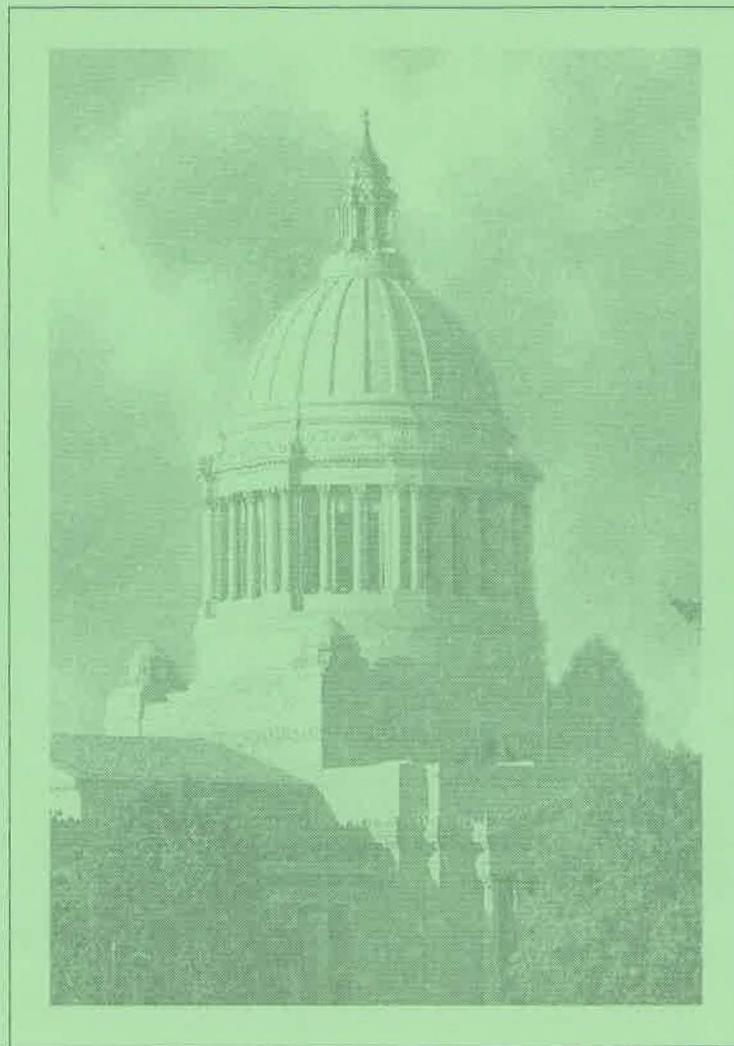


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SENATE COMMITTEE SERVICES

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# 1998 Interim Projects & Activities



## Senate Committee Services 1998 Interim Projects and Activities

The following summarizes projects and activities for the standing and joint committees of the Washington State Senate during the 1998 interim. For additional information and updates to committee interim activities, please contact the lead committee staff as identified or the committee number listed below:

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Education . . . . .	12-18
(360) 786-7420	
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*Note: Transportation produces a Committee Interim Project & Activities report/work plan independently of this document. You may request a copy by contacting (360) 786-7300*

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**Issue:**     **Disposal of Medical Wastes**— assuring proper and safe treatment and disposal of medical wastes.

***Background:***

Medical waste from hospitals and medical clinics contains material that, if not disposed of properly, can lead to exposure to dangerous infection. In 1998, three workers at a plant in this state where medical waste is prepared for disposal contracted tuberculosis, and tests showed that thirteen other workers were apparently exposed to tuberculosis. DNA tests indicate that the exposures were the result of more than a single incident. Concern exists about the potential for contagious disease to be contracted by workers and that the disease could be transmitted to the surrounding community.

In Washington, medical waste is a category of solid waste. Individual counties are responsible for issuing permits to firms that prepare medical waste for disposal, subject to minimum state regulations adopted by the Department of Ecology. In a large majority of other states, a state agency directly regulates medical waste disposal.

***Objectives:***

- 1) Evaluate whether state oversight and approval is needed of technologies and methods to make medical waste safe for final disposal.
- 2) Examine recycling if safe and appropriate.
- 3) Review process for granting permits for treatment and disposal of medical waste.
- 4) Study the process for ensuring on-going compliance with permit conditions.
- 5) Research similar statutes and rules in other states such as California, New Jersey and New York.
- 6) Identify issues, policy options and develop draft legislation as needed.

**Issue:**     **Municipal Water Supplies**— the quantity of water rights available to municipal and domestic water supply systems and the ability of these systems to transfer water through interties.

***Background:***

Legislation was considered during the 1998 session that attempted to resolve issues relating to water rights held for municipal water supply purposes. In late 1997, the Department of Ecology established a mediated process to examine and attempt to develop recommendations to resolve municipal water supply issues. Efforts to reach agreement were not successful by the end of the legislative session. The work group will continue to meet during the interim to attempt to resolve the issues.

The Office of Financial Management has estimated that the population of the state of Washington will increase by more than two million people over the next twenty years. The Growth Management Act requires the establishment of urban growth areas where growth for the ensuing 20 years is to be located. Because of the lack of clarity, municipal and domestic water

supply entities do not have a sufficient degree of certainty to formulate or implement plans required to respond to the water supply needs of their growing communities. The consequences of the uncertainty are that either a moratorium on building would occur, or new hookups would be provided to homes and businesses which are dependent on water rights that could be challenged legally.

Surplus water rights held by some municipalities could be transferred to other water systems to meet their growth needs. If the transfer contract is only temporary in nature, it is unclear how the receiving water purveyor's obligation to continue to serve customers would be satisfied if the state does not grant additional water right permits.

The proposed listing of salmon and steelhead under the federal Endangered Species Act in high growth areas of the state is also raising issues in regards to instream flows and the impact that recovery plans for fish will have on use on municipal water rights that have not yet been put to beneficial use.

***Objectives:***

- 1) Evaluate the impact of pending State Supreme Court case on water rights held for domestic water supply purposes.
- 2) Monitor activities of the work group formed by Department of Ecology to attempt to resolve municipal water supply issues.
- 3) Examine the existing municipal water intertie statute, municipal water right relinquishment statutes, water conservation requirements for municipal and domestic water supply systems, and place of use issues relating to temporary transfers of water through interties.
- 5) Review recommendations by the municipal water supply issues work group. If the work group fails to formulate a comprehensive package of recommendations, provide policy options to legislative policy makers to clarify the issue.

***Issue:***     **Water Quality Standards and Total Maximum Daily Loads**— review water quality standards and implications of the Consent Decree and Settlement Agreement to set total maximum daily loads to meet those standards.

***Background:***

The Environmental Protection Agency (EPA) administers federal water quality laws. Federal law allows EPA to delegate administration of these laws to states on the condition that states meet or exceed the federal minimum requirements. The Department of Ecology is the administering agency of water quality laws in the state of Washington.

A provision in federal law provides that when water bodies do not meet water quality standards that the agency must establish total maximum daily loads (TMDLs) to bring the water body into compliance with the standard. In the state of Washington, over 600 water bodies were determined not to meet the water quality standards.

Litigation was filed against the EPA alleging failure to comply with the requirements of federal law. The Department of Ecology also was a party to the litigation. The parties settled out of court, whereby the Department of Ecology and EPA agreed to establish TMDLs for listed water bodies and to develop plans that would bring the water bodies into compliance within the ensuing 15 year period.

**Objectives:**

- 1) Provide an explanation how water quality standards are set, and the respective roles of the Department of Ecology and the federal Environmental Protection Agency in setting the standards. Explain what factors are included in determining water quality standards.
- 2) Analyze the differences in the characteristics between water bodies that do not meet current water quality standards from those that do. Analyze the extent that natural sources of water pollution contribute to the non-compliance with water quality standards.
- 3) Evaluate the extent that the quality of water has improved or worsened in a sample of water bodies in the state as a result of past and current water quality programs.
- 4) Determine the types of activities and restrictions that were implemented in areas where the water body did not previously meet standards but that have been successful in improving water quality and resulted in compliance with the standard.
- 5) Determine what other water quality programs and projects are funded and how they relate to establishing total maximum daily loads.
- 6) Analyze the relative contribution of point sources and non-point sources of water quality degradation. Analyze the proportion of funding that is directed to address point sources and non-point sources.

**Issue: Unused Agricultural Statutes**— identification and evaluation of unused agricultural statutes.

**Background:**

A number of agriculture-related statutes enacted in previous decades are no longer being actively administered. A systematic evaluation of unused statutes started last year and resulted in the repeal of several dozen sections of law. In 1997 the criteria was that the statute had to have been in existence at least ten years and never have been used.

