WINTER 2023

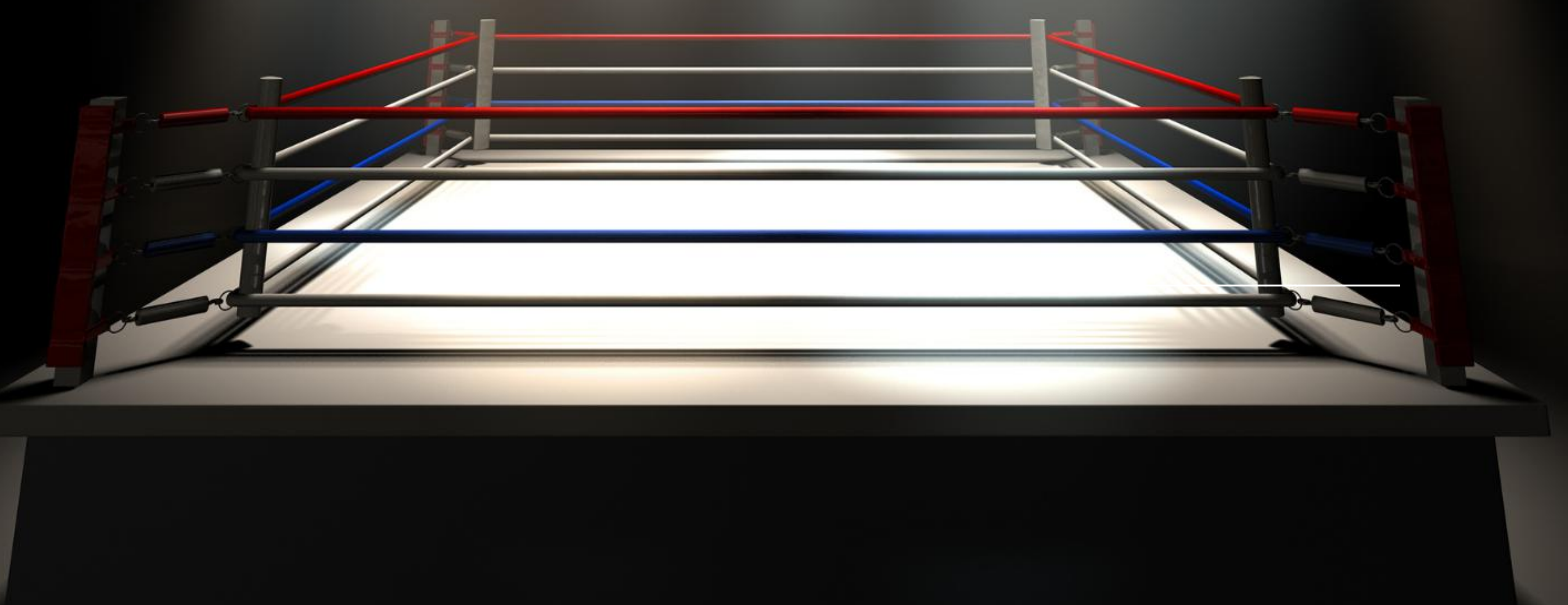
VIEWPOINT

THE MAGAZINE OF
WASHINGTON POLICY CENTER

The Income Tax on Capital Gains Showdown

The stage is set for the state Supreme Court hearing in January

- **Gas Price Hike Coming**
- **LTC Payroll Tax Update**
- **WA Students Falling Behind**



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THE QUARTERLY MAGAZINE OF WASHINGTON POLICY CENTER

Michael Gallagher,
WPC President & CEO

Letter from the CEO

December 2022

To all friends of WPC,

Thank you for your support over the past year. Our team has developed a thoughtful and impactful three-year plan for Washington Policy Center, a roadmap for WPC's free market voice to be heard louder, earlier, and with greater impact in Olympia. We cannot rely on policymakers alone to make good use of our work. Our coalition is much broader than our current membership, and we catalyze the wisdom of the free market across the state and all age groups. By broadening the network of those who share that belief, focusing their energy around a few key issues, and elevating their aligned voices, we will build a better Washington state.

I am excited to welcome two new members on to the WPC team! The first is our new Eastern Washington Director, Sean O'Brien who comes most recently from Congressman Dan Newhouse's office working as Executive Director of the Congressional Western Caucus. His extensive experience will serve Eastern Washington well in this important role. The second new hire is Charles Prestrud as Director for the Coles Center for Transportation. Charles comes to us with 30 years of transportation policy leadership, most recently as WSDOT System Planning Manager, and he will make a valuable addition to our research experts.

We received disappointing news from the state Supreme Court on our state's illegal, unconstitutional income tax on capital gains. The state high court has granted the Attorney General's request to allow the Department of Revenue (DOR) to collect the capital gains income tax before a final ruling in the case:

> "Now, therefore, it is hereby ORDERED: That the motion for a stay of the lower court's order pending review is granted. The lower court order is stayed pending this Court's final decision in this matter. DATED at Olympia, Washington this 30th day of November, 2022."

Later that day, WPC was quoted in The Seattle Times, "Washington is the only entity in the world that refers to a capital-gains tax as an excise tax," said Jason Mercier, director of the Center for Government Reform at the Washington Policy Center, a conservative think tank. "Doesn't matter if you go to the other 49 states, doesn't matter if you go to the IRS, the federal government, or other countries in the world. You'll get the same answer. It's an income tax, because that's what's being taxed."

This decision is a blow to our efforts to keep Washington state income tax free. The clock is ticking toward the oral argument before the Washington State Supreme Court on January 26. We will continue to lead the fight on your behalf.

Despite all the looming challenges to the national and state economy, Washington state is again predicting a revenue surplus. This surplus, again more than a billion dollars, is on top of the more than $11 billion in surpluses the state has recently enjoyed. Yet there has been no cut to the state sales tax since 1982. Income tax advocates claim a new tax is needed to reduce the state's regressive tax structure, yet they are silent on a sales tax cut that would immediately help those with lower incomes deal with the challenges of inflation.

WPC will continue to be your watchdog in Olympia. With traditional media outlets reducing their coverage of legislative sessions to mere shadows of what once was, WPC Center Director blog posts have become key sources of information for those seeking what's really going on in Olympia. Media and citizen activists rely on it for information on legislative proposals, hearings, and the latest developments.

Without your support, our work and our growth would not be possible. Thank you for your investment in WPC. I look forward to 2023 and putting your generous support to good use as we fight for free market ideas together.

Merry Christmas, Happy Holidays and Happy New Year!

Sincerely,

Michael D. Gallagher
President & CEO
Washington Policy Center

State of emergency ends, but many workers remain fired

Elizabeth Hovde, Director, Centers for Health Care and Worker Rights

Don't forget that even as Washington state Gov. Jay Inslee's state of emergency has ended after 975 days, there are still many people who were separated from their jobs because of a COVID-19 vaccine mandate the governor put into place. And that was done without a legislative body weighing in and offering information or debate.

