

POLICY GUIDE FOR WASHINGTON STATE

EDITED BY PAUL GUPPY

7TH EDITION (2024)

**A PRACTICAL RESOURCE FOR INFORMED CITIZENS
AND THE LEGISLATORS WHO SERVE THEM**

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. We provide 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.

WPC is comprised of eight research centers. Our areas of focus are:

- Education
- Protecting the environment
- Agriculture
- Government reform (budget and tax policy, and open government)
- Health care
- Small business
- Protecting worker rights
- Transportation

WPC continues to grow in size and impact. Coverage of our work appears regularly in national, statewide and online media, with our research appearing in online and traditional news coverage an average of six times a day. Our research and expert commentary also reach a wide audience through extensive social media and our website – www.washingtonpolicy.org.

TABLE OF CONTENTS

Foreword	ix
Introduction to the 7th Edition	xi
Chapter 1. Responsible Public Spending	1
1. Adopt improved budget transparency to inform the public about spending decisions	2
2. Place performance outcomes in the budget to hold public agencies accountable	4
3. Restore legislative oversight of collective bargaining agreements	5
4. End secret negotiations for public employee pay and benefits	7
5. Restore the people's right of referendum by limiting use of the emergency clause	9
6. Enact emergency powers reform to prevent abuse of special executive authority	12
7. Adopt a constitutional amendment prohibiting unfunded mandates on local governments	14
Chapter 2. Reforming Taxation	23
1. Support Washington families by enacting tax relief	24
2. Adopt a constitutional amendment requiring a supermajority vote to raise taxes	28
3. Do not impose a state income tax, repeal the income tax on capital gains	30
4. Affirm the state ban on local income taxes	
5. Replace the Business and Occupation tax with Single Business Tax	36
6. Create a tax transparency website	38
7. Cut the state sales tax	39
Chapter 3. Environmental Stewardship	49
1. Empower people, not politicians, with conservation technology	50
2. Destroying the Snake River Dams would be bad for the economy and the environment	56
3. How to improve salmon recovery in Washington state	61
4. Improve forest stewardship to reduce wildfires and capture CO2	67
5. Fixing Washington's costly and ineffective climate policy	71
Chapter 4. Improving Health Care Coverage	84
1. Stop working to impose a socialized, single-payer system on Washingtonians	85
2. Focus Medicaid on those who need it most	91
3. Promote structural reforms at the state level	94
4. Repeal Certificate of Need laws	96
5. Protect children by keeping parents involved in health care decisions	98
6. Respect doctor-patient decisions by not imposing experimental vaccine mandates on adults	99

TABLE OF CONTENTS

Chapter 5. Improving Education	110
1. Recognize that the problem with public schools is not lack of funding	111
2. Increased spending has not improved student learning; reforms are needed to create great public schools	114
3. Expand access to charter schools	116
4. Allow families access to universal school choice	119
5. Allow access to Education Savings Accounts for special needs, foster children, military families, Native Americans and children assigned to failing public schools.	123
6. Ignore the false claims made against school choice programs	127
7. Avoid repeating failed reforms of the past; increasing spending has not improved learning outcomes	130
8. Repeal life-time tenure rules and certification limits that keep the best teachers out of public schools	133
9. Repeal harmful CRT ideology that teaches children to hate their country	135
Chapter 6. Protecting Democracy and Promoting Accountable Government	155
1. Protect freedom of speech from government censorship	156
2. Improve public notice and ban the use of title-only bills	159
3. Apply the Public Records Act and the Open Public Meetings Act to the legislature	162
4. Require a two-thirds vote of the legislature to change a voter-approved initiative	162
5. Reduce the number of statewide elected offices	164
6. Allow district elections for supreme court justices	166
7. Require that mail-in ballots be received by election day	167
8. Put a reasonable time limit on the governor's emergency powers	169
Chapter 7. Creating Jobs and Protecting Worker Rights	180
1. Protect worker rights by making Washington a right-to-work state	181
2. Allow workers to leave a union and not be fired	184
3. Protect caregivers' wages for providing services to Medicaid clients	186
4. End secret union negotiations and honor the Open Public Meetings Act	188
5. Legalize private insurance for workers' compensation	190
6. Repeal the long-term care payroll tax	192
7. Repeal payroll taxes that are harming workers	197
8. Remove the need to have a college degree from most state job requirements	198
9. Re-hire workers fired by Governor Inslee's vaccine mandate	200

TABLE OF CONTENTS

Chapter 8. Expanding Business Opportunities and Employment	214
1. Repeal the death tax	216
2. Avoid the false myths about the minimum wage	218
3. Allow a youth training wage	220
4. Reduce the regulatory burden by requiring legislative approval	222
5. Provide for the automatic repeal of outdated regulations	224
6. Cut occupational licensing rules so people who want to work are allowed to work	225
7. Enact business license reform	229
Chapter 9. Improving Mobility and Transportation Services	240
1. Make system efficiency a primary goal of transportation policy	242
2. Focus on improving mobility rather than reducing daily travel	244
3. Reform transit agency governance and improve accountability	247
4. Make tolling policy consistent with 18 th Amendment protections	252
5. Reform transportation planning and clarify policy goals	254
6. Begin a shift to revenue sources that can replace fuel taxes	259
Chapter 10. Improving Agriculture and Food Security	267
1. Protect and improve the H-2A jobs program	268
2. Enhance labor force training in agriculture to promote jobs and increase food production	270
3. Create overtime flexibility in agricultural jobs	272
4. Remove gray wolves from the Endangered Species list	274
5. Make outdoor heat and wildfire smoke rules easy to follow	276
6. Dietary choices should remain a personal choice	279

THE POLICY EXPERTS

ABOUT THE EDITOR AND AUTHORS

Paul Guppy - Editor

Paul Guppy is the Vice President for Research at Washington Policy Center. He is a graduate of Seattle University and holds graduate degrees from Claremont Graduate University and the London School of Economics. He worked for 12 years in the U.S. Congress as a Chief of Staff and Legislative Director. As the Vice President for Research, he writes extensively on tax policy, public finance and other issues. He is a frequent commentator on radio and TV news programs, and in newspapers across the state.

Chris Corry – Director, Center for Government Reform

Chris Corry is the Director of the Center for Government Reform at Washington Policy Center. He received his bachelor's degree from the University of Washington. Before joining WPC he worked for nearly 20 years in the insurance industry working for both insurance carriers and brokers. He also serves in Olympia with a considerable focus on issues impacting people and businesses in Washington state. Chris and his family live in Yakima, Washington.

Liv Finne – Director, Center for Education

Liv Finne is a graduate of Wellesley College and of Boston University School of Law. She retired from civil litigation practice to raise two children and work with her husband in running a small business. She is the author of the study *An Option for Learning: An Assessment of Student Achievement in Charter Public Schools*, which in 2012 helped lead to passage of Washington's voter-approved charter school law.

She also wrote Washington Policy Center's *Education Reform Plan: Eight Practical Ways to Improve Public Schools*. She is the author of WPC's widely-read online education blog, and a frequent commentator on public education choice and school reform in news media across the state. Liv is committed to improving public schools by expanding school options for all parents, regardless of their zip code, including charter schools, vouchers, online and other innovations in education.

Elizabeth Hovde – Director, Center for Health Care and Center for Worker Rights

Elizabeth Hovde grew up in Seattle's Ballard neighborhood and graduated with a Bachelor of Arts degree in journalism and political science from Western Washington University. Her journalism career began with writing political opinion columns for The Bellingham Herald.

After graduation, Elizabeth became the communications director for the Washington Family Council, crafting legislative testimony, press releases and articles for various publications. She was recruited by The Columbian newspaper and spent the next decade as an editorial board member and columnist, winning several Society of Professional Journalists awards. Elizabeth enjoyed another 10 years as a political columnist for The Oregonian. She has also taught journalism, as an adjunct professor at Washington State University Vancouver. She shares her Vancouver home with two teenage sons.

Mark Harmsworth – Director, Center for Small Business

Mark Harmsworth was elected in 2014 to the Washington state House of Representatives where he served two terms. His focus was on transportation and technology, including serving as the ranking member on the House Transportation Committee. Prior to the Legislature, Mark served two terms on the Mill Creek City Council and was elected Mayor Pro-Tem in his last year.

He recently finished serving as a Director on the Everett Community College Foundation Board and served as a Director on the Boys and Girls Club of Snohomish County until 2021. Mark works in the technology industry and is an owner of a small business after completing a long career at Microsoft and Amazon. Mark and his family live in Mill Creek, Washington.

Pam Lewison – Director, Center for Agriculture

Pam Lewison holds a B.A. in English from Washington State University-Pullman and an M.S. in Agricultural Leadership, Education, and Communications from Texas A&M University-College Station. She spent eight years in newsrooms around the Pacific Northwest covering every beat available before working as a copy editor, page designer, and assistant managing editor. She worked for the East Columbia Basin Irrigation District on the Odessa Groundwater Replacement Program and as the Communications Director for the Washington Cattlemen's Association. She and her husband own and operate a small diversified crop and livestock farm near Moses Lake.

She is the current Grant County Farm Bureau President and the incoming Washington Cattlewomen's Association President. She also volunteers for the American Farm Bureau Federation, the American National Cattlewomen's Association, her local 4-H and FFA chapters, and her local county fair. Her writing has been published in newspapers and magazines throughout the country and her work has been featured on national radio and television broadcasts.

Todd Myers – Director, Center for the Environment

Todd Myers has two decades of experience in environmental policy, including climate policy, forest health, old-growth forests, and salmon recovery. A former member of the executive team at the Washington State Department of Natural Resources, he is currently a member of the Puget Sound Salmon Recovery Council.

He is the author of "Time to Think Small: How Nimble Environmental Technologies Can Solve the Planet's Biggest Problems," which outlines how small technologies are empowering people to protect wildlife, reduce CO2 emissions, and reduce ocean plastic. His previous book "Eco-Fads: How the Rise of Trendy Environmentalism Is Harming the Environment" documented how environmental policies are driven by a desire to look good rather than help the environment.

His writing has appeared in the *The Wall Street Journal*, *National Review*, *The Seattle Times*, and *USA Today*, and he has appeared on numerous news networks including CNBC, Fox News, the BBC, and CNN. He served as vice president of the Northwest Association of Biomedical

Research and received its Distinguished Service Award in 2018 for his support of bioscience. He has also served as president of the Prescription Drug Assistance Foundation, a nonprofit providing medicines to low-income patients. In 2021, Myers served as president of his local beekeeping club.

He holds a bachelor's degree in politics from Whitman College and an M.A. in Russian/International Studies from the Jackson School of International Studies at the University of Washington. He and his wife live in the Cascade Mountains in Washington state with 200,000 honeybees.

Charles Prestrud – Director, Coles Center for Transportation

Charles Prestrud has more than 30 years of experience in transportation policy, including serving as King County and Snohomish County planning manager for the Washington State Department of Transportation (WSDOT). His professional work has included leading the preparation of a long-range transit plan, analysis of legislative proposals, development of State Highway HOV policy, crafting federal and regional grant applications, and inter-agency coordination.

He has served on several Transportation Research Board committees as well as National Cooperative Highway Research Program study panels. Charles graduated from the University of Washington where he focused on economics and geography.

FOREWORD

by Michael Gallagher, President

Welcome to the 7th edition of the Policy Guide for Washington State and our work at Washington Policy Center (WPC). We are an independent, non-profit research and educational organization with offices in Seattle and Spokane that supports free speech and the open and respectful exchange of ideas.

The first step in our research work is to listen. People often report that those in power don't listen to them. Government policies drive the prices of basic necessities like food and fuel higher and higher. The government-run public education system harms our children by failing to provide the caring learning environment found in dozens of other states. Failure to protect people and property leads to fear and prompts businesses to leave the state. Ordinary Washingtonians say they are frustrated because it is so difficult to achieve positive change in their lives.

The purpose of the Policy Guide is to provide practical solutions based on people's genuine needs. It presents proven, evidence-based actions that elected officials can take to remove barriers and foster greater opportunity for everyone. The ideas and solutions in the Policy Guide are powerful for one simple reason: They work!

We are a member-driven organization with thousands of supporters statewide. The vast majority of our members are individuals, working families and small business owners living in cities, towns and small communities throughout the state. Over 95 percent of our support comes from in-state sources. All contributions are independent and voluntary. Due to our broad support we are not beholden to entrenched "special interest" funders. We do not receive or accept government money.

Our research program is centered on eight areas of public policy: budget, taxes and government reform; protecting the environment; promoting agriculture, reforming health care, improving education, protecting small business, improving transportation; and promoting labor reform and worker rights. The focus of each and all of them is to apply the principle of the free market to the decisions and policy choices that are made every day here in Washington. Our website is a real-time narrative that describes the path to prosperity for all our citizens.

Typical users of our research are state lawmakers, agency officials, city and county officials, reporters for print, broadcast and online media, and the general public. News organizations frequently use WPC research when covering current issues. Our experts, findings and policy recommendations are cited in news reports over one thousand times every year – and have been for decades.

Washington Policy Center is not a political organization. We promote ideas, not parties or candidates. Our experts serve as a resource for lawmakers of both parties to promote sound policies that benefit the people of Washington. As one of our long-serving team members has acutely observed, “Political candidates and campaigns are lottery tickets. The Washington Policy Center is your 401(k) plan.”

The Policy Guide for Washington State presents the best ideas and reforms needed to make a positive difference for the people of our state. These are the priorities policymakers should adopt to advance better governance and state-improving reforms. This book is an essential part of the mission of Washington Policy Center, which is to promote the best policy ideas that improve the lives of all Washingtonians.

INTRODUCTION

by Paul Guppy, Vice President

“Here, sir, the people govern; here they act by their immediate representatives...” That is what Alexander Hamilton said at the inception of our national constitution. Since then federal power and state governments management of the details of daily life have vastly expanded, causing many people to question whether Hamilton’s founding sentiment is still true.

In a democracy the men and women elected to public office are supposed to work for us, to serve the interests of the community, not their own personal and political interests. With the growth in the size and power of state government in recent decades it often feels like it’s the other way around.

State officials frequently treat business owners and working people as producers of revenue instead of respecting them as citizens. A verbal slip that reveals this grasping mentality is when state lawmakers talk about how much a new tax will “generate,” as if working people are simply cogs in a human-driven machine that produces money for the treasury.

This heartless attitude is demonstrated by the cold fact that Washington state government has doubled in size and expense in the last ten years, while population and inflation have grown at much lower rates. The hardliners in the system fear new ideas, but it is only through fresh thinking and a reliance on common sense that confidence in our public institutions can be restored.

The purpose of the Policy Guide for Washington State is to provide the information, practical steps, and concrete proposals for rebuilding people’s trust in their state government.

This 7th edition of the Policy Guide is fully revised and updated. It presents the latest information on policy advances in other states that serve as forward-looking models for our state. Its ten chapters include fact-based guidance for lawmakers, administrators and policymakers in clear, non-technical language that is equally accessible to experts and to civically-engaged members of the public.

Five principles of government

Building on Washington Policy Center’s quarter-century of experience and expertise, the practical ideas presented here are designed to make public officials more effective, more responsive and, most importantly, more respectful of the people they are privileged to govern. The policy recommendations in the Policy Guide are devoted to supporting five core principles of government. The five core principles are:

1. Show respect for taxpayers by controlling spending

In general, public officials want government to expand. They face no competitors and cannot be put out of business. Lawmakers find it easy to be generous with other people’s money and they tend to fund causes and special interest groups that benefit themselves.

Opponents of economic freedom portray private business owners as “greedy,” but that is nothing compared to public officials who are constantly grasping for more tax revenue. Their dire messaging produces a pervading sense of financial crisis, joined with frequent calls for tax increases.

Officials can show respect for taxpayers by controlling the growth of spending, cutting the tax burden and canceling failed programs. Ordinary citizens have to live within their means. Government officials should do the same.

2. Focus on core functions

There will always be politicians who think only government can solve society’s problems. They know that people working in government benefit when the government gains more power and money.

That is why it is so important for policymakers to keep government focused on core functions. Some public services are essential and state agencies work best when they focus on doing a few things well. Clean water, good roads, public parks, and well-trained police are some of the vital public services that keep our communities safe and prosperous.

Government officials often harm society by crowding out private initiative. Government programs work through mandates, while private efforts are based on people collaborating voluntarily. When public officials

respect private initiative, and use contracting out to tap the benefits of competition, they keep agency power in check to the benefit of the public interest.

3. Private property is a civil right

Private property – meaning land, a home, a business, savings and investments, and intellectual creations – is the foundation of freedom. Property rights are civil rights. Property makes it possible for citizens to live in freedom, help each other, and defend their other rights from attack by government officials.

Private property allows people to pursue their dreams and provide charity to those in need. When public officials take property through high taxes, or take away its value through regulation, they make it harder for citizens to make a living and to help others.

People generally gain property through hard work, patience and careful planning. When government officials degrade property they show disrespect for the people who earned it, and they discourage economic growth and opportunity by punishing success.

Lawmakers should keep taxes and regulations to a minimum, so that families and communities can thrive and enjoy the human dignity that is made possible by independence.

4. Use voluntary incentives, not coercion, whenever possible

Many people want to use government power to dictate how other people should live. They have a utopian vision of, say, health care and want to impose it on society. Proponents of radical change can't persuade others through facts and reasoning so they turn to politics.

Yet experience demonstrates that government-only approaches have failed time and again and are the cause of widespread human suffering. Having to impose political ideas by force is a sign of weakness.

For that reason policymakers should favor voluntary incentives to encourage positive change, so citizens retain their power of choice and are not the victims of social engineering imposed from above. Policies should be based on market incentives and individual choice that avoid the suffering that is caused by involuntary, top-down dictates.

Elected officials should work in the marketplace of ideas to persuade others to share their vision and work towards it. In that way honest debate and voluntary action will ensure that the government's policies have popular support and are enduring.

5. Resist political pressure from public sector unions

Public sector unions are unique. They represent one part of government (public employees) organized to lobby another part of government (the governor and the Legislature) for their own self-interest. Government cannot go out of business so there is no limit to the demands that union leaders make on the public treasury, especially when it increases the monthly dues money that goes to the union.

Public employees should receive fair compensation for the work they do, and it is in the public interest to attract dedicated and talented people to public service. But government is about more than providing high-paying jobs and generous benefits. Government exists to serve the people, not powerful labor interests.

If a government program no longer makes sense, lawmakers should end it. If labor contracts are negotiated in secret, as they are now, lawmakers should make those deals public. The interests of taxpayers should always come first, even if politically connected unions think they will lose out financially.

Conclusion

For two decades the Policy Guide for Washington State has served as a respected resource for promoting good governance, economic growth and opportunity, and social self-reliance. Powerful forces in our state seek to increase the control of government over our lives, collect more money through high taxation, and funnel money to entrenched interests that profit from public spending.

The purpose of this book is to help policymakers reverse this trend, by providing dozens of independent, non-partisan and unbiased policy recommendations backed by objective research that will benefit all families and communities in our state.

By adopting these fact-based ideas, state leaders can provide effective public services that allow people to manage their lives, families and communities as they think best, so everyone can thrive within a governing system based on individual rights, social unity, mutual respect, and ordered liberty.

RESPONSIBLE PUBLIC SPENDING





RESPONSIBLE PUBLIC SPENDING

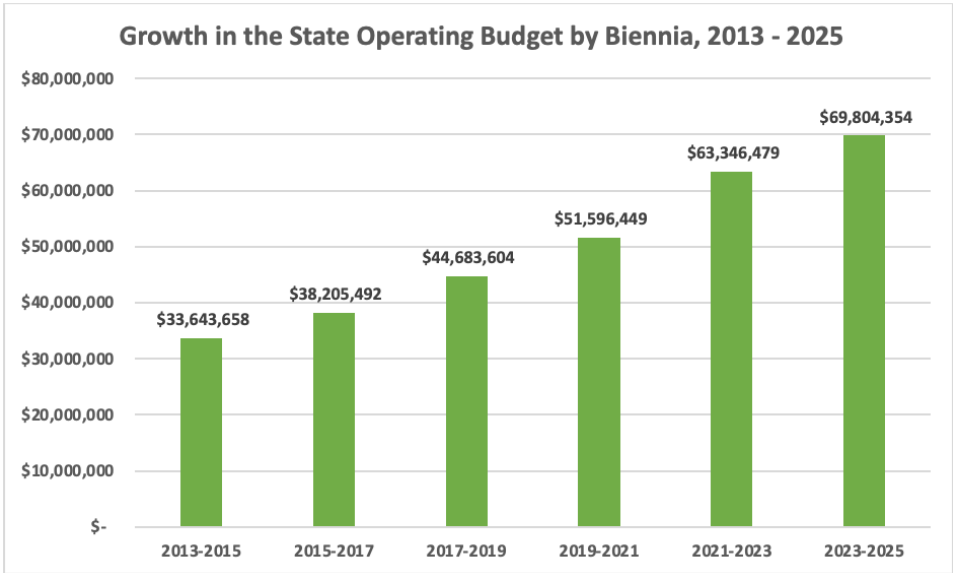
1. Adopt improved budget transparency to inform the public about spending decisions
2. Place performance outcomes in the budget to hold public agencies accountable
3. Restore legislative oversight of collective bargaining agreements
4. End secret negotiations for public employee pay and benefits
5. Restore the people's right of referendum by limiting use of the emergency clause
6. Enact emergency powers reform to prevent abuse of special executive authority
7. Adopt a constitutional amendment prohibiting unfunded mandates on local governments

Policy Recommendation:

1. 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 spend billions in taxpayer dollars. Lawmakers and the governor tax this money away from the people of Washington and collect it in the treasury. Then they are supposed to spend it for the public's benefit.

The state's operating budget has more than doubled in the past ten years, while the population grew by only 14%.¹ This dramatic increase in spending should be subject to additional discussion and scrutiny by lawmakers.



State Operating Budget spending increased by 109% over ten years while the state population increased by only 14%.

Yet despite the length and complexity of these documents, public hearings are usually held the same day the budgets are introduced, and they are then amended and enacted without enough time for meaningful public input.

Allowing genuine detailed review by the public before legislative hearings or votes on budget bills would increase public trust in government. It would enhance lawmakers' accountability for the spending decisions they make.

At a minimum, the time provided before the Legislature holds a public hearing on a budget bill should be 24 hours after the full details of the proposal are made public. One day is not too much to ask for public accountability. Ideally, lawmakers should provide even more time for public review.

Make budget offers public

As for budget negotiations between the House and Senate, the spending proposals exchanged privately between members of the House and Senate should be made publicly available.

Lawmakers may say that they cannot negotiate the budget in public (even though local government officials do just that). There is no reason, however, that each side's proposals cannot be publicly posted before secret budget meetings are held, so that everyone can see what is being proposed and what compromises are being included in the final budget deal.

Once a conference budget (the final proposal agreed upon by members of the House and Senate) is presented to the Legislature and the public, again, only 24 hours is offered to review the budget. This does not give lawmakers or the public enough time to review and provide additional feedback on the budget.

Conclusion

Providing this additional time would give the public a better idea of what is occurring with the state's most important legislation. Additionally, lawmakers would better understand the details, so there would be no surprises when final roll call votes are taken.

Policy Recommendation:

2. PLACE PERFORMANCE OUTCOMES 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 for which they are seeking funds.

This process would become the Legislature's version of budget instructions to agencies. This would re-focus state budget hearings on whether public programs are working, and whether they should continue to exist. Public programs often fail, and lawmakers should have an equitable measure of

what works and does not work rather than blindly funding government programs year after year simply because they already exist.

In the past the Office of Financial Management (OFM) has instructed state agencies, boards and commissions to engage in a “Priorities of Government” process “to develop and implement a quality management, accountability and performance system...”² The effort failed, and was unsuccessful at setting priorities, providing better service to the public or limiting the growth of state government.

Later, Governor Inslee issued Executive Order 13-04 instituting his Results Washington initiative based on his concept of “Lean Management” business principles. Like the earlier effort, Results Washington failed.³ It did not meet its stated goals, nor did it limit the government or reduce the financial burden state officials impose on taxpayers. The tax burden in Washington sharply increased under Governor Inslee, while overall state spending doubled.

These failed past efforts show that Executive Order announcements and press releases from the governor’s office don’t work. To improve budget accountability, high-level performance expectations 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 or increased spending are approved.

Policy Recommendation:

3. RESTORE LEGISLATIVE OVERSIGHT OF COLLECTIVE BARGAINING AGREEMENTS

In 2002, Governor Gary Locke signed House Bill 1268, which fundamentally altered the balance of power between the governor and Legislature concerning state employee pay and benefits 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 unions the power to negotiate directly with the governor behind closed doors for salary and benefit increases.

The law weakened democratic norms by giving the people less say over public spending. 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 elected Legislature.

Negotiating with the governor in secret

Since the collective bargaining law went into full effect in 2004, unions no longer have their priorities weighed equally with every other special interest during the legislative budget debate. Instead, they negotiate directly with the governor in secret, while the people's representatives are limited to voting "yes" or "no" to the entire contract, with no amendments, that was already agreed to by the governor.

This secrecy has come under increased scrutiny when public record requests were made to view negotiation documents between the governor's office and these unions. The governor's office refused to provide the records until after the Legislature finalized the budget. A lawsuit was filed, and the judge disagreed with the governor's office.⁴ The governor was forced to turn over records and pay fines and legal fees.⁵ The court's ruling confirmed that taxpayers have the right to know the details of negotiations that go into contracts for state employees.

Not only are there serious transparency concerns with this arrangement, but there are also potential constitutional flaws by unduly restricting the Legislature's constitutional 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.”⁶

Missing in this statement, however, is 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.⁷

Conclusion

Ultimately, state employee union contracts negotiated solely with the governor should be limited to non-economic issues, like working conditions. Anything requiring an appropriation should be part of the Legislature's normal open and public budget process. This safeguard is especially important when public-sector unions are also political funders and campaign donors of the sitting governor. Powerful unions end up negotiating levels of public spending with the same top government official that they helped put into office.

Policy Recommendation:

4. END SECRET NEGOTIATIONS FOR PUBLIC EMPLOYEE PAY AND BENEFITS

Since 2004, the governor has negotiated with union executives in secret to decide how much taxpayers will pay in salaries and benefits to state employees. The secret talks involve hundreds of millions of dollars in public spending every biennium.

Before 2004, for over 115 years, salaries for public employees were treated like a normal part of the budget process, with committee hearings, a public comment period, recorded legislative votes and other hallmarks of democracy.

Keeping lawmakers in the dark

Not only are union contract negotiations conducted in secret, but none of the records are subject to public disclosure until after the contract is signed into law (when the governor approves the budget). Lawmakers approving

these contracts should not be kept in the dark until the deal is done and it is too late to make changes.

Some level of collective bargaining transparency is currently standard policy in nearly half of the states across the country. 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.

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 budget meetings, with fiscal analysis provided showing the public the true cost of each proposal.

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 trade-offs 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 whether anyone, whether a union executive or a state official, is acting in bad faith.

Several examples of collective bargaining transparency already exist at the local level in Washington. Examples include government union negotiations in Gig Harbor, Lincoln County, Kittitas County, Ferry County, Spokane County, the City of Spokane, the Pullman School District, and the Kennewick School District.⁸

Explaining why the Pullman School District embraces collective bargaining transparency, the district's finance manager Diane Hodge, said:

“We just think it's fair for all of the members to know what's being offered on both sides.”⁹

Ending secrecy in government employee contract negotiations is popular. A statewide poll of 500 Washington voters found that 76 percent supported “requiring collective bargaining negotiations for government employers to be open to the public.”¹⁰

Several newspaper editorials have also been published which call for government officials to open the doors to the public concerning government employment contracts. One example is this editorial by *The Spokesman-Review*:¹¹

“Bargainers say an open process would politicize the process and prevent frank discussions. These arguments are unpersuasive.

“It’s already a political process, with the heavy influence of unions on the minds of governors, mayors and commissioners seeking re-election. The people left outside the door are paying for the decisions made by those inside. And we highly doubt honesty would go by the wayside if the public were watching. More likely, it would be cringe-inducing negotiating points that would go unspoken...”

“The key question for government is: Do you trust the public? If the answer is no, don’t expect it in return.”

Conclusion

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 made on their behalf.

Policy Recommendation:

5. 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 using 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.”¹²

This power applies to any bill the Legislature adopts except those that include an emergency clause. An emergency clause states that a bill is exempt from repeal by voter referendum because it is:

“...necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.”¹³

The use of the emergency clause allows a bill to take effect immediately once it is signed by the governor.

Responding to public emergencies

The emergency clause allows the state government to respond quickly to true public emergencies, like civic unrest or a natural disaster. Yet, lawmakers regularly 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 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.

For example, during the COVID-19 years, Governor Inslee ruled primarily by executive order, but if given the chance lawmakers would have passed most of these emergency public health measures by large bi-partisan majorities.

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

Emergency clause as a blank check

Lawmakers should enact constitutional reforms in response to the state supreme court’s granting of total deference to a legislative declaration of an emergency. In a 6-3 ruling, the court upheld the Legislature’s declaration of an emergency whether or not there was a true emergency.¹⁴ The impact

of the ruling was to give 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.”¹⁵

There is a better way to allow the Legislature to respond to true emergencies while protecting the people's right of referendum. The following is from South Dakota's constitution:

“Effective date of acts -- Emergency clause. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency, (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members elected of each house, otherwise direct.”¹⁶

Like South Dakota, Washington should also require a supermajority vote if lawmakers want to declare an emergency to prevent a referendum. In previous years, forward-thinking lawmakers have introduced bills to do this but the bills have not been adopted.¹⁷

Conclusion

If a true public emergency 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, as occurred with COVID-19, the public would most likely welcome the use of the emergency clause by the Legislature, recognizing it is intended to be used at just such a critical time.

Political convenience should no longer serve as a reason for lawmakers to deny the people their right of referendum.

Policy Recommendation:

6. ENACT EMERGENCY POWERS REFORM TO PREVENT ABUSE OF SPECIAL EXECUTIVE AUTHORITY

On February 29, 2020, Governor Inslee issued a declaration of a state of emergency in response to COVID-19.¹⁸ Over the next two-and-a-half years the governor issued dozens of executive orders that imposed restrictions on all citizens and businesses. Many of these orders caused lasting harm and resulted in the bankruptcy of thousands of small businesses. Meanwhile, most governors had already ended their emergency declarations, or they had expired automatically, after just six months.¹⁹

Governor Inslee provided no metrics or estimates of when he would end arbitrary rule, and he did not give up unregulated emergency powers for 975 days, longer than nearly any other state.

During a natural disaster, state government needs the ability to react quickly to protect life and ensure law and order. To that end, emergency powers are granted to every state governor to ensure rapid response. However, those powers need to be limited in duration and safeguarded with legislative oversight and appropriate checks and balances.

Washington's governor has some of the broadest executive emergency powers among states. Washington ranks 45th worst in the nation in not maintaining limits on the executive's emergency power.²⁰ In Washington a state of emergency can only be declared by the governor and can only be ended by the governor.²¹ During the self-declared emergency period, the only legislative oversight is a 30-day limit over suspended statutes. The Legislature cannot modify or end an emergency proclamation.

The open-ended nature of Washington's emergency powers law contradicts the basic safeguards of the state constitution. Article 1, Section 1 states:

“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.”²²

When the Legislature is barred from meaningful oversight of emergency powers, the people are denied their constitutional right to consent to how they are governed.

Reforming emergency power

Washington State needs meaningful emergency power reforms. This includes the ability to end or modify an existing emergency proclamation without a veto by the governor. Most states set a clear time limit on the one-man rule of a governor. Washington state should have a time limit of 30 days, after which elected lawmakers can decide whether or not a public emergency still exists.

This is true whether the Legislature agrees or disagrees with every decision the governor makes during an emergency. The Legislature may approve of the governor's action and even agree that emergency powers should be extended for another 30 days.

Reasonable emergency powers are needed

In a true public emergency governors need broad powers to act fast. Legislative bodies take longer to assemble and act than a single executive, so they temporarily delegate their power to the executive in emergencies. But these powers are supposed to be transferred for a limited time, with meaningful legislative oversight of the decisions the governor makes.

Requiring affirmative legislative approval after a set point in time does not remove a single power from the governor's ability to govern. All existing authority would remain. The only change would be that secret policymaking would have to be justified to the people's legislative representatives to continue an emergency policy. In that way democracy would be protected and the people's right to self-government would be respected.

Conclusion

Our system of governance is not meant to be the arbitrary rule of one man working behind closed doors. An emergency order should never last 975 days unless it has received affirmative authorization from the legislative branch of government.

Policy Recommendation:

7. ADOPT A CONSTITUTIONAL AMENDMENT PROHIBITING UNFUNDED MANDATES ON LOCAL GOVERNMENTS

Washington voters have repeatedly adopted tax and spending restrictions to control state spending growth and force budget prioritization to avoid unnecessary tax increases.

Though these tax restrictions have since been thrown out by the state supreme court, the budget requirements passed by voters remain in law. This includes the prohibition barring the Legislature from imposing unfunded mandates on local governments. If unfunded mandates are against state law, why are local governments still being subjected to them?²³

Based on ballot measures adopted by voters in 1979 and 1993, unfunded mandates on local government should not be occurring. Here is the ballot summary for Initiative 62, adopted in 1979 to control state tax revenue growth:

“This limit would apply only to the state – not to local governments. The initiative, however, would prohibit the legislature from requiring local governments to offer new or expanded services unless the costs are paid by the state.”²⁴

Section 6 of Initiative 62 explicitly provides:

“(1) The legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any taxing district unless the districts are reimbursed for the costs thereof by the state.”

After Initiative 62 failed adequately to control state tax and spending increases, the voters adopted Initiative 601 in 1993. Along with imposing new tax and spending limits, the ballot summary for Initiative 601 noted:

“The Legislature would be prohibited from imposing responsibility for new programs or increased levels of service on any political subdivision of the state, unless the subdivision is fully reimbursed by specific appropriation by the state.”²⁵

The combination of Initiative 62 and Initiative 601 restrictions on unfunded mandates makes up the current state prohibition found in state law:

“ . . . the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels.”²⁶

The intent of voters was clear in adopting these two initiatives. State spending and taxes should be restricted, and local governments protected so lawmakers do not simply shift the cost of programs and expect local officials to raise taxes to fund them. In contrast, that is exactly what is happening today.

Rather than comply with state law that prohibits unfunded mandates, lawmakers’ response appears to give local governments new taxing authority or weaken other tax protections like the voter-approved cap on property taxes.

Since the current voter-approved law prohibiting unfunded mandates is not working, legislators should look at how other states protect their local governments. In 1995, New Jersey voters adopted the “State Mandate, State Pay” constitutional amendment. Unlike Washington’s often-ignored statutory ban, the New Jersey constitutional amendment has an enforcement mechanism to ensure compliance:

“The Legislature shall create by law a Council on Local Mandates. The Council shall resolve any dispute regarding whether a law or rule or regulation issued pursuant to a law constitutes an unfunded mandate.”

According to the New Jersey Council on Local Mandates:

“The Council, which began operations in 1996, is a bipartisan body that is independent of the Executive, Legislative and Judicial branches of State government... Council deliberations begin with the filing of a complaint by a county, municipality, or school board, or by a county executive or mayor who has been directly elected by voters.”²⁷

Lawmakers easily ignore the Washington state law barring imposition of unfunded local mandates. This is the exact situation voters tried to prevent when they passed Initiative 62 and Initiative 601. The goal was to force fiscal discipline on the state while preventing costs and pressure for tax increases to be shifted to local governments.

Conclusion

Especially in a time of record state revenues and spending, the answer to unfunded mandates is not to tell local officials to raise taxes, but instead for lawmakers to direct state spending within existing revenue to comply with the law. The ongoing failure of lawmakers to do so shows that additional safeguards against unfunded mandates are needed to protect local officials and taxpayers.

ADDITIONAL RESOURCES

“New website created to detail 2023 session spending,” by Chris Corry, August 15, 2023, at <https://www.washingtonpolicy.org/publications/detail/new-website-created-to-detail-2023-session-spending>

“Office of Financial Management fined for withholding public documents,” by Chris Corry, May 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/office-of-financial-management-fined-for-withholding-public-documents>

“Judge issues important contract transparency public records ruling,” by Jason Mercier, April 3, 2023, at <https://www.washingtonpolicy.org/publications/detail/judge-issues-important-contract-transparency-public-records-ruling>

“State supreme court overturns voter-approved local collective bargaining transparency requirement,” by Jason Mercier, December 11, 2022, at <https://www.washingtonpolicy.org/publications/detail/state-supreme-court-overturns-voter-approved-local-collective-bargaining-transparency-requirement>

“Secretly negotiated state government pay raises to cost taxpayers more than \$1 billion,” by Jason Mercier, October 4, 2022, at <https://www.washingtonpolicy.org/publications/detail/secretly-negotiated-state-government-pay-raises-to-cost-taxpayers-more-than-1-billion>

“Initiative 1474, to reduce the state’s sales tax rate from 6.5% to 5.5%,” by Jason Mercier, Policy Notes, November 21, 2022, at <https://www.washingtonpolicy.org/publications/detail/initiative-1475-to-reduce-the-states-sales-tax-rate-from-65-to-55>

“Should it be easy to declare a referendum-killing ‘emergency’?” by Jason Mercier, Washington Policy Center, March 7, 2019, at <https://www.washingtonpolicy.org/publications/detail/should-it-be-easy-to-declare-a-referendum-killing-emergency>

“Revenue forecast shows it’s time for a sales tax cut,” by Jason Mercier, Legislative Memo, January 2019, at <https://www.washingtonpolicy.org/library/doclib/Mercier-Revenue-forecast-shows-it-s-time-for-a-sales-tax-cut-LM.pdf>

“Transparency in public employee collective bargaining: How Washington compares to other states,” by Erin Shannon, Policy Brief, December 2018, at <https://www.washingtonpolicy.org/library/doclib/Shannon-Transparency-in-public-employee-collective-bargaining.pdf>

“Legislature explores performance-based budgeting,” by Jason Mercier, March 17, 2017, at <https://www.washingtonpolicy.org/publications/detail/legislature-explores-performance-based-budgeting>

“Changing the budget status quo,” by Paul Guppy and Jason Mercier, Policy Notes, December 2008, at [https://www.washingtonpolicy.org/library/docLib/Changing the Budget Status Quo.pdf](https://www.washingtonpolicy.org/library/docLib/Changing%20the%20Budget%20Status%20Quo.pdf)

ENDNOTES

- 1 Numeric change in population, 2010 – 2020,” Washington, State Profiles, United States Census Bureau, August 25, 2021, at <https://www.census.gov/library/stories/state-by-state/washington-population-change-between-census-decade.html>.
- 2 “Quality Management Activities,” by Marty Brown, Director, Office of Financial Management, instruction to state agencies, boards and commissions, May 12, 2012, at <https://www.washingtonpolicy.org/library/doclib/OFMmemo.pdf>.
- 3 “Results Washington is failing the environment,” by Todd Myers, Washington Policy Center, March 26, 2018, at <https://www.washingtonpolicy.org/publications/detail/results-washington-is-failing-the-environment>.
- 4 “Citizens Action Defense Fund v. Washington State Office of Financial Management, Thurston County Superior Court, March 31, 2023, at <https://citizenactiondefense.org/citizen-action-defense-fund-wins-public-records-suit-against-governors-office/>.
- 5 “Office of Financial Management fined for withholding public documents,” by Chris Corry, Washington Policy Center, May 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/office-of-financial-management-fined-for-withholding-public-documents>.
- 6 “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>.
- 7 “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>.

- 8 “Kennewick School District opens the doors to collective bargaining,” by Erin Shannon, Washington Policy Center, June 27, 2019, at <https://www.washingtonpolicy.org/publications/detail/kennewick-school-district-opens-the-doors-to-collective-bargaining>, and “Gig Harbor council asks for open labor negotiations,” by Jake Gregg, Tacoma News Tribune, July 23, 2019, at <https://www-1.thenewstribune.com/news/local/community/gateway/article233013217.html>.
- 9 “Teacher-contract process needs transparent bargaining,” editorial, The Seattle Times, August 29, 2018, at <https://www.seattletimes.com/opinion/editorials/seattle-stalemate-shows-need-for-open-bargaining/>.
- 10 Wickers Group statewide poll of 500 Washington voters, June 2015.
- 11 “Lincoln County leads way on government transparency,” editorial, The Spokesman Review, September 18, 2016, at <http://www.spokesman.com/stories/2016/sep/18/editorial-lincoln-county-leads-on-transparency/>.
- 12 “Referendum Quick Facts,” Elections and Voting, Washington Secretary of State, accessed May 24, 2016, at <http://www.sos.wa.gov/elections/ReferendumQuickFacts.aspx>.
- 13 “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>.
- 14 “Washington State Farm Bureau v. Reed,” Washington State Supreme Court, July 14, 2005, at <http://caselaw.findlaw.com/wa-supreme-court/1428354.html>.
- 15 Ibid.
- 16 “Effective date of acts – Emergency clause,” Article 3, Section 22, Constitution of South Dakota,” Secretary of State, accessed October 4, 2023, at <https://sdsos.gov/general-information/about-state-south-dakota/docs/2019SouthDakotaConstitution20190107.pdf>.
- 17 For example see “SJR 8206, amending the Constitution to require emergency clauses only be allowed by amendment to a bill and approved by sixty percent of each house of the legislature,” Washington State Legislature, January 18, 2013, at <https://app.leg.wa.gov/billssummary?BillNumber=8206&Year=2013&Initiative=false>.

- 18 “Inslee issues COVID-19 emergency proclamation,” Office of the Governor, Washington state, February 29, 2020, at <https://governor.wa.gov/news/2020/inslee-issues-covid-19-emergency-proclamation>.
- 19 States’ COVID-19 public health emergency declarations,” National Academy for State Health Policy, August 15, 2022, at <https://nashp.org/states-covid-19-public-health-emergency-declarations/>.
- 20 Scoring emergency executive power in all 50 state, 2023 edition,” Maine Policy Institute, at <https://mainepolicy.org/project/emergency-powers-2023-edition/>, accessed July 31, 2023.
- 21 “Proclamations – generally – state of emergency,” Revised Code of Washington 43.06.210, accessed July 31, 2023 at <https://app.leg.wa.gov/RCW/default.aspx?cite=43.06.210>.
- 22 “Constitution of the State of Washington,” Revised Code of Washington, accessed July 31, 2023, at <https://leg.wa.gov/CodeReviser/RCWArchive/Documents/2019/WA%20Constitution.pdf>.
- 23 “State law prohibits unfunded mandates, yet local governments continue to be burdened by them,” by Jason Mercier, Washington Policy Center, April 10, 2018, at <https://www.washingtonpolicy.org/publications/detail/state-law-prohibits-unfunded-mandates-yet-local-governments-continue-to-be-burdened-by-them>.
- 24 “1979 Voters Pamphlet – General Election November 6,” Washington Secretary of State, at <https://www.sos.wa.gov/assets/elections/voters%20pamphlet%201979.pdf>.
- 25 “State of Washington Voters Pamphlet – General Election November 2, 1993,” Washington Secretary of State, at <https://www.sos.wa.gov/assets/elections/voters%20pamphlet%201993.pdf>.
- 26 “Prohibition of new or extended programs without full reimbursement – Transfer of programs – Determination of costs,” Revised Code of Washington 43.135.060, at <https://app.leg.wa.gov/rcw/default.aspx?cite=43.135.060>.
- 27 “State of New Jersey Council on Local Mandates,” accessed August 20, 2019, at <https://www.state.nj.us/localmandates/amendment/>.

REFORMING TAXATION



REFORMING TAXATION

1. Support Washington families by enacting tax relief
2. Adopt a constitutional amendment requiring a supermajority vote to raise taxes
3. Do not impose a state income tax, repeal the income tax on capital gains
4. Affirm the state ban on local income taxes
5. Replace the Business and Occupation tax with Single Business Tax
6. Create a tax transparency website
7. Cut the state sales tax

Policy Recommendation:

1. SUPPORT WASHINGTON FAMILIES BY ENACTING TAX RELIEF

The proper purpose of taxation is to raise money to fund the core functions of government, not expand the power of people in public office. A “fair field and no favors” is a good motto for a strong tax system, without political favors or carve-outs for privileged interest groups. A principled tax system promotes justice because it treats all citizens equally, regardless of social standing, insider dealing or political influence.

The following tax principles provide a fair and effective tax system, one that raises needed revenue for basic government services while minimizing the financial burden lawmakers impose on their fellow citizens:

- Simplicity
- Accountability
- Economic Neutrality
- Equity
- Complementary
- Competitiveness
- Reliability
- Transparency

Washington's current tax structure provides reliable revenue growth. No system is recession-proof, but Washington consistently ranks as having relatively stable tax collections compared to other states. The reason is that Washington's three major tax sources (sales, gross receipts, and property) are among the least volatile elements of the economy. Data shows, however, that a graduated income tax is among the most volatile of revenue sources.

The relative stability of Washington's tax collections has also been noted by Standard & Poor's. The rating firm's July 2022 AA+/Stable bond rating for the state found:

- "The [high] ratings reflect our view of sales tax-based revenue structure, which has demonstrated less sensitivity to economic cycles than income tax-reliant states."
- "The stable outlook reflects our view that the state's strong budgetary management and forecasting practices help insulate...Washington from budgetary pressures."
- "The state's legal requirements to enact budgets that are balanced – not only in the current biennium, but subsequent biennia – help provide a sustainable framework to facilitate structural balance throughout economic cycles."
- "We believe the impact of a repeal of the capital gains [income] tax is minimal, at 0.8% of projected near general fund revenues in each of

fiscal years 2023, 2024, and 2025.”¹

Though reliable, Washington’s tax structure is often criticized for having an undue effect on families compared to businesses. This concern is the result of how lawmakers have layered on new taxation over the years, while providing almost no tax relief. The people of Washington now pay over 50 different taxes at the state and local levels.²

Further, Washington has some of the highest excise taxes in the nation. The state’s sales tax rate has not been reduced since 1982. One tax in particular, the Motor Vehicle Excise Tax (MVET), needs reform because officials do not tax the true value of cars and trucks, instead using inflated values that result in a higher tax.

MVET viewed as unfair

The Motor Vehicle Excise Tax (MVET) is imposed by the Sound Transit agency in King, Pierce, and Snohomish counties, where the majority of Washington residents live. 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 families pay the tax on as many as five or six different vehicles and trailers every year, resulting in hundreds of dollars in cost per family.

In addition to the high tax burden imposed on families, the MVET is considered unfair because of the artificial method officials use to set a vehicle’s value. Officials use an inflated value schedule instead of true market value to decide the tax burden they impose on vehicle owners. This results in the overvaluing of most vehicles, which enables Sound Transit officials to take more tax revenue from the public unfairly.

Further, some cities impose a car tab tax through local Transportation Benefit Districts (TBDs) but these are flat fees that everyone pays equally regardless of the type of vehicle. Legitimate car tab taxes, whether an MVET or through a TBD, should only fund roads the general public uses. Taxes for transit, already richly funded, should be broad-based and approved separately by voters.

State sales tax rate has not been reduced since 1982

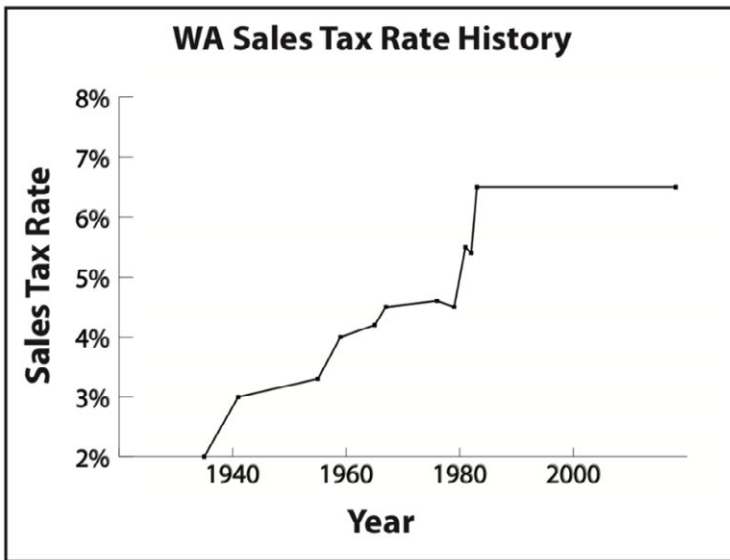
In addition to heavy vehicle taxes, state and local officials impose a high sales tax on Washington residents. The total state and local rate on

consumer purchases, except food and medicine, often exceeds ten percent, one of the highest rates in the country.

In 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. Public officials force Washingtonians to devote an ever-larger share of household income to funding government agencies and subsidizing public programs by imposing a higher tax rate.

When it was first imposed in 1935, the state sales tax rate was just two percent, a modest rate that most families could afford. The state tax is currently 6.5%, with local sales taxes added on top, and citizens have not seen a rate reduction since 1982, as illustrated below.

Washington sales tax rate history 1935 – 2023



Washington state sales tax rate started at just 2%. Since then lawmakers have more than tripled the tax burden to 6.5%.

Recently, the federal courts have expanded the sales tax base by ruling, in the *Wayfair* case, that state lawmakers can tax out-of-state businesses.³ The larger tax base, the growing state economy and continued large increases

in state revenue growth mean lawmakers are in a good position to provide sales tax relief for Washington families.

Providing property tax relief

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.

Conclusion

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 increase 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.

Policy Recommendation:

2. 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 of both parties joined together to pass 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 in 26 years 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 based on the growth in state personal income (Initiative 62), which required a supermajority vote of lawmakers to exceed the limit.⁴

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 constitution.

The state constitution currently has more than 20 supermajority vote requirements. 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.

Conclusion

A statewide poll found that 65 percent of voters want lawmakers to send them a constitutional amendment requiring a supermajority vote to raise taxes.⁵ Voters and lawmakers want reasonable limits on raising taxes. The 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.

Policy Recommendation:

3. DO NOT IMPOSE A STATE INCOME TAX, REPEAL THE INCOME TAX ON CAPITAL GAINS

Washington is one of only seven states that do not tax personal incomes (two other states do not tax general income but have narrow taxes on interest). The state's status is now conditional because the Legislature and Governor Inslee have imposed an income tax (which, for legal reasons, they wrongly label an "excise tax") on capital gains.⁶

This is the start of altering Washington 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 different taxes on the people who live, work or travel within its borders. These different types and levels of taxation profoundly affect the actions of residents and business owners, and taxation can significantly impede personal opportunities and economic growth. More than any other type of tax, an income tax can stifle a state's economic growth, destabilize public finances, and limit people's take-home pay.

A graduated income tax is unconstitutional in Washington

Since 1933, the Washington state supreme court has issued several opinions on 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 no more than 1%. For example, the state supreme court ruled in 1951, "It is no longer subject to question in this court that income is property."

While there is no ban on a flat income tax of 1%, nearly 90 years of legal precedents show that a graduated or targeted income tax that treats people with different income levels differently is considered unfair and unconstitutional in Washington.

Despite these repeated rulings from the state supreme court, income tax proponents say these rulings are "antiquated." Faced with this argument in 1960, the state supreme court ruled:

“The argument is again pressed upon us that these cases were wrongly decided. The court is unwilling, however, to recede from the position announced in its repeated decisions. Among other things, the attorney general urges that the result should now be different because the state is confronted with a financial crisis. If so, the constitution may be amended by vote of the people.”⁷

With the voters unwilling to amend the constitution to allow an income tax, income tax advocates regularly push the judges to reverse their past rulings.

A state income tax is unpopular

Lawmakers should send voters a crystal-clear state constitutional amendment banning income taxes in Washington. Based on past elections, the people clearly oppose a state income tax and a proposed ban would probably pass. Washington voters have overwhelmingly rejected income tax proposals ten times, including six proposed constitutional amendments.

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

- 1934 – House Joint Resolution 11..... 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%
- 1970 – House Joint Resolution 42 defeated 32% to 68%
- 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 assure citizens that imposing 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.”⁸

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.

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

Capital gains taxes are income taxes

Some politicians have called for imposing a state capital gains income tax on the people of Washington state. They claim, however, that this type of tax is an “excise tax” and not an income tax, in hopes of getting around the state constitution’s prohibition on graduated income taxes.

Every state revenue department in the country, however, classifies a capital gains tax as an income tax. Those that tax capital gains do so through their income tax codes. No state taxes capital gains as an “excise tax.” All states without a capital gains tax have one factor in common – no personal income tax.