In 1998, emphasis is on statutes that were utilized for a period of time but have not been used in last ten years. Example include the Meat Inspection Act and the Poultry Inspection Act, both of which are no longer being administered because the state stopped funding state inspection activities in the early 1970's as federal meat inspection became dominant. Six statutes have been identified as candidates for evaluation.

**Objectives:**

- 1) Identify agriculture-related statutes that have not been used for at least 10 years.
- 2) Determine the circumstances under which the statutes were originally enacted and what factors caused the statutes to no longer be utilized.

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- 3) Contact agency and interest groups to determine whether there are significant benefits to retaining the statute.
- 4) Provide a written report to the committee including recommendations and draft legislation.

**Issue:**     **Livestock Identification Program**— monitor restructuring of Livestock Identification Program by the Department of Agriculture.

**Background:**

The State Livestock Identification Program has been in turmoil for the last few years. Various segments of the livestock industry have different views as to whether a livestock identification program is needed and if so who should pay for the program. The program is currently administered by the Department of Agriculture.

Different legislative approaches were examined during the 1998 session. Legislation was passed that would have transferred the program to a board with representatives from different segments of the livestock industry. The legislation was not approved by the Governor.

Due to a 1993 compromise, fees temporarily increased to make up for an accumulated shortfall, and to provide time to determine whether efficiencies could be found to administer the program without a fee increase. The temporary fee increase is to expire July 1, 1998. As a result, the Department of Agriculture is restructuring the program to work within funding that will be available under the previous fee structure.

**Objectives:**

- 1) Monitor the restructuring of the program. Determine how the revised program meets the needs of the livestock industry including the ability to sell cattle within the state, and the ability to ship cattle and horse out of state.
- 2) Review the restructured program to assure that it complies with current statutory provisions including when fees may be charged.
- 3) Assess the option of county governments to develop local livestock identification programs to replace or supplement the restructured program developed by the Department of Agriculture.
- 4) Provide a written report to the committee as soon as information on restructuring the program is available from the Department of Agriculture.

**Issue:**     **Hydraulic Continuity**— examine options for developing a state statutory policy on hydraulic continuity.

**Background:**

The Surface Water Code was enacted in 1917, the Ground Water Code was enacted in 1945 and the Water Resources Act passed in 1971. These statutes contain language regarding the inter-relationship between surface and ground waters. The statutes have long provided that junior

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water rights are not to impair senior rights. Minimum instream flow levels have been established for several rivers in the state and these instream flows are considered water rights and are entitled to the same protection from impairment as other water rights established under state law. Though the statutes have not changed, the policies as to when withdrawal of ground water impairs surface waters have changed. Recent litigation upheld a zero-tolerance impairment policy established by the Department. Supporters of the policy cite concerns about cumulative effects that many small ground water withdrawals could have on instream flows. Interests desiring to withdrawal ground water cite the need to provide new homes and businesses with water and the negligible effects of ground water withdrawals.

State law requires that when the Department of Ecology finds that state water resource statutes to be ambiguous or deficient, that it is to make recommendations to the Legislature of proposals for statutory modification. In late 1997, the Department of Ecology formed a work group to examine the issue and come forward with recommendations to the 1999 legislative session.

### ***Objectives:***

- 1) Monitor the progress of the work group assembled by the Department of Ecology.
- 2) Obtain information as to policies, statutes and rules in other states.
- 3) Review recommendations by the work group. If the work group fails to formulate a comprehensive package of recommendations, provide policy options to legislative policy makers to clarify the statutes for consideration during the 1999 legislative session.

### Senate Committee on Agriculture & Environment Contacts

Bob Lee, Coordinator -- 786-7404

Joy Adams, Legislative Assistant -- 786-7407

**Issue:** Legalized Gambling in Washington

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

Legalized forms of gambling have proliferated over the last 20 years in this state. In the early 1970's, approximately \$78 million was wagered on parimutuel betting on horse racing, the only legalized form of gambling at that time. By 1990, legalized forms of gambling had expanded to include: bingo; commercial card rooms; fund raising events; horse racing; state lottery; punchboards and pulltabs; and tribal casinos. Total dollars wagered hit the \$1 billion mark in 1990 and we have experienced significant increases through the mid-1990's. Various participants in the gambling industry continue to request authority to expand, in some manner, the operation of their gambling activities.

Legislators have expressed concerns about the social and economic implications of continuing to authorize expanded forms of gambling. At the end of the 1998 Legislative Session the Chairs of the Senate and House Commerce and Labor Committees asked the Governor to appoint a task-force to address gambling policy issues in Washington.

**Objectives:**

In conjunction with the Gambling Policy Task-Force, prepare a report that assesses:

- 1) The current nature and scope of legalized gambling in the state and how this has changed over time;
- 2) The current tax structure of gambling activities in this state;
- 3) The nature of compulsive or problem gambling and current efforts to address this problem;
- 4) The current nature and scope of legalized gaming in neighboring states and provinces and the competitive impact on this state's gambling market;
- 5) Current trends emerging across the U.S. and Canada in the various segments of the gambling market and the potential impact on this state's gambling market;
- 6) Recent state and federal court decisions and the impact of these decisions on the gambling policies in this state; and
- 7) The establishment of potential statewide policies on gambling.

**Issue:** Prevailing wage on Public Works Projects

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

Washington's prevailing wage law was enacted in 1945 and was modeled after the federal Davis-Bacon Act. The intent of these acts, to protect employees on public works projects from receiving wages below local standards, can conflict with the modern emphasis on fiscal restraint.

All determinations of the state's prevailing wage rate are made by the industrial statistician of the Department of Labor and Industries. The department has a Prevailing Wage Advisory

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Committee that provides a forum for stakeholders and direction to the department. The Legislature considered a bill this year that would have created the committee in statute and required the use of stratified random sampling to determine the prevailing wage. The committee will be addressing significant issues this interim, including major rule review, payment of prevailing wages to suppliers, and survey frequency and methodology.

**Objective:**

Monitor the development of policy proposals by the Prevailing Wage Advisory Committee; prepare a staff report and possible legislation.

**Issue: Unemployment Insurance Taxes and Benefits**

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

During the last two legislative sessions several proposals have been considered to alter the Unemployment Insurance (UI) tax system. No consensus has been reached on how this should be done. The Legislature appropriated over \$1.8 million to the Employment Security Department (ESD) this year for a study of the state's UI tax system, improving tax information, and improving the disclosure of information to employers. The Legislature also directed ESD to develop a method of monitoring job search activity for claimants collecting benefits for five or more weeks.

**Objectives:**

- 1) Assist the Employment Security Department in:
  - Defining the scope of its study comparing Washington's "benefit ratio" system to other states with a "reserve ratio" system; and
  - Developing the requirements for the job search monitoring program.
- 2) Monitor ESD's efforts in providing improved employer tax information.

**Issue: The Contingent Workforce in Washington**

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

Employers are increasingly turning over important tasks to temporary and contract workers or to external vendors. While this practice can make companies more flexible and competitive in an increasingly global economy, the social and economic costs to the state have not been studied. There is concern that changes in the stability of employment may have negative effects on families and may increase social service case-loads. In addition, contracting out or hiring temporary workers may result in fewer investments in the training of a company's permanent workforce. This in turn can bring about skill and labor shortages and increased demands on the

state's workforce development system.

**Objectives:**

- 1) Gather data on the growth in the use of contingent workers and the effects of this growth.
- 2) Staff report and possible legislation.

**Issue:** Workforce Training and Development

**Lead Staff:** Jack Brummel 786-7428

**Background:**

Workforce training and education programs in the state have been criticized for their lack of flexibility. Federal "stovepipe" funding and narrow state and federal program guidelines have been largely responsible for the lack of flexibility. The Legislature considered a bill this past session that would have given employers a tax credit for offering training vouchers to workers. Vouchers offer the greatest freedom of choice to trainees and are market-based mechanisms for determining which programs best serve the needs of the users of training services.

The Legislature has anticipated a major restructuring of federal workforce training funds since 1995 when it directed the Workforce Training and Education Coordinating Board to:

- Advise the Governor and the Legislature on mechanisms for integrating any new federal initiatives into the state's workforce development system; and
- Recommend measures to meet federal guidelines.

Bipartisan legislation regarding federal job training and employment programs is currently being considered by Congress. The proposals will allow greater flexibility in the use of funds and may allow the state to experiment with training vouchers.

