




WASHINGTON
POLICY CENTER
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POLICY GUIDE

For Washington State

5th Edition
Edited by Paul Guppy





A THINK TANK DEDICATED

TO IMPROVING THE LIVES OF PEOPLE IN WASHINGTON STATE

Washington Policy Center (WPC) is an independent, non-profit think tank that works to improve the lives of people in Washington state by providing accurate, high quality research and innovative solutions for policymakers, the media and the general public. WPC brings a credible, free-market perspective to the public debate in Washington state.

Headquartered in Seattle with offices and full-time staff in Olympia and Eastern Washington, WPC is comprised of six research centers. Our areas of focus are:

- Education
- Environmental and Agriculture policy
- Government reform (budget and taxes, open government)
- Health care
- Small business and labor reform
- Transportation

In addition, WPC operates WashingtonVotes.org, the premier website for tracking bills in Olympia, finding objective, plain-English summaries of legislation, and offering quick access to your legislators' voting records.

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FOR WASHINGTON STATE

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POLICY GUIDE

FOR WASHINGTON STATE

Foreword

by Daniel Mead Smith, President

Washington Policy Center (WPC) is an independent, non-profit research and educational organization serving Washington state. We have offices in Seattle, Olympia, Spokane and the Tri-Cities.

The great majority of our supporters are individuals, families and small business owners. Over 95 percent of our support comes from in-state sources. All contributions to WPC are independent and voluntary; we do not receive government money.

Our research program is centered on seven areas of public policy; budget and taxes, environment, agriculture, health care, education, small business and labor reform, and transportation. We also provide a free, nonpartisan website, WashingtonVotes.org, to inform people about bills, roll call votes and other legislative action taking place in Olympia.

We use many sources in our research, particularly data and reports made available by local, state and federal government agencies. However, all findings, conclusions and policy recommendations are determined solely by WPC analysts based on objective and well-sourced research.

Typical users of WPC research are state lawmakers, executive branch officials, city and county officials, reporters for print, broadcast and online media, our supporters and the general public. News organizations commonly use WPC research when covering

public policy issues. WPC experts and research findings are cited in news reports hundreds of times every year.

Washington Policy Center is not a political organization. We promote ideas and independent research, not parties or candidates. WPC experts serve as a resource to lawmakers of both parties to promote sound policies that benefit the people of Washington state.

Previous editions of our Policy Guide for Washington State served as a broad reference to the issues in our state. They provided background information, detailed analysis and clear recommendations in each policy area. The 5th edition of the Policy Guide takes a different approach. While remaining a practical guide, the new edition is focused on what we believe are the best ideas and reforms needed in our state.

These are the policy recommendations we think policymakers should adopt as their main priorities. They are the ideas our research indicates would make the greatest positive difference for the people of our state.

We hope you find this latest edition of the Policy Guide for Washington State useful and informative. Its purpose is to advance better governance and policy reforms that benefit the people of our state. As such, it is a key part of the mission of Washington Policy Center, which is to promote public policy ideas that improve the lives of all Washingtonians.

POLICY GUIDE

FOR WASHINGTON STATE

Introduction to the 5th Edition by Paul Guppy, Vice President for Research

As an independent, non-profit research and education organization, Washington Policy Center is not a political organization. We do, however, have core principles and strong beliefs about ideas and sound public policy. Our mission is to provide clear and practical policy recommendations backed by objective, fact-based research informed by our guiding principles and beliefs.

Stated briefly, we believe in limited government, low taxes and economic opportunity for all. Here is what that means.

We believe in limited government because, while basic public services are essential, we recognize that government itself represents a self-perpetuating special interest in society. This is particularly true for public-sector unions and public monopolies that benefit from ever-increasing levels of taxation and public spending.

Limiting the power of government officials

The U.S. constitution and the constitution of Washington state are founded on the principle of limiting the power of those in government, to preserve the basic rights of the people. The purpose of policy recommendations based on the principle of limited government is to make essential public services more effective

Introduction

and, more importantly, to ensure that government officials treat the public with respect.

We support low taxes because we believe our elected officials should only take as much money as they need to provide basic public services. Increasing the tax burden they place on people, as so many public officials want to do, makes it harder for working families and business owners to fulfill their own dreams.

Many public officials have dreams too, and they find they can only carry them out through coercion and ever-higher levels of taxation, while seeking to make their chosen agenda the driving force in every aspect of modern life.

Taxation reduces household income

As a result, people typically find themselves devoting nearly half their earnings to support the plans of government officials at the local, state and federal levels. When public officials cut household incomes through taxation, they leave fewer opportunities for people to make decisions for themselves and their families. They also reduce people's ability to give to charity and to help their communities.

We support economic opportunity for all because years of practical experience has amply demonstrated the many failures of the liberal bureaucratic state and of economic central planning. Over and over public officials impose costly idealized programs on people, only to find that people prefer to make life-guiding decisions for themselves. Government can help create opportunity, but officials should not force their single-answer way of addressing life's problems, to the exclusion of other legitimate choices that people may want instead.

The dismal result of forced central planning is massive distortion in the marketplace, rampant waste and inefficiency, and a vast expansion of power for officials in government. A better approach

is a competitive free market in which people are able to make most work-related and economic decisions for themselves and take responsibility for the outcome.

The free market promotes human creativity

A free market system with minimal government distortion promotes human creativity, directs resources efficiently and shows respect for voluntary exchanges among citizens. A private free market reduces conflict in society by taking politics and special interest money out of many of life's daily decisions.

When most personal, family and business decisions are made privately there is less need for political debate and for public officials to pick winners and losers. Limiting government power reduces conflict in society by respecting people's voluntary choices. That is why areas of modern life, such as education and, increasingly, health care, experience endless political controversy, while areas such as telecommunications or commercial retail, for example, are relatively conflict-free.

Economic freedom shows respect for people's labor

There is a direct relationship between government involvement, special interests and political conflict. When officials choose policies based on economic freedom they show respect for people's labor and the voluntary choices families make with their own earnings. It allows people to live their lives with a minimum of political conflict within a fair and orderly system of unbiased laws.

Lastly, we believe in self-government; that to the extent possible citizens should make decisions for themselves without interfering with the rights of others. When inevitable disagreements about public policy arise they should be resolved as much as possible through democratic process and consensus, not executive orders, court rulings and agency pronouncements.

Policy ideas that promote fairness

The primary benefit of public policies guided by principles of limited government, low taxes and economic opportunity for all is that this approach promotes social fairness by allowing people to make their own decisions about what is best for themselves and their families.

That is the purpose of this revised edition of the Policy Guide for Washington State. This book presents prioritized policy ideas that we believe are in the best interest of the people of our state, based on objective research and informed by our guiding principles.

CHAPTER ONE

RESPONSIBLE PUBLIC SPENDING

1. Policy Recommendation: Adopt improved budget transparency to inform the public about spending decisions

The state's combined budgets (operating, capital and transportation) run to hundreds of pages and direct the spending of billions in taxpayer dollars. Despite the length and complexity of these documents, public hearings are usually held the same day the budget are introduced, and they are then amended and enacted without enough time for meaningful public input.

The opportunity for a detailed review by the public before hearings or votes on budget bills would increase public trust in government and would enhance lawmakers' accountability for the spending decisions they make.

At a minimum, the time provided before the legislature holds a public hearing or votes on the budget should be 24 hours after full details of the proposal are made public. Ideally, lawmakers should provide more time than that for public review.

Make budget proposals public

As for budget negotiations between the House and Senate, the budget proposals that are exchanged between members of the House and Senate should be made publicly available. Lawmakers may say you cannot negotiate the budget in public (despite the requirement for local governments to do so). There is no reason, however, that the proposals of each side cannot be publicly posted before secret budget meetings are held. Then everyone could see what is being proposed and what compromises are being included

in the final budget deal.

Not only would the public have a better idea of what is occurring with the state's most important legislation, but lawmakers would also know what positions legislative leadership recommended, so there would be no surprises when final roll call votes are taken.

Enact needed policy changes before budget vote

Another budget reform would be to prohibit a vote on the operating budget until all the policies necessary to carry out a balanced budget have been passed first. Recently members of the House passed a budget proposal that assumed the legislature would later pass the tax increases needed to fund their proposed increases in spending, but House members had not actually voted on whether to increase taxes.¹

By actually voting first on the policy changes, like tax increases, necessary to balance a proposed budget, the House and Senate would know exactly what is assumed in the other's budget proposal, and that each house actually has the votes necessary to implement the budget its members are proposing.

¹ This action occurred during the 2016 legislative session.

2. Policy Recommendation: Place performance measures in the budget to hold public agencies accountable

As holders of the state’s purse strings, lawmakers are in the best position to pose the “why” question to be answered by agencies before authorizing taxpayer dollars to be spent. One way to accomplish this is for the legislature to require agency managers to identify at least one expected performance outcome for each program they are seeking to fund.

This process would become the legislature’s version of budget instructions to agencies. This would re-focus state budget hearings on whether public programs should or should not continue to exist and whether they are achieving their intended purposes. Public programs often fail, and lawmakers should have an equitable measure of what works and what does not work, rather than blindly funding government programs simply because they already exist.

To help improve budget accountability, high-level performance measures should be written directly into the budget, so lawmakers and citizens can quickly see whether policy goals have been met, before agency requests for new spending are approved.

3. Policy Recommendation: Adopt budget reforms to end the threat of a government shutdown

During recent budget cycles, Washington lawmakers have come dangerously close to forcing a government shutdown due to failures in the budget process. The 2015-17 state budget was signed just 18 minutes before a government shutdown would have occurred. The 2013-15 budget was finalized just a few hours before state agencies would have been forced to close.

In both cases, the tax revenue provided by citizens had increased substantially, meaning the threat of government shutdown was occurring at a time of rising revenues, not at a time of budget deficits. The government had plenty of money, lawmakers and the governor just could not decide how to spend it.

Three ways to prevent a government shutdown

There is no reason a government shutdown should occur, even in a deficit situation, let alone at a time of rising revenues. To end this threat, lawmakers should enact reforms to the budget process to assure people who rely on vital government services that a political impasse will not close agency doors.

Here are three structural reforms lawmakers could adopt:

1. Early-action base budget at the beginning of the legislative session (as in Utah);
2. Continuing resolution enactment in the last week of a regular session if no budget is passed (as in New Hampshire, North Carolina and South Carolina);
3. Constitutional amendment authorizing continuing appropriations at current spending levels if there is no budget by the end of the session (as in Rhode Island and Wisconsin).

Under an early-action base budget process, budget writers from the state House and Senate would meet on a day between the November revenue forecast and the beginning of the legislative session in January to agree on a base budget framework.

This would ensure that current spending levels could be maintained under projected revenue. Then lawmakers would review and approve the base budget during the first weeks of the legislative session so state government operations would continue at current spending levels in case a budget impasse occurs late in the session.

Giving lawmakers time to consider the “real” budget

After approval of a contingency base budget, the rest of the session would be devoted to debating whether lawmakers should increase or decrease the “real” budget compared to the base budget levels to reflect the updated revenue numbers provided by the February state revenue forecast.

Another option lawmakers should consider is to enact a continuing resolution during the last week of session when no formal budget agreement has been reached. This is similar to the base-budget process used in Utah, but action happens at the end of session instead of at the beginning. States that use this budget fail-safe process include New Hampshire, North Carolina and South Carolina.

The early-action base budget and continuing resolution safeguards require the legislature to take positive action to avoid a government shutdown. Though the hope is that lawmakers would do so, there is no guarantee they would act in time. This is why the automatic continuation of spending at current levels, a policy used by Rhode Island and Wisconsin, should be considered.

Article 8, Section 4 of the Washington state constitution requires the legislature to appropriate all money spent, so adopting a policy

that automatically continues spending at current levels would likely require asking voters to enact a constitutional amendment.

Assuring the public

Adoption of one of these three proven budget reforms — using a base-budget process, approval of a continuing resolution, or authorizing continued spending at current levels until a budget can be adopted — would end the threat of a government shutdown in our state.

Ideally, lawmakers should come to a budget agreement during the 105-day regular legislative session. But as history has continually demonstrated, the public cannot be assured of that happy outcome. That is why structural budget reforms are needed to prevent the doubt and uncertainty created by threatened state government shutdowns, and to assure the public that essential programs will continue.

4. Policy Recommendation: Restore legislative oversight of collective bargaining agreements

In 2002 Governor Gary Locke signed HB 1268, which fundamentally altered the balance of power between the governor and legislature concerning state employee compensation in the budget. The bill's purpose was to reform Washington's civil service laws and for the first time in state history give state employee union executives the power to negotiate directly with the governor behind closed doors for salary and benefit increases.

Before 2002, collective bargaining for state employees was limited to non-economic issues such as work conditions, while salary and benefit levels were determined through the normal budget process in the legislature.

Negotiating with the governor in secret

Since the collective bargaining law went into full effect in 2004, union executives no longer have their priorities weighed equally with other special interests during the legislative budget debate. Instead, they now negotiate directly with the governor in secret, while lawmakers only have the opportunity to say “yes” or “no” to the entire contract agreed to with the governor.

Not only are there serious transparency concerns with this arrangement, there are also potential constitutional flaws by unduly restricting the legislature's authority to write the state budget.

When announcing the first secretly-negotiated state employee contracts in 2004, Governor Gary Locke said:

“This year's contract negotiations mark the first time in state history that unions have been able to bargain with the state for wages and benefits. The new personnel reform law passed by the Legislature in 2002 expanded the state's collective bargaining activities to include wages and benefits. In the

past, the Legislature unilaterally set those terms.”²

Missing from his remarks, however, was the fact that this was also the first time in state history these spending decisions were not made in public. Governor Locke failed to note he had negotiated the contracts in secret, often with the same union executives who were his most important political supporters.

Secret talks on public spending violate the constitution

The decision made in 2002 that limited the authority of lawmakers to set priorities within the budget on state employee compensation should be reversed. This is especially important considering the compelling arguments made in the University of Washington Law Review, noting the 2002 law is an unconstitutional infringement on the legislature’s authority to make budget decisions.³

Ultimately, state employee union contracts negotiated solely with the governor should be limited to non-economic issues, like working conditions. Anything requiring an appropriation (especially new spending that relies on a tax increase) should be part of the normal open and public budget process in the legislature. This safeguard is especially important when public-sector unions are also political allies of the sitting governor.

2 “State, Unions Reach Tentative Agreement,” press release, Office of Governor Gary Locke, September 13, 2004 at <http://www.digitalarchives.wa.gov/governorlocke/press/press-view.asp?pressRelease=1689&newsType=1>.

3 “Stealing the Public Purse: Why Washington’s Collective Bargaining Law for State Employees Violates the State Constitution,” by Christopher D. Abbott, *Washington Law Review*, 2006-02, Volume 81, 2006, at <https://digital.law.washington.edu/dspace-law/handle/1773.1/263>.

5. Policy Recommendation: End secret negotiations for public employee pay and benefits

Since 2004, as noted, the governor has negotiated secretly with union executives to determine how much taxpayers will pay for compensation to government employees. Today, the secret talks involve more than \$300 million in public spending per biennium.⁴

Before 2004, those spending decisions were made in public as part of the normal legislative budget process, with the opportunity for comment at public hearings, before state officials made employee compensation promises.

Keeping lawmakers in the dark

Not only are public union contract negotiations conducted in secret, none of the records are subject to public disclosure until after the contract is signed into law (when the budget is approved by the governor). Lawmakers responsible for approving these contracts and the taxpayers who are asked to pay for them should not be kept in the dark until the deal is done and it is too late to make changes.

Several states ensure that the public is not shut out of collective bargaining with government unions. Some states open the entire negotiation process to the public, while others include an exemption when government officials are strategizing among themselves. Once public officials meet with union negotiators, however, the public is allowed to monitor the process.

This is exactly what occurs in Florida. As that state's Attorney General explains:

“The Legislature has, therefore, divided Sunshine Law policy

⁴ “Governor’s 2015-17 Compensation Plan,” 2015-17 Near General Fund and 2015-17 Total Funds, Office of Financial Management budget overview, accessed May 24, 2016, at <http://www.ofm.wa.gov/budget15/compensation.pdf>.

Chapter 1: Spending Policy

on collective bargaining for public employees into two parts: when the public employer is meeting with its own side, it is exempt from the Sunshine Law; when the public employer is meeting with the other side, it is required to comply with the Sunshine Law.”⁵

In Washington, these closed-door negotiations should be subject to the state’s Open Public Meetings Act (OPMA) or at a minimum utilize a process like the one used by the City of Costa Mesa in California to keep the public informed. That process is called COIN (Civic Openness in Negotiations).

Under this system, all of the proposals and documents that are to be discussed in secret negotiations are made publicly available before and after meetings between the negotiating parties, with fiscal analysis provided showing the costs.

Informing the public about promises and trade-offs

While not full-fledged open meetings, providing access to all of the documents before meetings would inform the public about the promises and tradeoffs being proposed with their tax dollars, before an agreement is reached. This would also help make it clear whether one side or the other is being unreasonable, and would quickly reveal if anyone, whether union executive or state official, is acting in bad faith.

State and local employment contracts should not be negotiated in secret. The public provides the money for these agreements. Taxpayers should be allowed to follow the process and hold government officials accountable for the spending decisions that officials make on their behalf.

5 “Overview of the Sunshine and Public Records Law,” Section D - What types of discussions are covered by the Sunshine Law?, Reporter’s Handbook, the Florida Bar, accessed May 24, 2016, at <https://www.floridabar.org/DIVCOM/PI/RHandbook01.nsf/f5b2cbf2a827c0198525624b00057d30/07c774c1b21fa055852568a40074b173!OpenDocument#D.WHATTYPESOFDISCUSSIONSARE>.

6. Policy Recommendation: Restore the people’s right of referendum by limiting use of the emergency clause

To provide a check on the legislature, the state constitution grants the people the power to veto unwanted legislation through the use of a referendum. According to the secretary of state, “The referendum allows citizens, through the petition process, to refer acts of the legislature to the ballot before they become law.”⁶ This power applies to any bill adopted by the legislature except those that include an emergency clause.

An emergency clause states that a bill is exempt from repeal by referendum because the bill is, “...necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.”⁷ The use of the emergency clause allows bills to take effect immediately once signed by the governor.

Responding to public emergencies

The emergency clause allows state government to respond quickly to true public emergencies, like civic unrest or a natural disaster, yet lawmakers routinely abuse the exemption by attaching emergency clauses to routine bills. The result is that lawmakers often label unpopular political decisions as “emergencies” to shield themselves from public accountability.

The most effective way to end the legislature’s abuse of the emergency clause is a constitutional amendment creating a supermajority vote requirement for its use. The legislature would then be prohibited from attaching an emergency clause unless the

6 “Referendum Quick Facts,” Elections and Voting, Washington Secretary of State, accessed May 24, 2016, at <http://www.sos.wa.gov/elections/ReferendumQuickFacts.aspx>.

7 “Constitution of the State of Washington,” Article 2, Section 1, Legislative Information Center, revised January 12, 2011, at <http://leg.wa.gov/lawsandagencyrules/documents/12-2010-wastateconstitution.pdf>.

bill was approved by a 60 percent vote. This is enough to prevent political majorities from abusing the rule, while allowing the legislature to respond quickly to true public emergencies.

Budget bills, however, could be made exempt from the supermajority vote requirement, allowing them to pass with a simple majority and not be subject to referendum.

Court labels a business deal a “public emergency”

Constitutional reforms are needed due to the state supreme court’s granting of total deference to a legislative declaration of an emergency. The first opportunity the supreme court had to address the legislature’s questionable use of an emergency clause was in 1995 with the passage of SB 6049, to provide public funding for the Mariners baseball stadium in Seattle.

In a 6-3 ruling upholding the denial of a people’s referendum, the court said:

“Ultimately, the emergency that faced the Legislature was that the Seattle Mariners would be put up for sale on Oct. 30 (1995) unless, prior to that date, the Legislature enacted legislation that would assure the development of a new publicly owned baseball stadium for King County.”

For the first time, the court declared that a business deal involving a professional sports team fell under the definition of “public emergency.” The supreme court had an opportunity to revisit this ruling in 2005, when a case raised the question of whether the legislature’s suspension of a voter-approved limit on tax increases was a “public emergency” that required denying the people’s right to a referendum.