In response to a congressional inquiry, here is the Internal Revenue Service (IRS) description of a capital gains tax:

“You ask whether a tax on capital gains is considered an excise tax or an income tax. It is an income tax. More specifically, capital gains are treated as income under the tax code and taxed as such.”⁹

Washington’s nonpartisan legislative staff agrees, stating in a bill report for one capital gains tax proposal:

“In addition to the federal tax, capital gains are often subject to state income taxes. Most states do not have separate capital gains tax rates. Instead, most states tax capital gains as ordinary income subject to the state’s income tax rates.”¹⁰

Capital gains income taxes are unstable

Besides being unconstitutional, a capital gains income tax is a bad budget policy. The volatile history of capital gains income taxes in other states shows this taxation does not provide fiscally sound revenue for government services.

As warned by former California Governor Jerry Brown, income taxes on capital gains are extremely volatile. Heeding Governor Brown's recommendation, California voters in 2014 approved a constitutional amendment to restrict the use of capital gains for state spending.

Explaining the impact of the constitutional amendment, the California Legislative Analyst's Office (LAO) said: "This constitutional amendment separates state spending from the rollercoaster of revenue volatility."

In addition, the California's LAO report states:

"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."¹¹

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."¹²

Similarly, analysts at the Washington state Department of Revenue 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 vary greatly from the amounts presented here."¹³

Having no income tax would benefit Washington's economy

Until recently Washington officials recognized the public benefit of not having a state income tax and not taxing capital gains. Just a few years ago, 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.”¹⁴

Department of Commerce officials warned that imposing an income tax means “one less tool that we have in our economic development toolbox.”

For these reasons officials saw that having no income tax provided Washington with a competitive advantage that promoted a strong business climate, attracted new investment, and benefitted everyone in the state.

Washington’s “excise tax” on capital gains should be repealed

Washington’s imposition of an “excise tax” on capital gains income is simply a way to open the door to imposing a progressive income tax on all income earners in Washington state.

The capital gains tax was challenged in court but was upheld in a surprise 7-2 decision.¹⁵ Instead of basing the decision on the clear text of the state constitution that the tax violated the Uniformity Clause, the majority justices resorted to left-wing talking points about tax regressivity.

Whether or not the tax code is regressive, and whether or not this policy serves the public interest, is a question that should be decided in the elected Legislature, through a democratic process that respects the people’s right to govern themselves. As the dissenting opinion in the case correctly stated:

“A tax is determined by its incidence, 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 limit of article VII, section 2.”¹⁶

Conclusion

The Legislature should listen to the people and reverse course on the capital gains tax and repeal the measure. If a majority of lawmakers

believe a progressive income tax is in the public interest of the state, they should propose an amendment to the state constitution that repeals the protections of the Uniformity Clause.

Policy Recommendation:

4. AFFIRM THE STATE BAN ON LOCAL INCOME TAXES

In 1984, the state Legislature adopted RCW 36.65.030, “Tax on net income prohibited,” to prevent cities from imposing a local income tax. Acknowledging this clear restriction, the City Attorney of Seattle reported in a 2014 legal analysis that cities do not have the authority to impose a local income tax.¹⁷

Despite this prohibition, in 2017 the Seattle City Council enacted an income tax anyway, in hopes of creating a test case and getting the courts to ignore their past rulings and allow local income taxes.¹⁸ As expected, a King County Superior Court judge immediately invalidated Seattle’s income tax, noting it was clearly illegal under state law.¹⁹ The Court of Appeals, however, issued a surprising decision on July 15, 2019 in this case.

The Court of Appeals did rule unanimously that Seattle’s graduated income tax was unconstitutional, based on the numerous state supreme court decisions. However, the court also invalidated the prohibition on local governments imposing a flat income tax. This ruling means officials in cities may be able to impose a flat local income tax pending review by the state Supreme Court.

Many lawmakers say they oppose an income tax, but they took no action on HB 1588 during the 2019 Legislative session. HB 1588 would have provided:

“The Legislature restates its refusal to delegate to a city, county, or city-county, as a whole or as a governing body, the power to impose a tax on the personal income of individuals or households... This prohibition, and the definition of income specifically, are to be construed broadly by any reviewing court to affect the policy of this state that there exist absolute clarity and certainty in state law that there is no local government authority to levy any form of income tax on individuals or households.”²⁰

Conclusion

Banning local income taxes would serve the public interest by helping to maintain the state's competitive advantage of having no income taxes. Lawmakers should re-affirm the state ban on local income taxes to discourage local officials from trying to imitate Seattle's legal games.

Policy Recommendation:

5. REPLACE THE BUSINESS AND OCCUPATION TAX WITH 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." Gross receipts refer to the 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, and wages, when they calculate how much they must pay to the state.

The B&O tax was originally adopted as a "temporary" emergency tax in response to the Great Depression. In 1933 the state Supreme Court upheld the tax, saying:

"This law is, perhaps, not perfect. No tax law yet devised has been entirely fair and just to all in its practical workings. This is an emergency measure, limited by its terms to a two-year period. If it works injustice to some, it will be but temporary, and such temporary injustice, if any, must be borne for the common good."²¹

The justices were wrong. Instead of allowing "injustice," if any, for two years the B&O tax was never replaced and has been in place for 90 years.

A system riddled with preferences

The B&O tax creates severe distortions and puts Washington employers, especially small and start-up businesses, at a competitive disadvantage. To try to mitigate this unfairness, 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 in order to increase revenue while giving some industries favored treatment. The result is a complex system of high tax rates riddled with hundreds of preferences 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 preferences 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 would calculate their taxes based on:

1. Total gross receipts minus labor costs or;
2. Total gross receipts minus all production costs except labor or;
3. Sixty 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 impose on business activities every year.²² 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 citizens and policymakers to adjust to the new system.

Conclusion

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 business owners and ordinary citizens, and encourage job creation and economic growth. At the same time a simple business tax would provide state lawmakers with reliable revenue to fund the core services of government.

Policy Recommendation:

6. CREATE A TAX TRANSPARENCY WEBSITE

There are approximately 1,800 taxing districts in the state whose officials impose various taxes on Washingtonians.²³ 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 and street address, or by clicking on a map showing tax district boundaries.

Enhancing trust in government

A free online calculator would allow individuals and business owners to estimate their total tax burden and know which officials are responsible for imposing each tax. To facilitate a searchable database, taxing districts would report their tax rates to the state annually and report any changes in their tax rates within 30 days of imposing rate changes.

In 2023 the Legislature funded a study on creating a tax transparency website. Lawmakers directed staff at the Department of Revenue to draft a plan to create a searchable online tax database and report to the Legislature by June 2024. The instructions to the Department of Revenue say:

“\$250,000 of the general fund – state appropriation for fiscal year 2024 is provided solely for the department to develop an implementation plan for an online searchable database of all taxes and tax rates in the state for each taxing district.

“A report summarizing options, estimated costs, and timelines to implement each option must be submitted to the appropriate committees of the legislature by June 30, 2024.

“The implementation plan must include an array of options, including low cost options that may change the scope of the database. However, each low cost option must still provide ease of public access to state and local tax information that is currently difficult for the public to collect and efficiently navigate.”

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 promote healthy tax competition among geographic areas. Citizens could compare different tax burdens imposed by local officials based on where they decide to live or locate their businesses.

Conclusion

Lawmakers should ensure this bipartisan proposal to create an online searchable website of all state tax districts and tax rates is implemented quickly and fairly. In that way citizens can hold their elected representatives responsible for the decisions officials make in running the government.

Policy Recommendation:

7. CUT THE STATE SALES TAX

Governor Inslee and state lawmakers of both parties regularly say they want to help the people of our state. In particular, lawmakers on the left complain the tax code is too “regressive” and call for imposing a state

income tax, yet they do nothing to reduce regressive taxes that already fall hardest on low-income families.

There is one direct and easy way for state leaders to reduce regressivity and help the poorest families in the state: cut the state sales tax.

The state can afford to reduce the tax burden

Official reports show elected officials expect to receive large budget surpluses over the next four years, over and above the current \$69 billion state operating budget. Naturally, special interests would like Olympia to spend every dollar, but lawmakers should think first about the taxpayers who earned the money before it was taxed away from them.

Returning part of the surplus in the form of tax reduction would leave billions of dollars in reserve and provide a healthy four-year budget outlook, more than enough to pay for education, public safety and other vital services. There would even be enough revenue to fund another pay raise for elected officials.²⁴

A sales tax cut is long overdue

The state sales tax started in the 1930s at a low rate of 2%. Over the decades, lawmakers gradually increased the rate so that now it has more than tripled, to 6.5%. Local governments are allowed to add to the state tax, bringing the sales tax in King County, for example, to over 10%.

The last time lawmakers and a governor cut the sales tax was in 1982, over 40 years ago. Back then gas was 90 cents a gallon, a carton of eggs cost 79 cents, and a new luxury car cost \$13,000.

The world is very different today. One of the major problems people now face that no one anticipated back then was that the Legislature would impose such a high state sales tax.

The Legislature has also added a carbon tax and regressive new payroll taxes that further reduce people's take-home pay. Given the many daily expenses working families face, reducing the financial burden the government imposes would directly help those who need it most.

Four reasons to pass a sales tax cut

There are four sound reasons why a sales-tax-reduction policy makes sense. First, the state has plenty of money – a massive surplus – more than enough to provide working families and business owners with modest tax relief. Each one-tenth of a percent reduction in the sales tax rate would provide over \$300 million in tax relief every year. Reducing the sales tax rate by one percentage point, from 6.5% to 5.5%, would only “cost” the state about \$3 billion.

Second, most of the benefit would go to middle-class and working families, particularly to the poor and elderly people living on fixed incomes. It would make everything, from clothing to housing, more affordable.

Third, a sales tax cut would make the tax code more fair. The sales tax is one of the most regressive taxes that lawmakers impose. The rich barely notice it, but it adds a major burden on families that must spend most of their income on daily needs.

Fourth, a sales tax cut would fight inflation across the board. Recently inflation has been as bad as it was when Jimmy Carter was president. Polls show that rising prices are one of the top economic worries families face.²⁵ Cutting the sales tax would have the immediate benefit of easing inflation in nearly every area of life.

Reducing taxes would promote civic unity

There is an important civic reason for elected officials to come together behind broad-based tax relief. State politics are sharply divided, and the name-calling and partisan finger-pointing is meaner than ever.

Reducing the burden of taxation is popular and has bipartisan appeal, as shown by a bill introduced recently by Democratic Senator Mona Das.²⁶ That is because everyone living in every community would benefit. In fact, people living in heavily urban areas would benefit even more, because the cost of living there is already so high.

The public’s confidence in government institutions is at a near-record low.²⁷ A broad-based tax cut would show that public officials understand the stresses that families face. Greater public confidence would strengthen democracy and restore a sense that our elected leaders can work across party lines.

Conclusion

Cutting a regressive tax is one topic on which nearly everyone can agree. A lower sales tax rate would help small retailers and low-income workers, and help make family budgets stretch further. Most importantly, reducing the tax burden would promote social unity, help restore trust in public institutions and make Washington a better place to live for everyone.

ADDITIONAL RESOURCES

“Washington ranked 32nd in Index of Freedom report,” by Chris Corry, September 6, 2023, at <https://www.washingtonpolicy.org/publications/detail/washington-ranked-32nd-in-index-of-freedom-report>

“Slower revenue increase is still an increase,” by Jason Mercier, March 20, 2023 at <https://www.washingtonpolicy.org/publications/detail/slower-revenue-increase-is-still-an-increase>

“SB 5158, to create a website that provides transparency in state and local taxation,” by Jason Mercier, Legislative Memo, January 12, 2023, at <https://www.washingtonpolicy.org/publications/detail/sb-5158-to-create-a-website-that-provides-transparency-in-state-and-local-taxation>

“Why Washington capital gains income tax is unconstitutional,” by Jason Mercier, Policy Brief, August 31, 2022, at <https://www.washingtonpolicy.org/publications/ourwork/?f=7B1277D95799551943F2C18A0EC39ADE>

“Lawmakers have proposed an income tax more than 50 times since 1991,” by Jason Mercier, August 23, 2022, at <https://www.washingtonpolicy.org/publications/detail/lawmakers-have-proposed-an-income-tax-more-than-50-times-since-1991>

“State after state announces record tax cuts but crickets in Washington,” by Jason Mercier, January 11, 2022, at <https://www.washingtonpolicy.org/publications/detail/state-after-state-announces-records-tax-cuts-but-crickets-in-washington>

“Call capital-gains tax for what it really is – an income tax,” by Jason Mercier, guest editorial, *The Seattle Times*, March 29, 2019, at <https://www.seattletimes.com/opinion/call-capital-gains-tax-for-what-it-really-is-an-income-tax/>

“How to reform Washington’s tax structure,” by Jason Mercier, Policy Brief, March 2019, at <https://www.washingtonpolicy.org/library/doclib/Mercier-How-to-reform-Washington-s-tax-structure.pdf>

“Bipartisan state tax transparency website bill proposed,” by Jason Mercier, January 28, 2019, at <https://www.washingtonpolicy.org/publications/detail/bipartisan-state-tax-transparency-website-bill-proposed>

“SJR 8208 and SJR 8209, to amend the state constitution to require a two-thirds vote in the legislature to raise taxes,” by Jason Mercier, Legislative Memo, January 2016, at <https://www.washingtonpolicy.org/library/doclib/Mericer-Two-Thirds-tax.pdf>

ENDNOTES

- 1 “State of Washington, Appropriations, General Obligation,” Standard & Poor’s Global Ratings, by Jillian Legnos and Oscar Padilla, July 11, 2022, at <https://www.tre.wa.gov/wp-content/uploads/2023AT-SP-2022.07.11-Report.pdf>.
- 2 “The 2022 Tax Reference Manual, Information on Select State and Local Taxes in Washington State,” by Drew Shirk Director, Washington State Department of Revenue, 2022, at https://dor.wa.gov/sites/default/files/2023-08/2022_TaxReferenceManual.pdf?uid=651d0e4844f42.
- 3 *South Dakota v. Wayfair, Inc.*, United States Supreme Court, decided June 21, 2018, at https://www.supremecourt.gov/opinions/17pdf/17-494_j4el.pdf.
- 4 Initiative 62, “Limitation on State Tax Revenues, List of All Initiatives to the Legislature, Initiative and Referendum History and Statistics,” Washington Secretary of State, accessed October 5, 2023, at https://www2.sos.wa.gov/elections/initiatives/statistics_initleg.aspx.
- 5 “New Poll: Lawmakers should act on supermajority for taxes amendment,” by Lisa Shin, press release, Washington Policy Center, January 5, 2016, at <https://www.washingtonpolicy.org/publications/detail/new-poll-lawmakers-should-act-on-supermajority-for-taxes-amendment>.
- 6 “State individual income tax rates and brackets for 2023,” by Timothy Vermeer, Tax Foundation, February 21, 2023, at <https://taxfoundation.org/data/all/state/state-income-tax-rates-2023/>.
- 7 “Timeless advice from WA Supreme Court on income taxes,” by Jason Mercier, Washington Policy Center, September 6, 2017, at <https://www.washingtonpolicy.org/publications/detail/timeless-advice-from-wa-supreme-court-on-income-taxes>.
- 8 “Senate OKs measure to ban Tenn. income tax,” by Lucas Johnson II, *Business Week*, March 9, 2011.
- 9 Letter from U.S. Department of the Treasury, Internal Revenue Service to U.S. Representative Dan Newhouse, September 25, 2018, quoted in “IRS: Capital gains tax ‘is an income tax,’” by Jason Mercier, Washington Policy Center, September 25, 2018, at <https://www.washingtonpolicy.org/publications/detail/irs-capital-gains-tax-is-an-income-tax>.

- 10 “SB 5129, increasing revenues for the support of state government,” Senate bill report, Washington State Legislature, January 14, 2019, at at <http://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bill%20Reports/Senate/5129%20SBA%20WM%2019.pdf>.
- 11 “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.
- 12 “Income inequality weighs on state tax revenues,” S&P Capital IQ, Global Credit Portal, Standard and Poor’s, September 15, 2014.
- 13 “Fiscal Note for HB 2563: Establishing a state tax on capital gains,” Washington State Legislature, February 2, 2012, at <https://fnspublic.ofm.wa.gov/FNSPublicSearch/Search/bill/2563/62>.
- 14 “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/>.
- 15 “Chris Quinn v. State of Washington,” No. 100769-8, en banc decision, Washington State Supreme Court, March 24, 2023, at <https://www.washingtonpolicy.org/library/docLib/100769-8-Opinion.pdf>. See also, “Washington versus the world on capital gains income taxes,” by Jason Mercier, March 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/washington-versus-the-world-on-capital-gains-income-taxes>.
- 16 Ibid, page 22.
- 17 “City of Seattle Attorney in 2014: ‘The legislature has not granted cities the authority to impose an income tax,’” by Jason Mercier, Washington Policy Center, April 18, 2019, at <https://www.washingtonpolicy.org/publications/detail/city-of-seattle-attorney-in-2014-the-legislature-has-not-granted-cities-the-authority-to-impose-an-income-tax>.
- 18 “Timeless advice from WA Supreme Court on income taxes,” by Jason Mercier, Washington Policy Center, September 6, 2017, at <https://www.washingtonpolicy.org/publications/detail/timeless-advice-from-wa-supreme-court-on-income-taxes>.
- 19 “Judge rules Seattle income tax illegal,” by Jason Mercier, Washington Policy Center, November 22, 2017, at <https://www.washingtonpolicy.org/publications/detail/judge-rules-seattle-income-tax-illegal>.

- 20 “HB 1588: Clarifying the prohibition of the imposition of a local income tax,” Washington State Legislature, January 24, 2019, at <https://app.leg.wa.gov/billssummary?BillNumber=1588&Initiative=false&Year=2019>.
- 21 State ex rel. Stiner v. Yelle, Washington state supreme court, September 8, 1933, at <http://courts.mrsc.org/washreports/174WashReport/174WashReport0402.htm>.
- 22 “The 2022 Tax Reference Manual, Information on Select State and Local Taxes in Washington State,” by Drew Shirk Director, Washington State Department of Revenue, 2022, at https://dor.wa.gov/sites/default/files/2023-08/2022_TaxReferenceManual.pdf?uid=651d0e4844f42.
- 23 “Bipartisan state tax transparency website bill proposed,” by Jason Mercier, Washington Policy Center, January 28, 2019, at <https://www.washingtonpolicy.org/publications/detail/bipartisan-state-tax-transparency-website-bill-proposed>.
- 24 “Pay raises for Washington state elected officials finalized for 2023 and 2024,” by Brett Davis, The Center Square, February 10, 2023, at https://www.thecentersquare.com/washington/pay-raises-for-washington-state-elected-officials-finalized-for-2023-and-2024/article_205ea868-a98c-11ed-83d3-b3610f8159db.html?a.
- 25 “Inflation, health costs, partisan cooperation among nation’s top problems,” Pew Research Center, June 21, 2023, at <https://www.pewresearch.org/politics/2023/06/21/inflation-health-costs-partisan-cooperation-among-the-nations-top-problems/>, and “Inflation comes in hotter than expected, but most think Fed will hold interest rates steady,” Forbes, September 14, 2023, at <https://www.forbes.com/sites/qai/2023/09/14/cpi-report-inflation-comes-in-hotter-than-expected-but-most-still-think-the-fed-will-hold-interest-rates-steady/?sh=1f8e346d29e3>.
- 26 SB 5932, “Reducing the state sales and use tax rate,” Washington State Legislature, introduced January 21, 2021, at <https://app.leg.wa.gov/billssummary?BillNumber=5932&Year=2021&Initiative=false>.
- 27 Confidence in U.S. institutions down; average at a new low,” by Jeffery M. Jones, Gallop, July 5, 2022, at <https://news.gallup.com/poll/394283/confidence-institutions-down-average-new-low.aspx>.

ENVIRONMENTAL STEWARDSHIP



ENVIRONMENTAL STEWARDSHIP

1. Empower people, not politicians, with conservation technology
2. Destroying the Snake River Dams would be bad for the economy and the environment
3. How to improve salmon recovery in Washington state
4. Improve forest stewardship to reduce wildfires and capture CO₂
5. Fixing Washington's costly and ineffective climate policy
6. Empower people, not politicians, with conservation technology

Policy Recommendation:

1. EMPOWER PEOPLE, NOT POLITICIANS, WITH CONSERVATION TECHNOLOGY

For those who believe government environmental agencies put the public ahead of politics, the Flint, Michigan, water crisis provides a cautionary tale.

At first, regional EPA officials denied the drinking water in Flint was contaminated. Then they debated whether to use agency resources to buy

water filters for the people in the community. Concerned the expenditure would set a precedent for other communities with water quality problems, agency officials ultimately decided against it. As one EPA official wrote, “I don’t know if Flint is the kind of community we want to go out on a limb for.”¹

For more than 50 years, the focus of environmental policy has been on expanding government regulation and increasing the number of enforcement agencies. In a world where smartphones and the internet connect everyone, environmental policy is still stuck in the regulatory model of the 1970s. When facing environmental problems, the immediate impulse is to use the same approach used in past decades when Congress created the Environmental Protection Agency (EPA) and passed the Clean Air Act and the Clean Water Act.

When facing large smokestacks and industrial outfalls into lakes, government agencies were the only real option to solve these pollution problems. They had good success. In the United States air and water are cleaner today than they have been for a century.

Policies that worked in the 1970s are not working today. In Washington state, government agencies have repeatedly failed to make progress on key environmental problems like maintaining healthy forests, reducing risk from CO₂ emissions, and helping salmon populations to recover.

Those failures stem from several weaknesses of politically driven approaches. Politicians are rarely held accountable for the failure of their environmental policies. Instead they choose policies that make themselves (and their supporters) feel good even if their ideas don’t work. Government approaches are often rigid and inflexible, making it difficult to adapt to new challenges.

Connecting people directly to environmental problems using small-scale technologies can overcome these limitations. People now have more information about resource use, greater opportunities to help the environment, and more ability to collaborate with others than ever before.

Using personal incentives and knowledge, society can address the types of problems politicians and government agencies have failed to solve. Rather than immediately turning to politicians, empowering people with technology offers a better way to solve many of the most challenging environmental problems.

Rewarding people for environmental success

Soon after he was elected, Governor Inslee told Lean Management expert John Bernard, “Holding ourselves accountable for results to the citizens of Washington isn’t politically expedient, but it clearly is the right thing to do.”² Despite his bravado, the record of the Inslee Administration has been to avoid accountability and to hide repeated failures to meet promised environmental goals.

Results Washington, the agency Governor Inslee had created to provide the accountability he had promised, removed all written goals from its web page in 2019, just before the governor announced his national presidential campaign. Four years later, the “accountability” agency had still not posted new environmental progress metrics to replace the old ones.

Connecting people to environmental results creates direct accountability in a way that political systems simply do not. Energy conservation offers one clear example of this.

Prices send strong signals about the value of resources, providing incentives for consumers to conserve while saving money. Homeowners, however, have been protected from price signals because they did not have the ability to adjust rapidly when prices increased.

That has changed, and smart thermostats and home energy monitors now provide homeowners a way to save money while reducing power demand during peak hours, when utilities pay the most for electricity. Users of Nest and Ecobee smart thermostats can, in some areas, participate in programs that automatically adjust the thermostat to save energy during critical times of the day. Combining technology with personal incentives is already showing positive results.

In the U.K. and Texas, Octopus Energy provides its customers with real-time pricing and the technology tools to adjust their energy use based on transparent prices. As wholesale prices increase in the evening or decline at night, those price changes are passed on to customers. When there is a surplus of wind energy, prices can even go negative – literally paying people to use electricity.

Giving people options helps homeowners cut their energy costs. A study commissioned by Octopus found that:

“The first results from our Agile Octopus half-hourly time of use tariff shows consumers shifted electricity consumption out of peak periods by 28 percent.”³

The result, they report, was that the average consumer would save about forty-five British pounds annually compared to a fixed-rate plan from Octopus.

Incentives work better than shaming

Research shows connecting people with financial incentives to save works better than messages that try to shame people into conserving. One study tested two ways to get consumers to reduce electricity use during peak hours. For the moral suasion group, researchers sent a message saying that conservation “will be required for the society in ‘critical peak-demand hours.’”⁴ The group receiving the economic incentive received a message reading, “Notice of Demand Response: In the following critical peak-demand hours, you will be charged a very high electricity price...”

The results were clear. The researchers found that “the level of reduction is much larger for the economic incentive treatment.” The incentives were so effective that they even worked outside the period of peak demand. Researchers reported, “These results imply that the economic incentives in our experiment motivated customers to lower their usage in both the non-treatment hours and the treatment hours.”⁵

Once consumers felt the cost of their energy use, they found ways to conserve and made conservation a daily habit. By way of contrast, the moral suasion approach had only a limited effect. The results from the study found that “...moral suasion effect was statistically significant in the first cycle, but became insignificant in the remaining cycles for the summer.”⁶ People simply became inured to the guilt and reverted to their old behavior. As public messaging guilt only goes so far.

Politicians and bureaucrats prefer to be in charge

Politicians and officials at state agencies prefer a centralized, top-down approach. Devolving control to consumers takes power away from government agencies, appointed board members, and legislators who do not trust the public to make what they consider the right decisions.

Keeping politicians and bureaucrats in charge means they can dictate how energy is generated, what the costs are, and who benefits while maintaining a lack of transparency that prevents accountability.

After more than a century of government-dictated prices, some in the public will certainly be skeptical about a consumer-led system that requires more attention and seems less certain. Ultimately, however, a policy of giving more transparency and control to consumers is more effective and respectful of individuals and families, and is better for the environment.

Finding solutions where government approaches have failed

Smartphones and the internet also connect people, allowing them to aggregate information and social power to address environmental problems. An app called eBird helped create habitat for migratory shorebirds simply by collecting data from birdwatchers.

Created by Cornell University, eBird allows birdwatchers to enter data about when and where they sight particular wild birds, helping birdwatchers keep track of their lifetime birdwatching list. That data is used by Cornell University to understand the movement of birds and identify critical habitat.

Joining with The Nature Conservancy (TNC) in the Central Valley of California, the eBird team used the data by the app to identify key parcels of land to protect, assisting migratory shorebirds as they move along the Pacific Flyway.

Using the existing data from the eBird checklists, TNC was able to identify the landing areas birds use most as they migrate. The data were specific enough, down to about a half-mile of resolution, that TNC could identify specific farms and rice paddies in the area that would be most valuable to wild birds during migratory season.

Once they had the information, TNC offered to pay farmers to create “pop-up habitats” for a few months a year. TNC asked farmers to flood their fields with a few inches of water and let fields remain idle during a time when they might otherwise be preparing for the next growing season. TNC ran a reverse auction, asking farmers how much they would like to be paid to participate in the program. Farmers named their price, and TNC rented the land to create the habitat.

TNC's lead scientist for its California Migratory Bird Program reported:

“It's been a pretty astonishing success,” with 10,000 acres of additional wetland created, and modeling showed that “...more than 180,000 waterbirds comprising more than 50 different species used the temporary wetlands – 30 times more than were counted on the dry fields.”⁷

By renting the land for a few weeks or months, the cost is dramatically lower than having to purchase the land outright. Additionally, turning productive farmland into permanent conservation land can be politically unpopular, as the remaining farmers have more difficulty continuing to work in a community that becomes more detached from a farming lifestyle. Working with the farmers, on the other hand, engages them in conservation, providing financial incentives to compensate them for the additional risk and cost of changing their annual farming practices.

Smartphones reduce what Nobel Prizewinning economic Ronald Coase called “transaction costs,” the cost of sharing information and collaborating. Apps like eBird use smartphones to radically reduce the cost of information, creating new opportunities to respond to environmental and resource problems. For distributed environmental problems where big government solutions don't work, this kind of information aggregation is a critical part of identifying problems and opportunities in ways that have not been available before.

Innovation is more nimble than bureaucratic approaches

“Environmental problems are getting larger, and the only thing that can keep up with that is technology.”⁸ Those are the words of Michelle Lancaster, who worked with Microsoft's AI for Earth program. Technology allows governments or groups of individuals to use information to address challenging environmental problems.

Engaging individuals with technology can also help government efforts become more effective. One example is King County's noxious weed app, which allows users to photograph, identify, and report environmentally harmful weeds.⁹ Photographs can be assessed by King County staff without having to make a site visit.

Previously, users had to submit a written report with vague descriptions of the location and the plant. The new app saves time and money by improving the quality of information shared by users.

The rapid improvements in Artificial Intelligence (AI) also add to the ability to use wildlife cameras to track species and to interpret bird and animal calls to understand the range of they travel. It is even used to identify where lead water pipes need to be replaced in residential communities.¹⁰

Conclusion

Innovation empowers people with the incentive to save environmental resources. Government regulators can give general price signals but they cannot come close to matching this level of social empowerment. Smartphones can also bring people together, aggregating and interpreting information to reduce the impact of power outages and coordinate efforts to create new wildlife habitats.

Rather than turning to expanded government programs that have been unable to solve many of the environmental problems we face today, policymakers, innovators and members of the general public should use the power we can all now hold in the palm of our hand.

Policy Recommendation:

2. DESTROYING THE SNAKE RIVER DAMS WOULD BE BAD FOR THE ECONOMY AND THE ENVIRONMENT

In 1999, environmental activists paid for a full-page ad in *The New York Times* claiming that unless the four Lower Snake River Dams were removed “wild Snake River spring chinook salmon, once the largest run of its kind in the world, will be extinct by 2017.”

Instead, Chinook populations at Lower Granite Dam – the farthest upstream of the four dams – have been higher during the last two decades than during the 1990s. Since that ad ran in 1999, adult Chinook returns have averaged more than five times as many fish per year than in the decade before it ran.

Nearly a quarter of a century later, some environmental activists are still calling for the destruction of the dams. Focus on the dams is a

dangerous distraction from the real work that is needed to recover salmon populations across the Northwest. Diverting scarce funds needed for salmon habitat in Puget Sound to the Snake River would do little to help salmon, but it would destroy opportunities to help where it is most important while needlessly increasing the cost of electricity in Washington state.

The proposal to spend \$35 billion – or more – to destroy the four Lower Snake River dams is counterproductive, not just for the climate, for energy reliability, and for the economy, but also for salmon by misallocating resources that could do so much good across the region.

Predictions of extinction have been repeatedly wrong

Across the Pacific Northwest, the pace of salmon recovery has been slow, leading to frustration and encouraging politicians and some activists to look for a silver bullet solution.

For example, one metric used to assess the success of recovery efforts is the smolt-to-adult return ratio, known as SAR. This is the ratio of baby salmon that head downstream to those that return upstream four years later. The higher the ratio, the more likely a salmon stock is to become self-sufficient and to increase in population.

The data show that SARs on the Snake River are similar to returns in other rivers, those with and without dams. A peer-reviewed study concluded:

“Within the Columbia River, the SARs of Snake River populations, often singled out as exemplars of poor survival, are unexceptional and in fact higher than estimates reported from many other regions of the west coast lacking dams.”¹¹

An Independent Scientific Advisory Board (ISAB) was convened and agreed with the study’s assessment of Snake River SARs. The Board members wrote:

“The ISAB concurs with the general conclusion...that current SARs for Chinook populations from the Columbia Basin and in other systems are generally low, with recent values below 2% (after accounting for fishery interceptions) being common.”¹²

Despite the regional challenges, some people fixate on the Snake River, claiming salmon are near extinction. Their predictions have been

consistently wrong. For example, in 2021 dam opponents wrote in *The Spokesman-Review*:

“Imagine Snake River without any salmon. That’s not hyperbole.”¹³

Rather than declining, as these activists predicted, Snake River salmon populations increased significantly the following year. Wild Chinook returns more than doubled the following year. For all Chinook, wild and hatchery, 2022 was the third year in a row of fish population increases and the fifth-highest population since 2000.

Scientific assessments show dam removal is not necessary

The justification for destroying the dams is the claim that doing so would increase salmon runs in the Snake River. In its poll asking people about the four dams, Save Our Wild Salmon falsely claimed, “Removing four dams on the Lower Snake River would restore wild salmon.” Science and data, however, demonstrate that destroying the dams would do little to recover salmon in the Snake.

The most comprehensive study of the impact of the dams ever completed, the Columbia River System Operations EIS, concluded the dams should not be removed. That study found that keeping the dams would “meet the Improve Juvenile Salmon, Improve Adult Salmon, and Improve Lamprey objectives.” According to the CSS model, Snake River Chinook and steelhead populations will increase with the dams in place.¹⁴

In its Snake River recovery plan for Chinook and Steelhead, NOAA Fisheries noted that the dams are “very close to achieving, or have already achieved, the juvenile dam passage survival objective of 96 percent for yearling Chinook salmon and steelhead migrants.”¹⁵ This is one reason Chinook adult populations on the Snake River are much higher today than during the 1990s. Even at best, destroying the dams would increase the existing survival rate by a small percentage.

Given the small room for improvement, the potential population gains from destroying the dams are limited or non-existent. Dr. Peter Kareiva, who analyzed the impact of the Snake River dams for NOAA Fisheries in the early 2000s, argued:

“...it is not certain that dams now cause higher mortality than would arise in a free-flowing river.” He concluded that, “it has

become clear that salmon conservation is being used as a ‘means to an end’ (dam removal) as opposed to an ‘end’ of its own accord.”¹⁶

The science simply doesn’t support the primary argument activists make for destroying the dams.

Destroying dams won’t save Southern Resident Orca

Some claim destroying the dams would help the Southern Resident Killer Whales in Puget Sound, which is a listed endangered species. The Southern Residents rely almost entirely on Chinook salmon for their diet and low fish populations across the region are the major cause of the orca’s decline. Some have argued that destroying the dams would increase the number of Chinook available to feed the Southern Resident whales.

Scientists from NOAA Fisheries have stated clearly that destroying the dams would not have a meaningful impact on salmon available to the Southern Residents.

In a 2016 NOAA fact sheet called, “Southern Resident Killer Whales and Snake River Dams,” federal agency staff wrote:

“The relative size of the Snake River salmon stocks compared to others on the West Coast means that increases in their [Snake River salmon] numbers, whether from breaching dams or otherwise, would result in only a marginal change in the total salmon available to the killer whale.”¹⁷

Additionally, NOAA Fisheries and the Washington State Department of Fish and Wildlife prioritized the most important watersheds for Puget Sound orca, giving the Snake River a low ranking of ninth overall.¹⁸

NOAA’s fact sheet went on to say:

“The best option for long-term recovery of both salmon and whales is restoring habitat across a diversity of west coast rivers.”

Again, focusing so much attention and resources on the Snake River distracts from salmon recovery efforts across the region that are more critical for both orca and salmon populations.

The high cost of replacing the clean electricity

The four Lower Snake River Dams (LSR) provide between seven and 11% of Washington's electricity.¹⁹ Replacing that amount of clean zero-carbon energy would be expensive and would greatly increase harm to the environment.

Many claims about replacing the electricity from the Snake River dams would not fully replace the energy supplied by the dams and do not account for the unreliability of wind and solar power. Some proposals, like the 2018 NW Energy Coalition study, assumed natural gas generation would be necessary to replace some of the power to provide grid stability.²⁰ Its report found destroying the dams would increase CO2 emissions by more than 320,000 metric tons annually – about the amount of CO2 emitted by 70,000 cars in a year – even though wind and solar sources would not replace all the lost electricity.

Washington Policy Center joined with the Center for the American Experiment to estimate the cost of replacing all of the electricity from the four Lower Snake River dams, including battery storage, to provide the same level of reliability as the dams do.²¹

The rigorous analysis found that the total cost of replacing the generation of the LSR dams with 100 percent wind and solar generation, plus battery storage, would be \$34.3 billion. This finding is based on 2021 LSR dam generation and real-world wind and solar capacity factors for the region. These cost estimates assume a declining cost of renewable power and battery storage using optimistic projected future costs from the moderate scenario in the National Renewable Energy Laboratory (NREL) Annual Technology Baseline.

Put simply, removing the dams would significantly damage clean electricity generation in Washington and the Northwest, would drive prices up for consumers, and would actually increase CO2 emissions.

Destroying the dams is a dangerous distraction

Lawmakers should not allow frustration at the slow pace of recovery across the region to cause them to look for “silver bullets,” like dam destruction, that simply do not exist. Scientific prioritization must continue to guide environmental policy about where and how to allocate limited state and

federal dollars. It took decades for salmon populations to decline to this point and it will take time for them to recover.

Federal government officials should continue to support the work of the Pacific Northwest National Laboratory in finding ways to reduce the impact of the dams, in particular by improving our scientific understanding of salmon runs more generally. Technology has already been very effective at reducing fish mortality at the dams.

Finally, both the state and federal governments should increase funding for science-based salmon recovery grants. Rather than offering money to politically targeted projects, it should be put into grant programs using politically neutral, science-based metrics.

Conclusion

Salmon populations along the Snake River are higher today than two decades ago. Despite that, some activists and politicians continue to cling to decades-old arguments, ignoring the latest science and pushing policies that would increase air pollution, raise electricity rates, and divert money from effective salmon recovery efforts.

To help salmon and orca, Washington policymakers should put funding where it will be most effective. Preserving the Snake River Dams is not just good for our economy, farmers, and energy – it is good for the environment.

Policy Recommendation:

3. HOW TO IMPROVE SALMON RECOVERY IN WASHINGTON STATE

The need to increase the population of salmon in Washington state brings together a wide range of people, including those who care about preserving an iconic Northwest species, commercial and sport fishers, tribal members who rely on salmon for economic and cultural benefits and have guaranteed treaty rights, and the public who care about all of these qualities.

Despite that broad agreement, progress on increasing the population of Chinook and other salmon species is frustratingly rare. The slow rate of

progress is creating tension among groups who have turned to fighting for their share of a shrinking fish population.

There is an opportunity to break this cycle of frustration and recrimination. Washington state has the resources to take critical steps to change the course of salmon recovery for the better.

Increased funding will only be effective if it is accompanied by a commitment to reversing the trend toward politicizing spending. Instead, it uses a science-based prioritization process that increases funding for science and monitoring and creates accountability for outcomes by putting those closest to on-the-ground recovery projects in the lead.

This combination of efforts will help halt the slow decline of salmon across the Northwest and will deliver real benefits for Washington's economy, environment, and culture.

Chinook salmon populations are not recovering

Across the state, salmon populations continue to struggle, with few watersheds making progress. The State of Salmon in Watersheds report notes:

“No salmon species have been removed from the federal Endangered Species Act list in Washington and most of the species on the list are in crisis or not keeping pace with recovery goals.”²²

The problems are not located in just one part of the state.

Chinook populations have been particularly hard hit. In Puget Sound, between 2004 through 2019, there were declines in the number of spawning salmon in 16 of the 22 Chinook populations. As a result, the state badly missed its 2020 goal for Puget Sound to show improvements in wild Chinook populations in each of the five biogeographical regions. Similar results are reflected across the Northwest.

A variety of factors play a role in harming salmon – a lack of functioning estuaries, predation, warm water, rain runoff that carries toxins into the water, few floodplains and other environmental factors. To reverse our failure to improve salmon populations in Puget Sound and elsewhere requires a more sophisticated approach.

Some of the problems are also politically difficult to face.

Earlier this year, the Washington State Academy of Sciences released a study on the impact of large populations of seals and sea lions (known as pinnipeds) on salmon. Its research concluded that predation by pinnipeds is “a primary driver of increasing mortality rates” among Puget Sound salmon.

The complex web of factors also makes it difficult to know whether officials are prioritizing the right problems and whether restoration projects are actually working.

Variable ocean conditions mean it can take a long time to discern results. It can take years for growing trees to provide adequate shade for a stream or for wood added to a stream to improve fish habitat conditions. A poor population response could mean that habitat projects did not have the desired effect, or it could mean that ocean conditions or other conflating factors masked some smaller underlying improvement.

A study by the Puget Sound Partnership’s Salmon Science Advisory Group that examined the factors limiting salmon recovery noted, “Projects can take decades to have the desired effect on habitat functions,” and that assumes monitoring is adequate to accurately detect results. The study reported, “Our ability to fully assess the effectiveness of restoration actions would be enhanced by continuing to expand the fish monitoring effort in the region.”²³

There is no “silver bullet”

The slow pace of recovery combined with uncertainty is leading some to look for a high-profile, silver bullet, a single dramatic action – like destroying the four Lower Snake River dams – that they think would kickstart recovery of salmon populations.

The fight over the Snake River dams is the highest profile and most expensive example of silver-bullet thinking, but it is not the only one. Removing seals and sea lions, banning tribal nets, or stopping fishing altogether, and protecting riparian areas have all been identified as the supposed “key” to salmon recovery by various interested parties. Where there is complexity, people can fall into a process known as “satisficing,” in which they “engage in sub-optimal decision-making strategies to conserve cognitive effort.” When frustration mounts, simple solutions become more attractive.

The reality is that salmon recovery is complex. It took many decades for salmon populations to get to their current low point, and it will take decades for them to recover. Improving habitat and reducing predation take time to show results. There are no quick fixes and the search for them distracts from the critical, science-based, sustained effort that is necessary.

Political agendas are undermining science-based prioritization

Inadequate funding is also creating frustration, leaving many problems unaddressed or under-addressed. This has caused salmon advocates to compete for resources, trying to carve the budget pie to suit the projects about which they are most concerned.

For example, the state is under a federal court order to fix culverts and other barriers to habitat. The recent legislative budget added \$50 million to improve conditions along streams to reduce temperatures and habitat. Opening upstream habitats and reducing stream temperatures can be worthwhile. However, these types of projects may not be the best use of salmon-recovery funding and may not address key barriers in individual watersheds.

Increasing funding for targeted programs also comes at the cost of other salmon recovery efforts. The Salmon Recovery Funding Board was the first state-funded salmon program. It receives proposals from local organizations and allocates grants using a competitive, science-based ranking. This year, the Legislature cut its budget by a third compared to the previous biennium, even as the state's total salmon recovery budget increased slightly.

Now, salmon are also competing for attention with identity politics. Under the new HEAL Act, state environmental agencies are required to create rules that skew environmental spending using the state's controversial Environmental Health Disparities map.

A look at the projects that qualified for funding in the existing science-based Puget Sound Acquisition and Restoration Fund (PSAR) shows the gap between salmon-recovery priorities and the political rhetoric of the HEAL Act. Using the Health Disparities map, the salmon-recovery projects prioritized by scientific metrics are in areas with an average score of 1.55 out of 10, near the bottom of the "environmental justice" scale. Applying the HEAL Act would almost certainly move projects away from where the existing science-based metrics would recommend.

Putting science, ongoing learning, and accountability at the center of salmon recovery

Sound salmon policy is a mix of science, effective use of resources, economics, and a determined but objective temperament.

Public officials should clear away the political drama and other issues that distract them from the important work of addressing the many obstacles to salmon recovery. Now is the time to redouble the focus on science and the process of ongoing learning.

There are four key ideas that would get salmon recovery efforts back on track.

1. A salmon science surge

In many places across the state, managers of habitat science have little information about total salmon returns. Without basic information, it is virtually impossible for them to assess accurately which recovery projects are working and which are not.

A study on salmon recovery in Puget Sound noted:

“The clear weakness in ongoing monitoring work is the inability of monitoring to link restoration, changes in habitat conditions, and fish response at large scales (sub-basin and larger). All these factors are playing a role in limiting fish response to restoration actions and all should be considered in attempts to make habitat restoration more effective.”²⁴

The state should increase funding for science and monitoring.

2. Salmon funding should be science-based

The Legislature should reverse the trend of funding based on political considerations rather than science-based grants. Those programs have been effective at targeting key barriers to salmon recovery. For example, a recent assessment of PSAR projects over 15 years found:

“The PSAR Large Capital Program review process effectively promotes quality salmon recovery projects...”²⁵

Science-based grants are more likely to create sustainable recovery than politically targeted funding.

The Legislature should reduce the impact of policies designed to undermine science-based prioritization, like the HEAL Act. With so little progress in salmon recovery, lawmakers should be reducing the influence of politics on environmental policy, not increasing it.

3. Put local organizations at the center of the process

Even with a sound scientific basis for prioritizing salmon recovery, there are still gaps in our knowledge. Local knowledge, traditional knowledge and accountability can help fill those gaps.

Local salmon recovery organizations and tribes face accountability for results that are more meaningful than those of politicians or agency staff in Olympia. A project that fails to yield returns will receive scrutiny from local oversight, especially if local governing boards control staff budgets. Local staff also have incentives to learn from their mistakes, since repeated mistakes are more likely to put their judgment at risk.

Experts on the ground may also understand the dynamics of a watershed in ways that, while not scientifically tested, are valuable and important.

Lawmakers should also reduce the permitting and funding barriers that local salmon-recovery organizations now face.

4. Increase funding for salmon recovery

Improving salmon recovery results will require more funding from the state. Washington's revenue has ballooned in recent years and there is plenty of public money to devote to salmon recovery. Rather than increasing funding for salmon proportionate to revenue and the threat faced by salmon, funding has stagnated as a percentage of the budget, with increases in one area (such as removing stream barriers) being offset by cuts elsewhere, such as SRF Board grants.

The governor and Legislature should significantly increase spending on salmon recovery, making it a priority rather than just a media talking point.

Policy Recommendation:

4. IMPROVE FOREST STEWARDSHIP TO REDUCE WILDFIRES AND CAPTURE CO₂

Across the West, catastrophic wildfire has increased significantly over the last two decades, making smoky skies more common in Washington state. According to the U.S. Forest Service and the EPA, Washington saw one of the largest increases in burned acreage since 2002.²⁶

The increase in fire has been seized on by some to claim that climate change is driving the expansion, arguing that reducing CO₂ emissions is key to addressing the problem. Research shows that this idea is wrong, pointing instead to unhealthy forests as the primary cause. The research shows that forest health treatments are the only solution that can reduce catastrophic fires for the next century.

Poor forest health is the primary driver of catastrophic wildfire

A study from researchers at the U.S. Forest Service and the University of Montana found that only 14% of catastrophic wildfires across the West can be attributed to temperature increases from climate change.²⁷ When looking at “the drivers of high-severity fire for forested ecoregions in the western U.S.,” researchers found that climate was a small factor in the increase in catastrophic wildfire.

The simple answer is that unhealthy forests are driving catastrophic wildfires. As the Washington State Department of Natural Resources (DNR) notes:

“We have a forest health crisis in our state. And because of our forest health crisis, we are seeing more catastrophic wildfires.”²⁸

The Forest Service study backs this up. The researchers noted that “live fuel, on average, was the most important factor driving high-severity fire,” accounting for more than half of the catastrophic fires across the West.

Dense, unhealthy forests – with too many trees competing for too little water, light, and nutrients – are more fire-prone.

One news story on the risk of unhealthy forests correctly notes that:

“In a traditional ponderosa-pine forest, fire meanders along the ground. In a crowded forest, fire jumps to the tops of trees and spreads with the wind, faster than firefighters can control it.”²⁹

Trees that are stressed from lack of nutrients also have a difficult time fighting off pest infestations. Bugs can kill large swaths of forest, leaving dead trees as tinder for the next lightning strike. In the severe 2020 fire season, the fuel in one fire was described as “large expanses of beetle kill timber, 80-90 percent of the stand.” In that condition, forests are at serious risk of fire with or without global temperature increases.

Improving the health of forests is the only way to reduce fire risk

Lawmakers should return forests to a more natural state using a combination of harvesting, thinning, and controlled burns.

Agriculture Secretary Tom Vilsack released a 10-year strategy to reduce the risk of catastrophic wildfire, highlighting:

“...the need to significantly increase fuels and forest health treatments to address the escalating crisis of wildfire danger that threatens millions of acres and numerous communities across the United States.”³⁰

This is also the approach being taken by the Colville Confederated Tribes to improve the health of their forests.

Returning forests to a more natural, healthy state presents a challenge. Meaningful progress in treating unhealthy, fire-prone forests has been difficult because harvesting and thinning often cost more than the harvest yields, even when some timber revenue is generated. Without a source of funding, there will be very little progress toward reducing the risk of recurring catastrophic wildfires the region has witnessed in recent years.

The cost of meeting the goals of the Washington state Department of Natural Resources’ 20-year Forest Health Strategic Plan is likely to be hundreds of millions, or billions, of dollars over the course of the plan.

Funding for forest health

There are many ways to find this revenue. A federal program called “Good Neighbor Authority” allows DNR to harvest unhealthy federal forests and use the revenue to fund ongoing treatments.

Timber harvests that generate revenue can help fund nearby forest health improvements. Cody Desautel, Executive Director of the Colville Confederated Tribes notes:

“When you do these types of forest management treatments and you produce forest products that generate revenue, that revenue helps support other management objectives. If that funding isn’t available – if you’re just doing fuels treatments or forest treatments and you have no value to the log – there’s no other funding source to offset that. You’re really minimized in your treatment effectiveness by the amount of money you have available.”³¹

Fixating on climate policy distracts from the real driver of catastrophic wildfires and makes it difficult to find the resources to address the problem. Even if the world meets the targets of the Paris Climate Accord and becomes net-zero by 2050 (which is extremely unlikely), global temperatures will still be higher in 2100 than they are today.³²

Active forestry is more effective at storing CO2

Some have argued that stopping timber harvests on state land would allow forests to capture atmospheric CO2 and store it. This claim is contradicted by science and real-world experience.

Sustainable timber harvests and replanting are the most effective ways to capture and store CO2.

For example, the U.S. Forest Service’s Pacific NW Research Station noted:

“Sustainably managed forests can provide greater greenhouse gas mitigation benefits than unmanaged forests while delivering numerous environmental and social benefits.”³³

The U.N. Intergovernmental Panel on Climate Change agrees noting, “Sustainably sourced agriculture and forest products, including long-lived wood products, can be used instead of more GHG-intensive products” to reduce global CO2 emissions.³⁴

Real-world data confirms this. California's assessment of forests in the state found working forests significantly increase storage of carbon, but "reserve" forests are net carbon emitters, with high levels of mortality from fire, insects, and disease.³⁵

Research from the University of Washington shows that trees in Western Washington absorb and store carbon most rapidly when they are between 30 and 80 years of age.³⁶ At that point, the total carbon stored in a forest generally flattens out. After that, researchers noted:

"Large trees may continue to grow larger by crowding out adjacent trees but eventually, due to natural aging and disturbances such as windstorms, fire, and disease, the unmanaged forest is likely to emit carbon rather than store more carbon" as trees burn, die or rot.³⁷

Stopping timber harvests is also unlikely to increase global CO₂ storage because of the substitution effect. If global demand for construction materials stays the same, a reduction in timber harvest in Washington state would likely cause increased harvest elsewhere or cause builders to replace wood with more energy-intensive building materials like concrete and steel.

Stopping harvests in Washington would be the worst of both worlds by leaving the state with forests that are more fire-prone without reducing global atmospheric CO₂.

Conclusion

The research shows that sustainable, active forestry is best for the economy and the environment. Scientifically managed timber harvests provide a range of benefits to the economy, to school funding from state timber sales, and to the environment. But even if we focus only on climate change and reducing CO₂ emissions, the science is very clear – as many activists themselves acknowledge – that the best strategy to reduce the risk of catastrophic forest fire and climate change, is to support timber harvests in state, federal, and tribal forests and increase the use of timber for construction.

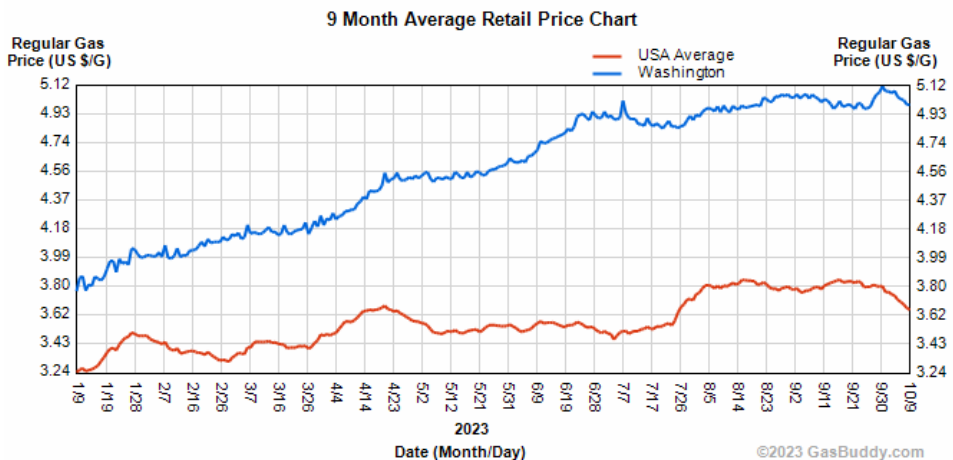
Policy Recommendation:

5. FIXING WASHINGTON'S COSTLY AND INEFFECTIVE CLIMATE POLICY

A decade into the Inslee Administration, Washington's climate policy has switched from wasteful and ineffective to extremely expensive. Through 2019, Washington's CO2 emissions had increased every year during the governor's three four-year terms, despite his repeated promises that carbon emissions would decline.³⁸ The economic slowdown caused by the COVID lockdowns changed that, but the poor results demonstrate that government policies designed to cut emissions has largely failed.