Families and individuals suffered, as did state services that ranged from ferry cancellations to increased stress on emergency responders. And even though Inslee says lives were saved because of his actions, state comparison and common sense show that a COVID-19 vaccine mandate on working-age adults can't take credit for lives saved. Vaccines and behaviors have kept people safer from COVID-19's cruelties.

Now that the one-man rule is ending, the legislature should do all it can to protect state services and, more importantly, the livelihoods of current and future state employees with emergency power reform. Acting to restore the balance of powers for future use of emergency orders should be one of our lawmakers' first orders of business.

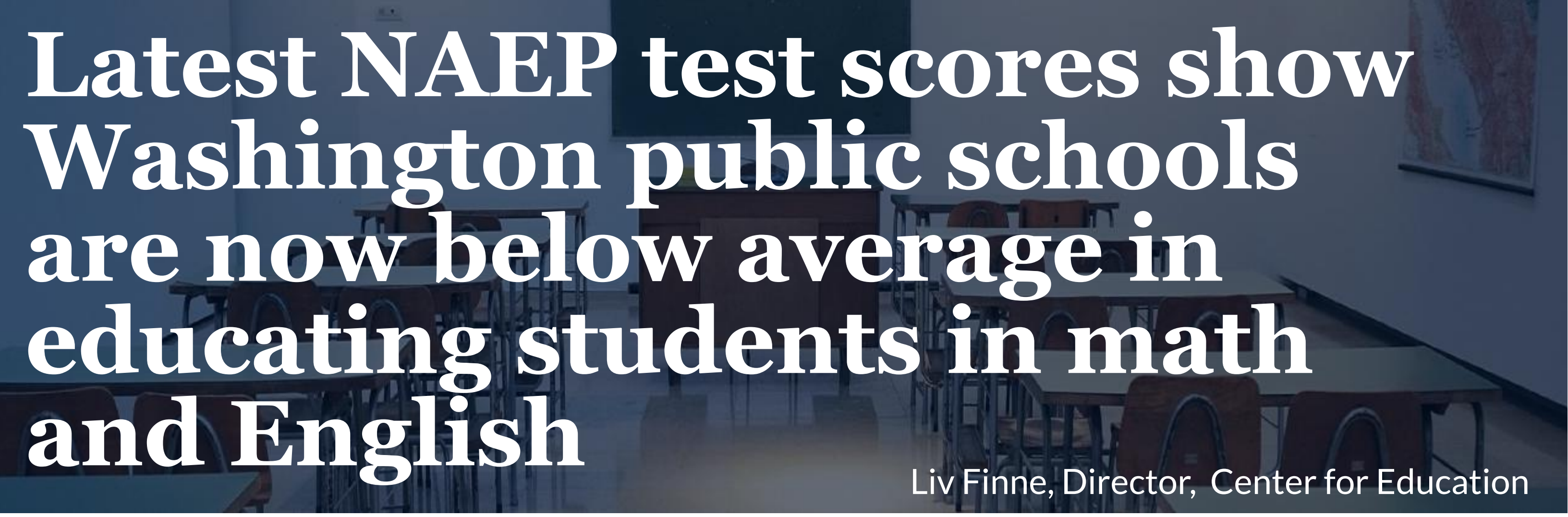
Some school volunteers will finally get to help out again in classrooms where students have suffered devastating learning loss. Some firefighters in some fire departments might be able to get their jobs back, as a recent FOX 13 story tells. Other employees are suing their government employers because of how they were tossed aside. Recent news from the New York Supreme Court ordering New York City to rehire and pay back wages to fired, unvaccinated city workers has given a boost of energy to wronged workers in many states.

A summer directive from Washington's governor to keep the vaccine mandate on some of our employees even after emergency orders end also needs to be addressed by legislators. Interestingly, the governor let the booster portion of his directive be negotiated away in labor negotiations. Is the science different for union members when it comes to COVID-19? Was the governor really after a public health benefit, if boosters are now no longer necessary?

The state should not be in the business of coercing its workers or prospective hires to receive COVID-19 shots. Sometimes, the vaccination or boosters will go against a doctor's advice or a person's weighing of risks. (Many in the medical community were dismissed along with workers in the governor's mandate.)

A patient-centered decision concerning a disease and vaccines that the medical community and politicians are still learning about should not be impacted by politics.

To keep up on key updates and follow our important work on this issue, check out washingtonpolicy.org



Latest NAEP test scores show Washington public schools are now below average in educating students in math and English

Liv Finne, Director, Center for Education

The National Assessment of Education Progress (NAEP), known as the nation's report card, announced results from the 2022 learning test. Since 1990 Washington state schools always scored above the national average on these tests. No longer.

Washington public schools just posted the lowest student learning scores in the state's history of NAEP testing:

- Washington public schools educated 4th graders at the lowest level ever in math and reading.
- Public schools educated 8th graders at the lowest level ever in math and reading.

Other assessments show similar failures. The state Smarter-Balance Assessment shows public schools failed to educate 62 percent of students in math and failed to educated 49 percent in English. The American College Test (ACT) shows the lowest performance ever by Washington public schools in educating students.

State education leaders appear to be unaware of how poorly they are doing. State Superintendent Chris Reykdal recently announced that he wants another $6.56 billion, about 20% more, to spend on the school system, even as student enrollment is falling. He says he wants to give out most of the money as pay raises for public employees (only about half of school district employees are teachers). His proposal includes no direct funding to help children and families make up learning losses.

Let's consider this funding request in context. A caring legislature would recognize that adults in the school system were amply protected during COVID, receiving full pay and benefits during nearly two-years of school shutdowns. Meanwhile, no education funding went to families to access learning resources.

Today, Washington public schools have on-hand about $1.6 billion in unspent federal COVID money. That's enough to provide every family $1,500 to pay for tutoring, extra lessons or other resources, without touching a penny of existing district budgets.

The contrast in approaches was dramatically illustrated in an exchange between U.S. Senate candidates Patty Murray and Tiffany Smiley during a recent debate. Sen. Murray said she "was so concerned about all the schools being shutdown" and that she put federal dollars into after-school programs and tutoring, but "we have more work to do."

Smiley said "our children are set back terribly [by the closed schools], their test scores are plummeting, childhood anxiety is on the rise, ask any parent.... Our children are suffering..." She cited school choice policies "that deliver results" in 32 states, the District of Columbia and Puerto Rico which allow parents to access public dollars to pay the costs of private tutoring and private tuition.

One approach calls for doing the same thing, pouring more money into school districts, and expecting a different result. The alternative calls for giving parents wider choices, whether the local public school, an alternative school, private tutoring, online courses, or some combination. In other words meeting child learning needs in a flexible way, regardless of how parent choices might affect budgets and bureaucracies.

Evidence shows funding fresh approaches based on choice would be far more effective than slotting another $6 billion to government agencies. If state leaders would open their minds to it we can provide better outcomes for our students.