Emergency clause as a blank check

Again in a 6-3 ruling, the court upheld the legislature’s

declaration of an emergency. The ruling gave the legislature a blank check to use emergency clauses any time it wants. This has the effect of lawmakers routinely stripping the people of their right of referendum. The dissenting judges, however, wrote blistering objections to the majority's decision.

For example, Justice Richard Sanders warned that the ruling allows the legislature to avoid the people's right of referendum:

“Where the Legislature uses an emergency clause simply to avoid a referendum rather than respond in good faith to a true ‘emergency’...and where the court essentially delegates its independent role as a constitutional guardian to the legislative branch of government in its power struggle against the popular branch of government; I find little left of the people’s right of referendum.”⁸

Political convenience and the people’s rights

If a true public emergency occurs that warrants blocking the people's right to a referendum, a 60 percent vote requirement in the legislature should not be difficult to achieve. In the case of a real crisis, the public would most likely welcome the use of the emergency clause by the legislature. People would recognize the power is intended to be used at just such a critical time. Political convenience, however, should no longer serve as a reason to deny the people their right of referendum.

⁸ “Washington State Farm Bureau Federation v. Reed,” Washington State Supreme Court, July 14, 2005 at <http://caselaw.findlaw.com/wa-supreme-court/1428354.html>.

7. Policy Recommendation: Provide voters more information about the fiscal impact of ballot measures

Based on the recent passage of several budget-busting initiatives, there is a growing sense in the legislature that voters need more information about the fiscal impact of ballot measures before the election.

Just as when lawmakers consider a bill, voters should also take into consideration the financial effects of what they are being asked to approve. This is why the Office of Financial Management issues a fiscal note for each qualified ballot measure and includes that information in the voters' guide.⁹ Many voters, however, do not review this fiscal note carefully before casting their votes.

Providing greater transparency

One way to provide greater transparency on the financial effect of ballot measures is to put the estimated fiscal impact in the actual ballot language summary. The following is an example of how that language could look:

“OFM has determined this proposal would increase state spending by [dollar amount] without providing a revenue source. This means other state spending may be reduced or taxes increased to implement the proposal. Should this measure be enacted into law?”

This would complement the existing fiscal note the Office of Financial Management provides on ballot measures, while putting the financial implications of the measure in the ballot title, so it is directly before voters.

After being informed about how much a ballot measure will

⁹ “Revised Code of Washington 29A.72.025 - Fiscal impact statements,” effective date July 1, 2004, Washington State Legislature <http://apps.leg.wa.gov/RCW/default.aspx?cite=29A.72.025>.

cost, and if voters still decide to push spending beyond what existing revenue will sustain, lawmakers could still balance the budget with a two-thirds vote to change, repeal or temporarily suspend the voter-approved limit on tax increases.

Additional Resources

“Budget reforms are needed to end the threat of state government shut-downs,” Policy Notes, Washington Policy Center, September 2015

“Secretly negotiated state employee contracts major focus of 2015-17 state budget debate,” Legislative Memo, Washington Policy Center, April 2015

“Changing the budget status quo,” Policy Notes, Washington Policy Center, December 2008

“HJR 4200: Protecting the people’s right to referendum,” blog post, Washington Policy Center, January 2011

CHAPTER TWO

REFORMING TAXATION

1. Policy Recommendation: Make taxes in Washington more fair and less regressive by enacting tax relief

Elected officials in Washington often make earnest statements about social justice and income inequality, but at the same time they seem entirely insensitive to the heavy tax burden they place on citizens. The people of Washington pay over 50 different kinds of taxes at the state and local level.¹ The biggest taxes are regressive – the sales tax, the property tax and the Business and Occupation tax. One tax in particular, the Motor Vehicle Excise Tax (MVET) is seen as unfair, because officials impose the tax on the inflated value of vehicles.

MVET viewed as unfair

The Motor Vehicle Excise Tax (MVET) is imposed by state lawmakers and some local governments, such as Sound Transit. It is a yearly tax based on the estimated value of trailers and motor vehicles.

Many families pay the MVET many times in one year, because officials apply it to a wide range of vehicles, including cars, trucks, motorcycles, motor homes and trailers. Some working families pay the tax on as many as five or six different vehicles and trailers each year, resulting in hundreds of dollars in cost per family.

¹ “The Tax Reference Manual, Information on State and Local Taxes in Washington State,” by Kathy Oline, Assistant Director, compiled by Don Taylor, Research Division, Washington State Department of Revenue, January 2010, at http://dor.wa.gov/docs/reports/2010/Tax_Reference_2010/TRM%202010%20-%20Entire%20Document.pdf.

In addition to the high tax burden imposed on families, the MVET is seen as unfair because of the controversial method officials use to set a vehicle's value. Officials use an inflated depreciation schedule, instead of true market value, to decide the tax burden they impose on vehicle owners. This results in the overvaluing of most vehicles for tax purposes.

Regressive sales taxes fall hardest on the poor

In addition to the MVET, state and local officials impose a high sales tax on residents. The total rate on consumer purchases, except food and medicine, often exceeds nine percent and is one of the highest sales tax rates in the country. Many lawmakers want to extend this tax to services as well, representing a massive tax increase across the economy.

In heavily-populated King County, officials impose the highest sales tax rate in the state, making it harder to find work and earn a living in otherwise prosperous urban communities.

Increasing regressive taxation assigns a larger share of the tax burden to low-income citizens. As a person's income decreases, the proportion spent on essential living expenses, including taxes, increases. By imposing a high sales tax rate, public officials force poor Washingtonians to devote an ever-larger share of their income to funding government agencies and subsidizing public services, compared to high-income citizens.

Providing property tax relief

The same is true of the property tax. As lawmakers and local officials increase total property collections, they increase the amount each property owner must pay. In addition, local officials often ask voters for special levies, saying tax increases are needed to pay for essential public services, even when regular property tax revenue is already increasing. When levies are framed as preventing cuts in schools, parks and medical services people feel

pressured to vote “yes,” despite the higher cost.

The result is a rising financial burden that falls hardest on people living on fixed incomes, the elderly, the disabled and the unemployed. Public officials should manage the normal increases in regular tax collections responsibly, or use it to provide tax relief, rather than seeking more money by increasing the financial burden they place on the most vulnerable people in the community.

Work with public-sector unions to reduce costs

Regressive taxation falls disproportionately on working families. When public officials maintain a high tax burden, they reduce take-home pay, make income inequality worse, and in general make life harder for middle- and low-income families. The high taxes public officials impose increase the cost of housing, making it harder for young people to buy a first home, and for older people living on fixed incomes to stay in their homes.

Instead of seeking to increase regressive taxes, state and local officials should work to improve their management of the current rise in tax revenue. They should seek to open a dialogue with executives at public-sector unions as a way to preserve cost-effective services for the public.

Enacting tax relief would make Washington’s tax system more fair and less regressive, while preserving stable and moderate yearly tax revenue, based on natural growth of the economy, to fund vital public services.

2. Policy Recommendation: Adopt a constitutional amendment requiring a supermajority vote to raise taxes

In February 2013, the state supreme court overturned the voter-approved requirement that proposed tax increases must receive a supermajority vote of the legislature, or voter approval, to be enacted. When the supreme court strikes down a law passed by the people, the legislature often seeks to implement what the people want. Recent examples include Initiative 695, to reduce car tab costs, and Initiative 747, to limit yearly property tax increases. In both cases, after the courts ruled against popular ballot initiatives, lawmakers enacted bills that carried out the will of the voters.

Ballot measures to limit tax increases consistently receive strong voter support. Approval of Initiative 1366 in 2015 represented the sixth time since 1993 that voters have approved the policy of requiring a supermajority vote in the legislature to pass tax increases. Voters passed similar measures in 1993, 1998, 2007, 2010 and 2012. In addition, in 1979 voters approved a revenue limit which required a supermajority vote of lawmakers to exceed the limit (Initiative 62).

Supermajority vote requirements are common

Requiring a supermajority vote in the legislature to increase taxes is not unique to Washington. Seventeen states have some form of supermajority vote requirement for tax increases. Supermajority requirements are common in provisions of Washington's own constitution.

There are currently more than 20 supermajority vote requirements in the state's constitution. Several of these provisions have been part of the Washington constitution since statehood. The most recent one was added by lawmakers and confirmed by voters in 2007.

A supermajority vote requirement is not undemocratic

Since supermajority vote restrictions are a common way for the people to place limits on government power, lawmakers should send voters a proposed constitutional amendment to require a supermajority vote in the legislature to raise taxes. Such a proposal would not be undemocratic. Instead, it would be consistent with existing constitutional precedents for requiring higher vote thresholds for certain government actions.

A statewide poll in 2016 found that 65 percent of voters want lawmakers to send them a constitutional amendment requiring a supermajority vote to raise taxes.² Voters and lawmakers clearly want reasonable limits on raising taxes. Passage of a constitutional amendment would set this popular commonsense policy in place and decide the matter once and for all, without further interference by the courts.

2 “New Poll: Lawmakers should act on supermajority for taxes amendment,” by Lisa Shin, Press Release, Washington Policy Center, January 5, 2016, at <http://www.washingtonpolicy.org/publications/detail/new-poll-lawmakers-should-act-on-supermajority-for-taxes-amendment>.

3. Policy Recommendation: Do not impose a state income tax

Washington is one of only seven states that does not tax citizens' incomes (two other states do not tax general income but have taxes on interest). Doing so would fundamentally alter the state's tax structure, changing it from one that mainly taxes consumption to one that also taxes people's work and productivity.

Each of the 50 states levies a different combination of taxes on the people who live, do business or travel within its borders. These different types and levels of taxation have a profound impact on the actions of residents and business owners, and high taxation can significantly impede economic growth. More than any other type of tax, an income tax can stifle a state's economic growth, create instability in public revenues and limit people's take-home income.

An income tax is considered unfair and unconstitutional

Since 1930, the Washington state supreme court has issued numerous opinions interpreting Article 7, Sections 1 and 2 of the state constitution to require taxation of property, which includes income, to be uniform and limited to a rate of one percent. While there is no ban on a uniform income tax of one percent, 80 years of legal precedents show that a progressive or targeted income tax that treats people with different income levels differently is considered unfair and unconstitutional in Washington.

Officials at the state Department of Revenue agree that Washington has a ban on a graduated income tax, but they are not certain the "current court," as they put it, would follow 80 years of precedent and hold a graduated income tax bill unconstitutional.³

A state income tax is unpopular

³ E-mail to the author from Kim Schmanke, Communications Director, Washington State Department of Revenue, September 24, 2015, copy available on request.

There is a serious problem when the state’s tax enforcement agency is not sure whether the courts would be bound by eight decades of case law. Lawmakers should send voters a crystal clear constitutional amendment banning income taxes in Washington. Judging from past elections, the people oppose a state income tax in Washington and a proposed ban would probably pass.

Here is the record of popular opposition to measures proposing a state income tax:

- 1934 – House Joint Resolution 12..... defeated 43% to 57%
- 1936 – Senate Joint Resolution 7 defeated 22% to 78%
- 1938 – Senate Joint Resolution 5 defeated 33% to 67%
- 1942 – Constitutional Amendment defeated 34% to 66%
- 1944 – Initiative 158 defeated 30% to 70%
- 1973 – House Joint Resolution 37 defeated 23% to 77%
- 1975 – Initiative 314 defeated 33% to 67%
- 1982 – Initiative 435 defeated 34% to 66%
- 2010 – Initiative 1098 defeated 36% to 64%

In Tennessee, lawmakers wanted to make sure citizens would be assured that imposition of a state income tax was not just one legislative session away. They asked voters to approve a constitutional amendment banning income taxes. As the sponsor of the Tennessee income tax ban explained:

“This is going to help us bring in jobs to Tennessee. We can say not only do we not have an income tax, but we’ll never have an income tax.”⁴

In 2014, Tennessee voters passed the proposal with 66 percent of the vote and the state’s constitutional ban on a state income tax went into effect.

⁴ “Senate OKs measure to ban Tenn. income tax,” by Lucas Johnson II, *Business Week*, March 9, 2011.

As in Tennessee, lawmakers in Washington should let the people act on a constitutional amendment making our state's ban on an income tax clear, while protecting it from being overturned by a surprise court ruling in which judges ignore past legal precedents.

4. Policy Recommendation: Stop unfair retroactive tax increases

Officials at the Department of Revenue report that in recent years lawmakers have imposed several retroactive tax increases. These include SB 6096 (passed in 2009), 2ESSB 6143 (passed in 2010) and EHB 2075 (passed in 2013).⁵ These laws required citizens to pay taxes on transactions and economic activity that had already occurred.

Most people consider this practice unfair, for the obvious reason that lawmakers change the taxation rules after people have already engaged in taxable activity. As the Council on State Taxation describes it:

“Taxpayers make significant financial decisions based on the current tax laws; those decisions must not be undermined by legislation imposing new or increased tax liabilities after the fact.”⁶

Unfairly changing the rules of the game

Put in simple terms, it is not fair for lawmakers to change the rules after the game has already been played. It is an obvious case of public officials using state power to pick winners and losers, and in this case taxpayers are always the losers.

The principle of tax fairness is recognized across the country. Several states prohibit retroactive laws and tax increases. Examples include Texas, Georgia and Ohio.⁷ A typical example of this policy

5 E-mail to the author from Kim Schmanke, Communications Director, Washington State Department of Revenue, February 29, 2016, copy available on request.

6 “Retroactive Tax Legislation – Policy Position,” Council on State Taxation, at http://www.cost.org/uploadedFiles/About_COST/Policy_Statement/RetroactiveTaxLegislation.pdf.

7 E-mail to the author from Kae Warnock, Policy Specialist, National Conference of State Legislatures, March 17, 2016, copy available on request.

is a provision of the constitution of Ohio:

“The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts... (Article 2, Section 28).

In Washington state, Article 1, Section 23 of the constitution prohibits ex post facto laws – that is, laws that change the legal consequences of something citizens have already done. Even so, justices on the state supreme court have recently upheld enforcement of retroactive tax increases.⁸

Protecting working families

Since people in Washington cannot depend on the supreme court to protect them against retroactive tax laws, lawmakers should stop the practice of passing such laws in the first place. Ending retroactive taxes would protect working families and business owners from being faced with tax burdens they did not expect. It would also make Washington’s workplaces and business climate more fair, since people would be taxed only on what they do in the future, not on decisions they have made in the past.

⁸ “DOT Foods v. Washington Department of Revenue,” Case No. 92398-1, Washington State Supreme Court, March 17, 2016, at <http://www.courts.wa.gov/opinions/pdf/923981.pdf>; and “Estate of Hambleton consolidated with Estate of Macbride v. Washington Department of Revenue, Case No. 89419-1 consolidated with No. 89500-7, Washington State Supreme Court, October 2, 2014, at <http://www.courts.wa.gov/opinions/pdf/894191.pdf>.

5. Policy Recommendation: Do not impose a state capital gains income tax

Some politicians have called for imposing a state capital gains income tax on the people of Washington state. The volatile history of capital gains income taxes in other states, however, shows this form of taxation does not provide a fiscally sound and secure way of financing ongoing government services.

For example, analysts at the California’s Legislative Budget Office (LAO) report:

“Probably the single most direct way to limit the state’s exposure to the kind of extreme revenue volatility experienced in the past decade would be to reduce its dependence on the source of income that produced the greatest portion of this revenue volatility – namely, capital gains and perhaps stock options.”⁹

Researchers at Standard and Poor’s found that, “State tax revenue trends have also become more volatile as progressive tax states have come to rely more heavily on capital gains from top earners.”¹⁰

Capital gains taxes are unstable

Similarly, analysts at the Washington state Department of Revenue (DOR) found that:

“Capital gains are extremely volatile from year to year. Revenue from this proposal will depend entirely on fluctuations in the financial markets and can be expected to

9 “Revenue Volatility in California,” by Elizabeth G. Hill, Legislative Analyst, California Legislative Analyst’s Office, January 2005, at http://www.lao.ca.gov/2005/rev_vol/rev_volatility_012005.pdf.

10 “Income Inequality Weighs On State Tax Revenues,” S&P Capital IQ, Global Credit Portal, Standard and Poor’s, September 15, 2014.

vary greatly from the amounts presented here.”¹¹

Supporters of a capital gains taxes call it an “excise tax” for the “privilege of selling or exchanging long-term capital assets,” but it is actually a tax on income. None of the states that do not have an income tax have a capital gains tax. This is likely because capital gains are considered income, and that taxing capital gains is the same as taxing income.

Officials point to the benefit of no state capital gains income tax

Washington officials recognize the public benefit of not taxing capital gains. The state Department of Commerce noted that in Washington:

“We offer businesses some competitive advantages found in few other states. These include no taxes on capital gains or personal or corporate income. We also offer industry-specific tax breaks to spur innovation and growth whenever possible.”¹²

The experience of other states shows that capital gains tax revenue is highly volatile. If enacted in Washington, a capital gains income tax law would certainly face legal challenges for being an unconstitutional tax on income.

For these reasons lawmakers should maintain Washington’s competitive advantage and not adopt a highly volatile, and likely unconstitutional, capital gains income tax.

11 “Fiscal Note for HB 2563: Establishing a state tax on capital gains,” Washington State Legislature, February 2, 2012.

12 “Choose Washington – Pro-Business,” Washington State Department of Commerce, February 8, 2015 at <https://web.archive.org/web/20121213195601/http://choosewashingtonstate.com/why-washington/our-strengths/pro-business/>.

6. Policy Recommendation: Create a tax transparency website like the fiscal.wa.gov site

There are approximately 1,800 taxing districts in the state whose officials impose various taxes on Washingtonians.¹³ There is no single resource, however, to help individuals and businesses learn which taxing districts and rates they are subject to, and how much officials in each taxing district add to their total tax burden. A typical home, for example, can be located in as many as ten different taxing districts.

To help improve the transparency of state and local taxation, state leaders should create an online searchable database of all tax districts and tax rates in the state. The database could be modeled after the state's high-quality budget transparency website: fiscal.wa.gov. If enacted by state officials, this recommendation would set up an online database where citizens could find their state and local tax rates (such as property and sales taxes) by entering a zip code, street address, or by clicking on a map showing individual taxing district boundaries.

Enhancing trust in government

An online calculator would be provided for educational purposes, to allow individuals and business owners to estimate their total tax burden and which officials are responsible for imposing it on them. To facilitate the creation and maintenance of a searchable database, taxing districts would report their tax rates to the state annually, and would report any changes within 30 days of imposing the rate changes.

A bill was introduced in 2009 to create a tax transparency

13 "Tax transparency bill introduced," by Jason Mercier, blog post, Washington Policy Center, February 26, 2009 at <http://www.washingtonpolicy.org/publications/detail/tax-transparency-bill-introduced>.

website, but the legislature took no further action on it.¹⁴

Increasing the ease of public access to state and local tax rates would enhance trust in government and increase the public's understanding of the cost of government services. Improved transparency would also facilitate meaningful tax competition among taxing districts, because taxpayers could compare different tax burdens based on where they decide to live or locate their businesses.

Additional Resources

“SJR 8208 and SJR 8209, to amend the state constitution to require a two-thirds vote in the legislature to raise taxes,” Legislative Memo, Washington Policy Center, January 2016

“Proposed capital gains tax is likely an unconstitutional income tax and would be an unreliable revenue source,” Legislative Memo, Washington Policy Center, March 2015

“History of Washington state tax ballot measures since 1932,” Legislative Memo, Washington Policy Center, January 2012

“Tax transparency bill introduced,” blog post by Jason Mercier, Washington Policy Center, February 2009

“Sound tax policy vs. retroactivity,” by J.D. Foster, PhD, Tax Foundation, July 1997

¹⁴ “SB 6105: Concerning transparency in state and local taxation,” Washington State Legislature, February 26, 2009 at <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6105&year=2009>.

CHAPTER THREE

PROTECTING THE ENVIRONMENT

1. Policy Recommendation: Uber-ize protection of the environment by bringing environmental policy into the smartphone era

When the Environmental Protection Agency (EPA) was created in 1970s the agency's job was straightforward – it could target the sources of the most obvious pollution and use direct authority to solve the problem. That approach yielded positive results. Direct regulation resulted in purer air, clean water and a better overall natural environment.