**Objectives:**

- 1) Monitor progress of federal workforce program bills and the Workforce Training and Education Coordinating Board's response to federal initiatives.
- 2) Research and report on training voucher concept and initiatives.

**Issue:** Homeowner Protection - Contractor Registration

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

The volume of consumer complaints to the Attorney General's office against building contractors is consistently high. During the 1997 interim the Senate Commerce and Labor committee conducted a comprehensive study of issues affecting homeowners when they contract for construction of a new home or remodel their home. The study also looked at the effect

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unregistered contractors have on the construction industry. Legislation was considered this past session which attempted to deal with the concerns of homeowners, contractors, subcontractors, suppliers, and state agencies. Members of a working group that assembled during the 1997 interim have expressed interest in continuing to explore the homeowner protection and contractor registration issues.

**Objectives:**

- 1) Facilitate the working group meetings and assist the group in evaluating the concerns of all parties to home construction projects.
- 2) Review the options adopted as a result of 1997 interim's work and revise or reformulate options.
- 3) Develop additional options and prepare new legislation for committee consideration.

**Issue:** Vocational Rehabilitation - Workers Compensation

**Lead Staff:** Jack Brummel -- 786-7428

**Background:**

Approximately 10,000 injured workers are actively involved in rehabilitation at any point in time. Over \$45 million is spent annually by the Department of Labor and Industries for vocational rehabilitation services. Only \$5.5 million, or 12 percent, of this is spent on retraining.

In 1995, in response to business and labor dissatisfaction with the costs and results of their vocational rehabilitation services, the department started a vocational rehabilitation business process redesign, now called the Vocational Policy Project. In 1996 the Workers Compensation Advisory Subcommittee for Vocational Services was created. The subcommittee has engaged in an education and problem identification process which ended last fall. They are now engaged in assessing possible solutions and intend to develop an implementation plan by this fall.

**Objectives:**

Monitor the development of policy proposals by the Subcommittee for Vocational Rehabilitation;  
prepare a staff report and possible legislation.

**Issue:** Joint Task Force on Rural Economic Development

(Project of both Commerce & Labor and Government Operations Committees)

**Lead Staff:** Genevieve Pisarski -- 786-7448

**Background:**

Both the subject of economic development and the subject of rural land use and economic

development are presently covered by the growth management act. It is perceived, however, that both of these areas can and should be more comprehensively addressed within the act. Studies show that there is significant disparity between urban and rural areas of the state in respect to employment, earnings, economic vitality, and development capacity.

A Joint Task Force on Rural Land Use and Economic Development has been established to develop recommendations to the Legislature on economic development in rural areas consistent with the Growth Management Act. The Task Force will consist of six senate and six house members, three from the majority and three from the minority.

***Questions:***

How can local governments encourage rural economic development consistently with the Growth Management Act (GMA); promote economic opportunity for citizens, especially the unemployed and disadvantaged; and assist areas experiencing insufficient economic growth?

***Objectives:***

Serve as staff to the subcommittee for conducting work sessions, hearings, research, and analysis in order to:

- 1) Create a clear definition for rural counties and their cities in relation to the Growth Management Act.
- 2) Develop recommendations to the Legislature for consistent rural land use and rural economic and industrial development statutes.

**Issue:** Economic Development Assistance

**Lead Staff:** Genevieve Pisarski -- 786-7448

***Background:***

There are numerous forms of economic development assistance currently in Washington law, including grants, loans, tax credits, and special taxes.

Other states also have economic development assistance programs in place, which may or may not be compatible with Washington constitutional requirements.

***Questions:***

What additional forms of economic development assistance should Washington consider? What have other states done successfully? Can such efforts be pursued in Washington?

**Objectives:**

1. Compile an inventory of Washington economic development assistance programs, including purpose, intent, source of authority, and data on program results.
2. Research programs of other states, including purpose, intent, source of authority, and data on program results.
3. Identify programs that may be transferable to Washington.

**Issue:** Sustainable Development for Rural and Natural Resources Economies

**Lead Staff:** Genevieve Pisarski -- 786-7448

**Background:**

In the 1998 interim, a Joint Task Force on Rural Economic Development will be developing recommendations for consistent rural land use and economic development legislation.

Ongoing legislative efforts, including some focused on the Growth Management Act and others focused on rural- and natural resource-related economic development assistance, indicate interest in both preserving the character of rural areas and resource lands and also narrowing the gap between rural and urban areas of the state in respect to employment, earnings, economic vitality, and development capacity.

Sustainable economic development programs and research conducted by the Department of Community, Trade, and Economic and others indicate that there may be useful models and potential for addressing the state's related goals for rural and natural resources areas and economies.

**Questions:**

What kinds of economic development assistance can the state provide to rural and natural resources-based economies that is compatible with preserving the character of rural areas and resource lands and will yield results that are self-sustaining?

**Objectives:**

1. Investigate and report on sustainable economic development research, plans, proposals, projects, and resources in the state that are applicable to rural and natural resources economies.

**Issue:** The Effect of Class Size on Student Performance in Washington Schools

**Lead Staff:** Susan Mielke -- 786-7422

***Background:***

Statistics provided by the U.S. Department of Education show that in 1995 the national average student-teacher ratio was 17.2. The Washington state average student-teacher ratio was 20.4. Only two other states had a higher average student-teacher ratio: California (24.0) and Utah (23.8). During the 1997 legislative session, several bills were introduced to lower the class size in Washington's schools.

***Questions to explore:***

1. What is the current class size in Washington state? How does Washington compare with other states? How does Washington compare with other countries?
2. What is the difference between the student-teacher ratio and the size of classes?
3. Is there a positive relationship between smaller classes and increased academic student achievement?
4. If there is a positive short-term relationship between smaller classes and increased academic student achievement in which grades is a smaller class size the most beneficial?
5. What would be the effect of efforts to lower class size on the school construction and modernization projects of school districts?
6. What effect does inclusion of students with special needs (special education, bilingual) have on small classes? Large classes?
7. What actions have other states taken to reduce class size?
8. Are there other cost-effective actions that can be taken to alleviate a teacher's workload or provide additional instruction to students?

***Objectives:***

- 1) Develop a survey and survey a sample of elementary, middle and high schools in small, medium, and large, urban, rural and suburban school districts from eastern and western Washington using questionnaires and on-site interviews to determine actual class size.
- 2) Collect, review and summarize the available relevant educational research literature and studies on the effect of class size on K-12 student performance.
- 3) Conduct a comparative analysis of information collected from the school district surveys and the research literature review using some or all of the above questions.
- 4) Prepare a staff report and options for possible legislation.

**Issue:** Real Property Tax Credits or Exemptions Benefitting Private Schools, Private School Students, or Parents of Private School Students

**Lead Staff:** William Bridges -- 786-7424

***Background:***

During the 1998 Legislative Session, a bill was introduced to provide real-property tax credits for contributions to private schools and home-school expenses. The bill implicated at least five provisions of the state Constitution. First, the Constitution provides that "[n]o public money . . . shall be appropriated for or applied to any . . . religious establishment." Second, the Constitution states that "[a]ll taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only." Third, the Constitution requires that "the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools." Fourth, the Constitution prohibits the state from giving or loaning credit to aid "any individual, association, company or corporation." Finally, the Constitution declares that "[n]o county, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatever."

A tax exemption may have fewer constitutional impediments than a tax credit.

***Questions to explore:***

- 1) What are the constitutional problems with a real property tax credit?
- 2) What are the constitutional problems with a real property tax exemption?

***Objective:***

Gather enough data for a staff report and possible legislation.

**OTHER EDUCATION ACTIVITIES:**

**Issue:** Training in Reading Instructional Strategies and Tutoring/mentoring Programs (E2SSB 6509)

***Background:***

The Legislature has passed a reading bill in each of the last four sessions. In the 1998 session, the Legislature passed legislation creating and funding two grant programs to improve students' reading proficiency through teacher training and use of tutors or mentors (E2SSB 6509).

***Objectives:***

- 1) Staff visits to 5 school districts to observe implementation of the grant programs.
- 2) Additional preparation and follow-up research for preparation of a staff report and options for possible legislation.

**Issue: Educational Programs for Juveniles in Adult Correctional Facilities (ESSB 6600)**

**Background:**

In the 1998 session, the Legislature passed legislation to provide educational programs for juveniles in adult correctional facilities (ESSB 6600).

