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# Viewpoint

THE MAGAZINE OF  
WASHINGTON POLICY CENTER

“For too long, science and science education  
have prioritized...rational thinking.”

## THE ANTI-SCIENCE ATTITUDE OF A STATE CLIMATE CHANGE CURRICULUM

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**INSIDE: VICTORIES IN THE 2023 LEGISLATIVE SESSION**

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*"[My mentor] was excellent - I wish I could have arranged even more meetings with him but the time we had together was very productive."*

**JOSH S.**

2022 Mentee



Young  
Professionals  
Washington  
Policy Center



# Letter from the President & CEO

Dear WPC friends and supporters,

Thank you for your support of the Washington Policy Center. We are the unique and constant voice of free-market policy in our state. We are “Radio Free Washington” – and our signal depends on you.

In a decision that defies logic and plain language, the Supreme Court of the State of Washington decided the capital gains tax, a type of tax recognized by the IRS and the revenue departments of 49 other states as an income tax, is -- in this state only – an excise tax. You’ll read more on this decision in the pages ahead and we have extensive analysis available on our website, but the bottom line is this: Right now – for now --we have an income tax and an income tax by any other name is just as bad.

People often say “just hope.” Hope. To me, hope suggests passively waiting for something positive to come our way and rescue us from the problems that we face. I prefer to say I’m “optimistic” rather than “hopeful.”

Optimism evokes envisioning a better future, fixing your eyes and your mind on it, and preparing for it. Optimism means preparing for the future you want to see. Optimism is taking the best of “hope” and adding to it power over your own destiny, and that is where I believe we are right now. The income tax battle is far from over. Voters have shown past income-taxes the door ten straight times since 1932 and I have every expectation they will do it again if they see it at the ballot box. And there are further court actions that will inevitably challenge this poorly constructed law.

Further, when I see the victories on policies our Center Directors staked out as priorities in a session where the numbers did not favor free-market progress, I am encouraged. Against a rip tide of opposition, your Washington Policy Center was able to call for and support nearly \$200 million for tutoring to help the 1.1 million kids left behind by school lock downs. We called for and saw improvements in our housing laws put into effect. And, we saw our state finally take the same step over 30 other states have taken, and expand nurse licensing to start to help fill the 6,000 nurse shortage in our health care system. We are optimistic for a reason: It works.

We have a lot of work to do in the months ahead, from reversing the regressive carbon taxes that are raising our gas prices to stratospheric levels to telling the truth about the Long-Term Care Tax that will hit our paychecks in a few short weeks, to advancing real solutions that value the rule of law and protection of your property.

I hope the work you read of in these pages inspires you. It inspires me.

More to come,

Mike

# Anti Science Attitude of the OER Climate Change Curriculum

BY TODD MYERS AND VANESSA RAMSEY,  
2011 MIDDLE SCHOOL SCIENCE TEACHER OF THE YEAR

DIRECTOR, CENTER FOR THE ENVIRONMENT

ABRIDGED



In recent years Washington state has added requirements for teaching about climate change in public schools and increased funding to develop a climate curriculum. One such example is a curriculum developed “in collaboration with epidemiologists and communications professionals from the Washington Department of Health.” Washington Policy Center joined with Vanessa Ramsey, who was honored in 2011 as Washington State Middle School Science Teacher of the Year, to assess the curriculum. Here is her analysis of the modules included in DOH’s climate curriculum.

The OER curriculum, Using the Washington Tracking Network to Study Climate Impacts, adopts an anti-science stance, replete with scientific errors, and is blatant in their ultimate agenda of leading high school students in the arena of left-leaning social activism.

Throughout my 21 years of teaching science, I’ve had the opportunity to examine a wide range of science curricula. Never before have I come across one as blatant in its agenda to dismiss objective scientific reasoning and instead promote political activism in social and environmental justice. As part of this agenda, the curriculum promotes a transparently anti-science attitude.

Nothing makes the anti-science approach that is embedded in the curriculum more obvious than the notes of slide 3, Module 2, “Climate Change & Pregnancy, Exploring Risks and Impacts.” Here the writers state, “we should be mindful of the emotional dimensions of the human experience. For too long, science and science education have prioritized my (sic) rational thinking.”

How can this statement even be made, because as any scientist knows, if science is not conducted with rational thinking, with what are we left? This anti-science slant is presented again at the conclusion of this curriculum in Module 5 with the repeated quote, “Science is not enough.”

Science is an objective method of learning about our physical world. We should remember this and continually return to applying objectivity in teaching our students. During scientific research we must remain impartial and set aside ALL emotion in order to clearly examine the data. We can then bring the data into the realm of the social issues and apply the science and discuss how best to move forward to improve lives and our environment.

A prime example of how the curriculum prioritizes emotion in science occurs, in module 1, “Asthma

“We should be mindful of the emotional dimensions of the human experience. For too long, science and science education have prioritized... rational thinking.”

OER CLIMATE CHANGE CURRICULUM

& Wildfires: Human Story + Scientific Story.” Slide 4 introduces an “Internal Dialogue”, a warm-up activity intent on connecting students to a particular narrative about Rachel, the mother of a child with asthma. Prior to addressing any science questions or concepts, the writers plant an emotional seed using leading questions around imagining and connecting to human emotions about the narrative as opposed to connecting to and using objective scientific methods. They ask students, “Name some of the emotions that you imagine” and “What comes up for you as you think about Rachel’s emotions and life factors?” This moving “human story” lays the groundwork of the entire curriculum, placing greater value on emotion and anecdote over science and data.

As a professional educator I recognize the importance of utilizing guiding questions for lessons. Where the curriculum goes off track is the duplicitous manner in which students are being led. Instead of first introducing their primary data source, the Washington Tracking Network (WTN), and having students examine the data with an open mind, the writers have pulled on students’ heart strings with the social narratives. This curriculum states that students should look at data, analyze it, and draw scientific conclusions,

but in reality, it leads students to predetermined conclusions within the specific parameters of social and environmental justice.

Each module contains “Key Questions” which are frequently repeated to remind students exactly where to focus their learning. These key questions are not guiding scientific questions but rather questions around societal issues, emotions, and taking social action.

The writers purport that they are “doing science” with phrases such as “WTN: Data – of course!” yet the curriculum is clearly written in such a way as to create an activist lens that distorts the analysis and interpretation of data. The continuous interjection of emotional narratives while then asking students “how do you feel about...” is manipulative and completely contrary to the objectivity and integrity of the established scientific process.