Washington's state leaders are not the only ones who failed to live up to their promises. Before the COVID lockdowns, elected officials in both King County and Seattle were also badly missing their promised CO2-reduction targets.³⁹

In an effort to change that, Washington state adopted one of the strictest CO2-emission laws in the country. It took effect in January 2023. The Climate Commitment Act (CCA) puts a hard cap on total CO2 emissions the government will allow in the state, while excluding some economic sectors from coverage. Allowances to emit CO2 are sold at a quarterly state auction up to the mandated cap, which sets the price. The inflexibility of the CCA quickly led to very high energy prices, especially the price of gasoline.⁴⁰ The state's own Department of Ecology predicts energy prices will go even higher.⁴¹



Due to the state carbon tax the retail price of gasoline in Washington (upper line) is significantly higher than the U.S. national average price (lower line)

The needlessly restrictive targets and requirements in the CCA mean Washington residents will likely continue to pay far more to reduce CO₂ than consumers in California and other jurisdictions with similar climate policies. Washington leaders are not only harming their own residents and economy. They are wasting opportunities to more effectively and rapidly reduce CO₂ emissions.

State climate policy is wasteful and expensive

State and local climate policy has focused on imposing government programs and mandates, spending hundreds of millions of dollars to subsidize projects officials claimed would reduce CO₂ emissions. Those projects have consistently failed to live up to the promises made by politicians.

The response has been to add more funding and requirements for government planning. For example, the Legislature passed a requirement that cities include climate change as a factor in their growth management plans. The Legislature provided about \$41 million to meet that new requirement.⁴² Tens of millions of dollars more are being spent to help agencies with permitting. As the state's consistent failure to meet CO₂-reduction goals demonstrates, the success rate of these types of programs is extremely poor.

Worse, now that the state has imposed an arbitrary cap on statewide CO₂ emissions, these projects are unlikely to add anything to total emissions reductions. While cap-and-trade systems like the CCA have many problems, one advantage is that they are intended to replace the patchwork of ad hoc subsidies and regulations with a single system that puts a cap and a price on emissions.

Instead, the Inslee Administration and the Legislature have kept the wasteful regulations and spending in addition to the CO₂ cap. This makes little sense because any reductions achieved by government programs count against the cap. Because the cap doesn't change, Washington's total statewide emissions are likely to be the same even without any government spending on CO₂-reducing projects.

The same is true of growth management and other regulations, like banning natural gas heating in new homes. Natural gas is covered by the CCA. Assuming the existing strict cap targets remain in place, homes would have to switch to electricity over the next three decades with or

without the state's new regulations. The claim is that government programs and regulations will help ease that transition, but again, given the history, that claim is based more on faith than experience.

Fixing our broken climate policy – repeal the CCA

Fundamentally, the CCA is needlessly complex and political. The best approach would be to repeal the law and replace it with a simple price on CO2 emissions, repeal the many wasteful subsidies and climate regulations, and cut taxes with the savings and revenue from the CO2 price. That is unlikely because state elected officials and agency staff want the billions of dollars in tax increases they are getting from the CCA.

Short of full repeal, there are policy changes that can be made to reduce the economic damage being done by the CCA and make it more effective at reducing CO2 emissions.

First, lawmakers should require that any CO2-reduction project funded by taxpayers meet the same standards of effectiveness required of private efforts. Currently, there are no requirements that projects funded by the state actually reduce CO2, or that they maximize environmental benefits.

Numerous CO2-reduction projects funded by state and local governments have failed badly and there is virtually no accountability for those failures. The state routinely misses or ignores its own requirements to reduce CO2, including the governor's own executive orders regarding state purchases of electric vehicles.⁴³ In contrast, companies in the private sector are not allowed to act in such a slipshod and incompetent manner.

Second, the cap on private CO2-reduction projects should be removed. Currently, to comply with CCA, emitters can only use a small number of private CO2-reduction projects. That cap should be eliminated. The targets are arbitrary and limit opportunities for environmental innovation. The state should allow all third-party certified projects that demonstrate CO2 reductions that are real, permanent, quantifiable, verifiable, enforceable, and additional. These strict requirements should also be applied to any government-funded CO2-reduction project.

Also, the state should eliminate the requirement that offsets provide "Direct Environmental Benefits" to the state. Washington will receive billions of dollars in new tax revenue from the CCA, which should be used

to address environmental concerns rather than requiring offset projects to meet multiple, potentially contradictory, goals.

End the state's arbitrary cap on emissions

The state should eliminate, or at least adjust, the state's arbitrary cap on CO2 emissions. The requirement that the state reduce emissions by 50 percent by 2030 is not based on science. The target is entirely political based on the fact that the target and deadline are both divisible by ten. While not based on science, the aggressive and arbitrary cap is still the main driver of the very high cost of compliance.

Repeal the low-carbon fuel standard

Lawmakers should repeal the state's low-carbon fuel standard. As the Department of Ecology officials admit, the LCFS adds nothing to the total CO2 reduction in the state. The only purpose it serves is to increase the cost of achieving the exact same level of emissions reductions. The LCFS mandate represents pure waste.

Finally, to cut prices immediately, the state could cap the price of CO2 allowances at the California/Quebec price. In 2023, Washington's price for CO2 allowances was nearly double the price in California's CO2 market. Washington residents paid much more to achieve the same level of CO2 reduction.

Governor Inslee and officials at the Department of Ecology have said repeatedly that they want to join the California/Quebec CO2 market to cut prices. They could take a step in that direction by aligning our prices with them now.

Conclusion

The refrain often heard from advocates of the CCA is that the law is necessary to reduce the supposed risks of climate change. If advocates truly believed that, they would require government programs to prove they are effective and maximize CO2 reductions. They would also encourage technical innovation by allowing the private sector to create new approaches to reducing emissions, with no state-imposed arbitrary limits.

Instead, the current system prioritizes government bureaucracy, corporate subsidies and payouts to special interest groups. Without repeal or a serious overhaul of the CCA, Washington residents will continue to pay extremely high prices for tiny environmental benefits.

ADDITIONAL RESOURCES

“To save Washington salmon, choose science, not silver bullets,” by Todd Myers, guest editorial, *The Seattle Times*, September 26, 2023, at <https://www.seattletimes.com/opinion/to-save-wa-salmon-choose-science-not-silver-bullets/>

“Getting back on track with salmon recovery in Washington state,” by Todd Myers, Policy Brief, September 25, 2023, at <https://www.washingtonpolicy.org/library/doclib/Myers-Salmon-Recovery.pdf>

“Anti-science attitude of the OER Climate Change Curriculum,” by Todd Myers and Vanessa Ramsey, Policy Notes, April 19, 2023, at <https://www.washingtonpolicy.org/publications/detail/anti-science-attitude-of-the-oer-climate-change-curriculum>

“Time to Think Small: How Nimble Technologies Can Solve the Planet’s Biggest Problems,” by Todd Myers, Penguin Random House publishers, 2022, at <https://www.penguinrandomhouse.com/books/710544/time-to-think-small-by-todd-myers-author/>

“What is causing the increase in catastrophic wildfire: A short explainer,” by Todd Myers, October 6, 2022, at <https://www.washingtonpolicy.org/publications/detail/what-is-causing-the-increase-in-catastrophic-wildfire-a-short-explainer>

“Statement on Governor’s Snake River dam report,” by Todd Myers, August 25, 2022, at <https://www.washingtonpolicy.org/publications/detail/statement-on-the-governors-snake-river-dam-report>

“Addressing the myths about the Snake River salmon and dams,” by Todd Myers February 10, 2022, at <https://www.washingtonpolicy.org/publications/detail/addressing-the-myths-about-snake-river-salmon-and-dams>

“Cap-and-trade, LCFS, and gas tax bill would mean higher energy prices and do little for the environment,” by Todd Myers, Legislative Memo, April 12, 2021, at <https://www.washingtonpolicy.org/publications/detail/cap-and-trade-lcfs-and-gas-tax-bills-would-mean-higher-energy-prices-and-do-little-for-the-environment>

“Tearing down the Snake River dams is a deadly distraction for salmon,” by Todd Myers, November 22, 2019, at <https://www.washingtonpolicy.org/publications/detail/tearing-down-the-snake-river-dams-is-a-deadly-distraction-for-salmon>

“To stop wildland fires, forestry, not climate policy, is the priority,” by Todd Myers, September 8, 2020, at <https://www.washingtonpolicy.org/publications/detail/to-stop-wildland-fires-forestry-not-climate-policy-is-the-priority>

“The costs and impacts of three proposed carbon tax bills,” by Todd Myers, Legislative Memo, April 2019 at <https://www.washingtonpolicy.org/library/doclib/Myers-Carbon-Tax-Proposals-in-the-2019-Legislature-The-costs-and-impacts-three-different-approaches.pdf>

“Eco-Fads: How the Rise of Trendy Environmentalism is Harming the Environment,” by Todd Myers, Washington Policy Center, 2011, at <https://www.amazon.com/Eco-Fads-Trendy-Environmentalism-Harming-Environment/dp/0615486142>

ENDNOTES

- 1 “The Poisoned City: Flint’s Water and the American Urban Tragedy,” by Anna Clark, Metropolitan Books, 2018, page 147.
- 2 “Government That Works: The results revolution in the states,” by John M. Bernard, Results America publishers, 2015, page 25.
- 3 “Agile Octopus: A consumer-led shift to a low carbon future,” Octopus Energy, October 26, 2018, at <https://octoenergy-production-media.s3.amazonaws.com/documents/agile-report.pdf>.
- 4 “Moral Suasion and Economic Incentives: Field Experimental Evidence from Energy Demand,” by Koichiro Ito, Takanori Ida and Makoto Tanaka, American Economic Journal, Economic Policy, American Economic Association, Volume 10, No. 1, February 2018, pages 240–267, at <https://doi.org/10.1257/pol.20160093>.
- 5 Ibid.
- 6 Ibid.
- 7 “Bidding for the Benefits of Birds,” Earth Science and Applied Science, NASA, October 30, 2017, at <https://appliedsciences.nasa.gov/our-impact/story/bidding-benefits-birds>.
- 8 Interview with Michelle Lancaster, conducted by Todd Myers, Washington Policy Center, February 23, 2018.
- 9 “Noxious weeds? Now there’s an app for that in King County,” by Paige Cornwall, The Seattle Times, June 18, 2019, at <https://www.seattletimes.com/seattle-news/noxious-weeds-now-theres-an-app-for-that-in-king-county/>.
- 10 “How a feel-good AI story went wrong in flint,” by Alexis C. Madrigal, The Atlantic, January 3, 2019, <https://www.theatlantic.com/technology/archive/2019/01/how-machine-learning-found-flints-lead-pipes/578692/>.
- 11 “A synthesis of the coast-wide decline in survival of West Coast Chinook Salmon (*Oncorhynchus tshawytscha*, Salmonidae),” by David Warren Welch, Aswea Dawn Porter and Erin Leanne Rechisky, Fish and Fisheries, Volume 22, Issue 1, January 2021, at <https://onlinelibrary.wiley.com/doi/epdf/10.1111/faf.12514>.

- 12 “Review of the Coast-Wide Analysis of Chinook Salmon Smolt to Adult Returns (SARs),” by Welch et al., Independent Scientific Advisory Board, June 29, 2021, at [ISAB 2021-3 ReviewOfWelchEtAl2020CoastWideSARs 29June.pdf](#).
- 13 “Sen. Murray and Gov. Inslee must keep their promise to save wild salmon,” by Collin O’Mara and Ayssa Macy, The Spokesman-Review, June 6, 2021, at [https://www.spokesman.com/stories/2021/jun/06/collin-omara-and-alyssa-macy-sen-murray-and-gov-in/](#).
- 14 “Columbia River System Operations Final Environmental Impact Statement,” Columbia River System Operations, July 2020, at [https://www.nwd.usace.army.mil/CRSO/Final-EIS/](#).
- 15 “ESA Snake River Spring/Summer Chinook Salmon and Snake River Basin Steelhead Recovery Plan,” NOAA Fisheries, November 2017, at [https://www.westcoast.fisheries.noaa.gov/publications/recovery_planning/salmon_steelhead/domains/interior_columbia/snake/Final%20Snake%20Recovery%20Plan%20Docs/final_snake_river_spring-summer_chinook_salmon_and_snake_river_basin_steelhead_recovery_plan.pdf](#).
- 16 “Fealty to symbolism is no way to save salmon,” by P. Kareiva and Valerie Carranza, Chapter 15 in “Effective Conservation Science: Data Not Dogma,” edited by Peter Kareiva, Michelle Marvier and Brian Silliman, Oxford University Press, 2018, at, [https://www.pugetsoundanglers.org/Fealty_to_symbolism_is_no_way_to_save_salmon.pdf](#).
- 17 “Southern Resident Killer Whales and Snake River Dams,” NOAA Fisheries West Coast Region, 2016, at [https://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/killer_whales/killerwhales_snakeriverdams.pdf](#).
- 18 “Southern resident killer whale priority Chinook stocks,” NOAA Fisheries and Washington State Department of Fish and Wildlife, June 22, 2018, at [https://www.documentcloud.org/documents/4615304-SRKW-Priority-Chinook-Stocks.html](#).
- 19 “Emissions and Generation Resource Integrated Database (eGRID),” U.S. Environmental Protection Agency, January 31 2023, at [https://www.epa.gov/energy/emissions-generation-resource-integrated-database-egrid](#).

- 20 “Lower Snake River Dams Power Replacement Study,” by Keegan Moyer et al, Northwest Energy Coalition, March 2018, https://nwenergy.org/wp-content/uploads/2018/04/LSRD_Report_Full_Final.pdf.
- 21 “The high cost of removing the lower Snake River dams,” by Todd Myers, Isaac Orr, Mitch Rolling and Tom Stacy, Center for the American Experiment and Washington Policy Center, November 2022, at <https://files.americanexperiment.org/wp-content/uploads/2022/10/The-High-Cost-of-Removing-the-Lower-Snake-River-Dams.pdf>.
- 22 “Salmon continue to struggle,” Executive summary, State of Salmon in Watersheds, Washington State Recreation and Conservation Office, Governor’s Salmon Recovery Office, accessed October 5, 2023, at <https://stateofsalmon.wa.gov/executive-summary/>.
- 23 “Factors Limiting Progress in Salmon Recovery,” by R.E. Bilby, G.R. Blair, K.P. Currens, K.L. Fresh and R.R. Fuerstenberg, Puget Sound Partnership Salmon Science Advisory Group, January 22, 2021, at <https://pspwa.app.box.com/s/k8zaorzygn94kqdk0ggb6hujjg51oz4n/file/767243257690>.
- 24 Ibid.
- 25 “PSAR 15-Year Retrospective Review: PSP Key Findings and Recommendations,” report by Natural Resources Consultants, Puget Sound Partnership, July 27, 2023, <https://pspwa.app.box.com/s/ecxapfz6n06f6tspuqw4f1xgux3td4fh/file/1267149241445>.
- 26 “Climate Change Indicators: Wildfires,” U.S. Environmental Protection Agency, accessed October 5, 2023, at <https://www.epa.gov/climate-indicators/climate-change-indicators-wildfires>.
- 27 “High-severity fire: evaluating its key drivers and mapping its probability across western U.S. forests,” by Sean Parks et al., Environmental Research Letters, April 18, 2018, at <https://iopscience.iop.org/article/10.1088/1748-9326/aab791>.
- 28 “20-Year Forest Health Strategic Plan: Central and Eastern Washington,” Washington Department of Natural Resources, accessed August 1, 2023, at <https://www.dnr.wa.gov/ForestHealthPlan>.
- 29 “Washington state attempts to restore balance to forest,” by Rebecca

Cook, The Los Angeles Times, September 7, 2003, at <https://www.latimes.com/archives/la-xpm-2003-sep-07-admn-afterfire7-story.html>.

- 30 “Secretary Vilsack Announces New 10 Year Strategy to Confront the Wildfire Crisis,” Office of Communications, U.S. Department of Agriculture, January 18, 2022, at <https://www.fs.usda.gov/news/releases/secretary-vilsack-announces-new-10-year-strategy-confront-wildfire-crisis>.
- 31 Interview with Cody Desautel conducted by Todd Myers, Washington Policy Center, June 18, 2020.
- 32 “Scenarios > SSP434-over,” Models for the Assessment of Greenhouse Gas Induced Climate Change (MAGICC), Magicc.org, accessed August 1, 2023, at <https://live.magicc.org/scenarios/81c3ce6a-2bca-4ea5-8b06-0a52a6145c9d/overview>.
- 33 “Do carbon offsets work? The role of forest management in greenhouse gas mitigation,” Pacific Northwest Research Station, Forest Service, U.S. Department of Agriculture, August 2013, at <http://web.archive.org/web/20220518125844/https://www.fs.fed.us/pnw/sciencef/scifi155.pdf>.
- 34 “Climate Change 2023: Synthesis Report,” Intergovernmental Panel on Climate Change (IPCC), United Nations, 2023, page 106, at https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf.
- 35 “AB 1504 California Forest Ecosystem and Harvested Wood Product Carbon Inventory: 2019 Reporting Period: Data update,” by Glenn A. Christensen, Andrew N. Gray, Olaf Kuegler, Nadia A. Tase, Mark Rosenberg and Jeremy Groom, February 2021, page 25, at <https://bof.fire.ca.gov/media/beddx5bp/6-final-forest-ecosys-hwp-c-2019-feb2021-all-ada.pdf>.
- 36 “Effective Uses of Forest-Derived Products to Reduce Carbon Emissions,” by Bruce Lippke, Maureen Puetmann, and Elaine Oneil, Technical Note, Consortium for Research on Renewable Industrial Materials (CORRIM), December 2019, at <https://docs.house.gov/meetings/II/II00/20200226/110542/HHRG-116-II00-20200226-SD006.pdf>.
- 37 Ibid.

- 38 “Washington’s CO2 emissions increase again, contradicting Inslee Administration predictions,” by Todd Myers, January 1, 2023, at <https://www.washingtonpolicy.org/publications/detail/washingtons-co2-emissions-increase-again-contradicting-inslee-administration-predictions>.
- 39 “King County Communitywide Geographic Greenhouse Gas Emissions Puget Sound Regional Emissions Analysis,” Cascadia Consulting Group, August 2022, at <https://your.kingcounty.gov/dnrp/climate/documents/2022/king-county-geographic-ghg-emissions-inventory-and-wedge-report-09-2022.pdf>, and “Understanding our emissions,” Office of Sustainability and Environment, City of Seattle, accessed August 1, 2023, at <https://www.seattle.gov/environment/climate-change/climate-planning/performance-monitoring#data>.
- 40 “Historical Price Charts – Washington state,” Average Retail Price Chart, GasBuddy, January – October, 2023, at https://www.washingtongasprices.com/Retail_Price_Chart.aspx.
- 41 Washington State Department of Ecology, “Summary of market modeling and analysis of the proposed Cap and Invest Program: FINAL,” September 2022, <https://apps.ecology.wa.gov/publications/documents/2302010.pdf>.
- 42 SB 5187, “An act relating to fiscal matters,” Washington State Legislature, April 23, 2023, at <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Senate%20Passed%20Legislature/5187-S.PL.pdf>.
- 43 “As governor highlights threat from climate change, state agencies ignore his EV purchase requirement,” by Todd Myers, Washington Policy Center, March 21, 2023, at <https://www.washingtonpolicy.org/publications/detail/as-governor-highlights-threat-from-climate-change-state-agencies-ignore-his-ev-purchase-requirement>.

IMPROVING HEALTH CARE COVERAGE





IMPROVING HEALTH CARE COVERAGE

1. Stop working to impose a socialized, single-payer system on Washingtonians
2. Strengthen Medicaid
3. Promote structural reforms at the state level
4. Repeal Certificate of Need laws
5. Protect children by keeping parents involved in health care decisions
6. Respect doctor-patient decisions by not imposing controversial vaccine mandates on adults

Policy Recommendation:

1. STOP WORKING TO IMPOSE A SOCIALIZED, SINGLE-PAYER SYSTEM ON WASHINGTONIANS

The best approach to improving health care policy is for lawmakers to move personal health decisions away from the political process and closer to the patient. The competitive free market has proven to be the most effective way to provide better health care quality and access for everyone.

Greater patient control helps Washington taxpayers, employers, and people who purchase health care services control costs while keeping access and medical quality standards high. It emphasizes personal responsibility, increases the public's knowledge and respects patient-sensitive medical choices. A patient-centered approach also strengthens the taxpayer-provided safety net for people who cannot afford private coverage.

Good public policy would also recognize that in an aging population with increasing health care costs, free-market solutions are the most effective, and society needs more, not fewer, people directing and paying for their own health care coverage.¹

Washington has moved in the wrong direction

When it comes to these important goals of quality and affordability, however, Washington lawmakers often impose government-centered policies that move in the wrong direction.

The Affordable Care Act (ACA), known as Obamacare, was passed by Congress in 2010. It is a highly complex and controversial law that has made the health care delivery system more costly and confusing.² The ACA's complexities and shortcomings have fueled a push for a government-run, taxpayer-financed system of health care because of its perceived simplicity.

Often called a single-payer system, socialized medicine would have the U.S. government directing health services for all Americans, not just those who already depend on taxpayers. Taxation would be sharply increased to fund those services. Personal choices would need to be ignored and replaced by arbitrary rules and restrictions imposed by Congress and by federal regulators.

State steps toward a socialized system

In the absence of a federal, socialist single-payer system, some lawmakers in Washington state want to go it alone at the state level. Some state lawmakers want the federal government to make it easy to impose socialist medicine. In 2023, they proposed a bill to do just that.³ The bill proved highly unpopular and failed to gain the support of most lawmakers.

Instead, lawmakers created another state Universal Health Care Commission, one of many they had created over the years, to push a government-run, taxpayer-financed system.⁴ This time they set up a permanent commission staffed by the state Health Care Authority (HCA) and charged with imposing a taxpayer-financed, government-run care for all Washingtonians.⁵

The commission was not formed to consider whether or not a state-run-and-financed system was the best for the people of Washington. That

conclusion is already assumed by current state leaders. The present commission, like those before it, has not found a viable way to push forward with a government-run, taxpayer funded health care system. Instead the commission itself simply created another commission called the Finance Technical Advisory Committee.⁶

This latest sub-commission shows no greater prospect of imposing a socialized medical system than its many predecessors.

Supporters of government-run health care often refer to such a system as “universal,” despite the reality that not all people get the health care they need or want with such a system. This is amply demonstrated by the harmful experience of Canadians, the British, and other people living under socialized medicine regimes.

Do not use other countries as a model for socialized health care

Far more health care dollars are spent per person in the United States than in other industrialized countries. National data show that in 2021, overall medical spending in the U.S. totaled \$4.3 trillion and accounted for 18.3% of the national gross domestic product.⁷

Other countries are often promoted as useful models for the United States because they spend less on health care.⁸ Looking to other countries to solve our health care delivery system problems, however, is not practical or reasonable. Most other countries have far smaller and more homogenous populations than the U.S. and have lower rates of immigration and cultural diversity.

One common aspect of all government-run systems stands out: The demand for health care is much greater than the money politicians budget to pay for it. The results of this supply-demand mismatch are chronic shortages followed by strict rationing of health care. The rationing takes many forms – from long wait times, to denying the elderly access to certain procedures, to influential individuals jumping the line and getting priority attention. In socialist systems, people suffering from severe illnesses are sometimes diverted into end-of-life hospice care to save money.

Access and quality suffer under socialized systems

Simply having health coverage in theory in no way guarantees timely access to actual care.

Great Britain and Canada are good examples of this failure. Both nations have taxpayer-funded, government-run universal care, and recent studies show residents of both countries suffer from poor access and quality.

The Fraser Institute found the average wait time in Canada between a primary care provider referral and a patient receiving specialty treatment is almost seven months.⁹ Similar studies have found that waiting times have grown even longer through the years.

In Great Britain, it is reported people who suffer heart attacks or strokes wait more than one-and-a-half hours on average for an ambulance to arrive. More than one in ten people are stuck on waiting lists for non-emergency hospital treatment for routine procedures like hip replacements.¹⁰

The Royal College of Emergency Medicine estimates that 300 to 500 people suffer premature death each week because of a lack of access to timely care.¹¹ In 2019, the Royal College of Surgeons wrote that the long National Health Service waiting lists included over 220,000 patients who waited more than six months for treatment and more than 36,000 patients who waited more than nine months.¹²

The long waiting times in a single-payer system are not in the best interest of patients, and a system of delayed and denied care would not be acceptable to most Americans. They are also a reason countries increasingly have developed two-tiered health care systems – a private one for the rich and a government-run one for everyone else.

Canadians frequently travel to the United States for medical care because of service delays in their own country. Canada's two-tiered system is made up of socialized services in-country and, for the privileged who can afford it, travel to the U.S. for privately-funded care.

In Great Britain, *The Guardian* news site reported that:

“One in eight Britons have paid for private health services in the last year, amid frustration with delays in getting NHS (National Health Service) treatment and a growing willingness to buy care using salary or savings.”¹³

Another 27% considered going private but often could not afford it. Of those who turned to private health care, 53% said they did so to be seen more quickly.¹⁴ Recent numbers show that while the percentage of adults

paying for private health insurance in Britain hovered around 12% in 2019, by 2022 that figure had climbed to 22%.¹⁵

Pointing out the life-and-death consequences of delayed care, health policy expert Sally Pipes noted:

“Unsurprisingly, British cancer patients fare worse than those in the United States. Only 81% of breast cancer patients in the United Kingdom live at least five years after diagnosis, compared to 89% in the United States.

“Just 83% of patients in the United Kingdom live five years after years after a prostate cancer diagnosis, versus 97% here in America.”¹⁶

Money trouble, skimpier care

The imposition of a single-payer universal system should concern Washington lawmakers. They should consider the insurmountable costs that have forced other states to abandon their single-payer plans, and learn from our state’s continual committee-creating holding pattern.

In Vermont, despite being a politically left-leaning state with a small population, efforts at more than a dozen financing concepts showed the only way to set tax rates as low as Vermont officials wanted would mean giving residents worse coverage than most insured Vermonters already had. This is the finding of a study conducted by the center-left think tank Third Way.

The study found that the estimated cost of the new system would have been over \$5 billion in 2021. The study authors concluded:

“For context, the entire budget for the state of Vermont was \$5.01 billion for 2012-2013.”¹⁷

Officials in Vermont decided an 11.5% state payroll tax and a 9.5% income tax would be needed to pay for a socialist health care system. Even the state’s Democratic governor described the proposed tax hikes as “enormous.”¹⁸

Further politicizing health care services

Under a taxpayer-financed system, health care must compete with all other government agencies and political interests for funding. This makes health care very political and subject to change with every budget cycle. It also forces each health care sector, for example, hospitals and doctors, to compete against each other for limited public money.

The failures of the U.S. Department of Veterans Affairs show the weakness of this approach. Not only is the Veterans' system costly and wasteful with inconsistent care results, as many reports show, it is yet another American example of the failures of a government-run, taxpayer-financed system.¹⁹

Lawmakers should reject attempts to decrease competition in health care and increase government dependency because this policy leaves patients at the mercy of a monopolistic and heavily politicized system that is not timely or responsive to patients.

Innovation threatened

The single-payer system discourages innovation and would leave virtually no money to encourage investment in new life-saving medicines and medical devices. Lack of innovation guarantees that under the single-payer system, few new treatments would be discovered. This would mean little or no improvement in quality of life or life expectancy, particularly for the medically vulnerable and the elderly.

A better way

Like all other economic activities, the competitive free market offers the best way to provide the greatest access and control costs. People should be free to make their own health care decisions and use their own health care. Taxpayer-funded safety nets should be strengthened and focused, not expanded to include everyone.

Health care is not a political right granted by the government. It is a core necessity of life, like food, clothing and shelter. Most people's needs are met by willing providers who seek a cooperative voluntary relationship with their customers in an open market. At the same time, government programs provide assistance for people in need.

Conclusion

The pattern of single-payer, “universal” medicine in other countries indicates a high tax burden, barriers to treatment, waiting lists, the rationing of care, and poor average outcomes, especially for the elderly. Demand always outstrips supply, political disputes and doctor strikes become common and patient-centered choices are ignored.

Other states have attempted to impose socialized health care systems and have failed every time. Government-run health care is costly, inefficient and unpopular. In contrast, a patient-centered market respects the choices of individuals in directing their own care and provides flexible and affordable ways to access care without being put on a waiting list.

Policy Recommendation:

2. FOCUS MEDICAID ON THOSE WHO NEED IT MOST

Medicaid was originally intended to be a safety-net program for the poor, yet today, around 2.2 million state residents, or about 30% of the state’s population, are in the taxpayer-funded health care program.²⁰ The poverty rate in Washington state is only 10.2%.²¹

Fastest-growing state budget cost

The Kaiser Family Foundation reports, and Medicaid.gov confirms that Washington’s Medicaid program, called Apple Health, grew by 96% in its monthly enrollment from pre-ACA days (2010) to April 2023.²²

That puts Washington among the top states in the nation for increased Medicaid rolls, costing the state billions (Medicaid is jointly financed by state and federal tax dollars).²³ Medicaid expenditures are the fastest-growing budget item for virtually all states. State Medicaid spending rose 44%, from 7.5 billion to nearly \$11 billion, from 2012 to 2016 alone.²⁴

Putting more and more people with higher incomes into the Medicaid safety-net program depletes limited resources and threatens coverage of the state’s most vulnerable populations. In 2010, the ACA expanded Medicaid to non-elderly adults with incomes up to 138% of the federal poverty level. Washington state was even one of five states that eagerly used a provision in the ACA that allowed for early expansion of Medicaid prior to 2014.

State officials recently sought and gained permission from the federal government to extend subsidized health insurance to undocumented immigrants on its own.²⁵ Undocumented immigrants are not ineligible for federally funded coverage options.

Using the COVID crisis to expand Medicaid

In addition to the massive growth in Medicaid enrollment and expenditures caused by the ACA expansion to childless adults with higher incomes, COVID-19 also added to Medicaid's bloated figures.

While COVID-19 initially increased the number of people needing to rely on taxpayers for health care, a wasteful and careless federal rule then kept them on the rolls for years, whether they needed taxpayer assistance or not.

The Families First Coronavirus Response Act prevented states from disenrolling anyone from Medicaid, regardless of whether they regained employer-provided coverage or their incomes were high enough to afford their own coverage. The only exceptions were for people who moved out of state, died, or were responsible enough to request coverage termination on their own.

The expanded coverage was in place for three years, from March 2020 through March 2023, and the needless coverage cost taxpayers billions. During that time, Medicaid swelled nationally by more than 23 million and in Washington state by 506,400 recipients.²⁶

The tax-subsidized Apple Health program, with 2.2 million people, means over one in four Washingtonians is on Medicaid, reports the state's Medicaid director, Dr. Charissa Fotinos.²⁷

Although the requirement ended in the spring of 2023, officials in some states are intentionally delaying the removal of people who can afford their own health coverage. Washington state is one of them.

State officials say they want to comply with the rule to restore Medicaid eligibility standards, but they instead are diverting millions in tax subsidies to people who don't need it. Every dollar diverted to an ineligible recipient depletes taxpayer money available for people truly in need and for whom the Medicaid program was built. State officials said they would use the full 12 months allowed for redetermination of Medicaid eligibility.²⁸

In addition to state and federal cost-savings that could be realized by maintaining the eligibility standard, Medicaid is not known for patient-centered health care decisions or for paying its way. If people have the ability to obtain other, better coverage, they should be encouraged to do so. Pushing more people into Medicaid, including those who are not income-eligible, hurts the entire health care system, making it more costly for people who pay for their own coverage or receive it as a job benefit.

Washington state has a strong incentive to figure out who is eligible and who is not in a timely manner. Since most able-bodied, income-eligible people enrolled in Medicaid have other coverage available to them, Washington lawmakers should restore the integrity of the program.

Reforms to protect Medicaid

Even if the state were to update its Medicaid roles, ongoing eligibility and quality controls should be a priority. Washingtonians are generous and want to help people who truly need it. Ensuring tax money is spent in the right way would help restore government trust and allow taxpayers to take pride in the state Medicaid program.

The following reforms could strengthen the taxpayer-funded program.

- Washington state could pursue federal waivers (under sections 1332 and 1115A) to make significant changes in the implementation of the ACA without action by Congress. This would allow state officials to implement reforms to strengthen and stabilize the program.
- 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 to help low-income families and individuals achieve self-confidence, economic independence and enjoy the pride of self-sufficiency.
- State lawmakers should restore Medicaid for people in need and stop subsidizing middle-income people in its ACA marketplace, the Washington Healthplanfinder. Instead of encouraging independent people to become dependent on the state, lawmakers and state agencies need different messages to the public about how to access private health care services.
- Decrease waste, fraud, and abuse in the Medicaid program. A high percentage of Medicaid costs do not provide care for enrollees. The

massive bureaucratic nature of the program makes it a target for cheating and financial crime.

- One area where abuse is rampant is Medicaid long-term care. The growing cost of long-term care in the Medicaid budget even led some Washington state lawmakers to impose a new payroll tax on workers.²⁹
- Continue to encourage home health care in Medicaid. Costs are lower, and patient satisfaction is higher with home health care. It reduces government involvement in care and respects the supportive family relationships of patients.

Conclusion

“We were able to determine that in many cases, private insurance is picking up the bill for the shortcomings in Medicaid, Medicare and other government programs,” Sen. Ron Muzzall (R-Oak Harbor) said while discussing legislation related to Medicaid reimbursement. One hospital, he explained, is charging “somewhere between 170 and 180 percent of the actual cost to private insurance to make up for the shortfall from the government programs.”³⁰

These dramatic findings show that rising Medicaid costs are making private health care less affordable. Treating Medicaid as a true safety-net program focused on helping those most in need while encouraging affordable options in a competitive private market will provide better access to quality health care for everyone.

Policy Recommendation:

3. PROMOTE STRUCTURAL REFORMS AT THE STATE LEVEL

Washington state lawmakers should enact structural reforms that promote innovation and choice in the health care market, focus on patient-centered care, attract talented medical professionals, increase access to health care services, and lower costs for patients. Here are some forward-looking reforms that lawmakers should pursue:

- 1. Limit state taxpayers’ contribution to Medicaid expansion.** States can opt out of costly Medicaid expansion under the ACA, freeing resources that can be used for state-level health programs.³¹

2. **Enact legal reform to reduce wasteful medical expenses.** Legal fees and defensive medicine (doctors ordering unneeded tests) add tremendously to the cost of health care, without increasing patient choices or quality of care. The practice of defensive medicine – doctor decisions to avoid lawsuits instead of offering patient-centered care – costs the U.S. health care system more than \$50 billion a year.³²
3. **Cut state mandates and taxes on health care services.** Each mandate adds to the cost of health insurance and often reduces choices for patients. Taken together, state mandates alone add about 20 percent to the cost of health care coverage.³³
4. **Expand and promote the use of Association Health Plans.** Association Health Plans allow small groups to join together to purchase health insurance in the same way large groups do. Large group plans are regulated by the federal ERISA law and, therefore, avoid many of the problematic features of the ACA.
5. **Continue to advance telemedicine.** Some policy advances were made in response to COVID-19, giving patients easier online access to consultation with doctors. Lawmakers should continue on that path. Telemedicine and similar online services reduce costs and increase patient access to health care, especially for people living in rural areas.³⁴
6. **Remove restrictive, unnecessary licensing laws.** State lawmakers should continue to cut barriers to medical practice to increase access to skilled health care services for patients. They should build on the encouraging progress they made in the 2023 legislative session.³⁵
7. **Encourage direct primary care.** For a fixed amount per month, patients can access primary care without waiting. Direct primary care increases access to doctors for all patients, regardless of income. The state Legislature should encourage direct primary care by protecting doctors from restrictive state regulations.³⁶
8. **Cut taxes on private health insurance.** Washington state imposes a 2% tax on every insurance policy sold in the state. Cutting or repealing the state insurance tax would immediately make health care coverage more affordable for everyone.³⁷
9. **Encourage expansion of Health Savings Accounts (HSAs) and raise contribution limits.** HSAs are popular and effective at promoting cost-containment, health care security and reducing medical inflation. They also give people personalized options in health care. HSAs empower patients to act as consumers, seeking the best value for their

care, which helps lower overall health care costs. People are smarter about spending money when they see the direct benefit they receive.³⁸

10. Repeal Cascade Care. Getting rid of the restrictive top-down public health plan would increase affordability, competition and choice in the health care market, so employers and families can select coverage that best fits their needs.

Cascade Care, administered through the Washington State Health Benefit Exchange, is designed to let the state compete against private insurance in the individual and small-group markets. The plan is aimed at middle-income consumers and offered to anyone earning up to 250 percent of the federal poverty level.

No state should compete against its own citizens, and costs for Cascade Care are imposed on taxpayers and health care providers. The government is giving a subsidy to people who don't need it, and the government-based plans pay less to doctors, nurses and hospitals.

Conclusion

Private plans cannot compete against government subsidies, which means Cascade Care will result in less competition and innovation in the health care market. Medicare devastated the thriving private health insurance market for seniors. The public option is having the same effect on the individual and small group health insurance markets in Washington state. As private choices fade, employers may cut or end employee health benefits, which will increase the government's control over our health care.

Policy Recommendation:

4. REPEAL CERTIFICATE OF NEED LAWS

New York state passed the first Certificate of Need law in 1964.³⁹ State lawmakers decided there were too many hospital beds and restricted further hospital expansion with special legislation. The law made it illegal to add beds to an existing hospital or to treat patients in a new facility without first gaining permission from state officials.

States were encouraged to establish their own Certificate of Need programs and in a few years all 50 states complied. By 1982, however, the federal

government realized the national Certificate of Need law was not saving money, but was restricting care and limiting health services for patients.

Congress repealed the federal law in 1987, and 15 states later repealed their individual hospital-limitation laws, most recently New Hampshire in 2016. Washington state remains one of 35 states that retained its Certificate of Need law and maintain it today.⁴⁰

The Washington state Certificate of Need process is controlled by the Department of Health. Officials describe the program as:

“...a regulatory process that requires certain healthcare providers to get state approval before building certain types of facilities, or offering new or expanded services. For example, a certificate of need is required if a hospital wants to add to the number of its licensed beds.”⁴¹

Basically, a Certificate of Need review is required for any new medical facility or any addition of treatment capacity of an existing hospital or clinic. For example, a new hospital or the addition of licensed beds at an existing hospital requires state approval. A Certificate of Need is also required if an existing facility wants to add a specialized treatment service such as heart surgery or organ transplantation. The application process can take months or years, adding greatly to the delay and cost of providing any new health care services in the state.

The argument in support of the Certificate of Need concept was that the federal government, through Medicare and Medicaid, paid for health care in the U.S., and this funding, in turn, gave the government the justification to limit the expansion of the health care system. The idea was to provide enough “business” to justify the operation of a limited number of hospitals and clinics.

This prediction turned out to be false. Certificate of Need laws instead create artificial regional monopolies that increase costs and restrict access to health care for patients. This fact led Congress and several states to repeal their Certificate of Need laws. The movement continues, as lawmakers in Florida, Georgia, and West Virginia have considered legislation to repeal their Certificate of Need restrictions.⁴²

Conclusion

With over 50 years of real-world experience, the evidence is now clear that neither federal nor state-level Certificate of Need laws reduce health care costs. They do, however, add to delay and cost, provide political protection to hospitals against fair competition, and greatly reduce patient access to affordable care. Repealing Washington's outdated Certificate of Need law, as Congress and other states have done, would serve the public interest by lowering health care costs for everyone.

Policy Recommendation:

5. PROTECT CHILDREN BY KEEPING PARENTS INVOLVED IN HEALTH CARE DECISIONS

The central moral principle in health care is “First, do no harm.” When doctors complete their training they take an oath to abstain from actively harming their patients. Allowing a minor to undergo medical services without the permission and guidance of parents or guardians can result in lasting harm to children.

For that reason doctors, government officials and school administrators should not allow harmful medical procedures to impact children without parents' specific consent. Currently, public school nurses are barred from giving students even common medications like aspirin without parental notification and consent. The same should be true of even more drastic procedures that result in life-changing harm to students.

Protecting children from harmful surgeries

Further, taxpayers should be protected from paying for life-altering medical procedures, like those associated with a student's perceived gender identity, that could harm children and that do not have parental permission or consent.

Many state laws recognize the development of a child's brain and the gradual evolution of decision-making abilities. Government policy is based on the expectation that parents are involved every day in the protecting the well-being of their children.

Recent legislative efforts, however, divide families and seek to treat children as adults when it comes to their health care desires. One law that state lawmakers enacted in 2023 treats parents as if they are a threat to their children's health and assumes the state knows what is best for a child.^[54] The radical new law requires public officials to hide the location of a child from parents if the child claims to be seeking certain medical procedures.

The law specifically provides for the administration of “medical or surgical interventions” to underage children without notifying parents. These surgeries can be painful, harmful, and permanent. Critics say the law “legalizes the kidnapping of children” by homeless shelters and youth homes authorized by the state.⁴³ Blocking contact between children and parents undermines social trust in public institutions and makes parents think that “health” officials are working against them.

Conclusion

Laws that are intended to separate children from their parents when there is no evidence of immediate danger or active abuse in the home should be repealed. Parents and other legal guardians are the primary caregivers, educators, and protectors of children. Existing statutes clearly define abuse, and neglect, and when necessary the state rightly intervenes on a child's behalf. Imposing radical, unproven, and life-altering medical procedures does not meet that standard. Preservation of parent rights in health care should be paramount in state laws regarding child health.

Policy Recommendation:

6. RESPECT DOCTOR-PATIENT DECISIONS BY NOT IMPOSING EXPERIMENTAL VACCINE MANDATES ON ADULTS

During 2020, 2021 and 2022 lawmakers heavily intervened in health care decisions that should have been left to doctors and patients. Thousands of workers were directly harmed by Governor Jay Inslee's strict COVID-19 vaccine mandate.⁴⁴ The experimental vaccine did not stop the spread of COVID-19. Instead, the mandate forced workers to choose between losing their jobs or making a health care decision that many were medically advised not to make or did not want to make.

State officials report that 2,135 workers were fired or felt pressured to quit due to the governor's vaccine mandate.⁴⁵ Other reports showed the

state's health care system lost about 3,000 hospital workers because of the mandate, and that some of the state's most dedicated first responders and health care providers were fired.⁴⁶

As a result of the governor's mandate as a condition for public employment, safety, and health care services suffered, careers were ruined and working families lost income.

In addition, the social cost was high. Many families, friends, and co-workers were divided after the government-led vilification of unvaccinated people. Some remained divided even after Governor Inslee's COVID-19 vaccine mandate was rescinded.⁴⁷

Conclusion

Even in a health emergency the governor and lawmakers should not take on the role of personal physician. They can set broad standards but should leave sensitive and highly personal medical decisions to patients and their doctors.

This is especially true when the physical outcome of following the state's directives is experimental and unknown. The COVID-19 vaccine proved ineffective – it does not prevent illness and it did not stop the spread of disease. Recovering from COVID-19 provided greater protection than the experimental vaccine, yet the governor ignored this scientific finding and fired unvaccinated workers anyway.

This painful experience shows that in the next crisis state leaders should adopt general health policies to protect the public without targeting, blaming or harming individuals.

ADDITIONAL RESOURCES

“Free market health care innovations should be used to make lives better, not expand government power,” by Elizabeth Hovde, September 28, 2023, at <https://www.washingtonpolicy.org/publications/detail/free-market-health-care-innovations-should-be-used-to-make-lives-better-not-expand-government-power>

“State should protect Medicaid for people in need,” by Elizabeth Hovde, May 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/state-should-protect-medicaid-for-people-in-need>

“Another committee, more pie-in-the-sky thinking drives Universal Health Care Commission,” by Elizabeth Hovde, July 21, 2023, at <https://www.washingtonpolicy.org/publications/detail/another-committee-more-pie-in-the-sky-thinking-drives-universal-health-care-commission>

“Rulemaking is final, but authority to require a vaccine is still unclear,” by Elizabeth Hovde, November 23, 2022, at <https://www.washingtonpolicy.org/publications/detail/rulemaking-is-final-but-authority-to-require-a-vaccine-still-unclear>

“The COVID-19 pandemic proves Washington state does not need Certificate of Need laws,” by Dr. Roger Stark, April 22, 2021, at <https://www.washingtonpolicy.org/publications/detail/the-covid-19-pandemic-proves-washington-state-does-not-need-certificate-of-need-laws>

“SJM 8006, which asks the federal government to impose a socialist health care program on all states,” by Elizabeth Hovde, Legislative Memo, March 3, 2023, at <https://www.washingtonpolicy.org/publications/detail/sjm-8006-which-asks-the-federal-government-to-impose-a-socialist-health-care-program-on-all-states>

“New state-run program will not fix long-term care crisis, nor should it offer peace of mind to workers forced to fund it,” by Elizabeth Hovde, Policy Brief, July 2023, at <https://www.washingtonpolicy.org/library/docLib/Hovde-New-state-run-program-will-not-fix-long-term-care-crisis-nor-should-it-offer-peace-of-mind-to-workers-forced-to-fund-it-FINAL.pdf>

“The virtue of free markets – including in health care,” by Dr. Roger Stark, April 19, 2022, at <https://www.washingtonpolicy.org/publications/detail/the-virtue-of-free-markets-including-in-health-care>

“Vaccine, mask mandates can’t take credit for lower COVID-19 death rates, a comparison of states shows,” by Elizabeth Hovde, March 24, 2022, at <https://www.washingtonpolicy.org/publications/detail/vaccine-mask-mandates-cant-take-credit-for-lower-covid-19-death-rates-a-comparison-of-states-shows>

“How free markets destroy disease and promote human wellness,” by Dr. Roger Stark, September 15, 2020, at <https://www.washingtonpolicy.org/blog/detail/how-free-markets-destroy-disease-and-promote-human-wellness>

“Why Washington’s restrictive Certificate of Need medical services law should be repealed,” by Dr. Roger Stark, Policy Notes, February 17, 2016, at <https://www.washingtonpolicy.org/publications/detail/why-washingtons-restrictive-certificate-of-need-medical-services-law-should-be-repealed>

ENDNOTES

- 1 “CMS Office of the Actuary Releases 2022-2031 National Health Expenditure Projections,” Centers for Medicare and Medicaid Services, June 14, 2023, at <https://www.cms.gov/newsroom/press-releases/cms-office-actuary-releases-2022-2031-national-health-expenditure-projections>.
- 2 “Affordable Care Act (ACA),” HealthCare.gov, accessed October 6, 2023, at <https://www.healthcare.gov/glossary/affordable-care-act/>.
- 3 SB 5399, “Concerning the creation of a universal health care commission,” Washington State Legislature, enacted May 13, 2021, at <https://app.leg.wa.gov/billssummary?BillNumber=5399&Year=2021&Initiative=false>.
- 4 SJM 8006, “Requesting that the federal government create a universal health care program,” February 9, 2023, at <https://app.leg.wa.gov/billssummary?BillNumber=8006&Initiative=false&Year=2023>.
- 5 “Who we are,” Universal Health Care Commission, Washington state Health Care Authority, accessed October 6, 2023, at <https://www.hca.wa.gov/about-hca/who-we-are/universal-health-care-commission>.
- 6 “State seeks people with expertise in health care financing for another government committee,” by Elizabeth Hovde, Washington Policy Center, November 16, 2022, at <https://www.washingtonpolicy.org/publications/detail/state-seeks-people-witexpertise-in-health-care-financingfor-another-government-committee>.
- 7 “Historical NHE 2021,” National Health Expenditure Fact Sheet, CMS.gov, Centers for Medicare and Medicaid Services, accessed September 26, 2023, at <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealthexpenddata/nhe-fact-sheet#:~:text=Historical%20NHE%2C%202021%3A,17%20percent%20of%20total%20NHE>.
- 8 “U.S. Health Care from a global perspective, 2022: Accelerating spending, worsening outcomes,” by Munira Z. Gunja, Evan D. Gumas and Reginald D. Williams II, Issue Briefs, The Commonwealth Fund, January 31, 2023, at <https://www.commonwealthfund.org/publications/issue-briefs/2023/jan/us-health-care-global-perspective-2022#:~:text=In%202021%2C%20the%20U.S.%20spent,higher%20than%20in%20South%20Korea>.

- 9 “Waiting your turn: Wait Times for Health Care in Canada, 2022 Report,” by Mackenzie Moir and Bacchus Barua, Executive Summary, The Fraser Institute, 2022, at <https://www.fraserinstitute.org/sites/default/files/waiting-your-turn-2022-execsumm.pdf>.
- 10 “The U.K.’s government-run healthcare service is in crisis,” The Wall Street Journal, by David Luhnnow and Max Colchester, February 6, 2023, at <https://www.wsj.com/articles/nhs-uk-national-health-service-strike-costs-11675693883>.
- 11 “Up to 500 people dying each week from emergency care delays, doctor says,” by Lizzie Roberts, The Telegraph, January 1, 2023, at <https://www.telegraph.co.uk/news/2023/01/01/500-people-dying-week-emergency-care-delays/>.
- 12 “NHS hospitals need plan to tackle backlog of cases, warns RCS,” Royal College of Surgeons, press release, March 14, 2019, at <https://www.rcseng.ac.uk/news-and-events/media-centre/press-releases/nhs-stats-march-2019/>.
- 13 “One in eight Britons pay for private health service, survey shows,” by Denis Campbell, The Guardian, April 17, 2023, at <https://www.theguardian.com/politics/2023/apr/17/one-in-eight-britons-pay-for-private-health-services-survey-shows>.
- 14 “Overburdened NHS pushes more Brits to go private,” by Anna Fleck, Statista, February 8, 2023, at <https://www.statista.com/chart/29261/share-of-uk-paying-for-private-health-insurance/>.
- 15 Ibid.
- 16 “Britain’s version of ‘Medicare for all’ is struggling with long waits for care,” by Sally Pipes, Forbes, April 1, 2019, at <https://www.forbes.com/sites/sallypipes/2019/04/01/britains-version-of-medicare-for-all-is-collapsing/?sh=29d826f936b8>.
- 17 “Report: Single-payer health care, a tale of 3 states,” Third Way, by Kaitlin Hunter and David Kendall, July 17, 2019, at <https://www.thirdway.org/report/single-payer-health-care-a-tale-of-3-states>.
- 18 Ibid.
- 19 “VA fails veterans, putting single-payer, government-run system on display,” by Elizabeth Hovde, Washington Policy Center, July 21, 2022, at <https://www.washingtonpolicy.org/publications/detail/va-fails-veterans-putting-single-payer-government-run-system-on-display>.

- 20 “Medicaid eligibility and enrollment in Washington,” by Louise Norris, HealthInsurance.org, February 22, 2023, at <https://www.healthinsurance.org/medicaid/washington/#enrollment>, and “Medicaid and CHIP in Washington,” Medicaid.gov, Centers for Medicare and Medicaid Services, May 2023, at <https://www.medicaid.gov/state-overviews/stateprofile.html?state=washington>. The figures from HealthInsurance.org and Medicaid.gov include children enrolled in the state Children’s Health Insurance Program (CHIP), which is funded through Medicaid.
- 21 “Population in poverty, Washington percent of population in poverty, by age group, 1960 – 2020,” Washington state Office of Financial Management (OFM), August 12, 2022, at <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/social-economic-conditions/population-poverty>.
- 22 “Total monthly Medicaid and CHIP enrollment and pre-ACA enrollment,” Kaiser Family Foundation, April 2023, at <https://www.kff.org/health-reform/state-indicator/total-monthly-medicaid-and-chip-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>
- 23 “Annual Medicaid and CHIP expenditures,” State Overviews, Medicaid.gov, accessed October 6, 2023, at [Annual Medicaid & CHIP Expenditures | Medicaid](#).
- 24 “Medicaid spending in Washington,” Ballotpedia, updated in 2017, at https://ballotpedia.org/Medicaid_spending_in_Washington.
- 25 “Washington state to offer subsidized health insurance to undocumented immigrants,” by Lawrence Wilson, The Center Square, December 12, 2022, at https://www.thecentersquare.com/washington/article_a445f516-7a5f-11ed-b3c6-2ffca08de397.html.
- 26 Medicaid enrollment growth: Estimates by state and eligibility group show who may be at risk as continuous enrollment ends,” Kaiser Family Foundation, by Alice Burns, Elizabeth Williams, Bradley Corallo and Robin Rudowitz, March 2, 2023, at <https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-growth-estimates-by-state-and-eligibility-group-show-who-may-be-at-risk-as-continuous-enrollment-ends/>.