Despite past successes, the environmentalism of the 1970s is outdated. Today, environmental problems are complicated and distributed. Water pollution, for example, comes from many small sources – brake dust, drops of oil, small amounts of fertilizer runoff. Today's problems are at odds with the centralized, command-and-control approach of the traditional EPA. The result is environmental regulation that is costly, random and often ineffective.

A better alternative

There is a better alternative suited to the nature of environmental problems and which respects the personal freedom that is at the heart of the American ideal. In an age of smartphones, individuals have the power to find ways to do more with less, a concept that is basic to environmental conservation. Innovation, the sharing economy and individual empowerment are the best ways to create effective environmental solutions today.

Uber provides a model for this transition. Taxi commissions once set prices and, theoretically, held bad drivers accountable.

By removing information barriers and putting choice in the hands of riders, Uber changed that, improving options and the quality of service. By matching riders and drivers, it replaced an ineffective government function. Smartphones provide the opportunity to identify and use resources as never before, maximizing protection of the environment.

Solving problems on a local scale

For example, the Nest thermostat tracks the habits of a home's occupants and gives them more control over energy use, reducing waste without sacrificing comfort. Additionally, studies of smart electrical meters in Washington state and Australia found that simple incentives to reduce demand at peak times result in significant energy savings.

In another example, Car2Go lets people travel without purchasing a car – reducing resources needed to build new cars, the need for parking and even reducing fuel consumption by providing small vehicles suited to short trips. Seattle officials estimate that Car2Go has resulted in 9,000 fewer cars on the road.¹

All of these approaches aggregate the power of individuals to solve environmental problems on a local scale. Those closest to the problem, with incentives to find effective solutions, have knowledge that simply cannot be matched by distant politicians and government managers who do not pay the price for failure.

Moving power from politicians to individuals

People are aware of government's failures. Realizing environmental policy has become symbolic and cynical, the percentage of people calling themselves environmentalists has

¹ "More than 9K Seattle drivers have given up personal vehicles for car shares," Staff report, MyNorthwest.com, April 7, 2016, at <http://mynorthwest.com/255175/more-than-9k-seattle-drivers-have-given-up-personal-vehicles-for-car-shares/>.

fallen from 78 percent to 42 percent in the last 25 years.² People care about the environment, but it is time to move power away from politicians to individuals.

Smart technology allows individuals to combine innovation, efficient resource use and information in a way that solves today's environmental problems. Policymakers should move environmental policy from the 1970s into the smartphone age. It is the best hope for the environment, and for the respect for personal freedom that is central to the American ideal.

² “Americans’ identification as ‘Environmentalists’ down to 42%,” by Jeffrey M. Jones, Social Issues, Gallup, April 22, 2016, at <http://www.gallup.com/poll/190916/americans-identification-environmentalists-down.aspx>.

2. Policy Recommendation: Move beyond the fail-and-blame approach to energy policy

Washington state’s climate policy is in shambles. The best way to describe the present approach of officials to climate policy is “fail-and-blame.”

For example, when Seattle officials failed to meet their own carbon reduction targets they blamed oil companies, not their own flawed policies. In 2015, Governor Inslee failed to get even a floor vote on his cap-and-trade tax proposal and blamed Republicans, even though it was his own House Democrats who killed his bill.

The Governor refused to compromise on his plan, demanding billions of dollars in new government spending, and threatening to kill any plan that did not include new taxes. For him, raising taxes was more important than passing an effective climate policy.

The Governor then sought to use regulation to push carbon reduction requirements. That regulatory approach, however, would do more harm than good.

Any state regulation faces a fundamental tension. If costs go too high, carbon-emitting industries would simply leave the state, moving to where costs are lower. This would likely increase worldwide emissions, undermining the goal of carbon reduction. The Governor’s initial carbon rules would have actually paid companies to shut down and leave the state, taking their emissions with them.

If the regulation exempts what are called “trade exposed, energy intensive” industries, the regulation would exempt a large number of emitters, making it impossible to achieve meaningful carbon-reduction targets.

Three constructive steps

To break the cycle of fail-and-blame, policymakers should consider simple approaches that build bipartisan cooperation. There are three constructive steps they can take.

First, do no harm. The sad truth about most of Washington state’s climate policies over the last ten years is that they have increased carbon emissions or wasted millions of dollars on trendy projects that accomplished nothing.

Snohomish County officials spent public money on a canola-crushing plant to power their diesel fleet with locally-grown biodiesel.³ Currently the costly plant produces nothing.

Subsidies for electric cars go overwhelmingly to the wealthy, yielding tiny environmental benefit at very high cost. Wasting public money is wasting time and the opportunity to cut emissions. Public officials have wasted a lot of both. This needs to stop.

Embracing technological improvements

Second, while many environmental activists say we must force a lifestyle change, embracing improvements in technology is a much better approach.

Left-wing environmental groups argue we need to change our lifestyle to reduce climate change. Bellingham activist John de Graaf wrote that “lifestyle change [is] needed” to reduce carbon emissions. Taxpayer-funded King County Eco-Consumer Tom Watson lamented that people were choosing Car2Go rather than public transit. He wrote, “If a new transportation option is resulting

³ “Biofuel companies to repay county,” by Noah Haglund, *The Everett Herald*, May 16, 2012, at <http://www.heraldnet.com/article/20120516/NEWS01/705169864>.

in people getting off public transit...that could be a problem.”⁴ In fact, private Car2Go service can be more fuel efficient per person than subsidized public transit.

The fact is, policies that force people to change their lifestyle do not work and violate the basic American principle that people guide the government, not the other way around.

Technology has done what efforts to force lifestyle change have not. U.S. carbon emissions have been flat or falling since 2000, even as our population has increased. In 2015 U.S. emissions fell to the level of 1993, without a costly and mandatory cap-and-trade system being imposed on people.

Create near-term success

Third, create near-term success. Rather than promote public panic, public officials should focus on incremental, effective and cooperative efforts. Passage of an Environmental Priorities Act, for example, would prioritize efforts that yield the greatest environmental benefit for every dollar spent, thus building confidence that environmental policy can make a meaningful difference.

For a decade, grand climate promises and fashionable policies have failed, wasting time and resources. A pragmatic approach of small, near-term successes and improved technologies is a better way for state officials to help change the political, and the global, climate.

⁴ “Taxpayer-funded ‘Eco-Consumer’ avoids data while attacking private alternative to government program,” by Todd Myers, N.W. Daily Marker, June 12, 2013, at <http://www.nwdailymarker.com/tag/tom-watson/>.

3. Policy Recommendation: Help honeybees by focusing on real science

As honeybee mortality continues at a higher level than usual, there has been a great deal of discussion about what is causing these deaths. For more than a decade, beekeepers have lost an average of 25 percent to 40 percent of their hives over the winter.⁵ This is significantly higher than the traditional level of about 15 percent.

Some people point to pesticides, particularly one class called neonicotinoids, as the cause. Officials in Seattle and Spokane banned their use for city projects. Thurston County Commissioner Sandra Romero asked the state Department of Agriculture to ban the use of neonics on some types of plants.

This effort to ban neonics, however, distracts from the real causes of honeybee mortality and is more likely to harm honeybees. U.S. Department of Agriculture (USDA) surveys show pesticides of all kinds – not just neonics – account for only about 10 percent of hive losses. About 90 percent of hive mortality is due to other causes.⁶

Overall bee population is increasing

The number of honeybee hives, and the bee population, is actually increasing in the United States since reaching a low in 2008, despite increasing annual mortality. Beekeepers are making up for losses by splitting hives, replacing lost hives with new ones. In fact, the total number of hives in 2015 is roughly equivalent to

5 “Colony loss 2014-15: Preliminary Results,” by Nathalie Steinhauer, et al, Bee Informed Partnerships, BeeInformed.org, May 13, 2015, at <https://beeinformed.org/results/colony-loss-2014-2015-preliminary-results/>.

6 “A national survey of managed honey bees; 2013-14 annual colony losses in the USA,” by Kathleen V. Lee, et al, *Apidologie Journal*, Volume 46, Issue 3, May 2015, at SpringerLink.com, <http://link.springer.com/article/10.1007/s13592-015-0356-z>.

the number in 1995.

The claim that individual hive mortality is destroying overall honeybee population is incorrect. Hive mortality is more about beekeeping efficiency than impact on the honeybee population.

Researchers at the EPA, USDA and other organizations have found that honeybee mortality is due to a variety of pressures, including natural parasites like the varroa mite, lack of genetic diversity, and loss of forage, as well as pesticides.

Help from local communities

There are things we can do to help honeybees in Washington state. When local communities reduce invasive plants, like knotweed and blackberry, they should replace them with native plants that provide similar amounts of nectar. Many farmers are also planting cover crops that provide bee forage.

Ultimately, the solution to hive mortality will be solved by beekeepers on the ground, who have the incentives and information to make decisions about how to keep their hives healthy. This is why commercial beekeepers have lower bee mortality rates than hobbyists – the cost of failure is higher and their ability to deal with problems is greater due to their resources and experience.

Bees will be helped by farmers who benefit from pollinators and who work to reduce the impact of pesticides on honeybees. A rush by policymakers to ban useful pesticides, however, distracts from the real problems and the real solutions to honeybee mortality.

4. Policy Recommendation: Avoid “buy local” mandates and support trade to promote sustainable agriculture

Arguing that buying local food “reduces packaging, refrigeration, storage and transportation, requiring less energy and resulting in less waste,” the Washington Environmental Council helped pass the “Local Farms – Healthy Kids” legislation in 2008.⁷ The law was designed to encourage schools to buy from local farmers, taking funds from the Public School Education Reform budget and other programs to cover the added cost.

The program, however, collapsed because it proved to be unsustainable – financially and environmentally. Still, the concept of buying locally has become fashionable among many environmental activists. Unfortunately, reducing “food miles,” instead of all of the other inputs that matter so much more, is not only bad for consumers, it is bad for the environment.

Avoiding counterproductive policies

Transportation accounts for less than ten percent of the energy involved in growing food and bringing it to consumers. Growing food where yields are high and then shipping the product is far more environmentally friendly than growing food where it is inappropriate, requiring more fertilizer, more water and other inputs to produce lower yields. Local food production often uses more resources than food shipped from areas with better climate and better soil conditions.

Ignoring those inputs leads to counterproductive public policies. The King County Conservation District considered a proposal to promote milk produced in the county, arguing it would be more

⁷ “Growing Our Future, Local Farms – Healthy Kids; How parents can help get locally grown food into our schools” Washington Environmental Council, accessed April 13, 2016, at <http://web.archive.org/web/20151022020252/http://wecprotects.org/files/Local%20Farms-Healthy%20Kids%20Toolkit.pdf>.

environmentally friendly. A quick analysis, however, demonstrated that shipping milk produced by cows in Eastern Washington to King County was far more efficient than trucking tons of hay across the Cascade Mountains to feed cows in King County. Proximity can make a difference, but we must consider more than just the final product.

Reducing fuel and chemical use

National studies estimate that at least 60 million additional acres of farmland – an area the size of Oregon – would be required to locally produce 40 crops at current yields.⁸ Local corn grain production, for example, would require 27 percent more land, 35 percent more fertilizer and 23 percent more chemicals and fuel than current production, despite the fuel used to transport today’s harvests.

Growing these products elsewhere would either mean using significantly more resources or not producing them at all.

Washington policymakers should provide a healthy business environment for farms, orchards and livestock operations of all sizes. They should not impose regulations that favor only large-scale farming and overwhelm small farmers who cannot afford the expertise to keep up with complex regulation. That is a better way to protect family farms in Washington state than the failed Local Farms program, or the costly, counterproductive and unsustainable concept of “buy local.”

8 “Does Local Production Improve Environmental and Health Outcomes?” by Steven Sexton, Agricultural and Resource Economics Update, Volume 13, No. 2, November/December 2009, University of California Giannini Foundation of Agricultural Economics, at <http://giannini.ucop.edu/are-update/13/2/does-local-production-imp/>.

5. Policy Recommendation: Protect the Snake River dams

For many years, environmental activists, mostly from Western Washington, have sought the destruction of four power-producing dams on the Snake River in Eastern Washington.

They say increasing temperatures from climate change will warm the river sections created by the dams, increasing salmon mortality. They say removing the dams would “allow wild salmon to survive and recover in light of the vivid threat they face from a warming climate.”⁹

Losing carbon-free energy

Ironically, removing the dams would conflict with the goal of reducing carbon emissions. The costs of replacing the enormous amount of carbon-free energy produced by the dams would amount to hundreds of millions of dollars annually. These additional costs would not only undermine efforts to move toward carbon-free energy, but would siphon funding away from salmon recovery efforts across the state.

Annually, the four Lower Snake River dams generate about 8.3 million megawatt hours, about eight percent of Washington’s total energy production.¹⁰ The cost of this electricity is one of the lowest in the country. The low cost of dam-generated electricity is one reason executives for REC Solar company say they located their manufacturing plant in Moses Lake.¹¹

9 “Judge criticizes federal plan for restoring Northwest salmon runs; says dam changes must be considered,” the Associated Press, *The Spokesman-Review*, May 5, 2016, at <http://www.spokesman.com/stories/2016/may/05/judge-criticizes-federal-plan-for-restoring-northw/>.

10 E-mail to the author from Dean Holecek, U.S. Army Corps of Engineers, April 26, 2016, copy available on request.

11 “Manufacturing,” Key Industries, Port of Moses Lake, at <http://www.portofmoseslake.com/key-industries/manufacturing/>, accessed April 24, 2016.

The dams produce more energy than all the wind farms and industrial solar panels in the state combined. Imagine the outcry from clean-energy activists if Washington officials removed every wind turbine in the state.

The combined extra costs paid by ratepayers and lost energy-tax revenue to the state would amount to hundreds of millions of dollars a year. To put it in context of salmon recovery, the entire biennial budget for grants coming from the Salmon Recovery Funding board for 2015-17 is \$220 million.¹² Without the Snake River dams, ratepayers and the state would lose each year the equivalent of two years of salmon recovery funding.

Myopic focus on salmon

These high costs are ignored by advocates of destroying the dams. Their myopic focus is on one local salmon population close to the dams, even if that means imposing enormous costs in return for small benefits. For those who want to destroy the dams – at any cost – that myopia is a benefit. They ignore the cost of replacing the electricity, the environmental cost of higher carbon emissions, and the siphoning of public funds from other environmental efforts.

Those who care about the environment and salmon populations as a whole, however, should not be so narrow-minded about waving off these costs. Good policy means considering all environmental costs and benefits of any proposal.

Increasing carbon emissions

Analysis of the full environmental cost of removing the dams shows it might not create a net environmental benefit. By eliminating the equivalent of all wind and solar energy in Washington state, removal would almost certainly increase carbon

12 “Salmon Recovery Funding, Board,” 2015-17 Budget,” Washington State Recreation and Conservation Office, accessed April 30, 2016, at <http://www.rco.wa.gov/boards/srfb.shtml>.

emissions at a time we are trying to reduce them. Dam destruction would cost ratepayers hundreds of millions of dollars a year, putting additional pressure on funding for other salmon recovery efforts around the state.

Destroying the dams would mean the loss of both the electricity and carbon emissions savings. Protecting the dams would preserve secure energy supplies and retain the carbon-reduction benefits provided by clean, renewable hydropower.

6. Policy Recommendation: End use of energy-wasting “green” building rules

Ten years ago, Washington state lawmakers passed a law requiring new schools and state buildings to meet “green” building standards, based on the U.S. Green Building Council’s system of Leadership in Energy and Environmental Design (LEED). Environmental activists claim LEED buildings provide “cost savings, healthier work environments, and a reduced impact on our natural environment.”¹³

“Green” building increase energy use

In fact, “green” building standards consistently fail to live up to these promises, increasing construction costs and, in many cases, increasing energy use.

Claims about “green” buildings have consistently proved to be false. In 2005, the Washington Environmental Council told lawmakers that, “Giaudrone Middle School in Tacoma realized energy savings of 35 percent” under “green” building standards. In fact, Tacoma school records show Giaudrone uses about 30 percent *more* energy per square foot than similar schools built without “green” elements.

Officials at the state Department of Ecology also made faulty claims. Staff there said a “green” school in Spokane “estimates its annual energy savings at about \$40,000 a year.”¹⁴ Data analysis shows the three “green” schools in Spokane use *more* energy per square foot than a traditionally-designed school in the same district.

13 “Washington’s Environmental Priorities; A look back at 12 years of leadership by the Environmental Priorities Coalition,” compiled by Danielle Shaw, Policy and Research Specialist, Washington Environmental Council, February 2015, page 8, at <https://wecprotects.org/wp-content/uploads/2015/12/Past-Priorities-Report.pdf>.

14 “‘Green’ school rules need to be suspended,” by Todd Myers, special to *The Spokesman-Review*, February 28, 2009, <http://www.spokesman.com/stories/2009/feb/28/green-school-rules-need-to-be-suspended/>.

The legislative auditing agency, JLARC, found that most schools built under the state’s “green” mandate perform worse than the average school in the same district.¹⁵

It also costs much more to build under the state’s “green” buildings mandate. In many cases it would take nearly 30 years in supposed energy savings to recover the higher cost of building “green,” longer than the likely lifespan of the building.¹⁶

Ending cookie-cutter building standards

It is time to move away from cookie-cutter building standards. One reason “green” buildings perform so poorly is that architects and engineers already make extremely efficient buildings. The potential savings from LEED rules are small because architects are already building smarter without the mandates.

As with so many trendy environmental policies, public leaders are quick to highlight their support of “green” buildings, relying on architects and developers who have a financial incentive to increase the cost of construction. Real-world experience shows, however, that these promises often fail.

Washington state policymakers should move away from costly and ineffective “green” building standards. Instead, they should allow school officials, architects and engineers to find ways to build efficient buildings that fit district budgets, and thus benefit taxpayers, and are good for the environment.

15 “High Performance Public Buildings: Impact on Energy Use is Mixed,” Washington Joint Legislative Audit and Review Committee (JLARC), Keenan Konopaski, Legislative Auditor, Report 11-7, June 23, 2011, at <http://leg.wa.gov/jlarc/AuditAndStudyReports/Documents/11-7.pdf>.

16 “Green schools getting mixed grades,” by Jim Camden, *The Spokesman-Review*, May 19, 2011, <http://www.spokesman.com/stories/2011/may/19/green-schools-getting-mixed-grades/>

7. Policy Recommendation: Reduce red tape and politics to make the salmon recovery program work for the environment

The Puget Sound Partnership (PSP) agency is supposed to reduce pollution flowing into Puget Sound and increase habitat for salmon and other aquatic species. The PSP is assigned to harmonize conflicting, local approaches and provide a clear and credible voice that prioritizes the use of limited resources.

Frustrating politics and excessive red tape

That laudable goal is being frustrated by politics and excessive red tape. Instead of relying on local experts, the PSP has degenerated into a knot of processes that delay salmon recovery projects. The layers of approval have created the illusion of accountability, when failure is absolved by a myriad of unaccountable councils.

For example, in the Lake Washington/Sammamish watershed, known as WRIA 8, there is a web of decision makers for each project. Local staff report to a board of representatives from local governments. Projects must be approved while also meeting the guidelines of either the Salmon Recovery Funding Board or the Puget Sound Acquisition and Restoration grants.

Here is how one official describe the process:

“Grants are administered by the Washington Recreation and Conservation Office (RCO), and projects proposed for funding must meet the criteria and policies outlined in RCO’s Manual 18 (Salmon Recovery Grants). Additionally, all proposed projects must be represented on the WRIA 8 Four-Year Work Plan and have a clear link to one or more of WRIA 8’s priority recovery strategies.”¹⁷

17 “WRIA 8 Funding for Salmon Conservation,” Water Resource Inventory Area 8, Lake Washington, Cedar, Sammamish Watershed, Salmon Conservation and Restoration, January 6, 2016, <http://www.govlink.org/watersheds/8/funding/default.aspx>.

How to make real progress

Fortunately, there are examples of reducing excessive red tape that show how to make real progress in helping salmon and Puget Sound.

Kitsap County's Watershed Projects Coordinator has walked every foot of shoreline in the county, observing the impact of bulkheads. He found the best course is to modify existing bulkheads and reduce their environmental impact. Existing rules, however, encourage land owners to ignore failing bulkheads out of fear that any changes will invite the government to require that a bulkhead be removed altogether.