Another anti-science thread that occurs in the curriculum is the presentation of what they call “authentic data.” This term first appears in Module 4, which says in its subtitle that the authors of the curriculum are bringing science and engineering practices “alive for equity and environmental justice.” The writers have included “attend to equity” as a key feature of “analyzing and interpreting data.” They go on to further define and focus on equity principles with guiding questions, “Who is the data about? Whose voice is heard? Whose humanity matters?” Data are not authentic when students are being told what conclusions should be drawn.

There is an argument to be made that some data sets or research are incomplete because they have not considered all populations. These are legitimate issues, but the curriculum goes well beyond that and encourages students to “Challenge stereotypes of sexism, racism, poverty, ableism.” Rather than ensuring that data are complete, the curriculum encourages the inclusion or preference of unscientific anecdotes – consistently called “lived experiences.” The authors of the curriculum are not arguing for complete data,

but for “authentic” data that privileges anecdotes and “personal issues” as an excuse to dismiss the scientific process when it is politically convenient.

Additionally, authenticity cannot be objectively determined. Who determines if data is authentic? What is the standard? From the writers’ perspective “authentic” data is interpreted in a way that leads students to the writers’ pre-determined conclusion.

Another concept promoted by the curriculum is the concept of “community wisdom.” It’s a reoccurring theme throughout Modules 4 and 5 in various ways, such as “Community wisdom for gaining knowledge and taking action”, “Seek community wisdom”, “Public Health Departments routinely listen to community wisdom...and so should we!!”, and “using community wisdom to understand and design solutions to public health issues.”

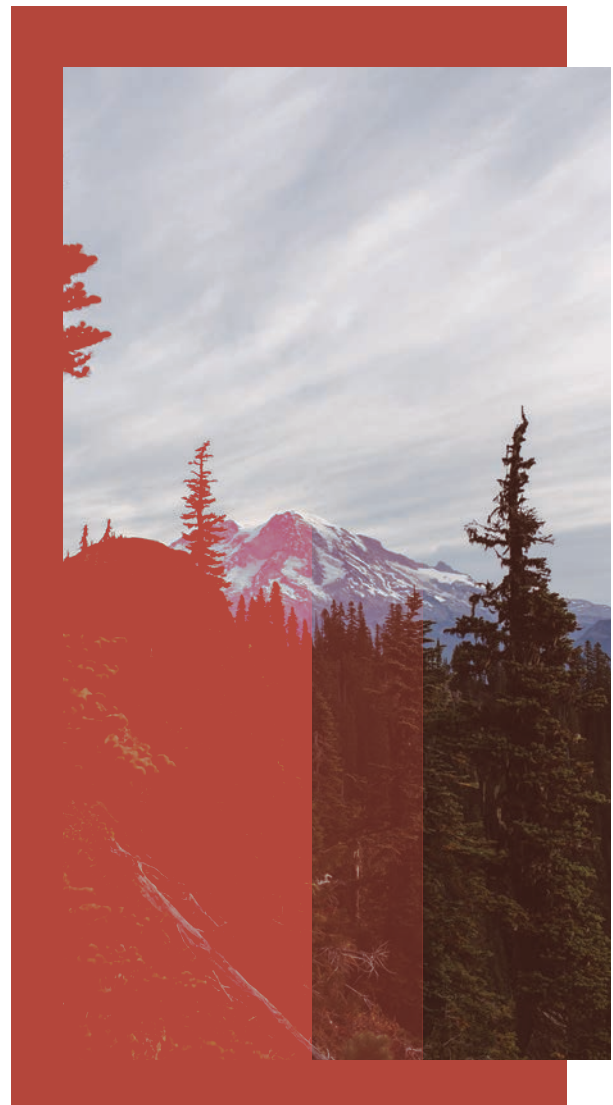
It is unfortunate that the curriculum writers do not clearly define community wisdom, which leads us to assume they are referring to various members of any given community. But who exactly are these vocal members that we should be seeking out and listening to? Why should we listen to them? Are we allowed to question their community wisdom? What if certain community groups don’t understand the full picture or have incorrect data? How is community wisdom different than groupthink?

We need to hear people’s stories. However, community wisdom should not override scientific data. Indeed, the scientific process is at its most valuable and important when it contradicts or supplements common wisdom, teaching things that would not have otherwise been discovered.

There should be a clear distinction made regarding community wisdom as claimed in this curriculum, versus indigenous knowledge, which has been used in decision making for millennia. With traditional knowledge, which humans have generated throughout human history, information was gathered in real time, by using trial and error processes, and resulted in immediate feedback for the community. The use of this traditional

or indigenous knowledge connects people to the process. This is different than what is occurring in this curriculum, the promotion of a collectivist mindset by discouraging students from contradicting groupthink.

Science education has traditionally focused on guiding students in the scientific method and the process of how to think clearly based on evidence and fact. This curriculum is focused on teaching students what to think based on emotion and political concerns and will undermine teaching students about science and the scientific method.



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# On affordable housing, the state is asking the wrong question

BY MICHAEL D. GALLAGHER

PRESIDENT & CEO, WASHINGTON POLICY CENTER

## ***When you leave Washington, where will you go?***

It's a question once unthinkable to those of us with roots in the Pacific Northwest. Leaving would require turning our back on Washington's majestic mountains, the waters of the Puget Sound and the sunny beauty of Eastern Washington. It would mean separation from our families.

It's simply too much to give up. This is our home.

Yet increasingly, and with a melancholy resignation in their tone, people are hearing from friends and neighbors, brothers and sisters, children and grandchildren looking to leave. And one of the big motivations is the expense of living here.



Housing prices have skyrocketed, leaving young would-be homebuyers to wonder if they'll ever be able to build equity for their future and older owners to dread the departure of their loved ones and the rising costs eating away at their fixed incomes.

Recognition of the affordability problem is nearly universal. There is no shortage of Democrats or Republicans who have expressed concern over housing access and affordability.

The problem is, those in power are focused on the wrong question. Their primary question is "How much affordable housing can government provide?" It's a question that guarantees outcomes of greater expense for all in order to create pockets of housing that benefit a relative few. The question they're missing is, "What can we [government] do to help builders make housing more affordable?" Or to put it as simply as possible, "What are we doing wrong?"