- 27 “Working families tax credit, Medicaid cliff,” Inside Olympia, TVW, April 20, 2023, at [Inside Olympia - Working Families Tax Credit, Medicaid Cliff - TVW](#), and “Cleaning up safety nets, preserving dollars for people in need, is welcome,” by Elizabeth Hovde, Washington Policy Center, June 27, 2023, at <https://www.washingtonpolicy.org/publications/detail/cleaning-up-safety-nets-preserving-dollars-for-people-in-need-is-welcome>.
- 28 “State should protect Medicaid for people in need,” by Elizabeth Hovde, Washington Policy Center, May 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/state-should-protect-medicaid-for-people-in-need>.
- 29 “New state-run program will not fix long-term-care crisis, nor should it offer peace of mind to workers forced to fund it,” by Elizabeth Hovde, Policy Brief, Washington Policy Center, July 27, 2022, at <https://www.washingtonpolicy.org/publications/detail/new-state-run-program-will-not-fix-long-term-care-crisis-nor-should-it-offer-peace-of-mind-to-workers-forced-to-fund-it>.
- 30 “State needs to fully reimburse hospitals for care provided patients in its programs,” by Elizabeth Hovde, Washington Policy Center, January 20, 2023, at <https://www.washingtonpolicy.org/publications/detail/state-needs-to-fully-reimburse-hospitals-for-care-provided-patients-in-its-programs>.
- 31 “Where the states stand on Medicaid expansion,” Daily Briefing, Advisory Board, updated August 8, 2023, at <https://www.advisory.com/daily-briefing/resources/primers/medicaidmap#:~:text=The%20Supreme%20Court's%202012%20ruling,nation's%20governors%20and%20state%20leaders>.
- 32 “Defensive medicine is costing health care billions,” by Laura Dyrda, Becker’s ASC Review, March 4, 2022, at <https://www.beckersasc.com/asc-news/defensive-medicine-is-costing-healthcare-billions.html#:~:text=Defensive%20medicine%2C%20or%20making%20decisions,Western%20Journal%20of%20Emergency%20Medicine>, and, “Defensive medicine: A case and review of its status and possible solutions,” by Eric D. Katz, MD, MBA, Clinical cases and reports in EM, CPC-EM: Volume 3, Issue 4, Medical Legal Case Reports, Western Journal of Emergency Medicine, accessed September 26, 2023, <https://westjem.com/cpc-em/defensive-medicine-a-case-and-review-of-its-status-and-possible-solutions.html>.

- 33 “The cost of insurance mandates in Washington,” by Victoria Craig Bunce and J.P. Wieske, Legislative Memo, Washington Policy Center, February 8, 2005, at <https://www.washingtonpolicy.org/publications/detail/the-cost-of-health-insurance-mandates-in-washington>.
- 34 “The benefits of telemedicine in Washington state,” by Dr. Roger Stark, Policy Notes, Washington Policy Center, December 2017, at <https://www.washingtonpolicy.org/library/doclib/Stark-Telemedicine-in-WA-11.20.2017.pdf>.
- 35 “2023 Legislature on health care: What passed? What didn’t?” by Elizabeth Hovde, Washington Policy Center, April 27, 2023, at <https://www.washingtonpolicy.org/publications/detail/2023-legislature-on-health-care-what-passed-what-didnt>.
- 36 “What is direct primary care?” The Direct Primary Care Coalition, accessed September 26, 2023, at <https://www.dpcare.org/>.
- 37 “A legislative guide to Washington’s tax structure,” by the Washington state Senate Ways and Means Committee, 2022, at <https://fiscal.wa.gov/Revenue/2022GuideToWashingtonStateTaxStructure.pdf>.
- 38 “Why 90% of Americans lack access to Health Savings Accounts,” by Dean Clancy, Americans for Prosperity, October 27, 2022, at <https://americansforprosperity.org/how-to-fix-the-hsa-ceiling/>.
- 39 “40 years of Certificate of Need laws across American,” by Matthew D. Mitchell and Christopher Koopman, The Mercatus Center, George Mason University, September 27, 2016, at <https://www.mercatus.org/research/data-visualizations/40-years-certificate-need-laws-across-america>.
- 40 “Certificate of Need Laws, State Actions Summary,” National Conference of State Legislatures (NCSL), January 1, 2023, at <https://www.ncsl.org/health/certificate-of-need-state-laws>.
- 41 “Certificate of Need, Program Overview,” Licenses, Permits and Certificates, Washington state Department of Health, accessed September 7, 2023, at <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/certificate-need>.
- 42 “Florida repeals significant portions of Certificate of Need Law,” The National Law Review, July 1, 2019, at <https://www.natlawreview.com/>

article/florida-repeals-significant-portions-certificate-need-law, and “Legislature eyeing repeal of state certificate of Need law,” by Dave Williams, Capital Beat News Service, March 14, 2022, at <https://capitol-beat.org/2022/03/legislation-eyeing-repeal-of-state-certificate-of-need-law/>, and “Movement toward Certificate of Need repeal is possible,” by Steven Allen Adams, The Weirton Daily Times, January 22, 2022, at <https://www.weirtondailytimes.com/news/local-news/2022/01/movement-toward-certificate-of-need-repeal-is-possible/>.

- 43 “SB 5599,” by Alison Mendiola, Bill Report, Senate Committee on Health Services, Washington State Legislature, February 14, 2023, at <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/Senate/5599%20SBR%20HS%20OC%2023.pdf?q=20230907141831>.
- 44 “COVID-19 vaccination standards for state employees,” by Governor Jay Inslee, Directive of the Governor 22-13.1, August 5, 2022, at <https://governor.wa.gov/sites/default/files/directive/22-13.1%20-%20COVID-19%20Vaccination%20Standards%20for%20State%20Employees.pdf>.
- 45 “State employee vaccination verification data,” press release, Office of Financial Management (OFM), January 12, 2022, at <https://ofm.wa.gov/about/news/2022/01/state-employee-vaccination-verification-data-jan-12-2022>.
- 46 “Roughly 3,000 hospital workers lost jobs over Washington’s COVID-19 vaccine mandate,” KING 5 News, November 17, 2021, at <https://www.king5.com/article/news/local/washington-hospitals-lose-roughly-3000-workers-over-covid-19-vaccine-mandate/281-b0ff14de-27b6-4b0a-bcca-ed924c314ca0>, and “Trust providers? Gov. Inslee didn’t – and his vaccine mandate also resulted in 3,000 hospital workers losing jobs,” by Elizabeth Hovde, Washington Policy Center, March 29, 2022, at <https://www.washingtonpolicy.org/publications/detail/trust-providers-gov-inslee-didnt-and-his-vaccine-mandate-also-resulted-in-3000-hospital-workers-losing-jobs>.
- 47 “Inslee finally ends his COVID-19 vaccine mandate,” by Elizabeth Hovde, Washington Policy Center, May 10, 2023, at <https://www.washingtonpolicy.org/publications/detail/inslee-finally-ends-his-covid-19-vaccine-mandate>.

IMPROVING EDUCATION



IMPROVING EDUCATION

1. Recognize that the problem with public schools is not lack of funding
2. Increased spending has not improved student learning; reforms are needed to create great public schools
3. Expand access to charter schools
4. Allow families access to universal school choice
5. Allow access to state-funded Education Savings Accounts for special needs, foster children, military families, Native Americans and children assigned to failing public schools
6. Ignore the false claims made against school choice programs
7. Avoid repeating failed reforms of the past – increasing spending has not improved learning outcomes
8. Repeal life-time tenure rules and certification limits that keep the best teachers out of public schools
9. Repeal harmful CRT ideology that teaches children to hate their country

Policy Recommendation:

1. RECOGNIZE THAT THE PROBLEM WITH PUBLIC SCHOOLS IS NOT LACK OF FUNDING

Defenders of the traditional monopoly public school system often say that the reason so many schools fail to educate children adequately is because they do not receive enough funding.

An objective review of state and local education spending, however, shows that this claim is not true. For example, in 2017, state lawmakers of

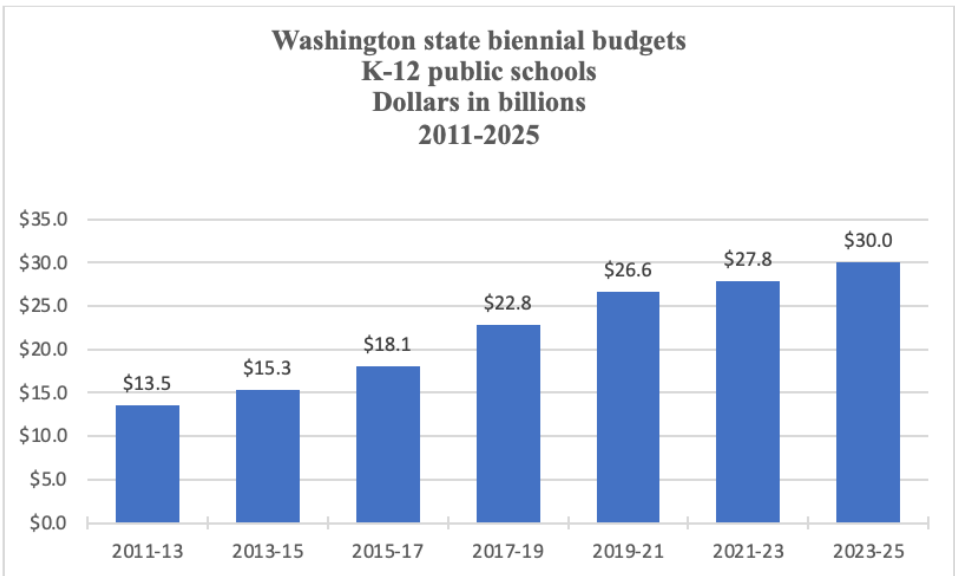
both parties joined together and passed a massive funding bill to provide schools with the largest increase in Washington state history.

The bill, HB 2242, was the Legislature’s response to the state supreme court’s 2012 ruling in the McCleary school funding case.¹ The bill imposed higher property taxes statewide and added billions of dollars to the budgets of all 295 school districts in the state.

In June 2018, the state supreme court signaled its approval and ended the McCleary case, certifying that the Legislature had met the court’s definition of “ample funding” for education.² Today, every public school in Washington receives more money than ever before.

Public education funding has doubled in twelve years

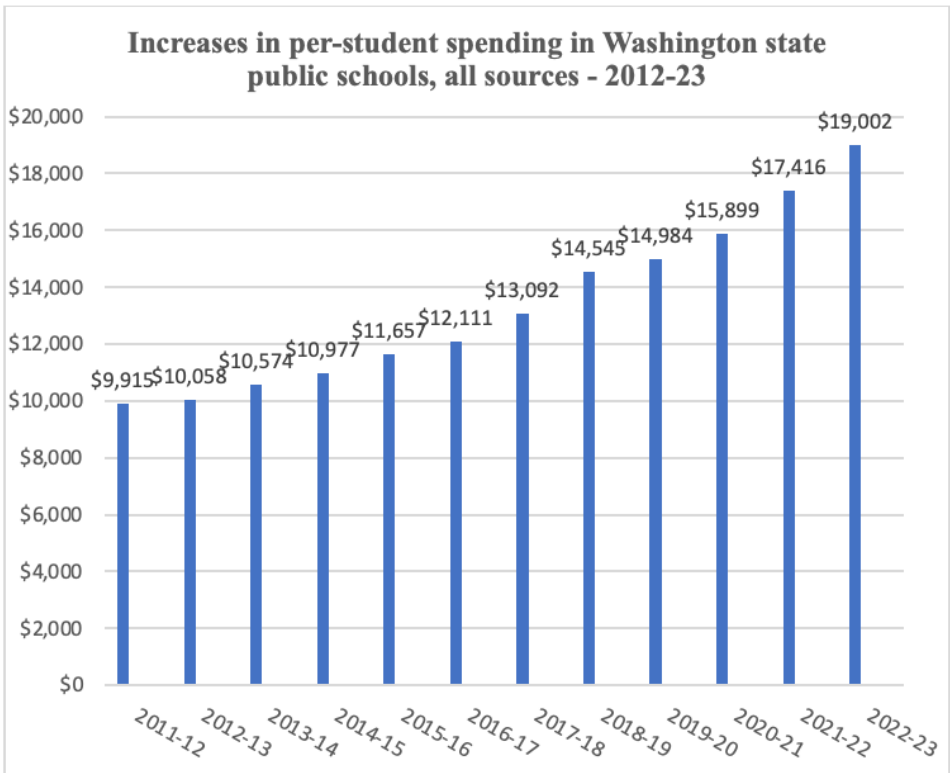
For the 2023-25 budget, lawmakers added a further \$3.1 billion to public school funding, increasing spending from \$25.9 billion to \$29 billion. This is an increase of 12% in just one budget cycle or more than twice the rate of inflation. Overall, spending on public education has doubled, rising from \$13.5 billion in 2013 to \$29 billion for the budget ending in 2025.³



Spending on Washington public schools has more than doubled in twelve years.

Officials at Washington’s public schools now spend a statewide average of \$19,000 for the education of each student, a dramatic increase over the pre-McCleary level of \$10,000 per student. Public school employees are now among the highest-paid workers in the state. By comparison, average private school tuition is \$12,400 for elementary schools and \$14,000 for high schools.⁴ Teachers’ salaries and benefit levels at private schools are consistently lower than those of their peers paid by public schools.

The comparable numbers for Seattle are even higher. The 2022-23 budget for Seattle Public Schools is \$1.14 billion, or \$23,001 per student for just under 50,000 students.⁵ Seattle Public Schools operates 109 public schools, to which children are primarily assigned based on zip code.



Per student spending has increased sharply since the start of the 2012 *McCleary* case.

Conclusion

Policymakers should publicly recognize that Washington schools now receive ample funding and express gratitude to the hardworking taxpayers

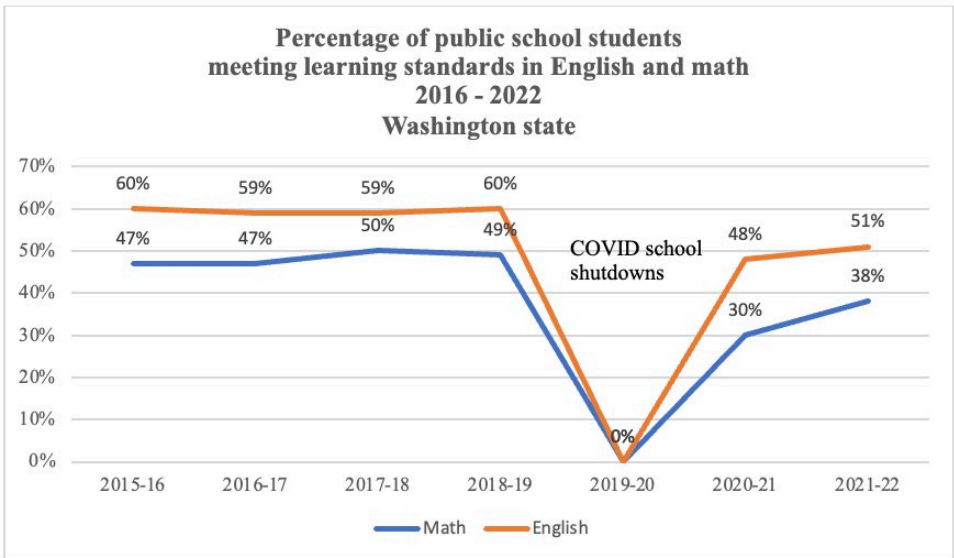
of the state. Once they recognize that funding is not the problem, lawmakers should focus on practical reforms, like providing parents with greater choice in education alternatives, to improve the quality of learning that children receive.

Policy Recommendation:

2. INCREASED SPENDING HAS NOT IMPROVED STUDENT LEARNING; REFORMS ARE NEEDED TO CREATE GREAT PUBLIC SCHOOLS

In the 1990s, following a national trend, lawmakers in Washington state adopted testing standards in an effort to ensure that every child had access to a good public education.

The effort failed. Rather than improving outcomes for children, state leaders responded to union pressure and almost immediately began lowering the testing standards, particularly in math and reading. Since then, state officials have steadily weakened the state tests for measuring student learning in order to, as they claimed, help students graduate. Yet results remain mediocre, as shown by the following chart:⁶



Meanwhile, an objective federal standard, the National Assessment of Educational Progress (NAEP), referred to as the “Nation’s Report Card,” has been administered consistently to a statistically representative sample

of Washington fourth and eighth-grade students in reading, math, and science.

NAEP results show academic learning by public school students in Washington state has not improved over the past ten years. In spite of large spending increases, student learning levels remained largely flat and then dropped markedly due to Governor Inslee's COVID-related order to close public schools in 2020-21.⁷

More spending has not improved student learning

The poor learning results for children raise an important question: Why hasn't the large increase in spending produced the learning improvements that its promoters promised?

One answer is that adding large increases in public funding to a bureaucratic and unwieldy education system prevents innovation, flexibility, and professional creativity in the way students are taught. This finding is supported by experience, which shows that when the Legislature increases funding for public schools, powerful political interests focus first on policies that benefit themselves and make improving learning for children the second, third, or even lower priority.

Since public education functions as a monopoly, there is little accountability and no career consequences for administrators or union executives due to failing test scores, a widening achievement gap, and low graduation rates. As a result, the education system easily absorbs money to the benefit of established interests while ineffective instructional programs continue unchanged.

Examples of the rigid policy limits that prevent school districts from using money effectively include:

- Mis-allocated personnel – only about half of school district employees are classroom teachers;⁸
- Low professional incentives – school administrators are barred by unions from offering performance bonuses or retention awards to the best teachers;
- Abuse and non-performance – union-imposed restrictions make it difficult to fire lazy, ineffective, or abusive teachers;
- Restricted teacher recruitment – public schools may only hire applicants who have a special license, while private schools may hire

any qualified applicant;

- Union financing – Unions make public school teachers pay dues, while union membership for private and public charter school teachers is voluntary;
- Ban on school choice – students are assigned to public schools mostly based on zip code, while families in school-choice states can select the best school for their children.
- Critical Race Theory (CRT), Diversity, Equity, and Inclusion (DEI), and other harmful political ideologies rob students of instruction time and impose a negative view of their own country.

Conclusion

For these reasons, lawmakers should enact structural reforms in public education that increase choice for parents and treat teachers like respected professionals while recognizing that adding more money to an unreformed, union-dominated system does not help children.

Policy Recommendation:

3. EXPAND 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 learning needs of children, especially those living in underserved communities.

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 by the central office, with little choice or input from parents.

Charter schools are popular with parents

The innovative nature of public charter schools makes them popular with parents. Today, there are 7,800 charter schools across the country.⁹ Over the past ten years, charter school enrollment has increased from 2.5 million students in 2013-14 to nearly 3.7 million in 2020-21.¹⁰

Research shows children attending charter schools are more likely to graduate from high school and enroll in college.¹¹ Stanford University researchers 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 math compared to traditional public schools.¹²

For students with four or more years in charter schools, their academic gains are equal to an additional 43 days of learning in reading and 50 additional days of learning in math each year.¹³ A recent Vanderbilt University study shows students attending charter high schools are more likely to stay in college and to earn higher salaries in the workforce.¹⁴

Washington voters approve charter schools

In 2012, Washington became the first state to legalize charter schools by passing a popular citizens' measure, Initiative 1240.¹⁵ Unions immediately attacked the new law, gaining a ruling from the state supreme court that sought to shut down every charter school in the state.¹⁶

However, the Legislature passed a bi-partisan bill in 2016 that funds charter schools from the Opportunity Pathways Account.¹⁷ Governor Jay Inslee, who opposes charter schools, reluctantly agreed to let the popular bill become law without his signature.

The 2016 charter school law limits the number of charter schools to 40 schools, in a system of more than 2,000 schools. It also imposed a time limit of five years on approving new charter schools.

Washington has sixteen charter schools, located in Seattle, West Seattle, South Seattle, Highline, Des Moines, Spokane, Tukwila, Tacoma, Bremerton, Wenatchee, and Pullman. Sixty percent of the 4,800 students attending these schools come from low-income, minority families. Many parents in Washington, particularly in underserved communities, regard charter schools as the best option for their children compared to their local public schools.

Two more charter schools opened, one in Renton and one in Vancouver, in Fall 2023.

In 2021, the teachers' union and district special interests blocked the reauthorization of the charter school law despite the clear successes of

Washington's charter schools in educating children. As a result the state Charter School Commission is no longer permitted to approve new charter school applications.

Allow new charter schools to open, and repeal the cap

The Legislature has failed to extend the five-year authorization of new charter schools provided for by the 2016 law. Lawmakers should reauthorize this voter-passed law and repeal the artificial limit on the number of public charter schools. Expanding family access to charter schools is part of fulfilling the state's paramount constitutional duty to make ample provision for the education of all children living within the state.¹⁸

Provide equal funding for charter school families

Charter schools receive state and federal funding, but they are denied access to local levy funding. Local levy funding amounts to about \$2,200 per student on average, about 16% of operating revenue for most public schools. In Seattle, local taxpayers supplement the public schools with \$3,000 per student in local levy funds, money charter school families do not get.

Officials have also denied funding to charter schools for classrooms, buildings, and other facilities so that charter public schools actually have to pay rent. Fairness and equity require giving Washington charter schools the same local levy and capital funding other public schools receive. No one wants a public education system that gives minority children less money than other children receive.

Conclusion

The experience of Washington and of other states shows that parents like charter schools because administrators at these schools tend to listen to the voices of parents above those of special interests.

Charter school funding depends on keeping families satisfied, so these schools are responsive to parents and the learning needs of children. Charter schools are so popular that many of them maintain waiting lists of children seeking admission. For these reasons, lawmakers should allow

charter schools to flourish as an available option within an innovative and responsive public education system.

Policy Recommendation:

4. ALLOW FAMILIES ACCESS TO UNIVERSAL SCHOOL CHOICE

In 2020 and 2021 Governor Inslee and other state leaders closed public schools in an overreaction to the arrival of COVID-19. At the same time they passed laws to impose harmful Critical Race Theory (CRT) ideology in the public schools.¹⁹ Critical Race Theory teaches that white students are oppressors and students of color are victims, regardless of the individual qualities or actions of the students themselves.

In response, many Washington parents lost confidence in public education and began to seek alternatives. This trend reflected the response of many parents in other states.

While lawmakers in Washington did not listen to parent concerns, lawmakers in many states have passed laws to give families learning alternatives, on a voluntary basis, to their traditional public schools.²⁰ These innovative state laws offer families access to public dollars to pay educational costs, including private school tuition, and serve as a model for moving education policy forward in Washington state.

The growing popularity of universal school choice

“Nine states now offer universal school choice to all children living within their borders. In all, 10.3 million students, or 22% of the nation’s public school population, now have access to school choice.”²¹ (The total number of public school students in 2021, the most recent year available, was 48.1 million.)²²

Following is a summary of these forward-looking state programs.

West Virginia. Enacted in March 2021, the Hope Scholarship program provides \$4,300 per child in an individual Education Savings Account (ESA).²³ The teachers’ union sought to ban the

program, but it was upheld in state court.²⁴ The program benefits 263,000 children.

Arizona. Enacted in July 2022, the Empowerment Scholarship Program provides \$6,400 per student in an ESA. The program benefits 1.1 million children, with priority given to families living in poverty.²⁵

Arkansas. Enacted in March 2023, the Arkansas Learns Act provides \$6,600 per student in an ESA. Full implementation is scheduled for 2025 and will benefit 480,000 children.²⁶

Iowa. Enacted in January 2023, the Students First Act provides \$7,600 in an ESA. The program benefits 517,000 children.²⁷

Utah. Enacted in January 2023, the Utah Fits All Scholarship Program provides scholarships averaging \$8,000.²⁸ The program benefits 607,000 children.

Florida. Enacted in March 2023, the Family Empowerment Scholarship provides an average of \$7,600 per student.²⁹ The program benefits 2.8 million children, with priority given to families living in poverty.

Oklahoma. Enacted in May 2023, the Oklahoma Parental Choice Tax Credit Act provides up to \$7,500 per student.³⁰ The program benefits 658,000 children.

Ohio. Enacted in 2023, the expansion of the state's existing scholarship program provides up to \$8,400 per student.³¹ The program benefits 1.58 million children.

Indiana. Enacted in May 2023, the Indiana Choice Scholarship Program provides scholarships averaging \$5,400 per student. The program benefits 97 percent of Indiana's 997,870 students.³²

Family choice in education is common in other states

Family choice programs are now common across the country. Thirty-four states, the District of Columbia and Puerto Rico operate 81 family choice learning programs that fund the education of more than 687,000 students.³³

Under these programs families direct their public education funding to the private school of their choice. Families can direct the funding to public schools as well – the key is that parents, not bureaucrats, make the decision. Parent choice improves public schools by encouraging administrators to serve families first, ahead of entrenched political interests in the system.

Family choice creates public accountability

Past efforts to hold schools accountable have not worked. Accountability measures are routinely manipulated to hide failures from the public. For example, in August 2015, the Washington State Board of Education lowered the standard for passing state tests in English and math.³⁴ The weakened standard was largely ignored by the news media and went unnoticed by the general public.

Another example is how the state Superintendent of Public Instruction permits districts to artificially inflate graduation rates by not counting students who are most likely to drop out.³⁵

In contrast, family choice creates real accountability. Parent decisions cannot be gamed or manipulated by school officials. School choice allows parents to send their children to a school or online program that best meets their child's learning needs.

Choice programs improve public education. Empirical studies have found that school choice policies benefit traditional schools.³⁶ Research shows administrators respond to competition by improving their services in an effort to attract and retain families.³⁷

How school shutdowns harmed student learning

On March 13, 2020, Governor Inslee closed Washington's schools to in-person instruction in response to the COVID-19 health emergency. A few months later, in September 2020, private schools and public charter schools were allowed to reopen to in-person instruction with safety measures in place. At the time, Larry Delaney, president of the WEA union, refused to allow teachers to return to school, saying:

“We shouldn't worry about how schools are harming children, because they will all fall behind together.”³⁸

When Washington's public schools finally reopened a year later (Washington was one of the last states to reopen public schools), students were automatically promoted to the next grade regardless of their true level of education. Even the governor admitted he had hurt the academic and mental standing of vulnerable children.³⁹

The federal Centers for Disease Control reported on the harm isolated teenagers experience due to two years of public school closures:

“In May 2020, during the COVID-19 pandemic, Emergency Department visits for suspected suicide attempts began to increase among adolescents aged 12-17 years, especially girls. During February 21 – March 20, 2021, suspected suicide attempt Emergency Department visits were 50.6 percent higher among girls aged 12-17 years than during the same period in 2019; among boys aged 12-17 years, suspected suicide attempt Emergency Department visits increased 3.7 percent.”⁴⁰

The psychological and academic damage resulted in 52% of Washington state students failing to learn adequately in English and 70% failing to learn adequately in math, according to the state's standardized School Report Card test.⁴¹

In January 2021, two Yale economists published a study for the National Bureau of Economic Research. The study found:

“...One year of school closures will cost ninth graders in the poorest communities a 25 percent decrease in their post-educational earning potential, even if it is followed by three years of normal schooling...”⁴²

Economist Eric Hanushek examined the drop in National Assessment of Educational Progress (NAEP) scores between 2019 and 2022, predicting this cohort of students will see a drop of 2% to 9% in lower lifetime income. He predicts Washington state will see a reduction of 2.3% in GDP, a loss of \$400 billion in revenue over the 21st century.⁴³

Researchers at Harvard, Yale, Stanford, and Georgetown have all presented evidence the COVID school shutdowns caused significant learning losses to all children, especially in math. Special needs, minority, and low-income children were hurt the most by the COVID school shutdowns.⁴⁴

Professor Thomas Kane of Harvard University says children are far behind in their learning. He predicts that this group of students will lose \$2 trillion in lifetime earnings.”⁴⁵

School choice is popular with parents

Given the endemic failures of many traditional public school systems, it is not surprising that school choice is increasingly popular with parents. A June 2019 nationwide survey found that 73% of voters said they support school choice programs that give “parents the right to use tax dollars... to send children to the public or private school which best serves their needs.”⁴⁶ Polls taken since 2019 consistently show that at least 70% of voters support school choice.⁴⁷

The range of people who support school choice is bipartisan and diverse, with majority support from Latinos (73%) African-Americans (67%), and the Millennial generation (75%).⁴⁸ Support for private school scholarships grows to 83% for families with special needs children.⁴⁹

Conclusion

Parents direct all other aspects of their children’s daily lives, including their health care, their nutrition, their social activities and the sports they play. Yet the current structure of public education denies parents the right to decide even basic questions about the education of their children.

School choice increases parents’ ability to educate their own children, and decide which schools their children will attend. By allowing families wider access to school choice lawmakers can ensure they are meeting their paramount duty to provide for the education of every child living in the state.

Policy Recommendation:

5. ALLOW ACCESS TO EDUCATION SAVINGS ACCOUNTS FOR SPECIAL NEEDS, FOSTER CHILDREN, MILITARY FAMILIES, NATIVE AMERICANS AND CHILDREN ASSIGNED TO FAILING PUBLIC SCHOOLS.

Lawmakers should provide \$15,000 a year in direct aid to children with the greatest needs to fund access to private education services. Under this

policy, parents would receive a tax-funded Education Savings Account (ESA) to cover education-related costs, like textbooks, school supplies, tutoring services, and private school tuition.

Students with the greatest needs include special needs children, children in foster care, children in military families who move frequently, Native American children, and children whom administrators assign to failing public schools.

Learning opportunities for Native American children

Washington state has 19,046 American Indian and Alaska Native students who attend public schools.⁵⁰ The state has 29 federally recognized tribes.⁵¹ The drop-out rate for Native American students is 21%, twice the drop-out rate for black students. For comparison, the drop-out rate for Hispanic students is 12.5%, for white students 9.7%, and for Asian students 3.5%.⁵²

Native American students also have the lowest rate of school attendance of any group.⁵³ Their scores on the state assessment test are lower than all other student groups. In 2022, public schools failed to educate 75% of American Indian and Alaska Native students adequately in English and failed to educate 85% of them adequately in math.⁵⁴ These numbers show that traditional public schools are denying Native American students access to a good education and to the skills needed to succeed in life.

In 2013 the state Legislature passed SB 1134, creating State-Tribal Education Compact schools.⁵⁵ This law allows tribal governments to operate their own independent Tribal Compact Schools, free from interference by a district bureaucracy or by union executives.

Washington has eight Tribal Compact Schools. These are operated by the Suquamish Tribe, the Lummi Nation, the Muckleshoot Tribe, the Puyallup Tribe, the Quileute Tribe, the Wa He Lut Tribe, and the Yakama Nation Tribe, serving fewer than 2,000 students.⁵⁶ These schools offer some Native American families greater say in the governance of their children's education.

Yet Tribal Compact Schools must still obtain permission from the state to operate, are still subject to regulatory obstacles, and are not fully free of state interference and regulation. Tribal Compact Schools do not appear substantially different from their traditional public school counterparts and do not have the same freedom a private school enjoys.

State lawmakers can help correct this problem by providing an Education Scholarship Account (ESA) of \$15,000 to each Native American student. Such a policy would empower families by allowing them to select the best school for their children, whether that is a traditional public school, a Tribal Compact School, a Bureau of Indian Affairs boarding school, a public charter school, or a private school.

Helping special needs children

Lawmakers should provide a minimum of \$25,000 a year in direct aid to families with special needs children to pay for private education services. The funds would be deposited in an ESA devoted to covering learning expenses. Parents would use the money to pay for specialized services from private tutors and private schools for the children.

Helping special needs children through choice has already proven successful in Arizona, Indiana, Florida, Mississippi, New Hampshire, West Virginia, Tennessee, and North Carolina.⁵⁷ In all, sixteen states, the District of Columbia and Puerto Rico all give special needs families direct assistance to attend private schools, and South Carolina and many other states provide both a tax credit scholarship and a direct tax credit to help special needs families.⁵⁸

By contrast, Washington's special education system is centralized, wasteful, bureaucratic, and unpopular. Parents often complain about a district's reluctance to evaluate a child for an Individual Education Plan (IEP) and about the mediocre quality of evaluations that are conducted. If a child is granted an IEP, parents say it often contains vague goals and objectives and that their children do not receive a good public education.

Administrators of the public schools always say the solution is for them to receive more money. Adding more money, however, does not help children stymied by outdated teaching methods, insensitive bureaucracies, and restrictive union rules. More money will not solve the problem of imposing a standardized system on the unique learning needs of vulnerable children.

Lawmakers should provide fully-funded ESAs so that families with special needs receive the best services immediately. This approach would not only benefit children, it would show that lawmakers care more about helping special needs children than about funding a bureaucratic legacy system.

Providing learning services for foster children

Children are placed in foster care because a judge has found a particular home setting dangerous and that separating the child from parents is in the child's best interest. Dangerous home settings are characterized by involvement in crime, drug and alcohol abuse, low rates of marriage, disruptive and chaotic daily routines, and abuse of children through direct harm or neglect.⁵⁹

Washington has about 10,900 children living in foster care.⁶⁰ Some 1,840 children have no family to return to and await adoption by a permanent family.⁶¹ Only 53 percent of students who are forced to grow up in foster care graduate from high school on time.⁶²

Foster children face particular problems within the current rigid system of education. Problems include changing schools during the school year; late enrollment after a change of residence; lost, missing, or incomplete school records; assignment to a low-performing school; increased social and emotional stress; and high drop-out rates.⁶³

The problem is made worse because state lawmakers generally ban foster children from attending private schools. A bill introduced in 2019, HB 1969, would have ended this inequity by making foster children eligible for school choice scholarships. Choice scholarships would allow, with the approval of a state caseworker, the option of attending a private school.⁶⁴

Conclusion

The bill did not pass, but it provides a model for future legislation that would target funds to allow foster children access to the best education possible. Another positive model is Arizona's Lexi's Law, a tax credit scholarship program that benefits disabled students and children who have been placed in foster care.⁶⁵ The progress made by other states shows how school choice is benefitting special needs children, foster children, and other students who need it most.

Policy Recommendation:

6. IGNORE THE FALSE CLAIMS MADE AGAINST SCHOOL CHOICE PROGRAMS

Opponents of school choice want to deny children access to a good, publicly-funded education. School choice deniers usually represent entrenched interests, like the WEA union, that benefit financially and politically from a monopoly system. To justify their opposition to letting families have access to educational choices, they make a number of false claims about choice programs. Yet in other policy areas, such as health care and housing, directing public dollars to private organizations is common practice and faces no legal or controversial objections at all.

Following is a summary of the main attacks school choice opponents make against helping children, followed by responses that show why these claims are false.

1. Claim: Public dollars should not go to private schools

Response: Directing tax dollars to private organizations to achieve a public purpose is a common, popular and non-controversial policy. Examples include Pell Grants, the GI Bill and other veterans' benefits, Head Start, the Women, Infants and Children (WIC) Program, Medicare, Medicaid, Section 8 Housing Vouchers, and Social Security payments.

2. Claim: School choice programs "drain" money from traditional public schools

Response: Budget data shows school choice programs do not reduce funding for traditional public schools. In Pennsylvania, 66,000 students participate in choice programs, while school budgets increased over ten years.⁶⁶ In Ohio, 62,000 students benefit from school choice, while the overall education budget increased.⁶⁷ The District of Columbia has had a popular Opportunity Scholarship program for years, yet the public school budget has increased every year.⁶⁸

In Washington state over 4,700 children attend charter schools, a form of school choice. At the same time, the education budget rose from \$9.9 billion in 2012, when charter schools started, to \$18.7 billion in 2022. Over

the same period per student funding in public schools more than doubled from \$9,915 to \$19,000.⁶⁹

School choice has not cut school district jobs either. In 2022-23, Washington's 295 school districts employ 124,821 people, a record high. Only 63,062 of these, or just 51%, are classroom teachers. The remaining 61,759 employees are administrators and non-teaching staff.

3. Claim: Tax money should not go to religious schools

Response: In June 2022, the U.S. Supreme Court ended anti-religious bias by ruling in *Carson v. Makin* that religious schools are eligible for all generally available tuition assistance programs. The court ruled that funding choices made by parents are constitutional and do not constitute an establishment of religion.⁷⁰

4. Claim: School choice will hurt homeschooling

Response: This claim is not true. Homeschooling in states with school choice programs has not been limited in any way. A 2022 review of 76 school choice programs found they did not restrict homeschooling and that choice programs tended to expand learning choices for everyone.⁷¹

School choice programs provide the best possible safeguard of any public program because participation is voluntary. No families are required to participate, and none are penalized if they do not participate. School choice programs are based on parents' free decisions about what is best for their children.⁷²

5. Claim: Parents can't make good education decisions for their children

Response: Opponents of school choice often say parents can't make good decisions about education, yet parents make key decisions about their children's schooling every year.

Nationwide, in 2021, the families of 1.5 million students, or 3% of total enrollment, removed their children from the public system.⁷³ In Washington state some 46,000 students have withdrawn, a loss to the public system of over 4%, one of the highest transfer-out rates in the nation.⁷⁴

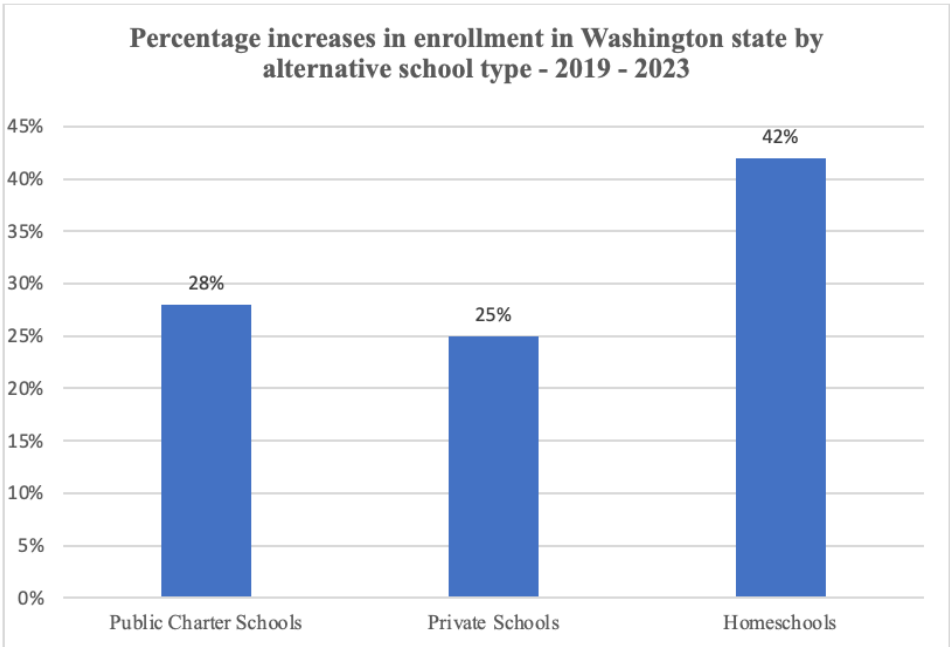
Many parents find the attitude of choice opponents narrow-minded and insulting. Parents make all other life decisions for their children, regarding health, nutrition, hygiene, shelter, social activities, sports and personal safety. Parents also make the decision about whether a child will enroll in a public school in the first place, so they are certainly capable of deciding which school or educational program is best for their child.

Conclusion

The superior attitude of choice opponents is off-putting to parents, further undermining support for the public system. A 2022 Gallup poll found that Americans' confidence in public education has fallen to 28%, close to the all-time low of 26% measured in 2014.⁷⁵

At the same time, homeschooling, private school and public charter school attendance has increased, based on parent choices. The number of reported homeschool students in Washington increased by 42%, from 20,800 in 2019-20 to nearly 30,000 in 2022-23.⁷⁶ Private school enrollment increased by 25%, rising from 65,200 in 2019-20 to 81,400 in 2022-23.⁷⁷ It is clear that parents are capable of directing the education of their children, whether school choice opponents approve of it or not.

Enrollment in Washington's 16 public charter schools jumped by 28 percent, increasing from 3,041 students in 2019-20 to 4,715 students in 2021-22.⁷⁸ Charter public schools serve primarily low-income, minority families in urban areas.



Sources: Washington State Board of Education and Center for Reinventing Government

School choice programs are effective, popular with parents and the general public, and, most importantly, offer the best way to provide children with access to a good education.

Policy Recommendation:

7. AVOID REPEATING FAILED REFORMS OF THE PAST; INCREASING SPENDING HAS NOT IMPROVED LEARNING OUTCOMES

For more than a decade, Washington lawmakers have pursued a policy of increasing spending on public schools in the belief that more money would improve learning outcomes. Experience has now shown this idea to be false. Increased spending has not improved learning levels for students.

Following is a list of education “reform” programs and other spending initiatives that were enacted with great excitement and fanfare over the last 25 years. All have failed to deliver the benefits that lawmakers promised.

Examples of failed public education reforms

- Critical Race Theory Ideology (CRT), which claims to bring “diversity, equity, and inclusion, and eliminate institutional racism” in public education;
- Adding mental health counselors at public schools;
- Elementary and Secondary School Emergency Relief Fund provided \$2.8 billion in additional funding;
- State supreme court “McCleary” school funding ruling – which increased property taxes and doubled state education spending from 2013 to 2023;
- Increased teacher pay and benefits intended to increase student learning;
- Federal Common Core Learning Standards;
- State Smarter Balance Assessment test in English and math;
- Initiative 728, funding for smaller class sizes intended to increase student learning;
- Initiative 732, large teacher pay and benefit increases intended to increase student learning;
- Teacher and Principal Evaluation Program (TPEP);
- The Washington Learns initiative;
- All-Day Kindergarten Phase-In;
- Washington Assessment of Student Learning (WASL) test;
- Obama Administration Race to the Top Act “...to improve learning in America’s schools”;
- Bush Administration No Child Left Behind Act “..to provide standards-based education reform”;
- Clinton Administration Goals 2000 Act, “By the year 2000 all children in America will start school ready to learn...”

All of these loudly-touted initiative failed to provide the learning results politicians, school administrators and union activists promised.

The top-down “reform” funding model serves the interests of the union because it requires the hiring of a certain number of staff, regardless of whether this spending helps students. Student learning has remained flat,

even as district payrolls have swelled with increased staff, specialists and paid union executives.

Case study: WEA union diverted class size reduction money to higher pay for staff

Lawmakers approved more than \$500 million in the 2017-19 state budget for reduced class sizes.⁷⁹ They promised class sizes of 17 students in grades K-3, 27 students in grades 4-6, and 28 students in grades 7-12.⁸⁰

This pattern is repeated again and again. The WEA union loudly promotes a popular program that will supposedly help students in order to demand more money for schools. A few months after more money is approved, WEA executives threaten illegal strikes to close schools if the money is not diverted to provide pay raises. Out of fear of continued controversy and bullying, school administrators usually give in, and children are deprived of promised services.

Case study: The failure of high-stakes testing

In 1993, policymakers passed legislation to require students to take the Washington Assessment of Student Learning (WASL) in the belief that high-stakes testing would create incentives for the schools to improve. Testing was supposed to be the state's way of providing accountability in public education.

Twenty years later Governor Gregoire repealed the WASL requirement. Then, in 2014, Governor Inslee adopted the weaker Smarter Balanced Assessment Consortium test, and in 2019, he ended all requirements that students pass a high-stakes test to earn a high school diploma.

Routine testing is an important tool for educators to assess where students stand and to identify areas where they need extra help. Mandated high-stakes testing, however, failed to create accountability for teachers and administrators in the system. The WEA union vigorously resisted public accountability and urged parents to boycott the tests.

Conclusion

The political experience in Olympia shows that mandated high-stakes testing and other costly top-down reforms don't work and that real

accountability is only achieved when parents have access to broad school choice. That fact explains why school choice has become so popular, as parents become impatient with the latest round of fashionable reforms. For that reason, officials should drop the “high-stakes reform” approach and allow parents access to wider choices so they can move their children to where they will receive the best-quality learning.

Policy Recommendation:

8. REPEAL LIFE-TIME TENURE RULES AND CERTIFICATION LIMITS THAT KEEP THE BEST TEACHERS OUT OF PUBLIC SCHOOLS

Washington state law bars anyone from teaching in a public school who does not have an approved certificate. This ban does not apply, however, to private schools. This is one reason private schools are consistently better than public ones. A Harvard study found that a formal teaching certificate “matters little” in raising student classroom achievement.⁸¹

Teaching certificates do not assure teacher quality

Harvard researchers found that a teacher’s mastery of subject matter is far more important to student learning than a state-issued certificate. In theory, an official certificate is supposed to assure teacher quality. In the real world, however, there is a marked difference between paper certificate requirements and performance as a good classroom teacher.

The Legislature has granted private schools the advantage of hiring based on quality and experience rather than paper credentials. Many private schools hire quality faculty who hold doctorate degrees or are experienced business professionals, but do not hold formal teaching certificates.

These are not elite private schools. They are often located in low-income neighborhoods, and their teachers take on the noble work of educating the hardest-to-teach students. Lawmakers should allow public schools to recruit the best classroom talent available on an equal basis as their private sector counterparts.

Effective teachers raise student achievement

Teacher tenure laws grant automatic lifetime employment to public school teachers after three years, making it nearly impossible to fire a bad teacher in a public school. Private schools, in contrast, hire and fire teachers 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.⁸² A good teacher can make as much as a full year's difference in the learning growth of students.⁸³ 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.⁸⁴ The research also shows that students taught by a weak teacher two years in a row may never catch up.

The research indicates the best teachers have the following qualities:⁸⁵

- 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, curiosity and excitement about learning for its own sake.

Improving teacher quality is more cost-effective than reducing class size. Research shows that compared to having an effective teacher, smaller class-size benefits are minor. Lawmakers should enact policies that improve teacher quality, which is a far more cost-effective strategy than reducing class sizes and is much better for students.⁸⁶

Creating renewed respect for teachers

Teachers should be hired based on 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 dismissed, regardless of artificial certification and tenure rules.

Conclusion

Lawmakers can level the playing field by repealing lifetime tenure rules and ending the limits on teacher hiring to allow public schools to hire the best teachers while drawing new talent into the profession. The result would be renewed respect for teachers and, most importantly, a better learning environment for public school students.

Policy Recommendation:

9. REPEAL HARMFUL CRT IDEOLOGY THAT TEACHES CHILDREN TO HATE THEIR COUNTRY

In May 2021, Governor Inslee signed SB 5044, a bill to require the teaching of harmful Critical Race Theory (CRT) in public education.⁸⁷ Critical Race Theory holds that America was founded to protect and promote the institution of slavery and that modern-day America is systemically racist.⁸⁸ CRT teaches children to hate the country by undermining the concept of historical progress toward greater freedom for all.

Under CRT students are judged by their appearance rather than their intrinsic worth as human persons. CRT says that if students are identified as white, Jewish, or Asian they are oppressors. If they are perceived as black, Hispanic, or part of another group, they are oppressed.

Critical Race Theory violates the legal responsibility of teachers to promote the development of honest citizens. State law requires teachers to “endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism...”⁸⁹

CRT promotes ideas of race identity and power

In October 2021, the Office of Superintendent of Public Instruction (OSPI) published regulations to implement the CRT race-based program called for under SB 5044. OSPI’s official graphic, shown below, illustrates that this approach is not intended to convey facts, truth, or knowledge to students.⁹⁰



The Ethnic Studies Advisory Committee created the Washington State Ethnic Studies Framework to provide districts and educators a clear entry point for engaging in Ethnic Studies. The Framework is intended for use across grade levels and disciplines. It is not intended to be a lesson or unit plan; rather it draws on the best practices for placing student wellbeing at the center of classroom instruction. The Framework contains four domains: Power, History, Identity, and Civic Action through which students and educators incorporate Ethnic Studies. It should be noted that

OSPI’s Ethnic Studies Framework places the focus on the “dismantling of white supremacy,” requiring teachers and students to “...critique racial oppression at the institutional, interpersonal, and internalized levels while also showing how each level influences the other.”⁹¹

The U.S. History/Ethnic Studies curriculum standards used by the Seattle Public Schools include statements like this:

“Power and oppression, as defined by ethnic studies, are the ways in which the United States government was founded on racist intellectual premises and economic practices that institutionalized oppression of people of color that continues to the present day.”⁹²

The CRT approach to civics not only induces students to despise their own country and discourage participation in democracy, but it also directs student time away from knowledge content to focus on issues of contemporary politics.

National education experts have found that many of the teaching theories used in Washington public schools are harmful to student learning. One study found:

“...a great many pedagogies actively inhibit student learning, including action civics, so called ‘anti-racism,’ civic engagement, critical race theory, current events learning, inquiry-based learning, media literacy, project-based learning, social-emotional learning, and virtually any pedagogy that claims to promote ‘diversity, equity and inclusion’ or ‘social justice.’”⁹³

These teaching ideologies block student access to content knowledge and instead promote distrust and division within communities. Producing ill-informed, isolated and disaffected citizens is not the purpose of a high-quality public education system.

CRT bills violate civil rights laws

These bills also violate international, national and state-level civil rights protections.⁹⁴ For example, the Washington Civil Rights Act passed by voters in 1998 says that public officials may not grant preferences or deny equal opportunities to any Washington state resident on the basis of race, ethnicity or national origin.⁹⁵

All individuals have the right to a safe working and learning environment free of unfair treatment, racial discrimination, or fear of official consequences that may result in loss of employment, professional sanctions, or lost learning opportunities.

CRT attacks science standards and the search for objective truth

In December 2022 the state Department of Health (DOH) announced a CRT-based initiative that undermines standards of science and the intellectual search for truth.⁹⁶ Educators with high standards like Vanessa Ramsey, Washington's Science Teacher of the Year, have identified this initiative as an effort to use Critical Race Theory to undermine scientific logic and reasoning.⁹⁷

The DOH's announced "learning materials" include population mapping software, yet include no warning that population maps cannot be used to prove cause and effect. Not all factors affecting health outcomes are the result of race and geography. Even so, the materials seek to push students to reach the pre-determined conclusions that state officials prefer.

The materials attack science. They declare, "Science has a long history of sexism," and tell students to "recognize the long history of racism and sexism in American science, medicine and politics," which "still happens today."⁹⁸ For example, page 16 of the Module 4 PowerPoint includes this graphic:

Intersections of Science, Race, Law, and Education

Past and current issues affect people of color.

YES...these categories of racism still exist, but we can act:

- Acknowledge and confront racism in Science.
- Use Science to reveal and confront injustice.
- Structure equitable classroom engagement.

Science/STEM: a long, racist history. What does this look like then & now?

- Labeling people of color as inferior
- Harming without consent
- Insufficient medical treatment
- Biased hiring, promotion in Science careers
- Biased interactions in STEM classrooms
- Denying harms and/or the intent to harm

These materials restrict students to a narrow, anti-science point of view, which takes complicated subjects and reduces them to simplistic solutions. They do not provide students with the objective knowledge and mental tools they need to become independent, lifetime learners.

Gifted programs are being cancelled on the basis of race

Since the passage of CRT laws, school districts in Seattle, Vancouver, and Northshore have canceled popular and successful programs for gifted students.⁹⁹ School administrators used racial statistics to cancel the programs, saying they are not acceptable under CRT's definition of "equity."

The cancellations deny many children access to challenging academic work, which makes the most of their natural abilities. In addition, by refusing to provide advanced learning opportunities, these schools deny students the chance to achieve their full potential and undermine the development of future talent for the benefit of the community.

The U.S. Armed Forces face a recruitment crisis

The Army, Navy and Air Force face a recruitment crisis. In 2022, for example, the U.S. Army missed its goal by 25 percent.¹⁰⁰ This problem continues and also affects Navy and Air Force recruiters.¹⁰¹ While there are many reasons for this problem, a contributing factor is the failure of public schools to teach students to respect the founding ideals of their country. When students are told their nation is founded on promoting slavery and

is systematically racist, they are unlikely to devote themselves to serving their country's defense.

By discouraging recruitment CRT puts the national policy of an all-volunteer military force at risk. Polling indicates that in 2022 only 9% of young Americans said they would consider military service.¹⁰²

Conclusion

The introduction of CRT into the public schools of Washington is inflicting damage on the system of education and is hurting the student learning environment. Repealing the harmful CRT legislation passed in 2021 would help restore public confidence in the education system. Ending hurtful CRT policies would encourage students to view each other as friends and equals rather than as members of various victim and oppressor groups.