**Objectives:**

- 1) Staff visits to the Shelton and Purdy correctional facilities to observe the educational programs implemented for juveniles in adult correctional facilities.
- 2) Monitor the study by the Department of Corrections and the Superintendent of Public Instruction regarding the education of juveniles in adult correctional facilities. The education committee shall receive a profile of all offenders under the age of twenty-one who are incarcerated in a DOC correctional facility, by *May 1*, and a profile of all offenders under the age of twenty-one who are confined in county jails by *September 1*. A preliminary report is due by *September 1* and a final report is due by November 1.
- 3) Prepare a staff report and options for possible legislation. Possible presentation at the September or December Legislative Assembly committee meeting.

**Issue: Levy Lid and Levy Equalization**

**Background:**

In the 1998 session, five bills were introduced that addressed school levies.

**Objectives:**

- 1) Review the legislation of the last 10 years addressing local school levies and the state support of those levies.
- 2) Prepare issue brief for the education file.

**Issue: Distribution of Timber Revenues for Public Schools**

**Background:**

During the 1998 Legislative Session, a bill was introduced concerning the distribution of timber revenues for public schools. According to the fiscal notes accompanying the bill, it appeared to do the opposite of what the proponents were claiming.

**Objectives:**

- 1) Review and analyze the 1998 legislation concerning the distribution of timber revenue to determine the outcome if the legislation was implemented.
- 2) Prepare a staff memorandum to the education file.

**Issue: Truancy (impact of the 1995 Becca Bill)**

**Background:**

Some prosecutors and judges are dissatisfied with the statutory process courts must follow to conform with the current truancy statutes.

**Objectives:**

- 1) Attend truancy hearings in various juvenile courts and catalog the concerns of judges and prosecutors regarding the truancy process. .
- 2) Prepare a staff memorandum on concerns raised, and issue brief on the truancy process.
- 3) Work with Human Services and Corrections Committee staff to develop an issue brief on the truancy process established by the "Becca" bills

**Issue: Inclusion, Least Restrictive Environment, and Special Education**

**Background:**

Federal law, Individuals with Disabilities Education Act (IDEA), requires children with disabilities to be educated with children without disabilities, to the maximum extent appropriate. In 1997, Congress re-enacted and amended the IDEA.

**Objectives:**

- 1) Draft an update the federal requirements and case law defining and interpreting inclusion and least restrictive environment of children with disabilities.
- 2) Monitor the OSPI study comparing the state's administrative and statutory requirements to provide special education within the requirements of federal law. A preliminary report by OSPI is due to the Education committee by *October 15, 1998*, and a final report by *December 15, 1998*.
- 3) Prepare a staff memorandum to the education file, and possible presentation during the September or December Legislative Assembly.

**Issue: State Aid to Private Schools, Private School Students, and Parents of Private School Students**

**Background:**

In 1994, staff reviewed, analyzed, and documented the case law addressing the legal status of the propriety of state aid for private schools, private school students, and parents of private school students, including sectarian schools. The inclusion of sectarian schools causes the issue of state aid to encounter special barriers raised by the federal and state Constitutions, which impose strict restrictions on state aid for sectarian schools.

**Objectives:**

- 1) Update the review and documentation of the case law addressing the legal status of the propriety state aid to private schools, private school students, and parents of private school students.
- 2) Prepare a staff memorandum to the education file.

**Issue: Implementation of the Principal's Waiver Bill (1997--E2SHB 1303)**

**Background:**

In the 1997 session, the Legislature passed legislation permitting school boards to grant waivers, or partial waivers of state laws and related rules pertaining to a school's instructional program, operation, and management. The authority expires in June 1999.

**Objectives:**

- 1) Compile, analyze, and report on the number of waivers sought by school districts.
- 2) Prepare a staff report.

**Issue: State Funding of K-12**

**Background:**

Under Article IX, Section I of the Washington State Constitution, the state's paramount duty is to make ample provision for the education of all children residing in the state. The courts have interpreted this to mean that the state must define a basic program of education and fund it from a dependable source.

**Objectives:**

Issue brief explaining the components of the current state funding of the basic education program and major non-basic education programs and the strengths and positive aspects of the current funding formula.

***Other Education Staff Activities:***

***Monitor and brief members of the committee on the activities and meetings of the following:***

- Commission on Student Learning, including:
  - the CSL Task Force on School Accountability
- K-20 Educational Telecommunications Oversight and Policy Committee, including:
  - the policy advisory committee
  - the technical advisory committee
- State Board of Education, including:
  - the School District Boundary Sub-committee
  - the Grad. Sub-committee
- OSPI Task Force on Special Education
- OSPI Task Force on Behavior Disabilities
- OSPI Task Force on Autism
- Professional Educator Advisory Committee
- Work Force Training and Education Coordinating Board
- Family Policy Council
- Special Education Advisory Council
- Higher Education Coordinating Board
- State Board for Community and Technical Colleges

## The Joint Select Committee on Education Restructuring Work Plan for the 1998 Interim

**Issue:** The Annual Report to the Legislature by the Joint Select Committee on Education Restructuring (JSCER)

**Lead Staff:** Susan Mielke -- 786-7422

### **Background:**

In 1993, the Legislature created the Joint Select Committee on Education Restructuring (ESHB 1209, Chapter 336, sec. 1001, Laws of 1993). The primary purpose of the Committee is to "*monitor, review and **annually report** to the Legislature on the implementation of education restructuring at the state and local level.*" The annual report is due each September 1.

The following are statutorily required:

- Measure the progress of the Commission on Student Learning (CSL) in the completion of its tasks and other statutory assignments;
- Evaluate the success of the Center for the Improvement of Student Learning;
- Calculate the number of school districts seeking waivers from Basic Education Act requirements under current law or any subsequent legislation;
- Evaluate the success of alternative programs districts pursue;
- Evaluate the progress and success of the CSL, Superintendent of Public Instruction (SPI), State Board of Education (SBE), Higher Education Coordinating Board (HECB), and the State Board for Community and Technical Colleges (SBCTC) in achieving the legislative directives to restructure the K-12 education system;
- Seek advice from educators, business and labor leaders, parents, and others during its deliberations.

### **Objectives:**

1. Meet with representatives from the CSL, SPI, SBE, HECB and SBCTC to standardize the format for their reports to the JSCER to facilitate usable information.
2. Review the activities of the Higher Education Coordinating Board initiated in response to K-12 education reform, which emphasizes performance and outcomes and includes a Certificate of Mastery, and the impact of new standards on traditional transcripts, returning adults, private schooled students, and home-schooled students.
3. Review the standards setting process used by the Commission on Student Learning to establish the assessment passing standards.
4. Review the scoring process used by the Riverside Publishing Company, which scores the fourth grade assessments for Goal 1 and Mathematics.
5. Research and visit a select number of alternative schools operating in Washington State.
6. Possible presentations to the Joint Select Committee on Education Restructuring during the September or December Legislative Assembly committee meeting, and the annual report to the Legislature.

**Issue:**            **Bandwidth and Telecommunications Network Infrastructure**— alternatives for promoting investment and competition in high-speed data services.

**Project Team:**

Andrea McNamara -- 786-7483

Karen Kirkpatrick -- 786-7403

**Background:**

Internet services and digital broadband technologies refer generally to simultaneous voice, high-speed data, and video communication capabilities provided over a network of computers. Under the Federal Telecommunications Act of 1996, these services are not currently regulated unless provided by a Local Exchange Carrier (LEC). LECs are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). It has been suggested by some that this regulation is unnecessary and that sufficient competition exists for these services. A competitive local exchange carrier (CLEC) or an Internet service provider (ISP) must negotiate with incumbent LECs to gain access to the network elements of the LEC or build their own infrastructure to provide these high-speed services to customers. CLECs and ISPs have argued that the incumbents are difficult to deal with and are delaying competition by erecting unnecessary barriers to entry. They suggest that new methods of regulation or enforcement, or both, are necessary to stimulate true competition and investment.

Telecommunications infrastructure investment in high-speed data services plays a key role in economic development throughout Washington. Widespread agreement exists among providers and customers that new methods of encouraging investment and regulating competitive services are necessary, but there is little consensus on the best ways to accomplish those goals. Several other states are exploring a variety of legislative, regulatory, and legal options to speed up the competition promised by the federal act and to encourage broadband infrastructure investment. Significant interest exists here in Washington in forming an industry consortium to study a variety of legislative options to encourage facilities-based, interconnection-based, and resale-based competition among companies who want to provide high-speed data services. Such a consortium would explore, through a series of work sessions and independent research, the technical, legal, and economic implications of each option.

**Objectives:**

- 1) Facilitate the formation of a private trade group consortium to study infrastructure investment needs and incentives and make recommendations to the Legislature; provide necessary staff support to consortium.
- 2) Research and evaluate other state's approaches to facilitating broadband infrastructure investment and competition among high-speed data service providers.
- 3) Monitor the Federal Communications Commission (FCC) and appellate court developments with regard to digital broadband and interconnection issues.
- 4) Draft legislation as directed.