The question becomes more pressing once you come to terms with how much state and local laws, permitting, building restrictions and regulations add on average to the cost to construct a new, median sized home. That cost? \$144,000

It's tough to make housing more affordable if you're adding six figures to the cost that doesn't add a room, roof, or kitchen cabinet to the effort. My first family home in this state was only about \$30K more than the current estimated average cost added on by restrictions and regulations. How are families just starting out supposed to overcome barriers like that?

The truth is many will not. They'll either leave or try to rent – which has its own set of related problems and will delay their building of equity and wealth for their futures.

It's estimated that as much as 24 percent of housing price increases at the county level are due to the Growth Management Act (GMA), an

act which, among its conflicting goals, includes a goal of housing affordability. The GMA was supposed to prevent the Puget Sound region from becoming a Los Angeles-style sprawl. Instead, it's been a source of slow strangulation for affordable housing. We need to reassess the GMA in light of its performance over time and reform it so that Washington can meet the needs of its surging population while still protecting what makes our state great.

According to the Building Industry Association of Washington, the state zoning process alone adds an average of \$71,739 to the cost of a home. These costs are way too significant to ignore. It's simply impossible to be serious about fixing housing affordability in Washington on any broad scale without first fixing the costs the government is adding to it before a single nail is hammered in. In Seattle, the fee list for permitting regulations is 60 pages long and includes a \$271 charge for a "Vacancy Inspection." Just as a review of regulatory and restrictive barriers is needed at the state level, governments at the local level would benefit from the same kind of self-review with an aim of simplifying and speeding up the process.

The Washington State Building Code Council's new rules banning the use of natural gas in residential and commercial new construction are estimated to add an additional \$24,070 to the cost of a new home. How many families will be priced out of buying a new home because of these added costs?

Political leadership in our state needs to take to heart the old maxim, the first thing you do if you're stuck in a hole is stop digging.

We have the potential to reduce the cost of housing on a broad scale. The question that remains is whether we have the political courage and will power to do it.

# Washington Policy Center hires Chris Corry as Center for Government Reform Director

BY DAVID BOZE

COMMUNICATIONS DIRECTOR



SEATTLE – Washington Policy Center (WPC) has named Chris Corry as the new director for WPC's Center for Government Reform. Corry is replacing long-time director Jason Mercier, who is leaving to take a management position at the Idaho-based Mountain States Policy Center.

"I can't imagine leaving this position with someone better," declared Mercier. "Chris Corry is one of a handful of people in this state whose grasp of budget and policy issues I have absolute confidence in. I've devoted more than 20 years to Washington state policy and it's gratifying to leave this position in such capable hands."

Corry has more than eighteen years of experience in the insurance industry and risk management. In his community he serves on a number of boards including Crime Stoppers of Yakima County, Central Washington State Fair Board and the Yakima Salvation Army Advisory Board.

"For a lot of people, budget policy is just about the numbers – and obviously, it's essential to get those right," Corry explained. "But we can't lose track of the fact that budget policy is about people's priorities – how we live our lives, what kinds of homes we can afford, the schools our kids attend, and whether the vulnerable are properly cared for. Being efficient with Washington State's revenue is another way of saying you are being respectful of the people, because this money is coming from them."

"We are incredibly pleased to have Corry join our team," remarked Mike Gallagher, WPC President and CEO. "His grasp of budget and policy is rooted in both legislative experience and almost two decades in the private sector and he can go toe-to-toe with anyone in the state. Jason Mercier established a reputation for excellence for WPC's Center for Government Reform that Chris Corry will build on from day one."

Jason Mercier directed WPC's Center for Government Reform for nearly two decades and became one of the state's most widely respected budget analysts and tax experts. Legislators and media have counted on the Center for Government Reform to provide institutional memory and expertise. Chris Corry's command of the material and reputation for detail

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“I can’t imagine leaving this position with someone better. Chris Corry is one of a handful of people in this state whose grasp of budget and policy issues I have absolute confidence in.”

JASON MERCIER

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position him to hit the ground running as the new center director.

“Jason exemplified the high standards of WPC scholarship,” Corry explained. “I intend to build on that legacy and the solid foundation of work he’s leaving behind.”

“Washington state’s loss of Jason Mercier is Idaho, Montana and Wyoming’s gain,” explained WPC President and CEO Mike Gallagher. “Jason’s work and professionalism are exemplary. He has always been and will always be, a good friend to WPC and the cause of better government and leaves WPC’s Government Reform Center with excellent leadership.”

“We are thankful that Washington state has been

so well-served by Jason Mercier’s remarkable tenure at Washington Policy Center and wish him all the best in his new venture,” Kevin Bouchey, Chair of WPC’s Board of Directors exclaimed. “We are also thrilled to have such a smooth transition in leadership to Chris Corry and are honored to have a person of his caliber and experience aboard.”

Corry’s first day as WPC’s Director of the Center for Government Reform was May 1.



For the better part of the last 17 years, Jason Mercier has been a champion of free-market policy for WPC. As our friend moves on to new challenges and new states, we are thankful for the legacy he leaves behind. Jason was instrumental in 21 local governments banning local income taxes, bringing tax transparency to Washington, and giving citizens the opportunity to testify before the legislature remotely. His work informed citizens and the media with context and clarity about state spending and state transparency. His institutional memory was relied on by media and policymakers alike. We are exceedingly grateful for Jason’s service and will forever consider him a friend to all of us here at WPC.



# Washington versus the world on capital gains income taxes

BY JASON MERCIER

SENIOR FELLOW, CENTER FOR GOVERNMENT REFORM

If you were curious about the tax treatment of capital gains income and took a globe of the planet and randomly placed your finger after spinning it, you would hear the same thing: A capital gains tax is an income tax. You could repeat this exercise over and over and the results would be the same unless your finger landed on Washington state. Thanks to a 7-2 decision by our state Supreme Court, Washington now stands alone on the planet claiming a capital gains tax isn't an income tax.

For example, consider the following responses concerning the taxation of capital gains income:

- Australian Taxation Office: "You report capital gains and capital losses in your income tax return and pay tax on your capital gains. Although it is referred to as 'capital gains tax,' it is part of your income tax. It is not a separate tax."
- California Franchise Tax Board: "California taxes capital gains as an income tax and they are taxed at the same rate as ordinary income."
- IRS: "You ask whether tax on capital gains is considered an excise tax or an income tax? It is an income tax."
- Washington state Supreme Court: "We hold the capital gains tax is an excise tax under Washington law."

