applicable emissions reduction period;

(h) ((~~Achieve all cost-effective electrification of end uses currently served by natural gas identified through an assessment of alternatives to known and planned gas infrastructure projects,~~

~~including nonpipeline alternatives, rebates and incentives, and geographically targeted electrification;~~

~~(i)~~)) Include low-income electrification programs that must:

(i) Include rebates and incentives to low-income customers and customers experiencing high energy burden for the deployment of high-efficiency electric-only heat pumps in homes and buildings currently heating with wood, oil, propane, electric resistance, or gas;

(ii) Provide demonstrated material benefits to low-income participants including, but not limited to, decreased energy burden, the addition of air conditioning, and backup heat sources using natural gas or energy storage systems, if necessary to protect health and safety in areas with frequent outages, or improved indoor air quality;

(iii) Enroll customers in energy assistance programs or provide bill assistance;

(iv) ((~~Provide dedicated funding for electrification readiness;~~

~~(v)~~)) Include low-income customer protections to mitigate energy burden, if electrification measures will increase a low-income participant's energy burden; and

(((~~(vi)~~))) (v) Coordinate with community-based organizations in the ((~~gas or electrical company's~~)) large combination utility's service territory including, but not limited to, grantees of the department of commerce, community action agencies, and community- based nonprofit organizations, to remove barriers and effectively serve low-income customers;

(((~~(j)~~))) (i) Accept as proof of eligibility for energy assistance enrollment in any means-tested public benefit, or low-income energy assistance program, for which eligibility does not exceed the low- income definition set by the commission pursuant to RCW 19.405.020;

(((~~(k) Assess the potential for geographically targeted electrification including, but not limited to, in overburdened~~

~~communities, on gas plant that is fully depreciated or gas plant that is included in a proposal for geographically targeted electrification that requires accelerating depreciation pursuant to RCW 80.--.--(1) (section 7(1), chapter 351, Laws of 2024) for the gas plant subject to such electrification proposal;~~

~~(l)~~))) (j) Assess commercially available supply side resources, including a comparison of the benefits and risks of purchasing electricity or gas or building new resources;

(((~~(m) Assess nonpipeline alternatives, including geographically targeted electrification and demand response, as an alternative to replacing aging gas infrastructure or expanded gas capacity. Assessments must involve, at a minimum:~~

~~(i) Identifying all known and planned gas infrastructure projects, including those without a fully defined scope or cost estimate, for at least the 10 years following the filing;~~

~~(ii) Estimating programmatic expenses of maintaining that portion of the gas system for at least the 10 years following the filing; and~~

~~(iii) Ranking all gas pipeline segments for their suitability for nonpipeline alternatives;~~

~~(n)))~~ (k) Assess distributed energy resources that meets the requirements of RCW 19.280.100;

(((~~o~~))) (l) Provide an assessment and 20-year forecast of the availability of and requirements for regional supply side resource and delivery system capacity to provide and deliver electricity and gas to the large combination utility's customers and to meet, as applicable, the requirements of chapter 19.405 RCW and the state's greenhouse gas emissions reduction limits in RCW 70A.45.020. The delivery system assessment must identify the large combination utility's expected needs to acquire new long-term firm rights, develop new, or expand or upgrade existing, delivery system facilities consistent with the requirements of this section and reliability standards and take into account opportunities to make more effective use of existing delivery facility capacity through improved delivery system operating practices, conservation and efficiency resources,

distributed energy resources, demand response, grid modernization, nonwires solutions, and other programs if applicable;

(((~~(p)~~))) (m) Assess methods, commercially available technologies, or facilities for integrating renewable resources and nonemitting electric generation including, but not limited to, battery storage and pumped storage, and addressing overgeneration events, if applicable to the large combination utility's resource portfolio;

(((~~(q)~~))) (n) Provide a comparative evaluation of supply side resources, delivery system resources, and conservation and efficiency resources using lowest reasonable cost as a criterion;

(((~~(r)~~))) (o) Include a determination of resource adequacy metrics for the integrated system plan consistent with the forecasts;

(((~~(s)~~))) (p) Forecast distributed energy resources that may be installed by the large combination utility's customers and an

assessment of their effect on the large combination utility's load and operations;

(((~~t~~))) (q) Identify an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing Rnicely CW 19.405.030 through 19.405.050;

(((~~u~~))) (r) Integrate demand forecasts, resource evaluations, and resource adequacy requirements into a long-range assessment describing the mix of supply side resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing RCW 19.405.030 through 19.405.050, at the lowest reasonable cost and risk to the large combination utility and its customers, while maintaining and protecting the safety, reliable operation, and balancing of the energy system of the large combination utility;