**Issue:**           **Telecommunications Universal Service and Access Charge Reform**— creation and implementation of a universal service fund to support affordable telecommunications service in high-cost areas of the state and to foster fair competition among competing providers.

**Project Team:**

Andrea McNamara -- 786-7483

Karen Kirkpatrick -- 786-7403

**Background:**

The goal of universal service is to provide all citizens with access to the public telephone network at affordable prices. Universal Service depends on subsidies to maintain affordability. Average pricing and access charges have been used to support service to high-cost customer locations. This revenue makes it possible to keep the basic monthly rate at an affordable level.

Under the Federal Telecommunications Act of 1996 and in the newly competitive marketplace, these methods are considered an impediment to new companies trying to enter the local telecommunications market. The means to achieving fair competition is to replace the system of hidden subsidies with one of explicit, predictable supports through the use of a universal service fund managed by the Washington Utilities and Transportation Commission (WUTC).

In 1998, the Legislature passed ESSB 6622 directing the commission to plan and prepare to implement a program for the advancement of universal telecommunication services in accordance with the federal act. The commission is directed to: (1) estimate alternatively the costs of supporting one line per customer and the cost of supporting all lines in a high-cost area; (2) determine the assessments required and the manner of collection; (3) designate those eligible to receive funds for the benefit of their customers; (4) provide a schedule of all fees and payments proposed; and (5) make all necessary rules for administration of the program.

The commission has opened a docket (UT-980311) for adjudicative and rulemaking proceedings with respect to establishing the universal service fund. The commission will hold workshops and extensive formal proceedings throughout the summer and is required to report to the Legislature on the details of the program by November 1, 1998.

The universal service fund established by the commission will require legislative approval in the form of implementing legislation.

**Objectives:**

- 1) Monitor and provide oversight to the commission proceedings with respect to the legislative mandate.
- 2) Prepare periodic progress reports to members.
- 3) Prepare issue papers summarizing discussions of important topics necessary to implementation of access charge reform and universal service.
- 4) Draft implementing legislation as directed.

**Issue:**            **Electricity Restructuring**— whether, when, and how to restructure the retail electricity industry in response to federal deregulation of the wholesale electricity market and increasingly competitive retail markets around the country.

**Lead Staff:**    Andrea McNamara -- 786-7483

**Background:**

Legislation currently pending before Congress would extend competition to the *retail* electricity markets by a date certain but would also grandfather existing state systems that have already provided for retail competition. While there is little consensus on whether such legislation will pass in 1998, most experts believe that federal action is very likely by 1999. Additionally, more than a dozen states have begun restructuring their retail electricity industries (through legislation or regulatory orders) and are in various stages of implementation.

In Washington, utilities and large electricity consumers are reacting to both real and anticipated changes and the possibility of retail competition. Some large industrial customers have negotiated lower prices from their existing utilities, and some utilities have begun reducing or deferring investments in various programs, including public purposes and long-term maintenance, in an effort to bring their costs closer in line with possible future market prices. Concerns have been raised that such decisions are resulting in a "de facto" or "virtual" restructuring of the industry without the benefit of a coherent state policy on the issue.

Two bills related to restructuring, ESSB 6560 (the "Consumer Protection Bill") and SHB 2831 (the "Unbundling Bill") were passed in 1998, requiring a number of studies to be completed by the Washington Utilities and Transportation Commission, the Department of Community, Trade, and Economic Development, and the State Auditor in conjunction with the state's electric utilities. Additionally, a new draft bill incorporating the Portfolio Model of restructuring was released for comment immediately after the conclusion of the 1998 session. An on-going discussion group consisting of industry representatives, customer advocates, regulators, and other stakeholders have agreed to continue deliberations on the bill draft and related issues under the auspices of "The Chelan Group" (a group named for Chelan Public Utility District, that organized and sponsored a series of discussions and negotiations on restructuring during the 1997 interim).

**Objectives:**

- 1) Provide assistance and oversight to the WUTC, CTED, and the State Auditor during the course of the studies required by SSB 6560 and SHB 2831.
- 2) Participate in the deliberations of the Chelan Group as they respond and react to the draft restructuring legislation.
- 3) Track the progress of retail restructuring legislation in Congress; research and describe the implications for state policy.
- 4) Research and describe the approaches and effects of other states' restructuring efforts.
- 5) Develop policy options for restructuring the retail electricity industry in Washington that:

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## 1998 Interim Projects & Activities for the Senate Energy & Utilities Committee

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**Issue:**            **Use of Right of Way by Telecommunications Companies**— development of a fair, competitively neutral, statewide policy for use of the public rights of way by telecommunications carriers.

**Lead Staff:**    Karen Kirkpatrick -- 786-7403

**Background:**

The Federal Telecommunications Act of 1996 (the Act) encourages states to make rights of way (ROW) under their jurisdiction available for the placement of telecommunications services. The act also authorizes state and local governments to receive "fair and reasonable compensation" for the use of public ROW.

Implementation of the ROW portions of the federal act have proven challenging for both industry and state and local governments. Considerable disagreement exists over what constitutes "fair and reasonable compensation," and the phrase has been interpreted differently from jurisdiction to jurisdiction. It has been suggested that a statewide policy is needed to promote a fair, competitively neutral, and consistent approach to compensation and other issues related to the use ROW. Senate Bill 6515 attempted to address many of these ROW issues, but it did not pass the Legislature in 1998. Representative Crouse has convened an informal working group to continue discussions of the unresolved issues over the interim.

The following issues were addressed in SB 6515 and continue to need resolution:

- (1) *Compensation.* The Legislature should determine what elements of compensation will provide incentives for infrastructure investment, ensure affordable rates to consumers and provide "fair and reasonable compensation" for those who manage the rights-of-way for the public.
- (2) *Local Control.* The Legislature should determine what elements of regulation of the public rights-of-way should remain under local control and which elements should be outlined in a state-wide policy.
- (3) *Use of Controlled Access Highways.* The Legislature should determine in what manner the controlled-access state highways may be used by telecommunications providers while ensuring safety and protecting these rights-of-way for transportation purposes. A telecommunications right-of-way advisory panel was created by ESSB 6061 (1997) to develop a process for use of these rights-of-way. The panel is near completion of a wireless proposal and is now beginning work on a wireline proposal via a wireline task force.

**Objectives:**

- 1) Participate in discussion group meetings sponsored by Representative Crouse.
- 2) Attend the bi-weekly meetings of the wireline task force and provide regular updates to members.
- 3) Prepare a matrix of right-of-way use, wireless siting, and moratoria ordinances in effect in cities, towns, and counties around the state.
- 4) Research legislation and case law from other states addressing related issues.
- 5) Prepare legislation as directed.

**Issue:** **Taxation of Telecommunications and Other Utility Services**— reforming telecommunications and utility tax policy to promote fair competition among telecommunications and other utility service providers as the industries transition to a deregulated or restructured environment.

**Project Team:**

Karen Kirkpatrick -- 786-7403 (primarily telecommunications and Internet taxation issues)

Andrea McNamara -- 786-7483 (primarily energy and other utility taxation issues)

**Background:**

A variety of new technologies and expanded functions of existing technologies have changed the telecommunications and energy landscapes. Currently, competing technologies have widely disparate tax treatments which can amount to undue burdens and benefits. It is widely believed that in order for free and competitive markets to develop within the telecommunications and energy environments, consumers and service providers should have choices unencumbered by inequitable state tax policies. But there remains no clear consensus on how to revise such policies to achieve both competitive and revenue neutrality.

*Telecommunications companies:* Within the telecommunications field, the tax rate reaches as high as 15.071%. Companies are taxed differently depending on the services offered such as cable, telephone, or data services or depending on the jurisdiction. Cities are authorized to assess a gross receipts tax on telephone businesses while counties are authorized to grant franchises. The retail sales and use tax applies to sales of telephone services. In addition, local sales taxes apply. Adding state, city, county, and other local taxes together, the total retail sales tax ranges from 7.0 to 8.6 percent, depending on location. In addition to sales tax, the state also imposes B&O taxes on telephone businesses. In addition to state B&O taxes, telephone businesses also pay city gross receipts taxes.