The key is to reduce environmental harm rather than focusing on a blind metric like removing bulkheads. Those on the ground, like the Projects Coordinator, understand the best way to help the environment is to work with property owners to repair bulkheads rather than insist on total removal.

The need for local flexibility

Second, local watershed officials need flexibility to see what works and what doesn't. Members of the Nisqually Tribe, for example, use weirs to catch fish in the river and control the fish that make it upstream, to protect wild salmon and preserve the fish's genetics and resiliency. The tribe's environmental director, however, notes the fish are "really clever," and keep finding ways around the weirs. The tribe is learning from its efforts and is continuing to experiment and adapt.

Local experiments are critical to finding ways to improve survivability, genetics and habitat conditions that contribute to stronger and increased fish stocks. Unfortunately, interlocking regulations make experimentation difficult. Real and direct accountability would ensure that watershed managers have the incentive to choose good experiments and learn from the results.

Avoid spreading accountability

Too often, government spreads accountability around, bringing in several agencies and organizations for every decision. While it is good to take advantage of expertise, what occurs more often is that when something goes wrong, fingers point in every direction. Responsibility is so diffused that no one is held accountable and everyone returns to business as usual.

Improving salmon runs would be a benefit to many people, including tribal members, sport fishers and those who care about a healthy environment. Sound experimentation, and the flexibility to create those experiments, can provide the knowledge officials need to make environmental progress.

Additional Resources

“Proposed Spokane ‘green building’ ordinance would increase costs and increase energy use,” Policy Notes, Washington Policy Center, May 6, 2016

“To help Washington’s salmon, let local experts lead,” Opinion/Editorial, Washington Policy Center, February 23, 2016

“Three steps to reducing carbon emissions effectively,” Policy Notes, Washington Policy Center, January 12, 2016

“Yet another unscientific claim about honeybee and pesticides,” blog post, Washington Policy Center, December 6, 2015

“It’s time to bring energy policy into the smartphone era,” Opinion/Editorial, Washington Policy Center, May 8, 2015

“State and city climate policy is mired in symbolism,” Opinion/Editorial, Washington Policy Center, June 26, 2015

CHAPTER FOUR

IMPROVING HEALTH CARE COVERAGE

1. Policy Recommendation: Repeal the Affordable Care Act and allow personal choice in health care

The Affordable Care Act (ACA), or Obamacare, became law in 2010 in a strongly partisan process, with no votes from the minority party in Congress. A majority of the American public has never supported the law and, in recurring polls, most people say they would like to see all or parts of it repealed.

The promises made by the proponents of the law have not been realized. The Affordable Care Act has not provided universal health insurance coverage or “Health Care for All,” as activists said. Sixty percent of people without insurance in 2010 remain uninsured. Hundreds of thousands of people were barred from keeping their existing health insurance, and were forced to give up coverage they liked and buy more expensive insurance instead. The law has not improved the quality of health care for people in the United States. Costs have not decreased and general access to health care has not improved.

Elected officials should repeal the unpopular ACA and replace it with patient-centered health care reform. In that way patients, not government officials, would control their health care dollars and people would make their own health care decisions.

Access to Health Savings Accounts

Policymakers should promote access to health savings accounts and affordable high-deductible insurance policies. The health insurance industry should be deregulated to promote normal competition and to allow companies to sell plans that people want – not plans that bureaucrats believe people need.

Restrictive mandates should be eliminated and people should be allowed to buy plans that fit their specific needs. This would increase competition in the insurance industry, reduce prices and create more flexibility and choices for consumers.

Allow more choice and lower prices

The federal individual and employer mandates should be eliminated. With more choices and lower prices, more people would purchase affordable health insurance for themselves and their families. Mandates would be unnecessary.

Half of the newly insured people covered because of the ACA were simply enrolled by state officials into the expanded Medicaid program. Medicaid was originally a safety-net government insurance plan for the poor, not a plan for able-bodied working adults. The current entitlement program is not financially sustainable.

Welfare entitlements were successfully reformed in the 1990s, making this core social safety-net program financially stable. The Medicaid program should undergo the same type of reform and return to providing basic health insurance for those who cannot afford coverage in the competitive market.

Reduce insurance mandates

Instead of the insurance mandates of community rating and guaranteed issue in the ACA, risk pools should be expanded for high-need and high-cost patients. Overall, policymakers should allow citizens to buy coverage for themselves and their families in a healthy, functioning health care market, while providing safety-net coverage for those who need it.

2. Policy Recommendation: End government-operated health insurance exchanges

Along with the expansion of Medicaid, the ACA created taxpayer subsidies given to people purchasing health insurance in state and federal exchanges, which are meant to function as insurance brokerages. People earning up to 400 percent of the federal poverty level, or \$97,000 a year for a family of four, can receive the subsidy payments.

The exchanges have been plagued by technical problems, and have seen a higher percentage of sick people enroll than government officials expected. This has caused the cost of insurance premiums to skyrocket in the exchanges. State and federal officials have been consistently wrong about how many people would use the exchanges and how much coverage would cost.

Buying insurance without financial penalty

At the same time private, online-insurance exchanges have proven to be much more efficient. However, consumers are punished if they use a private online exchange, because the rules of the ACA deny families the taxpayer subsidy they would otherwise receive.

If people truly need subsidies to purchase health insurance, tax credits or a voucher system would be less costly and more effective than the state exchange subsidies. The government should not create a cumbersome insurance brokerage that competes with the private market. Instead, public policy should work with the market, by allowing people to buy coverage privately without financial penalty.

3. Policy Recommendation: Make coverage more affordable by reducing the number of state mandates

Benefit and provider mandates in health insurance plans reduce access and drive up the cost of health insurance. Each state, through either statute or regulatory action, controls the number and type of mandates required in plans sold in that state. Not all mandates are equal, however. Some mandates add less than one percent to the overall cost of the plan, while others, such as requiring mental health coverage, can add 10 percent to the cost of coverage. On average, each mandate adds 0.5 to 2.5 percent to the overall price of the insurance plan and many states impose dozens of mandates.

Adding cost to family health insurance

The total number of mandates has persistently increased each year and now stands at over 2,000 for the nation and 58 for the state of Washington. Estimates vary, but state-imposed mandates add a minimum of 15 percent to 20 percent to the cost of buying family health insurance.¹

Every state requires mammography screening and maternity care. Breast reconstruction, mental health coverage and alcohol or substance abuse coverage round out the top five mandates and are required in 49, 48 and 46 states respectively.

Imposing mandates people do not need

The problem of course is that not everyone wants or needs these mandated services. The question is, why should the cost of mandated services be imposed on everyone through force of law? Why should an unmarried male be required to pay for maternity

¹ “The Cost of Health Insurance Mandates in Washington,” by Victoria Craig Bunce and J.P. Wieske, Legislative Memo, Washington Policy Center, February 8, 2005, at <http://www.washingtonpolicy.org/publications/detail/the-cost-of-health-insurance-mandates-in-washington>.

care in his health insurance plan? Through mandates the law forces health care consumers to buy coverage they do not want and will never use, which increases the overall cost of health insurance.

Mandates restrict patient choices

The Affordable Care Act makes the mandate problem worse. The law requires that everyone who buys a health insurance plan must pay for many of the same state-level mandates that are driving health care costs up. Consumers are already experiencing increased premium prices, as health insurance companies build in the costs of these added federal mandates.

Mandates restrict patient choices in health insurance plans, force people to buy coverage they don't want or need and, as a result, reduce access and drive up the cost of health care for everyone.

4. Policy Recommendation: Reduce costs by enacting commonsense tort reform

Unlike other western countries, the United States has a very active legal system and hospitals, doctors and other health care providers must constantly manage the impending threat of costly medical lawsuits.

In many states, commonsense tort reform, that is, a reasonable limit placed on the cost of a medical lawsuit, has helped hold costs down and provided a stable physician pool, while still allowing injured patients to have their day in court.

A meaningful cap on damages

A meaningful legal cap on non-economic damages is the most effective element of successful lawsuit reform legislation (injured patients would still receive full payment for all measurable financial losses). To a lesser extent, a statute of limitations on lawsuits and pre-trial screening are often effective in reducing the cost of specific medical malpractice lawsuits.

To control the rise in medical lawsuit costs, Washington state would need to amend its constitution. This would require a supermajority of legislative votes in both houses, a strong coalition of supporters, and broad support from voters.

In Washington state, lawmakers can most effectively reduce the cost of health care lawsuits, slow the rise in overall health care costs and increase patient access to high-quality affordable care by adopting reasonable limits on the non-economic costs of malpractice awards.

A better health care environment

Meaningful and reasonable caps on non-economic jury awards would encourage more doctors to stay in practice in Washington,

would promote greater expertise in key medical specialties, like delivering healthy babies and treating severe neurological injuries, and would make the state a more attractive place to practice medicine. A better health care policy environment would encourage University of Washington Medical School graduates and doctors from other states to open their practices in Washington. This reform would improve the affordability and quality of health care for all Washington residents.

5. Policy Recommendation: Encourage innovation in health services and consumer-directed health care

Allowed to function on their own, creative people in a free market have the ability to develop innovative solutions to the ongoing problems of funding and access in health care that would not work in a rigid government program setting. Policymakers should encourage more of these creative activities, letting private innovators in the market explore what works and what doesn't, and to pass the benefits on to health care consumers.

Innovations such as direct-primary care, convenient walk-in clinics, second opinions through the internet, telemedicine and diagnostic apps for smart phones have already demonstrated what the competitive free-market can offer in improving health care quality.

Government officials should encourage these innovations and should repeal stifling regulatory burdens, such as the competition-reducing Certificate of Need process, that punish bold thinking in creating new health services.

6. Policy Recommendation: Enact meaningful Medicare reform

There is wide agreement that the federal Medicare program is not financially sustainable in its present form. The program's costs are rising, the number of workers paying monthly taxes into the program is proportionately decreasing, and the number of elderly recipients is about to dramatically increase as more members of the baby-boom generation reach age 65.

We now have an entire generation of people that has grown up with Medicare, has paid into it their whole working lives and now expect full medical services in return. We also have people in younger generations who understand the bankrupt nature of the program and do not believe Medicare will still exist when they reach age 65.

A fair and workable solution

A fair and workable solution to the Medicare problem must account for the reasonable expectations of both of these generations, as well as provide reliable health coverage for future generations. As a country, we have an obligation to seniors already enrolled in the program and to those approaching retirement age.

A simple first step to Medicare reform would be gradually to raise the age of eligibility. When the program started in 1965, the average life expectancy in the U.S. was 67 years for men and 74 years for women. Average life expectancy now is 76 years for men and 81 years for women, straining an entitlement program that was not designed to provide health services to people for so long late in life.

Allow people to opt out

Much of the strain could be taken off Medicare by reviving the private insurance market for the elderly by allowing people to opt

out of Medicare voluntarily and allowing those seniors to purchase health savings accounts (HSAs) and high-deductible health plans. Low-income seniors could use vouchers or other type of premium support that would enable them to buy their own health insurance in the private market.

Physicians should be allowed to receive direct payments from Medicare patients or insurance companies, which by law, they cannot do now unless they leave the Medicare program entirely. That would allow wealthier patients to put more money into the system, reducing the political pressure on Congress to find more tax money to increase physician payments.

Building a health insurance nest egg

Future generations should be allowed to continue the individual health insurance they want to keep into retirement. Not surprisingly, younger people as a group are healthier than older people, so as the younger generation saves, their health insurance nest egg could build over their working lives until they need it in later years.

This is the same strategy that millions of people use today to prepare for retirement. The federal government informs people that they cannot rely only on Social Security to support them after age 67, and that all working people need to plan for the expected living expenses they will incur later on. The same should be true of Medicare regarding future health care costs.

7. Policy Recommendation: Reform and modernize the Medicaid entitlement program

The most important first step to reforming the federal Medicaid program is to redesign it so it no longer functions as an unsustainable, open-ended entitlement. Welfare reform in the late 1990s was successful because it placed a reasonable limit on how long able-bodied people could expect to receive taxpayer support. Similarly, to increase personal responsibility, Medicaid recipients should have a co-pay requirement based on income and ability to pay.

Where applicable, able-bodied Medicaid enrollees should have a work requirement. Like welfare, Medicaid should be viewed not as a permanent lifestyle, but as a transition program to help low-income families achieve self-confidence, economic independence and full self-sufficiency.

Rewarding a healthy lifestyle

It is condescending to believe poor families cannot manage their own health care as well as anyone else. Allowing them to control their own health care dollars through subsidized health savings accounts (HSAs) or premium support vouchers would financially reward enrollees for leading a healthy lifestyle and making smart personal choices. It would also show respect for low-income families, allowing them to be treated equally with others in the community.

Local control of the management and financing of entitlement programs works best. States, rather than the federal government, should be placed in charge of administering Medicaid. Block grants and waivers from the federal government would allow states to experiment with program designs that work best for their residents and to budget for Medicaid spending more efficiently.

Maintain the social safety net

The income requirement for receiving subsidized benefits should be returned to 133 percent of the federal poverty level. Medicaid is intended to be a social safety-net for people who need it, not a transfer payment to middle-income people to make them dependent on a government program.

Additional Resources

“Why Washington’s restrictive medical services certificate of need law should be repealed,” by Dr. Roger Stark, Policy Notes, February, 2016.

“Medicare and Medicaid at fifty,” by Dr. Roger Stark, Policy Notes, September, 2015.

“Almost half of insurance exchanges are fighting for survival,” by S.T. Karnick, The Heartland Institute, May, 2015.

“Health care reform: Lowering costs by putting patients in charge,” by Dr. Roger Stark, Policy Brief, July, 2015.

“The Impact of the Affordable Care Act in Washington state, by Dr. Roger Stark, Policy Brief, January, 2014.

“The Patient-Centered Solution: Our health care crisis, how it happened, and how we can fix it,” book by Dr. Roger Stark, January, 2012.

CHAPTER FIVE

IMPROVING PUBLIC SCHOOLS

1. Policy Recommendation: Expand family access to charter schools

Charter schools are public schools that operate free from many of the restrictions placed on other public schools. With this local autonomy, teachers and principals in charter schools are able to create customized educational programs that better meet the needs of children, especially those living in underserved communities.

Another key difference between charter schools and traditional public schools is that children are not assigned to charter schools based on zip code. Parents voluntarily enroll their children in a charter school, while most public school children are assigned to a school by the central school district office, with little choice or input from parents.

Charter schools are popular with parents

The innovative and high-performing programs offered by public charter schools make them popular with parents. Charter schools are the most rapidly expanding school choice innovation in public education since a public school teacher proposed the idea in the early 1990s. Today, there are 6,700 charter schools across the country serving nearly three million students.¹ Last year, enrollment at charter schools jumped by 14 percent nationwide.²

Research shows children attending charter schools are more likely to graduate from high school and to enroll in college.³ In

1 “Estimated Number of Public Charter Schools and Students, 2014-2015,” National Alliance for Public Charter Schools, February 2015, at www.publiccharters.org/wp-content/uploads/2015/02/open_closed_FINAL.pdf.

2 Ibid.

3 “Guide to Major Charter School Studies,” by Liv Finne, Policy Brief, Washington Policy Center, July 23, 2012, at www.washingtonpolicy.org/publications/detail/guide-to-major-charter-school-studies.

2015, the CREDO research group at Stanford University found that learning gains in urban charter schools are dramatic. Urban charter schools add the equivalent of 28 days of additional learning in reading and 40 days of additional learning in math every year. For low-income and minority students the gains are 44 extra days of learning in reading and 59 extra days in math.⁴ A recent study from Vanderbilt University shows that students attending charter high schools are more likely to stay in college and to experience higher earnings in their mid-twenties.⁵

In 2012, Washington became the first state to legalize charter schools by passing a citizen's initiative, Initiative 1240.⁶ Then, in September 2015, Washington became the only state to have its charter schools defunded by state supreme court ruling, which held charter schools cannot receive revenue from the state General Fund.⁷

In 2016, the legislature passed a law which funds charter schools from the Opportunity Pathways Account.⁸ Governor Jay Inslee,

4 "A Rebuttal of Weingarten on the Facts," by Margaret Raymond, Director of the Center for Research on Education Outcomes (CREDO) at Stanford University, *Huffpost Education*, April 15, 2016, at www.huffingtonpost.com/margaret-raymond/a-rebuttal-of-weingarten-_b_9701622.html.

5 "Charter High Schools' Effects on Long-Term Attainment and Earnings," by Tim R. Sass, Ron W. Zimmer, Brian P. Gill and T. Kevin Booker, Association for Public Policy Analysis and Management, Vanderbilt University, 2016, at news.vanderbilt.edu/files/pam_21913_Rev-FINAL-4416.pdf.

6 Initiative Measure No. 1240, "Concerns creation of a public charter school system," Office of the Secretary of State, General Election results, November 6, 2012, at results.vote.wa.gov/results/20121106/Initiative-Measure-No-1240-Concerns-creation-of-a-public-charter-school-system.html.

7 League of Women Voters of Washington, *El Centro de la Raza*, Washington Association of School Administrators, Washington Education Association, Wayne Au, Pat Braman, Donna Boyer, and Sarah Lucas v. State of Washington, En Banc Opinion, Supreme Court of the State of Washington, September 4, 2015, No. 89714-0, at www.courts.wa.gov/opinions/pdf/897140.pdf.

8 ESSSB 6194, "Concerning public schools that are not common schools," enacted April 3, 2016, without Governor Inslee's signature, at app.leg.wa.gov/billinfo/summary.aspx?bill=6194&year=2015.

while not an active supporter of charter schools, agreed to let the bill become law without his signature.

Washington has eight charter schools, located in Seattle, Highline, Kent, Tacoma and Spokane. The schools are oversubscribed and must maintain waiting lists of families seeking to enroll. Two-thirds of the 1,200 students attending these schools come from low-income families and 70 percent are minority students.

Many parents in Washington, particularly in underserved communities, regard charter schools as offering a better option for learning than their local public school.

Current state law limits the number of charter schools to no more than 40, in a public system of more than 2,000 schools. Forty charter schools are insufficient to meet current demand from families, let alone the increasing needs of underserved families in the future.

Repeal the cap on charter schools

Lawmakers should dramatically increase, or better yet, repeal, the artificial limit on the number of public charter schools that can serve children in the state.

Given their popularity with parents, and the bipartisan support behind passage of the charter school law, lifting or removing the limit is well within the ability of the legislature. Expanding family access to charter schools is part of fulfilling the state's paramount constitutional duty to provide for the education of all children living within the state.⁹

⁹ "Article IX, Section 1, Education," Constitution of the State of Washington, 1889, at leg.wa.gov/LawsAndAgencyRules/Pages/constitution.aspx.

2. Policy Recommendation: Expand access to family choice in education

Over the past 20 years, officials in more states have recognized that parents need greater family choice in public education, because it improves learning outcomes for children. United States Senator Tim Scott (R-SC) summarized the commonsense reasons for giving parents more options in the education of their children:

“We know that when parents have a choice, kids have a better chance. There is an education crisis in American and too many children are being left behind simply because of their zip code.”¹⁰

Helping parents get involved in making education decisions is the purpose of school choice programs. These programs provide a variety of ways, including scholarships, vouchers, tax-credit programs, Education Savings Accounts, charter schools and online learning, that give parents the means to decide how their children are educated.

Family choice in education is common in other states

Family choice programs are now common across the country. Twenty-four states and the District of Columbia operate 51 family choice learning programs that fund the education of more than 300,000 students. Under these programs families direct the public education funding to which they are entitled to the private school of their choice. Family choice programs include directing funding to public schools as well – the key is that parents, not central office bureaucrats, direct resources in the best interest of children.

Parent choice in education improves public schools by giving administrators a strong incentive to serve the needs of families first, ahead of vested political interests in the system.

10 “U.S. Senator Tim Scott to keynote American Federation for Children Policy Summit,” e-mail announcement, American Federation for Children, April 20, 2016.

The education monopoly provides less service at higher costs

Without incentives, school districts often provide less service at higher costs, and suffer recurring union strikes, because the career professionals know the education monopoly will protect the flow of funding, even when schools fail to educate students.