A final ruling by the state Supreme Court is the law, but that doesn't change the irrefutable fact that literally every tax professional in the world, from the IRS, to every other state, to other countries will tell you the same thing – capital gains are income and taxes on them are income taxes.

Curiously, the majority opinion appeared to be aware of this fact but decided Washington alone knows better. Consider this comment from the majority decision about why there wouldn't be double taxation violating the commerce clause (emphasis added): "Moreover, it appears Washington's capital gains tax would not apply in Plaintiffs' example because California taxes capital gains as income."

The dissenting opinion, however, clearly understood what a tax on capital gains income is – an income tax.

Some of the notable comments from the dissent:

- “Though not dispositive of this issue of state statutory interpretation, it is worth noting that the IRS and all 41 states that tax capital gains treat such gains as income and a tax on them as an income tax.”
- “The plain language of the statute shows that taxable incident is not the sale or transfer of the capital asset itself. Rather, the taxable incident is the realization of income derived from the sale of qualifying capital assets. Because the taxable incident or event is the realization of income—not the mere transfer of the asset—the tax is an income tax, regardless of the label placed on it by the legislature.”
- “The measure of the tax is indisputably the amount of income gained from the transaction. The fact that the tax is measured by the amount of net income only reinforces the conclusion that the taxable incident is receipt of income and that the capital gains tax is an income tax.”
- “I can find no Washington case upholding a tax as an excise where the measure of the tax was net income or gain. Instead, such taxes have consistently been invalidated as nonuniform property taxes.”
- “A tax is determined by its incidents, not by its legislative label. The structure of the capital gains tax shows that it is a tax on income resulting from certain transactions—not a tax on a transaction per se. Therefore, the tax is an income tax, not an excise tax. Under our constitution and case law, an income tax is a property tax. As enacted, this income tax or ‘capital gains tax’ violates the one percent levy limitation of article VII, section 2.”

The dissent was clear, factual, and consistent with the treatment of capital gains income across the world, but it only received two votes.

Some of the hot takes from national tax experts on Washington’s court discovering a new way to tax capital gains income have been very interesting. Here are some of the comments from a tweet thread by the Vice President of State Projects at the Tax Foundation:

- “You don’t have to dig deeply into the Washington supreme court’s decision in the capital gains tax case to find egregious errors. There’s an obvious, and crucial, falsehood in the second paragraph.”
- “The justices spend a dozen pages outlining how they think the prior tax code is unfair, citing wildly inaccurate studies along the way. What’s missing from the decision is any credible basis for believing the tax is constitutional.”
- “The state supreme court acknowledges that income taxes are unconstitutional, says this is distinguishable because it’s somehow an excise tax, and tries to prove it by claiming that income taxes \*are\* excises taxes. They’re contradicting each other from one page to the next.”
- “This case is incredibly simple. This dissent says everything that needs to be stated.”
- “I try to be respectful of court rulings and recognize that state supreme court justices know much more about the law than I do, but I don’t see any way to get around it on this one: the court wanted a capital gains tax so it ruled in favor even though the argument was ludicrous.”

Our state Supreme Court has ruled and the issue is “settled” now in Washington unless there is a federal challenge for violating the commerce clause or the voters respond with a ballot measure. With respect to the tax expertise of our state justices, I’ll still stand with the rest of the planet in the clear understanding that excise taxes aren’t applied to income - those are called income taxes.



# Is the 2023-25 Washington State Transportation Budget enough to keep us moving?

BY CHARLES PRESTRUD

DIRECTOR, CENTER FOR TRANSPORTATION

On April 23rd the Washington State Legislature passed a \$13.4 billion transportation budget for the 2023-2025 biennium. The bill provides \$5.4 billion for WSDOT highway projects including the I-5 Columbia River Bridge, the SR 167/SR 509 Gateway projects, and the US 395 North Spokane Freeway. The budget restores funding for highway projects the Governor's budget proposal deleted or pushed out to future budgets.

The budget includes \$1.3 billion for the Washington State Ferry System. That is intended to cover the cost of five new hybrid-electric ferries, though the competitive procurement process is just starting so the ultimate cost is still to be determined. The first of the new ferries, which are urgently needed, is not expected to enter service before 2027. In recognition of the need to keep WSF's aging fleet operating longer than previously planned, the budget includes additional funding for repair and maintenance.

The transportation budget was boosted by revenue from the Climate Commitment Act. When that Act was passed, the legislature-imposed restrictions on the types of projects and programs that could be funded with the revenue. The intent was to direct the funds to programs that reduce CO2 emissions rather than highway projects. To that end the transportation budget includes close to a billion dollars for various transit, electrification, bike, and pedestrian projects, as well as incentive programs.

As is typical, the transportation budget also includes funding for studies designed to inform future decisions. These include a study of public-private partnerships, a state-wide retail delivery fee, local jurisdiction implementation of projects on State Highways, I-5 planning, implementation of vehicle miles traveled targets, etc.

The budget is also noteworthy for what isn't in it. A bill proposing a mileage tax was introduced in the session, but it did not pass out of committee and the budget does not assume one will be imposed in this biennium. The budget does include funding for further study of the steps needed for future implementation of a mileage tax/Road User Charge.

The budget, though it covers a lot of ground, does not fund WSDOT preservation and maintenance at the level needed to achieve a state of good repair. As a result the backlog of preservation and maintenance work is likely to increase.

This problem became decidedly more public after a large pothole appeared on the elevated ramp connecting the Spokane Street viaduct with northbound HWY 99 in Seattle. This was no ordinary pothole, it left a four-foot wide hole with a view through the exposed re-bar to the ground thirty feet below. As the day went on the hole grew and several cars suffered flat tires after hitting the edge of this bottomless pothole.

As you can imagine this made a great visual for the TV news. What the cameras didn't capture was the bigger picture of inadequate highway and roadway maintenance. Some cities and counties do a commendable job of maintaining transportation infrastructure, but there are many cities and some counties, as well as WSDOT, that have underfunded maintenance and preservation for years.

There is a huge backlog of unfunded maintenance and repair work. For the State Highway system WSDOT estimates the annual funding shortfall at \$350 million. The biennial transportation budget the legislature just passed allocates \$609 million for highway maintenance but that is not enough to keep up with system maintenance and preservation needs which are continuing to grow over time.

WSDOT has also expressed concern about their ability to complete all the construction projects funded by the legislature.