State Supreme Court sets January 26 hearing for capital gains income tax lawsuit

Jason Mercier, Director, Center for Government Reform

The state Supreme Court will hear oral arguments in the capital gains income tax lawsuit on January 26, 2023, at 9 a.m. The case will be heard in Tumwater due to renovations at the Temple of Justice. On March 1st, 2022 an Inslee-appointed Superior Court judge ruled that the capital gains income tax "is declared unconstitutional and invalid and, therefore, is void and inoperable as a matter of law." In an unusual and troubling move, eight months later the state Supreme Court issued a stay of the lower court ruling allowing DOR to collect the tax.

The capital gains income tax being ruled unconstitutional by the Superior Court surprised no one. In fact, legislative public records after the March ruling included these comments from supporters of the tax:

- Rep. Frame: "Also, we fully expected the Douglas County judge would rule against us and always knew this would have to go up to the Supreme Court no matter what happened at the Superior Court."
- Speaker Jinkins: "They forum shopped well. I would have been shocked with any different outcome."

Staff at the Department of Revenue (DOR) also were not surprised by the ruling saying in public records:
"So.... We will keep going obvi, but scrap the whole thing when the supreme court weighs in? Also, this was no surprise."

"Yes, no surprise. I believe we keep plugging away until we receive direction to cease."

"We are still going to act like it will be rolling out in December, so please don't let your attention or your commitment wane while working on Capital Gains. If it is decided later to be unconstitutional, then we will work to pull it out. But until then we are 'A GO' for December."

Continued on next page

Prior to the capital gains income tax being adopted by lawmakers, DOR warned (emphasis is DOR's):

- "The federal capital gains tax is characterized as an income tax. One potential challenge to a capital gains tax proposal is that opponents may characterize the Washington capital gains tax as an income tax and argue that it is not allowed under the Washington constitution";
- **"The IRS considers taxes on investment income** (dividends, a tax on net gains from the sale or exchange of a capital asset, or tax on the net taxable income of an unincorporated business) **an income tax**";
- "Today states tax capital gains as income and a deduction may be taken on the taxpayer's federal income tax return for state taxes paid on capital gains";
- "significant costs to administer and enforce a capital gains tax upon tens of thousands of taxpayers that would need to be registered";
- "Because Washington does not have an income tax, most individuals are not registered to pay taxes to the Department, requiring substantial work to register taxpayers";
- "Some individuals may move their domicile out-of-state to avoid paying capital gains tax on investments in Washington State";
- "susceptible to constitutional challenge as an income tax prohibited by the Washington state constitution";
- "uncertain revenues due to potential legal challenges as well as revenue fluctuation due to volatility in the financial and real estate markets"; and
- "potential confusion stemming from Washington's proposed 'excise' tax on capital gains when the IRS characterizes the federal capital gains tax as an income tax."

With the state Supreme Court hearing date not until January 26, the next mystery surrounds DOR's plans if a final ruling isn't issued before the tax was originally set to be collected next April. I've repeatedly asked DOR if it will attempt to collect the capital gains income tax that was "declared unconstitutional and invalid and, therefore, is void and inoperable as a matter of law" absent a ruling from the state Supreme Court.

> "Based on this broad constitutional language, for nearly 100 years the state Supreme Court has ruled that **Washingtonians own their income**"

Since then, nearly eight months after the capital gains income tax was declared unconstitutional, the Attorney General filed a motion asking the state Supreme Court to allow the DOR to collect the capital gains income tax before a final ruling on the case. The state Supreme Court has granted that stay, allowing the collection of the tax to proceed before the final ruling.

As for the legal issues at play, Washington's constitution has the broadest definition of property in the country. Based on this broad constitutional language, for nearly 100 years the state Supreme Court has ruled that Washingtonians own their income, meaning it is property. This is why the court has repeatedly ruled that in order to impose a graduated income tax, the constitution must be amended (something the voters have overwhelmingly rejected six times).

Previous attempts by the legislature to circumvent the fact the voters have rejected income tax constitutional amendments have been overturned by the court. In fact, the state Supreme Court in 1960 reminded income tax advocates that in order to impose a graduated income tax in Washington, the constitution must be amended. From the 1960 state Supreme Court ruling:

"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. Such a constitutional amendment was rejected by popular vote in 1934."

Despite this clear and consistent message from the courts and voters, some income tax advocates now hope to use the capital gains income tax as a way to change the definition of property by judicial fiat and allow the imposition of a graduated income tax without a constitutional amendment. Consider the following 2018 email from Sen. Jamie Pedersen:

"But the more important benefit of passing a capital gains tax is on the legal side, from my perspective. The other side will challenge it as an unconstitutional property tax. This will give the Supreme Court the opportunity to revisit its bad decisions from 1934 and 1951 that income is property and will make it possible, if we succeed, to enact a progressive income tax with a simple majority vote."

Joining this strategy of ignoring the voters and hoping the courts will now allow a graduated income tax without a constitutional amendment is the Washington Education Association (WEA). The WEA on June 30 filed a legal brief with the state Supreme Court in the capital gains income tax case asking the justices to change their prior rulings and now declare that income isn't property (meaning you don't own it).

Whether or not a capital gains tax is an income tax isn't up for debate. Every other state revenue department across the country clearly describes capital gains as income. Those that tax capital gains do so via their income tax codes. No other state attempts to tax capital gains as an "excise tax." The IRS also unequivocally says that a capital gains tax *IS* an income tax.

Supporters of the capital gains income tax are fully aware of these facts but hope they can convince five justices to do what the people of Washington have repeatedly rejected. The proper way to impose a graduated income tax in Washington is with a constitutional amendment, as previously pointed out by the state Supreme Court.

Claiming an income tax is instead an "excise tax" to set up litigation in hopes the state Supreme Court will now say that we don't own our income is disingenuous at best and highly contemptible of voters and the norms of governing.

It is past time for income tax advocates to stop ignoring the restrictions on a graduated income tax repeatedly affirmed by voters and for the state Supreme Court to reject yet again an attempt to circumvent the will of the people clearly expressed in the constitution and at the ballot box.

IRS: *"You ask whether tax on capital gains is considered an excise tax or an income tax? It is an income tax."*

1930 the year when Washingtonians voted to prohibit non-uniform taxes on property

6 times voters have rejected a constitutional amendment to adopt a graduated income tax in Washington state

Ways to give

All contributions are 100% tax deductible, and memberships begin at $50 per year, with levels and benefits increasing from there.

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Food prices are high, but will go higher with new costs

Pam Lewison, Director, Center for Agriculture

as appeared in The Spokesman-Review

Food prices are up more than 11%in 2022, and Washington is ranked in the top-10 most expensive states to buy a turkey this year. While this is bad news for shoppers, it's good news for farmers, right?

Wrong.

Often farmers and ranchers negotiate their price contracts at the beginning of the farm year. Those contracts are then locked in for the entire year, regardless of how costs change, including wages, fuel and insurance. As price takers, Washington's farmers and ranchers cannot renegotiate their contracted price in answer to market fluctuations. As we move into the holiday season, some of the cost increases from this year and late last year will be reflected in the price of groceries but not in farm and ranch incomes.