Top-down efforts at school accountability have not worked. Accountability measures are routinely manipulated to create the appearance of improvement, when in reality the rigor of academic learning standards is being reduced. For example, in August 2015 members of the State Board of Education lowered the standard for passing state tests in English and math from a 3 to a 2.5, backing away from the promise to make all students “college and career ready.”¹¹

Family choice creates accountability

Family choice in education creates real accountability. Parents think carefully about the learning needs of their children, and cannot be gamed, threatened or silenced. School choice allows parents assigned to low-performing schools the option of sending their children to an alternative school or online program that meets their needs and, most importantly, to direct their children’s public education funding to where it will do the most good.

11 “State Board of Education sets lower bar on Common Core tests,” by Donna Blankenship, Associated Press, August 5, 2015, at komonews.com/news/local/state-board-of-education-sets-lower-bar-on-common-core-tests.

3. Policy Recommendation: Allow Washington parents access to state-funded Education Savings Accounts (up to \$9,000 per child)

In Nevada, Governor Brian Sandoval and state lawmakers have enacted one of the most forward-looking education funding reforms in the country, centered on family-based Education Savings Accounts.¹²

This progressive program gives parents access to a state-funded Education Savings Account (ESA) for families that want one. The program is 100 percent voluntary. Parents are not required to take any action if they choose not to, and all children retain the right to attend a state-funded public school.

Voluntary ESAs open new learning opportunities

Under the voluntary ESA program, parents can arrange for their children to receive instruction from licensed private schools, other eligible institutions, online programs and accredited tutoring companies and non-profits. The public funding which their children receive is placed in an account devoted solely to education. Parents in Nevada who request an ESA receive about \$5,000 per child. The liability for taxpayers is limited; parents are responsible for any education expenses beyond the amount provided by the ESA.

Parents who are not interested in an ESA do not need to do anything. Their children can still attend public schools for free. Nevada is the fifth state to provide parents with a voluntary ESA program, but it is the only universal program in the nation, open to all families upon request on an equal basis.

Lawmakers in Arizona, Tennessee, Florida and Mississippi

12 Senate Bill 302, “An act relating to education...,” Legislature of Nevada, signed by Governor Brian Sandoval, May 29, 2015, at www.leg.state.nv.us/Session/78th2015/Bills/SB/SB302_EN.pdf.

also offer parents Education Savings Accounts. These programs are not universally available, however. Instead they offer voluntary participation to families with students attending failing public schools, students with disabilities, students in foster care and students from active-duty military families. In addition, Arizona offers access to ESAs to families living on Indian reservations.

Avoiding the constant conflict and politics in public education

Parents are the primary educators of children. The presence of parents in the life of a child is permanent and ongoing, while teachers and administrators have a transitory relationship with students.

Public education in Washington state is complex and rife with conflict and politics. It is important for state policymakers to recognize, and respect, the role of parents in directing the education of children. Parents are primarily concerned about the long-term welfare of their children, not with the latest union strike that has closed the local public school.

Critics of family choice in education say parents cannot be trusted with too great a voice in public education. Yet parents make all the important decisions about nutrition, health care and development in the life of a child. In public education, however, the choices of parents are severely limited by lawmakers and administrators. Wealthy families have access to a range of educational opportunities for their children that are not available to most families.

ESAs level the playing field

Education Saving Accounts offer a way to level the playing field, by providing low-income and working families access to the same opportunities enjoyed by upper-income households, and to escape being restricted to a choice of one – the local public school monopoly – based solely on zip code.

4. Policy Recommendation: Simplify school spending with “fund the child” budgeting

The funding of public education in Washington state is hopelessly complex, with the result that the public, and many policymakers, have no idea how much school districts spend to educate children. The result is that only 60 cents of every education dollar reaches the classroom, less than half of school employees are teachers and, in the confusion, the public is prevented from holding education officials accountable.

The people of Washington state need a clear and transparent measure of whether state officials are fully funding public schools. Current measures are so twisted and unclear that the public is uninformed about how much the state, local and federal taxpayers provide to fund the K-12 schools.

A better measure of school funding

A better measure of funding schools is called “fund the child,” which has revitalized schools across the country. This approach has proved successful in public schools in Cincinnati, Baltimore, San Francisco, Houston, St. Paul and Oakland, and there are pilot programs to test the idea in Boston, Chicago and New York City.

Under this system, school funding is measured by the cost of funding each child, which is expressed in a set dollar amount. The individual student grant follows the child to the public school of the family’s choice.

Funding for each child can include a dollar multiplier to assist children who require more resources, such as disabled children, children with limited English proficiency and poor children. For example, the typical student may receive \$13,000 a year in funding for education, while a disabled student would receive \$26,000.

Showing how much lawmakers provide to each child

Devoting these dollars to local schools allows principals to decide how best to educate children. It also allows the public, including parents, teachers and child advocates, to know just how much lawmakers are providing for each child, and to compare this amount with what they provided in past years. A clear, per-student method of funding would show whether the legislature is fulfilling its constitutional duty to provide for the education of every child living in Washington.

5. Policy Recommendation: Shift from funding staff ratios to funding children’s needs

Currently, Washington lawmakers allocate funding to the schools based on the number of teachers and defined classroom sizes, in addition to other staff ratio formulas. Education money is spent according to a pre-set salary grid, and the system blindly pays teachers based on seniority and training credits, not on teaching skill.

In this system, no account is taken of actual student needs, nor does it show respect for the best-performing teachers. It also does not weed out ineffective teachers. Under staff ratio funding bad teachers and good teachers are paid the same. If parents complain, bad teachers are simply re-assigned to another classroom or another school, an administrative round-robin called the Dance of the Lemons.

Reducing the control of central bureaucracies

Staffing ratios are controlled by central bureaucracies. Local principals have little flexibility in directing public resources in ways that benefit students. As a result, principals are tangled in a thicket of budgeting and staffing rules. Principals in Washington public education control less than five percent of the money their schools receives.

Researchers at the legislature’s Joint Legislative Audit and Review Committee (JLARC) reported that:

“In most cases, central administrators determine the number of certificated and classified staff assigned to individual schools. Almost 96 percent of districts responding to JLARC’s survey said that central administrators determine whether to hire additional teachers and 89 percent said central administrators determine the number and type of classified

staff employed at each school.”¹³

Focusing on students

Shifting to student-focused funding would ensure that every student receives the resources his or her local school requires to provide a high-quality education. It would be fair to students because it would give principals control over hiring and teacher assignments in a way that weeds out bad performers and ensures that every teacher has the skill and experience to meet the learning needs of children.

¹³ “K-12 School Spending and Performance Review, A Preliminary Report,” State of Washington Joint Legislative Audit and Review Committee (JLARC), September 14, 2005, page 17.

6. Policy Recommendation: End the restrictive Prototypical School Model

In the *McCleary* lawsuit, executives at the WEA union sued the state, saying lawmakers had not provided enough funding for public schools under the Prototypical School Model, a funding approach enacted by the legislature in 2009 under bill HB 2261.¹⁴

The bill defined the official meaning of “basic education” by mandating precise staffing ratios and creating twenty work categories, like “media specialist,” “social worker,” and “technology staff.” The authorizing law provided that every school district had to hire a set number of employees in each category for every 1,000 students.

Teachers must join the union or face termination

The prototype school concept is unproven and expensive. It serves the interests of the union because it requires the hiring of a certain number of staff, regardless of the real needs of students. Under Washington’s monopoly school system every new teacher must join the union and pay monthly dues or face termination.

Public charter schools and private schools, however, do not use strict employee categories or prototypical models and in general they produce better learning outcomes for children. Charter and private school administrators realize there is no such thing as a prototypical child, and they assign teachers and other professional staff based on the individual needs of students.

In public charter and private schools there is no requirement that teachers and other staff join the WEA union and pay dues each month, allowing them to avoid much of the politics and controversy associated with unions. Instead, they focus on the craft of teaching.

¹⁴ *McCleary*, et.al. vs. The State of Washington, Supreme Court Case No. 84362-7, January 5, 2012, at www.courts.wa.gov/opinions/pdf/843627.opn.pdf, and ESHB 2261, “Concerning the state’s education system,” Legislature of Washington state, signed by Governor Christine Gregoire, May 26, 2009, at apps.leg.wa.gov/billinfo/summary.aspx?year=2009&bill=2261.

Overreach in the controversial *McCleary* case

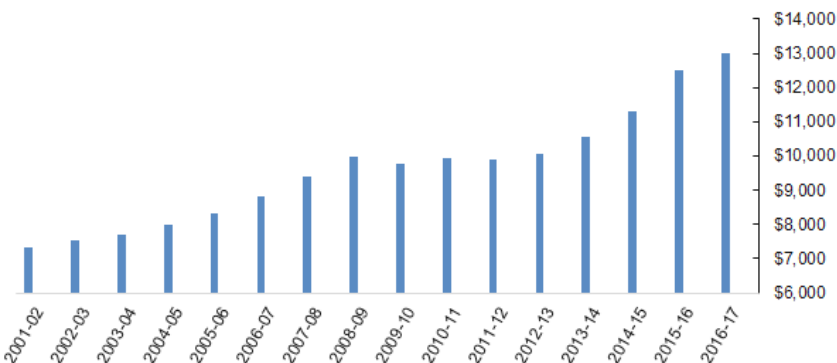
The state supreme court agreed with the union in the *McCleary* case and ruled the state had failed to fully fund education based on the Prototypical School Model. The court was accused of overreaching in the controversial case, seeking to act as lawmakers as well as judges. Still, in the effort to satisfy the court, lawmakers enacted massive increases in education spending, without fundamentally changing the way money is spent.

The legislature increased school funding by \$4.7 billion, from \$13.5 to \$18.2 billion, over two budget cycles. This permanently increased school funding by one-third, raising the spending to \$9,024 per student. Counting local and federal spending, total per-student spending rose to almost \$13,000 a year, a remarkable 33 percent increase and the highest in state history.¹⁵

Increases in education spending since 2001

The graph illustrates the dramatic increases in education spending since 2001, in an effort to gain improvements for children by adding money to school district budgets.

The rise in per-student education spending in Washington state, combined state, local and federal sources, 2001-2017 (enacted)



Source: “Workloads/Staffing and Finance,” Washington State K-12 Finance Data, 2000-16, and Senate Ways and Means Committee, for 2016-17 projection

15 “The Paramount Duty Series,” by Senator Andy Hill, Chair, Washington state Senate Ways and Means Committee, 2016, Footnote 29, at andyhill.src.wastateleg.org/the-paramount-duty-series-2/.

Although lawmakers have increased public education spending dramatically, the *McCleary* decision has not succeeded in reforming the way public money is spent. Higher funding based on the Prototypical School Model and strict staffing ratios has not improved the quality of schools for students, although it has boosted the finances and power of WEA union executives. The public school drop-out rate remains high, academic achievement is flat, and Washington’s achievement gap between minority and white students remains a significant problem.

Improving the way public money is spent

Ending the restrictive Prototypical School Model would allow improvements in the way public money is spent for the benefit of students. It would stop the practice of simply adding money to a flawed system while hoping against hope for better results. Meeting the real needs of real students, not their perceived “prototypical” needs, would lead to higher-quality public schools and better learning outcomes for students.

7. Policy Recommendation: Repeal life-time tenure rules and certification limits that keep the best teachers out of public schools

Washington state law bars any person from teaching in a public school without a formal teaching certificate (the prohibition does not apply to private schools). Yet, a Harvard Graduate School of Education study shows that a formal teaching credential “matters little” in raising student achievement.¹⁶

Teaching certificates do not guarantee teacher quality

The study found that the teacher’s mastery of lesson subject matter is far more important to student learning than a state-issued certificate. In theory, an official certificate is supposed to guarantee teacher quality. In the real world of classrooms and children, however, there is a marked difference between checking off certificate requirements and being a good teacher.

The legislature has granted private schools the advantage of hiring based on quality and experience rather than paper credentials. Members of religious orders are often skilled and caring teachers, and are not required to have a state-issued certificate. Many private schools hire faculty who hold doctorate degrees or are experienced business professionals, but never completed state certificate requirements. These are not elite schools; they are often located in low-income neighborhoods and their teachers take on the noble work of educating the hardest-to-teach students.

Effective teachers raise student achievement

In addition, teacher tenure laws grant automatic lifetime employment to public school teachers after three years, making it

¹⁶ “Photo Finish: Teacher certification doesn’t guarantee a winner,” by Thomas J. Kane, Jonah E. Rockoff and Douglas O. Staiger, *Education Next*, 2008, at educationnext.org/photo-finish/.

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nearly impossible to fire a bad teacher in a public school. Private schools, in contrast, are legally permitted to hire and fire staff at will, allowing private schools to dismiss poor performers and continuously improve teacher quality.

Research shows that an effective teacher in the classroom is more important than any other factor, including smaller class size, in raising student achievement.¹⁷ A good teacher can make as much as a full year's difference in the learning growth of students.¹⁸ Students taught by a high-quality teacher three years in a row score 50 percentile points higher on standardized tests than students of weak teachers.¹⁹ The research also shows that students taught by a weak teacher two years in a row may never catch up.

The research shows the best teachers have:²⁰

- Mastery of the subject matter;
- Five years or more of teaching experience;
- Training in content knowledge and high levels of classroom competency;
- Strong academic skills, intellectual curiosity and an excitement about learning for its own sake.

17 "Teacher Pay, The Political Implications of Recent Research," by Dan Goldhaber, University of Washington and Urban Institute, The Center for American Progress, December 2006, at www.americanprogress.org/issues/2006/12/teacher_pay.html.

18 Ibid.

19 "Cumulative and Residual Effects of Teachers on Future Student Academic Achievement," by William L. Sanders and June C. Rivers, Value-Added Research and Assessment Center, University of Tennessee, November 1996, at www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf.

20 "Teacher quality and student achievement research review," by Policy Studies Associates for the Center for Public Education, November 2005, at www.centerforpubliceducation.org/site/c.kjJXJ5MPIwE/b.1510983/.

Creating renewed respect for teachers

Teachers should be hired based on a knowledge and a sense of excitement about the subject they will present to students. Teachers who show results, regardless of certification status, should be rewarded and encouraged. Teachers who do not should be asked to find other work, regardless of artificial certification and tenure rules.

Lawmakers can level the playing field by letting public schools be managed as well as their private-sector counterparts. Repealing life-time tenure rules and ending the limits on teacher hiring would allow public schools to compete for the best teachers, while drawing new talent into the profession. The result would be renewed respect for teachers, because they had clearly earned their position, and, most importantly, a better learning environment for public school students.

Additional Resources

“Education money for families: How Education Savings Accounts can help children learn in Washington state,” Policy Brief, Washington Policy Center, January 2016

“Opening New Doors for Students: A look at Washington first public charter schools,” Policy Brief, Washington Policy Center, June 2014

“Does increasing public school spending improve learning outcomes for children?” Legislative Memo, Washington Policy Center, February 2014

“WPC’s Education Reform Plan: Eight practical ways to improve schools,” Policy Brief, Washington Policy Center, July 2012

“An Option for Learning: An assessment of student achievement in charter public schools,” Policy Brief, Washington Policy Center, January 2011

CHAPTER SIX

OPEN AND ACCOUNTABLE GOVERNMENT

1. Policy Recommendation: Make the remote testimony for citizens permanent

The Washington state Senate recently began a pilot program, based on a Washington Policy Center recommendation, to allow citizens to testify at a legislative hearing from a remote location. The program allows ordinary people from around the state to participate in a public hearing without the time and expense of traveling to Olympia. Remote testimony is popular with citizens and with lawmakers.

According to a 2013 survey by Washington State University, 72 percent of lawmakers and lobbyists answered “yes” to the question: “Should video conferencing be used to allow constituents to provide remote testimony?”¹

Greater access for citizens

Due to its success, Washington’s current remote testimony program should be made permanent and extended to include House committee hearings. Allowing the public to give remote testimony from fixed locations around the state would give citizens greater opportunity to be part of the lawmaking process.

It would also help Washingtonians avoid difficult travel during the winter months when the legislature is in session, especially when the snowy Cascade Mountains cut Eastern Washington off from the state capitol.

1 “Washington State Legislative Service Project: Legislators 2013,” by Francis Benjamin and Nicholas Lovrich, Division of Governmental Studies and Services, WSU at http://www.washingtonpolicy.org/library/docLib/legislator_full_report_2013.pdf.

Even in mild seasons, getting to Olympia to provide testimony requires a full day of travel for many Washingtonians. Consider the following driving times under the best traffic conditions:

- Spokane to Olympia — 320 miles (5 hours, 14 minutes)
- Walla Walla to Olympia — 303 miles (5 hours, 7 minutes)
- Kennewick to Olympia — 256 miles (4 hours, 20 minutes)
- Bellingham to Olympia — 149 miles (2 hours, 27 minutes)
- Vancouver to Olympia — 106 miles (1 hour, 45 minutes)
- Everett to Olympia — 89 miles (1 hour, 30 minutes)

Remote testimony can instantly overcome these distances and provide all Washingtonians the chance to be part of the legislative process. According to the National Conference of State Legislatures, several states already provide a remote testimony option for their citizens.

Although there is broad support for allowing remote testimony, there is concern that it would be disruptive to the current hearing process. To avoid disruptions, committees could establish rules for those wishing to provide remote testimony.

Use online sign-up sheet

For example, an online sign-up sheet could be used to place citizens in a queue managed by committee staff. Signing-up for remote testimony could be required the day before the hearing (assuming proper notice of the meeting is given), so the committee chairman would know in advance the number and location of people who want to speak.

A committee could first hear from people present in the hearing room in Olympia, with time reserved for those participating remotely. The committee chairman could determine how much remote testimony to take per bill. As is the case with those attending a hearing in person, being in the remote testimony queue would not guarantee a chance to testify, because of the hearing's overall time constraints.

2. Policy Recommendation: Lawmakers should improve public notice and ban the use of title-only bills

Washington’s lawmakers have adopted rules on paper that let the public participate in the legislative debate, but the casual way they routinely waive the rules undercuts these important public protections.

The state House of Representatives says one of its official goals is to, “increase public participation, understanding, and transparency of the legislative process...,” and to, “enact high quality legislation through debate and collaboration that is thoughtful and responsive, and honors our diverse citizenry.”²

This commonsense principle reflects a fundamental premise of our democracy: Citizens should be able to comment on the proposed laws we may have to live under to ensure lawmakers are informed about our opinions and expectations.

The legislature’s rules require that:

“At least five days notice shall be given of all public hearings held by any committee other than the rules committee. Such notice shall contain the date, time and place of such hearing together with the title and number of each bill, or identification of the subject matter, to be considered at such hearing.”³

Title-only bills

The rules supposedly prohibit so-called “title-only bills,” a blank bill with a title and a number, but with the text to be filled in later.

² “House Mission Resolution,” Washington State Legislature, passed January 18, 2006, at <http://leg.wa.gov/House/Documents/HouseResolution.pdf>.

³ “Permanent Rules of the Senate,” Washington State Legislature at http://leg.wa.gov/Senate/Administration/Pages/senate_rules.aspx, accessed April 2016.

In practice, legislators often introduce title-only bills anyway. Title-only bills are not a transparent way to introduce changes to state law; they are essentially used by lawmakers to circumvent the state constitution. New bills are not supposed to be introduced in the last ten days of the session, unless two-thirds of lawmakers agree.

To get around this constitutional restriction, some lawmakers introduce title-only bills late in the session as a placeholder, so they can put in the real text later without having to secure the required two-thirds vote.

Legislative transparency

If the constitutional protection is truly preventing lawmakers from being transparent and doing their work, they should propose a repeal of the 10-day limit and replace it with legislative transparency protections that would:

- Provide mandatory public notice and waiting periods before legislative action;
- Truly ban title-only bills;
- Have the legislature follow the same transparency standards as local government.

In 2013, lawmakers introduced proposals to implement these legislative transparency requirements (Senate Bill 6560 and its companion House Bill 2369), but these measures did not receive a public hearing.

SB 6560 would have improved public hearing notice and banned title-only bills, and would have forced the legislature to make decisions the same way city and county officials do. It would have prevented committees from going into recess, as members negotiate secret agreements on amendments, then coming back into public session to vote on them formally.

Enacting legislation like that proposed by SB 6560 would enhance transparency and bolster public confidence in the law-making process.

3. Policy recommendation: The legislature should make itself subject to the Public Records Act and the Open Public Meetings Act

All state and local government entities in Washington are subject to the Public Records Act and the Open Public Meetings Act, except for the legislature, which is exempt from full disclosure under the claim of “legislative privilege.” This is why state lawmakers are able to go into an executive session to develop strategy and privately discuss why they do or do not support a bill, while local governments are prohibited from using executive sessions to discuss public policy decisions.

