

WSDCCRES – 979 – 210925 – PASSED – GOV – EQUITY NOW!

**RESOLUTION URGING GOVERNOR INSLEE TO SIGN EXECUTIVE ORDER
RESCINDING GOVERNOR’S DIRECTIVE 98-01**

WHEREAS in 1998, Washington voters passed Initiative 200 (I-200) which clearly stated in the November 3, 1998 Washington State Voters Pamphlet¹, that I-200 **does not end all affirmative action programs**, but prohibits programs which use race and gender to select a lesser qualified applicant over a more qualified applicant for a public job, contract or admission to a state college or university; and

WHEREAS since December 3, 1998, Washington state has implemented **Governor’s Directive Number 98-01**² which for 23 years has grossly misinterpreted Initiative 200 (I-200), codified as RCW 49.60.400³, by erroneously stating that neither race nor sex could **ever** be used as factors to select candidates for public college or university admissions, public employment or a public contracting; and

WHEREAS in 2003, the Washington State Supreme Court in **Parents Involved in Community Schools v. Seattle School District No.1**⁴, interpreted RCW 49.60.400 to only prohibit the state’s use of race or gender to select a less qualified applicant over a more qualified applicant, and in 2017, Washington Attorney General (AG) Robert Ferguson issued **AGO Opinion 2017, No. 2**⁵ which concluded: 1) I-200 allows Affirmative Action programs as long as neither race nor gender are used to select a less qualified contractor over a more qualified contractor; and 2) Evidence of discrimination in state contracting, which race or sex-neutral measures fail to remedy, may justify a race or sex-conscious remedy for that disparity; and

WHEREAS in 2017, a **Washington State Department of Transportation (WSDOT) Disparity Study**⁶ found concrete evidence that women and contractors of color suffer discriminatory barriers to fair access to federal and state-funded construction contracts across Washington’s multi-billion-dollar transportation industry; and

WHEREAS in January, 2019, the **Office of Minority and Women Business Enterprises (OMWBE)** reported that since the 1998 passage of I-200, Washington’s small, minority and women owned businesses lost an estimated \$3.9 billion in state public contracting opportunities, concluding in its 2019 Disparity Study⁷ that 1) women and people of color do not enjoy equal access to all aspects of State contracting opportunities; 2) the lack of remedial market intervention in the wake of Initiative 200 perpetuates this inequality; and 3) remedial action is necessary to end discrimination in State contracting activities.

NOW THEREFORE, BE IT RESOLVED that the **Washington State Democratic Central Committee (WSDCC)** urges Governor Jay Inslee not to repeal I-200 but to reaffirm Washington State’s commitment to Diversity, Equity and Inclusion by immediately signing an **EXECUTIVE ORDER** rescinding **Governor’s Directive 98-01** and correctly

implementing I-200 (RCW 49.60.400) to eliminate systemic inequities for all Washingtonians; and

BE IT FURTHER RESOLVED, that the **WSDCC** urges all members to support the **“WASHINGTON EQUITY NOW!” RESOLUTION** and publicize the **WSDCC’s** support of the **“WASHINGTON EQUITY NOW!” RESOLUTION** on the **WSDCC’s** website, to all local and social media and to all Democratic state and local elected officials; and

BE IT FINALLY RESOLVED, that the **CHAIR of the WSDCC** shall email this resolution directly to Governor Jay Inslee with simultaneous copies of that email to the resolution sponsors by no later than Friday, October 1, 2021.

¹ [Washington Voters' Pamphlet 1998.pdf \(wa.gov\)](#)

² [Governor's Directive No. 98-01 \(wa.gov\)](#)

³ [RCW 49.60.400: Discrimination, preferential treatment prohibited. \(wa.gov\)](#)

⁴ [WA Reports Public Access Cuij PAW Document Page \(lexis.com\)](#)

⁵ [Use Of Race- Or Sex-Conscious Measures Or Preferences To Remedy Discrimination In State Contracting | Washington State](#)

⁶ [WSDOT Disparity Study 2017 \(wa.gov\)](#)

⁷ [State of Washington Disparity Study 2019](#)

PASSED AT THE SEPTEMBER 25 MEETING OF THE WSDCC