In 2021, the farmer's share per pound of turkey bought was about 6 cents on average. Hardly the stuff dreams are made of.

In addition to helping feed the world, Washington's agricultural sector is among the state's most vital economic sectors. More jobs are tied to Washington's agricultural sector than Microsoft and Boeing combined. So if we as a state want to keep that sector healthy and prevent higher prices, we need the leadership of the whole of the state to understand how it works and what adds to the sector's cost of doing business.

To change grocery price trends here in Washington state, we must focus on how to lessen input pressures that add to the cost of doing business for our agricultural sector.

For example, workers' compensation rates were increased at the beginning of 2022 and the Washington State Department of Labor and Industries is taking comments on another increase to workers' compensation rates in 2023.

The average proposed rate increase statewide is 4.8% . L&I, however, plans an increase to workers compensation rates for agricultural jobs by an average of 6% next year with some rates jumping by as much as 14% depending upon worker classification.

L&I counts 30,471 full-time equivalent people employed in orchards throughout the state. "Orchards" represent the largest number of employees under L&I's agriculture risk classifications. They will see their rates increase by 8% should the proposed changes go through. For workers, that equates to $31 per paycheck and $123 per paycheck paid by employers.

Food manufacturing and processing are expected to see an average increase of 4%. The average deduction increase per paycheck is $16.70 for employees and $111.50 paid in by employers for that same pay period.

Food manufacturers and processors will pass those costs on to their customers: grocery stores, restaurants, and other food wholesalers. That cost increase will work its way through the supply chain to individuals.

The rate increase will contribute to increasing food costs. In September, grocery prices were 13% higher than just a year ago and takeout prices were 8% higher. With fuel, employee pay, electricity, and almost every other form of overhead costing more in 2022, food manufacturers and sellers have increased prices to cover their payments.

The proposed workers' compensation increase will do the same if it is not stopped.

There is a solution on the table. Washington state should allow employers and employees to buy workers' compensation insurance from a private provider rather than the state.

Washington is one of just a handful of states that holds a monopoly on workers' compensation.

Most states allow people to choose what sort of workers' compensation insurance they wish to purchase, making the overall price less expensive. By opening the market to as many providers as possible, premiums should go down, making workers' compensation insurance far more affordable for everyone and stopping the continual increase in costs seen here in Washington state.

We have much to be thankful for. We live in a beautiful state, and we in the east live in the most beautiful part of it. Our lands allow us to produce abundance like few places in the world.

But we need to get better at connecting what we do in the east, with those who govern in the west.

With this challenge is opportunity. I'll be thankful when we can find a way.

From
September 2021
to
September 2022

13%

higher grocery costs

A Tribute to John Hennessy

John Hennessy going to "emeritus" status on the WPC board, but his legacy continues to grow

Pictured, left to right: John Hennessy, Dann Mead Smith, Mark Janus, Michael Baumgartner

As this issue of Viewpoint heads to the printer, Christmas is rapidly approaching, and families everywhere are enjoying annual holiday classics like A Christmas Story, Elf, and Miracle on 34th Street. One of the oldest and most beloved of these classics is Frank Capra's 1946 classic, It's a Wonderful Life in which Jimmy Stewart's George Bailey, ponders whether the world would be better off if he hadn't been born. Struggling angel Clarence decides to give him what he wishes and plunges Bailey into a world where he gets to see what his town and his friends would suffer if he hadn't been there for them.

We can't offer the supernatural view of what Washington would look like without long-time board member John Hennessy, but we have a pretty good idea. John was key to the organization's strategic planning. His vision was courageous and determined. And without his influence WPC would not be the organization it is today. It might not even exist. And without WPC, countless new taxes and regulations and bad policies would have gone unchallenged, untempered and would alter how we live in this state.

John Hennessy has been one of WPC's strongest advocates and ambassadors. His impact threads through the contributions of countless others whom he introduced to WPC and became active members. It's a legacy that with continue to grow, year after year, even as he steps into the role of a board member emeritus.

John was integral in building WPC into a stronger, more impactful organization. He helped oversee the creation of new centers including our Worker Rights and Small Business centers. He supported the capital campaign; served on several board committees and as WPC's Vice Chairman; and saw WPC grow from a $400,000 organization to a multi-million dollar, regionally and nationally leading think tank.

As the founder and CEO of Nuprecon – a major demolition company based in Snoqualmie— John Hennessy grew the company from a regional contractor to a national leader in abatement and demolition. When he joined WPC's cause that visionary leadership was applied to us, growing our organization in reach, influence, and resilience.

"John Hennessy was one of the most valuable board members in the history of the WPC," remarked Greg Porter, WPC Pillar Society President and former WPC Chair. "John took his keen business acumen and successfully applied it to the board issues at hand."

John was instrumental in WPC's strategic planning process and spent countless hours working with the staff and other board members on several of the organization's three-year strategic plans. "John was the first to recommend and personally host a day-long WPC strategic planning retreat, a process we have relied upon to this day to plan for the upcoming years," explained Porter. "John could always be counted on to roll up his sleeves and dig-in when needed. And as generous as John was with his time, he was equally generous in financially supporting all the WPC initiatives and remains a valued Pillar Society member. We will definitely miss John as a WPC board member and his ability to cut to the chase and chase to the cut."

All of us at Washington Policy Center are forever grateful for John's contributions to WPC and are proud to have him join our ranks of emeritus board members.

Washington business taxes are some of the highest in the nation

Mark Harmsworth, Director, Center for Small Business

The annual Ernst and Young report to the Council on State Taxation (COST) continues to illustrate the struggle business owners in Washington State are having to meet the ever increasing tax burden and maze of regulations that the state legislature mandates.

Ultimately, a new regulation or tax on a small business is passed onto the consumer as a price increase in products and services provided.

The report highlights that business paid $23.5 billion in total state and local taxes in fiscal year 2020. The average taxes paid per employee by a business to the state $8,100. Washington continues to rely heavily on its businesses for tax revenue, with Washington businesses paying nearly half the tax revenue collected by state and local government agencies.

Washington is ranked 9th highest in the nation on the business un-friendly list, even outranking California.