Nearly all local government records and internal communications are subject to public disclosure, but members of the legislature and their staff claim legislative privilege and do not routinely release emails and other internal policy related records to the public.

This double standard understandably irritates local government officials, who must operate under a different standard of disclosure. It is also a disservice to citizens, who are denied the fullest disclosure of the records and activities of their state lawmakers. To lead by example, the legislature should subject itself to all the requirements of the Public Record Act and Open Public Meetings Act on the same basis as other public entities in Washington.

4. Policy Recommendation: Adopt constitutional reform to require a two-thirds vote of lawmakers to change a voter-approved initiative

Article 1, Section 1 of the state constitution says, “All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.”

The clear authority of the people over their government means that, before any legislative powers are granted, the people reserve for themselves co-equal lawmaking authority. This sovereign authority is explained in Article 2, Section 1:

“The legislative authority... shall be vested in the legislature, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature. (a) Initiative: The first power reserved by the people is the initiative.”

Despite reserving this power to enact laws, it is very difficult for citizens to qualify an initiative for consideration. The number of valid signatures needed to put an initiative on the ballot is eight percent of the votes cast for Governor in the most recent election, or about 246,000 signatures.⁴

⁴ “Current Petition Check Statistics,” Elections and Voting, Office of the Secretary of State, Olympia, Washington, at <https://www.sos.wa.gov/elections/initiatives/faq.aspx>, accessed April 2016.

5. Policy Recommendation: Reduce the number of statewide elected offices

At present the people of Washington elect officials to nine statewide offices (not counting justices to the state supreme court). These offices are Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner. Yet for many years there has been a debate about whether this is the most effective way to structure our state government.

One view holds that the best approach is using the “long ballot” to institute the greatest amount of direct democracy, by requiring election of a large number of high-level state officials. This reasoning dates from the Progressive Era of the early 1900s.

Others argue a “short ballot” approach is better because the people choose a limited number of top officials, who are then held uniquely responsible for the proper functioning of government. Proponents of this view say that in practice most people don’t know who is elected to minor state-wide offices and that elected officials are subject to greater public scrutiny when there are fewer of them.

All statewide elected offices, except for Insurance Commissioner, are established by the state constitution. The Insurance Commissioner is also the only one for which the legislature, not the constitution, has established the elective nature of the office.

Many top elected offices are similar to appointed positions

In contrast to the nine elected positions, all other senior officials in the executive branch are appointed by the Governor. They make up the Governor’s cabinet and include many important positions.

Here are some examples:

Secretary of Social and Health Services, Director of Ecology, Director of Labor and Industries, Director of Agriculture, Director of Financial Management, Secretary of Transportation, Director of Licensing, Director of General Administration, Director of Revenue, Director of Retirement Systems, Secretary of Corrections, and Chief of State Patrol.

The duties and responsibilities of these appointed officials are similar to, and often more important than, those of minor elected officials, like the Secretary of State, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner.

Ending policy conflicts within the executive branch

Today, Washington's eight other statewide elected officials are independent of the Governor. They lobby the legislature independently, and even work against what the Governor is trying to accomplish. Any such conflict is easily resolved in departments that are administered by appointees. If a policy disagreement arises among cabinet officers, the Governor settles it by formulating a single, unified policy for his administration.

Similarly, if the legislature is unable to reach agreement with a cabinet official over important legislation, the dispute can be taken "over his head" to the Governor. The Governor may or may not agree with the position the cabinet appointee has taken, but at least the legislature will get a final answer. The legislature would know that, through the Governor, the executive branch speaks with one voice.

Increasing the accountability of the Governor

The reason this works is that the Governor has direct authority over the performance of appointed officials. They serve at

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his pleasure and are answerable to him. The Governor in turn must report to the voters for the overall performance of the administration.

The state constitution should be amended to abolish the Secretary of State, Superintendent of Public Instruction and Commissioner of Public Lands as independently-elected statewide officials. The way the Insurance Commissioner is selected can be changed by the legislature.

These four positions should then be restructured as cabinet agencies headed by appointees, making the Governor fully accountable to the people for the actions of these departments of the executive branch.

6. Policy Recommendation: Amend the constitution to allow district elections for supreme court justices

Under the constitution all state supreme court justices are elected statewide. This increases the costs of these races and in practice means that most candidates come from the Puget Sound region. As currently conducted, supreme court elections do not provide geographic and cultural representation on the state's highest court.

To improve geographic representation on the supreme court, elections should be changed to district elections. This would provide more regional diversity and help reduce the cost of running for office, while providing candidates more time to focus on voter outreach, debates and forums in their area of the state.

Only one of the nine justices on the court once lived in Eastern Washington at the time of taking office appointment. Had Justice Debra Stephens not won election, *all* of the state's supreme court justices would be from the Puget Sound region.

In recent years, any justices who did come from Eastern Washington got their start on the court through appointment. Justice Stephens was appointed by Governor Gregoire. Justice Richard P. Guy was appointed by Governor Gardner. Recent practice shows that unless a Governor makes an appointment, Eastern Washington is unlikely to be represented on the state supreme court.

Increasing geographical representation on the court

Justices are not elected as representatives, but they are charged with making impartial decisions, and the life experiences of those who serve on the court are important in making those decisions. Many people argue that gender and ethnic diversity should be represented on the court. The same could be said of geographic and cultural diversity across Washington state.

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Election by district is a well-established system for choosing justices. Ten states use districts for the election or appointment of justices:

- Four states, Illinois, Louisiana, Kentucky and Mississippi, elect justices by district;
- Six states, Florida, Maryland, Nebraska, Oklahoma, South Dakota and Tennessee, appoint justices by district.

Changing to district elections for supreme court justices would make the highest court fully reflective of “One Washington,” rather than a part of state government dominated by the Puget Sound region. District elections would create more choices for voters, reduce election costs, and encourage more qualified people to run for public office.

Additional Resources

“District elections for supreme court gets public hearing,” blog post, Washington Policy Center, January 29, 2015

“Providing opportunity for remote testimony and improving public notice,” blog post, Washington Policy Center, March 3, 2014

“Reducing Washington’s ‘long ballot’ for elections, time to restructure statewide elected policy offices,” Policy Notes, Washington Policy Center, August 2008

Title-only bills used to circumvent state constitution,” blog post, Washington Policy Center, March 18, 2013

CHAPTER SEVEN

CREATING JOBS AND PROTECTING WORKER RIGHTS

1. Policy Recommendation: Replace the Business and Occupation tax with a Single Business Tax

Washington’s Department of Revenue defines the Business and Occupation (B&O) tax as a tax on “gross receipts of all business operating in Washington, for the privilege of engaging in business.” The term gross receipts refers to total yearly business income - the total value of sales, or the total value of products, whichever is applicable. The B&O tax is the second largest source of revenue for the state, after the sales tax.

As a levy on gross receipts, the B&O tax does not allow business owners to deduct the cost of doing business, such as the payments they make for materials, rent, equipment or wages, when they calculate how much they must pay.

A system riddled with loopholes

The B&O tax creates severe distortions and puts Washington employers, especially small and start-up businesses, in an anti-competitive position. To try to fix these unfair conditions, the legislature has passed numerous special deductions, credits and exemptions as a benefit to some industries. At the same time, lawmakers have raised B&O tax rates as a way to increase their revenue while giving some industries favored treatment. The result is a complex system of high tax rates riddled with hundreds of loopholes and special exemptions.

There is a better way - a simple, fair Single Business Tax. While based on total receipts like the B&O tax, a Single Business Tax would eliminate the current system’s unfair and confusing tangle of tax rates and tax breaks and replace it with a simplified system that treats all business owners equally and uses one fair, flat rate.

How it would work

Each year business owners would choose one of three ways to calculate how much tax they owe, and they would be allowed to use the method that results in the lowest tax burden. Business owners could calculate their tax based on either the businesses’:

1. Total gross receipts minus labor costs, or;
2. Total gross receipts minus all production costs except labor, or;
3. 60 percent of total gross receipts.

To find the dollar amount of tax owed the business owner would then multiply the taxable receipts by the Single Business Tax rate.

Cities could levy their own business taxes, but the same uniformity standard would apply – any local business tax would have to be based on a single rate applied equally to all business owners, with no loopholes, special exemptions or political favoritism.

The business owner would send the final amount owed for each taxing jurisdiction to the state in one payment. State officials would then place the revenue from the state business tax in the treasury, and distribute the local business tax revenue to different local governments.

A simpler, fairer tax

This proposal would eliminate today’s confusing list of over 40 tax rates that state officials now impose on business activities every year. It would repeal the layers of special-interest tax credits and exemptions that have built up over the decades, and would provide relief to small businesses with low profitability. The Single Business Tax could be phased in over several years to allow time for citizens and policymakers to adjust to the new system.

Enacting a Single Business Tax would bring simplicity, equity and fairness to Washington’s tax code. It would end thousands of hours of compliance time for citizens and encourage job creation and economic growth, while providing the governor and lawmakers with reliable yearly revenue to fund core services of government.

2. Policy Recommendation: Protect worker rights by enacting a right-to-work law

The principle of right-to-work is simple. It is the legal right of a person to hold a job without having to pay mandatory dues or fees to a union. It does not outlaw unions; it ensures that union membership is voluntary, in order to protect every worker's basic right to employment and freedom of association.

Worker rights gaining prominence

Right-to-work laws are gaining prominence across the country as state leaders strive to improve job creation, promote economic development and attract new businesses. Four states - Indiana, Michigan, Wisconsin and West Virginia - recently passed right-to-work laws, also called workplace freedom or workplace choice. Twenty-six states now protect basic worker rights, with more states introducing legislation and debating the issue every year.¹ Washington state does not have a right-to-work law.

A right-to-work law does not bar employees from joining a labor union or paying voluntary dues. Labor unions operate in right-to-work states. Right-to-work laws do not force unions to represent non-paying "free riders" who take advantage of union representation but do not pay their share of bargaining costs. Rather, right-to-work laws require unions to give workers a choice about financially supporting those efforts.

Studies show that states with right-to-work laws attract more new business than states without such laws. Right-to-work states have outperformed non-right-to-work states in employment growth, population growth, in-migration and personal income

¹ Right-to-work states are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Michigan (private/public), Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming.

growth. Adjusted for cost-of-living, workers in right-to-work states enjoy higher real disposable income than workers in non-right-to-work states.²

A 2015 economic study measured the business and employment impacts of Washington becoming a right-to-work state.³ The findings were dramatic. Like other right-to-work states, Washington would benefit from a permanent boost in employment and income growth. What is more, these benefits would come with no cost to the state. In fact, the study estimated the state would likely enjoy greater tax revenue from the increased economic growth:

- Increased employment. After five years, the state would have almost 120,000 more people working as a right-to-work state, with more than 13,100 in increased manufacturing employment, than it would have without a right-to-work law.
- Increased incomes. After five years, the state's wage and salary incomes would be \$11.1 billion higher and average annual wage and salary would be more than \$560 higher, than otherwise.

Right-to-work promotes fairness

The fairness inherent in right-to-work laws is clear. Worker rights advocates say workers should have the freedom to decide whether they want to support a union financially. If workers find sufficient value in the representation and services provided by a union, they will voluntarily pay union dues to ensure the continuation of those services. If they do not believe they are receiving benefits that are worthwhile, or if they disagree with the

² “Real Earnings Higher in Right to Work States,” by Stan Greer, Senior Research Associate, National Institute for Labor Relations, January 1, 2001, at www.nilrr.org/2001/01/01/real-earnings-higher-right-work-states/.

³ “Impact of right-to-work on the state of Washington,” by Eric Fruits, Ph.D., Policy Brief, for Washington Policy Center, June 2015, at www.washingtonpolicy.org/library/docLib/Shannon-_fruits_study.pdf.

political activism and campaign spending of the union, they should not be forced to support it.

Similarly, the economic arguments supporting a right-to-work law in Washington are simple. As more states increase their competitiveness by adopting right-to-work laws, Washington's non-right-to-work status increasingly hampers the state's business competitiveness.

When comparing state business climates, Washington enjoys high marks for not having an income tax, for access to world markets and for an educated, innovative workforce. Adding a right-to-work law would serve the public interest, because it would enhance Washington's economic competitiveness and promote fairness and social justice for workers.

3. Policy Recommendation: Adopt state uniformity in workplace regulation

A top priority of the business community is for state policymakers to adopt a policy that would ensure uniformity and clarity in labor standards, and prevent local officials from imposing laws that over-regulate employers regarding wages, hours of work, employee retention or paid leave. Such a policy would preempt local governments in favor of state and federal regulations of those policies.

Employers who do business in several cities face a confusing array of wage, scheduling, paid leave and other workplace restrictions. Employers must track each employee’s work-related activities in each city, keep the required records and prepare to be audited at any time. As officials in more cities impose their own labor laws, and as the scope of those laws continues to expand, employers in Washington state find it ever more difficult to do business at the national and statewide levels.

At some point the logistics of complying with a patchwork of differing labor standards become expensive and unmanageable, hurting productivity, customer service and job creation.

Uniformity in other states

Efforts to prevent cities and localities from passing employer mandates have gained traction as states have passed preemption laws to maintain uniformity in minimum wage limits, paid sick leave rules and other labor standards. Today, 29 states have laws barring local governments from adopting differing laws related to wages, employee benefits or terms of employment, with more states considering the issue.⁴

⁴ “Map: Minimum Wage Preemption Legislation Enacted,” New Mexico Restaurant Association, accessed February 22, 2016, at www.nmrestaurants.org/wp-content/uploads/2015/06/Min_Wage_and_PSL_Preemption_.pdf.

Washington's neighbor, Oregon, has a long-standing practice of setting statewide policy on the minimum wage rate, and neighboring Idaho recently adopted a similar standard.⁵

These states have established the state as the primary authority on laws regulating wages, employee benefits and terms of employment. A policy of uniformity in workplace regulations does not prevent changes in the minimum wage, paid leave mandates or restrictions on work schedules. It simply requires that these changes be adopted by state policymakers, so that an equal standard is maintained for all workers and employers.

Ending “patchwork” regulation

A state policy of uniformity would resolve the long-standing Washington Policy Center concern over the current “patchwork” approach of local governments restricting how employers manage their workforce. As cities impose their own separate laws regulating employers, businesses operating in multiple jurisdictions find themselves struggling to comply with laws that vary greatly from city to city.

The “patchwork” approach creates a web of loopholes and exemptions that discourage job creation and business expansion. The rapid rise in compliance costs restricts business owners to the narrow limits of their own town or city, keeping small businesses small, even on a regional scale. Ensuring uniformity and consistency in labor laws would provide the predictability employers need to hire more people, serve more customers and grow their business across a wider region.

⁵ “It’s official: Kate Brown signs [statewide] minimum wage bill for \$14.75 in Portland,” by Ian K. Kullgren, *The Oregonian*, March 2, 2016, at http://www.oregonlive.com/politics/index.ssf/2016/03/its_official_kate_brown_signs.html, and “Idaho Cities Blocked from Raising Minimum Wage,” by Tom Banse, KUOW.org, March 23, 2016, at <http://kuow.org/post/idaho-cities-blocked-raising-minimum-wage>.

4. Policy Recommendation: Legalize private workers' compensation insurance

Washington is one of only four states that bans business owners from buying workers' compensation insurance in the competitive market. Only Ohio, North Dakota and Wyoming keep similar monopoly systems. In 46 other states, employers have the right to choose among many competing private insurers to get the best coverage at the best price.

In contrast, Washington state runs its own insurance company and sets its own prices. Buying the product is mandatory, and state officials have passed a law to make sure there is no competition.

As a result the system is one of the most expensive in the nation. Increasing insurance choices through legal competition would help make workers' compensation more effective and less expensive.

Legalize private insurance

Legalizing private insurance would also help reduce workplace injuries. Employers know a dangerous work environment and slow rehabilitation for injured workers is expensive. Private insurance companies in other states have created extensive safety training programs designed to reduce accidents and protect workers. By working closely with their customers, insurance companies have dramatically reduced the risk of workplace injuries.

For example, in 2005 lawmakers in West Virginia ended a state-run monopoly and legalized private workers' compensation insurance. As a result the cost of work-related injuries fell an average of 27 percent, saving employers about \$150 million every year. Even as costs declined, injured workers received more protections and better service.

By maintaining an outmoded insurance monopoly, Washington lags behind other states. Real-world experience shows that

allowing competition reduces workers' compensation costs and improves safety. Currently, state managers know their insurance program can never go out of business; it's the law and employers have no other choice.

Legalizing market competition would create a strong incentive to reduce the number of accidents and help workers who are injured return to work sooner. In a system of private choice, the state could maintain a safety-net program by being the "insurer of last resort" for firms that, for whatever reason, cannot get private worker protection coverage.

5. Policy Recommendation: End state age discrimination against younger workers in making injury payments

In 2011, lawmakers in Washington passed modest reforms to liberalize Washington’s monopoly workers’ compensation system.⁶ The purpose of the reforms was to enhance worker rights and reduce costs.

One reform allows workers who receive a lifetime disability pension to receive all the payments to which they are entitled, except medical expenses, upfront. The arrangement ensures workers receive what is due to them while providing a guarantee that they will receive medical care for as long as it is needed.

The settlement is voluntary. Workers who choose upfront payments gain the right to control their benefits, without being forced to rely on monthly payments from the state. Washington lawmakers discriminate against younger workers, however, by barring any injured employee under age 50 from asking for a voluntary upfront payment.

Showing respect for workers

Allowing voluntary settlements shows respect for workers who want to manage their own benefits. They also reduce long-term pension costs for the state. Since Washington gives out more lifetime disability pensions than any other state, the savings are significant.

Washington is also the only state where lawmakers discriminate against younger workers. Yet young workers have the best chance to make the most of their upfront benefits, as they make important life decisions after a work-related injury.

⁶ “Q&A about 2011 workers’ compensation reforms,” Washington State Department of Labor and Industries, accessed March 28, 2016, at www.lni.wa.gov/news/2011/2011workcompFAQ.asp.

The state's own budget analysts estimate that ending age discrimination would more than double the savings of the enacted reforms.⁷ Most importantly, though, ending age discrimination would promote workplace equity by treating young workers fairly.

Additional Resources

“Replacing the Business and Occupation tax with a Single Business Tax,” Policy Brief, Washington Policy Center, May 2010

“Right-to-Work: What it is and how it works,” Policy Brief, Washington Policy Center, October 2014

“Impact of right-to-work on Washington state,” Policy Notes, Washington Policy Center, July 2015

“Proposed bills would weaken historic workers’ compensation reforms before they are implemented,” Legislative Memo, February 2012

⁷ “Proposed bills would weaken the historic workers’ compensation reforms before they are implemented,” by Erin Shannon, Washington Policy Center, February 2012, at www.washingtonpolicy.org/library/docLib/workers-comp.pdf.

CHAPTER EIGHT

EXPANDING BUSINESS OPPORTUNITIES AND EMPLOYMENT

1. Policy Recommendation: Help family businesses by repealing the estate tax

In 1981, Washington voters approved Initiative 402 to repeal the state estate tax. The popular measure passed by more than a two-to-one margin.¹ In 2005, however, state lawmakers passed a law that repealed the voter-approved Initiative 402 law, and instead imposed a stand-alone Washington estate tax.

The rate at which lawmakers impose the tax on a family with an estate varies between 10 percent and 20 percent, depending on the size of the estate. Washington’s maximum tax rate is the highest of any state in the nation. Families are taxed if an estate’s assessed value exceeds \$2.054 million, with the threshold adjusted annually, usually upward, based on inflation. Family farms are exempt, but there is no exemption for family-owned small businesses.

Estate tax falls hardest on small businesses

In passing the 2005 estate tax, lawmakers imposed a significant tax burden on Washington citizens. The state Department of Revenue collected more than \$154 million in estate taxes in fiscal year 2015.²

This special tax falls hardest on small businesses. Corporations do not pay the tax, and corporate ownership of a business can

1 “Initiative Measure No. 402, Shall inheritance and gift taxes be abolished...?” Initiatives to the People, Elections and Voting, Office of the Secretary of State, Washington State, November 1981, accessed May 23, 2016, at https://www.sos.wa.gov/elections/initiatives/statistics_initiatives.aspx.