*Internet Service Providers:* Internet service providers are subject to a state 1.75 percent service B&O tax, lowering to 1.5 percent on July 1, 1998. Legislation enacted last year prohibits cities from imposing new taxes or fees specific to Internet service providers, but cities may impose gross receipts taxes that should not exceed 0.2 percent in most cases. This prohibition against new taxes and fees lasts through July 1, 1999. Several Internet tax moratoria proposals have been introduced at the federal level, but the Federal Communications Commission (FCC) has been considering recommending to Congress that Internet telephony be included as a telecommunications service for purposes of contribution to the universal service fund.

*Electric utilities:* Income from electric utility operations within the state is taxed under the public utility tax (a gross receipts tax) and is in lieu of the B&O tax. Currently, the tax rates are applied to the gross receipts of a utility, including revenues from generation, transmission, and distribution activity. Revenues on energy sales by marketers or utilities outside the state from sales within the state are not currently subject to either the gross receipts tax or sales or use taxes. Cities are also authorized to levy a tax on the gross income received by utilities within their jurisdictions. Some municipal utilities have been collecting these taxes from customers who live outside the city boundaries, and concerns have been raised about the potential for double taxation and taxation

without representation. Additionally, as more customers begin purchasing electricity from utilities outside the state, state and local revenues will be negatively affected, and Washington-based utilities will be placed at a competitive disadvantage to out-of-state suppliers. Several other states are facing these same issues as they move toward restructuring their retail electricity industries and are taking a variety of approaches in response.

**Objectives:**

- 1) Research and prepare a matrix of the current tax policies, rates, and revenues for telecommunications, energy, and other utility services.
- 2) Track congressional action and research state approaches to revising telecommunications and Internet tax policies.
- 3) Research and describe other states' approaches to revising electricity tax policies to maintain both competitive and revenue neutrality.
- 4) Prepare legislation as directed.

**Issue:**            **Unsolicited Commercial Electronic Mail**— addressing unresolved technical, legal, and economic issues relating to the sending and receiving of unsolicited commercial electronic mail.

**Lead Staff:**    Karen Kirkpatrick -- 786-7403

**Background:**

Unsolicited commercial electronic mail (e-mail), often referred to as "spam," is an emerging issue of discussion on the Internet. Advertisers can reach thousands or even millions of consumers at little or no cost to themselves through spamming. As a result, some Internet users regularly receive substantial amounts of unsolicited commercial e-mail while others receive little or none.

The sending of e-mail messages uses resources of recipients. Many consumers connect to the Internet through interactive computer services that charge in increments of time so that recipients must pay to download these messages, messages must be stored, using memory on each recipient's computer, and an unsolicited message may delay the receipt of an expected message. Just as traffic slows on a freeway as it becomes more congested with cars without a corresponding increase in traffic lanes, there are concerns that traffic over a computer network may slow as the network becomes more congested.

In 1998, the Legislature passed ESHB 2752 which: (1) prohibits the sending of unsolicited commercial e-mail that contains untrue or misleading information; (2) makes the sending of such messages a violation of the Consumer Protection Act (CPA); (3) authorizes Internet Service Providers (ISPs) to block transmission under specified circumstances; and (4) creates minimum statutory damages. However, many issues were left unresolved.

A task force was created by the legislation to study technical, legal, and cost issues related to the transmission and receipt of commercial e-mail messages, evaluate whether existing laws are sufficient to resolve problems created by the increasing volume of commercial e-mail, review

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**1998 Interim Projects & Activities for the Senate Energy & Utilities Committee**

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efforts made by the federal government and other states to regulate the transmission of commercial e-mail, and report back to the House Energy and Utilities Committee by November 15, 1998.

**MEMBERS OF TASK FORCE:**

*House Members*

Representative Roger Bush

Second Member To Be Announced

*Senate Members*

Senator Bill Finkbeiner

Senator Ken Jacobsen

**TASK FORCE MEETING SCHEDULE:** To be announced

***Objectives:***

- 1) Staff the task force proceedings and assist in the preparation of the task force report.
- 2) Prepare periodic progress reports to members.
- 3) Draft legislation as directed.

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**1998 Interim Projects & Activities for the Senate  
Financial Institutions, Insurance & Housing Committee**

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**Issue:** Credit Union Field of Membership Rules

**Lead Staff:** Catherine Mele -- 786-7470

**Background:**

Attention at the national level to this issue has resulted from a Supreme Court decision which restricts the ability of credit unions to accept members from multiple employee or neighborhood groups. Credit unions are member owned, non-profit cooperatives and are not taxed. Banks argue that if credit unions can accept members without meaningful restrictions, the "member owned non-profit" label is merely a fiction. As a result of the national activity, there is interest in reexamining field of membership rules for state-chartered credit unions.

**Objectives:**

- 1) Representatives of banks, savings institutions and credit unions will be convened by the Department of Financial Institutions, for a series of meetings to discuss this issue.
- 2) Committee members and staff will participate in these meetings, including the planning.
- 3) Although views on this subject are deeply divided between credit unions and other financial institutions, discussions will produce a narrowing or framing of the issues with a clear cut outline of policy choices and guiding principles.

**Issue:** Task Force on New Financing Methods for Housing for Elderly and Persons with Disability

**Lead Staff:** Dave Cheal -- 786-7576

**Background:**

Housing for these two groups presents unique challenges, and requires different financing considerations than other low income housing. Younger people, free of disability, may need temporary housing assistance, but have the possibility of improving their financial condition and moving on to market rate housing. Older or disabled people will need assistance for a longer term, or often for life, and often also need housing related assistance. A task force was established by statute in 1997 and extended this year, to produce new financing methods that can meet these special needs.

**Objectives:**

- 1) Staff will work with the Department of Community, Trade and Economic Development, the Housing Finance Commission, the State Investment Board and the Department of Social and Health Services to provide support and direction to the task force. Concepts that were outlined last year need to be refined and detailed.
- 2) Produce legislative proposals.

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**1998 Interim Projects & Activities for the Senate  
Financial Institutions, Insurance & Housing Committee**

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**Issue:**           **Parking Facility Financing by the Washington State Housing Finance Commission**

**Lead Staff:**    Dave Cheal -- 786-7576

***Background:***

The Housing Finance Commission creates low and moderate income housing by the issuance of tax-exempt bonds and administering a federal tax credit program. The Commission also has authority to issue tax-exempt bonds to enable local government or non-profit organizations to construct capital facilities. This authority has been used to assist in the building of libraries, private school auditoriums, animal shelters and nursing homes. Some of these facilities have included parking facilities. Last fall a parking facility was financed by Commission activity for a non-profit entity in downtown Seattle. Even though the facility will eventually be owned by the City of Seattle, it apparently will also create some direct benefit for private for-profit retailers, which was not apparent at the time the bonds were issued.

***Objectives:***

- 1) Monitor the Commission's development of new policy guidelines that will help avoid this real or apparent assistance of private, for-profit interests in the future. The task also is to provide an opportunity for legislators and others to examine and better understand the non-profit capital facilities activities of the Commission.
- 2) New Commission policy guidelines; possible legislative proposals.
- 3) Public Hearing: June 10, 1998— SHR 1 9:00-12:00

**Issue:**           **Mobile Home Park Purchase by Residents**

**Lead Staff:**    Dave Cheal -- 786-7576

***Background:***

In 1993 the Legislature created a qualified right for residents of mobile home parks to have the first opportunity to purchase their park in the event the owner decided to sell it. This right is dependent on tenants meeting various procedural and financial requirements. In practice, prospective resident purchasers have found some of these requirements to be serious roadblocks to success in acquiring the park. Park owners view the law as a burden on their right to freely and efficiently market their property, and have litigated the constitutionality of the law. The Court of Appeals, Division Two, recently determined the law is constitutional.

***Objectives:***

- 1) Right of first refusal laws from other states will be reviewed, along with proposals from residents and park owners. The goal is to find ways to make this tool useable by residents, with minimum interference with the legitimate rights of owners.
- 2) Possible legislative proposal.
- 3) Public Hearing: June 10, 1998— SHR 1 9:00-12:00

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**1998 Interim Projects & Activities for the Senate  
Financial Institutions, Insurance & Housing Committee**

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**Issue:** Mobile Home Siting and Installation Issues

**Lead Staff:** Dave Cheal -- 786-7576

**Background:**

Most cities allow manufactured homes to be placed on individual lots, provided they meet architectural covenants and restrictions, or zoning requirements applied equally to site-built homes. However, some cities only allow manufactured homes to be placed in mobile home parks.

Mobile homes can only be installed by state certified installers. Final inspection and approval of an installation is done by local building officials. Not all local building officials have anyone on their staff trained as a manufactured home installer.