# We need more leaders, advocates for our rich natural resources legacy

BY SEAN V. O'BRIEN

DIRECTOR, EASTERN WASHINGTON

WPC's Eastern Washington Director Sean V. O'Brien recently graduated from AgForestry Leadership, the state's premier leadership development program for mid-career professionals working in agriculture, forestry, and other natural resource-based sectors. A member of the program's 43<sup>rd</sup> class, he was chosen by his cohort to serve as the class speaker at their commencement ceremony in Spokane this past April.

This column was originally published in *The Spokesman Review* in April.

Walking up the steps of the Washington State Capitol Building in Olympia, you will find six large cast bronze doors bearing relief images of early industry and scenic depictions of our beautiful state. A ship to represent our long legacy of trade, sheep herding to pay tribute to our farming and agricultural heritage, a waterfall noting our bounty of fishing, and oxen pulling logs illustrating the abundance of forestry in the region.

These images, alongside those of an early homestead and territorial capitol building before our statehood was established in 1889, present a hopeful and pioneering spirit rooted in our rich natural resources.

13 of us witnessed the bronze doors on a tour of the Capitol as part of our 18-month participation

in AgForestry, a leadership development program for mid-career professionals working in agriculture, forestry, and other natural resource-based sectors. Over the course of the program, we met for more than a dozen seminars across the various corners of the state – from Wenatchee to Walla Walla, Pullman to Vancouver, and Spokane to Sunnyside – to engage in topics covering these issues and industries, as well as their intersection with communications, social services, crime and corrections, transportation, and government and policy.

Throughout these seminars – including trips to Washington, D.C. and an international seminar in Vietnam – a critical lesson was raised time and time again: the need for collaboration.

AgForestry was created in the aftermath of the "Fish Wars" of the 1960s and 70s, in which industry and indigenous tribes were constantly at fierce odds. Eventually, the Timber/Fish/Wildlife Agreement (TFW) was enacted – breaking the status quo of litigation and animosity and establishing a new way to manage natural resources with tribes, loggers, environmentalists, and agencies collaboratively working on practices, *together*.

Billy Frank, Jr., a Nisqually tribal leader, and Stu Bledsoe, an Ellensburg rancher, are credited with the leadership that led to the consensus



necessary to achieve something as significant as the TFW. Together, they demonstrated the critical importance for natural resources industries to strategically pursue their priorities in unison through communication and education, both for the public and for elected officials.

As Bledsoe worked on the TFW, he was a driving force for the establishment of a natural resources leadership program here in Washington state – and so AgForestry was born.

As a member of Class 43, which graduated recently in Spokane – and as someone who actively observes and engages in legislative debates in Olympia for a living – it is clear to me that we must continue to foster the development of advocates for these industries in our state.

Earlier this year, Spokesman columnist Sue Lani Madsen provided helpful context behind the ongoing discussions in Olympia surrounding the debate over riparian buffers flanking our state's waterways. As I wrote in a piece for the Spokesman in January, there were fears heading into this year's legislative session that we would again see a heavy-handed, compulsory approach taken on expanding these buffers. If we saw a return of the proposal initiated last session, it would have genuinely threatened a decimation of our state's agricultural sector.

Fortunately, that was not the case. Due to the tremendous leadership and commitment by House Agriculture Chairman Mike Chapman, a Democrat from Port Angeles, and Ranking Member Tom Dent, a Republican from Moses Lake, it was established from the onset of the Committee's work that no such regulatory mandate would be adopted and that only a bipartisan, collaborative-driven approach would move forward.

With the help of their colleagues, including Representatives Joel Kretz and Debra Lekanoff – a Republican rancher from Wauconda and a Democratic tribal leader from Skagit Valley, respectively – they passed an incentive-driven

bill rooted in voluntary, effective conservation practices in the House Agriculture Committee.

Only one person testified in opposition of the bill: a representative of Governor Inslee's office.

Tomorrow's leaders can be like the tribes, state legislators of both stripes, environmental groups, and the Washington State Farm Bureau who worked collaboratively to move this consensus-driven legislation forward.

They can be like the Northeast Washington Forestry Coalition, made up of local public and private partners in and around the Colville National Forest, who stood their ground when so-called environmental groups from outside the region tried to stop their collaborative forest management plan from moving forward.

They can be like the many partners we heard from in the Yakima Basin – including the Yakama Nation, local irrigators, state agencies, and environmental organizations – who years ago came together to find mutually beneficial solutions for fish and for water storage, both. Annually, each AgForestry class bestows the Stu Bledsoe Award to someone who has made a profound difference in the natural resources sector. Our class has voted to award it to Washington State Department of Agriculture Director Derek Sandison, who constantly works to build a bridge between eastern and western Washington and who has been a stalwart partner in the Yakima Basin effort.

In our polarized times, we need good-faith actors ready to step up and advocate for the abundance of natural resources we are blessed with here in Washington state. It is clear there can still be partnerships like that of Stu Bledsoe and Billy Frank, Jr. today. With more of these leaders equipped to build relationships, the more we can honor the visionary innovation depicted in those Capitol doors that helped found this great state.

You can find out more about AgForestry Leadership at [www.agforestry.org](http://www.agforestry.org).

# The Inslee tax on carbon should stop being illegally imposed on farmers and food transporters by the state Department of Ecology

BY PAM LEWISON

DIRECTOR, CENTER FOR AGRICULTURE

The “Climate Commitment Act,” a broad-based energy tax, was signed into law by Governor Inslee in 2021. The act created a cap-and-trade program for carbon emissions offsets to be auctioned to businesses on a quarterly basis. The anticipated tax on carbon emissions began this year. To protect consumers, the legislature had exempted a few groups from paying fuel taxes based on the first carbon emissions auction. To help keep grocery prices down, these included food producers and transporters.

At the beginning of this year, fuel prices rose and continued to rise for 11 consecutive weeks. In addition to general fuel prices increasing, agricultural producers and transporters report they are being charged an additional tax for the fuel they purchase – despite the exemption to the new tax on carbon emissions they were provided in the law..

The legislation, known as the “Climate Commitment Act” specifically requires the state Department of Ecology to create a system to exempt agricultural uses. The law reads:

“The following emissions are exempt from coverage in the program ... Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or

special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department....

The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period.”

Claiming that payments are not due to the state until next year, Ecology officials maintain that no business has incurred the fuel tax. Fuel suppliers, however, are accruing liabilities for every gallon of gas and have included the cost of the tax in the price of fuel sales.