2 “State Tax Collections in Washington,” Historical Data, Table 14, 1990 – 2015, Washington Department of Revenue, www.dor.wa.gov/Docs/Reports/2015/Tax_Statistics_2015/Table14.pdf.

change at any time without incurring the estate tax.

State officials, however, make families that own small businesses pay an extra tax when ownership is passed from one generation to the next, putting these families at an unfair disadvantage compared to their corporate competitors.

Tax targets family-owned businesses

The state's estate tax suppresses entrepreneurship, impedes economic growth and discourages family businesses from remaining in or relocating to Washington. Most importantly, the tax is unfair, because state lawmakers target family-owned businesses that can least afford to pay it, while their larger, corporate counterparts are exempt. Studies consistently show that estate taxes are among the most harmful to a state's economic growth.³

³ "State death tax is a killer," by Stephen Moore and Joel Griffith, Backgrounder #3021, The Heritage Foundation, July 21, 2015, at www.heritage.org/research/reports/2015/07/state-death-tax-is-a-killer.

2. Policy Recommendation: Avoid imposing a job-killing high minimum wage

For years Washington state has imposed the highest minimum wage of any state, because the state's artificially high wage rate automatically increases each year according to inflation. While a handful of other states have recently eclipsed Washington with higher minimum wages, the state's minimum wage is still among the highest in the nation.

While some workers (those who keep their jobs) may benefit from a higher wage, many others will not. According to decades of research on the impact of a high minimum wage on employment opportunities, strong evidence shows that raising the wage reduces employment for the least skilled and most disadvantaged people.

Low-skilled workers are hurt by high minimum wage

One study summed up the research conclusion that low-skilled workers are hurt by a high minimum wage:

“The studies that focus on the least-skilled groups that are likely most directly affected by minimum wage increases provide relatively overwhelming evidence of stronger disemployment effects for these groups.”⁴

A high minimum wage reduces job opportunities and cuts work hours. State officials recognize the job-killing effect of a high minimum wage. Precisely because a high minimum wage decreases job opportunities, Washington officials allow 14- and 15-year-olds to be paid 85 percent of the state minimum wage to mitigate some of the job losses for people in this age group. However, those 16 and older must be paid the full minimum wage,

4 “Minimum wages and employment,” by David Neumark, Department of Economics, University of California, Irvine; and William L. Wascher, Board of Governors of the Federal Reserve System, Division of Research and Statistics, 2007, at www.socsci.uci.edu/~dneumark/min_wage_review.pdf.

pricing many young workers out of the labor market.

As a result, the unemployment rate for 16-to-24 year olds in Washington has consistently been among the highest in the nation. While the state's general unemployment rate in 2015 was 5.8 percent, the unemployment rate for teen workers (16 to 19 years old) in Washington was 17.6 percent, and the rate for workers ages 20 to 24 was 9.6 percent. This hardship falls hardest on minority youth, whose jobless rate is often three times higher than the general unemployment rate.

Young workers unable to find work

When forced to pay an artificially high minimum wage, employers overwhelmingly favor hiring workers with skills and experience over young, inexperienced workers. High youth unemployment is not simply a matter of young workers being unable to find work. Ample research shows the effect is deep and long lasting, affecting an individual's long-term job security and lifetime earning potential.

Economists have shown the significant long-term effects of youth unemployment – a “wage scar” that leaves a lasting harmful impact on a worker's employment prospects and future earnings. The longer a young worker remains unemployed, the worse the scarring effect he or she will experience.

Taking away freedom of choice

Officials who impose a high minimum wage take away the greatest labor advantage young people have, their ability to compete on price in finding a job. If a young worker offers an employer a better bargain, the worker is more likely to get hired. High minimum wage laws take away workers' freedom of choice.

If a worker is willing to work for a certain hourly wage that an employer wants to pay, it is unfair and disrespectful for people

with government power to outlaw a voluntary and mutually beneficial agreement. Young people who want to work should be allowed to work, even if the money they want to earn is less than some ideal number chosen by distant lawmakers.

3. Policy Recommendation: Avoid imposing mandatory paid leave laws

There is no federal requirement that employers provide workers with paid sick or vacation leave. The federal Family and Medical Leave Act requires that workers in companies with 50 or more employees receive up to 12 weeks of unpaid leave for specified family and medical reasons. Congress has decided not to require paid leave, because of how federal mandates hurt workers who want to receive other benefits.

Washington state also does not require employers to provide paid sick or vacation leave. In fact, no state requires paid vacation leave, while just five states (Connecticut, California, Oregon, Massachusetts and Vermont) mandate paid sick leave. However, about two dozen cities around the nation, including four cities in Washington (Seattle, Tacoma, Spokane and SeaTac), have ordinances mandating paid sick leave.

One-size-fits-all mandates

Mandating one-size-fits-all employee benefits comes with a cost to businesses and to workers, especially for the state's 203,000 small employers. To comply, employers must pass some or all of the added costs onto employees, in the form of reduced hours, lower wages and cuts in non-mandated benefits.

Consumers also bear some of the cost, in the form of higher prices and lower-quality service. The rise in prices falls hardest on poor families who are least able to afford it.

According to the Bureau of Labor Statistics (BLS), the average cost to an employer for paid sick leave is 25 cents per hour per employee. Taken in isolation, an extra 25 cents per hour may seem small. Looking at the numbers in aggregate, however, shows that seemingly negligible costs add up quickly.

Staggering cost of paid leave mandate

There are over three million workers in Washington state. Nationally, 39 percent of private-sector workers do not receive paid sick leave. Assuming the same rate in Washington, nearly 1.9 million workers in Washington state would receive paid sick leave if imposed by mandate. Assuming those workers work the national average of 1,700 hours per year, the annual cost to Washington employers for a paid sick leave mandate would be a staggering \$788 million.

Employers could not simply absorb an extra \$788 million every year without cutting work hours, raising prices, or both. They would be forced to shift costs back to workers, by eliminating non-mandated benefits (such as health care or vacation time) and by reducing hours, and to consumers, in the form of increased prices.

Preserving a flexible workplace and improved benefits

Like a high minimum wage, a paid sick leave mandate imposes an artificial decision on workers that they may not want. Some workers would rather have more work hours, or receive a higher salary, or get better health benefits, or have more for retirement, than receive a paid sick leave benefit. Officials who push for paid leave mandates want to take these choices away and substitute what they think is best for workers. Avoiding arbitrary mandates imposed by law allows a flexible workplace, improves other benefits, and shows respect for workers.

4. Policy Recommendation: Reduce the regulatory burden by requiring legislative oversight of agency rulemaking

Washington is considered one of the most heavily regulated states in the nation. A recent study by the Pacific Research Institute ranks Washington as the 8th most regulated state.⁵ Another study, by the Mercatus Center at George Mason University, using different measures, ranks Washington as the 13th most regulated.⁶ Both rankings demonstrate a regulatory environment in urgent need of reform.

Washington's harsh regulatory burden

Business owners agree. They increasingly identify Washington's harsh regulatory burden as the major obstacle to business growth and job creation.

Even state agencies acknowledge the regulatory problem in Washington. In recent years the Department of Commerce, the State Auditor, the Department of Revenue and the Washington Economic Development Commission (WEDC) have issued reports describing the morass of regulations employers must know, understand and obey in order to do business legally in our state.

Each of these agencies recommends that state officials provide regulatory relief in order to retain and attract businesses. In a strongly-worded condemnation of our state's regulatory climate, commissioners at the WEDC concluded:

“Washington's overly burdensome regulatory system must be

5 “The 50-State Small Business Regulation Index,” by Wayne Winegarden, Ph.D., Pacific Research Institute, July 2015, at www.pacificresearch.org/leadadmin/images/Studies_2015/SmBusinessIndex_UpdatedVersion2_web.pdf.

6 “Freedom in the 50 States; An Index of Economic Freedom,” by William P. Ruger and Jason Sorens, Mercatus Center at George Mason University, 2013 edition, at <http://freedominthe50states.org/about>.

addressed as a top economic development priority.”⁷

15,000 pages of new rules

State agencies have replaced the legislature as the primary vehicle for day-to-day lawmaking. Unelected agency officials increasingly use the rulemaking process to impose onerous regulations that normally would not be approved by the elected legislature. In 2015, state agencies filed 1,535 new rules that fill 15,727 pages. They adopted 1,046 of those rules, filling 9,147 pages and changing 5,305 sections of the Washington Administrative Code.⁸

When unelected bureaucrats create so many rules there is significantly less public accountability, transparency and debate than when elected representatives in the legislature pass new laws.

In addition to the sheer volume of rules is the problem of imposing regulation without public accountability or representation. Requiring legislative approval of all regulations issued by state agencies would hold unelected officials accountable for the regulations they want to impose on citizens, and would hold lawmakers accountable for supporting or opposing those regulations.

Require a roll call vote on regulations

Agency officials routinely point to legislative mandates as cover for the rules they want to impose, even when the proposed rules go far beyond what lawmakers intended. Requiring a clear roll call vote on new rules would make lawmakers responsive to the public for the regulations they have directed agencies to implement.

7 “Driving Washington’s prosperity: A strategy for job creation and competitiveness,” Washington Economic Development Commission, March 2013, at www.wedaonline.org/documents/Con2014/2013StrategicPlan.pdf.

8 “Agency rule-making activity,” Office of the Code Reviser, State of Washington, Table 1, 2015, at <http://leg.wa.gov/CodeReviser/Documents/rulactiv.pdf>.

Requiring legislative approval of agency regulations would prevent agency officials from unilaterally imposing regulations with no concern for the consequences. The result would be to increase public accountability, deliver relief for hard-working citizens, and provide a much-needed check on agency rulemaking activity.

5. Policy Recommendation: Provide for the automatic repeal of outdated regulations

It is difficult to imagine the sheer bulk of state regulations that are imposed every day on the people of Washington state. State regulations fill 32 thick volumes, comprising thousands of pages and forming a stack of paper over five feet high. These rules have the force of law, and they strictly control and limit the day-to-day activities of every person in the state.

Government rules are clearly needed in an orderly society. Regulations protect public safety, promote public health, assist needy families, help the jobless, protect the civil rights of all residents, and guard against consumer fraud. This need was recognized by the founders of the state, who recommended “a frequent recurrence to fundamental principles,” which is “essential to the security of individual rights and the perpetuity of free government.”⁹

Regulations last forever

The problem is that under the current system of governing most state regulations are written to last forever. State rules often last far longer than their intended purpose. In fact, regulations usually outlive the state officials who created them, and go on limiting people’s lives long after anyone can remember why they were imposed in the first place.

Within the limits of ordered liberty, it is the right of citizens to live as they see fit, not as officials in government direct. When people in state government overstep their bounds by regulating the smallest details of lawful activities, they increase their own power by hindering the vibrant economic and social life of the community.

⁹ Constitution of the State of Washington, Article 1, Section 23.

Review rules every five years

To solve the problem of regulations that are practically immortal, policymakers should require all agency rules and regulations to carry a sunset provision – a date on which rules will automatically expire. Expiration dates could be set so that state agency rules would come up for review every five years on a regular schedule and, if still needed, would be reauthorized by the legislature.

Agency managers would notify the legislature of approaching expiration dates a year in advance, giving lawmakers time to hear from the public and to review regulations to see if they are still needed.

The default assumption of this policy should be in favor of citizens, not state agencies. If the legislature does not act to continue a rule, it would expire, freeing citizens to make their own decisions in an area once constricted by the government. Rules that are really necessary and enjoy broad community support would be easily renewed, continuing in force until the next review period.

Additional Resources

“Did your teen find a summer job?,” Policy Notes, Washington Policy Center, September 2012

“Paid leave would cost non-union employers over \$1.5 billion annually; Unions seek to exempt themselves from workplace mandates,” Legislative Memo, Washington Policy Center, March 2015

“SB 6396 would bring review and accountability to agency rule-making,” Legislative Memo, Washington Policy Center, February 2016

“Seven steps on the road to economic recovery; Key recommendations to improve Washington’s small business climate,” Policy Brief, Washington Policy Center, January 2012

“Changing views of the estate tax: Implications for legislative options,” by Douglas Holtz-Eakin and Cameron T. Smith, American Family Business Foundation, February 2009

“Help grow the economy by repealing the estate tax,” Opinion/Editorial, Washington Policy Center, October 17, 2009

CHAPTER NINE

IMPROVING MOBILITY AND TRANSPORTATION SERVICES

1. Policy Recommendation: Tie public spending to improvements in traffic congestion relief

Traffic congestion relief is the most basic tenet in transportation policy, yet state officials do not actually connect public spending to measurable progress that improves people’s commute and makes daily trips quicker.

In 2000, Washington’s Blue Ribbon Commission on Transportation identified several ways to measure the effectiveness of the state’s transportation system. These performance measures were very specific and some were adopted into law. These congestion-related benchmarks included:

- Traffic congestion on urban state highways shall be significantly reduced and be no worse than the national mean;
- Traffic delay per driver shall be significantly reduced and no worse than the national mean.

In 2007, however, lawmakers repealed those specific measures and replaced them with five vague transportation policy goals.

Lawmakers added a sixth goal in 2010. Only one of the six policy goals mentioned improving travel times for the public. “Mobility,” as the legislature defined it, was an effort to “improve the predictable movement of goods and people throughout Washington state.” Making traffic delays “predictable,” however, does not enhance people’s mobility or improve transportation service to the public.

Lawmakers cancelled performance-based benchmarks

In 2015 lawmakers changed the policy goal of mobility to include traffic congestion relief and improved freight mobility, but opted against adding the performance-based benchmarks previously included in law, thus eroding accountability.

The Washington State Auditor’s office determined in 2007 that, over a five-year period, congestion could be reduced up to 20 percent, reducing vehicle emissions and saving travelers up to \$400 million by prioritizing congestion relief.¹ The Auditor’s Office said that transportation spending “should be measured, in part, based on how many hours of delay can be reduced for each million dollars” spent.²

The Auditor’s report also recommended lawmakers, “Apply congestion-related goals, objectives and benchmarks to all highway and transit-related investments” and “elevate congestion reduction benefits in all decision-making decisions.”³

Return to performance metrics

This is sound advice. Lawmakers should amend current transportation law to return to a standard based on performance metrics, like those first identified by Governor Gary Locke’s Blue Ribbon Commission. Reinstating these measures would serve the public interest by improving the quality of life in Washington, and show that policymakers are committed to reducing traffic congestion and making trips quicker.

1“Performance Audit Report, Washington State Department of Transportation, Managing and Reducing Congestion in Puget Sound,” Office of the Washington State Auditor, October 10, 2007, at <http://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?arn=1000006&isFinding=false&sp=true#search=congestion%20relief>.

2 Ibid.

3 Ibid.

2. Policy Recommendation: Spend transportation dollars based on the wishes of the public

Transportation revenues should be spent based on market demand, that is, on what the public wants, rather than officials trying to engineer demand and force lifestyle changes on people.

In normal economics, supply is a result of popular demand. This means a willingness to use a service must exist before a supply of that service is created. Boeing executives do not make 300 airplanes knowing they will only sell 100. Similarly, governments should not spend a disproportionate amount of tax money in unpopular, low-demand sectors, where the public's willingness to use the service does not justify the spending.

Providing the public with what it wants

European transit systems provide an example of how these economic concepts apply. In Switzerland, transit is successful, not because of the amount of service or infrastructure, but because the country has certain demographic and economic characteristics that induce demand.

In other words, there is an existing market with a customer base and Swiss policymakers respond with proportional infrastructure spending, providing the public with what it wants.

As a result, mode share, ridership and fare box recovery are high. In the United States, transit money is spent in just the opposite way. Policymakers decide on a transit vision first, then try to force it on the public.

Under the “build it and they will come” theory, policymakers think that increasing the supply of transit will somehow induce a public willingness to use the service. This speculative model fails because most U.S. cities do not possess the economic or demographic characteristics that create enough voluntary

consumers for public transit.

Instead, policymakers try to force change by letting congestion on roads and highways get worse. Traffic jams then become a tool for coercing people to use costly public transit.

Roads and highways are the overwhelming choice of the traveling public

Using the economic principles of supply and demand shows that building excess transit capacity before there is equal public willingness to use it leads to an underperforming system. Nowhere is this more apparent than in the Puget Sound region, where Sound Transit officials are spending billions of dollars on a light rail system.

Despite this massive spending on trains, regional officials say light rail will only carry about one percent of daily person trips in the region by 2040.⁴ Meanwhile, travel on the region's public roads is the overwhelming choice of the traveling public.

When prioritizing transportation projects, policymakers should use consumer demand – that is, people's desire to use the public roads – to guide spending, not the other way around.

⁴ “Transportation 2040, Chapter 4, Transportation,” Puget Sound Regional Council (PSRC), March 2010, page 71, at www.psrc.org/assets/3677/04-Transportation.pdf, based on PSRC estimate of 164,400 daily passenger trips on light rail in 2040, out of an estimated 18.9 million total daily passenger trips.

3. Policy Recommendation: Expand the use of efficient public-private partnerships

Officials in Washington state constantly say they want more money to pay for transportation infrastructure. They say established funding methods like state and federal gas taxes are not keeping up with the rising cost of their transportation program, resulting in growing problems in meeting the state's transportation expansion, maintenance and safety needs.

Increasing project cost by choice

State officials, however, have increased their project costs by choice, not because of outside forces beyond their control. Artificial cost increases, like prevailing wage rules, excessive planning, permitting mandates and the decision of state officials to tax their own projects, put pressure on budgets to maintain and expand infrastructure.

Over the past thirty years, highway demand in the Seattle region increased by 128 percent, while the number of lane-miles increased only 72 percent. As the public need for highway travel outpaces the supply of travel lanes, drivers experience increased traffic congestion.

In many states, officials are making a different choice. They are tapping the private sector to maintain and expand public roads and increase mobility. Public-private partnerships are a popular way to build public projects both in other countries and in states such as Virginia, Texas, Florida and California.

Shifting financial risk to investors

A public-private partnership is a legal contract between government officials and private companies to design, build, operate, maintain and finance needed public infrastructure. In short, public-private partnerships allow the public sector to shift

financial risk from taxpayers to private investors.

In Washington, state officials often oppose using private financing to build public infrastructure, a policy choice that results in much higher costs for state taxpayers.

Officials say they know traffic congestion in the Puget Sound region will continue to worsen, raising costs and stifling economic growth. Congestion also harms the environment, as cars, trucks and buses idle in traffic, leading to lower air quality and increased public health risks.

The positive role of private finance

Lawmakers should recognize the positive role private finance can play in building public infrastructure. State officials do not have to make public construction projects so expensive. Amending the restrictive 2005 state law that blocks private money would attract private investment to public projects, get badly needed projects built and protect taxpayers from higher taxes and bailouts.⁵

⁵ “Transportation Innovative Partnerships Act of 2005,” Revised Code of Washington, Chapter 47.29, at <http://apps.leg.wa.gov/rcw/default.aspx?cite=47.29>.

4. Policy Recommendation: Improve Sound Transit accountability and governance

Currently, Sound Transit’s board consists of 18 local elected officials who are appointed by various other elected officials. This insider arrangement insulates the board from direct accountability to the public. Sound Transit’s Citizen’s Oversight Panel (COP) is supposed to be an independent group of citizen experts who serve a watchdog role, yet members are appointed by the same people they are supposed to hold accountable, the unelected Sound Transit board of directors.

Not surprisingly, the Citizen’s Oversight Panel is not independent, and has never raised any serious objection to the way Sound Transit operates or spends public money.

Violating the “one person one vote” principle

In addition, Sound Transit’s federated board violates the “one person one vote” principle, because some residents have multiple board members representing their interests, while others may only have one. For example, under Sound Transit’s board structure as of early 2016, a West Seattle resident has three people representing his interests on the Sound Transit board, while a resident of Mill Creek is represented by only one board member.

The Washington State Auditor investigated Sound Transit’s governance and found that,

“When citizens cast their votes for most of these city and county officials, they have no way of knowing whether or not they will one day serve on Sound Transit’s Board, or the positions they may take if appointed.”⁶

6 “Sound Transit: Performance Audit of the Citizen Oversight Panel, Adjustments to Planned Investments, Construction Management and Ridership Forecasts,” Washington State Auditor’s Office, Performance Audit, October 25, 2012, at <http://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?isFinding=false&arn=1008277>.