ADDITIONAL RESOURCES

“The effect of emergency-ordered school closings, learning loss and mask mandates on children,” Policy Brief, August 2022, at <https://www.washingtonpolicy.org/library/docLib/Finne-The-effect-of-emergency-ordered-school-closings-learning-loss-and-mask-mandates-on-children-FINAL-.pdf>

“Six common objections made by opponents of school choice and why they are false,” Policy Brief, February 20, 2023, at <https://www.washingtonpolicy.org/publications/detail/six-common-objections-made-by-opponents-of-school-choice-and-why-they-are-false>

“U.S. Supreme Court anti-discrimination ruling means the end of Washington’s Blaine Amendment,” Policy Note, August 23, 2022, at <https://www.washingtonpolicy.org/publications/detail/us-supreme-court-anti-discrimination-ruling-means-the-end-of-washington-states-blaine-amendments>

“Know Your Rights—A guide to Critical Race Theory, anti-discrimination law, and civil rights protections for everyone,” Policy Note, July 14, 2021, at <https://www.washingtonpolicy.org/publications/detail/know-your-rights-a-guide-to-critical-race-theory-anti-discrimination-law-and-civil-rights-protections-for-everyone>

“Washington public school officials lower academic learning standards as they implement Critical Race Theory,” Policy Brief, September 23, 2021, at <https://www.washingtonpolicy.org/publications/detail/washington-public-school-officials-lower-academic-standards-as-they-implement-critical-race-theory-2>

The Parent Revolution: Rescuing Your Kids from The Radicals Ruining Our Schools, by Corey DeAngelis, May 2024, Hachette Book Group

America’s Cultural Revolution: How the Radical Left Conquered Everything, by Christopher Rufo, July 18, 2023, Harper Collins Publishers, Broadside Books

“School Funding in the 2019 Legislative Session: Washington state public schools now receive more money than most private schools,” by Liv Finne, Policy Notes, July 2019, at <https://www.washingtonpolicy.org/publications/detail/school-funding-in-the-2019-legislative-session-washington-state-public-schools-now-receive-more-money-than-most-private-schools>

“Public funding of private schools in Washington state,” by Liv Finne, Policy Brief, Washington Policy Center, November 2018, at <https://www.washingtonpolicy.org/publications/detail/public-funding-of-private-schools-in-washington-state>

“New government report shows massive \$9.7 billion increase in education spending provided no improvement for Washington students,” by Liv Finne, Policy Notes, April 2018, at <https://www.washingtonpolicy.org/publications/detail/new-government-report-shows-massive-97-billion-increase-in-education-spending-provided-no-improvement-for-washington-students>

“Overview of public school choice programs: How national and state-level public school choice improves learning opportunities for families and children,” by Liv Finne, Policy Brief, Washington Policy Center, October 2017, at <https://www.washingtonpolicy.org/library/doclib/Finne-Overview-of-public-school-choice-programs-10.11.17.pdf>

ENDNOTES

- 1 HB 2242, “Funding fully the state’s program of basic education by providing equitable education opportunities through reform of state and local education contributions,” Washington Legislature, signed by Governor Inslee, July 6, 2017, at <https://app.leg.wa.gov/bills/summary?Year=2017&BillNumber=2242>.
- 2 *McCleary v. State of Washington*, Supreme Court of Washington, Wash. 2d 477, 269 P.3d 227 (2012), Opinion No. 84362-7, May 10, 2018, at <https://www.courts.wa.gov/content/publicUpload/McCleary/843627PublicBriefAppellantsReply051018.pdf>.
- 3 “Statewide, Expenditure History - Operating, Near General Fund Total, Public Schools,” Washington State Fiscal Information, accessed July 5, 2023, at <https://fiscal.wa.gov/Spending/SpendHistFundStatewide>.
- 4 “Best Washington Private Schools (2023-24),” Private School Review, accessed October 10, 2023, at <https://www.privateschoolreview.com/washington>.
- 5 “F-195, Budget Overview, Seattle Public Schools, 2022-23,” Apportionment, Enrollment, Fiscal Reports, Office of Superintendent of Public Instruction (OSPI), accessed July 5, 2023, at <https://www.k12.wa.us/policy-funding/school-apportionment/safs-report-api>.
- 6 “School Report Card, State Total, Student Performance, Assessment,” Office of Superintendent of Public Instruction, accessed August 1, 2023, at <https://washingtonstatereportcard.ospi.k12.wa.us/ReportCard/ViewSchoolOrDistrict/103300>.
- 7 “Latest NAEP test scores show Washington public schools are now below average in educating students in math and English,” by Liv Finne, Washington Policy Center, October 27, 2022, at <https://www.washingtonpolicy.org/publications/detail/latest-naep-test-scores-show-washington-public-schools-are-now-below-average-in-educating-students-in-math-and-english>.
- 8 “Trends in spending and learning in Washington’s schools, 2006-2016,” by Liv Finne, Legislative Memo, Washington Policy Center, January 2017, at <https://www.washingtonpolicy.org/publications/detail/trends-in-spending-and-learning-in-washingtons-schools-2006-2016>.

- 9 “Charter School Datasets; Data Dashboard, 2019,” National Alliance for Public Charter Schools, at <https://data.publiccharters.org/>.
- 10 Ibid.
- 11 The B.A. Breakthrough: How Ending Diploma Disparities Can Change the Face of America,” by Richard Whitmire, published by The 74 Media, Inc., 2019.
- 12 “As a Matter of Fact: The National Charter School Study III 2023,” by Margaret Raymond et. al, Center for Research on Education Outcomes (CREDO) at Stanford University, June 19, 2023, at <https://ncss3.stanford.edu/wp-content/uploads/2023/06/Credo-NCSS3-Report.pdf>.
- 13 “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/margaretraymond/a-rebuttal-of-weingarten-b_9701622.html.
- 14 “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 https://news.vanderbilt.edu/files/pam_21913_Rev-FINAL-4416.pdf.
- 15 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.
- 16 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, Washington state Supreme Court, September 4, 2015, No. 89714-0, at www.courts.wa.gov/opinions/pdf/897140.pdf.
- 17 SB 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.

- 18 “Article IX, Section 1, Education,” Constitution of the State of Washington, enacted 1889, at <https://leg.wa.gov/CodeReviser/RCWArchive/Documents/2019/WA%20Constitution.pdf>.
- 19 SB 5044, “Concerning professional learning, equity, cultural competency, and dismantling institutional racism in the public school system,” signed by Governor Inslee on May 5, 2021, at <https://app.leg.wa.gov/billssummary?BillNumber=5044&Year=2021>.
- 20 “What’s Behind the Recent Surge in School-Choice Victories,” by Jay Greene, PhD, and Jason Bedrick, The Heritage Foundation, February 7, 2023, at <https://www.heritage.org/education/commentary/whats-behind-the-recent-surge-school-choice-victories>.
- 21 Ballotpedia reports that in 2022 West Virginia had 263,000 public school students, Arizona 1.1 million public school students, Iowa 517,000 public school students, Florida 2.9 million public school students, Utah 607,000 public school students, Oklahoma 658,000 public school students, Ohio 1.58 million public school students, North Carolina 1,442,736 public school students, Indiana 997, 869 public school students, accessed October 10, 2023, at https://ballotpedia.org/Education_statistics_in_the_United_States.
- 22 “Number of Public Schools in the U.S.: Key 2023 Data on States and Demographics,” by Research.com, June 28, 2023, at <https://research.com/universities-colleges/number-of-public-schools-in-the-us#2>.
- 23 “Governor Justice signs hope scholarship bill, expanding educational opportunity across West Virginia,” Americans for Prosperity, March 29, 2021 at <https://americansforprosperity.org/governor-justice-signs-hope-scholarship-bill-expanding-educational-opportunity-across-west-virginia/>.
- 24 “West Virginia leading the states on school choice, by Amanda Keiffer, Real Clear Politics, October 21, 2022, at <https://www.realclearpolicy.com/articles/2022/10/21/west-virginia-leading-the-states-on-school-choice-860350.html>.
- 25 “Arizona passes universal school choice for 1.1 million students,” by John Fund, National Review, June 27, 2022, at <https://www.nationalreview.com/2022/06/arizona-passes-universal-school-choice-for-1-1-million-students/>.

- 26 “School choice revolution rolls on,” by State Policy Network, March 8, 2023, at [The School Choice Revolution Rolls On: Arkansas Passes the LEARNS Act | State Policy Network \(spn.org\)](#).
- 27 “Governor Reynolds signs Students First Act into law,” Office of Governor Kim Reynolds, January 24, 2023 at [https://governor.iowa.gov/press-release/2023-01-24/gov-reynolds-signs-students-first-act-law](#).
- 28 “Utah Governor signs major education funding bill, becoming third state to enshrine school choice into law,” by Joshua Q. Nelson, Fox News, January 30, 2023, at [https://www.foxnews.com/media/utah-governor-signs-major-education-funding-bill-becoming-third-state-enshrine-school-choice-law](#).
- 29 “School Choice in America, Florida, Family Empowerment Scholarship for Education Options Program,” Education Choice, accessed July 6, 2023 at [https://www.edchoice.org/school-choice/programs/florida-family-empowerment-scholarship-program/](#).
- 30 “Oklahoma passes universal school choice bill,” State Policy Network, May 25, 2023 at [https://spn.org/articles/oklahoma-passes-school-choice/#:~:text=On%20May%2025%2C%202023%2C%20the,that%20best%20fits%20their%20needs](#).
- 31 “‘The dam is breaking’ on school choice in battleground state passes voucher program: advocate; Ohio joins wave of states passing school choice legislation,” by Kassy Dillon, Fox News, July 6, 2023, at [https://www.foxnews.com/politics/dam-breaking-school-choice-battleground-state-passes-voucher-program-advocate](#).
- 32 “Indiana becomes the fifth state in 2023 to enact major school choice program expansion,” by Chantal Lovell, Engage by EdChoice, April 28, 2023, at [https://www.edchoice.org/media/indiana-becomes-fifth-state-in-2023-to-enact-major-school-choice-program-expansion/](#).
- 33 “Fast Facts, Number of ESAs, Vouchers and Tax Credit Scholarships in 2022-23,” EDChoice, accessed July 6, 2023, at [https://www.edchoice.org/school-choice/fast-facts/](#).
- 34 “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](#).

- 35 “State policy artificially boosts district-level grad rates by leaving out some at-risk students,” by Ashley Gross, KNKX Radio, April 23, 2019, at [https:// www.knkx.org/post/state-policy-artificially-boosts-district-level-grad-ratesleaving-out-some-risk-students](https://www.knkx.org/post/state-policy-artificially-boosts-district-level-grad-ratesleaving-out-some-risk-students).
- 36 “A Win-Win Solution; The Empirical Evidence on School Choice,” by Greg Forster, EDChoice, May 2016, at <http://www.edchoice.org/wp-content/uploads/2016/05/A-Win-Win-Solution-The-Empirical-Evidence-on-School-Choice.pdf>.
- 37 “Choosing to Learn,” by Joseph Bast, Jason Bedrick, Lindsey Burke, Andrew J. Coulson, Robert C. Enlow, Kara Kerwin, and Herbert J. Walberg, CATO Institute Commentary, March 12, 2014, at <https://www.cato.org/commentary/choosing-learn>. See also “The 123s of School Choice, What the Research Says about Private School Choice Programs in America, 2023 Edition,” by EDChoice, published June 28, 2023, at <https://www.edchoice.org/wp-content/uploads/2023/06/123s-of-School-Choice-WEB.pdf>.
- 38 “WEA union president says we shouldn’t worry about how closed schools are harming children, because they are all falling behind together,” by Liv Finne, Washington Policy Center, September 9, 2020, at <https://www.washingtonpolicy.org/publications/detail/wea-union-president-says-we-shouldnt-worry-about-how-closed-schools-are-harming-children-because-they-are-all-falling-behind-together>.
- 39 “Low test scores used to assail Inslee’s school closure during pandemic,” by Brett Davis, The Center Square, Chalkboard News, June 30, 2023, at https://www.chalkboardnews.com/issues/outcomes/low-test-scores-used-to-assail-inslees-school-closure-during-pandemic/article_d7aa94a8-ef90-5421-8d4e-5ebe4493c826.html#Signup.
- 40 “Emergency department visits for suspected suicide attempts among persons aged 12-25 years before and during the COVID-19 Pandemic, United States, January 2019 - May 2021,” Mortality and Morbidity Weekly Report, Centers for Disease Control and Prevention, June 18, 2021 at <https://www.cdc.gov/mmwr/volumes/70/wr/mm7024e1.htm>.
- 41 “Washington state school report card, state total, Spring 2022 and November 2021,” Office of Superintendent of Public Instruction (OSPI), accessed July 7, 2023, at <https://washingtonstatereportcard.ospi.k12.wa.us/ReportCard/ViewSchoolOrDistrict/103300>.

- 42 “COVID school closures most harm students from poorest neighborhoods,” by Mike Cummings and Fabrizio Zilibotti, Yale News, January 5, 2021 at <https://news.yale.edu/2021/01/05/covid-school-closures-most-harm-students-poorest-neighborhoods>.
- 43 “The economic cost of the pandemic, state by state,” by Eric Hanushek, PhD, Hoover Institution, 2023, at <http://hanushek.stanford.edu/publications/economic-cost-pandemic-state-state>.
- 44 “The effect of emergency-ordered school closings, learning loss and mask mandates on children,” by Liv Finne, Washington Policy Center, Policy Brief, August 2022, at <https://www.washingtonpolicy.org/library/docLib/Finne-The-effect-of-emergency-ordered-school-closings-learning-loss-and-mask-mandates-on-children-FINAL-.pdf>.
- 45 “Kids are far, far behind in school, educators need a plan ambitious enough to remedy enormous pandemic learning losses,” by Thomas Kane, The Atlantic, May 22, 2022, at <https://www.theatlantic.com/ideas/archive/2022/05/schools-learning-loss-remote-covid-education/629938/>.
- 46 “2019 National School Choice Poll,” American Federation for Children, June 2019, at <https://www.federationforchildren.org/2019-national-school-choice-poll/>. See also “School choice is a winning policy, so why don’t Democrats support it?” by Senator Joseph Lieberman, Fox News Channel, July 22, 2019, at <https://www.foxnews.com/opinion/joe-liebermanschool-choice-democrats-2020-election>.
- 47 “School Choice Polling, General,” American Federation for Children, accessed July 7, 2023, at <https://www.federationforchildren.org/school-choice-polling/>.
- 48 Ibid.
- 49 “2017 National School Choice Poll,” by Jessica Poiner, Fordham Institute, January 25, 2017, at <https://fordhaminstitute.org/national/commentary/2017-national-school-choice-poll>.
- 50 “Update: The state of Native American education, 2022,” Report to the Legislature, Office of Superintendent of Public Instruction (OSPI), page 4, accessed October 10, 2023, at <https://www.k12.wa.us/sites/default/files/public/communications/2022docs/12-22-UPDATE-The-State-of-Native-Education.pdf>.

- 51 “Since time immemorial: Tribal sovereignty in Washington state,” Office of Superintendent of Public Instruction (OSPI), accessed July 19, 2023 at <https://www.k12.wa.us/student-success/resources-subject-area/time-immemorial-tribal-sovereignty-washington-state>.
- 52 “School Report Card, 2021-22, Graduation Rates,” Office of Superintendent of Public Instruction (OSPI), accessed July 14, 2023 at <https://washingtonstatereportcard.ospi.k12.wa.us/ReportCard/ViewSchoolOrDistrict/103300>.
- 53 “School Report Card, 2021-22, Regular Attendance,” Office of Superintendent of Public Instruction (OSPI), accessed July 14, 2023 at <https://washingtonstatereportcard.ospi.k12.wa.us/ReportCard/ViewSchoolOrDistrict/103300>.
- 54 “School Report Card, 2021-22, Assessment,” Office of Superintendent of Public Instruction (OSPI), accessed July 14, 2023 at <https://washingtonstatereportcard.ospi.k12.wa.us/ReportCard/ViewSchoolOrDistrict/103300>.
- 55 “State-Tribal Education Compact Schools,” Office of Superintendent of Public Instruction (OSPI), accessed July 19, 2023 at <https://www.k12.wa.us/student-success/access-opportunity-education/native-education/state-tribal-education-compact-schools-stecs>.
- 56 Ibid.
- 57 “The ABCs of School Choice, 2023 Edition,” by EdChoice, page 14, accessed July 20, 2023, at <https://www.edchoice.org/wp-content/uploads/2023/01/2023-ABCs-WEB.pdf>.
- 58 Ibid.
- 59 “Guide to Supporting Students in Foster Care, 2018,” by Washington State Department of Health and Human Services (DSHA), Office of Superintendent of Public Instruction (OSPI) and Treehouse, page 12, accessed July 20, 2023 at <https://www.treehouseforkids.org/wp-content/uploads/2018/01/treehouse2017final2ndededinteractive.pdf>.
- 60 “Who Cares: A national count of foster homes and families, Washington state,” by The Imprint, accessed July 20, 2023 at <https://www.fostercarecapacity.com/states/washington>.

- 61 “2024 Annual Progress and Services Report,” Washington State Department of Children and Youth Services, page 53, accessed July 20, 2023 at <https://www.dcyf.wa.gov/sites/default/files/pdf/reports/APSR-2023.pdf>.
- 62 “Foster Care Facts,” treehouseforkids.org, accessed July 20, 2023 at https://www.treehouseforkids.org/about-treehouse/?gclid=CjwKCAjwтуOIBhBREiwA7agfltOfFzNdd0aDUd8Etea2nLECK5_vncym85GHW_B4MZms6Dgi6BwDPxoCPMUQAvD_BwE.
- 63 One in six students in foster care are homeless within a year of ageing out, which in Washington state is age 21. See “Foster Care Facts,” treehouseforkids.org, accessed July 20, 2023 at https://www.treehouseforkids.org/about-treehouse/?gclid=CjwKCAjwтуOIBhBREiwA7agfltOfFzNdd0aDUd8Etea2nLECK5_vncym85GHW_B4MZms6Dgi6BwDPxoCPMUQAvD_BwE.
- 64 HB 1969, “Creating and funding a school choice scholarship program for foster students,” Section 1, Subsection 2(d)(ii), February 8, 2019, at: <https://app.leg.wa.gov/bills/summary?BillNumber=1969&Initiative=false&Year=2019>.
- 65 “The ABCs of School Choice; The comprehensive guide to every private school choice program in America, 2023 Edition,” by EdChoice, page 94, accessed July 20, 2022 at <https://www.edchoice.org/wp-content/uploads/2023/01/2023-ABCs-WEB.pdf>.
- 66 “Pennsylvania education spending soars to all-time high,” The Commonwealth Foundation, June 9, 2022 at <https://www.commonwealthfoundation.org/research/pa-education-funding-all-time-high/#:~:text=State%20%20support%20of%20public%20education,per%20student%20public%20school%20funding>.
- 67 “Overview of School Funding,” Ohio Department of Education, accessed November 29, 2022, at <https://education.ohio.gov/Topics/Finance-and-Funding/Overview-of-School-Funding>.
- 68 “Table GA0-1, District of Columbia Public Schools, FY 2022. FY 2021, FY 2020, FY 2019,” District of Columbia Public Schools, at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/ga_dcps_chapter_2022s.pdf.

- 69 “Statewide Workload/Staffing/Finance, 2012-22, K12 Public Schools: District Staffing and Finance Data,” Washington State Fiscal Information, at <https://fiscal.wa.gov/K12/K12FinanceStatewide>.
- 70 Carson, et al. v. Makin, U.S. Supreme Court, Slip Opinion No. 20-1088, June 21, 2022, at https://www.supremecourt.gov/opinions/21pdf/20-1088_dbfi.pdf.
- 71 “School choice makes homeschoolers and private schools more safe from government - not less,” by Dr. Greg Forster, Oklahoma Council of Public Affairs, February 1, 2022, at <https://www.ocpathink.org/post/school-choice-makeshomeschoolers-and-private-schools-more-safe-from-government-not-less>.
- 72 Setting the Record Straight on Education Freedom; School Choice Myths, Edited by Corey A. DeAngelis and Neal P. McCluskey, (CATO Institute, Washington D.C. 2020), Chapter Nine by Lindsay Burke and Jason Bedrick, pages 129 - 144.
- 73 “New Federal Data Confirms Pandemic’s Blow to K-12 Enrollment, With Drop of 1.5 Million Students; Pre-K Experiences 22 Percent Decline,” by Kevin Mahnken, The 74 Million, June 28, 2022, at <https://www.the74million.org/article/public-school-enrollment-down-3-percent-worst-century/>.
- 74 “Common School Education Enrollment,” ComShc_Enrollment Data, Washington State Caseload Forecast Council, May 2023, at [Common Schools - Enrollment | Caseload Forecast Council \(wa.gov\)](https://www.wa.gov/education/our-work/common-schools-enrollment).
- 75 “Confidence in Public Schools Turns More Partisan,” by Lydia Saad, Gallup News, July 14, 2022 at <https://news.gallup.com/poll/394784/confidence-public-schools-turns-partisan.aspx>.
- 76 “Home-based Instruction Annual Reports, 2019-20, 2020-21, 2021-22, 2022-23,” by Office of Superintendent of Public Instruction, at <https://www.k12.wa.us/student-success/learning-alternatives/home-based-instruction>.
- 77 “Private School Enrollment, 2019-20, 2020-21, 2021-22,” by State Board of Education, accessed November 28, 2022 at <https://www.sbe.wa.gov/our-work/private-schools>.

- 78 “Enrollment Analysis: 2020-2022, Washington state,” by Katherine Bateman, Center for Reinventing Public Education, August 2022, at <https://crpe.org/wp-content/uploads/CRPE-WA-Enrollment-Brief-1-08262022-Publication.pdf>.
- 79 “Is Seattle Public Schools bargaining away class size reduction money?” by Liv Finne, Washington Policy Center, August 16, 2018, at <https://www.washingtonpolicy.org/publications/detail/is-seattle-public-schools-bargaining-away-class-size-reduction-money>.
- 80 ESHB 1109, “Operating Budget, 2019-21,” signed by Governor Inslee on May 21, 2019, at <https://app.leg.wa.gov/bills/summary?Year=2019&BillNumber=1109>.
- 81 “Photo Finish: Teacher certification doesn’t guarantee a winner,” by Thomas J. Kane, Jonah E. Rockoff and Douglas O. Staiger, Education Next, 2008, at <https://www.educationnext.org/photo-finish/>.
- 82 “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 <https://www.americanprogress.org/article/teacher-pay-reforms/>.
- 83 Ibid.
- 84 “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 https://www.schoolnewsnetwork.org/attachments/Sanders_Rivers-TVASS_teacher%20effects.pdf.
- 85 “Can you recognize an effective teacher when you recruit one?” by Jonah E. Rockoff, Brian A. Jacob, Thomas J. Kane, and Douglas O. Staiger, National Bureau of Economic Research (NBER), November 2008, at https://www.nber.org/system/files/working_papers/w14485/w14485.pdf.
- 86 “Students first – Why an effective teacher matters: A Q & A with Eric Hanushek,” by Eric Hanushek, Stanford University, Hoover Institution, February 2011, at <http://hanushek.stanford.edu/opinions/students-first-why-effectiveteacher-matters-q-eric-hanushek>.

- 87 SB 5044, “An act relating to equity, cultural competency and eliminating institutional racism,” signed by Governor Inslee May 5, 2021, at <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5044-S.SL.pdf?q=20230727095111>.
- 88 “Critical Race Theory: An Introduction,” by Jean Stefancic and Richard Delgado, Third Edition, NYU Press, 2017.
- 89 “Must teach morality and patriotism,” Revised Code of Washington, 28A.405.030, accessed July 31, 2023, at <https://apps.leg.wa.gov/rcw/default.aspx?cite=28A.405.030>.
- 90 “Washington State Ethnic Studies Framework: Supporting the teaching of ethnic studies in K-12,” by Office of Superintendent of Public Instruction (OSPI), page 7, accessed October 10, 2023, at <https://www.k12.wa.us/sites/default/files/public/socialstudies/EthnicStudies/WashingtonEthnicStudiesFramework.pdf>.
- 91 “Ethnic Studies; Ethnic Studies History and Pedagogy,” Office of Superintendent of Public Instruction (OSPI), page 6, accessed October 10, 2023, at: <https://www.k12.wa.us/sites/default/files/public/socialstudies/EthnicStudies/EthnicStudiesHistoryandPedagogy.pdf>.
- 92 “Seattle Public Schools, U.S. History Ethnic Studies Framework,” accessed October 10, 2023, at <https://www.k12.wa.us/sites/default/files/public/socialstudies/pubdocs/US%20History%20SDS%20ES%20Framework.pdf>.
- 93 “American Birthright: The Civics Alliance’s Model K-12 Social Studies Standards,” by The Civics Alliance, July 2022, page 25, at <https://civicsalliance.org/american-birthright/>.
- 94 “Know your rights—A Guide to Critical Race Theory, anti-discrimination law and civil rights protections for everyone,” by Liv Finne, Washington Policy Center, July 2021, at <https://www.washingtonpolicy.org/library/doclib/Finne-Know-your-rights-A-guide-to-Critical-Race-Theory-anti-discrimination-law-and-civil-rights-protections-for-everyone.pdf>.
- 95 “Discrimination, preferential treatment prohibited,” Revised Code of Washington 49.60.400, at <https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.400>.

- 96 “Using the Washington Tracking Network to Study Climate Impacts,” OER Commons, Open Educational Resources, Module 2, page 4, accessed July 28, 2023, at <https://oercommons.org/courseware/lesson/85763/overview>.
- 97 “Anti Science Attitude of the OER Climate Change Curriculum,” by Todd Myers and Vanessa Ramsey, Washington Policy Center, April 19, 2023, at <https://www.washingtonpolicy.org/publications/detail/anti-science-attitude-of-the-oer-climate-change-curriculum>.
- 98 “Using the Washington Tracking Network to Study Climate Impacts,” OER Commons, Open Educational Resources, page 16 of Module 4, accessed July 28, 2023, at <https://oercommons.org/courseware/lesson/85763/overview>.
- 99 “Northshore School District officials should not shut down popular Elementary Advanced Program for students,” by Liv Finne, Washington Policy Center, July 10, 2023, at <https://www.washingtonpolicy.org/publications/detail/northshore-school-district-officials-should-not-shut-down-popular-elementary-advanced-program-for-students>.
- 100 “Short-handed Army to miss recruiting goal for second year in a row,” by Davis Winkie, The Army Times, May 3, 2023, at <https://www.armytimes.com/news/your-army/2023/05/03/short-handed-army-to-miss-recruiting-goal-for-second-year-in-a-row/>.
- 101 “Army, Navy and Air Force predict recruiting shortfalls this year,” by Meghann Myers, The Army Times, April 19, 2023, at <https://www.militarytimes.com/news/your-military/2023/04/19/army-navy-and-air-force-predict-recruiting-shortfalls-this-year/>.
- 102 “Addressing the U.S. Military Recruiting Crisis,” by David Barno and Nora Bensahel, War on the Rocks, March 10, 2023 at <https://warontherocks.com/2023/03/addressing-the-u-s-military-recruiting-crisis/>.

CHAPTER VI

PROTECTING DEMOCRACY AND
PROMOTING ACCOUNTABLE GOVERNMENT



PROTECTING DEMOCRACY AND PROMOTING ACCOUNTABLE GOVERNMENT

1. Protect freedom of speech from government censorship
2. Improve public notice and ban the use of title-only bills
3. Apply the Public Records Act and the Open Public Meetings Act to the Legislature
4. Require a two-thirds vote of lawmakers to change a voter-approved initiative
5. Reduce the number of statewide elected offices
6. Allow regional elections for supreme court justices
7. Require that mail-in ballots be received by election day
8. Put a reasonable time limit on the governor's emergency power

Policy Recommendation:

1. PROTECT FREEDOM OF SPEECH FROM GOVERNMENT CENSORSHIP

In 2022 Governor Jay Inslee proposed a bill to make it illegal to criticize the outcome of an election by making statements that state officials judge to be “false” or “a lie”.¹

The proposal sought to make criticism of the election process or election outcomes a gross misdemeanor. The bill was drafted to apply to elected officials and to candidates for public office. It provided that any official convicted of “a gross misdemeanor for knowingly making false statements

regarding the election process or results” would be removed from office.² The bill was introduced by Senator Frockt and Senator Kuderer as SB 5843.

The governor said he sought to criminalize speech because of perceived “threats to democracy” linked to “knowledge of potential to create violence.”³ “It should not be legal...for elected officials or candidates for office to willfully lie about these election results,” Inslee said.⁴

Defeated in the senate

The governor’s bill received a public hearing in the Senate State Government and Elections Committee on January 28th and was passed by the full committee on a partisan vote with a “do pass” recommendation. The senate’s Democratic leadership had doubts about the bill, however, and it was later killed in the Rules Committee.⁵

Violating the First Amendment

The primary concern about the bill was its impact on core civil liberties. Free speech advocates argued the bill violated the First Amendment’s free speech protections. They said it was drafted to impose viewpoint discrimination and to silence the voices of the governor’s political opponents.⁶

The courts consistently uphold political free speech rights

Under the First Amendment the courts have recognized limits on specific types of speech based on neutral standards that apply equally to everyone. Libel, slander, defamation, obscenity, criminal conspiracy, public endangerment and commercial fraud are all areas in which speech rights can be limited by law.

The courts treat political speech differently. Recognizing the need for voters to have the widest possible access to information, and for the public to judge for themselves the truth of what politicians say, the courts have struck down several attempts to limit political speech.

For example, in *Citizens United v. Federal Elections Commission* the U.S. Supreme Court struck down a law passed by Congress as imposing unconstitutional restrictions on speech during political campaigns.⁷ In *Cohen v. California* the U.S. Supreme Court ruled that even political speech

that is considered disturbing, obscene or offensive is protected under the First Amendment.⁸

In 1998, the Washington State Supreme Court ruled in favor of political advertising against a ballot measure to legalize doctor-assisted suicide, even though the ad's opponents claimed the ad was materially false and done with malice.⁹

In 2007, the Washington State Supreme Court struck down a law that gave state agencies the power to impose censorship on political statements. In that case the court said the law:

“...wrongly presupposed the state possesses an independent right to determine truth and falsity in political debate.”¹⁰

The court rightly concluded that the people, not the government, should “be the final arbiter of truth in political debate.”¹¹

Raising past election controversy

The effort to control speech critical of an election result recalls the months-long controversy over the 2004 gubernatorial election, when one candidate won on election night, and won on a recount, but a month later was declared defeated by 129 votes on a third ballot count.¹²

If the proposed Inslee bill had been law at the time many of those who were engaged in the public debate would have been charged with a crime. Since the sitting governor had endorsed one of the candidates, there would have been questions about imposing a two-tier system of justice.

The assumption was that the law would be directed mostly against Republicans. The bill's prohibition, however, could be directed against members of both parties. For example, Democrats have questioned or rejected the results of the 2000, 2004 and 2016 national elections.¹³ In 2018, the losing Democratic candidate in another state said the election was “stolen from the voters.”¹⁴ If these statements had been made about Washington state elections the speakers would have been subject to prosecution under a bill like SB 5843.¹⁵

Conclusion

Critics of free speech and open debate frequently call for new laws to restrict political expression. Such proposals are designed to silence political opponents. A confident society based on self-government has no need of such laws. In a healthy democracy the public has a right to hear all viewpoints, regardless of party or of no party.

Proposing a special law directed at certain people is intended to have a chilling effect on free speech, making targeted groups afraid to express their true opinions. Threatening free speech blocks voters from getting honest information about where officials and candidates stand on the issues.

Free speech is at the core of democracy. The public should always be allowed to hear what officials and candidates have to say about elections, politics and policy ideas. For that reason lawmakers should ensure that the people's ability to express their views, and to hear the views of others, is always free from government censorship.

Policy Recommendation:

2. IMPROVE PUBLIC NOTICE AND BAN THE USE OF TITLE-ONLY BILLS

Washington 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.”¹⁶

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

Notice for public hearings

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.”¹⁷

The rules supposedly prohibit so-called title-only bills, a blank bill with a title and a number, but empty pages where text will be filled in later.

Lawmakers have a practice, however, of introducing title-only bills that have all the attributes of formal legislation – an assigned bill number, sponsor names, date of introduction, referral to committee – but no text.

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 considered in the last ten days of the legislative session, unless two-thirds of lawmakers agree, as provided under Article 2, Section 36 of state constitution.

Title-only bills as placeholders

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 a two-thirds vote.

If lawmakers feel the state constitution is getting in the way of being transparent and providing adequate public notice, they should propose repeal of Article 2, Section 36 and replace it with meaningful legislative transparency protections that would:

- Provide mandatory public notice and waiting periods before legislative action;
- Ban title-only bills, and;
- Subject the Legislature to the same transparency requirements that are placed on local governments.

Adopting these transparency protections and ending the practice of title-only bills would help lawmakers fulfill their promise, as noted above, to

“increase public participation, understanding, and transparency of the legislative process.”

Efforts to increase legislative transparency

The most blatant abuse occurred during the 2019 legislative session when lawmakers used the device to impose a massive last-minute tax increase on financial institutions. The measure imposed new costs across the economy and, because it targeted out-of-state banks, was of questionable constitutionality. The public had almost no chance to comment on the bill before it became law.

The lack of public process on that tax increase (HB 2167) meant that those subject to the tax had only a few hours notice before a hastily-called public hearing. Testifying on the bill, Trent House with the Washington Banking Association said:

“We found out about it [HB 2167] about three-and-a-half hours ago. That’s very difficult to process even with the best staff, it’s hard to get information back on a bill of this nature that raises this kind of money in that period of time... We haven’t seen a fiscal note. We don’t know exactly what this bill does or who it applies to. It’s very difficult to even understand how to testify on this bill not knowing that information.”¹⁸

Boosting public confidence in how laws are made

There is a way lawmakers can increase the public’s confidence in how laws are made. SB 6560, introduced in 2013, would have improved notice of public hearings and banned title-only bills. It would have forced the Legislature to make public decisions the same open way that city and county officials across the state do. It would have prevented committees from going into recess, as members negotiate secret agreements on amendments, then returning to public session to vote on them formally.

Conclusion

SB 6560 did not pass. Lawmakers should enact legislation like it to enhance transparency and bolster public confidence in the law-making process.

Policy Recommendation:

3. APPLY THE PUBLIC RECORDS ACT AND THE OPEN PUBLIC MEETINGS ACT TO THE LEGISLATURE

All state and local government agencies in Washington are subject to the Public Records Act and the Open Public Meetings Act. The Legislature, however, claims it is exempt from full disclosure. As a matter of fairness and open government the Legislature should follow the same disclosure and transparency requirements that the law requires of county and local government officials.

Full disclosure of public records

Nearly all local government records and internal communications are subject to public disclosure, but members of the Legislature and their staff claim special treatment and do not routinely release e-mails 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.

Conclusion

As the most powerful representative body in the state, the Legislature should lead by example and 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.

Policy Recommendation:

4. REQUIRE A TWO-THIRDS VOTE OF THE LEGISLATURE 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 general election, or 324,516 signatures.¹⁹

Protecting voter-passed laws

To ensure these laws enacted by the people are not immediately discarded by the Legislature, Article 2, Section 41 of the constitution requires a two-thirds vote of lawmakers to amend a voter-approved initiative within the first two years of passage. After two years, only a simple majority vote in the Legislature is required to amend or repeal a popular initiative.

The two-year protection for voter-passed initiatives may have been sufficient at one time, but the Legislature’s frequent practice of gutting voter-passed laws as soon as the time limit is up works against the will of the people.

Respecting basic constitutional powers

Article 2, Section 1 should be amended to remove the two-year expiration of the two-thirds vote requirement, and to require permanently a two-thirds vote for lawmakers to change laws enacted by the people.

Conclusion

If the Legislature cannot secure a two-thirds vote to amend an initiative, lawmakers by a simple majority should propose a ballot referendum

seeking voter ratification of the proposed changes. This would allow the voters a final say on the Legislature's desired changes and would respect the people's basic constitutional power as co-equal lawmakers.

Policy Recommendation:

5. REDUCE THE NUMBER OF STATEWIDE ELECTED OFFICES

The people of Washington elect officials to nine statewide offices (not counting justices to the state supreme court), more than almost any other state. These statewide offices are Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner.²⁰ 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 views held during the Progressive Era of the early 1900s.

Short ballot promotes public accountability

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 statewide offices and that elected officials are subject to greater public scrutiny when there are fewer of them.

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

Duties of many elected offices are just like 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;
- Chief of the 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 or 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, or by dismissing the offending cabinet officer.

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

Conclusion

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.

Policy Recommendation:

6. 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. Had Justice Debra Stephens not won election, *all* of the state's supreme court justices would be from the Puget Sound region.²¹

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.

Improving 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 ethnicity diversity should be represented on the court. The same could be said of geographic and cultural diversity across Washington state.

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.

Conclusion

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.

Policy Recommendation:

7. REQUIRE THAT MAIL-IN BALLOTS BE RECEIVED BY ELECTION DAY

Because Washington requires ballots only to be postmarked, not delivered, by election day, it is difficult to declare winners on election night.

Instead of an election day, we have an election month. A month of campaigning, followed by a month of waiting. The problem with holding a month-long election is the public cynicism and distrust it unnecessarily

breeds in the state's election results, as vote-leading candidates shift position days and weeks after the election.

A better system

Other states use a better system. Oregon has all-mail voting too but, unlike Washington, state ballots must be received by 8:00 p.m. on election day to be counted.

According to Oregon election official Brenda Bayes, this process is working just as voters intended when they adopted this requirement in 1998. Bayes notes:

“Our office typically does not receive complaints regarding a voter feeling like they are disenfranchised solely based upon the 8:00 p.m. restriction... Oregon voters appear to appreciate that they are able to have unofficial results quickly after the 8:00 p.m. deadline regarding candidates and measures. If Oregon were to go to a postmark deadline it would delay these unofficial results.”

Former Washington Secretary of State Sam Reed was a strong supporter of requiring that mail-in ballots arrive by election day. Reed said:

“I have long supported a requirement that ballots be returned to the county elections offices, by mail or drop box, by election day. Neighboring Oregon, which pioneered vote-by-mail via a citizen initiative more than a decade ago, has found that good voter education and steady reminders of the return deadline have produced excellent results.”²²

As noted by the National Council of State Legislatures,

“All-mail elections may slow down the vote counting process, especially if a state's policy is to allow ballots postmarked by election day to be received and counted in the days and weeks after the election.”²³

According to the National Association of Secretaries of State, the vast majority of states require mail-in ballots to actually be received by election day. In fact, the other all vote-by-mail states (Oregon and Colorado) require ballots to be received by election day.

Conclusion

To avoid concerns about possible voter disenfranchisement, military ballots could be exempted from the election day deadline, along with any ballots postmarked the Friday before the election. Voters who don't put their ballots in the mail in time could use secure drop boxes to deliver their ballots directly on election day. This is exactly what occurs for Oregon, Colorado and those counties in California that use all vote-by-mail.

Policy Recommendation:

8. PUT A REASONABLE TIME LIMIT ON THE GOVERNOR'S EMERGENCY POWERS

On February 29, 2020 Governor Inslee announced he was assuming full emergency powers. He provided no time limit on how long he would suspend democracy and exercise sole executive authority, primarily because state law does not require one.

Washington ranks near the bottom of states in providing democratic safeguards for the public.²⁴ A national study found that Washington ranks 45th worst for legislative oversight of the governor's emergency power. This analysis was not tied to any particular public issue, like responding to COVID-19, but made a neutral assessment based on executive power and limits on democracy.

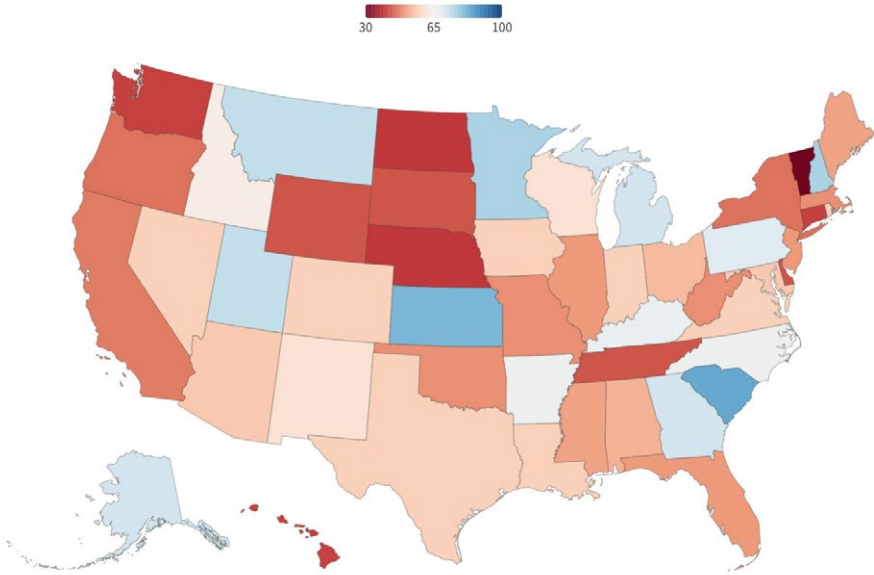
As the study authors state:

“...in this 50-State Emergency Powers Scorecard, states were not graded on how their governor exercised emergency powers during the COVID-19 pandemic. Rather, this scorecard judges the legal environment under which a governor may exercise executive power during a state of emergency.

“While some governors' actions (and resulting legislative or judicial action) during the pandemic helped determine a more exact interpretation of various state laws, the purpose of this scorecard was, and continues to be, to provide context and a point of comparison related to the extent of legislative oversight of the executive branch in times of emergency.”²⁵

Emergency Powers Checks & Balances Scorecard 2023

Highest score given to the greatest safeguards of liberty via legislative counterbalance to the governor



Washington ranks among the worst states in safeguarding democracy during the governor's use of emergency power

In Washington a State of Emergency can be declared only by the governor, and a State of Emergency can be terminated only by the governor. There is no time limit on how long the governor can exercise power without legislative or public oversight.

“The governor may suspend any law or regulation related to the emergency that does not interfere with First Amendment right to speech or assembly, or with prerequisite conditions for federal funds.”²⁶

In 2020, 2021 and 2022 Governor Inslee choose to retain sole executive authority for a record 975 days. As noted, he announced he was taking emergency power on February 29, 2020. He did not relinquish this power until October 31, 2022.²⁷

COVID-related emergency orders imposed lasting harm

During that period many business owners, workers, students and other ordinary citizens reacted with dread and confusion whenever the governor announced he was holding another press conference. No one knew what

draconian order he would issue next. Governor Inslee closed schools, cancelled all public gatherings, banned religious services, forced the wearing of face masks in public and imposed an experimental vaccine mandate, even on people who already had medical immunity.

As a result thousands of neighborhood businesses closed for good, millions of workers lost income and employment, communities and families were divided, and over one million schoolchildren suffered lasting academic, social and emotional harm.

The worst uncertainty was that no one knew when the governor's arbitrary use of emergency power would end. Contacting the governor's office was useless – the governor's staff frequently ignored questions from the public. Petitioning elected lawmakers was equally futile. The governor made it clear he would not accept legislative review or consult with lawmakers before issuing fresh orders to the public.

Governor Inslee rejects compromise

In the fall of 2020 there were bipartisan discussions about holding a special session to review the governor's executive actions and his willingness to suspend state laws.²⁸ Lawmakers of both parties made it clear they would likely support most of the governor's executive actions but they felt a commitment to democracy required an accounting to the public.

Elected legislators also wanted to show their constituents that they were engaged in the crisis and were representing the community's interests. Even so, Governor Inslee rejected the proposal and refused to call lawmakers into a special session.

Emergency powers reform

There is a simple reform the Legislature can adopt to restore balance to the governor's emergency power in Washington state. The law should be amended so that all emergency executive actions that suspend state law or impose restrictive orders expire automatically after 30 days of the declared date of a State of Emergency.

If within that time the Legislature confirms an emergency order, it would remain in place for another 30 days.²⁹ In this way the governor could still act quickly in cases of true public emergency. At the same time the public could be assured that their democratic rights are being protected.

A reasonable time limit on the exercise of emergency power is the standard in almost all other states. Harmonizing Washington's law so that restrictive proclamations expire after 30 days unless the Legislature votes to continue them should not be controversial. There is no logical reason to give any governor unlimited emergency power and still claim we live under an accountable, democratic system of government.

Requiring affirmative legislative approval would not remove a single tool from the governor's emergency toolbox. All existing executive authority would remain unchanged. The only change would be that secretive policymaking would have to be justified to the people's elected representatives.

Conclusion

Democracy is not meant to be the arbitrary rule of one man operating behind closed doors. No emergency order should last more than two-and-a-half years unless it has received review and confirmation from the legislative branch. The Legislature should act to align Washington with the standard used in nearly all other states to avoid future abuses of the governor's emergency power.

ADDITIONAL RESOURCES

“HB 1535 and SB 5063, to provide full legislative oversight of the governor’s emergency powers,” by Jason Mercier, Legislative Memo, March 1, 2023, at <https://www.washingtonpolicy.org/library/doclib/Mercier-HB-1535-and-SB-5063-to-provide-full-legislative-oversight-of-the-governor-s-emergency-powers-.pdf>.

“Emergency powers reform dies again without even receiving a public hearing,” by Jason Mercier, February 28, 2023, at <https://www.washingtonpolicy.org/publications/detail/emergency-powers-reform-dies-again-without-even-receiving-a-public-hearing>.

“SB 5843, to impose speech limits on criticizing the election process or the results of elections,” by Paul Guppy, Legislative Memo, January 24, 2022, at <https://www.washingtonpolicy.org/library/doclib/Guppy-SB-5843-to-impose-speech-limits-on-criticizing-the-election-process-or-the-results-of-elections.pdf>.

“Some Washington lawmakers are sidestepping the state’s Public Records Act,” by Joseph O’Sullivan, *Crosscut*, January 12, 2023, at <https://crosscut.com/politics/2023/01/some-wa-lawmakers-are-sidestepping-states-public-records-act>

“Senate rules propose title-only bill ban,” by Jason Mercier, January 5, 2023, at <https://www.washingtonpolicy.org/publications/detail/senate-rules-propose-title-only-bill-ban>

“National vote-by-mail standards needed to avoid election confusion,” by Jason Mercier, October 20, 2020, at <https://www.washingtonpolicy.org/publications/detail/national-vote-by-mail-standards-needed-to-avoid-election-confusion/>.

“Shrink the number of statewide elected offices to increase public accountability,” by Jason Mercier, guest op-ed, *The Seattle Times*, August 16, 2020, at <https://www.seattletimes.com/opinion/shrink-the-number-of-statewide-elected-offices-to-increase-public-accountability/>.

“It is impossible to analyze a title-only bill, because the text is blank,” by Jason Mercier, Legislative Memo, Washington Policy Center, April 2019, at <https://www.washingtonpolicy.org/library/doclib/Mercier-It-is-impossible-to-analyze-a-title-only-bill-because-the-text-is-blank-.pdf>.

“Timeline: Legislative public records debate,” by Jason Mercier, Washington Policy Center, February 23, 2018, at <https://www.washingtonpolicy.org/publications/detail/timeline-legislative-public-records-debate>.

“District elections for supreme court gets public hearing,” by Jason Mercier, Washington Policy Center, January 29, 2015, at <https://www.washingtonpolicy.org/publications/detail/district-elections-for-supreme-court-gets-public-hearing>.

“And the election winner is...to be determined,” by Jason Mercier, Washington Policy Center, November 3, 2014, at <https://www.washingtonpolicy.org/publications/detail/and-the-election-winner-is-to-be-determined>.

“Reducing Washington’s ‘long ballot’ for elections, time to restructure statewide elected policy offices,” by Jason Mercier, Policy Notes, Washington Policy Center, August 2008, at <https://www.washingtonpolicy.org/library/doclib/ElectedOfficialsPN.pdf>.

ENDNOTES

- 1 SB 5843, “Making it unlawful for public officials and candidates to knowingly make false statements and claims regarding the election process or results of elections conducted within the state,” introduced by Senators Frockt and Kuderer, by request of the Office of the Governor, Washington State Legislature, 2022 Regular Session, January 13, 2022, at <https://app.leg.wa.gov/bills/summary?BillNumber=5843&Year=2021>.
- 2 “Inslee says lying about elections should be a crime,” by Austin Jenkins, Northwest News Network, January 6, 2022, at <https://www.nwnewsnetwork.org/2022-01-06/inslee-says-lying-about-elections-should-be-a-crime>.
- 3 “Associated Press Legislative Preview,” Rachel La Corte, moderator, TVW, January 6, 2022, at <https://tvw.org/video/associated-press-legislative-preview-022011020/?eventID=2022011020&startStreamAt=7142>.
- 4 “Inslee says ‘stop the steal’ election lies from WA lawmakers should be a crime,” Associated Press and Herald staff, The Tri-City Herald, January 7, 2022, at <https://www.tri-cityherald.com/news/politics-government/article257113707.html>.
- 5 SB 5843, “Making it unlawful for public officials and candidates to knowingly make false statements and claims regarding the election process or results of elections conducted within the state,” referred to Senate Rule Committee “X” file, February 17, 2022, at <https://app.leg.wa.gov/bills/summary?BillNumber=5843&Year=2021>.
- 6 “SB 5843, to impose speech limits on criticizing the election process or the results of elections,” by Paul Guppy, Legislative Memo, Washington Policy Center, January 2022, at <https://www.washingtonpolicy.org/library/doclib/Guppy-SB-5843-to-impose-speech-limits-on-criticizing-the-election-process-or-the-results-of-elections.pdf>.
- 7 *Citizens United v. Federal Elections Commission*, United States Supreme Court, 558 U.S. 310, January 21, 2010, at <https://supreme.justia.com/cases/federal/us/558/310/>.
- 8 *Cohen v. California*, United States Supreme Court, 402 U.S. 15, June 7, 1971, at <https://supreme.justia.com/cases/federal/us/402/15/>.

- 9 State of Washington v. 119 Vote No! Committee, 135 Wn. 2d 618, Supreme Court of Washington, June 11, 1998, at <https://caselaw.findlaw.com/wa-supreme-court/1006411.html>.
- 10 Rickert v. State of Washington, Public Disclosure Commission, et al., 168 P.3d 826, Supreme Court of Washington, October 4, 2007, at <https://caselaw.findlaw.com/wa-supreme-court/1379647.html>.
- 11 Ibid.
- 12 “The contested governor’s election: A timeline of events,” The Seattle Times, June 6, 2005, at <https://www.seattletimes.com/seattle-news/the-contested-governors-election-a-timeline-of-events/>.
- 13 “Did Democrats object the last three times a Republican won the White House?” The Dispatch Fact Check, The Dispatch, January 5, 2021, at <https://factcheck.thedispatch.com/p/did-democrats-object-the-last-three>.
- 14 “Stacey Abrams repeats claim 2018 election was stolen from her under questioning from Ted Cruz,” Rudy Takala, Mediaite, MSN News, April 20, 2021, at <https://www.msn.com/en-us/news/politics/stacey-abrams-repeats-claim-2018-election-was-stolen-from-her-under-questioning-from-ted-cruz/ar-BB1fRG7i>.
- 15 Text of SB 5843, Section 2.
- 16 “House Mission Resolution,” Washington State Legislature, passed January 18, 2006, at <http://leg.wa.gov/House/Documents/HouseResolution.pdf>.
- 17 “Permanent Rules of the Senate,” Section V, Rule 45, “Committees,” Senate Resolution 8601, Washington Legislature, adopted January 9, 2023, at https://leg.wa.gov/Senate/Administration/Pages/senate_rules.aspx#rule45.
- 18 HB 2167, relating to tax revenue,” House Finance Committee, Washington Legislature, April 26, 2019, TVW.org, and quoted in “Governor asked to veto stealth tax increase due to transparency concerns,” by Jason Mercier, Washington Policy Center, at <https://www.washingtonpolicy.org/publications/detail/governor-asked-to-veto-stealth-tax-increase-due-to-transparency-concerns>.

- 19 “Frequently Asked Questions about Circulating Initiative and Referendum Petitions,” Current Petition Check Statistics, Elections and Voting, Office of the Secretary of State, Olympia, Washington, accessed October 31, 2023, at <https://www.sos.wa.gov/elections/initiatives/faq.aspx>.
- 20 “State Executive Offices,” Descriptions of Elected Offices, Elections and Voting, Office of the Secretary of State, accessed October 31, 2023, at <https://www.sos.wa.gov/elections/candidates-campaigns/information/descriptions-elected-offices>.
- 21 “Washington Supreme Court Justices,” Washington Courts, accessed October 31, 2023, at https://www.courts.wa.gov/appellate_trial_courts/SupremeCourt/?fa=supremecourt.justices.
- 22 “Polls point to weeks of waiting for election results,” by Jason Mercier, Washington Policy Center, October 24, 2012, at <https://www.washingtonpolicy.org/publications/detail/polls-point-to-weeks-of-waiting-for-election-results>.
- 23 “All-Mail Elections (aka Vote-By-Mail),” by Dylan Lynch, National Council of State Legislatures (NCSL), June 27, 2019, at <http://www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx>.
- 24 “Washington’s emergency powers statute ranked 45th worst nationally for legislative oversight,” by Jason Mercier, Washington Policy Center, March 7, 2023, at <https://www.washingtonpolicy.org/publications/detail/washingtons-emergency-powers-statute-ranked-45th-worst-nationally-for-legislative-oversight>.
- 25 “Scoring emergency executive power in all 50 states,” Introduction and Methodology, by Nick Murray, Director of Policy, Maine Policy Institute, Issue Brief No. 13, March 2023, at <https://mainepolicy.org/wp-content/uploads/EP-Report-3rd-edition.pdf>.
- 26 Ibid.
- 27 “Inslee issues COVID-19 emergency proclamation,” press release, Office of the Governor, Washington state, February 29, 2020, at <https://governor.wa.gov/news/2020/inslee-issues-covid-19-emergency-proclamation>, and “State’s COVID emergency order ends next week,” press release, Office of the Governor, Washington state, October 28, 2022, at <https://governor.wa.gov/news/2022/states-covid-emergency-order-ends-next-week>.