Farmers and ranchers are supposed to be exempt from those taxes but are having to pay those higher costs. Ecology officials are legally required to fix the current situation. The responsibility is built into the CCA: “The department must determine a method for expanding the exemption ...”

The Governor, Ecology officials, and legislators want the public to believe the rising cost of fuel prices is caused by the greed of fuel companies and leave it at that. However, when operating costs

increase – like the need to purchase CO2 allowances in a public auction – then businesses are likely to pass along that cost to their customers, as observed in an increased cost for fuel around the state. Despite their claims to the contrary, the tax on CO2 emissions is intended to increase fuel prices to create an incentive to use less of those fuels.

One business group that cannot pass on increased operating costs: agriculture. That is why an exemption for agricultural fuel purchases are also exempt from the CCA tax on carbon emissions and is still critical now.

At the current auction price, the fee will cost approximately \$33 million in diesel purchases for agricultural users. Gasoline, natural gas, and propane purchases are also exempt from the CCA carbon tax, but agricultural purchasers are currently being taxed for those purchases as well. However, calculating the cost is considerably more difficult as there are not readily available recent usage reports for any of the three fuels.

As the law's language shows, the Department of Ecology is responsible for the collection of an illegal tax on farm fuels because they have not set up a means to ensure food producers and transporters are exempt from the tax. A simple rebate program that requires farmers and ranchers to submit their fuel purchase invoices on a quarterly basis and refunds the CCA charge at the rate noted on the invoice, would solve the problem, and provide for honest administration of the law. Food producers and transporters should not be punished because of the incompetence of a state agency.





# Policy victories in the 2023 legislature

BY PAUL GUPPY

SENIOR VICE-PRESIDENT OF RESEARCH

***This story is abridged from the original. Extensive additional information is available in the full publication at [WashingtonPolicy.org](https://www.washingtonpolicy.org).***

The 2023 Washington state legislative session convened on January 9th and adjourned on April 23rd. In this session Democrats controlled the House and the Senate and the governor's office. Democrats held a 58-40 majority in the House and a 29-20 majority in the Senate. WPC experts testified by invitation 36 times before legislative committees, published 17 Legislative Memos, appeared on radio, TV news and online news shows more than 640 times, distributed 166 blogs on social media and provided weekly video updates of legislative actions. WPC experts also worked with individual lawmakers in response to requests for research.

Following are several examples, presented in random order, of policy decisions made by the legislature that either adopted reforms reflecting policies recommended by WPC or defeated proposals reflecting policies that WPC had recommended against.

**No new taxes:** One of WPC's primary recommendations to state leaders is to not increase the financial burden they place on the people of Washington. In December 2022, for the first time, Governor Inslee announced a proposed budget that included no general tax increase. A WPC analysis released on March 20th showed that legislators could expect at least a 7.1% revenue increase with no new taxes. The legislature passed a no-new-taxes budget for 2023-25.

**Provided fair funding for charter school children:** WPC has consistently argued against the state's discriminatory policy that cuts funding for charter school children compared to the per-student funding other public schools receive. On February 9th WPC's education expert, Liv Finne, presented findings to the legislature in support of SB 5442, a bill to provide enrichment funding for public charter schools to partially make up for the shortfall. Provisions of the bill were included in the 2023-25 operating budget (SB 5187) and provided roughly \$1,550 more per student (\$8.3 million) for the state's charter school families.

**Tutoring funding to help children recover from COVID learning loss:** SB 5248 included WPC recommended policy to direct unused federal COVID relief funds to provide tutoring service to children in public schools. WPC's education expert presented findings at a public hearing of the Senate Education Committee showing that direct tutoring for students, rather than general money added to district budgets, was the most effective way to make up for learning loss caused by Governor Inslee's school shutdowns. The bill's provisions were put into the operating budget bill adding a total of \$196 million for additional tutoring services.

**Fair and honest lawmaking:** WPC has long recommended ending the use of "title-only bills," the introduction of legislation with blank pages, with the text of new laws being filled in at the last minute before the public has a chance to see it. On January 9<sup>th</sup>, the Senate adopted SR 8601 and "Title-only" (blank) bills were banned in the senate, with the full text of the bill required to be given to the public with at least five days' notice before any legislative action can be taken.

**Reduced the nursing shortage:** WPC's Health Care policy expert Elizabeth Hovde published an analysis recommending that Washington join the 37-state Nurse Licensure Compact. In public hearings, she testified in support of SB 5499, which enacted that policy, informing lawmakers that cutting regulations and accepting the qualifications of nurses in Washington hospitals and clinics would benefit our state. The bill passed and the governor signed it on April 20<sup>th</sup>.

**Speeding up ferry construction:** WPC's transportation policy expert, Charles Prestrud, published research showing how the Washington State Ferry system (WSF) could speed up contracting and delivery of new ferries by cutting mandates and regulations. This approach was adopted by the sponsors of HB 1846. The bill passed on April 18<sup>th</sup> and was signed by the governor.

**Streamlined permitting to make housing more affordable:** WPC has long supported policies to cut regulations and make housing more affordable by streamlining permitting and applications. SB 5058 exempts apartment buildings with 12 or fewer units from the complicated large building permit process. SB 5290 consolidates local building permits to speed up home construction projects. Both bills passed and were signed by the governor.

**Defeated a new wireless device tax:** HB 1793 would have imposed an added tax of \$2.00 on the sale of each wireless device in the state. Sponsors said it was to tax cell phones. WPC was the only source that noted in public testimony that the tax would apply to all wireless devices, like kitchen appliances, wireless earbuds, laptops and tablets, gaming consoles, smart TVs, and electric bikes. The bill died in committee. WPC's analysis saved the people of Washington at least \$37 million over five years, according to official estimates on cell phone sales, but the true savings are much higher, likely over \$100 million a year.

**Real Estate Excise Tax (REET):** HB 1628 would have increased the highest state Real Estate Excise Tax (REET) rate from 3% to 4% and would have allowed local governments to add another .25% to the REET tax on property sales within their jurisdiction. Research published on April 20<sup>th</sup> by WPC business expert Mark Harmsworth found that, "HB 1628 will not solve housing affordability in either the ownership, rental or commercial real estate market." The bill died in the House Rules Committee.