The Auditor added, “Sound Transit voters have no say regarding who will represent them and limited recourse if they are dissatisfied with the decisions of Sound Transit’s Board.”⁷

Enhancing Sound Transit accountability

Therefore, the public is unable to hold Sound Transit directly accountable for cost overruns, broken promises, concerns over subarea equity, and delayed project timelines. It is not fair for Sound Transit to collect taxes and distribute money without direct accountability to the public.

With Sound Transit’s history of broken promises, state legislators should change the governing structure of Sound Transit to allow voters directly to select the people who sit on the board, spend public money and represent the public interest.

⁷ Ibid.

5. Policy Recommendation: Make sure state officials spend highway tolls to support highways

In 1921, officials imposed Washington's first gas tax - one cent per gallon. With this new revenue stream, state leaders were able to build, maintain and expand Washington's public highway network. As the state's transportation infrastructure needs increased, so did the tax. Today, Washington's gas tax rate, coupled with the federal gas tax rate, is 62.9 cents per gallon, the second highest in the nation.⁸

Seventy years ago, as they often do today, politicians saw "opportunities" with a new and stable revenue stream, and they began to divert gas tax money to programs not related to roads and highways. Seeing this diversion as unfair, Washington voters in 1944 passed the 18th Amendment to the state constitution, to make sure state officials spend gas tax money exclusively on public roads and highways.

Trying to divert highway toll money

Today, state officials want to collect additional money from the public through highway tolls and, as in the past, they want to divert that money to non-highway programs.

Washington motorists have plenty of modern-day experience with tolls, which have recently been imposed on the Evergreen Point State Route 520 floating bridge and Interstate 405 Express Toll Lanes. People intuitively support public programs and services funded through user fees. Highway tolls are no exception.

When tolls are used to pay for a bridge or a length of new highway, drivers naturally understand and generally support the added cost of performing the activity. Similarly, but to a lesser extent, when tolls are used to manage congestion and the

⁸ "State Gasoline Tax Rates in 2016," by Nicole Kaeding, The Tax Foundation, March 3, 2016, at <http://taxfoundation.org/blog/state-gasoline-tax-rates-2016>.

toll money is spent on the highway where it was collected, users generally agree to pay.

People see toll diversion as unfair

For drivers, tolls fund a visible product that results directly in a tangible benefit. However, as Washington’s early experience with gas taxes illustrates, people become upset when they see public officials take toll money and spend it on programs unrelated to maintaining good roads. People rightly see the diversion of toll revenue as unfair.

State lawmakers impose tolls on people who use five highway facilities: Tacoma Narrows Bridge, State Route 167 HOT lanes, Interstate 405 Express Toll Lanes, State Route 520 Floating Bridge, and the State Route 99 deep bore tunnel.⁹ Yet only toll revenues from the Tacoma Narrows Bridge and the Interstate 405 Express Toll Lanes are spent through the Motor Vehicle Fund, and therefore, are used to improve highways.¹⁰

Tolls from the State Route 520 Bridge, the State Route 167 HOT lanes, and the deep bore tunnel, are deposited *outside* the Motor Vehicle Fund, and are not restricted to highway purposes. State officials say they want to use this toll money for other programs, not for the benefit of people using public highways.

Protecting toll revenue to support public highways

By law, toll revenues not in the Motor Vehicle Fund can be used for the “operation of conveyance of people or goods,” meaning officials can decide to spend highway toll money on transit, a non-

⁹ Lawmakers authorized tolling on the Columbia River Crossing project in 2012, but authority was repealed on December 31, 2015 when the project was cancelled.

¹⁰ “Transportation Resource Manual,” Joint Transportation Committee, page 233, January 2015, at http://leg.wa.gov/JTC/trm/Documents/TRM_2015%20Update/CompleteTRM2015.pdf.

highway purpose.¹¹ That strikes most people as unfair. Instead of diverting the taxes and fees drivers pay to non-highway purposes, like transit, officials should protect toll revenue for highway purposes only, similar to the legal provisions that now protect the gas tax.

¹¹ Revised Code of Washington 47.56.820, “Imposition of tolls on eligible toll facilities – Who may authorize revenue expenditures,” at <http://apps.leg.wa.gov/rcw/default.aspx?cite=47.56.820>.

6. Policy recommendation: Reduce the cost of building roads and ferries

One of the more significant obstacles to building transportation infrastructure in the United States is the decision by policymakers to increase the cost of public projects.

Congress passed and the President signed the Fixing America's Surface Transportation (FAST) Act in December of 2015. The FAST Act is a five-year, \$305 billion spending program that involves no increase in the federal gas tax, instead relying on \$70 billion in general fund transfers.¹²

Since 2008, total transfers from federal general revenues to the Highway Trust Fund are just over \$140 billion.¹³ Simply put, the federal government is spending more than it receives in user fees, taking money from general taxpayers instead. Besides increasing spending, the other side of the equation that lawmakers must address is how their policy decisions increase costs.

Two ways transportation costs increase

In the broadest sense, there are two drivers of costs in transportation projects: natural and unnatural. Natural cost drivers occur as a result of normal economics. They include inflation, cost of materials and higher cost for new technology.

Unnatural costs are decisions by government officials that artificially inflate expenses on public projects. These policies are implemented for reasons that are unrelated to actually building a project.

12 "AASHTO Summary of the New Surface Transportation Bill, Fixing America's Surface Transportation (FAST) Act," American Association of State Highway and Transportation Officials, December 16, 2015, at <http://fast.transportation.org/Documents/AASHTO%20Summary%20of%20FAST%20Act%202015-12-16%20FINAL%20v4.pdf>.

13 Ibid.

Unnatural cost drivers include prevailing wage rules, imposing taxes on state projects, apprenticeship requirements, inefficient permitting, environmental compliance, setting aside money for public art, “Build in Washington” provisions, and requiring that mass transit be included in highway projects.

Bridge replacement in record time

When elected leaders make policy decisions that reduce artificially-imposed costs, the results in favor of the public interest are dramatic. The Skagit River Bridge collapsed on May 23, 2013, severing the main highway link between Vancouver, Canada and Seattle. By choosing to eliminate the policies that add artificial delay and increase costs, officials had a temporary replacement bridge open to the public in record time, by June 19, 2013. The new bridge was in place less than a month after the collapse.

Officials then decided to open a permanent replacement span to traffic by September 15, 2013. The public saw first-hand how eliminating inefficient and artificial rules can restore mobility and provide immediate benefits. By making different policy choices, public officials decided to restore a major highway link in record time, far faster than would have been possible under the state’s routine way of doing business.

Reducing artificial cost increases

After the highway bridge collapse, the public demanded reforms to reduce unnatural costs and delays on other transportation projects. In passing the 2015 statewide transportation bill, lawmakers changed the law and decided to keep taxes paid on highway projects in the transportation account. Lawmakers also created a limited-open bidding system for ferry construction, to reduce costs and improve service to the public.

Lawmakers also worked to streamline permitting on bridge replacements. The reforms were a good first step, and they show

what is possible when state leaders make decisions that put the public interest first. Lawmakers should continue to reduce artificial cost increases in state road and highway projects, to provide better mobility and congestion relief to the public for less money.

Additional Resources

“Claims that light rail expansion is an effective way to reduce traffic congestion and improve air quality are unfounded,” Policy Notes, Washington Policy Center, May 2015

“Five Principles of Responsible Transportation Policy,” Policy Brief, Washington Policy Center, March 2015

“Ending ‘Build in Washington’ rule would cut new ferry construction cost by 30 percent,” Legislative Memo, Washington Policy Center, March 2015

“Using transportation public-private partnerships to improve mobility and increase value to taxpayers; How state leaders can use private investment to serve the public,” Policy Notes, Washington Policy Center, November 2014

“How to reduce the cost of highway projects,” Legislative Memo, Washington Policy Center, February 2014

CHAPTER TEN

IMPROVING AGRICULTURE

1. Policy Recommendation: Base state regulation of agriculture on enacted law, not on rulings in lawsuits

Agriculture is one of the most important sectors of the Washington state economy. The state has four attributes that make it a food production powerhouse: a diverse climate, rich soil, abundant water and hard-working people. Throughout Washington’s history, agriculture has been central to the state’s development and economic success. Currently, agricultural businesses add \$51 billion a year to the state’s annual productivity, and the agricultural sector makes up more than 13 percent of the state’s economy.¹

Generating jobs and tax revenue

More than 300 different crops are grown in Washington, a diversity of food production second only to California’s. More than 39,000 farms are located in Washington, from the fertile valleys of Snohomish County to the drier areas of Eastern Washington. The counties that play the largest role in the agricultural economy are Grant and Yakima, which are home to 4,700 farms and \$3.41 billion yearly in combined economic output.²

There are more than 200 food processing companies in the state and the number of people working in farming and food processing surpasses 160,000, more than the combined in-state employment of

1 “Agriculture’s contribution to Washington’s economy, Total economic impact,” Washington State Farm Bureau, accessed May 25, 2016, at <https://wsfb.com/agricultures-contribution-to-washingtons-economy/>.

2 “Agriculture: A Cornerstone of Washington’s Economy,” Market value of crops and livestock and number of farms by county from 2012 Census of Agriculture, USDA, Washington State Department of Agriculture, accessed May 25, 2016, at <http://agr.wa.gov/AgInWa/docs/126-CropMap2015-ForCopier.pdf>.

Microsoft and Boeing.³

In addition to economic output, farm families contribute enormously in yearly revenue to local communities and to the state to fund essential public services. To cite just one example, property taxes paid by farmers and agricultural businesses exceed \$230 million per year.⁴

Confusing network of regulations

Farmers prefer to spend their time in the fields or tending livestock, but their productive time is often consumed with bureaucratic red tape from Olympia or with legal action brought by political activists located in cities hundreds of miles away. The result is a confusing and constantly-shifting network of burdens and restrictions imposed by judges and regulators.

Instead of being governed by reasonable laws enacted by their elected representatives, farm families find themselves subjected to arbitrary dictates imposed by distant and aggressive political interests.

In recent legislative sessions, lawmakers have considered bills to improve the regulation of agricultural production based on enacted legal authority. This policy approach has the support of legislators of both parties and would give farmers clear direction about the state's rules for growing and producing food.⁵

3 “Review of the food processing industry in Washington,” Working paper commissioned for the Future of Farming Project, Processing Meeting - 2008, Washington State Department of Agriculture, 2008, page 7, at <http://agr.wa.gov/fof/docs/MajorFoodProcessing.pdf>.

4 “Washington Agriculture, Strategic Plan, 2020 and Beyond,” Future of Farming, Washington State Department of Agriculture, February 2009, page 13, at <http://agr.wa.gov/fof/docs/FutureofFarmingReport-PrinterFriendly.pdf>.

5 House Bill 2840, 2015-16 regular legislative session, Washington State Legislature, introduced January 28, 2015, at <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2840&year=2015>.

For example, the proposed bipartisan approach would put the regulation of water quality associated with animal feed operations, like dairies, under the jurisdiction of the state Department of Ecology and state Department of Agriculture. These agencies would be specifically directed to write rules clearly based on state laws.

Basing regulation on clearly-defined law

Radical environmental groups oppose this approach because it would limit their ability to sue farmers in court and put family dairies out of business. A paid lobbyist for the Sierra Club said the state Department of Agriculture should not regulate Washington’s dairies, because the agency’s mission is to “promote agriculture.”⁶

Hostile attitudes like this make it impossible for farmers to produce food within a system of commonsense and predictable regulation. Lawmakers should ensure that state rules for agriculture are founded on clearly-defined laws, not the unpredictable and controversial rulings imposed by the courts and executive branch agencies.

6 “Environmentalists blast House dairy bill over lawsuits; Environmental groups hammered a House bill that would strengthen state oversight of Washington dairies, while blocking federal lawsuits against farmers,” by Don Jenkins, *Capital Press*, January 29, 2015, at <http://www.capitalpress.com/Dairy/20160129/environmentalists-blast-house-dairy-bill-over-lawsuits>.

2. Policy Recommendation: Do not impose a mandatory cap-and-reduce system on food production

Governor Jay Inslee said he wants to impose caps on greenhouse gas emissions from refineries and food producers.⁷ The regulations would target fertilizer makers and food processing facilities in Eastern Washington, raising costs and reducing job opportunities, with little or no environmental benefit.

The governor said he wants to impose fines of up to \$10,000 a day. In addition, the governor wants to encourage companies that close operations and cut jobs in Washington to sell credits for carbon reductions beyond the targets set in the regulation. Essentially, the governor says he wants to punish refinery owners and food producers for keeping jobs in the state, and to pay them for sending jobs elsewhere.

Under the proposed rules, food producers would find that selling carbon credits created by the state would be more profitable than creating jobs and producing food for consumers. Yet the amount of estimated carbon reduction would be so small it would have almost no impact on global climate trends.

The governor's policy approach would work directly against the public interest in Washington, and would particularly hurt families and workers in the state's agricultural sector. Lawmakers should avoid this top-down policy approach, because it would impose a heavy burden on Washington citizens while doing little for the environment.

⁷ "Carbon cap plan would hit fertilizer, food processors; The Washington Department of Ecology has proposed a cap-and-reduction measure for manufacturers," by Don Jenkins, *Capital Press*, January 7, 2016, at <http://www.capitalpress.com/Washington/20160107/carbon-cap-plan-would-hit-fertilizer-plant-food-processors>.

3. Policy Recommendation: Maintain public access to Washington ports

Washington farmers produce food for a global market. Government agencies operate a system of modern port facilities built and maintained in part with tax money. Without public access to the state's ports, Washington's agricultural sector would shrink to a fraction of its current size.

In 2014, the state exported more than \$16 billion worth of food and agricultural products to people around the world, half of which was grown or raised in Washington.⁸ To cite one example, Washington is a top exporter of food to Asia. Beneficiaries of Washington crops include people in Japan, China, South Korea and the Philippines. Modern transport allows Washington farmers to improve nutrition and vary the diets of millions of people worldwide.

The ports of Seattle, Tacoma and Longview are major shipping points for Washington products, in addition to goods transported from other states. Further, all-weather highways and the barge system on the Columbia and Snake rivers allow swift and safe shipment of farm produce. These are public facilities, built and maintained for the purpose of allowing the people of Washington to connect with the world.

Port shutdown hurts growers

The ability of growers to move products came to an abrupt halt in 2014 and 2015 because of strikes. Union action shut down West Coast ports, resulting in millions of dollars in lost revenue for farmers and other food producers. Tons of fresh fruit and vegetables rotted in warehouses at 29 ports along the West Coast during the strike. Washington state apple growers, for example, lost

⁸ "Washington is the third largest exporter of food and agricultural products in the U.S.," Export Statistics, Washington State Department of Agriculture, December 22, 2015, at <http://agr.wa.gov/marketing/international/statistics.aspx>.

an estimated \$100 million.⁹

Overall, in-state businesses lost an estimated \$769.5 million during the port shutdown.¹⁰ Not included in this estimate is the loss of global market share for Washington growers, which may take years for them to recover.

The port slowdown dragged on for many months without action by state or federal officials to intervene, as they had done in previous port disputes.¹¹ The controversy had nothing to do with the private market. It occurred at facilities built and operated by government agencies. The lack of action by public officials caused even greater financial loss for Washington's farm families and businesses.

As a matter of policy, lawmakers and federal officials should ensure the public has regular and dependable access to Washington ports and that these public facilities are protected from unions and damaging labor disputes. The public interest of Washington's agricultural communities should not suffer because of the narrow economic agenda of organized labor or any other special interest.

9 "Washington farmers dump millions of apples after ports dispute," NBC News, May 29, 2015, at <http://www.nbcnews.com/news/us-news/washington-farmers-dump-millions-apples-after-ports-dispute-n366426>.

10 "The economic costs of the 2014-2015 port slowdown on Washington state," Community Attributes, Inc., Washington Council on International Trade, February 2016, Exhibit 3, page 9, at <http://wcit.org/wp-content/uploads/2011/08/WCIT-Port-Delays-Economic-Impacts-Report-FINAL1.pdf>.

11 "Is president considering 'nuclear option' in ports dispute?" by Elizabeth Weise, *USA Today*, February 18, 2015, <http://www.usatoday.com/story/news/2015/02/18/labor-secretary-perez-west-coast-ports-ilwu-dispute/23611117/>.

4. Policy Recommendation: Consider the policy needs of agriculture equally with other key economic sectors

As mentioned, agricultural production is a major segment of the state economy, yet policymakers often overlook the needs of farmers and agricultural workers when setting tax and economic policy. Elected officials often prefer to be seen as champions of perceived cutting-edge sectors such as aerospace, medical research or digital technology. Moreover, population distribution means that policymaking in Washington is often dominated by elected representatives from the Seattle area and the more urbanized Western part of the state.

Washington farmers help feed the world

Yet farming communities are far more productive than people living in cities may believe. Although located in a mid-sized state, Washington farmers are among the top agricultural producers in the country. Simply put, Washington farmers help feed the world. Examples of Washington production include:

Apples: Washington state leads the country in apple production, with a yearly value that exceeds \$2 billion (2013).¹² No other state comes close to Washington’s apple yield, which comprises more than 66 percent of total U.S. production.

Potatoes: Washington is a top producer of potatoes, a staple in the diets of people around the world. Nearly 20 percent of total U.S. production comes from the Evergreen state, compared to 24 percent from Idaho, the nation’s top

12 “Cash Receipts by Commodity, Apples,” state rankings, Economic Research Service, U.S. Department of Agriculture, 2014, at http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics/cash-receipts-by-commodity-state-ranking.aspx#P2a1d992291ae446a85aebfdb920be9ba_6_252iT0R0x113.

producer.¹³

Raspberries: Among all agricultural commodities, the red raspberry market is one in which Washington state produces the largest share – more than 90 percent of the nation’s total production.¹⁴

Wine: After decades of research and investment, Washington state is now home to a thriving wine industry, with more than 850 wineries. Wine grape growing areas now exceed 50,000 acres. The state ranks second only to California in total wine grape production.¹⁵ In quality Washington wines compare favorably with the finest wines in the world.

Reducing regulation and protecting resources

Research by the state Department of Agriculture found that farmers believe lawmakers should make agriculture a priority, eliminate regulatory barriers, protect natural resources, strengthen support services, and harness emerging technologies.¹⁶

Whether policymakers are following these recommendations is a source of great debate in Olympia and across Washington’s farming communities. Placing additional regulatory burdens on the

13 “Cash Receipts by Commodity, Potatoes,” state rankings, Economic Research Service, U.S. Department of Agriculture, 2014, at http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics/cash-receipts-by-commodity-state-ranking.aspx#P2a1d992291ae446a85aebfdb920be9ba_6_252iT0R0x113.

14 “What’s growing in Washington state?” by Hans D. Stroo, Plan Washington, Washington Business Alliance, September 25, 2014, at <http://planwashington.org/blog/archive/whats-growing-in-washington-state>.

15 “Economic impact of Washington state wine and grapes,” Stonebridge Research Report, Washington State Wine Commission, April 2012, at http://www.wawgg.org/files/documents/2012_Economic_Impact_WA_Wine-Grapes.pdf.

16 “Washington Agriculture, Strategic Plan, 2020 and Beyond,” Future of Farming, Washington State Department of Agriculture, February 2009, at <http://agr.wa.gov/fof/docs/FutureofFarmingReport-PrinterFriendly.pdf>.

state's farm families certainly does not reduce regulatory barriers. Based on their actions, it is unclear whether state policymakers have truly made Washington agriculture a top priority.

Washington's farm families and food processors do much more than provide economic benefit to the state. They provide food security, and they are often stewards of public lands and public resources.

Making agriculture a priority

State leaders should ensure that agricultural productivity is a priority in Olympia, and is considered equally with high-tech, software, aerospace, biomedical research and other key industries when setting tax, regulatory and economic policy for Washington state.

Additional Resources

“Agriculture: The cornerstone of Washington's economy,”
Policy Notes, Washington Policy Center, March 23, 2016

“What's growing in Washington state,” by Hans D. Stroo, Plan
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“The Future of Farming – 2020 and Beyond, Strategic Plan
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“Review of the food processing industry in Washington state,”
Working Paper, Future of Farming Project, 2008

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