28 “More calls for special session,” by Jason Mercier, Washington Policy Center, August 28, 2020, at <https://www.washingtonpolicy.org/publications/detail/more-calls-for-a-special-session>.

29 In 2023 reform proposals were introduced that would have placed a reasonable time limit in the state’s emergency law. Among these were HB 1535 and SB 5063. The governor informed lawmakers that he opposed any limit on his use of emergency power and no action was taken.

CHAPTER VII

CREATING JOBS AND PROTECTING WORKER RIGHTS





CHAPTER VII

CREATING JOBS AND PROTECTING WORKER RIGHTS

1. Protect worker rights by making Washington a right-to-work state
2. Allow workers to leave a union and not be fired
3. Protect caregivers' wages for providing services to Medicaid clients
4. End secret union negotiations and honor the Open Public Meetings Act
5. Legalize private insurance for workers' compensation
6. Repeal the long-term care payroll tax
7. Repeal payroll taxes that are harming workers
8. Remove the need to have a college-degree from most state job requirements
9. Re-hire workers fired by Governor Inslee's vaccine mandate

Policy Recommendation:

1. PROTECT WORKER RIGHTS BY MAKING WASHINGTON A RIGHT-TO-WORK STATE

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

Right-to-work laws exist in 26 states

Right-to-work laws are common. They are the law of the land in 26 states and Guam.¹ Washington state is not among those 26 states. Right-to-work laws can help attract new businesses, improve job creation, and promote economic development.² More importantly, and the main reason a right-to-work law is needed in Washington state, these laws protect workers' civil rights. No one should be forced to finance union political activity with which he disagrees.

In 2018, the U.S. Supreme Court ruled in *Janus v. AFSCME* that public employees do not have to pay union dues as a condition of employment.³ The ruling means right-to-work is the law for all public-sector workers in the U.S., although this right is unfairly restricted by laws and practices meant to keep employees from exercising their full rights in Washington state. This problem is discussed further in the next section.

Private-sector employees in Washington state should have their free association rights protected, too.⁴

Right-to-work law is not anti-union

Labor unions operate in right-to-work states, and a right-to-work law does not prevent employees from joining a union voluntarily. Instead, right-to-work laws safeguard employees' freedom of association whether or not they want to be a part of a union. Such protections prohibit the firing of an employee for refusing to join a union, and they prohibit termination when an employee chooses to join or support a union.

This even-handed worker protection law shows that a right-to-work law does not prevent the formation of a union. Unions should not have it both ways, by supporting the right to join to a union while opposing the right not to join a union.

Right-to-work laws promote business growth, jobs

Studies show that states with right-to-work laws attract more new business and investment than states without such laws. Right-to-work states consistently outperform forced-union states in employment growth, population growth, and in-migration.⁵

Research shows that companies consider right-to-work laws a major factor when deciding where to locate. Findings show:

“...roughly half of all major businesses refuse to consider locating in jurisdictions with compulsory dues. Bureau of Labor Statistics data show that between 1990 and 2014, total employment grew more than twice as fast in right-to-work states as in states with compulsory dues.”⁶

An independent economic study measured the business and employment benefits if Washington state were to become a right-to-work state.⁷

Like other right-to-work states, Washington state would benefit from a boost in employment, higher economic growth and greater tax revenue. Washington’s non-right-to-work status hampers the state’s business climate and decreases competitiveness.⁸ This study found that right-to-work states gain from:

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

Personal income growth depends on individual workers, of course. Some would gain substantially from the annual savings of union dues taken for politics with which they disagree.

Results are mixed about how right-to-work laws impact the wages of individuals as a whole.⁹ Individuals’ average wages in right-to-work states are slightly lower than in non-right-to-work states, but this has much to do with states’ cost-of-living. Some research shows that when wages are adjusted for the cost of living, workers protected by right-to-work laws enjoy higher real disposable income than workers in non-right-to-work states. Other studies find that when cost-of-living is controlled for, workers in states where union membership is voluntary do not have lower real wages than workers in states with compulsory unionism. There is also some evidence showing that right-to-work laws can increase wage rates because of increased productivity.

Right-to-work laws promote fairness

Regardless of economics and the effect of right-to-work laws on individual wages, the fairness inherent in right-to-work laws is clear. Workers should have the freedom to decide whether or not they want to support a union financially without getting fired.

If workers find union membership is worthwhile, they will voluntarily join. If they do not, or if they disagree with the politics and campaign spending of a union, they should not be forced to support it.

Conclusion

When comparing state business climates, Washington state enjoys high marks for access to world markets and for a highly-trained, innovative workforce. It is in danger of losing the competitive advantage it has had in the past for not having an income tax. Recently enacted payroll taxes and a capital gains income tax are already harming Washington's business climate.¹⁰

Adding a right-to-work law to protect private-sector workers would serve the public interest by promoting fairness and social justice for workers, while enhancing Washington's economic competitiveness.

Policy Recommendation:

2. ALLOW WORKERS TO LEAVE A UNION AND NOT BE FIRED

In June 2018, the U.S. Supreme Court ruled in *Janus v. AFSCME* that public-sector workers cannot be forced to join a union or pay dues as a condition of employment.¹¹ Yet many public employees in Washington state are not informed about their Janus rights. Even when they are, state officials work to stop their ability to exercise these rights.

State officials even act as bill collectors, taking funds from employee paychecks each month and diverting the money to unions. This secretive practice keeps workers in the dark. Union dues should be voluntary and paid like other bills, openly by the employees themselves. After all, the government doesn't collect people's rent or utility bills.

Blocking worker rights

In April 2019, the Washington state Legislature imposed a series of rules to block public-sector workers from leaving a union.¹² This highly partisan measure, HB 1575, passed along party lines, with only Democrats voting for it and Republicans opposing it. Governor Jay Inslee signed the bill into law on April 30.

The law imposes a number of restrictions on the civil rights public-sector workers, including:

- Allowing unions to sign up a worker based on electronic or recorded voice messages (clear written permission from the worker is no longer required);
- Requiring workers who want to leave the union to submit the request in writing;
- Forbidding employers from recognizing a worker's Janus rights without first getting approval from the union;
- Ending ballot secrecy protections when workers vote on whether to be represented by a union — instead, workers must sign or reject a public “show of interest” card in person in the presence of union organizers;
- Weakening safeguards against forcing union representation at a government agency, cutting the approval threshold from 70% of workers to only 50%.

In 2023, lawmakers passed another partisan bill, HB 1200, along strict party lines.¹³ It requires government agencies to send the home address and personal contact information of their employees to union representatives. Unions can already contact employees in the workplace. This opens employees up to union harassment at home and being pressured in new ways. For public workers, the union literally “knows where you live.”

Favor to unions, disadvantage to workers

The clear purpose of HB 1575 and HB 1200 is to protect the maximum political strength of unions in state policy by keeping employees as members – along with their money. Unions play an influential role at election time, providing financial support to candidates who promise to protect the union's privileged position.

Anti-worker rights bill is likely unconstitutional

Since it represents a clear violation of freedom of association, HB 1575 is almost certainly unconstitutional. This point was raised in committee debate by Rep. Drew Stokesbary (R-Auburn). He noted the bill makes it “... incredibly more difficult to opt out [of a union] than it is to opt in” and exposes the state to liability for wrongful withholding of employee wages.¹⁴

Democrats said they are not concerned about the constitutionality of the proposed bill. They said the Legislature “is not the venue where we determine constitutionality, it happens across the parking lot [at the state supreme court building].”¹⁵

Conclusion

Laws that burden the constitutional rights of workers should be repealed. Instead of making it more difficult for workers to associate freely, lawmakers should enact safeguards that protect the civil rights of public employees and make it as easy to leave a union as it is to join one.

Lawmakers should make it a priority to inform workers of their civil right to leave a union whenever they wish, without threat, intimidation, harassment, or job loss. They should stop the government’s collection of union dues and help ensure dues are only collected with voluntary consent.

Policy Recommendation:

3. PROTECT CAREGIVERS’ WAGES FOR PROVIDING SERVICES TO MEDICAID CLIENTS

Home health care workers are hired by disabled Medicaid recipients or their legal guardians to provide in-home care services and are paid with state funding. The hired worker is often a family member caring for an elderly parent or disabled child. Soon, people qualifying for a long-term care benefit through WA Cares, a controversial social program imposed by the state and funded by taxes on workers, will be able to pay a health care worker, friend or family member to provide in-home care services.¹⁶

Union skimmed money from family caregivers' monthly checks

The politically powerful Service Employees International Union (SEIU) and state officials have joined in dipping into the taxpayer-provided compensation going to home caregivers.¹⁷

SEIU took money from caregivers for “dues” to pay for “union representation,” even though many people did not know the state had labeled them “employees of the state.” Caregivers for Medicaid recipients are clearly not state employees. They are not hired, fired, or even supervised by state managers. They do not receive the pay, vacation, retirement, and health benefits that actual state employees get.

SEIU did not even have to do the collecting. A state agency automatically took the money from the caregivers' Medicaid payment and gave it to the union. Home caregivers never even saw their money before it was diverted to SEIU.

The arrangement between the state and SEIU was highly profitable for the union. SEIU took about \$27 million from Medicaid care payments annually.¹⁸

In 2014, the U.S. Supreme Court invalidated the SEIU's Medicaid dues-skim. Further, in 2019, the U.S. Department of Health and Human Services announced that states cannot take part of monthly Medicaid payments to benefit a third party, such as a union.¹⁹

Not happy with these worker protections, SEIU continues to prevent people from exercising their right not to pay union dues. SEIU sends confusing information to caregivers, files hostile lawsuits, and works to keep home care providers from being informed about their rights.²⁰

In addition to these tactics, SEIU violated the U.S. Supreme Court ruling by imposing an “opt-out” system that puts the burden of stopping dues on the caregivers, not on the union. Worse, the union made the “opt-out” system confusing and difficult, saying caregivers can only ask to leave the union during one 15-day period each year, the dates of which are different for every person.²¹

New SEIU-state arrangement in WA Cares

In 2019, the Legislature imposed a payroll tax to fund a new long-term care program called WA Cares.²² The Legislature included a special favor for SEIU.

The program requires mandatory training for people working as long-term care providers. Only SEIU is allowed to provide this training. The provision states, “Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section.”²³

In 2023, the department made it clear that SEIU 775 Benefits Group will provide that required training as part of an entity called the Consumer Direct Care Network.²⁴

The union will have unfettered access to all caregivers because of the state-required training. SEIU 775 is one of the largest campaign donors in the state and represents more than 45,000 long-term care workers. The union lobbied hard for passage of the bill. The training requirement will increase the cost of care and home services for the elderly. It will also bring a substantial financial windfall to the union leaders at SEIU 775.

Conclusion

Medicaid dollars are supposed to make sure the elderly, sick, and disabled receive the loving in-home care they need rather than being forced to go to a nursing home or a state institution.

WA Cares tax dollars are supposed to go to people in need of assistance with the activities of daily life. The state and federal money paid to caregivers should not be siphoned away to enrich a politically powerful union. Washington lawmakers have a duty to see that home caregivers’ civil rights are respected and that these workers receive the full payments to which they are entitled under the law.

Policy Recommendation:

4. END SECRET UNION NEGOTIATIONS AND HONOR THE OPEN PUBLIC MEETINGS ACT

Washington state has one of the strongest open government laws in the country. The state’s Public Records Act and the Open Meetings Act

(OPMA) require that both laws be “liberally construed” to promote open government and accountability to the public. The law says:

“The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people’s public servants of their views so that they may retain control over the instruments they have created.”²⁵

Billions of dollars negotiated in secret

Despite this strong mandate for transparency, government collective bargaining contracts in Washington state are usually negotiated in secret. There is no option for the public to know what happens in such negotiations until well after negotiations are over and agreements have been signed. These secret negotiations between union leaders and public officials involve billions of dollars in public money.

Public shut out of talks

In practice, this means the public, including the public employees themselves, does not have access to these secret negotiations until after an agreement has been struck. At that point, the final contract and its cost are posted on the website of the state Office of Financial Management (OFM). Even then, the details of a collective bargaining agreement are kept secret.

The public can only be informed after contracts have been signed, and only then if someone asks for it. Even then, state agencies take two or three months to respond to a public records request.

Only government officials and union executives who negotiated the deal know what offers were made and rejected in collective bargaining negotiations. Public employees are left in the dark about how well their interests are being represented. They have a right to know what is being negotiated on their behalf.

Open collective bargaining happens in other states

Secrecy is not the rule in every state. Washington's neighbors, Oregon and Idaho, require collective bargaining negotiations to be open to the public. Of the 47 states that have collective bargaining, 22 provide some level of public access to these negotiations.

In addition, at least eight local governments in Washington have ended secrecy and embraced public transparency. Examples include the city of Gig Harbor, Ferry, Lincoln and Kittitas counties, and the Pullman and Kennewick school districts.

Conclusion

Negotiations with public-sector unions should not be conducted in secret, especially when powerful unions are “negotiating” with public officials they helped elect to office. The public should be allowed to follow the process and hold government officials accountable for the spending decisions they make on taxpayers' behalf.

Opening collective bargaining talks would reduce insider corruption, would help rebuild public trust, and would create a more open, honest and accountable government.

Policy Recommendation:

5. LEGALIZE PRIVATE INSURANCE FOR WORKERS' COMPENSATION

Washington is one of only four states that ban business owners from buying affordable workers' compensation insurance in a competitive private market. Instead, 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 they face no competition. The state-run insurance company is highly profitable and guarantees long-term and lucrative employment for its executives and staff.

As a result, Washington's workers' compensation system is one of the most expensive in the nation. There is a proposal to increase the current high rates paid by employers and workers in 2024 by 4.9%.²⁶

Ohio, North Dakota, and Wyoming also enforce monopoly systems.²⁷ The 46 other states let employers shop among many competing private insurers, allowing them to find the best coverage for their workers at the best price. Increasing insurance choices through private competition would make workers' compensation more effective and less expensive.

Private insurance increases worker safety

Legalizing private insurance would help reduce workplace injuries. Employers know a dangerous work environment 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 employers, insurance companies have dramatically reduced the risk of workplace injuries.

For example, in 2006, 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 sharply, saving employers hundreds of millions each year. Even as costs declined and safety increased, workers who did suffer an injury received more protection and better service.

In 2023, the Office of the Insurance Commissioner in West Virginia reported that the state's workers' compensation market comprises over 330 private carriers. Since the state's privatization law went into effect, aggregate injury-loss costs have decreased by more than 80%.²⁸

State insurance monopoly offers no choice

By running its own insurance monopoly, Washington state lags behind other states. Real-world experience shows that allowing competition reduces workers' compensation costs and improves safety. Currently, Washington state managers know their insurance program can never go out of business, so they continue to raise rates. They know buying state-sponsored coverage is the law and that employers have no other choice.

Conclusion

Legalizing market competition would reduce the number of workplace accidents and help workers who are injured return to work sooner. Most

states have found private coverage reduces costs, increases safety and protects workers.

The purpose of state workplace laws is to protect workers, not create a highly-profitable monopoly that benefits a state agency by banning private competition. Ending the state's workers' compensation program may reduce the power and money controlled by public officials, but it could increase safety and benefit all workers in Washington.

Policy Recommendation:

6. REPEAL THE LONG-TERM CARE PAYROLL TAX

In 2019, the Legislature passed a law to create a new payroll tax and impose a mandatory long-term care (LTC) entitlement program on Washington state workers. The law is designed to help the state get more money for its Medicaid budget, given a looming long-term care funding crisis in a graying state population.

By shifting some long-term care costs onto workers, the state could save federal Medicaid dollars and continue to misplace budget priorities. Governor Jay Inslee signed the bill creating the payroll tax on May 13, 2019.²⁹

To help mask the unpopularity of the long-term care tax, the program was later re-named the WA Cares Fund.³⁰

The Legislature set the new payroll tax at 58 cents for every \$100 people earn with no income limit. It was initially planned to start on January 1, 2022. Public opposition and the glaringly unfair details in the program, however, caused Governor Inslee to ask the Legislature to delay collecting the tax and make some small adjustments to the unpopular law.

Lawmakers agreed and delayed the tax to start on July 1, 2023, so it would fall after the 2022 mid-term election. They also created a partial benefit for some near-retirees and additional exemption categories.³¹ The legislation was fast-tracked in the 2022 session, and the governor signed it on January 27, 2022.

Even with the changes to the law, the state-run program will not fix Washington state's long-term care crisis, nor does it provide peace of mind to workers forced to fund it. Solvency concerns, a meager lifetime benefit

of only \$36,500, and unfair eligibility qualifications continue to plague the program.

It also imposes a highly regressive tax. Some low-income workers are being forced to hand a portion of their income over to wealthier people who will never need taxpayer money for long-term care.

Voluntary exemptions

This entitlement program is mandatory for all W-2 employees. The original bill included a voluntary opt-out provision for workers who could show they had private long-term care insurance already. Some 500,000 people rushed to opt out.

In 2021, lawmakers, seeing more trouble than they had already expected, cut off the opt-out provision on November 1st.³² This was two months before the initial tax was scheduled to take effect, so the Legislature ended the opt-out choice before most people even knew they would be paying a new tax.

Despite the lack of state notice to the public, by October 2021, the state opt-out website was overwhelmed with applications and insurance brokers were swamped with requests for affordable private coverage. As noted, half a million people managed to get out of the program before lawmakers cut off the exemption. In response to an inquiry, the Employment Security Department told the Washington Policy Center in 2022 that the number of workers who opted out represents about 11% of those with recent employment.

Unfair eligibility

Workers who live out of state, workers on non-immigrant work visas and near-retirees would have had to pay in but would receive no benefits under the original legislation. Hearing the outcry about the unfairness of taxing out of state residents, the Legislature created new categories of exemption that apply to workers living out of state.

Even so, families of workers who die before needing long-term care will not see any benefit. Unlike private retirement savings, the funds are not transferrable to heirs. Similarly, workers who retire out of state will receive nothing.

There are other restrictions. A worker who pays the tax for nine years or less gets nothing. A retired person must need help with at least three daily activities before receiving any benefit.³³ Most private long-term care plans have better terms and are much more generous.

Funding the program

The tax started in 2023, but the state won't pay any benefits until 2026. All current and future W-2 workers must pay 58 cents of every \$100 they earn, with no income cap. This new payroll tax is in addition to taxes for Social Security, Medicare, Medicaid, unemployment insurance, workers' compensation, the state's Paid Family and Medical Leave program and the federal income tax.

This combination of taxes represents a significant cut in take-home pay for all salaried and hourly workers. For the long-term care tax alone, a worker earning \$25,000 will pay \$145 a year, a worker making \$50,000 will pay \$290, those making \$100,000 will pay \$580, and so on. This is at the initial rate. The Legislature is expected to increase the tax rate in future years.

Inadequate benefit

This program and payroll tax are intended to ease long-term care costs paid out by Medicaid, saving the state money.³⁴ The program's lifetime benefit, however, is only \$36,500, barely enough to pay for three months of nursing home care at current prices.³⁵

Given the way the program is structured, state budget writers, not average workers, are the greatest beneficiaries of WA Care's long-term care payroll tax.

State program harmed the private market

The availability of private long-term care plans halted as the state's mandatory program neared its initial implementation date of January 1, 2022. Even people who wanted the insurance and qualified for it found they were unable to buy it.

Affordable private long-term care coverage was unavailable in Washington state for many months. In 2023, some insurers again offered plans in the state. The state now encourages people to buy long-term care insurance

to supplement the state's low benefit level, an acknowledgment of the poor quality of the WA Cares program.

The 18-month delay passed by the Legislature in 2022 brought even more disruption to the private insurance market. It also brought confusion for many people trying to plan for retirement, and it promoted feelings of betrayal and distrust of state government. Workers who played by the state's rules found they were punished financially by having to buy long-term care insurance they didn't want and may never need.

High administrative costs

Lawmakers say the new program will save the state \$1.9 billion in Medicaid spending from 2022 to 2053. However, given estimated program costs of \$675 million over the same period, workers will pay more than \$30 billion for the state to realize net savings of just over \$1.2 billion.³⁶

Even this level of savings, however, is unlikely. Lawmakers and the governor have underestimated the administrative costs involved. WA Cares commissioners are concerned that the program is likely already insolvent.

Financial insolvency

The state's long-term care program will not be able to pay for itself. It was declared insolvent before it even began. Seeking the ability to invest long-term care trust fund dollars in private stocks to help with program solvency, the Legislature placed a constitutional amendment, Engrossed Senate Joint Resolution 8212, on the ballot. Voters defeated it by 54% to 46%.³⁷

State Actuary Matt Smith reported the program faces a \$15 billion shortfall.³⁸ There is concern that the tax of 58 cents per \$100 will be increased, or the benefit amount of \$36,500 cut, or both, to keep the program viable in future years.

At meetings of the Long-Term Services and Supports Trust Commission, members acknowledge the problem of financial insolvency.³⁹ The expressed concern about the projected shortfall and what that would mean for tax rates and benefit cuts in the future. Despite the program's most recent actuarial report, problems of insolvency remain.

False assurances, misinformation

State officials promised the WA Cares program would meet people's long-term care needs, reduce the burden on families and provide peace of mind.⁴⁰ These claims are not true.

The inadequate benefit does not provide peace of mind and will not cover most long-term care costs. In most cases, people will need to spend their savings and depend on family for assistance. Many elderly people will still end up on Medicaid when the small WA Cares benefit runs out.

Further, the program does nothing for people who need help with fewer than three daily life activities or who move out of state. By spreading misinformation, state officials created a false sense of security and discouraged people from buying private insurance or saving effectively for long-term care expenses.

To hide the socialist nature of the program, lawmakers refer to the payroll tax as a "premium" and to the program as "insurance." The program is not insurance. It is a traditional government entitlement program. Attaching comforting private-sector terms to WA Cares is an attempt to hide the coercive nature of the program and is clearly intended to mislead the public.

Conclusion

An honest review of the weaknesses and failed promises of the WA Cares payroll tax shows it is not a viable solution and should be repealed.

Lawmakers should cut insurance taxes and repeal regulations that make private long-term care insurance so expensive. Lawmakers should encourage private-sector competition so workers can shop for the best coverage at the best price. Officials should stop limiting what coverage can be sold in our state.⁴¹ Washington residents deserve access to a wide range of choices and prices, so they can gain the best coverage to meet their individual needs.

Instead of imposing new taxes and forcing participation in a socialized state program, state lawmakers should repeal the unpopular long-term care law and encourage people to prioritize planning for end-of-life needs. The Legislature should cut insurance taxes and promote a price-competitive private market to make long-term care coverage accessible to everyone.

Policy Recommendation:

7. REPEAL PAYROLL TAXES THAT ARE HARMING WORKERS

Payroll taxes in the state are both too high and too regressive, making Washington a harder place to live, work, and raise a family. High payroll taxes allow state lawmakers to avoid setting clear budget priorities and keeping public spending within the state's means. They create yet another layer of taxation and increase the financial burden officials impose on workers in the state.

In 2017, lawmakers imposed a mandatory paid family and medical leave (PFML) payroll tax on employers and employees.⁴² Washington was only the fifth state to do so. The tax collection began in 2019, and lawmakers set the tax rate at 0.4% of an employee's gross wages, up to the Social Security income cap.

Employees must pay 72.76% of the payroll tax and employers with 50 or more workers pay the remaining 27.24%. Businesses with fewer than 50 workers are not required to pay the employer share, but their workers must still pay 72.76% of the tax. Small business employees are fully eligible for the benefit, and employers must accommodate the impact on their businesses from employees' PFML absences.

In economic terms, however, the employee pays the full tax. Employers base hiring on the total cost of putting a worker on the payroll, regardless of how those costs are allocated. For the employer, the cost of wages, taxes, and benefits to fill a position are all part of the same accounting, and any money devoted to taxes reduces the amount available for wages.

As with many new entitlements lawmakers set the initial tax rate low in order to get the program started and make it more acceptable to the public. Naturally, the underfunding soon became apparent and officials have already doubled the tax rate to 0.8%.⁴³ State lawmakers also bailed the troubled program by diverting \$350 million in taxpayer funds to it.⁴⁴

Shortly after imposing this new tax, lawmakers added another payroll tax for a long-term care entitlement called the WA Cares fund. This tax extracts a further 58 cents per \$100 earned by all W-2 employees, with no income cap, further reducing each worker's take home pay.

Conclusion

If lawmakers really want to help workers and make Washington an attractive place to live and work, the Legislature would repeal these two programs and safeguard wages from future takings by the state. General tax revenues have grown rapidly even without new payroll taxes, yet the Legislature has provided the public with no tax relief at all.⁴⁵

Mandating a new program may make state lawmakers feel generous, but the taxes fund “benefits” that many workers don’t want and wouldn’t pay for if allowed a choice. In this sense mandated benefits punish workers by cutting take-home wages in return for a benefit they may never use.

These extra payroll taxes are unfair and regressive because, in many cases, policymakers make low-wage workers fund mandated benefits that go to high-income earners. Many workers would rather have lower taxes and higher cash earnings than pay for a benefit they don’t want or need while being forced to subsidize benefits for others.

Policy Recommendation:

8. REMOVE THE NEED TO HAVE A COLLEGE DEGREE FROM MOST STATE JOB REQUIREMENTS

In today’s more flexible economy, and with changing social attitudes about the high cost of college, employers increasingly question the need to require that job applicants have a traditional four-year degree.

In the public sector, some states have removed degree requirements that block otherwise qualified applicants from getting a state job. Other states are commissioning research work to analyze which jobs should no longer require a four-year degree and whether this requirement is ever needed to fill certain positions.

Governor Larry Hogan (R-Maryland) started this movement in 2022, and he was soon joined by Governor Jared Polis (D-Colorado).

In January 2023, Governor Josh Shapiro (D-Pennsylvania) signed an executive order on his first full day in office to end the four-year college degree requirement in most state jobs. According to the governor’s office, more than 90% of all the government jobs in Pennsylvania, or about 65,000

positions, have been made available to applicants regardless of college status.⁴⁶

This reform effort is bipartisan, with elected officials of both parties moving to place a higher value on demonstrated skills and experience than automatically requiring a four-year college credential.⁴⁷

Former President Barack Obama has endorsed the idea, saying:

“Here’s an example of a smart policy that gets rid of unnecessary college degree requirements and reduces barriers to good paying jobs. I hope other states follow suit!”⁴⁸

This movement has been happening in the private sector, too.⁴⁹ Companies like Apple, Tesla, IBM, Delta Airlines, and Hilton no longer require a college degree when granting a job interview.⁵⁰ A recent study of the economy found that the percentage of private-sector jobs that require a traditional college degrees fell from 51% in 2017 to 44% in 2021.

A Gallup poll found that the share of young adults who say a college education is “very important” has dropped from 74% to 41% in recent years.⁵¹ The nation is ready to promote government policies that will help millions of Americans who did not go to college, or who spent thousands on college tuition but did not graduate, apply for a wider range of jobs.

Washington leaders should instruct state agencies to emphasize work experience and skills in their hiring practices, not degree requirements. In fact, many agency positions already only require a two-year associate degree rather than a traditional four-year college degree.⁵²

Conclusion

Washington state lawmakers should acknowledge the many different routes people take to prepare to be successful at work, including on-the-job training and advancement, apprenticeships, internships, and vocational training, in addition to traditional college classes.

State leaders should build on this positive trend and drop arbitrary college qualifications that screen out many potential applicants. This reform would reduce the level of college debt and help more qualified workers find employment. It also would help the state fulfill its service role to taxpayers while attracting the best talent available.

State hiring should be based on the skills and abilities needed for the position, without automatically excluding applicants who don't have a college degree. As the Harvard Business School puts it, "Jobs do not require four-year degrees. Employers do."⁵³

Policy Recommendation:

9. RE-HIRE WORKERS FIRED BY GOVERNOR INSLEE'S VACCINE MANDATE

In August 2022, Governor Jay Inslee imposed a COVID-19 vaccine mandate on all state employees and contractors despite widespread health concerns about its effectiveness and potentially harmful side effects.⁵⁴ As a result of the mandate, thousands of workers lost their jobs, many of whom had already acquired a high level of immunity to COVID-19, and in spite of medical findings that showed the vaccine did not prevent infection or stop the spread of the virus.

In an effort to overcome employee concerns about the potential health risks of the vaccine, the governor offered to pay a \$1,000 bonus to any employee who agreed to get a booster shot, no questions asked:

"Beginning July 25, 2023, eligible state employees who choose to provide proof of their up-to-date vaccination status can qualify for a \$1,000 incentive payment."⁵⁵

On May 10, 2023, Governor Inslee finally cancelled his order that all public workers and contracted employees must get the COVID-19 vaccine shot.⁵⁶ The governor finally lifted his order under pressure from national events. He said his decision to end the mandate:

"...aligns with the end of the federal public health emergency and the lifting of vaccination requirements for federal employees and contractors on May 11. Last week, the World Health Organization announced an end to the global health emergency for COVID-19."

Still, the injustice imposed by the initial firings remained, and science has since shown these firings to be medically unjustified. When other states and local jurisdictions removed their misguided COVID-19 vaccine requirements, Governor Inslee doubled down on his. Follow-up research showed that some states never imposed vaccine mandates. Research also showed that COVID-19 case outcomes across states were comparable

regardless of whether or not a state's governor imposed a vaccine mandate.⁵⁷

Another study found that vaccinated people still got COVID-19:

“The study details a COVID-19 outbreak that started July 3 in Provincetown, Mass., involving 469 cases. It found that three-quarters of cases occurred in fully vaccinated people.

“It also found no significant difference in the viral load present in breakthrough infections occurring in fully vaccinated people and the other cases, suggesting the viral load of vaccinated and unvaccinated persons infected with the coronavirus is similar.”⁵⁸

The Inslee mandate helped fuel social division and angry criticism directed at people who were unvaccinated. In many social and work circles, even among family members, unvaccinated people were stigmatized and shunned. They were called thoughtless, selfish and uncaring by many people, including public leaders.⁵⁹

The mandate caused widespread harm to the public interest. To cite just two examples, Washington's vaccine mandate led directly to cuts in ferry service at the busiest period of the summer travel season.⁶⁰ State officials later admitted the vaccine mandate had a direct impact on losing trained crews to run state ferries.⁶¹

Further, state officials twice closed Interstate 90 at Snoqualmie Pass during severe weather due to a shortage of snowplow drivers, posing a threat to public safety.⁶²

In all, the vaccine order led to state officials terminating over 2,000 public employees.⁶³

The state Department of Transportation alone lost more than 400 high-skilled employees. A further 3,000 hospital workers lost their jobs due to the vaccine mandate.⁶⁴

After the governor lifted the mandate, the only recourse given to terminated workers was to seek re-employment by applying for their former jobs through the same process as any other interested candidate.

Conclusion

An important step toward healing the divisions in society caused by Governor Inslee's harsh COVID-19 policies would be for state leaders to admit it was not effective and caused widespread social division. They should listen respectfully to those who have honest reservations about the vaccine and recognize the harm the mandate imposed on thousands of workers and their families.

Lawmakers should adopt a caring policy of re-hiring fired state employees and seek to protect those who faced anger and societal scorn because of the governor's vaccine mandate. A thoughtful policy of re-hire would help relieve the staffing problems at various state agencies and would retain access to the institutional knowledge of experienced employees.

ADDITIONAL RESOURCES

“Government inflation continues to hammer workers’ paychecks,” by Elizabeth Hovde, October 17, 2023, at <https://www.washingtonpolicy.org/publications/detail/government-inflation-continues-to-hammer-workers-paychecks>

“Washington state is getting it wrong on long-term care,” by Elizabeth Hovde, guest op-ed, *Real Clear Policy*, June 15, 2023, at <https://www.realclearpolicy.com/2023/06/15/washington-state-is-getting-it-wrong-on-long-term-care-940857.html>

“WA Cares is a regressive tax, hurting low-income workers,” by Elizabeth Hovde, May 26, 2023, at <https://www.washingtonpolicy.org/publications/detail/wa-cares-is-a-regressive-tax-hurting-low-income-workers>

“Head-scratcher: State’s mask order for health care facilities is ending, vaccine mandate on employment is staying,” Elizabeth Hovde, March 7, 2023, at https://www.youtube.com/watch?v=Vu_Q9ijKx8c

“New state-run program will not fix long-term care crisis, nor should it offer peace of mind to workers forced to fund it,” by Elizabeth Hovde, Policy Brief, July 2022, at <https://www.washingtonpolicy.org/library/docLib/Hovde-New-state-run-program-will-not-fix-long-term-care-crisis-nor-should-it-offer-peace-of-mind-to-workers-forced-to-fund-it-FINAL.pdf>

“Repeal is the best plan, not tweaks or delay, for state’s long-term care law,” by Elizabeth Hovde, December 3, 2021, at <https://www.washingtonpolicy.org/publications/detail/repeal-is-the-best-plan-not-tweaks-or-delay-for-the-states-long-term-care-law>

“Washington workers have a short time to escape a new payroll tax,” by Elizabeth Hovde, Washington Policy Center, guest op-ed, *The Seattle Times*, August 2, 2021, at <https://www.seattletimes.com/opinion/washington-workers-have-a-short-time-to-escape-a-new-payroll-tax/>

“Transparency in public employee collective bargaining: How Washington compares to other states,” by Erin Shannon, Policy Brief, Washington Policy Center, December 2018, at <https://www.washingtonpolicy.org/library/doclib/Shannon-Transparency-in-public-employee-collective-bargaining.pdf>

“How to leave your union – everything you need to know about the Janus right-to-work decision,” by Erin Shannon, Washington Policy Center, June 1, 2018, at <https://www.washingtonpolicy.org/publications/detail/all-you-need-to-know-about-janus-v-afscme-and-right-to-work>

“Six common myths about the minimum wage,” by Erin Shannon, Policy Brief, Washington Policy Center, December 2017, at <https://www.washingtonpolicy.org/library/doelib/Shannon-minimum-wage-myths-12.17.pdf>

“Impact of Right-to-Work on Washington state,” by Eric Fruits, Ph.D., Policy Brief, Washington Policy Center, June 2015, at <https://www.washingtonpolicy.org/publications/detail/impact-of-right-to-work-on-the-state-of-washington>

ENDNOTES

- 1 “Right-to-work resources,” Labor and Employment, National Conference of State Legislatures, accessed Sept. 5, 2023, at <https://www.ncsl.org/labor-and-employment/right-to-work-resources>. States with right-to-work laws are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.
- 2 “Right-to-work laws: The economic evidence,” by Jeffrey A. Eisenach, Ph.D., Insight in Economics, NERA Economic Consulting, May 2018, at https://www.nera.com/content/dam/nera/publications/2018/PUB_Right_to_Work_Laws_0518_web.pdf, and, “Real Earnings Higher in Right to Work States,” by Stan Greer, Senior Research Associate, National Institute for Labor Relations, January 1, 2001, at <https://nilrr.org/2001/01/real-earnings-higher-right-work-states/>, and “Right-to-work laws: Myth vs. Facts,” by James Sherk, The Heritage Foundation, December 12, 2014, at https://www.heritage.org/jobs-and-labor/report/right-work-laws-myth-vs-fact/#_ftn9.
- 3 *Janus v. American Federation of State, County and Municipal Employees (AFSCME)*, Case No. 16-1466, United State Supreme Court, June 27, 2018, at https://www.supremecourt.gov/opinions/17pdf/16-1466_2b3j.pdf.
- 4 “Overview of freedom of association,” Constitution of the United State, Annotated, Amendment 1.8.1, at https://constitution.congress.gov/browse/essay/amdt1-8-1/ALDE_00013139/.
- 5 “Right to work employment growth wins, 2:1,” National Right to Work Committee, May 2, 2022, at <https://nrtwc.org/right-to-work-employment-growth-wins-21/>, and, “Workers increasingly favor right to work states,” by Stan Greer, Real Clear Policy, September 8, 2022, at https://www.realclearpolicy.com/articles/2022/09/08/workers_increasingly_favor_right_to_work_states_852279.html, and, “Right-to-work laws: The economic evidence,” by Jeffrey A. Eisenach, Ph.D., Insight in Economics, NERA Economic Consulting, May 2018, https://www.nera.com/content/dam/nera/publications/2018/PUB_Right_to_Work_Laws_0518_web.pdf.

- 6 “Right-to-work laws: Myth vs. Facts,” by James Sherk, The Heritage Foundation, December 12, 2014, at https://www.heritage.org/jobs-and-labor/report/right-work-laws-myth-vs-fact#_ftn9.
- 7 “Impact of right-to-work on the state of Washington,” by Eric Fruits, Ph.D., and Erin Shannon, Policy Brief, Washington Policy Center, June 2015, https://www.washingtonpolicy.org/library/docLib/Shannon-fruits_study.pdf.
- 8 Ibid.
- 9 “Right-to-work laws: The economic evidence,” by Jeffrey A. Eisenach, Ph.D., Insight in Economics, NERA Economic Consulting, May 2018, at https://www.nera.com/content/dam/nera/publications/2018/PUB_Right_to_Work_Laws_0518_web.pdf, and, “Real Earnings Higher in Right to Work States,” by Stan Greer, Senior Research Associate, National Institute for Labor Relations, January 1, 2001, at <https://nilrr.org/2001/01/real-earnings-higher-right-work-states/>, and, “Right-to-work laws: Myth vs. Facts,” by James Sherk, The Heritage Foundation, December 12, 2014, https://www.heritage.org/jobs-and-labor/report/right-work-laws-myth-vs-fact#_ftn9, and, “Who Watches out for workers?” commentary featured on Brookings.edu, <https://www.brookings.edu/articles/who-watches-out-for-workers>, and, “Impact of right-to-work laws on unionization and wages,” National Bureau of Economic Research, August 2022, <https://www.nber.org/digest/202208/impacts-right-work-laws-unionization-and-wages#:~:text=Right%2Dto%2Dwork%20laws%20are%20also%20associated,with%207.5%20percent%20lower%20wages>.
- 10 “Long-term care tax is the wrong answer to a good question,” by Elizabeth Hovde, Washington Policy Center, Tri-Cities Area Journal of Business, September 2021, at <https://www.tricitiesbusinessnews.com/2021/09/hovde-col-sept21/>, and “Washington versus the world on capital gains income taxes,” by Jason Mercier, Washington Policy Center, March 25, 2023, <https://www.washingtonpolicy.org/publications/detail/washington-versus-the-world-on-capital-gains-income-taxes>.
- 11 Ibid.

- 12 HB 1575, “Strengthening the rights of workers through collective bargaining by addressing authorizations and revocations, certifications, and the authority to deduct and accept union dues and fees,” Washington State Legislature, introduced January 24, 2019, enacted April 30, 2019, at <https://app.leg.wa.gov/billssummary?BillNumber=1575&Year=2019&Initiative=false>.
- 13 HB 1200, “Requiring public employers to provide employee information to exclusive bargaining representatives,” Washington State Legislature, enacted May 1, 2023, at <https://app.leg.wa.gov/billssummary?BillNumber=1200&Initiative=false&Year=2023>.
- 14 HB 1575, “Collective Bargaining/Dues,” statement by Rep. Drew Stokesbary (R-Auburn), public hearing, House Appropriations Committee, Washington state House of Representatives, March 11, 2019.
- 15 HB 1575, “Collective Bargaining/Dues,” statement by Rep. Timm Ormsby (D-Spokane), public hearing, House Appropriations Committee, Washington state House of Representatives, February, 26, 2019, broadcast by TVW at <https://www.dropbox.com/s/a9sin5ywg1wvdjj/1575%20Debate.mp4?dl=0>.
- 16 WA Cares Fund website, Washington state, accessed September 8, 2023, <https://wacaresfund.wa.gov/>.
- 17 “Feds officially end the SEIU dues skim of Medicaid funds,” by Erin Shannon, Washington Policy Center, May 2, 2019, <https://www.washingtonpolicy.org/publications/detail/feds-officially-end-the-seiu-dues-skim-of-medicaid-funds>.
- 18 “Getting organized at home: Why allowing states to siphon Medicaid funds to unions harms caregivers and compromises program integrity,” by Maxford Nelsen, Freedom Foundation, July 2018, at <https://www.freedomfoundation.com/wp-content/uploads/2018/07/Getting-Organized-at-Home.pdf>.
- 19 “Feds officially end the SEIU dues skim of Medicaid funds,” by Erin Shannon, Washington Policy Center, May 2, 2019, at <https://www.washingtonpolicy.org/publications/detail/feds-officially-end-the-seiu-dues-skim-of-medicaid-funds>.

- 20 “Initiative 1501, Vulnerable Individual Protections,” Initiatives to the People, 2016, Washington Secretary of State, enacted November 8, 2016, at <https://www2.sos.wa.gov/elections/initiatives/initiatives.aspx?y=2016&t=p>.
- 21 “SEIU 775 forced to stop seizing caregivers’ wages without permission,” by Maxford Nelsen, Freedom Foundation, August 29, 2018, at <https://www.freedomfoundation.com/labor/seiu-775-forced-to-stop-seizing-caregivers-wages-without-permission/>, and, “Six ways SEIU is getting around Harris v. Quinn,” by Maxford Nelsen, Freedom Foundation, May 18, 2016, at <https://www.freedomfoundation.com/labor/six-ways-seiu-775-is-getting-around-harris-v-quinn/>.
- 22 HB 1087, “Concerning long-term services and supports,” Washington State Legislature, enacted May 13, 2019, at <https://app.leg.wa.gov/billsummary?BillNumber=1087&Year=2019>.
- 23 Ibid
- 24 “WA Cares investment meeting talks money, mentions renewed website,” by Elizaeth Hovde, Washington Policy Center, June 2, 2023, at <https://www.washingtonpolicy.org/publications/detail/wa-cares-investment-meeting-talks-money-mentions-renewed-website>.
- 25 Revised Code of Washington, Title 42, Chapter 42.30, Section 010, “Open Public Meetings Act,” at <https://app.leg.wa.gov/rcw/default.aspx?cite=42.30>.
- 26 “L&I plan calls for employees, businesses to pay more for workers compensation in 2024,” by Shauna Sowersby, The Tacoma News Tribune, September 20, 2023, at <https://www.thenewstribune.com/news/state/washington/article279533014.html>.
- 27 “Monopolistic states for workers’ compensation,” The Hartford, <https://www.thehartford.com/workers-compensation/monopolistic-states> and “Workers’ compensation laws – state by state comparison,” National Federation of Independent Business (NFIB), June 7, 2017, at <https://www.nfib.com/content/legal-compliance/legal/workers-compensation-laws-state-by-state-comparison-57181/>.
- 28 “Workers’ compensation,” Offices of the Insurance Commissioner in West Virginia, accessed September 8, 2023, at <https://www.wvinsurance.gov/Workers-Compensation>.
- 29 Ibid.

- 30 Ibid.
- 31 HB 1732, “Delaying the implementation of the long-term services and supports trust program by 18 months,” Washington State Legislature, enacted January 27, 2022, at <https://app.leg.wa.gov/billssummary?BillNumber=1732&Initiative=false&Year=2021>, and HB 1733, “Establishing voluntary exemptions to the long-term services and supports trust program for certain populations,” Washington State Legislature, enacted January 27, 2022, at <https://app.leg.wa.gov/billssummary?BillNumber=1733&Initiative=false&Year=2021>.
- 32 HB 1323, “Concerning the long-term services and support trust program,” Washington State Legislature, enacted April 21, 2021, at <https://app.leg.wa.gov/billssummary?BillNumber=1323&Initiative=false&Year=2021>.
- 33 “Eligibility requirements, Applying for Benefits,” WA Cares Fund, accessed September 12, 2023, at <https://wacaresfund.wa.gov/applying-for-benefits/>.
- 34 “Medicaid savings,” text of HB 1087, Section 1, Washington State Legislature, April 23, 2019, at <https://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Passed%20Legislature/1087-S2.PL.pdf?q=20210817094453>.
- 35 “Calculate the Cost of Care in Your Area,” Cost of Care Survey, Genworth, accessed September 12, 2023, at <https://www.genworth.com/aging-and-you/finances/cost-of-care.html>.
- 36 “HB 1087, to impose a \$1 billion annual payroll tax increase on workers to create a new entitlement program,” by Erin Shannon, Legislative Memo, Washington Policy Center, April 4, 2019, at <https://www.washingtonpolicy.org/publications/detail/hb-1087-to-impose-a-1-billion-annual-payroll-tax-increase-on-workers-to-create-a-new-entitlement-program>.
- 37 ESJR 8212, “Authorize fund investment of long-term services and supports trust account amendments,” Washington state ballot measures, Ballotpedia, November 3, 2020, at [https://ballotpedia.org/Washington_Senate_Joint_Resolution_8212_Authorize_Fund_Investment_of_Long-Term_Services_and_Supports_Trust_Account_Amendment_\(2020\)](https://ballotpedia.org/Washington_Senate_Joint_Resolution_8212_Authorize_Fund_Investment_of_Long-Term_Services_and_Supports_Trust_Account_Amendment_(2020)).

- 38 “WA voters said ‘no,’ now there’s a \$15 billion problem,” by Austin Jenkins, KUOW radio, December 3, 2020 at <https://www.kuow.org/stories/wa-voters-said-no-now-there-s-a-15-billion-problem>.
- 39 “Long-Term Services and Supports (LTSS) Trust Commission,” WA Cares Funds, accessed September 12, 2023, at <https://wacaresfund.wa.gov/about/commission>.
- 40 “Helping you cover your tomorrows,” Marketing campaign, WA Cares Fund, accessed September 12, 2023, at <https://wacaresfund.wa.gov/>.
- 41 “Long-term care companies approved to sell in Washington state,” Office of the Insurance Commissioner, Washington state, accessed September 8, 2023, at <https://www.insurance.wa.gov/long-term-care-insurance-companies-approved-sell-washington-state>.
- 42 SB 5975, “Relating to paid family and medical leave,” Washington State Legislature, enacted July 5, 2017, at <https://apps.leg.wa.gov/billssummary/?BillNumber=5975&Year=2017&Initiative=false>.
- 43 “Washington paid family leave premiums to increase Jan. 1,” by Rachel La Corte, Associated Press, October 20, 2022, at <https://apnews.com/article/washington-business-20b6b5d2294de470cc0e5a4b131c7f47>.
- 44 Ibid.
- 45 “Majority of Democratic trifecta states pursuing broad tax relief,” but not Washington, by Jason Mercier, Washington Policy Center, April 18, 2022, at <https://www.washingtonpolicy.org/publications/detail/majority-of-democratic-trifecta-states-pursuing-broad-tax-relief>.
- 46 “Pennsylvania governor removes college degree requirement for most state jobs on first full day in office,” by Paul Best, Fox Business News, January 18, 2023 at <https://www.foxbusiness.com/politics/pennsylvania-governor-removes-college-degree-requirement-most-state-jobs-first-full-day-office>.
- 47 “These states don’t require a degree for a government job,” by Matthew Arrojas, Best Colleges, June 12, 2023, at <https://www.bestcolleges.com/news/these-states-dont-require-degree-for-a-government-job/>.
- 48 Barack Obama, Twitter post, March 19, 2023, at <https://twitter.com/BarackObama/status/1637574955637383171?s=20>.

- 49 “Stop requiring college degrees for jobs that don’t need them: Employers are finally tearing down the ‘paper ceiling’ in hiring,” by Rachel M. Cohen, Vox, March 19, 2023, at <https://www.vox.com/policy/23628627/degree-inflation-college-bacheors-stars-labor-worker-paper-ceiling>.
- 50 “How important is a college degree compared to experience?” by Soren Kaplan, Harvard Business Review, February 3, 2023, at <https://hbr.org/2023/02/how-important-is-a-college-degree-compared-to-experience#:~:text=The%20Burning%20Glass%20Institute%20recently,41%25%20in%20just%20six%20years>.
- 51 “Half in U.S. now consider a college education very important,” by Stephanie Marken, Gallup, December 30, 2019, at <https://www.gallup.com/education/272228/half-consider-college-education-important.aspx>.
- 52 “These Washington state jobs are high-paid and only require an associate degree,” by Alyse Messmer, The Tacoma News Tribune, April 5, 2022, at <https://www.thenewstribune.com/news/state/washington/article260102000.html>.
- 53 “The Emerging Degree Reset: How the shift to skills-based hiring holds the keys to growing the U.S. workforce at a time of talent shortage,” Harvard Business School, 2022: https://www.hbs.edu/managing-the-future-of-work/Documents/research/emerging_degree_reset_020922.pdf.
- 54 “COVID-19 Vaccination Standards for State Employees,” Directive of the Governor 22-13.1, Office of the Governor, August 5, 2022, at <https://governor.wa.gov/sites/default/files/directive/22-13.1%20-%20COVID-19%20Vaccination%20Standards%20for%20State%20Employees.pdf>.
- 55 Ibid.
- 56 Inslee rescinds requirements related to COVID-19 vaccination for state employees,” press release, Office of the Governor, May 10, 2023, at <https://governor.wa.gov/news/2023/inslee-rescinds-requirements-related-covid-19-vaccination-state-employees>.
- 57 “List of Corona-related restrictions in every state,” by Jenny Rough and Andy Markowitz, AARP, August 14, 2023, at <https://www.aarp.org/politics-society/government-elections/info-2020/coronavirus-state-restrictions.html#Washington>, and “U.S. COVID-19 cases and deaths by state,” USAFacts, July 2023, at <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map>.

- 58 “Outbreak of SARS-CoV-2 infections, including COVID-19 vaccine breakthrough infections, associated with large public gatherings – Barnstable County, Massachusetts, July 2021,” Morbidity and Mortality Weekly Report, Centers for Disease Control, August 6, 2012, at https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?cid=mm7031e2_w.
- 59 “Inslee announces vaccination requirement for most state employees, private health care and long-term care workers,” press release, Office of the Governor, August 9, 2021, at <https://medium.com/wagovernor/inslee-announces-vaccination-requirement-for-most-state-employees-private-health-care-and-7c765161cbb6>.
- 60 “As summer travel season arrives, state vaccine mandate leads to cuts in ferry service,” by Elizabeth Hovde, Washington Policy Center, July 8, 2022, at <https://www.washingtonpolicy.org/publications/detail/as-summer-travel-season-arrives-state-vaccine-mandate-leads-to-cuts-in-ferry-service>.
- 61 “Most state ferries running on reduced schedules ‘until further notice,’” by Quixem Ramirez, KING 5 News, July 6, 2022, at <https://www.king5.com/article/travel/washington-state-ferries-reduced-schedules-staff-shortages/281-f58fd9f1-d657-48b8-81af-351e6ae797bf>.
- 62 “WSDOT closes I-90 twice in two weeks, raising questions about vaccine mandate impact on public safety,” by Mariya Frost, November 23, 2021, at <https://www.washingtonpolicy.org/publications/detail/wsdot-closes-i-90-twice-in-two-weeks-raising-questions-about-vaccine-mandate-impact-on-public-safety>.
- 63 “Washington state COVID-19 vaccine mandate data,” Adjusted headcount, Enterprise vaccine verification data, Office of Financial Management (OFM), January 12, 2022, at https://ofm.wa.gov/sites/default/files/public/shr/COVID19/VaccinationReport_Jan122022.pdf.
- 64 “Roughly 3,000 hospital workers lost jobs over Washington’s COVID-19 mandate,” by news staff, KING 5 NEWS, November 17, 2021, at <https://www.king5.com/article/news/local/washington-hospitals-lose-roughly-3000-workers-over-covid-19-vaccine-mandate/281-b0ff14de-27b6-4b0a-bcca-ed924c314ca0>.

CHAPTER VIII

EXPANDING BUSINESS OPPORTUNITIES AND EMPLOYMENT



Policy Recommendation:

1. REPEAL THE DEATH 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 The initiative authorized the state to collect a “pick-up” tax based on the federal estate tax so that families paid two estate taxes.