**Cutting class instruction time:** SB 5054 would have cut four hours per week of classroom instruction time for students in public schools. WPC published an analysis of the bill in February and education expert Liv Finne presented her findings at a public hearing on March 14<sup>th</sup>. Senate leadership had scheduled it for passage, but instead the bill died in the Senate Education Committee.

# 2023 Legislature on health care: What passed? What didn't?

BY ELIZABETH HOVDE

DIRECTOR, WPC CENTER FOR HEALTH CARE

This legislative session, some bad policies were rejected and some longtime WPC recommendations made it across the finish line. Here's a quick diagnosis of how the legislature fared in health care related policy this year.

Qualified, licensed nurses will be able to move and work freely about the country without state licensing barriers thanks to Senate Bill 5499 which paves the path for our state to join 37 other states plus Guam and the U.S. Virgin Islands in the Nurse Licensure Compact (NLC), a long-time WPC recommendation. Eliminating licensing delays can get nurses to work quickly when they relocate to Washington state or simply come to help temporarily in the midst of nursing shortages. An implementation process now needs to be completed before multistate license holders can practice here.

Also helping the health care workforce in Washington state were several scope-of-practice expansions (HB 1039, HB 1073, SB 5359) that emphasize adequate training. Even more good news came wrapped in SB 5582, which will aid in reducing barriers and expanding educational opportunities to increase the supply of nurses here. Expanding the nurse pipeline is imperative. The nursing workforce is aging and retiring at the same time there are more people in need of care.

Thanks to the passing of Senate Bill 5103, the state will be required to pay more of its way for

Medicaid patients that are difficult to discharge from hospitals. The state cannot continue to take responsibility for patients then refuse to reimburse medical facilities adequately to leave costs to fall on private payers.

## SEVERAL MISGUIDED POLICIES RIGHTLY DIED IN THE SESSION

Sponsors of HB 1094 said they were seeking “to break the cycle of generational poverty by making a one-time deposit of \$4,000 into an account for each baby in Washington born into poverty.” In 2020, 37 percent of births were financed by Medicaid. In a committee hearing, I heard the percentage of children eligible for Medicaid in their first year now is even higher. Of course, even if the transfer of \$4,000 taxpayer dollars to people born into poverty was enough to bring and keep a person out of poverty (it isn't), it's not healthy or wise to suggest to Washingtonians that if once poor, you're always going to be poor. It's also not accurate to think that if a person is born into economic security, he or she stays there forever.

Bills related to the state's continual push to enact taxpayer-financed health care, Senate (Joint Memorial 8006 and Senate Bill 5335) failed, but the state's effort will carry on. The state's Universal Health Care Commission has already agreed to analyze SB 5335, hoping to draw from proposals in the failed legislation. Even if taxpayers wanted new, substantially higher taxes instead of insurance

premiums, the pattern of universal, government-run health care is the rationing of medical care.

Senate Bill 5767 was introduced late, after the Washington State Supreme Court's majority skirted the state Constitution and enabled legislators an end-run around the voters by declaring the state's capital gains tax an "excise tax" instead of an income tax. SB 5767 sought to impose an "excise tax" on hospitals for what some lawmakers deemed "excess compensation" paid to hospital administrators.

### ALSO NOTABLE:

SB 5242 has been signed into law restricting health insurers from requiring anyone seeking an abortion to pay a copayment. Some are questioning why an abortion procedure should have this unique status instead of, say, cancer treatments.

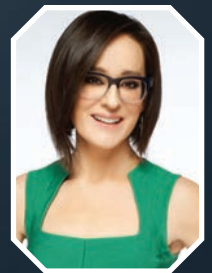
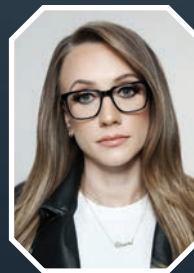
Senate Bill 5599 passed despite contradicting other Washington state laws and invasively interfering with parental authority. The bill's passage allows minors to be in youth shelters or "host homes" without proper parental notification if they are seeking gender transitions or abortions.

Looking at the year ahead, I plan to highlight some solutions that many lawmakers and the general public don't even know to look at. There are innovations all around the nation that provide people with affordable access to health care. The choices don't have to be between the hybrid system we have right now and socialized health care.



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Greetings! As the new Center for Government Reform Director, I'm excited to get to work to help improve the transparency, accountability and performance of our state government. As a taxpayer and current lawmaker, I'm also happy to have celebrated "Sine Die," the end of the regular 2023 legislative session. Based on the proposals that didn't pass, all Washingtonians should have celebrated "Sine Die."

## STATE OPERATING BUDGET

Washington state concluded the 2023 session by passing the largest operating budget in the state's history at \$69,767,010. The budget writers claimed to have created a budget without increasing taxes. And while that is technically true, the growth is driven by the Climate Commitment Act and Capital Gains 'Excise' Tax (Washington's new Income Tax for our out-of-state readers), taxes passed in prior sessions that are coming online in 2023. Taxpayers will also be faced with the new long-term care tax for the first time this year. These prior tax increases translate to more expensive goods and services for Washingtonians.

The other area of concern in the budget is the lack of savings in our "Rainy Day" fund. During the 2021 session, the fund was emptied under the guise of Covid-19 pandemic and put into an account that wasn't saddled with restrictions (translation: "needing bipartisan support to spend"). This withdrawal has put Washington state in a potentially disastrous situation if we are impacted by a recession and declining state revenues.

Our Democratic State Treasurer has called on state lawmakers to maintain a minimum 10% budget reserve. While the enacted budget shows reserves at 10% at the end of the 2023-25 outlook, that is relying heavily on an ending fund balance that is almost entirely spent in the 2025-27 outlook. And we must remember that this includes spending money previously transferred out of our budget stabilization account.

# The highs and lows of the 2023 Legislative Session

BY CHRIS CORRY

CENTER FOR GOVERNMENT REFORM DIRECTOR

## TAX PROPOSALS FAIL

Several last-minute tax proposals died during the session. SB 5770 was introduced to remove the voter-approved property tax growth factor from 1% to 3%. A proposal to increase the Real Estate Excise Tax failed to pass in the final weeks of session. There seemed to be a disconnect between majority parties in the House and Senate on passing these tax increases. While Senate Democrats said both proposals were dead House Democrats openly disagreed. It is unclear why these two bills did not move forward but post-session comments indicate they will be back for a discussion in 2024.