(((~~v~~))) (s) Include an assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140,

of: Energy and nonenergy benefits and the avoidance and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk;

(((~~(w)~~))) (t) Include a 10-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and at an acceptable resource adequacy standard;

(((~~(x)~~))) (u) Include an analysis of how the integrated system plan accounts for:

(i) Model load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a large combination utility's service area, including anticipated levels of zero emissions vehicle use in the large combination utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, ~~actions, and any other relevant information found in the~~

electrification of transportation plans submitted under RCW 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts, which may use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520;

(((y))) (v) Establish that the large combination utility has:

(i) Consigned to auction for the benefit of ratepayers the minimum required number of allowances allocated to the large combination utility for the applicable compliance period pursuant to RCW 70A.65.130, consistent with the climate commitment act, chapter 70A.65 RCW, and rules adopted pursuant to the climate commitment act; and

(ii) Prioritized, to the maximum extent permissible under the climate commitment act, chapter 70A.65 RCW, revenues derived from the auction of allowances allocated to the utility for the applicable compliance period pursuant to RCW 70A.65.130, first to programs that eliminate the cost burden for low-income ratepayers, such as bill assistance, or nonvolumetric credits on

ratepayer utility bills, ((~~or electrification programs,~~)) and second to ((~~electrification~~)) programs benefiting residential and small commercial customers;

(((~~(z)~~))) (w) Propose an action plan outlining the specific actions to be taken by the large combination utility in implementing the integrated system plan following submission; and

(((~~(aa)~~))) (x) Report on the large combination utility's progress towards implementing the recommendations contained in its previously filed integrated system plan.

(5) ((~~In evaluating the lowest reasonable cost of decarbonization measures included in an integrated system plan, large combination utilities must apply a risk reduction premium that must account for the applicable allowance ceiling price approved by the department of ecology pursuant to the climate commitment act, chapter 70A.65 RCW. For the purpose of this chapter, the risk reduction premium is necessary to ensure that a large combination utility is making appropriate long-term~~

~~investments to mitigate against the allowance and fuel price risks to customers of the large combination utility.~~

~~(6)~~)) The clean energy action plan must:

(a) Identify and be informed by the large combination utility's 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable;

(b) Establish a resource adequacy requirement;

(c) Identify the potential cost-effective demand response and load management programs that may be acquired;

(d) Identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the large combination utility's resource adequacy requirement;

(e) Identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities and document existing and planned efforts by the large combination utility to make more effective use of existing transmission

capacity and secure additional transmission capacity consistent with the requirements of subsection (4)(((~~(o)~~))) (l) of this section; and

(f) Identify the nature and possible extent to which the large combination utility may need to rely on alternative compliance options under RCW 19.405.040(1)(b), if appropriate.

(((~~(7)~~))) (6) A large combination utility shall consider the social cost of greenhouse gas emissions, as determined by the commission pursuant to RCW 80.28.405, when developing integrated system plans and clean energy action plans. A large combination utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(a) Evaluating and selecting conservation policies, programs, and targets;

(b) Developing integrated system plans and clean energy action plans; and

(c) Evaluating and selecting intermediate term and long-term resource options.

(((~~(8)~~))) (7) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission.

(((~~(9)~~))) (8)(a) To maximize transparency, the commission may require a large combination utility to make the utility's data input files available in a native format. Each large combination utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(((~~(10)~~))) (9) The commission shall establish by rule a cost test for emissions reduction measures achieved by large combination utilities to comply with state clean energy and climate policies. The cost test must be used by large combination

utilities under this chapter for the purpose of determining the lowest reasonable cost of decarbonization and low-income electrification measures in integrated system plans, at the portfolio level, and for any other purpose determined by the commission by rule.

(((~~(11)~~))) (10) The commission must approve, reject, or approve with conditions an integrated system plan within 12 months of the filing of such an integrated system plan. The commission may for good cause shown extend the time by 90 days for a decision on an integrated system plan filed on or before January 1, 2027, as such date is extended pursuant to subsection (2)(a) of this section.