Acceptance by cities of manufactured home siting on individual lots would have the advantage of greater availability of a shelter source that is more affordable than site-built homes. Growth management requires attainment of certain affordable housing and density goals within urban growth boundaries. Manufactured housing may provide an effective strategy for attaining both of these goals.

**Objectives:**

- 1) Meet with representatives of cities, the industry and the building officials organization, to resolve differences.
- 2) Possible legislative proposal.
- 3) Public Hearing: June 10, 1998— SHR 1 9:00-12:00

**Issue:** Umbrella Insurance for Commercial Contractors for Public Works Projects

**Lead Staff:** Catherine Mele-Hetter -- 786-7470

**Background:**

Contractors must obtain a variety of types of insurance in connection with any project, e.g., general liability, workers compensation, and hazard insurance (natural disaster, fire, etc.). Contractors believe that some economy could be achieved by combining all of these coverages under one policy. While such economies (if they exist) might be desirable for any project, it may be particularly appropriate to establish this product for public works projects since it should produce lower bids and save public money.

**Objectives:**

- 1) The possibility and effects of such combined coverage will be explored. Possible economies, as well as the impact on the various insurance protections must be determined. The staff will work with representatives of the construction industry, insurance industry, organized labor, the Department of Labor and Industries and the Office of the Insurance Commissioner.
- 2) Legislative proposal or report.

**NOTE:** This project may involve joint efforts with the Commerce and Labor Committee.

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**1998 Interim Projects & Activities for the Senate**  
**Financial Institutions, Insurance & Housing Committee**

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**Issue:**           **Insurance Company Self Audits**

**Lead Staff:**    Joanne Conrad -- 786-7472

**Background:**

An insurance company admitted to do business in this state must file an anti-fraud plan with annual updates with the Insurance Commissioner, including methods of preventing internal fraud. This and other such requirements, such as compliance with prescribed fair claims handling practices, require internal investigation and audits. Documents generated by internal self-audits are not privileged from discovery in civil litigation or admissibility in court. The purpose of the project is to determine whether a limited statutory privilege applied to these documents would enhance compliance with such laws, and whether a limited privilege would interfere with regulatory activities or legitimate consumer inquiries.

**Objectives:**

- 1) Staff will work with the Office of the Insurance Commissioner and representatives of the industry to identify the affected activities, and the impact of a limited privilege on compliance and regulatory effectiveness and efficiency.
- 2) Legislative proposal or report.
- 3) Public Hearing: June 17, 1998— SHR 1 9:00-12:00

**Issue:**           **Vehicle Extended Warranties, and "Products" Sold in Connection with Extended Warranties.**

**Lead Staff:**    Catherine Mele-Hetter -- 786-7470

**Background:**

Some vehicle dealers are selling products which purport to extend engine or drive train life. These products include a warranty that the maker of the product will repair the engine if failure occurs within a stated time period or mileage. There is some ambiguity as to whether these transactions amount to a sale of a product, or simply insurance. There are real advantages to the seller if it is a product, because consumer protections contained in the Vehicle Warranty Act do not apply. The Insurance Commissioner has taken the position that it is insurance, or an extended warranty that is being sold.

**Objectives:**

- 1) Staff will investigate the facts and circumstances surrounding these transactions, including how they are treated in other states. Assistance will be sought from the Attorney General's Office, the Insurance Commissioner and vehicle dealers.
- 2) Possible legislative proposal or report.
- 3) Public Hearing: June 17, 1998— SHR 1 9:00-12:00

**Issue:**     **Land Use Data Base**— the Legislature does not have factual background information available that allows it to see the “big picture” when making determinations concerning state land use policy.

**Background:**

With the passage of the Growth Management Act in 1990, the Legislature began to set broad, general policy for land use decisions at the local level. Over the years, amendments to the Act have been proposed, many of which were to allow specific areas of the state to deviate from the general state policy. These amendments have been considered in a piecemeal fashion. Without the ability to see the big picture, the Legislature will continue to have difficulty determining when to set state land use policy and when to delegate decisions to the local level.

**Objectives:**

- 1) Identify major public ownership of land (e.g., parks, forests, watersheds, significant facilities, development rights, and the like), as well as urban growth boundaries, critical areas, natural resource areas, and agricultural land;
- 2) Analyze the Geographic Information System (GIS) capabilities of state agencies and cities and counties; and
- 3) Attempt to integrate the land use information into a GIS that the Legislature could use as a significant resource for determining the future of state land use policy

**Issue:**     **Growth Management Act**— the Growth Management Act is now eight years old. As time passes and legislative seats turn over, the historical context in which decisions were made to amend the Act are fading from memory.

**Background:**

Passed in 1990, the Growth Management Act remains controversial and is the subject of numerous attempts to amend its policies and procedures. As new members are elected to the Legislature, without understanding what amendments came when, it becomes more and more difficult for these members to appreciate why the Act was amended at a given point in time. Because so much of the fabric of almost all of our land use laws is now interwoven with the policies and procedures of this Act (e.g., plats and subdivisions, SEPA, Shoreline Management, siting of significant facilities) it is important that this historical context be documented for future generations of legislators.

**Objectives:**

- 1) The first phase is to summarize and document by bill report all the amendments to the Growth Management Act since its passage in 1990;
- 2) The second phase, planned for Interim 1999, is to interview and record the recollections of various key players in the history of the Act (legislators, staff, lobbyists, interested citizens); and
- 3) The third phase, planned for Interim 2000, is to format all the material such that it could be updated annually.

**Issue:** **Zoo and Aquarium Funding**— the City of Seattle has requested an additional source of revenue to support the activities of its zoo and aquarium.

***Background:***

A bill was introduced during the 1998 Session that would have allowed Seattle, with a vote of the people, to create a metropolitan park district. If established, this would have allowed Seattle to impose a property tax of up to approximately \$0.50 per thousand dollars of assessed valuation in support of various activities, including its zoo. This bill passed the House but did not get out of committee in the Senate (ESHB 2508). During the closing week of the Session, a bill was introduced that would have allowed Seattle, with a vote of the people, to impose a similar tax but without the mandate to create a metropolitan park district (SB 6762). The Committee expressed a desire to continue to study this issue during the Interim.

***Objectives:***

- 1) To familiarize members and staff with the workings, financial status, and future plans of the Seattle Zoo and Seattle Aquarium; and
- 2) Attempt to reach a conclusion as to the need for a new supplemental revenue source to support these activities. If a new source of funding is warranted, suggestions will be prioritized as to a possible new source of funding.

**Issue:** **Alternative Dispute Resolution (ADR)**—What is it? How is it best used? What models currently exist? Is ADR a potential tool for members to address user-friendly means of implementing policy?

***Background:***

ADR is a relatively new and increasingly used method of bringing conflicting views into a perspective that permits each side of the conflict to share in the creation and benefit of a mutual solution. This approach obviates the need for formal judicial proceedings which is seen as a positive outcome. The techniques used in ADR may find productive application in the bill drafting phase of our work as well.

Members frequently search for ways to create statutory dispute resolution models that minimize the burden on the judiciary and parties. A knowledge of the various types of ADR and the reasons for choosing one over another in a given fact situation would help the members to achieve their goals.

***Objectives:***

- 1) Identify how an ADR is currently used in the state.
- 2) Consider model statutory language referencing the various types of ADR for use in future legislation.

**Issue:** **Heritage and Arts Priorities**— the chairman, in recognition of what has been perceived to be the current need for focus among the state’s heritage and arts organizations, wishes to mobilize the interested groups in defining and offering solutions for specific problems as articulated by the groups themselves.

**Background:**

Legislation was introduced during the 1998 session to create a new cabinet-level agency dedicated to heritage and arts concerns. It established a mechanism to prioritize, consolidate and avoid duplication in the goals, projects and funding of heritage and arts matters throughout the state. The bill helped to serve as a catalyst for thoughtful consideration of these issues. Contemporaneously, the Governor formed a Blue Ribbon Arts Task Force in December 1997 to explore “what communities need in the realm of arts support.”

**Objectives:**

- 1) Solicit comments from invited participants on specific ideas on how the Legislature might improve and coordinate heritage and arts activities.
- 2) Identify policy objectives and specific legislation to achieve those objectives.

**Issue:** **Whistleblower Program**— some basic policy questions are unanswered and are as follows: What is the purpose of the program in terms of addressing retaliation -- is it to stop the retaliation or to punish the retaliator? If the Whistleblower is anonymous, how can it be determined that the complaint meets the statutory definition which requires the Whistleblower to be a state employee? How does one address the anonymous Whistleblower who claims retaliation? How do we construct a statutory climate which assures that a Whistleblower is as susceptible to just disciplinary action as is any other employee? How can abuse of the program by Whistleblowers be avoided?