## EMERGENCY POWERS REMAIN UNCHECKED

Lawmaker proposals to reign in emergency powers failed to make it out of committee in 2023. HB 1535 and SB 5063 did not receive a hearing despite bipartisan support. There was a proviso in the Senate budget to review Washington State's emergency powers but it was cut from the final budget. As a reminder, Washington state ranks 41st in Emergency Powers Checks & Balances.

## TRANSPARENCY

The public need for clear, accessible tax information is growing by the year. In 2023 there was another bipartisan proposal for tax transparency. SB 5158 would have helped Washington citizens understand the who, what, where, when and how much around the taxes they paid. While this bill did not survive the session, a budget proviso did make the final cut. This funding would require the Dept of Revenue to create an implementation plan for the searchable database envisioned under SB 5158.

The need for open and transparent government records is an ongoing discussion in Olympia. While Washington state's Public Records Act provides strong open records access, the number of limitations and restrictions continue to grow. Access can also be a complicated maze across various state agencies. Transparency is certain to remain a key issue in the next legislative session.

# The 2023 Legislature on workers' rights was mixed

BY ELIZABETH HOVDE

DIRECTOR, CENTER FOR WORKER RIGHTS

The legislative session offered a mixed outcome for workers in the 2023 regular legislative session. Here's what you need to know:

The Legislature failed to tackle the governor's vaccine mandate policy on state employees. We've known for some time that people who were vaccinated as well as those who were not could both contract and spread COVID-19. This scientific rationale for the policy has long disappeared, but even so, only a small minority of lawmakers went after the policy.

People lost their careers for making their personal decision whether to get a COVID vaccination and others still can't get a job with the state because they too have refused this one vaccination. The Department of Transportation, Washington State Patrol and other agencies' staffing challenges will not be helped by the governor's misguided, outdated COVID-19 vaccine mandate on new hires. As years go on, how will it look to still be excluding a sizable portion of the population from our potential workforce? This "permanent" vaccine mandate is going to age badly.

*UPDATE: Since the original publication of this article, the governor rescinded his "permanent" COVID-19 vaccine mandate on state employees. Fired workers can reapply for state jobs.*

## LONG-TERM-CARE PAYROLL TAX

While many lawmakers celebrated the end of session by proudly pointing out the lack of major tax increases, most working taxpayers will soon be left with a different impression. This is because the Legislature failed to implement the WPC recommendation to repeal the long-term-care payroll tax. Thirty-one Republican members of the House of Representatives tried and sponsored House Bill 1011 to repeal the coming tax, but their numbers were not enough.

Workers are going to be penalized with an additional 58 cents for every \$100 they make taken from their paychecks starting in July. So while some legislators celebrate not creating additional taxes this year, they will be collecting additional taxes this year.

## MISGUIDED MOVES

An invasive favor to unions passed in the form of HB 1200, which will require public employers to provide employees' personal contact information to exclusive union bargaining representatives at regular intervals. Note this private information is not given to organizations seeking to educate workers about their right to opt out, but only the government union representatives.

Public employers have extensive access to employee information. Anyone who has been a union-represented employee but who doesn't always agree with a union knows that life can get uncomfortable if you're seen as someone who opposes a union's workplace or political ideas. It's no wonder law enforcement officers had strong privacy concerns with the bill.

More disappointment came in passing of House Bill 1106 a new law that will raid money from the unemployment benefits meant

to provide workers with temporary income when they lose a job through no fault of their own. With HB 1106, when a worker quits because his or her life and kid schedule don't line up with work, they can apply for unemployment insurance benefits too.

Expanding access to unemployment insurance benefits by adding circumstances in which a person can voluntarily quit is a bad idea. Workers already provide money to other people who want to take time off to welcome a new family member through the state's Paid Family and Medical Leave (PFML).

And speaking of the PFML, a needed housekeeping item was rightly addressed for that state-imposed program Washington workers are forced to pay into but many will never benefit from. SB 5286 modifies the payroll tax's funding formula to help keep the program out of the red — that is, along with the unfortunate doubling of the tax's rate and a recent \$350-million legislative bailout from the general fund. SB 5286 was bipartisan and helpful, but it's not at all celebratory. It simply rearranges deck chairs on the PFML Titanic.

## THANKFUL MISS

House Bill 1045 sought to establish a basic income pilot program that would have provided “24 monthly payments to up to 7,500 qualifying participants in an amount equal to 100 percent of the fair market rent for a two-bedroom dwelling unit in the county in which a participant resides.” Participants in the pilot program would retain their eligibility for other assistance programs. HB 1045 had a hearing on January 11, was given a majority pass out of the House Committee on Human Services, Youth, & Early Learning on January 24, and then rightly met its death awaiting action in the House Appropriations Committee.

## LICENSURE

Research from the Institute for Justice found that Washington state requires government licenses to work in a larger number of job categories than any other state. Although the number of days lost in Washington is less than average, Washington's total burden of occupational licensing ranks 8th worst in the nation.

Instead of getting rid of bureaucracy that slows workers down and erects barriers, lawmakers nibbled around the edges in some areas of licensing. Some easement came for military spouses in House Bill 1009. It expedites licensing for military spouses who have qualified occupational licenses in other states. It also allows a military spouse to terminate an employment contract without penalty if his or her spouse receives orders for a permanent change of station.

Finally, when it comes to nurses, the Legislature did make licensing less cumbersome by finally passing a long-time WPC recommendation to become part of the multistate Nurse Licensure Compact. That will put patients in Washington state in a safer position in times of nursing shortages, allowing nurses from 37 other states to work in Washington when needed. And it allows nurses here a license that acts more like a driver's license. On this issue, I can say “good job lawmakers.”

# Donor Impact

Your support of Washington Policy Center is making a real impact. Thanks to YOU, WPC's research team was your voice in Olympia during the Legislative Session.

Despite the recent decision of the Washington State Supreme Court, WPC will continue to fight the income tax on capital gains and to make Washington income-tax free again. Below are a few examples of impact that you made possible.

Thank you for your support of WPC. We cannot give up on Washington State! Please consider making a 100% tax deductible contribution using the provided envelope or visit [www.washingtonpolicy.org/donate](http://www.washingtonpolicy.org/donate) to ensure WPC's work to improve our state through free market ideas continues to make an impact.

The Spokane City Council reversed a 2,600% fee increase on housing construction

Budget funds for education will go towards tutoring to help make up for the COVID shutdown learning losses

Joined the multi-state Nurse Licensure Compact, so nurses licensed in other states can work in Washington seamlessly

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