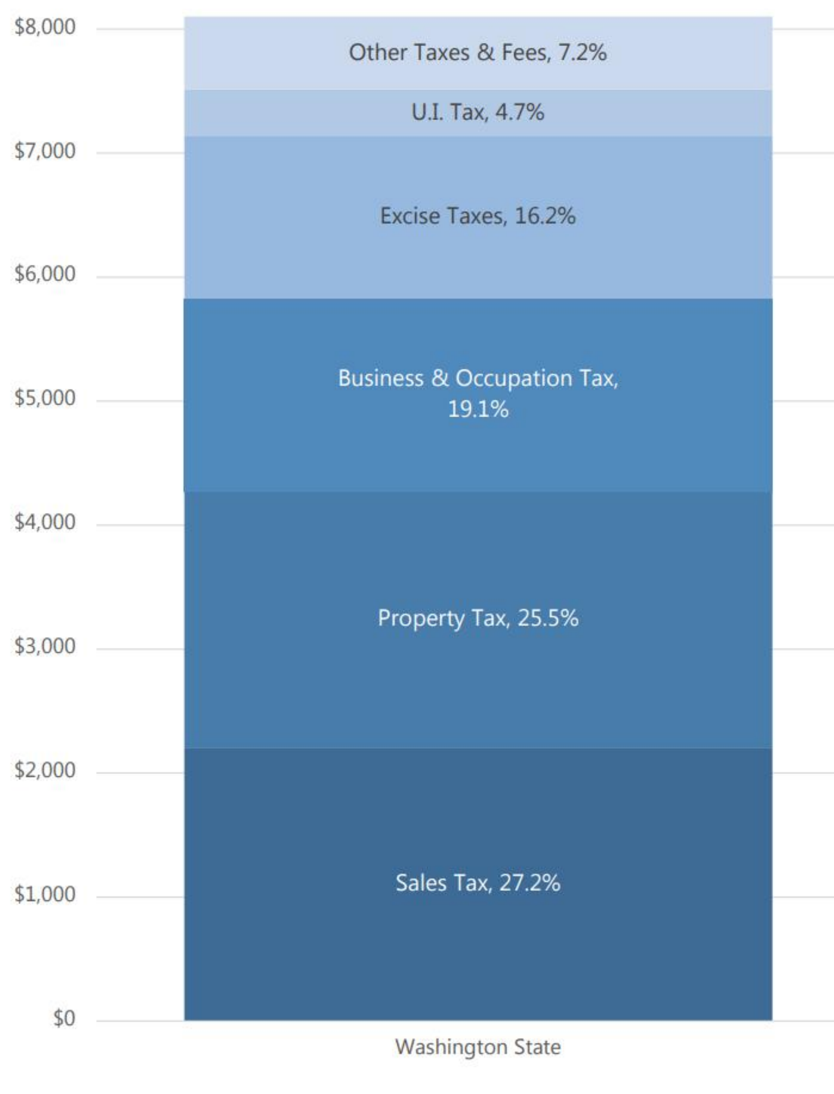
Hidden in the numbers are the costs to comply with tax filing, state regulations, state audit costs and government mandates on small business. Some businesses have full time employees just to deal with government regulation. Over burdensome regulations and taxes, such as the proportional sales tax, municipal head tax on employees and unemployment taxes create a compliance nightmare for small business that do not have the time or revenue to dedicate an employee for the filing requirements.

One of the most punitive taxes, hidden from consumers and baked into in the cost of a producing product or providing a service, is the state Business and Occupation (B&O) tax. This tax represents 19.1% of the taxes a business pays and is calculated on gross revenue, allowing no deductions for costs. Even a business that loses money has to pay B&O tax on any revenue generated.

Business taxes are not a tax that someone else pays, ultimately the tax is passed onto the consumer as no business could be profitable without doing so.

Reducing the regulations and taxes on business, particularly small business will reduce consumer prices and provide budgetary relief. This is particularly needed during the continued inflationary pressure caused by the policies of both Washington State and the Federal government.

Chart: State and Local Business Taxes Per Employee, FY 2020
Source: Washington Research Council



Dept. of Ecology report confirms WPC's cost projections for the new low-carbon fuel law

Todd Myers, Director, Center for the Environment

Starting in 2023, one of the state's newly adopted climate policies, the low-carbon fuel standard, will take effect in Washington state. The legislation requires companies to reduce the carbon intensity of gasoline by blending biofuels or funding EV charging stations. Although it has increased gas prices in California and Oregon, the governor and environmental activists claimed it would cost Washington drivers nothing, while the prime sponsor testified that it would cost no more than 2 cents per gallon.

"Don't let anyone give you that swill that this will increase gas prices," assured Governor Jay Inslee last year as he signed the bill to impose an LCFS starting next year. Environment activist Leah Missik of Climate Solutions claimed, "Gas prices are not driven" by the LCFS. "Low-carbon fuel supporters say prices won't increase because there will be more competition in the market," reported the Northwest News Network.

Rep. Joe Fitzgibbon, the prime sponsor of the LCFS in the legislature, was more circumspect, testifying, "We have to look at the facts. In Oregon, which passed its fuel standard in 2015, six years ago, no credible source suggests it has changed fuel prices there by more than 2 cents." Were they right? Will it cost little to nothing, as the governor and other advocates claimed, or will it increase the price of energy and gasoline, as Washington Policy Center warned?

The Department of Ecology provided the answer.

The department released its estimate of the projected costs for the first three years the LCFS is phased in, enabling us to compare the projections we made last year with those of Governor Inslee, the prime sponsor Rep. Joe Fitzgibbon, and environmental activists.

The results? We were right, and the LCFS supporters were wrong. Contrary to the predictions, it does raise gas prices.

This is not surprising. Indeed, at the very time Rep. Fitzgibbon claimed that Oregon's LCFS didn't increase prices by more than two cents, the state of Oregon was saying that it did. When he made the claim, we already had the 2019 data showing it increased costs by 2.57 cents per gallon. Soon after his statement, Oregon released the 2020 data showing the LCFS increased costs by 3.71 cents per gallon. They recently updated the estimate, showing that for 2021, it increased the cost of a gallon of gas by over 5 cents.

The Department of Ecology is now finding that same thing is likely to happen in Washington state.

Citing an independent report commissioned by the department, Ecology staff wrote, "Washington's new Clean Fuel Standard will mean less than a 1-cent per gallon difference in the price consumers pay at the gas pump in 2023, according to estimates in a third-party economic analysis. Prices could rise up to 2-cents in 2024, and 4-cents in 2025, the report shows." The study found that the LCFS would increase "the costs paid by consumers for gasoline, diesel, and electricity."

It also projected that by 2031, the LCFS would add 19.3 cents per gallon.

The Department of Ecology's estimate is either "swill," in the governor's words, or it shows that Washington will experience exactly what others have seen after the LCFS took effect.

By way of contrast, those projections are almost exactly what we predicted. We predicted that in the first year of the LCFS, it would add about one cent to the price of gasoline, exactly as Ecology's report indicates. We predicted that it would add about 20 cents per gallon by 2030. Ecology's report estimates 19.3 cents by 2031. So, we were off by one year.

The truth is, these calculations aren't difficult. We simply looked at the experience of California and Oregon. We assumed the price impact here would be similar. That is what the Department of Ecology found as well.

It could be argued that an increase of a few cents in the next few years isn't that much. But the reason the cost is relatively low (when compared to the CO_2 tax that will be implemented next year, for example), is that it does nothing. As Ecology staff have admitted, the LCFS does not reduce CO_2 emissions more than the new CO_2 cap would already. If the LCFS went away, Washington's CO_2 emissions would be exactly the same.

We pay little but get nothing.