In 2001, Congress repealed the federal estate tax, which ended Washington’s “pick-up” tax as well.² Washington continued to collect the estate tax until the state supreme court ruled the practice illegal in February 2005.³

In May 2005, however, state lawmakers passed a law that both repealed the voter-approved Initiative 402 law and overturned the state supreme court ruling, and instead imposed a stand-alone Washington estate tax. The stand-alone law survived a ballot initiative challenge in 2006, leaving the Legislature’s estate tax in place.⁴

The rate at which lawmakers impose the death tax on families varies between 10 percent and 20 percent, depending on the size of the estate. Washington’s maximum death tax rate is the highest in the nation.⁵ Families are taxed if an estate’s assessed value exceeds \$2.193 million (2023), with the threshold adjusted annually, usually upward, based on inflation.⁶ Family farms are exempt, but there is no exemption for family-owned small businesses.

Most states do not impose an estate tax

The policy of a state imposing a death tax is becoming increasingly rare. Only 12 states and the District of Columbia impose one, and lawmakers in four states have recently repealed their death taxes, Indiana in 2013, Tennessee in 2016, Delaware in 2017, and New Jersey in 2018.⁷

Leaders in these states recognize that the estate tax is unfair because it imposes a second tax after death on earnings that have already been taxed during a person’s lifetime. It also puts a state at a competitive disadvantage compared to neighboring jurisdictions.

Estate taxes by state

According to the Tax Foundation, Washington's 20% "inheritance" tax rate is, with Hawaii's, the highest in the nation. Several other states have inheritance taxes, but the trend in the last few years is for states to increase their dollar thresholds or eliminate estate taxes completely to stop businesses from leaving their states. States that impose estate and inheritance taxes are shown in the map below, provided by the Tax Foundation.

Estate tax falls hardest on small businesses

In passing the 2005 death tax, lawmakers imposed a significant tax burden on Washington citizens. The state Department of Revenue collected more than \$930 million in estate taxes, along with inheritance taxes, in fiscal year 2023.⁸ The money is placed in the Education Legacy Trust Account and is used to off-set general tax funds that are spent elsewhere in the budget.⁹

This special death tax falls hardest on small businesses. Corporations do not pay the tax, and corporate ownership of a business can change at any time without incurring state 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 death tax suppresses entrepreneurship, impedes economic growth and discourages family businesses from remaining in or relocating to Washington. Studies consistently show that estate taxes are among the most harmful to a state's economic growth.¹⁰ This outcome is supported by the Tax Foundation, which finds:

“Studies routinely find that estate taxes discourage entrepreneurship and lead to large tax compliance costs.”¹¹

The death tax is unfair and inefficient

Death taxes are unfair and inefficient. Grieving families note that, after a working lifetime of paying property, sales, business, and other taxes, state officials are taxing their loved ones again after death. 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.

Conclusion

Lawmakers should repeal the outdated death tax to bring greater equity and fairness to the tax code, to help family businesses survive competition from corporations, and to align Washington's tax policy on the same competitive basis as most other states.

Policy Recommendation:

2. AVOID THE FALSE MYTHS ABOUT THE MINIMUM WAGE

Some public officials like to promote increases in the state-imposed minimum wage because it makes them feel generous. They want to take credit for “giving” workers a raise that is paid by someone else. At the same time they want to avoid taking responsibility for the harm a high minimum wage does to young workers, the unskilled, immigrants, and the unemployed.

In promoting this false political message, public figures often cite common myths about a high state minimum wage. The following section examines these claims and shows how they are false.

Myth: The minimum wage should be a living wage

False. The minimum wage was never intended to provide a living wage.

The minimum wage is intended to create first-time job opportunities for young workers and build job skills so workers can advance to higher-wage employment. It is also meant for those workers who want part-time work flexibility, particularly to supplement the income of another full-time wage earner in the household. It was never intended to support a family or to provide a full-time career position.

Myth: The minimum wage has not kept up with inflation

False. The Washington state minimum wage has more than kept pace with inflation. When it started in 1961, the state minimum wage was \$1.15 an hour. Adjusted for inflation today that would be \$11.77.¹² The current state minimum wage is much higher, at \$15.74 an hour, than the original minimum adjusted for inflation.¹³

Myth: Increasing the minimum wage will “lift workers out of poverty”

Some politicians say the minimum wage is “a starvation wage” and that people are working hard but “...going nowhere in a hurry.”¹⁴

This is not true. The primary cause of poverty is the lack of a job. Of working-age adults living in poverty, nearly two-thirds do not work. Public officials harm the poor by making low-skill starter jobs illegal, pushing more low-income people into poverty.¹⁵

Myth: Most minimum wage workers are supporting a family

False. Research shows most minimum wage workers are young, work part time, have never been married, and live at home. Most minimum wage earners provide the second or third income in a household making more than \$50,000 a year.¹⁶

Myth: Minimum wage has not kept up with productivity

Irrelevant. Measuring minimum wage policy against national productivity is meaningless. Minimum wage workers make up less than three percent of the labor force and have minimal impact on the measure of national GDP. Further, most minimum-wage workers quickly advance in productivity, earning raises and higher incomes as they gain experience.

Conclusion

Many of the arguments that public figures make in pushing for a high minimum wage are not true. The state-imposed minimum wage is a price control; it sets the rate below which it is illegal to work, so millions of entry-level jobs are eliminated. Lawmakers use the minimum wage to

price many poor workers out of the labor market, because the law sets their effective minimum wage at zero.

Lawmakers should be aware of how setting a high minimum wage harms young, low-skill and immigrant workers by stifling job opportunities and increasing youth unemployment.

Policy Recommendation:

3. ALLOW A YOUTH TRAINING WAGE

The overwhelming majority of economic studies show that a high minimum wage harms people with low skills, such as teen workers entering the workforce. State policymakers agree because they already allow a starter training wage for very young workers, as described below.

Increasing barriers to employment

In 2016, voters passed Initiative 1433 to increase the state minimum wage to \$13.50 by 2020.¹⁷ That may seem like great news for the state's minimum wage earners, but the initiative increases barriers to employment. It harms young workers trying to get entry-level jobs. The Washington state minimum wage is \$15.74 an hour (in 2023), with Seattle imposing a minimum of \$18.69 an hour.¹⁸ SeaTac imposes the highest minimum wage restriction in the country, at \$19.06 an hour, meaning many low-skill workers will not get hired in Sea-Tac.¹⁹

The risk of hiring young workers

Hiring a 16-year-old who has no work history or marketable skills is a gamble for an employer. When the minimum wage is low, it is a risk many employers are happy to take. The lower wage justifies the training needed to teach a 16-year-old to be productive and to help a young person get started in life.

As young people gain work experience, they generally earn a raise, or they quit and move on to a higher-paying job. They also learn character lessons that lead to lifetime success, how to be on time, how to have a positive attitude, how to follow directions, how to take initiative, how to be part of a team, and how to take pride in shared accomplishments in the workplace.

Shutting out young workers

When the minimum wage is too high, such on-the-job training becomes too expensive for employers. Many business owners stop hiring young workers, favoring applicants with more experience and proven skills instead.²⁰

This is not an opinion. Economic research shows a high minimum wage has the greatest negative effect on people with low skills, such as teen workers trying to enter the workforce. Seattle, for example, would have 5,000 more jobs available, mostly for youth, if it did not impose a high minimum wage.²¹

The University of Washington researcher studying Seattle's \$15 minimum wage law explains:

“...if they [employers] are going to be paying as much as they have to pay they are not taking a chance on a teenager, they are looking for a more experienced worker to fill that job.”²²

Washington lawmakers have increased the minimum wage to one of the highest in the nation, and now the state consistently ranks among the highest in youth unemployment.

Today, the state unemployment rate for teen workers is 18%, over four times higher than the general unemployment rate.²³ It is obvious that high wages kill jobs for young people. For that reason lawmakers should allow a youth starter wage to offset the job-killing effect of the Washington minimum wage law.

The law already allows a limited training wage

State lawmakers already recognize the value of a training wage for very young workers. The strict wage mandate is eased for young people below age 16, so that employers can hire 14- and 15-year-old workers at 85 percent of the minimum wage. Officials understand that almost no one will hire a 14- or 15-year-old at the high wage rate required by the state.

But the barrier is imposed on all workers age 16 and older. The state's harsh wage law makes it hard to hire these young workers in the first place, meaning their earnings will be zero.

Legislation is not needed to ease hiring restrictions

The state Department of Labor and Industries has the regulatory authority to expand the benefits of a training wage to all workers under age 18; no new legislation is required.

Failing this, however, lawmakers should pass a bill to legalize a youth training wage. Such bills have been introduced in the past and serve as models for action lawmakers can take to increase job openings for youth.²⁴

Conclusion

Policymakers should legalize a training wage for teen workers. Easing hiring restrictions would provide employers with an incentive to take a chance on hiring young, inexperienced job seekers. Such a policy would reduce the harm the state's high minimum wage imposes in blocking job opportunities for young people.

Policy Recommendation:

4. REDUCE THE REGULATORY BURDEN BY REQUIRING LEGISLATIVE APPROVAL

Oversight of agency rulemaking

Washington is one of the most heavily regulated states in the nation. A study by the Pacific Research Institute ranks Washington as the 8th most regulated state.²⁵ A study by the Mercatus Center at George Mason University, using different measures, ranks Washington as the 13th most regulated.²⁶ Both rankings demonstrate a regulatory environment badly in 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 addressed as a top economic development priority.”²⁷

15,000 pages of new rules

State agencies have replaced the Legislature as the primary authority 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 2017, state agencies filed 1,487 new rules that filled 15,509 pages. They adopted 1,052 of those rules, amending 2,937 sections of the Washington Administrative Code.²⁸

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

In addition to the large 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.

Conclusion

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

Policy Recommendation:

5. 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 books over five feet high. The online version of the Revised Code of Washington (RCW) is many thousands of pages in PDF form.²⁹ One Title alone is 468 pages of dense technical text.³⁰

These rules have the force of law, and they strictly control and limit the day-to-day activities of every person in the state. Violating even one of these rules, if brought to the notice of authorities, can result in fines, jail time, property liens and other punishments.

Government rules are clearly needed in an orderly society. Regulations protect public safety, promote public health, assist needy families, help the jobless, protect civil rights, and guard against consumer fraud. This need was recognized by the men who founded the state, who recommended:

“a frequent recurrence to fundamental principles,” which are “essential to the security of individual rights and the perpetuity of free government.”³¹

Regulations last forever

Under the current system most state regulations last forever. State rules are often still in place long after their original purpose has been fulfilled. 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 government officials direct. When people in state government overstep their bounds by regulating the smallest details of daily activity, they increase their own power by hindering the vibrant economic and social life of the community.

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 they 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.

Conclusion

The default assumption of officials should be that reducing regulations should favor citizens, not state agencies. If the Legislature does not act to continue a rule, it should expire automatically, 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 should be renewed, based on proven effectiveness and genuine public need, and they would continue in force until the next review period.

Frequent review and possible repeal of outdated regulations by the people's elected representatives is essential to the principle of self-government and is a basic part of defending our democracy.

Policy Recommendation:

6. CUT OCCUPATIONAL LICENSING RULES SO PEOPLE WHO WANT TO WORK ARE ALLOWED TO WORK

Washington state requires occupational licenses for many entry-level jobs, which often require hundreds, even thousands, of hours of training.

These strict regulations lock people out of job opportunities, and there is bipartisan agreement that reform is necessary.

Bipartisan support for reform

Republicans have long supported cutting barriers to work opportunities, and many Democrats recognize the problem too. The Obama Administration released an excellent overview of the need for reform in 2015. The report notes:

“Lower-income workers are less likely to be able to afford the tuition and lost wages associated with licensing’s educational requirements, closing the door to many licensed jobs for them.”

“In many cases, the training or experience that these immigrants acquired overseas does not count toward fulfilling the relevant licensing requirements.”³²

Irrational requirements

First, many of the licensing requirements are excessive and irrational. In Washington state, a manicurist must pay for 600 hours of training to qualify for a license. A license for “hair design” requires a minimum of 1,400 hours.³³

By way of comparison, a tattoo artist requires zero hours of training. State rules that require people who need a job to spend hundreds of hours and thousands of dollars make it more difficult for them to become self-sufficient.

Not delivering health and consumer protection

Second, research shows occupational licenses do not deliver the health and consumer protection that their backers claim. The White House report found that, “Stricter licensing was associated with quality improvements in only 2 out of the 12 studies reviewed.”

Additionally, the Brookings Institution noted in a 2015 study that occupational licensing has impacts that “impose net costs on society with little improvement to service quality, health, and safety.”³⁴

Finally, research shows that licensing boards do not enforce health and safety guidelines. The Obama Administration report points out:

“There is also evidence that many licensing boards are not diligent in monitoring licensed practitioners, which contributes to a lack of quality improvement under licensing. These boards often rely on consumer complaints and third-party reports to monitor practitioner quality.”³⁵

Most third-party complaints come from currently licensed workers trying to block competition from unlicensed workers. More complaints are registered with the Better Business Bureau or online with Yelp than with the state licensing board.

Legislators should take four important steps to help provide job opportunities.

Removing barriers

First, Washington should remove barriers to people with criminal records. Research from Arizona State University found:

“...government-imposed barriers to reintegration into the labor force – particularly occupational licensing requirements – can be among the most pernicious barriers faced by ex-prisoners seeking to enter the workforce.”³⁶

States like Illinois and Tennessee have adopted reforms providing that licensing boards cannot deny a person a job because of a past unrelated criminal conviction.³⁷ Tennessee’s bill says a board:

“...shall not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration, solely or in part due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.”³⁸

Currently, Washington state law says unrelated criminal convictions do not immediately disqualify a job applicant, but a past conviction for any offense may be considered in the hiring process.³⁹

Reducing licensing requirements

Second, lawmakers should significantly reduce the license requirement in many areas of work. Requirements for many occupations do not reflect the risk of the job and are instead used by incumbents to lock out competition. This is true of many cosmetology licenses, for which hour requirements could be replaced with a test of safety and health knowledge.

Hourly requirements could be replaced by an online portal with independent consumer ratings. Such a system would be more public and would more effectively publicize questions about health and safety than the existing system.

Review occupational licenses

Third, lawmakers should require regular review of occupational licenses. Nebraska recently adopted legislation that required “present, significant, and substantiated harms” that warrant government intervention, and that legislators must first consider a regulation that is the “least restrictive” and imposes the lowest burdens and costs while still protecting consumers from the harm.⁴⁰

The law also has a “sunset review,” by which legislative committees examine one-fifth of the state’s occupational regulations each year to identify any rules or laws that should be repealed or modified.

In 2023, Washington lawmakers took a positive step by passing HB 1301.⁴¹ The bill requires the state Department of Licensing to conduct a full review of professional license requirements and report to the Legislature on the ones that should be modified or repealed. When the review is complete, lawmakers should move swiftly to repeal outdated restrictions and make it easier for qualified professionals to work in Washington.

Accept licenses from other states

Finally, Washington state should recognize occupational licenses from other states. Military families, migrants, and others who relocate should not be required to start over when they have already demonstrated knowledge and skill in performing a particular job. Arizona recently passed legislation recognizing out-of-state licenses for those with at least one year of professional experience.⁴²

Washington lawmakers partially adopted this recommendation when they passed SB 5499 in April 2023.⁴³ The bill seeks to ease the nursing shortage by having Washington join the Nurse Licensure Compact. This agreement allows qualified nurses trained in other states to work in Washington clinics and hospitals. The popular bill was passed with a bipartisan vote. Lawmakers should build on this success and extend the same forward-looking policy to other licensed professions.

Conclusion

Occupational licenses are intended to promote public health and safety. They should not be used as a mean-spirited barrier to deny work to immigrants, criminal offenders, and workers seeking to gain new skills. Washington should reform and reduce these barriers, to give people the opportunity to earn the dignity and happiness that come with self-sufficiency and earned success.

Policy Recommendation:

7. ENACT BUSINESS LICENSE REFORM

Small businesses (and, in fact, all businesses in Washington) are seeing exponential cost increases in business license fees charged by local municipalities. Many cities now charge license fees based on revenue, employee counts, and hours worked rather than charging a simple fixed fee.

The current licensing system is confusing, wasteful, and expensive. Business owners find they must comply with and pay for a wide array of local rules and fees simply to carry out legal economic activity.

The latest city to consider increasing its fees is Tacoma, with an increase to \$1,000 for some business licenses. The proposal represents an increase of 400% over the current fee (\$250) to be imposed on businesses with revenue over \$1 million.⁴⁴

Complicating the calculation of the license fee is the requirement imposed by some cities to count only the hours that an employee works physically inside the city limits, or where a similar business connection is created. State law explicitly restricts a city from requiring a business license when

work is performed outside city limits, as is the case for many remote service providers.⁴⁵

These fees can add up to several thousand dollars for a small business, and to several million dollars for larger corporations.

Using the City of Redmond as an example, the city's original business license policy was created in 1996. The city charged a straight annual fee of \$10 per employee. For a small business with five full-time employees with revenue above \$2,000, the annual fee was \$50. In 2022 the city council raised the fee to \$122 per employee, a more than 1,200% increase. The fee for a business with five employees rose to \$610. For some large employers in Redmond, the fee to stay in business is in the millions of dollars.

Fees imposed by several cities at once

The problem is compounded when businesses operate in multiple jurisdictions. For businesses that only operate in one municipality, the filing is relatively simple. However, for businesses that operate in multiple locations, the license fees become significant. A business may be located within one city but is required to pay license fees in every city in which it operates.

The filing process, while more streamlined due to the recent requirement for municipalities to use the Washington Department of Revenue centralized system, is complicated by the mandate to calculate the revenue generated in each city in which a business provides services.

The business license qualification requirement makes business owners track the hours and revenue for work performed inside and outside the city limits separately. In the case of a contractor who may perform only minimal work inside a particular city, this is a massive administrative burden.

Many businesses, because of the difficult licensing process, do not bother applying for a license. As fees increase, the natural incentive to ignore licensing requirements also increases. Complicating the process further, is each municipality has different rules, fees, and qualification processes. High fees drive some business activity underground, meaning the city collects no revenue at all.

Require no license for a minimal level of business activity

Lawmakers should set a reasonable minimal level of business activity, for example \$100,000 or less, below which no business license would be required.

By providing a reasonable dollar threshold below which no business license would be required, business owners would save thousands of dollars a year, reduce the work for government agencies, and improve respect for the rules. A small business owner would be free to use the time and money saved from filing complex tax reports to generate additional business income, jobs, and sales.

The result would be increased economic activity, broader benefits to the community, and higher state and local tax revenues. This would also make the tax system fairer, save on enforcement costs and would increase voluntary compliance.

Conclusion

Licensing fees are a hidden cost of doing business and these costs add to the cost of products and services that businesses provide and, in some jurisdictions, provide no benefit or service to the business as other taxes pay for essential services inside the city limits. High license fees destroy jobs and discourage businesses from expanding and creating jobs.

Lawmakers should reduce the requirement for business owners to get licenses in several different cities at once. Instead lawmakers should require cities to charge a simple, flat annual fee to operate a business legally. Streamlining business license costs and complications would increase respect for the rules, would reduce the number of businesses operating without a license, and would encourage new business formation.

ADDITIONAL RESOURCES

“Nurse licensure compact puts Washington state patients in a safer position, by Elizabeth Hovde, October 23, 2023, at <https://www.washingtonpolicy.org/publications/detail/nurse-licensure-compact-puts-washington-state-patients-in-safer-position>

“High-income earners already pay their ‘fair share,’” by Dr. Roger Stark, October 21, 2023, at <https://www.washingtonpolicy.org/publications/detail/high-income-earners-already-pay-their-fair-share>

“Seattle law that prevented rental property owners from running criminal background checks is overturned, by Mark Harmsworth, March 31, 2023, at <https://www.washingtonpolicy.org/publications/detail/seattle-law-that-prevented-rental-property-owners-from-running-criminal-background-checks-is-overturned>

“Rent control bills HB 1389 and HB 1124 failed to pass this session,” by Mark Harmsworth, March 14, 2023, at <https://www.washingtonpolicy.org/publications/detail/legislature-2023-rent-control-bills-house-bill-1389-and-house-bill-1124-have-failed-to-pass-this-session>

“Repeal the death tax,” by Jason Mercier, February 6, 2023, at <https://www.washingtonpolicy.org/publications/detail/lawmakers-consider-inflation-fix-for-states-death-tax>

“Washington state needs business tax reform,” by Mark Harmsworth, March 30, 2022, at <https://www.washingtonpolicy.org/publications/detail/washington-state-needs-business-tax-reform>

“Time to end state’s job discrimination against immigrants and low-income workers,” by Todd Myers, January 27, 2021, at <https://www.washingtonpolicy.org/publications/detail/time-to-end-states-job-discrimination-against-immigrants-and-low-income-workers>

“It’s the young who get hurt by a high minimum wage,” by Paul Guppy, January 28, 2020, at <https://www.washingtonpolicy.org/publications/detail/its-the-young-who-get-hurt-by-a-high-minimum-wage>

“Why I hate and love the free market,” by Jim Boulanger, President, Patriot Fire Protection, Inc., Policy Notes, Washington Policy Center, January 2019, at <https://www.washingtonpolicy.org/publications/detail/why-i-hate-and-love-the-free-market>

“Six common myths about the minimum wage,” by Erin Shannon, Policy Brief, Washington Policy Center, December 2017, at <https://www.washingtonpolicy.org/publications/detail/six-common-myths-about-the-minimum-wage>

“This editorial should be required reading for every policymaker,” by Erin Shannon, Washington Policy Center, May 1, 2017, <https://www.washingtonpolicy.org/publications/detail/this-editorial-should-be-required-reading-for-every-policymaker>

“Remove obstacles to the American dream, including absurd professional licensing laws,” by Todd Myers, Washington Policy Center, guest op-ed in *The Seattle Times*, March 27, 2017, at <https://www.seattletimes.com/opinion/remove-obstacles-to-american-dream-including-absurd-professional-licensing-laws/>

“Reducing the burden of the death tax on families,” by Jason Mercier, Legislative Memo, Washington Policy Center, December 2016, at <https://www.washingtonpolicy.org/publications/detail/reducing-the-burden-of-the-death-tax-on-families>

ENDNOTES

- 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.
- 2 H.R. 1836, “to provide for reconciliation pursuant to section 104 of the concurrent resolution to the budget for fiscal year 2002,” enacted as Public Law 107-16, passed May 2001, to phase out the federal estate tax by 2010, at <https://www.govinfo.gov/app/details/PLAW-107publ16>.
- 3 Hemphill et al v. State of Washington, No. 74974-4, Supreme Court of Washington, February 3, 2005, at <https://caselaw.findlaw.com/wa-supreme-court/1077314.html>.
- 4 Initiative 920, “Washington estate tax repeal,” defeated November 2006.
- 5 “Does your state have an estate or inheritance tax?” by Morgan Scarboro, State taxes, Tax Foundation, July 28, 2023, at <https://taxfoundation.org/state-estate-tax-state-inheritance-tax-2021/>.
- 6 “Filing threshold and exclusion amounts, 2023,” Estate tax tables, Table W – Computation of Washington Estate Tax, Department of Revenue, accessed October 16, 2023, at <http://dor.wa.gov/taxes-rates/other-taxes/estate-tax-tables>.
- 7 “Does your state have an estate or inheritance tax?” by Morgan Scarboro, State taxes, Tax Foundation, July 28, 2023, at <https://taxfoundation.org/state-estate-tax-state-inheritance-tax-2021/>.
- 8 “Inheritance/Estate Taxes, 2021-23 estimated,” All Budgeted Funds – Table 1 Current Law, State Budgets, 2023-25, Summary Tables, Office of Financial Management, accessed August 1, 2023, at <https://ofm.wa.gov/budget/state-budgets/gov-inslees-proposed-2023-25-budgets/summary-tables/1/cl>.
- 9 “Fund 08A, Education Legacy Trust Account,” Revised Code of Washington 83.100.230, Office of Financial Management, accessed August 1, 2023 at <https://ofm.wa.gov/accounting/fund/detail/08A>.
- 10 “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.

- 11 “Estate and gift taxes,” State taxes, The Tax Foundation, accessed October 9, 2019, at <https://taxfoundation.org/individual-and-consumption-taxes/estate-and-gift-taxes/>.
- 12 “CPI Inflation Calculator, 1961 – 2023,” Bureau of Labor Statistics, U.S. Department of Labor, accessed August 1, 2023, at https://www.bls.gov/data/inflation_calculator.htm.
- 13 “Minimum Wage 2023,” Workers’ Rights, Washington Department of Labor and Industries, accessed September 6, 2023, at <https://www.lni.wa.gov/workers-rights/wages/minimum-wage/>.
- 14 “It’s time for a national \$15 minimum wage,” by Senator Bernie Sanders and Senator Patty Murray, The Seattle Times, April 28, 2017, at www.seattletimes.com/opinion/bernie-sanders-and-patty-murray-its-time-for-national-15-minimum-wage/.
- 15 “The effects of minimum wage on employment,” by David Neumark, Federal Reserve Bank of San Francisco Economic Letter, December 21, 2015, at www.frbsf.org/economic-research/publications/economic-letter/2015/december/effects-of-minimum-wage-on-employment/, and “UW study finds Seattle’s minimum wage is reducing jobs,” by Janet I. Tu, The Seattle Times, June 26, 2017, at www.seattletimes.com/business/uw-study-finds-seattles-minimum-wage-is-costing-jobs.
- 16 “The Effects of a \$12 Federal Minimum Wage,” by Dr. William E. Even, Miami University, and Dr. David Macpherson, Trinity University, for the Employment Policies Institute, March 2016, at www.minimumwage.com/wp-content/uploads/2016/07/MinimumWage101_PolicyBrief_July.pdf.
- 17 “Initiative Measure No. 1433, Concerning Labor Standards,” ballot measures, Washington Secretary of State, passed November 8, 2016, at <https://results.vote.wa.gov/results/20161108/State-Measures-Initiative-Measure-No-1433-concerns-labor-standards.html>.
- 18 “2023 Minimum Wage for Washington state,” Department of Labor and Industries, at <https://www.lni.wa.gov/workers-rights/wages/minimum-wage/>, accessed August 1, 2023, and “Minimum Wage Calculator, Office of Labor Standards, City of Seattle, at <https://www.seattle.gov/laborstandards/ordinances/minimum-wage>, accessed August 1, 2023.

- 19 “SeaTac will have the highest minimum wage in the nation next year,” KIRO 7 News, October 11, 2022, at <https://www.kiro7.com/news/local/seatac-will-have-highest-minimum-wage-nation-next-year/3DTUXVECEZAAFGCOYWQIOU5WHY/>.
- 20 “UW study finds Seattle’s minimum wage is reducing jobs,” by Janet I. Tu, The Seattle Times, June 26, 2017, at www.seattletimes.com/business/uw-study-finds-seattles-minimum-wage-is-costing-jobs.
- 21 Ibid.
- 22 “Report on the impact of Seattle’s minimum wage ordinance on wages, workers, jobs, and establishments through 2015,” by Jacob Vigdor et al., The Seattle Minimum Wage Study Team, University of Washington, July 2016, at <https://www.documentcloud.org/documents/2997999-Seattle-Minimum-Wage-Final-Report.html>, and “Sawant, U.W. researchers clash over impact of \$15 minimum-wage law,” by Daniel Beekman, The Seattle Times, September 21, 2016, <https://www.seattletimes.com/seattle-news/politics/sawant-uw-researchers-clash-over-impact-of-15-minimum-wage-law/>.
- 23 “Average unemployment rates in Washington by age group, 2011 – 2021,” 2022 Youth Unemployment Outlook, Washington Workforce Training and Coordination Board, accessed August 21, 2023, at <https://wtb.wa.gov/research-resources/youth-employment/>.
- 24 See for example SB 6471, “Creating a teen summer employment wage,” introduced by Senator Michael Baumgartner, January 28, 2014, Washington State Legislature, at <https://apps.leg.wa.gov/billssummary/?BillNumber=6471&Year=2013&Initiative=false>.
- 25 “The State Regulation Data, Definitive Edition Dashboard,” Regulatory and statutory activity across all 50 states and the District of Columbia, QuantGov, July 2023, at <https://www.quantgov.org/state-regdata-definitive-edition>.
- 26 “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>.
- 27 “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.

- 28 “Agency rule-making activity,” Office of the Code Reviser, State of Washington, Table 1, 2017, at <http://leg.wa.gov/CodeReviser/Documents/rulactiv.pdf>.
- 29 “RCWs by Title,” Revised Code of Washington, as of August 2023, Washington State Legislature, at <https://apps.leg.wa.gov/rcw/>.
- 30 Title 46, Motor Vehicles, Revised Code of Washington, accessed August 8, 2023, at <https://leg.wa.gov/CodeReviser/RCWArchive/Documents/2022/Title%2046%20RCW.pdf>.
- 31 Article 1, Section 23, Constitution of the State of Washington, at <https://leg.wa.gov/CodeReviser/RCWArchive/Documents/2019/WA%20Constitution.pdf>.
- 32 “Occupational Licensing: A framework for policymakers,” The White House, prepared by the Department of the Treasury Office of Economic Policy, the Council of Economic Advisors, and the U.S. Department of Labor, July 2015, at https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.
- 33 “How to get your WA license: Graduate of a school or apprenticeship program,” Washington State Department of Licensing, accessed September 6, 2023, <https://www.dol.wa.gov/professional-licenses/cosmetology/get-your-license-cosmetology>.
- 34 “Reforming Occupational Licensing Policies,” by Morris M. Kleiner, The Hamilton Project, Discussion Paper 2015-01, March 2015, at https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf.
- 35 “Occupational Licensing: A framework for policymakers,” The White House, prepared by the Department of the Treasury Office of Economic Policy, the Council of Economic Advisors, and the U.S. Department of Labor, July 2015, at https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.
- 36 “Turning shackles into bootstraps: Why occupational licensing reform is the missing piece of criminal justice reform,” Policy Report, No. 2016-01, Center for the Study of Economic Liberty at Arizona State University, by Stephen Slivinski, November 7, 2016, at <https://research.wpcarey.asu.edu/economic-liberty/wp-content/uploads/2016/11/CSEL-Policy-Report-2016-01-Turning-Shackles-into-Bootstraps.pdf>.

- 37 “SB 1688 Enrolled, Public Act 100-0286,” Concerning state government, State of Illinois, January 1, 2018, at <http://www.ilga.gov/legislation/publicacts/100/PDF/100-0286.pdf>.
- 38 “Senate Bill 2465, The Fresh Start Act,” to amend the Tennessee code Title 62, State of Tennessee, July 1, 2018, at <http://www.capitol.tn.gov/Bills/110/Bill/SB2465.pdf>.
- 39 Revised Code of Washington 9.96A.020, “Employment, occupational licensing by public entity – prior felony conviction no disqualification – exemptions,” at <https://app.leg.wa.gov/RCW/default.aspx?cite=9.96A.020>.
- 40 “Nebraska Governor signs landmark reform for occupational licensing,” by Nick Sibilla, Institute for Justice, April 23, 2018, at <https://ij.org/press-release/nebraska-governor-signs-landmark-reform-occupational-licensing/>.
- 41 H 1301, “Creating license review and reporting requirements,” Washington State Legislature, enacted May 11, 2023, at <https://app.leg.wa.gov/bills/summary?BillNumber=1301&Initiative=false&Year=2023>.
- 42 HB 2569, “Relating to occupational licensing,” First Regular Session, State of Arizona, 2019, at <https://www.azleg.gov/legtext/54leg/1R/bills/HB2569H.pdf>.
- 43 SB 5499, “Concerning the multistate nurse licensure compact,” Washington State Legislature, enacted April 20, 2023, at <https://app.leg.wa.gov/bills/summary?BillNumber=5499&Year=2023&Initiative=false>.
- 44 “The cost of doing business in Tacoma might increase. Here’s what the city is proposing,” by Liz Moomy, The Tacoma News Tribune, September 1, 2022, at <https://www.thenewstribune.com/news/local/article265134351.html>.
- 45 “Geographic restrictions on license requirement,” Revised Code of Washington 35.90.060, accessed September 6, 2023, at <https://app.leg.wa.gov/RCW/default.aspx?cite=35.90.060>.

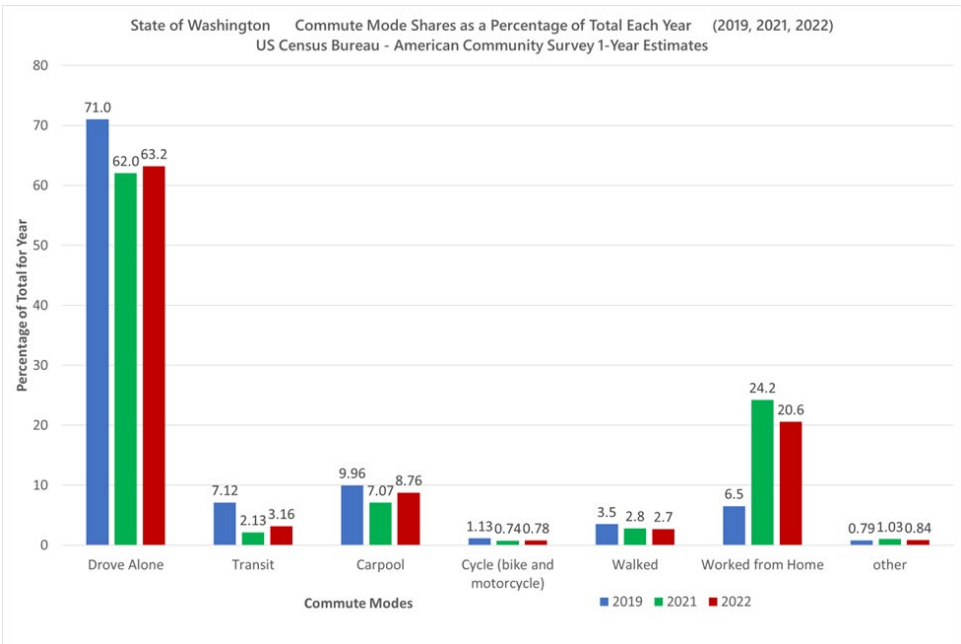
CHAPTER IX

IMPROVING MOBILITY AND TRANSPORTATION SERVICES



IMPROVING MOBILITY AND TRANSPORTATION SERVICES

1. Make system efficiency a primary goal of transportation policy
2. Focus on improving mobility rather than reducing daily travel
3. Reform transit agency governance and improve accountability
4. Make tolling policy consistent with 18th Amendment protections
5. Reform transportation planning and clarify policy goals
6. Begin shift to revenue sources that can replace fuel taxes



Driving is by far the most common way people travel every day.

Policy Recommendation:

1. MAKE SYSTEM EFFICIENCY A PRIMARY GOAL OF TRANSPORTATION POLICY

It is estimated that the population of Washington state will grow by more than a million people by the year 2035.¹ That growth will increase the burden on the state highway system, county roads, and city streets. Parts of this road system are already severely congested during peak travel periods. Reducing traffic congestion is key to increasing system efficiency, serving the public, and providing cost-effective mobility because driving is by far the most common way people travel every day.

When highways become congested, traffic slows to such an extent that vehicle throughput is greatly reduced. In some corridors, the loss of capacity during rush hour can be as high as 40%. This congestion impedes the flow of traffic at the very times when the capacity is most needed and reduces the return on the state's large investment in highways. It also denies members of the public the level of mobility that elected officials have promised and which drivers have a right to expect.

This problem illustrates the critical importance of reducing traffic congestion, which is also essential for achieving other state policy goals, including economic vitality, mobility, and environmental improvement.

In 2019, the cost of congestion for Washington residents was estimated at \$4.8 billion.² Despite the importance of relieving traffic congestion, transportation officials have not based budget decisions on measurable benchmarks. They do not implement the road projects and services needed to improve efficiency and accommodate a growing population.

The Legislature has wrestled with this important question many times. In 2000, the state Blue Ribbon Commission on Transportation identified several positive ways to measure the effectiveness of the state's transportation system.³ These performance measures were very specific and the Legislature enacted some of them into law. Two of the most important included:

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

Lawmakers later repealed meaningful benchmarks

In 2007, lawmakers repealed those benchmarks and replaced them with five vague transportation policy goals. Lawmakers added a sixth goal in 2010. Only one of the six policy goals sought to reduce travel times. The Legislature weakened its definition of “Mobility” to mean an effort to “improve the predictable movement of goods and people throughout Washington State.”⁴ By “mobility,” they did not mean “faster travel” but only “predictable travel.”

Lawmakers improved their policy goal of better mobility as part of the 2015 transportation package by adding the Washington Policy Center recommendation to include congestion relief and improved freight mobility, but they did not re-institute the specific performance-based benchmarks that had previously been part of the law. As a result, state officials’ intention of improving mobility for the public remains a wistful ideal instead of a measurable goal.

Failing to report traffic delay

Officials at the state Department of Transportation (WSDOT) have even stopped reporting statewide travel delays, despite being required by statute to reduce traffic congestion. Agency officials are instead focused on reducing vehicle trips, managing congestion by collecting money through tolls, and encouraging transit expansion and use.

This policy of trying to reduce rather than accommodate travel demand is counterproductive to a growing economy and a healthy society. Obscuring transportation performance trends makes it harder for legislators to identify the most effective policies and transportation spending. State officials are not fooling the drivers who experience traffic congestion and its frustrations firsthand every day.

Quantifying the benefits of reducing traffic congestion

The state Auditor has found that over a five-year period, if congestion relief were prioritized, it could be reduced up to 20%, lowering vehicle emissions and saving travelers up to \$400 million.⁵ 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.⁶ The Auditor also recommended that lawmakers:

“Apply congestion-related goals, objectives and benchmarks to all highway and transit-related investments” and “elevate congestion reduction benefits in all decision-making processes.”⁷

Conclusion

Lawmakers should amend current transportation law to return to a system based on honest performance metrics like those implemented by Governor Locke’s Blue Ribbon Commission. Reinstating these measures would show the public that policymakers are committed to reducing traffic congestion and increasing transportation system efficiency.

The Legislature should require that the Metropolitan Planning Organizations and Regional Transportation Planning Organizations make congestion reduction an explicit goal if forecasts indicate travel demand is expected to exceed roadway capacity.

Policy Recommendation:

2. FOCUS ON IMPROVING MOBILITY RATHER THAN REDUCING DAILY TRAVEL

In 2008, the Legislature established statewide targets for reducing per-capita vehicle miles traveled (VMT).⁸ This policy is a failure. The only time the VMT reduction target was met was during the COVID pandemic of 2020-2021 when the governor ordered most businesses to close and told people to stay in their homes.

In 2021, after 13 years of failing to meet targets, the Legislature directed the Department of Transportation (WSDOT) to develop a process for establishing local VMT-reduction targets and recommend ways local jurisdictions can achieve the targets.

Pursuant to that legislative directive, WSDOT has produced a Vehicle Miles Traveled Targets Final Report.⁹ The report acknowledged that imposing VMT-reduction targets at the local level is impractical and instead proposed a regional approach, but it failed to discuss the other problematic aspects of the VMT-reduction proposal. It also failed to note that the Legislature’s VMT-reduction policy has never worked. The WSDOT study found:

- Trips are taken because individuals derive benefits (going to work,

shopping, recreation, school). A government policy of suppressing daily travel necessarily means the benefits of mobility will be reduced.

- There is no practical way for state or local government officials to enforce limits on how much people travel each day, much less know whose trips should be reduced and which ones should be allowed.
- VMT that is suppressed locally may go somewhere else, such as to another city or region or to another state altogether. Shifting VMT from one place to another does nothing to achieve environmental, economic or mobility goals. Indeed it would likely prove counterproductive.
- VMT-reduction strategies that impose higher cost, such as parking pricing and mileage taxes, increases the cost of living for residents and reduces the economic competitiveness of local businesses. The WSDOT report does not consider these costs.
- The relationship between driving and CO2 emissions is steadily weakening as cars become more fuel-efficient and sales of electric vehicles increase. By 2035, all new cars sold in Washington, according to a state mandate, are supposed to produce zero-emissions, so setting targets for VMT reduction will have a declining effect on emissions.¹⁰

Land use plans and travel behavior

There are also problems with the VMT-reduction strategies proposed in the WSDOT report. The report asserts that changes in land use are the most effective way to reduce VMT, but the most reliable analysis concluded that actual reductions in travel from imposing urban density are very small.¹¹ Also, changes in land use typically occur over decades, so a reduction in VMT, if any, would occur far in the future.

State officials assume changes in zoning will solve transportation problems but there is no evidence that this approach is working. In fact, most cities already have many areas zoned for high- density development, but if the real estate market doesn't support those high densities the expected development won't occur.

This failure can be seen at both the local level in the large amount of vacant commercial space in downtown Seattle, Tacoma, Everett, and Bremerton and at the regional level.

For example, from 1990 to 2010, the twenty-seven urban growth centers tracked by the Puget Sound Regional Council (PSRC) accounted for less than 7% of the population growth in the Puget Sound region, while lower-density areas outside urban centers accounted for 93% of the growth.¹²

That growth pattern occurred despite the limits of the Growth Management Act, strong support for urban centers in local plans, and a buoyant regional economy. This shows that neither wishing for higher density nor zoning changes will necessarily cause VMT reduction to happen. If anything, the larger economic and social forces that have led to decentralization are growing stronger, as officials witnessed when they ordered the COVID-related economic shutdown.

The WSDOT report also rates parking charges and roadway pricing among the more effective strategies. It is true that if policymakers make driving and parking sufficiently expensive, people will modify their travel behavior, but it does not necessarily follow that VMT will be reduced.

Higher costs merely prompt people to avoid the tolls and parking charges by taking other routes or going to places where parking is free. This may involve driving farther and adding to daily VMT instead of “getting people out of their cars,” as planners often say, by shifting people to transit or walking.

Transit and VMT reduction

Transit enhancements are another strategy favored by WSDOT officials, but transit ridership is far lower today than it was ten years ago despite very large increases in transit budgets. Some of the decrease can be attributed to the COVID-related shutdown, but a dozen transit agencies in Washington experienced double-digit drops in ridership in the ten years before the governor’s 2020 shutdown order.

For many bus routes, ridership has fallen to such a low level that per-passenger-mile fuel use is now higher than private driving. The few passengers riding a public bus on some routes use more fuel than one person driving the same distance in a car.

People in government like to promote light rail as a substitute for driving, but the Sound Transit rail lines will serve less than 3% of all trips in the region by 2050. That isn’t enough to make much difference in total VMT, and construction of the light rail lines is so energy-intensive that it will not

reduce carbon emissions. In short, there is no evidence that transit will meaningfully reduce VMT or significantly reduce carbon emissions in the state.

Conclusion

The WSDOT report focused on addressing transportation and environmental problems by suppressing VMT and, therefore, reducing people's mobility. A better approach would be to increase transportation system efficiency and encourage telework, e-commerce, and faster travel times. Those strategies can be implemented sooner, at a lower cost, and would not require difficult trade-offs among policy goals as would be needed for reducing VMT.

For these reasons, lawmakers should repeal the state's unenforceable and unachievable VMT reduction targets. They should also develop transportation performance measures that emphasize increasing energy efficiency and improving mobility for the traveling public.

Policy Recommendation:

3. REFORM TRANSIT AGENCY GOVERNANCE AND IMPROVE ACCOUNTABILITY

In 2021, the 32 tax-funded transit agencies in Washington state had total revenues of over \$4.7 billion.¹³ Transit services in cities and counties are overseen by local councils, mayors, and county executives, all of whom are elected officials. But most transit agencies run as Public Transportation Benefit Areas, which are governed by federated boards of appointed members.

As a result, residents of those transit districts may not have any direct representation on the agency governing board, have no say in who is appointed to the transit boards, and may not even know who is supposed to be representing them.

Governance problems in the Puget Sound region

The problem of scattered and ineffective governance and a lack of accountability is particularly acute in the central Puget Sound Region,

where five transit agencies operate, each with its own governing board and dedicated revenue sources.¹⁴ But even though the agencies are supposed to be independent, some of their board members also serve on the Sound Transit board and on the PSRC Transportation Policy Board.

These overlapping offices mean that officials can serve on the boards of several agencies as well as serving as city or county council members. These public entities do business with one another, cooperate on joint projects and compete for grant funding; conflicts of interest are unavoidable.

The governance problems are made worse by the structure of the Sound Transit Board. The 17-member board consists of local elected officials who are appointed by county executives.¹⁵ (The 18th member, the Secretary of Transportation, is appointed by statute.) This gives the King County executive, who appoints the majority of the board, effective control and disenfranchises residents of Pierce and Snohomish counties. These county residents have little or no say in who represents them and even less say in the plans and decisions of the King County-dominated agency.

There are further problems with accountability. The 17 appointed members of the Sound Transit Board each have at least one other government job, so a Community Oversight Panel was established to serve as a watchdog. The panel is supposed to be independent, but the members are hand-picked by the board they are supposed to oversee.¹⁶ In addition, the Panel members depend on Sound Transit staff for the information they are supposed to review.

Sound Transit's "independent watchdog" is created and controlled by the same public officials it is supposed to watch and, therefore, is not independent at all.

In the 25 years the Community Oversight Panel has existed, Sound Transit has incurred a long series of cost overruns, long construction delays, and embarrassing engineering problems.

The agency's performance has also fallen short in ridership, which is far below the levels Sound Transit presented to the public when seeking voter approval. The agency's operating costs, which were very high to begin with, partly because of its contracts with local transit agencies, are among the highest in the industry.

The Community Oversight Panel has not been effective in identifying any of these problems, or in recommending the plan modifications and other actions needed to correct poor agency performance. It is clear the panel has had little if any influence on the trajectory of the agency, nor has it had any effect on Sound Transit's ability to keep its promises.

In a 2012 review, the state Auditor found many conflicts of interest both within the board and in its Citizen Oversight Panel, which was packed with favored individuals as well as people who worked for companies that profit from Sound Transit contracts.¹⁷ This pattern of insider coziness helps explain the Oversight Panel's consistent failures and ineffectiveness.

Independent assessment of the governance problem

In 2006, the Legislature recognized the governance problem in the Puget Sound region and created a Regional Transportation Commission "to develop a proposal for a regional transportation governing entity more directly accountable to the public." The Final Report of the commission found that:

"Our current system of transportation governance delivers inadequate results and will need fundamental systemic change to meet our region's transportation needs in the future.

"At this point there is no single agency in the region with the ability to meet the overall transportation needs of the region. In order to address regional needs, the system has to be "re-knit" at the regional level. We base this conclusion on what we know about the current system and what we know our future needs will be."¹⁸

That frank assessment was focused on the Puget Sound region, but the problems it identified apply to regions across the state. These problems are not new or surprising. In 2000, Governor Gary Locke's Blue Ribbon Commission on Transportation came to similar conclusions regarding poor system performance resulting from myriad agencies and jurisdictions and from transportation funding that was not tied to performance benchmarks.¹⁹

Performance trends today show these long-standing problems have not been addressed. In fact, public transit performance has gotten worse. For example, the PSRC 2050 plan assumed transit ridership would more than double by 2030, but in the five years since the plan's adoption, ridership

has fallen by more than 30%, while the cost per hour of transit service has increased.²⁰

The Legislature has been quite permissive in enabling transportation authorities and granting additional revenue sources. For example, in addition to cities and counties and WSDOT, the Legislature allows six different types of transit authorities, plus Transportation Benefit Districts, Local Improvement Districts, Port Districts, and County Ferry Districts.

These agencies are usually governed by boards of locally elected or appointed officers, and each agency has the authority to impose its own taxes and collect fees. Taxes are sometimes imposed after a public vote, but sometimes taxes are imposed on the public by transit board action alone.

This permissive approach to granting local and regional authority for taxing has not been matched with any requirement for accountability or even consistency with state policy goals. The result is a swarm of public entities, sometimes competing, sometimes cooperating, that adopt plans and operate services with minimal oversight and even less public accountability.

The Regional Transportation Commission found that the competing objectives of agencies make effective prioritization impossible. Each local agency runs its own plan and its own budget. Clearly, no one is responsible for system performance.

The role of regional planning agencies and the need for accountability

State law assigns much of the responsibility for planning coordination to Regional Transportation Planning Organizations (RTPOs) and Metropolitan Planning Organizations (MPOs). Those agencies are governed by boards of appointed members who are usually local elected officials. The average citizen has no idea who is supposed to represent the public interest on these boards or how their plans set transportation policy.

State law directs RTPOs and MPOs and the state Department of Commerce to review and certify local comprehensive plans. In practice, however, this system has not proven effective at solving transportation performance problems.

State law also empowers the state Auditor's Office to conduct audits for compliance with financial regulations, but those audits do not consider whether agency plans are based on realistic assumptions, whether projects were successfully implemented, or even whether they made any sense in the first place. The generally favorable audit results stand in stark contrast to transportation system performance, which has steadily worsened.

Both the 2006 Regional Transportation Commission and the 2000 Blue Ribbon Commission on Transportation recommended far-reaching reforms designed to improve governance and increase accountability.

Based on the findings and recommendations of those commissions, lawmakers should enact the following reforms:

- Require direct election of the governing boards of Public Transportation Benefit Areas and Regional Transportation Authorities. This would eliminate conflicts of interest and overlapping representation. Directly elected boards would make transit agencies more accountable to the residents and equalize representation that now gives some voters much more say than others.
- Require transit agency plans and RTPO and MPO plans to implement the transportation policy goals set in state law (specifically RCW 47.04.280). Most transit agency plans make no mention of state policy goals and regional plans often fail to advance those goals.
- Direct the state Auditor's Office to conduct performance audits of transportation agencies with particular attention to the effectiveness of past agency plans and whether current plans are based on realistic assumptions and forecasts. The performance audits should include an estimate of the benefits, if any, the public should expect.
- Conduct an evaluation of the state Regional Mobility Grant program to ensure managers actually deliver the public benefits they promise. The evaluation should include an estimate of the benefit the public receives from tax-funded projects.

Conclusion

The existing transit governance structure has failed to deliver the effective and efficient service that was promised to voters and which legislators were led to expect when they authorized these local transit agencies in the first place.

Lawmakers should revise transit board representation to increase accountability. They should require transit agencies to align their plans with state policy goals. To be effective the state should also establish and monitor transit performance objectives.

Policy Recommendation:

4. MAKE TOLLING POLICY CONSISTENT WITH 18TH AMENDMENT PROTECTIONS

In 1944, the voters of Washington passed the 18th Amendment to the state constitution. This provision requires that:

“All fees collected by the State of Washington as license fees for motor vehicles and all excise taxes collected by the State of Washington on the sale, distribution or use of motor vehicle fuel and all other state revenue intended to be used for highway purposes, shall be paid into the state treasury and placed in a special fund to be used exclusively for highway purposes.”

The amendment was specifically intended to prevent the diversion of gas tax revenue to non-highway purposes and to ensure the state had a predictable and ongoing revenue source for maintaining the highway system. The language of the 18th Amendment covers toll revenue collected from highway system users, but various agencies and advocacy organizations want to divert toll revenue to non-highway purposes.

Taking toll revenue for other uses shortchanges highway needs by funding projects of no benefit to highway system users, as well as adding further uncertainty to the state transportation budget. Tolling authorization should clearly affirm that tolls collected from highway system users are protected by the voter-approved 18th amendment and are a user fee that is paid by, and therefore should benefit, motorists.

Existing tolled highway facilities

As authorized by the Legislature, officials currently collect tolls on five state highways:

- The Tacoma Narrows Bridge/State Route 16;
- State Route 167 HOT lanes;
- Interstate 405 Express Toll Lanes;
- State Route 520 floating bridge;
- State Route 99 tunnel in Seattle.

Toll revenue collected from drivers is being used to finance construction or, in the case of the SR 167 HOT lanes, ongoing operations. Yet only toll revenues from the Tacoma Narrows Bridge and the Interstate 405 Express Toll Lanes are sent to the Motor Vehicle Fund and are expressly protected for highway purposes.²¹

Variable tolls to optimize traffic flow

Several WSDOT facilities use tolls that vary either by time of day or dynamically based on demand to smooth traffic flow and increase system efficiency. This can substantially increase the capacity of the highway in times of high demand. It is especially valuable in highway corridors where adding lanes is not feasible and where traffic volumes are expected to grow. However, there is no specific protection in state law that mandates that tolls be set to optimize traffic flow for the benefit of the public.

As seen in other states, when budgets are tight policymakers raise toll rates to get more money for various non-highway programs. The result is price-gouging of the public and toll rates that may leave capacity underutilized, while taking money from drivers who have few other options. To prevent the imposition of non-optimal tolls, the Legislature should adopt guidelines for toll setting that emphasize highway system efficiency.

Vehicle mileage tax

The state Transportation Commission has recommended the state begin the transition away from the gas tax by instituting a vehicle mileage tax (sometimes called a Road User Charge or RUC).²² A flat-fee per mile tax is simple in concept, but it would not be simple to collect, and it raises a number of important fairness and privacy issues.

Less than 1% of the revenue raised from the gas tax is needed to cover the cost of collecting the tax. In contrast, collecting a vehicle mileage tax would cost upwards of 5% depending on how it was collected.²³ It is

possible that improving technology will lower the cost of collection, but that may only raise further questions about privacy, data security, fairness and whether people trust government officials to collect their sensitive personal information.