(((~~(12)~~))) (11) In determining whether to approve the integrated system plan, reject the integrated system plan, or approve the integrated system plan with conditions, the commission must evaluate whether the plan is in the public interest, and includes the following:

(a) The equitable distribution and prioritization of energy benefits and reduction of burdens to vulnerable populations, highly impacted communities, and overburdened communities;

(b) Long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks;

(c) Health and safety concerns;

(d) Economic development;

(e) Equity;

(f) Energy security and resiliency;

(g) Whether the integrated system plan:

(i) Would achieve a proportional share of reductions in greenhouse gas emissions for each emissions reduction period on the gas and electric systems;

(ii) Would achieve the energy efficiency and demand response targets in subsection (4)(e) and (g) of this section;

(iii) ((~~(Would achieve cost-effective electrification of end uses as required by subsection (4)(h) of this section;~~

~~(iv)~~))) Results in a reasonable cost to customers, and projects the rate impacts of specific actions, programs, and investments on customers;

(((~~(v)~~))) (iv) Would maintain system reliability and reduces long- term costs and risks to customers;

(((~~(vi)~~))) (v) Would lead to new construction career opportunities ((~~and prioritizes a transition of natural gas and electricity utility~~)) for workers to perform work on construction and maintenance of new and existing renewable energy infrastructure; and

(((~~(vii)~~))) (vi) Describes specific actions that the large combination utility plans to take to achieve the requirements of the integrated system plan.

(12) The commission shall not approve, or approve with conditions, an integrated system plan that requires or incentivizes a large combination utility to terminate natural gas service to customers.

(13) The commission shall not approve, or approve with conditions, an integrated system plan that authorizes a large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive.

Sec. 6. RCW 19.27A.020 and 2018 c 207 s 7 are each amended to read as follows:

(1) The state building code council in the department of enterprise services shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings ((~~that help achieve the broader goal of building zero~~

~~fossil-fuel greenhouse gas emission homes and buildings~~)) by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code may not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

(4) The Washington state energy code shall take into account regional climatic conditions. One climate zone includes: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties. The other climate zone includes all other counties not listed in this subsection ((~~(3)~~)) (4). The

assignment of a county to a climate zone may not be changed by adoption of a model code or rule. Nothing in this section prohibits the council from adopting the same rules or standards for each climate zone.

(((~~(4)~~))) (5) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(((~~(5)~~))) (6) The minimum state energy code for new nonresidential

buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(((~~(6)~~))) (7)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy

code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(((~~(7)~~))) (8) The state building code council shall consult with the department of enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(((~~(8)~~))) (9) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(((~~(9)~~))) (10) The definitions in RCW 19.27A.140 apply throughout this section.

Sec. 7. RCW 19.27A.025 and 2024 c 170 s 4 are each amended to read as follows:

(1) The minimum state energy code for new and renovated nonresidential buildings, as specified in this chapter, shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, RCW 19.27.031, and RCW 19.27.---, 19.27.---, and 19.27.--- (sections 6, 7, and 8, chapter 170, Laws of 2024), amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and developed to yield the lowest overall cost to the building owner and occupant while meeting the energy reduction goals established under RCW 19.27A.160.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory group in

accordance with RCW 19.27.--- (section 7, chapter 170, Laws of 2024) including representatives of appropriate state agencies, local governments, general contractors, building owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds vote of the voting members. Substantial amendments to the code shall be adopted no more frequently than every three years except as allowed in RCW 19.27.031 and RCW 19.27.--- (section 6, chapter 170, Laws of 2024).

(4) When amending a code under this section, the state building code council shall not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

Sec. 8. RCW 19.27A.045 and 2024 c 170 s 5 are each amended to read as follows:

(1) The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, RCW 19.27.031, and RCW 19.27.---, 19.27.---, and 19.27.--- (sections 6, 7, and 8, chapter 170, Laws of 2024), the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend

the Washington state energy code for residential structures shall be made prior to December 1st of any year and shall not take effect before the end of the regular legislative session in the next year.

(2) When amending a code under this section, the state building code council shall not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

NEW SECTION. **Sec. 9.** A new section is added to chapter 35.21 RCW to read as follows:

A city or town shall not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

NEW SECTION. **Sec. 10.** A new section is added to chapter 36.01 RCW to read as follows:

A county shall not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

NEW SECTION. **Sec. 11.** A new section is added to chapter 70A.15 RCW to read as follows:

An authority shall not in any way prohibit, penalize, or discourage the use of gas for any form of heating, or for uses related to any appliance or equipment, in any building.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) 2024 c 351 s 1 (uncodified);

(2) RCW 80.--.--- and 2024 c 351 s 7;

(3) RCW 80.--.--- and 2024 c 351 s 8;

(4) RCW 80.--.--- and 2024 c 351 s 10; and

(5) 2024 c 351 s 21 (uncodified).

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

--- END ---

CERTIFICATE OF SERVICE

I, Kathryn Savaria, hereby declare under penalty of perjury that on the 28th day of July, 2025, I caused to be served a copy of the foregoing, on the following person(s) at the following address(es):

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DATED this 28th day of July, 2025.

s/Kathryn Savaria
Kathryn Savaria, Legal Assistant