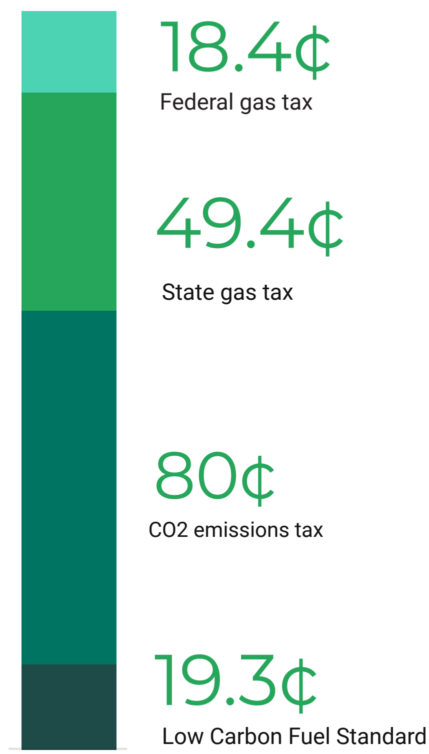
For those keeping track, the 19.3 cent increase from the LCFS in 2031 would be on top of a projected 80 cent increase per gallon from the state's new emissions tax. So drivers in Washington will pay an extra 99.3 cents per gallon in hidden taxes on gasoline in addition to the actual state gas tax of 49.4 cents per gallon and federal gas tax of 18.4 cents per gallon, for a grand total of just over $1.67 per gallon.

It is unclear to me whether the politicians and advocates who said the LCFS wouldn't increase gas prices were being intentionally misleading or actually believed what they are saying. Either way, they were wrong, and the costs will be paid by Washington residents without any benefit to the environment.

By **2031**

taxes on gas are projected to be

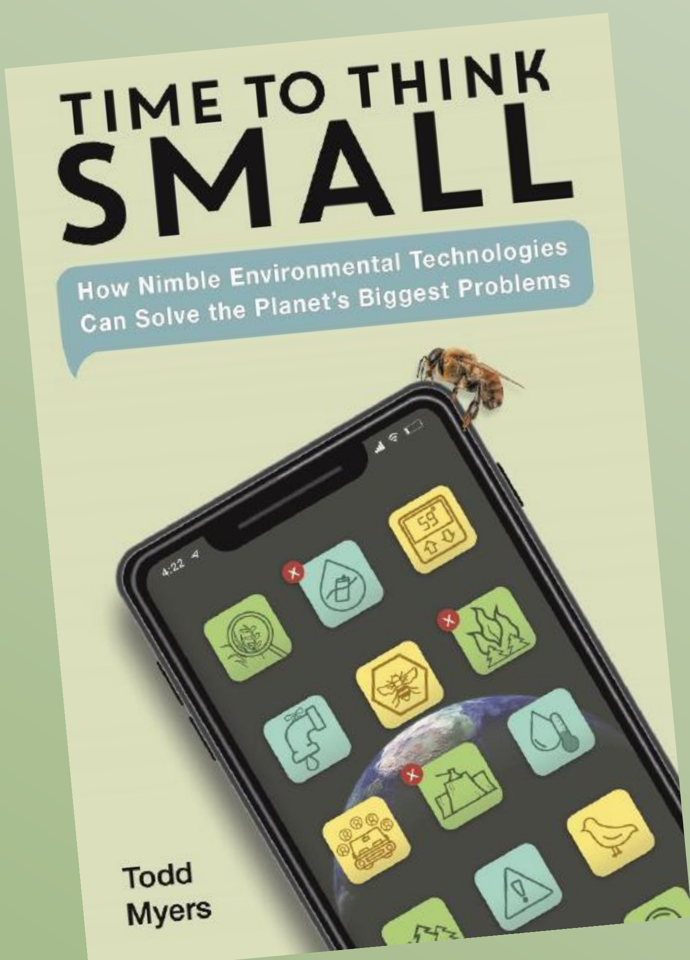
$1.67

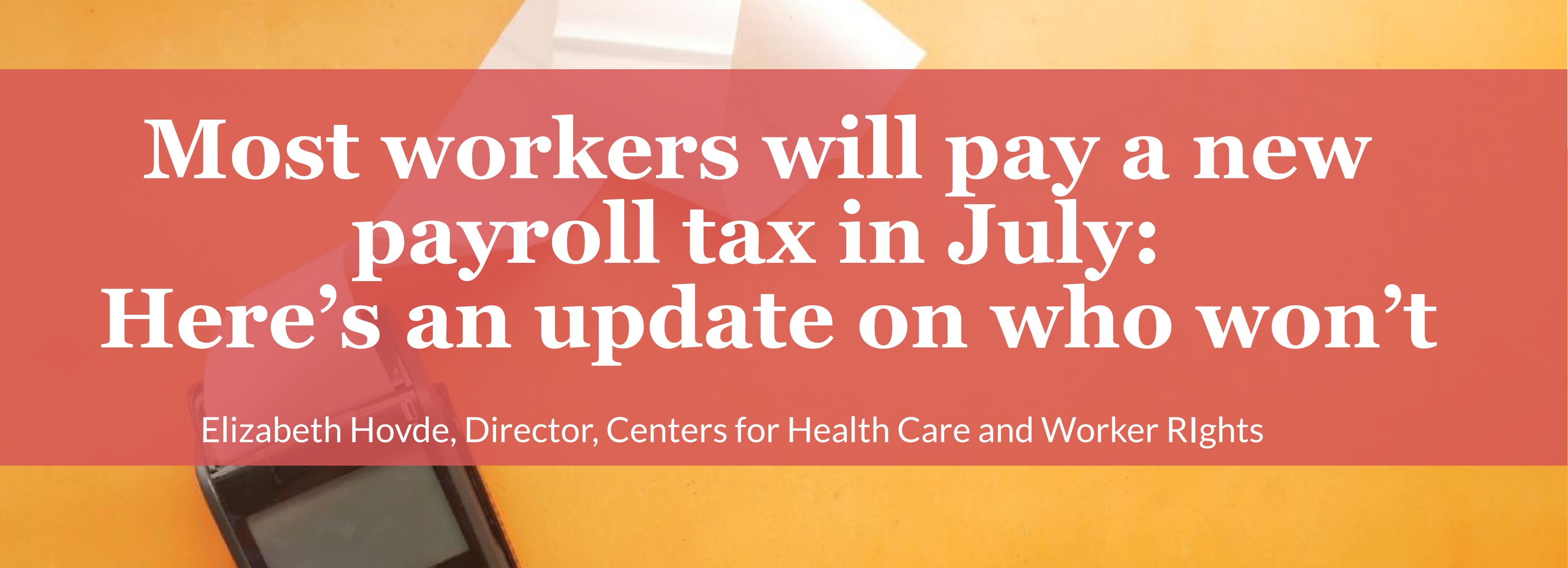


Time to Think Small

From saving endangered animals and keeping plastic out of the ocean to providing drinkable water in developing countries, *Time to Think Small* details how market-based innovation and empowering people are helping solve some of the most important environmental issues of our day.