Similar to facility tolling, revenue collected from a vehicle mileage tax falls within the protection of the voter-approved 18th Amendment. It would be a user fee on drivers, and therefore, drivers should benefit from the way this user fee revenue is spent.

There are interest groups, however, that see a mileage tax as a cash cow that would be used to pay for their favorite non-highway projects. In other words, they want to give benefits to those who would not pay the user fee. If the Legislature considers a vehicle mileage tax, and manages to address the problems with privacy and trust, they should ensure that all proceeds are protected by the 18th Amendment and deposited in the State Motor Vehicle Fund.

Conclusion

Given the state's growing mobility needs and the promises lawmakers have made to the public, the Legislature should enact principles for setting tolls on congested facilities so traffic flow is optimized. They should set a tolling policy so the public benefit of the roadway is maximized instead of catering to special interests. They should also ensure that all toll revenue and any future mileage tax are protected by the 18th Amendment and preserved for highway purposes.

Policy Recommendation:

5. REFORM TRANSPORTATION PLANNING AND CLARIFY POLICY GOALS

Washington state law includes many planning requirements for officials at the Department of Transportation (WSDOT), cities, counties, transit agencies, and regional planning organizations. These requirements are intended to organize the planning efforts of these public entities and produce a more efficient transportation system that serves the needs of the traveling public.

The intention seems good, but the true outcome of all that transportation planning is far short of what officials promise and what the public has been led to expect. The plans may be consistent in terms of county-level population forecasts, and they may share some broad policy goals, but they do not have common priorities nor is the current planning process producing outcomes that serve the public interest.

Transportation planning requirements

State law provides extensive guidance for transportation planning. The overall goals for WSDOT are established in RCW 47.04.280 as follows:

- **Preservation:** Maintain, preserve, and extend the life and utility of prior investments in transportation systems and services, including the state ferry system;
- **Safety:** Provide for and improve the safety and security of transportation customers and the transportation system;
- **Stewardship:** Continuously improve the quality, effectiveness, resilience, and efficiency of the transportation system;
- **Mobility:** Improve the predictable movement of goods and people throughout Washington State, including congestion relief and improved freight mobility;
- **Economic vitality:** Promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy; and
- **Environment:** Enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment.

These policy goals are fine, but they do not tell officials responsible for transportation planning how to reconcile goals when they conflict, and those conflicts cannot be avoided. RCW 47.05.010 tells officials that “difficult investment trade-offs will be required” and provides the following guidance:

“It is the intent of the legislature that investment of state transportation funds to address deficiencies on the state highway system be based on a policy of priority programming having as its basis the rational selection of projects and services according to factual need and an evaluation of life-cycle costs and benefits that

are systematically scheduled to carry out defined objectives within available revenue.

“The state must develop analytic tools to use a common methodology to measure benefits and costs for all modes.”²⁴

If WSDOT officials were following the law’s direction, it would be apparent in the plans the agency has prepared, and WSDOT does produce a lot of plans. A partial list of recent state plans includes:

- Strategic Highway Safety Plan: Target Zero
- Active transportation Plan (2021)
- State Rail Plan (2019)
- Public Transportation Plan (2016)
- State Freight System Plan (2022)
- Washington State Plan for Electric Vehicle Infrastructure Deployment (2022)
- Washington Transportation Plan (2018)
- State Highway System Plan (2007)
- Statewide Human Services Transportation Plan (2022)
- Community Engagement Plan (2016)
- Safety Rest Area Strategic Plan (draft, 2023)

A review of these documents finds few references to cost-effectiveness or lowest life-cycle costs to address identified deficiencies as called for in the law. Many of the plans don’t make any estimate of future costs or the expected benefits from proposed public spending.

The most important plan is the State Highway System Plan. In the past, that document laid out a detailed twenty-year program of spending, complete with cost estimates and a plan for project phasing to implement the improvements.

The State Highway System Plan once served as the starting point for legislative budget deliberations and informed the plans of local jurisdictions and regional planning organizations.

So what is the problem? The most recent State Highway System Plan was published 16 years ago! Most of the projects have been completed, and WSDOT planning is now badly out of date.

As can be seen from the list above, since 2007, WSDOT has prepared a wide variety of plans, and the Legislature has budgeted tens of billions of dollars for a range of transportation projects and programs, but those plans and expenditures are not guided by the “rational selection of projects and services according to factual need and an evaluation of life-cycle costs and benefits” as required by law.

This explains why public transportation systems fall badly short of the state’s policy goals despite huge increases in spending. WSDOT’s plans simply are not producing the promised outcomes.

Transit agency plans and priorities

The law also specifies the elements to be included in transit agency plans, but those plans do not reflect the required goals. For example, the transit plans include little, if any, discussion of cost-effectiveness or congestion reduction, nor are those goals listed as agency objectives.

Even when a cost/benefit analysis is performed, an agency’s plan may not be revised accordingly. For example, in 2016, Sound Transit did a cost/benefit analysis of the Sound Transit 3 plan. It showed that the expected benefits of ST3 would not equal its costs *until the year 2071*.

A plan that takes more than fifty years to reach its break-even point implies the public is being denied promised benefits. Since then, Sound Transit officials have increased their costs by tens of billions of dollars, and they have stretched out their timeline for completion by a number of years. Yet, ridership continues to fall far below even the most pessimistic forecasts.

As a result, the cost of Sound Transit’s plan, now expected to be nearly \$150 billion, will exceed benefits far beyond 2071, well past the useful life of the stations, trains and track. In fact, Sound Transit will never justify its costs, according to the agency’s analysis.

Obviously, such poor performance will have a negative economic impact on the region and is not consistent with state policy goals or public expectations.

Despite the major shifts that have occurred in travel patterns and increasingly poor future prospects, Sound Transit board members are unwilling to reconsider their extravagant light rail spending plan. Instead,

they have repeatedly delayed delivering promised rail service while raising the cost by tens of billions of dollars.

Regional planning requirements

State law and the Washington Administrative Code (WAC) provide direction on the preparation of regional plans. WAC 468-86-080 says regional planning organizations should use a least-cost methodology, but regional transportation plans are not following the WAC requirement. One agency, the Puget Sound Regional Council (PSRC), is using a methodology that has resulted in a 2050 plan with a \$300 billion price tag while providing poor performance for the public.

Despite the enormous costs the plan will lead to 38% more traffic congestion compared to the 2018 baseline, with public transit providing daily trip percentages in the low single digits. That dismal outcome does not support the state transportation policy goals in RCW 47.04.280, nor does the plan effectively advance the regional goals of PSRC's own plan. A least-cost planning method would identify alternative spending and policies that would produce much better results.

As the foregoing discussion makes clear, the poor results of transportation planning in Washington can be attributed to three fundamental problems:

- Agencies responsible for transportation planning have divergent objectives and priorities;
- Planning guidance in the law is often circumvented or ignored;
- Measures of cost-effectiveness, which could identify superior transportation policies and investments, are not often used in the development of agency or regional plans.

It should be emphasized that the poor performance of transportation plans is not because agencies lack the necessary analytical tools and data needed for planning. The models they use for evaluation are not perfect, but they are more than adequate to identify performance deficiencies and produce solutions. The flawed plans are the outcome of unrealistic assumptions and dysfunctional politics used by officials, not a lack of data or evaluation methods.

Conclusion

Lawmakers should require transportation agencies to use a cost/benefit analysis in the planning process. Agencies should use least-cost planning and update the State Highway System Plan every four years to provide a detailed project list with cost estimates. State funding of regional planning organizations should be contingent on compliance with these requirements.

The plans of WSDOT and other agencies have not been effective in advancing the state policy goals as set forth in the law. Lawmakers should enact planning reforms and set clear goals to achieve better outcomes for taxpayers and the traveling public.

Policy Recommendation:

6. BEGIN A SHIFT TO REVENUE SOURCES THAT CAN REPLACE FUEL TAXES

Even though fuel tax revenue remains robust, the transition to electric vehicles and better fuel economy for gas-powered cars indicates that fuel tax revenue will begin to decline in the future. At the same time, the Department of Transportation (WSDOT) is facing a growing shortfall in funding for highway system preservation and maintenance. The Transportation Secretary recently said that an additional \$770 million per year is needed to bring the highway system up to a state of good repair.²⁵

State officials say that they need additional funding. Because the gas tax in Washington state is already one of the highest in the country, and because the recently imposed carbon emissions tax has already increased the price of motor fuel, it is unlikely lawmakers will increase the gas tax. Nor should they. The public rightly thinks the gas tax is too high as it is, and is having a negative effect on jobs and economic growth.

However, that doesn't mean the state lacks alternative revenue sources that officials could use for transportation purposes. Following are existing revenue sources that officials can use to bring the state's road and highway transportation to a state of good repair without raising taxes.

Sales tax on automobiles

Shifting revenue from the existing 6.5% tax on the sale of automobiles from the General Fund to the Motor Vehicle Fund would provide hundreds of millions of dollars per year in funding for highway projects. The proceeds of the tax would go toward highway maintenance and improvements that benefit the motorists who pay the sales tax.

Unlike the gas tax, the sales tax on automobiles will increase with inflation and with growth in the state population. This makes it a steady and reliable source of revenue to fund ongoing highway maintenance needs, which also increase over time.

Carbon tax revenue

In 2023, state lawmakers and Governor Inslee imposed a large carbon emissions tax, most of which is being paid by motorists when they fill up their gas tanks. Total revenue for 2023 from the new tax is expected to exceed \$500 million.²⁶ However, the Legislature arbitrarily prohibited using the revenue for “highway purposes authorized under the 18th Amendment of the Washington State Constitution...” This provision effectively bans using carbon tax money for highway improvements that benefit the motorists who pay most of the tax.

The fact the General Fund has a substantial surplus and the state highway budget has a large unfunded maintenance and preservation need means lawmakers are in a position to put the surplus carbon-emissions revenue to work in ways that most directly benefit the citizens who pay the tax.

Cut the cost of public road projects

One of the most significant obstacles to building roads and highways in Washington is the ever-rising cost of public projects. Over the years, lawmakers have added regulatory delay, political factors, and labor restrictions that increase costs far beyond what similar projects would cost in the private sector.

Imposing artificial costs on public projects

The natural cost of a project is the same in the private and public sectors. These include inflation, material expenses, market labor costs, and the cost of financing.

Artificial costs are imposed by government officials by choice. These are political factors like prevailing wage rules, taxes on state projects, apprenticeship requirements, inefficient permitting, environmental compliance, special set-asides for art, and using highway projects to fund mass transit.

A real-world model for cutting artificial costs

On May 23, 2013, the Skagit River Bridge, which carries Interstate 5, was hit by a truck and the structure collapsed. Three people suffered minor injuries, and the main road connection between Vancouver, British Columbia, and Seattle was severed.²⁷

The governor and other elected leaders rushed to replace this essential link. They eliminated the artificial policies that normally add lengthy delays and increased costs to any public project. Intense media and public interest allowed state officials to ignore politics and repair the road connection quickly and efficiently.

Officials had a temporary replacement bridge open in less than a month, on June 19, and a permanent span was open to traffic by September 15. The public saw how cutting artificial rules can get a road project completed in about four months instead of the typical five to ten years.

Conclusion

These are just two additional revenue sources the Legislature can use to replace fuel tax revenue and increase spending on highway system maintenance and improvements that do not involve higher taxes or vehicle fees.

These two existing revenue sources are already being paid by highway system users, so it would be fair and logical to use the funds for their benefit. In addition, lawmakers should cut artificial costs and ignore political pressures that make the public pay more for public roads. Such reforms would help rebuild the public's trust by ensuring the state actually delivers the highway and mobility improvements that elected officials have promised.

ADDITIONAL RESOURCES:

“State Transportation Budget Highlights,” by Charles Prestrud, May 22, 2023, at <https://www.washingtonpolicy.org/publications/detail/state-transportation-budget-highlights>

“Five Principles of responsible Transportation Policy,” by Mariya Frost and Charles Prestrud, March 2023, at <https://www.washingtonpolicy.org/library/doclib/5-Principles-of-transportation-trifold-002-.pdf>

“Implications of Shifts in Commuting,” by Charles Prestrud, October 3, 2023, at <https://www.washingtonpolicy.org/publications/detail/implications-of-shifts-in-commuting>

“HB 1846 – To Provide for Buying New Washington State Ferries,” by Charles Prestrud, Legislative Memo, April 2023, at <https://www.washingtonpolicy.org/library/doclib/Charles-LM-HB-1846.pdf>

“High Speed Rail proposal runs into high-cost problems,” by Charles Prestrud, June 2023, at <https://www.washingtonpolicy.org/publications/detail/high-speed-rail-proposal-runs-into-high-cost-problems>

“A bottomless pothole foretells more problems ahead,” by Charles Prestrud, Washington Policy Center blog, May 2023, at <https://www.washingtonpolicy.org/publications/detail/a-bottomless-pothole-foretells-more-problems-ahead>

“WSDOT demonstrates that adding general purpose capacity on I-405 reduces traffic congestion and toll rates,” by Mariya Frost, July 14, 2017, at <https://www.washingtonpolicy.org/publications/detail/wsdot-demonstrates-that-adding-general-purpose-capacity-on-i-405-reduces-traffic-congestion-and-toll-rates>

“The Road Usage Charge: To impose a tax on every mile you drive,” by Mariya Frost, Policy Brief, June 2017, at <https://www.washingtonpolicy.org/library/doclib/Frost-The-Road-Usage-Charge-to-impose-a-tax-on-every-mile-you-drive-PB-6.23.17-1.pdf>

“Voters should elect Sound Transit board members directly,” by Mariya Frost, Policy Notes, Washington Policy Center, August 2016, at <https://www.washingtonpolicy.org/publications/detail/voters-should-elect-sound-transit-board-members-directly>

ENDNOTES

- 1 “Forecast of the State Population,” December 2021 Forecast, Forecasting and Research Division, Washington Office of Financial Management (OFM), at https://ofm.wa.gov/sites/default/files/public/dataresearch/pop/stfc/stfc_2021.pdf.
- 2 “2019 Urban Mobility Report,” Texas A&M Transportation Institute in cooperation with INRIX, by David Schrank, Bill Eisele, and Tim Lomax, August 2019, based on value of travel delay and excess fuel consumption, at <https://static.tti.tamu.edu/tti.tamu.edu/documents/umr/archive/mobility-report-2019.pdf>.
- 3 “Transportation Action, final recommendations to the governor and legislature,” The Blue Ribbon Commission on Transportation, December 2000, at <https://leg.wa.gov/JTC/Documents/Studies/2000BlueRibbonCommissionExecSummary.pdf>.
- 4 “Transportation System Policy Goals,” Revised Code of Washington 47.04.280 (1)(d), accessed October 2023, at <https://apps.leg.wa.gov/RCW/default.aspx?cite=47.04.280>.
- 5 “Washington State Department of Transportation, Managing and Reducing Congestion in Puget Sound,” Performance Audit Report, Washington State Auditor’s Office, October 10, 2007
- 6 Ibid.
- 7 Ibid.
- 8 Revised Code of Washington 47.01.440 (2008), “Adoption of statewide goals to reduce per-capita vehicle miles traveled by 2050,” accessed October 20, 2023, at <https://apps.leg.wa.gov/rcw/default.aspx?cite=47.01.440>.
- 9 “Vehicle Miles Travelled (VMT) Targets – Final Report,” by Celeste Gilman, Strategic Policy Administrator, and Alon Bassok, Transportation Planning Specialist, Washington State Department of Transportation (WSDOT), July 18, 2023, at <https://wstc.wa.gov/wp-content/uploads/2023/07/2023-0718-BP4b-VMT-TargetSetting.pdf>.
- 10 “Washington adopts plan for transition to zero-emissions vehicles,” state Department of Ecology, December 19, 2022, at <https://ecology.wa.gov/About-us/Who-we-are/News/2022/Dec-19-Clean-Vehicles-II-Adoption>.

- 11 “Driving and the built environment: The effects of compact development on motorized travel, energy use, and CO2 emissions,” Special Report 298, National Academies of Science, Engineering, Medicine, 2009, at <https://nap.nationalacademies.org/catalog/12747/driving-and-the-built-environment-the-effects-of-compact-development>.
- 12 Based on a comparison of U.S. Census data for 1990 and 2010.
- 13 “2021 Summary of Public Transportation,” M3079.15, Public Transportation Division, Washington state Department of Transportation (WSDOT), September 2022, at [2021 Summary of Public Transportation \(wa.gov\)](#).
- 14 The five agencies are King County Metro, Pierce Transit, Community Transit (Snohomish County), Everett Transit and Sound Transit.
- 15 “Get to Know Us – Board of Directors,” Sound Transit, accessed October 17, 2023, at <https://www.soundtransit.org/get-to-know-us/board-directors/board-members>.
- 16 “Current Members,” Community Oversight Panel, Sound Transit, accessed October 17, 2023, at <https://www.soundtransit.org/get-to-know-us/panels-committees/community-oversight-panel/cop-members>.
- 17 “Sound Transit: Performance Audit of the Citizen Oversight Panel, Adjustments to Planned Investments, Construction Management and Ridership Forecasts,” Washington State Auditor, October 25, 2012, at <https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?isFinding=false&arn=1008277>.
- 18 “Final Report,” Regional Transportation Commission (RTC), December 31, 2006, at <https://www.bettertransport.info/pitf/psrtc-report.pdf>.
- 19 Transportation Action, final recommendations to the governor and legislature,” The Blue Ribbon Commission on Transportation, December 2000, at <https://leg.wa.gov/JTC/Documents/Studies/2000BlueRibbonCommissionExecSummary.pdf>.
- 20 “Regional Transportation Plan 2022 – 2050,” Puget Sound Regional Council, May 2022, at <https://www.psrc.org/sites/default/files/2023-02/RTP-2022-2050.pdf>.

- 21 “Transportation Resource Manual,” Joint Transportation Committee, Washington State Legislature, page 233, January 2015, at http://leg.wa.gov/JTC/trm/Documents/TRM_2015%20Update/CompleteTRM2015.pdf.
- 22 “Washington Road User Charge Assessment, 2022 Annual Report,” Washington State Transportation Commission, January 2023, at <https://wstc.wa.gov/wp-content/uploads/2023/01/2022-ruc-annual-report.pdf>.
- 23 “Toll Division Annual Report, FY 2022,” Washington state Department of Transportation (WSDOT), July 1, 2021 – July 1, 2022, at [Toll Division Annual Report -- FY 2022 \(wa.gov\)](#). The report shows that collection costs averaged 63 cents per transaction and the average toll was \$3.22, thus the cost of collection was 19.5% of revenue collected. There would be some economies of scale in collecting a statewide mileage tax.
- 24 “Declaration of Purpose,” Revised Code of Washington 47.05.010, accessed September 4, 2023, at <https://apps.leg.wa.gov/RCW/default.aspx?cite=47.05.010>.
- 25 “Maintaining a resilient transportation system in a rapidly changing world,” presentation to the Washington Transportation Commission by Secretary of Transportation Roger Millar, June 27, 2023.
- 26 SB 5126, “Concerning the Washington Climate Commitment Act, Fiscal Note, introduced January 8, 2021, at <https://app.leg.wa.gov/billssummary?BillNumber=5126&Year=2021&Initiative=false>.
- 27 “I-5 bridge collapses over Skagit River; possibly triggered by truck,” by Brian M. Rosenthal, The Seattle Times, May 23, 2013, at <http://blogs.seattletimes.com/today/2013/05/bridge-collapses-on-interstate-5-over-skagit-river/>.

CHAPTER X

IMPROVING AGRICULTURE AND FOOD SECURITY



IMPROVING AGRICULTURE AND FOOD SECURITY

1. Protect and improve the H-2A jobs program
2. Enhance labor force training in agriculture to promote jobs and increase food production
3. Create overtime flexibility in agricultural jobs
4. Remove gray wolves from the Endangered Species list
5. Make outdoor heat and wildfire smoke rules easy to follow
6. Dietary choices should remain a personal choice

Policy Recommendation:

1. PROTECT AND IMPROVE THE H-2A JOBS PROGRAM

Washington's farmers and ranchers face a continual labor shortage while working to maintain the state's position as a leader in global food production. A key element in filling farm jobs is a robust labor force, which in turn provides opportunity and income for farmworker families both locally and abroad.

As farmers and ranchers in Washington compete in the global marketplace, they must have skilled employees to help grow and harvest their crops. The most recent data shows there are 35,200 farms and ranches operating in Washington state, supporting a diverse output of food production featuring more than 300 unique commodities.¹ Agriculture provides the state with more than \$20 billion in revenue annually and Washington leads the nation in the production of apples, blueberries, hops, pears, spearmint oil, and sweet cherries.²

The federal H-2A work program

In recent years, the number of local farmworkers available has dwindled. In 2021, the Washington State Employment Security Department did not place *any* local employees in advertised farmworker positions.³ As a result, reliance on the federal H-2A work visa program has steadily increased in Washington over the last decade.

Authorized by Congress and implemented by states, the H-2A work visa program permits workers from abroad to work legally on farms in the United States. In 2021, 317,000 visas were approved for farmworkers to work on farms across the United States.⁴ Washington state ranks fourth in the nation for H-2A visa workers, hiring nearly 29,000 people annually, comprising 9% of all H-2A hires.⁵

The H-2A visa program provides jobs, income and access to housing and healthcare for foreign-born farmworkers. It also encourages stability and a sense of community, as workers develop a relationship with employers that encourages them to return to the same farm year after year. The program is popular with workers because it is reliable and provides them with access to good jobs.

Benefits to Washington state

The H-2A visa program provides significant benefits to Washington state. The most recent estimates show there are an average of about 130,000 farmworkers living in Washington annually.⁶ Among these, a stable number of about 30,000 H-2A visa-holding farmworkers make their way to Washington each year. Farmworkers with H-2A visas form a “core” of experienced workers for employers because they agree to remain in the employ of the farm at which they are hired.

H-2A temporary agricultural work visa

The wide use of the H-2A temporary agricultural work program highlights its popularity and the need for additional agricultural labor throughout the state. The use of the H-2A visa program is expensive and time-consuming, so it is a last-resort process for employers. At the same time, the program is often used to the maximum extent possible. According to the U.S. State Department, participation in the H-2A visa program grew by 218% between 2007 and 2017, more than doubling the size of the program.⁷

Conclusion

Critics of H-2A work visas say farmers and ranchers are “exploiting” workers by “forcing” them to remain in the employment of the farm that hired them. However, the program is entirely voluntary and provides wages well above the state’s hourly minimum wage. Employers have every incentive to treat workers well so they will return in the future. The H-2A visa program is a key resource for agricultural employers in filling jobs and ensuring the completion of essential on-farm tasks.

Because the H-2A visa program provides a much-needed experienced workforce while contributing to food security for all, it is a program the state should work to maintain. State leaders should join with federal policymakers in any discussions that would make the program easier and less costly for employers to hire workers through the program.

Policy Recommendation:

2. ENHANCE LABOR FORCE TRAINING IN AGRICULTURE TO PROMOTE JOBS AND INCREASE FOOD PRODUCTION

Despite automation and the use of modern machinery, food production is labor intensive, requiring trained and dedicated workers to manage the land, bring in harvests, and feed the world.

The Food and Agriculture Organization of the United Nations projects a world population of 9.7 billion by 2050.⁸ The demand a population of that size places on the food system will require labor to help with the cultivation and harvesting of those crops.

Policy shift away from manual labor

In the early 2000s, there was a shift in educational discussions away from trades, technical vocations and manual labor to promote traditional four-year college for everyone. The implication of this policy was that manual, blue-collar jobs are undignified and undesirable.

As a result, policymakers have focused education and training policies on the fast-growing sectors of high-tech communications, computer software, and aerospace while neglecting the labor needs of the rural areas of the state.

The blue-collar labor force has aged, and rural communities are finding it difficult to attract new employees. Today, the agricultural sector is experiencing a severe labor shortage, making it harder to harvest crops and maintain a reliable food supply.

The dignity of manual work

Far from being seen as undesirable or not respectable, manual labor enhances human dignity and service to the community. The public policy discussion of education and development should shift back to an emphasis on the dignity of manual trades, skilled vocations, and the essential value of blue-collar jobs.

The way to promote the dignity of vocational jobs is to emphasize the potential to build a better life through human development programs like FFA and 4-H programs.⁹ These programs encourage entrepreneurial initiative, engineering skills, and mechanically-minded abilities for the betterment of society that can be used on the farm and in other trades.¹⁰

Alternative educational and training opportunities

The first step to solving labor needs for Washington's farmers, ranchers, and rural communities is to promote the development of the workforce in trades and vocational areas including, agriculture, veterinary medicine, mechanics, carpentry, and more. This is best done by offering a wide range of alternative education and training options.

Career and Technical Education (CTE) programs, skills centers, technical colleges, apprenticeships, and similar programs match students with their interests and abilities. These learning programs provide learning alternatives to traditional four-year programs, which often do not serve the life-skill needs of students and tend to burden them with long-term debt.¹¹

Conclusion

Policymakers should devote equal attention and resources to educational alternatives and vocational training in the agricultural sector. This approach would open new job opportunities in the domestic workforce and help fill the labor needs of various employers throughout the state, including farmers and ranchers.

Policy Recommendation:

3. CREATE OVERTIME FLEXIBILITY IN AGRICULTURAL JOBS

In 2020, a state supreme court ruling ended overtime exemptions for all dairy workers in the state.¹² In 2021, the Legislature ended the overtime exemption for all agricultural employees. The bill, originally introduced to protect the remainder of the agricultural community from an overtime requirement, was instead changed into legislation to phase out overtime exemptions for all agricultural workers in three years.¹³

Unintended consequences

Advocates of the overtime pay law claimed the policy would increase the incomes of farmworkers throughout the state. However, the required time-and-a-half pay structure has bumped up against the real-world economics of farm income, reducing the average number of hours worked by farmworkers from 60 hours a week during peak times to an average of just 41.1 hours a week.¹⁴ The reduction in earnings for workers is significant. Before the implementation of the overtime pay requirement, farmworkers in Washington earned an average of \$19 an hour, or \$1,140 a week at 60 hours a week. Now, farmworkers are being paid an average of \$21 an hour, a higher rate, but earn only \$871 a week at 41 hours a week.

Return to flexibility

Under the previous overtime exemption, farmworkers were afforded flexibility with their work schedules. If a medical appointment or child's sporting event fell during working hours, most employers gave their employees time off to attend. Given the shortened schedules employees now have, there is less flexibility during the workday, so workers are more likely to miss medical appointments and important family events.

Lawmakers have two ways to fix the need for flexibility and give lost earnings back to farmworkers. Lawmakers can revisit the current overtime law and revise the overtime threshold by increasing it to 48 hours. Alternatively, lawmakers can pass a bill that would give agricultural employers a self-determined, voluntary overtime exemption period for critical harvest times during the summer and autumn months.

“Bump and freeze”

The current overtime law phases in the overtime rule over three years. In 2024, agricultural employers are required to pay time-and-a-half after 40 hours worked in a week. Lawmakers could revisit the overtime law and “bump” the minimum threshold to 48 hours and freeze it there for overtime pay.

The compromise would allow most agricultural employers – dairy operators are required to pay overtime after 40 hours under state supreme court ruling – to maintain their traditional six-day workweek with eight-hour shifts or develop a different version of work shifts for their employees. A 48-hour workweek would allow farmworkers to earn an additional \$168 a week, putting them closer to their previous income levels.

Harvest window

Another improvement lawmakers can make is to create a “harvest window” that would allow agricultural employers to declare themselves exempt from overtime pay limitations up to 55 hours a week for 12 weeks annually. This harvest period would apply to peak work times, whether picking fruit or monitoring cattle for births. By providing flexibility during a 12-week period that could be split throughout the year, many of our agricultural employers would be able to offset their loss of income by working overtime during the busiest times of the year.

There is one drawback to the “harvest window” solution: the requirements of year-round or near-year-round growers. Washington state is home to several fresh produce growers who cultivate crops that need harvesting during a season that lasts more than three months. Those growers will not be able to give their employees back the hours farmworkers are requesting under the state’s current restrictive work rules.

Conclusion

Lawmakers owe farmworkers the income taken from them by the decision to end the overtime exemption. An examination of agricultural economics and talking to farmworkers before changing their work schedules would have given lawmakers a better understanding of why the overtime exemption was created and persisted as a good labor policy for more than 100 years. Listening to farmers and farmworkers would have allowed

urban-based lawmakers to be more sensitive to the unique needs of those living in rural communities.

Lawmakers now have two options – to enact a “bump and freeze” policy or to allow a “harvest window” – to make it up to farmworkers who have seen their incomes slashed by the hasty decisions made in Olympia without the consent of those most affected by the law.

Policy Recommendation:

4. REMOVE GRAY WOLVES FROM THE ENDANGERED SPECIES LIST

For the 14th year in a row, Washington’s population of wild gray wolves has increased, reaching at least 216 wolves and 19 breeding pairs. When gray wolves returned to Washington in 2008, it was believed they would naturally disperse statewide within a decade. Re-introducing these wild predators was made contingent on that assumption.

Fifteen years later, wolves have not distributed themselves across the state, leaving an abundance of gray wolves, and their impact, concentrated in the easternmost third of the state.

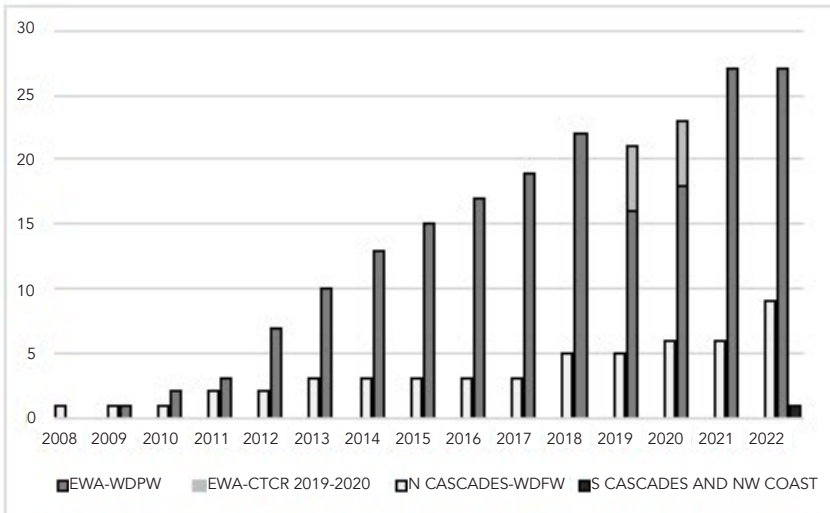


Figure 4. Minimum known number of packs by recovery region in Washington, 2008-2022. Wolf packs counted by Washington Department of Fish and Wildlife (WDFW), the Spokane Tribe, and Confederated Tribes of the Colville Reservation (CTCR). CTCR packs were monitored differently during 2019 and 2020.

Source: Gray Wolf Conservation and Management 2022 Annual Report, Washington Department of Fish and Wildlife

Gray wolves should be delisted by region

The Washington Department of Fish and Wildlife (WDFW) recently reported the predator population is thriving in specific parts of the state and is virtually non-existent in others.¹⁵ As a result, the total population of wolves is at the level considered “recovered” by the initial plan, but the arbitrary requirement that the population must be spread into three regions chosen by WDFW officials has not been met.

This policy has created the worst of both worlds. The concentration of wolves means one corner of the state is affected by most of the conflict and danger to communities because wolves won’t spread out to other areas.

To solve this problem Washington state officials should delist gray wolves in the easternmost third of the state, where an abundant wild population is higher than was expected in the initial recovery plan. Under the standards of the Federal Endangered Species Act, gray wolves are already considered successfully recovered in that part of the state.

This finding is confirmed by the Confederated Tribes of the Colville Reservation, which considers the wolf population to be fully recovered on their land. A state recovery declaration for the same region would bring parity with the federal delisting and would allow state wildlife officials to manage gray wolf recovery programs for the benefit of the whole state.

Delisting criteria

The wild gray wolf count for 2022 found a minimum of 216 animals in 37 packs, including at least 19 breeding pairs, with 27, over 70%, of those packs located in the eastern third of the state.

Under the Gray Wolf Conservation and Management Plan there must be:

“...15 breeding pairs of wolves present in the state for at least three years, with at least four in eastern Washington, four in the northern Cascades, four in the southern Cascades/northwest coastal area, and three others anywhere in the state” or “18 breeding pairs ... documented during a single year and the distribution objectives are met.”¹⁶

The number of breeding pairs necessary for a state delisting has been more than met, with only the arbitrary distribution goal not being met. It is clear

that disbursement throughout the state will take longer or may never occur at all, creating a burden in parts of the state currently saturated with rising gray wolf populations.

A practical wolf recovery plan

To provide a path to balanced cohabitation between humans and wild predators, delisting in the eastern-most third of the state would be a positive first step. After a full delisting of gray wolves in the eastern third of the state, each county or recovery region should be assessed individually as gray wolf numbers increase. An incremental recovery solution would allow counties and residents to regain valuable autonomy in species management that meets the specific needs of each region.

Incremental delisting would allow officials to test proposed solutions for statewide delisting, without having an adverse effect on the overall gray wolf population. By declaring the species recovered in smaller increments, management techniques could be tried and perfected in areas where a stable population exists rather than waiting until the overall state wolf-population goal has been reached.

Conclusion

It is evident that wild gray wolves have returned as a viable part of Washington natural ecosystem. Declaring their population recovered in the region that overlaps with the Federal ESA delisting area would bring fairness and parity to affected communities and would allow state officials to refine their policy approach to gray wolf management in the future.

Policy Recommendation:

5. MAKE OUTDOOR HEAT AND WILDFIRE SMOKE RULES EASY TO FOLLOW

Washington state offers a variety of jobs that require employees to work outdoors in inclement and potentially hazardous weather conditions, including high-heat days and days of poor air quality during wildfire season. The state Department of Labor and Industries (L&I) should make any safety rules related to heat and wildfire smoke easy to implement for the benefit of both workers and their employers.

Outdoor heat rules

During the “heat dome” event of 2021, no part of Washington was spared blistering high temperatures.¹⁷ On June 29th that year, the state Department of Ecology recorded some extraordinarily high temperatures around the state, including 134 degrees Fahrenheit at the Mill Creek bridge near Walla Walla and 123 degrees at Alpowa Creek near Clarkston.¹⁸ The extreme temperatures throughout the state sparked a conversation about revising the heat rules for outdoor work across the state and prompted protests in front of the Governor’s Mansion.¹⁹

Maintaining safe working standards in temperatures well above 100 degrees is something everyone can agree on. However, setting the lower trigger temperature at which safety measures are needed is more difficult. The current heat rules are applied starting at 80 degrees with a minimal approach to cool-off periods and breaks.

Simplicity is key

During the heat of summer, at 80 degrees, employers must ensure all outdoor employees have cool, hydrating beverages available for the duration of their shift. Shade must also be provided in a large enough space that employees can be comfortably seated in the shade with airflow.

When the temperature reaches 90 degrees, a 15-minute break every two hours is mandatory. The 15-minute cool-down break can be timed to run concurrently with regular break times. When temperatures exceed 100 degrees, there must be a 15-minute break every hour during each working shift.

Buddy system

The heat rules include a provision for a buddy system or group work observation rule. Under the heat rules, outdoor workers must keep an eye on one another for signs of heat-related illness. Putting the burden on non-supervisory employees to monitor their co-workers has the potential to create a power imbalance and liability for each worker. In the event one worker becomes seriously ill or is injured due to the heat, their co-workers may be held responsible, according to the state rule.

Gray areas in smoke rules

Safety for outdoor workers during wildfires is a problem throughout the West Coast. Other states have followed the air quality standards set by the U.S. Environmental Protection Agency in its national Air Quality Index. The state Department of Labor and Industries has instead imposed a more arbitrary approach to measuring air quality standards.

In Washington, employers must “encourage” workers to use N-95 masks during the first two stages of poor air quality as identified by the Department of Labor and Industries. The first stage is an air quality index of 69; the second is an air quality index of 101. At an air quality index of 500 or greater, employers must require the use of N-95 respirator masks for all employees in outdoor settings.

EPA Air Quality Index (AQI)

Rather than muddy the air quality interpretations, Department of Labor and Industries officials should drop their arbitrary measures and use the long-established and widely respected air quality standards set by the U.S. Environmental Protection Agency.²⁰ In addition to assigning number values to air quality standards, the federal Air Quality Index (AQI) is color coded for ease of interpretation.

Green (AQI 0-50) denotes “good” air conditions for everyone, while yellow (AQI 51-100) indicates “moderate” air conditions acceptable for everyone except those who are “unusually sensitive to air pollution.”

Orange denotes an AQI of 101-150, unhealthy for sensitive groups, and the ambient air becomes a problem for even the general population. Red, AQI of 151-200, is considered “unhealthy” for people experiencing “some health effects” and members of sensitive groups experiencing “some serious health effects.” Purple or “very unhealthy” (AQI 201-300) is the reason for a “health alert” for the public. Finally, maroon or “hazardous” (AQI 301 or higher) is considered an “emergency condition” and should be cause for concern for everyone.

The EPA Air Quality Index is easy to read and understand. The color, level of concern, and number value system has been widely available for years. It also matches the AirNow App and website, both of which are recommended to Washington state employers for use in monitoring air quality for their employees.

Conclusion

Rather than choosing temperatures and air quality ranges that seem arbitrary to set safety rules for outdoor workers in our state, Department of Labor and Industries officials should consider the problems and liabilities of their existing thresholds. By making co-workers responsible for one another in high temperature settings, officials are creating unnecessarily adversarial working conditions in circumstances that are already difficult.

Similarly, by creating confusing and unusual air quality standards that conflict with the accepted EPA index, state officials are making employers and employees interpret unnecessarily complex rules in ways that can make the outdoor workplace more dangerous.

Policy Recommendation:

6. DIETARY CHOICES SHOULD REMAIN A PERSONAL CHOICE

Americans consumed an estimated 30 billion pounds of beef in 2021, or about nine pounds per person.²¹ When people who do not consume beef are removed from the count, the average American eats approximately 57 pounds of beef a year – or just over one pound a week.²²

Considering how much beef is eaten annually in the United States, it is odd to think about the level of vitriol and hatred political activists aim at cattle producers. Whether it is negative media coverage about the greenhouse gas emissions of cattle, the misunderstanding of the science of animal breeding and care, or the imaginary anthropomorphism of animals by activists, healthy beef production and consumption are regularly under attack at every turn.

The worst attacks are launched by radical animal rights activists. They have stolen cattle from family farms, and farmers have been stalked by activists looking for a way to steal livestock.²³ A jury in California recently found an actor and animal rights activist “not guilty” for theft after stealing, or “rescuing,” two chickens from a Foster Farms truck.²⁴

Contented cows (and other animals)

Livestock, even animals raised on a large farm run by a corporation, are raised ethically for several reasons. First, if an animal becomes ill, it could

Daily AQI Color	Levels of Concern	Values of Index	Description of Air Quality
Green	Good	0 to 50	Air quality is satisfactory, and air pollution poses little or no risk
Yellow	Moderate	51 to 100	Air quality is acceptable. However, there may be a risk for some people, particularly those who are unusually sensitive to air pollution.
Orange	Unhealthy for Sensitive Groups	101 to 150	Members of sensitive groups may experience health effects. The general public is less likely to be affected.
Red	Unhealthy	151 to 200	Some members of the general public may experience health effects; members of sensitive groups may experience more serious health effects.
Purple	Very Unhealthy	201 to 300	Health alert: The risk of health effects is increased for everyone.
Maroon	Hazardous	301 and higher	Health warning of emergency conditions: everyone is more likely to be affected.

spread disease to other animals. Second, if an animal is undernourished or does not have access to water, it will likely die, meaning a financial loss for the farmer.

Finally, the advertising tagline about “happy cows” is true for all livestock. Farm animals thrive when they are allowed to live and behave in a way that is natural to them – grazing, feeling safe from predators, avoiding risk of injury, taking naps, occasionally playing, and living in low-stress conditions.

Animals who are found to be ill are quarantined and treated until they can rejoin their herd or flock. It is illegal to introduce animals into the food supply until all withdrawal and quarantine periods have ended. That means an animal that received treatment for an illness may not be processed for human consumption until all the medication has been metabolized out of its body.

Radical activists argue that raising livestock for profit implies mistreatment. This claim is not true. Animals without access to healthy feed, clean water, and good living conditions grow at a slower rate and produce low-quality

meat. Even if livestock raisers were motivated only by money, they have every incentive to ensure each animal in their care is provided with good care. As it is, ranchers have both business and ethical reasons to treat their animals well by providing ample amounts of the necessities of life – food, water, medical care as needed, and proper space and movement.

As with all animals, their “happiness” under relaxed, safe living conditions matters. Farmers and ranchers know that caring for an animal throughout its life cycle is not in conflict with the business goal of producing healthy nutritious meat products at the end of that life cycle.

If radical activists think animals have feelings on par with those of people, they should realize that engaging in violent property destruction and seeking to steal animals makes them “predators,” not “saviors.” Livestock instinctively prefer to avoid people and be left alone in low-stress conditions. That is why livestock run away from people, even from activists who are supposedly trying to “save” them. To animals, these activists look like a threat and are a source of deep emotional stress.

No food without animal death

Extremist efforts to ban animal-based food production grossly misrepresent what it means to raise livestock for human consumption in the U.S. They also ignore two important facts. No form of food production is possible without animal death, and meat is a fundamental source of protein for a healthy diet.

Participating in animal rights activism to save *all* animals from death is to engage in ignorance with no grasp of how food is produced to fight hunger. Conventional or organic, grass fed or grain fed, the food supply depends on removing pests that cause irreparable damage to food intended for people. Killing deer, moles, insects, and other pests is necessary to ensure productive fruit and vegetable harvests.

It is also arguably more wasteful than killing livestock for meat because, except for deer, the animals killed are likely not going to be consumed but instead will be thrown away.

Meat is nutritionally necessary for human health

A study published in *Animal Frontiers* highlights the importance of meat consumption for a healthy diet, directly counteracting the push to severely limit or eliminate animal protein from the plate.²⁵

“There are potential nutritional benefits and risks associated with restricting meat, which vary by context, population, life course phase, and replacement food. In many low- and middle-income countries, particularly in Sub-Saharan Africa and South Asia, meat intake is very low, and undernutrition is high (Miller et al., 2022). These populations could benefit from an increased rather than reduced meat intake (Adesogan et al., 2020).

“Thus, global efforts to moderate meat intake for environmental or other reasons should be careful not to restrict its growth in populations where consumption is already low, as this could hinder progress towards reducing undernutrition and thereby not address human suffering and the stifling of economic development (Balehegn et al., 2019).”

Conclusion

Harmful animal activism and divisive language directed against people in animal agriculture have downgraded the discussion about how to reduce hunger and increase the availability of protein-based nutrition. At-risk families, especially children, should not be harmed by being denied access to affordable, nutrient-dense foods, including affordable animal-based products.

There should be a common desire to protect low- and middle-income households by ensuring that meat is readily available as a protein source in a healthy, balanced diet. Policymakers should resist radical agendas and should make it clear to activists that there is room for every dietary choice at the dinner table. They should understand that no dietary choice is without a loss of animal life to bring essential daily meals from the farm to the dinner plate.

ADDITIONAL RESOURCES

“Gray wolves need full state delisting before hitting the road to another state,” by Pam Lewison, Washington Policy Center, June 27, 2023, at <https://www.washingtonpolicy.org/publications/detail/gray-wolves-need-full-state-delisting-before-hitting-the-road-to-another-state>

“The best activism is the one that allows everyone to make their own dietary choices,” by Pam Lewison, Washington Policy Center, May 11, 2023, at <https://www.washingtonpolicy.org/publications/detail/the-best-activism-is-the-one-that-allows-everyone-to-make-their-own-dietary-choices>

“It is time to delist gray wolves,” by Todd Myers and Pam Lewison, Washington Policy Center, April 25, 2023, at <https://www.washingtonpolicy.org/publications/detail/it-is-time-to-delist-gray-wolves>

“Animal rights activism is not about animals,” by Pam Lewison, Washington Policy Center, March 30, 2023, at <https://www.washingtonpolicy.org/publications/detail/animal-rights-activism-is-not-about-animals>

“Agricultural overtime law cuts farmworker income and pushes up food prices,” by Pam Lewison, Washington Policy Center, March 6, 2023, at <https://www.washingtonpolicy.org/publications/detail/agricultural-overtime-law-cuts-farmworker-income-and-pushes-up-food-prices-2>

“SB 5476, to help avoid food shortages while increasing farmworker income,” by Pam Lewison, Washington Policy Center, Feb. 8, 2023, at <https://www.washingtonpolicy.org/publications/detail/sb-5476-to-help-avoid-food-shortages-while-increasing-farmworker-income>

“Arbitrary smoke rules may do more harm than good,” by Pam Lewison, Washington Policy Center, Oct. 6, 2022, at <https://www.washingtonpolicy.org/publications/detail/arbitrary-smoke-rules-may-do-more-harm-than-good>

“Radical ballot proposals in Western states would criminalize meat production, reduce healthy food sources, and harm public health,” by Pam Lewison, Washington Policy Center, Oct. 11, 2021, at <https://www.washingtonpolicy.org/publications/detail/radical-ballot-proposals-in-western-states-would-criminalize-meat-production-reduce-healthy-food-sources-and-harm-public-health>

“If farmers work half-time, why did we need overtime legislation?” by Pam Lewison, Washington Policy Center, May 21, 2021, at <https://www.washingtonpolicy.org/publications/detail/if-farmers-work-half-time-why-did-we-need-overtime-legislation>

“Agricultural labor: Assessing the problems and providing solutions to H-2A, overtime and wage rules,” by Pam Lewison, Washington Policy Center, Jan. 24, 2020, at <https://www.washingtonpolicy.org/publications/detail/agricultural-labor-assessing-the-problems-and-providing-solutions-to-h-2a-overtime-and-wage-rules>

“Tough times call for open markets,” by Pam Lewison, Washington Policy Center, June 5, 2019, at <https://www.washingtonpolicy.org/publications/detail/tough-times-call-for-open-markets>

“HB 1398 would add costs and reduce work opportunities for legal migrant workers,” by Pam Lewison, Legislative Memo, Washington Policy Center, February 2019, at <https://www.washingtonpolicy.org/publications/detail/hb-1398-would-add-costs-and-reduce-work-opportunities-for-legal-migrant-workers>

ENDNOTES

- 1 “State Agriculture Overview – Washington, 2022,” National Agricultural Statistics Service, U.S. Department of Agriculture, July 11, 2023, at https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=WASHINGTON.
- 2 “Agriculture and Food Manufacturing,” Choose Washington, Washington Department of Commerce, accessed July 11, 2023, at <http://choosewashingtonstate.com/why-washington/our-key-sectors/agriculture-food-processing/#::~text=Industry%20Snapshot&text=The%20industry%20generates%20more%20than,and%20raspberries%20in%20the%20U.S.>
- 3 “Agricultural and Seasonal Workforce Services Report, 2022,” Washington Department of Employment Security, October 2022, at https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=2022-agricultural-seasonal-workforce-services-report_1a4eb03c-89db-41b6-9b36-6959821b6eed.pdf.
- 4 “H-2A seasonal worker program has expanded over time,” Economic Research Service, U.S. Department of Agriculture, October 3, 2022, at <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=104874>.
- 5 “H-2A Temporary Agricultural Program – Selected Statistics, Fiscal Year (FY) 2021 EOY,” Review of Positions Certified FY 2021 EOY (% of total certified FY 2021 EOY), Employment and Training Administration, U.S. Department of Labor, accessed October 16, 2023, at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2021_Q4.pdf.
- 6 “Washington Farmworker Housing Needs Assessment,” Washington Department of Commerce, January 2022, at https://www.commerce.wa.gov/wp-content/uploads/2022/04/CommerceReports_CSHD_FarmworkerHousing_Final_4.26.22.pdf.
- 7 “H2-A Temporary Agricultural Program,” Office of Foreign Labor Certification, U.S. Department of Labor, September 2021, at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2021.pdf.

- 8 “World Population Prospects 2022,” Summary of Results, Department of Economic and Social Affairs, United Nations, New York, accessed July 27, 2023, at https://www.un.org/development/desa/pd/sites/www.un.org/development.desa.pd/files/wpp2022_summary_of_results.pdf.
- 9 National Future Farmers of America (FFA) Organization and 4-H; Head, Heart, Hands and Health.
- 10 “Celebrating career and technical education,” by Cyndie Shearing, Future Farmers of America New Horizons, National FFA Organization, February 15, 2018, <https://www.ffa.org/ffa-new-horizons/celebrating-career-and-technical-education/>.
- 11 “Skill Centers, Career and Technical Training,” Office of the Superintendent of Public Instruction (OSPI), Washington state, accessed October 30, 2019, at <https://www.k12.wa.us/student-success/career-technical-education/skill-centers>.
- 12 Martinez-Cuevas v DeRuyter Brothers Dairy et al., Washington state courts, November 5, 2020, at <https://www.courts.wa.gov/opinions/pdf/962677.pdf>.
- 13 SB Bill 5172, “Agricultural employees – overtime pay,” Washington State Legislature, effective date July 25, 2021, at <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5172-S.SL.pdf?q=20230712140046>.
- 14 “Farm Labor Report,” National Agricultural Statistics Service, U.S. Department of Agriculture, May 24, 2023, at <https://downloads.usda.library.cornell.edu/usda-esmis/files/x920fw89s/dj52xk49x/0r968j49d/fmla0523.pdf>.
- 15 “Washington Gray Wolf Conservation and Management Annual Report, 2022,” Washington Department of Fish and Wildlife, April 7, 2023, at <https://wdfw.wa.gov/publications/02419>.
- 16 “Gray Wolf Conservation and Management Plan,” Washington Department of Fish and Wildlife, December 2011, at <https://wdfw.wa.gov/publications/00001>.
- 17 “New study lays out hidden backstory behind deadly Pacific Northwest heat wave,” by Louise Lerner, University of Chicago, May 13, 2022, at <https://phys.org/news/2022-05-hidden-backstory-deadly-pacific-northwest.html>.

- 18 State Climate Extremes Committee Memorandum,” National Centers for Environmental Information, National Oceanic and Atmospheric Administration (NOAA), February 3, 2022, <https://www.ncei.noaa.gov/monitoring-content/extremes/scec/reports/20220210-Washington-Maximum-Temperature.pdf>.
- 19 “Protesters ask to be sent home with pay in 90-degree temps,” by Pam Lewison, Washington Policy Center, August 3, 2022, at <https://www.washingtonpolicy.org/publications/detail/protesters-ask-to-be-sent-home-with-pay-in-90-degree-temps>.
- 20 Air Quality Index (AQI) Basics,” AirNow, U.S. Environmental Protection Agency, accessed July 14, 2015, at <https://www.airnow.gov/aqi/aqi-basics/>.
- 21 “Beef Consumption in the United States from 2002 to 2021,” by M. Shahbandah, Prices and Access, Statista, February 21, 2023, at <https://www.statista.com/statistics/542890/beef-consumption-us/>.
- 22 “How much beef does the average American consume each year?” Food Industry, May 2022, at <https://www.foodindustry.com/articles/how-much-beef-does-the-average-american-consume-each-year/#:~:text=View%20Larger%20Image-,How%20much%20beef%20does%20the%20average%20American%20consume%20each%20year,data%2C%20wich%20is%20from%202019>.
- 23 “Rescue or theft? Animal welfare activists have New York farm community on edge,” by Tom Venesky, Lancaster Farming, April 26, 2023, at https://www.lancasterfarming.com/farming-news/livestock/rescue-or-theft-animal-welfare-activists-have-new-york-farm-community-on-edge/article_7614d3b2-e44d-11ed-b2fd-efaf86e867d8.html.
- 24 “Animal activist and former Baywatch star found not guilty in ‘open rescue.’” by Jennifer Shike, Pork Business, March 28, 2023 at https://www.porkbusiness.com/news/industry/animal-activist-and-former-baywatch-star-found-not-guilty-open-rescue?mkt_tok=ODQzLVlHQi03OTMAAAGKy-M-swnos7wxd-5R4zMK1XZk28EbErOBdUv3DpnMeXdJTjIwNrPuq8BNUst_5_DsX23MPZ34qZxcnVLsN3BnU4rzAxi00W-jm50DGDOG7R5oNeo1A.

- 25 “The role of meat in the human diet: evolutionary aspects and nutritional value,” by Frederic Leroy, Nick Smith, Adegbola Adesogan, Ty Beal, Lora Iannotti, Paul Moughan and Neil Mann, *Animal Frontiers*, Volume 13, Issue 2, April 2023, pages 11 - 18, at <https://academic.oup.com/af/article/13/2/11/7123475>.