Drawing on his two decades in environmental policy, Todd Myers exposes the *limitations of top-down* government programs and provides a hopeful path for a sustainable future.





Most workers will pay a new payroll tax in July: Here’s an update on who won’t

Elizabeth Hovde, Director, Centers for Health Care and Worker RIghts

A window to apply for an exemption from a payroll tax that begins in July 2023 is technically still open, but only for a short time. It closes Dec. 31. If you’re one of the people who has private long-term-care insurance (LTCI), purchased before Nov. 1, 2021, you’ll want to jump through the exemption hoops available on the “Exemptions” page of the WA Cares website.

WA Cares is a mandatory social program created by the Legislature in 2019 to benefit some Washingtonians who have long-term-care needs and their caregivers. Nearly all W2 workers will pay into WA Cares, regardless of income, but only some people will benefit from the program — again, regardless of income. State lawmakers misguidedly created a safety net for people in need and people not in need. Read my analysis of the long-term-care law that penalizes work on our website at washingtonpolicy.org.

An “Apply for an exemption” button is buried on the “Exemptions” page after information about the program, the process surrounding exemption, a warning that you’ll be permanently excluded from WA Cares after becoming exempt and what the state sees as benefits of its program as opposed to private long-term-care insurance. It fails to offer you full information about the differences between the two. That would include that the lifetime benefit of $36,500 attached to WA Cares is inadequate for most people’s long-term-care needs and less than what you can find with private LTCI. WA Cares-promoting staff members and lawmakers continually spread inaccurate information and misleading comments about private LTCI.

Marketing from the state also fails to mention that many people would prefer to save for this possible life need in other ways than a mandated state savings plan like WA Cares or private LTCI. After all, long-term care might not end up being a life need. (Some LTCI plans have options surrounding that possibility.) Some people would rather pay for long-term care with real estate and other investments or savings.

State lawmakers should repeal the misguided long-term-care law and let people plan in the way that is best for them. It should also make changes to Medicaid, preventing abuse of the system. Medicaid is not LTCI, and it shouldn’t be used that way.

This one-size-fits-some state program that will tax workers to the tune of 58 cents for every $100 earned is not a good investment and offers no guarantee that you’ll have long-term-care benefits. Even if you do need long-term care one day, if you've moved out of state, there won't be long-term-care dollars headed your way. If you don’t pay in for 10 years without a break of five or more years, you’re out of luck, too. WA Cares’ exclusions and qualifications will keep many Washington workers away from the money they'll be putting into this program throughout their working years.

*"State lawmakers should **repeal** the misguided long-term-care law"*

Since last October when the exemption-application window opened, nearly 500,000 people have opted out of the payroll tax attesting they had private LTCI. As of Oct. 14, the Employment Security Department reports the following:

Total Opt-out Requests Submitted	Total Opt-out Requests Processed
480,499	480,391

Total Opt-out Requests Approved	Applications processed as a percentage of total
476,841	99.98%

Data as of Nov. 14, 2022

New exemption categories created in the last legislative session — including people who live out of state, people on nonimmigrant visas, military spouses and veterans with a 70% or greater service-connected disability — can start applying for exemptions in January 2023. I am assured by an ESD spokesperson that the exemption team is ready to handle the influx of applications expected.

We'll know sometime in 2023 how many current workers are left paying this payroll tax and what the exemptions do to the solvency of the program. Even before one exemption application was approved, WA Cares was not expected to be able to pay its way or fulfill its promises. Instead, the long-term-care payroll tax rate is expected to increase or the benefit decrease. It's not surprising nearly 500,000 Washingtonians applied for an exemption.

> *"Even before one exemption application was approved, WA Cares was not expected to be able to pay its way or fulfill its promises."*

Find out more about the WA Cares Act via our Solutions on the Table landing page at solutionsonthetable.com

PILLAR SOCIETY

Washington Policy Center launched the Pillar Society to give donors the opportunity to invest in free-market principles today while ensuring the impact grows for years to come.

The Pillar Society distinguishes donors who make a three-year, $15,000 minimum pledge to WPC.

Pillar Society members allow WPC to plan and allocate funds three years in advance to fight for what they and you believe in: smarter government, lower taxes and free enterprise. The Pillar Society is the life-blood of the organization and makes improving lives through free-market solutions possible.

Membership levels range from $15,000 ($5,000 per year for three years) up to $750,000 ($250,000 per year) and include a range of benefits, in addition to knowing you are investing your valuable dollars into a reputable, impactful organization.

2012 — YEAR FOUNDED

$12M+ — MONEY RAISED

235+ — MEMBERS ACROSS WA

The Pillar Society has launched:

- WPC Young Professionals
- WPC's Agriculture Center
- The fight against the state income tax
- Free Markets Destroy
- Janus Right to Work Opt-Out Campaign
- Charter Schools

Moving forward, the continued support of the Pillar Society allows us to keep launching new initiatives to help keep Washington free. To join or learn more contact our VP of Development Sydney Jansen at (206) 937-9691 or sjansen@washingtonpolicy.org

2023 Events for Pillar Society members

Mar. 3-4
Evening in the Desert, Palm Springs

Mar. 11
Evening in the Desert, Scottsdale

Jul. 8-9
Weekend at Couer d'Alene Resort + 2nd Annual Golf Tournament

Sept. 15
Annual Dinner, Spokane

Oct. 13
Annual Dinner, Bellevue

All Pillar Society members receive:

- A place in a network of likeminded business, policy and community leaders
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- And more!

A History of Bellevue Schools with Kemper Freeman Jr.

Liv Finne, Director,
Center for Education

At WPC we are always looking for ways to improve the education of the child. One often-overlooked source is to learn how caring communities came together in the past to create high-quality public schools to serve local families. For that reason I jumped at the chance to sit down recently for an in-depth conversation with Kemper Freeman Jr., who knows more perhaps than anyone else about the history of the Bellevue School District.

Mr. Freeman related that in the 1940s, when his parents had young children, Bellevue began transforming itself from a farming community to the bustling metropolis and thriving tech hub it is today. At that time, many veterans were just returning home from the war and had found jobs at local companies like Boeing and Paccar.

He told how his father, Kemper Freeman Sr., other school board members, and parents in the community were determined to create a first-class public school system. They knew good schools would attract more families to Bellevue.

In 1942 this group of parents created the Overlake School District by consolidating the independent school districts of Factoria, Hunts Point, Bellevue, Highland, Phantom Lake, Medina, and Union S. High School. These small districts often had one-room schoolhouses with one teacher providing instruction to children in grades one through eight. Only some of them offered high school. School principals and administrators were rare. Teachers were not members of a union.

Then in 1950, school leaders renamed the district the Bellevue School District #405, which started with 1,910 students. The 1950s and 1960s were a period of rapid population growth, with the opening of new elementary, middle, and high schools.

The school board hired strong superintendents who placed a premium on striving for excellence in student learning, and on hiring and retaining the best possible teachers.

Excellent teachers were close to students

The Bellevue School District soon earned a reputation for excellence. Teachers dreamed about being hired by the district. As a result, Mr. Freeman, his sisters and their peers had many excellent teachers. Some even became close personal friends. Mr. Freeman's sixth grade teacher taught him how to catch steelhead in the Sammamish slough after school. Ms. Hardy, Mr. Freeman's high school math teacher, challenged him and several other students to learn math at a pace significantly exceeding that of other students. She also helped kids behind in math by tutoring them after school.

Everyone knows the individual attention of a good teacher often makes the difference between a student's ultimate success or failure.

A significant shift of influence

But as the decades passed, parental input and individualized teaching became less welcome in K-12 public education. A key turning point in reducing the role of parents and teachers occurred in the late 1960s. Teachers were forced to join a union as a condition of employment (a policy later declared unconstitutional by the U.S. Supreme Court).

As the power of teachers' unions increased, the level of parental input and teacher autonomy decreased. Today the Washington Education Association union is the most powerful special interest in the state, with over 80,000 members and annual revenue, drawn from forced dues payments, of $47.8 million.

One example of union dominance is obvious from laws enacted by the union's supporters in the legislature, which make it nearly impossible for district administrators to remove ineffective teachers from classrooms. Parental concerns over poor teacher quality and ineffective instruction now fall on deaf ears.

Bureaucracy growth

Over the years, lawmakers added layers of bureaucracy which drained financial resources away from the classroom. Today, Washington state employs more staff and administrators than teachers in its public school districts.

Consider that Bellevue Public Schools (SPS) now employs more than 2,300 adults, but only 52% serve as classroom teachers. There is one adult employee for every eight students, yet the student-teacher ratio is far more than that. The bloated bureaucracy drives up the cost to taxpayers, equating to $20,100 per student, without counting capital budget funding. Furthermore, despite Bellevue's recent seven percent enrollment downturn, the district has not paused plans to hire additional employees, despite no positive correlation between more staff and student learning gains.

School closures and failure to reopen

Starting in March 2020, the COVID-19 school shutdowns gave parents a window into their children's public education through the remote school sessions. The lack of quality instruction raised significant concerns.

As the weeks turned to months and then to years, and public schools failed to reopen, parental dissatisfaction grew. While many parents were conditioned to remain silent in the face of public school problems, others vocally objected first to the failure of schools to reopen, then to the reduced instruction days and hours.

These parents, like the parents back in the 1940s, got involved. They rallied, signed petitions, pleaded, and even begged Governor Jay Inslee and state education leaders to reopen schools so their children could receive the promised public education their tax dollars funded. Irrefutably, parents knew that valuable time was lost in their children's key developmental and formative learning years.

Parents' efforts were ignored as more powerful voices from the unions and district bureaucracies kept public schools in Washington state closed longer than those in 46 other states. Meanwhile, private schools and charter public schools reopened much earlier.

As a result, Washington families have lost confidence in public schools and are looking outside of traditional public schools to educate their children. Many families with the ability to homeschool or the financial resources for private school tuition have exited the public system. This fall, enrollment in the state's traditional K-12 education system dropped by 39,051 students, from 1,101,758 students in 2019 to 1,062,707 students in 2022, a loss of nearly 3.5% — one of the highest student out-transfer rates in the nation.

Hon. Kemper Freeman Jr. and Liv Finne

The academic impact

The National Assessment of Educational Progress exam scores released in October reveal that Washington state fourth-grade students placed the lowest since the testing started in 1994 for reading, and 1996 for math. Washington state eighth-grade students scored lower in 2022 than in any other year since the test began in the mid-1990s.

More specifically, 65% of fourth-grade students and 72% of eighth-grade students failed to reach proficiency in math. In reading, 67% of fourth-grade students and 68% of eighth-grade students are below proficiency.

A strategic path forward

Washington state can change course by returning to the standards of an era when parents had direct influence over their children's education. This is the path forward to increasing opportunities, and a hopeful future.

Implementing universal school choice would be a strategic step forward for Washington state. As Washington's business and technology communities have experienced, free market principles drive progress in innovation, growth, and excellence.

Words of wisdom

As Kemper Freeman Jr. reflects:

“Parents getting involved can have a very positive impact. They are the greatest advocates for their kids' education. For three generations of Bellevue commercial real estate development, we've asked the community what they'd like to have. Asking customers (current and potential) what they want is essential. When it comes to K-12 education, parents must be viewed as customers and given choices in a competitive market of school providers.”

Washington Policy Center regularly seeks to learn from the wisdom and experience of bold leaders like Kemper Freeman, Jr. He has the experience, insight and strategic thinking to deliver excellence, not only in the business world but in the public sector as well.

I thoroughly enjoyed learning how the Freeman family and parents in the early Bellevue community seized the opportunities before them and built a great public school system. Parents today can do the same for their children by learning from what worked in the past, by getting involved locally, and by demanding that elected officials and education leaders make greater school choices available to all children.

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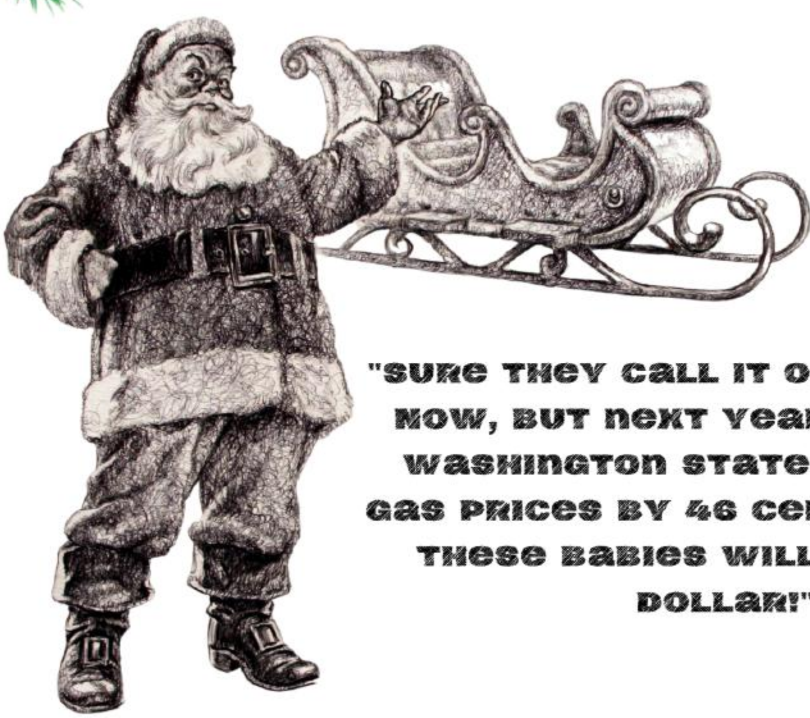

"SURE THEY CALL IT OLD FASHIONED NOW, BUT NEXT YEAR WHEN NEW WASHINGTON STATE TAXES HIKE GAS PRICES BY 46 CENTS A GALLON, THESE BABIES WILL FETCH TOP DOLLAR!"