**Background:**

Since its inception in 1982, the state Whistleblower program has undergone periodic revision, the major changes having occurred in 1989 and 1992. The purpose of the program is to provide a statutory avenue by which state employees may feel safe from retaliation in reporting the instances that they believe to be improper governmental action. Given this context, the inevitable conflicts of interest lead to perceptions of abuse of the statutory scheme by the Whistleblower, the state agency that receives and investigates the reports, the supervisory personnel in the agency where the abuse is alleged to have occurred, and the media.

Overall, the program appears to work well. Some high-profile cases, however, have precipitated an inquiry into the fairness of the current statutory scheme. Last interim, approximately 30 interviews were conducted of the following: Whistleblower, Whistleblower who filed complaints of retaliation, supervisory staff at whom the whistle was blown, those who were alleged to have retaliated against the Whistleblower, heads of both large and small agencies who are both elected and appointed, the state auditor’s office (which has the statutory duty to investigate Whistleblower complaints), and the state human rights commission (which has the statutory duty to investigate

retaliation complaints).

Legislation was drafted during the 1998 session. The state auditor's office and the state human rights commission acknowledged their respective administrative roles and are addressing the problems associated with these roles.

**Objectives:**

- 1) Examine the extent that these problems are amenable to solution under the current statutory scheme.
- 2) Suggest statutory changes, if necessary, to accomplish policy goals as refined by further study.

**Issue:** **Joint Task Force on Rural Economic Development**— how can local governments achieve economic development in rural areas consistent with the Growth Management Act (GMA); promote economic opportunity for citizens, especially the unemployed and disadvantaged; and assist areas experiencing insufficient economic growth?

**Background:**

Both the subject of economic development and the subject of rural land use and economic development are presently covered by the growth management act. It is perceived, however, that both of these areas can and should be more comprehensively addressed within the act. Studies show that there is significant disparity between urban and rural areas of the state in respect to employment, earnings, economic vitality, and development capacity.

A Joint Task Force on Rural Land Use and Economic Development has been established to develop recommendations to the Legislature on economic development in rural areas consistent with the Growth Management Act. The Task force will consist of six Senate and six House members, three from the majority and three from the minority.

**Objectives:**

Serve as staff to the Task Force for conducting work sessions, hearings, research, and analysis in order to:

1. Create a clear definition for rural counties and their cities in relation to the Growth Management Act.
2. Develop recommendations to the Legislature for consistent rural land use and rural economic and industrial development statutes.

**Issue:**     **Integration of Land Use and Environmental Planning, Review, Permitting, and Terminology**— what has been and what remains to be done to achieve the type of integration envisioned by regulatory reform?

**Background:**

Since 1995 and ESHB 1724, the process of regulatory reform has moved toward simplification and standardization of local government land use and environmental regulation. This calls for integration of requirements for planning, review, and permitting processes and terminology.

Local governments have been required to establish a consolidated permitting system that combines environmental review with project review, reducing the number of public hearings and appeals and setting time limits for processing. They are also attempting to avoid repetition of environmental review and analysis for purposes of planning and then again for purposes of individual development projects. In addition, the goals and policies of shoreline master programs are now a chapter in local government growth management comprehensive plans.

The Land Use Study Commission has been investigating further necessary land use and environmental regulatory reform, but will terminate at the end of June 1998. The Departments of Community, Trade, & Economic Development and Ecology are preparing rules for regulatory reform amendments to SEPA, SMA, and CTED functions. CTED has also administered the Growth Management Planning and Environmental Review Fund for local government pilot projects to streamline permitting and environmental review for purposes of planning and development.

Additional integration has been attempted by both successful and unsuccessful legislative efforts over the past biennium, such as ESB 6094 (growth management provisions) and SSB 5462 (permit time line provisions), which passed in 1997, and ESHB 2830 (permit time limits, annexations, resource lands), which passed in 1998; and SB 6430 (boundary review boards), SSB 6482 (community councils), SSB 6556 (growth management and shoreline management), ESHB 2344 (permitting and project review), SHB 2977 (subdivision regulations and condominium statutes), EHB 2897 (exemptions from SEPA), and SHB 2911 (mitigation requirements), all of which did not pass in 1998.

**Objectives:**

1. Report on and assess the status of integration of land use and environmental planning, review, permitting, and terminology.
2. Identify areas of concern and likely legislative proposals.

**Issue:**     **Growth Management Hearings Boards**— what forms and functions are there for Growth Management Hearings Boards that are both effective and supportable?

**Background:**

The form and function of Growth Management Hearings Boards continues to be an unresolved issue in GMA. The Legislature continues to modify GMA provisions relating to the authority and actions

of the Boards. Specific areas of concern include the existence of multiple boards and conflicting decisions, the effect of board decisions in relation to local government decisions, and standards for and access to judicial review.

Several bills this session were not successful: 2ESB 5185 (modifying the role of the boards), which was vetoed, and HB 2622 (confirming board members) and HB 3123 (senate confirmation of members), which did not pass the Legislature.

A subcommittee of the Land Use Study Commission has been studying the Boards and has been formulating recommendations, but has not yet released any.

**Objective:**

1. Report on and analyze efforts to modify Growth Management Hearings Boards.

***Issue:*** **Paid Petition Gathering**— are there aspects of paid petition gathering that should and could be regulated, within the existing legal framework? For example: Is the cost of detecting fraud sufficiently burdensome to justify more latitude for the Secretary of State to reject petitions? Do citizen complaints of harassment indicate an aspect that is sufficiently distinct from protected speech to justify restrictions? Does the burden perceived by commercial enterprises do the same?

***Background:***

Judicial decisions at all levels have been generally protective of paid petition gathering and have placed it under the broad umbrella of protected political speech. The body of decisions indicates, however, that there could be justifiable regulation of various aspects of paid petition gathering.

Since the successful constitutional challenge to this state's paid petition gathering statute, legal tests have been more clearly defined and justifications for regulation have been better documented.

***Objectives:***

1. Research the legal standards that apply to paid petition gathering.
2. Identify distinct aspects of paid petition gathering that appear to need regulation and could pass the established legal tests.
3. Compile the above information into a form which focuses on the questions that arise for legislators and provide answers to those questions. For example: Why is outright banning of paid petition gathering not an option? Why are various other types of broad restrictions not an option?

**Government & Operations Committee Contacts**

Eugene Green, Coordinator, 786-7405

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**Issue:** Long-Term Care  
**Lead Staff:** Rhoda Jones 786-7198

**Background:**

The state's long-term care system has changed in recent years from a principally institution-based system, to a collection of programs and services which seek to care for the state's elderly, disabled and mentally ill populations in diverse "community based" settings. It may be that the fragmented nature of the system and the complexity of administering it has resulted in obstacles to high quality, safe, and effective care provided at the best possible cost to the state.

Are there changes in the way the long-term care system is administered in this state that would bring about a more rational way to match client needs with appropriate services?

Current statutes dictate who is eligible for long-term care, how they are allowed into the system, generally the services they can receive, how safety provisions will be enforced and reimbursement strategies for all services. In 1998, the Legislature passed 2SSB 6544. Among other things, the bill called for a review of key elements of the state's long-term care system to see if changes are needed in the way it is financed, organized and provided through the establishment of a joint legislative and executive task force on long-term care.

**Objectives:**

- 1) Review quality and safety standards for all types of long-term care facilities regulated by the Department of Social and Health Services.
- 2) Evaluate the need for uniform assessments that currently determine long-term care needs for state-funded clients. Analyze how current placement practices work.
- 3) Evaluate other possible alternatives for reorganizing and reforming current long-term care administration and service delivery.

**Issue:** School Based Medical Care  
**Lead Staff:** Rhoda Jones 786-7198

**Background:**

There are an increasing number of students in schools with significant medical care needs. This is partly the result of changes in how medical conditions are managed and the development of portable medical technology, both of which allow chronically ill children to go to school each day. Further, federal law requires that public schools accommodate children with every type of disabling conditions. State statutes define what school personnel are required to do in terms of health screening, and what schools are allowed to do related to such activities as immunizations, training, medications, and dealing with contagious disease. Current law allows nurses to delegate some activities to non-licensed personnel, including oral medications and clean intermittent catheterization.

What are possible ways in which the state's schools can more effectively provide medical care to students? What are potential funding sources for school based medical services to students?

In 1997, following direction from the Legislature, the state's Joint Legislative Audit and Review Committee (JLARC) conducted a study of the sort of medical services that are provided in schools and who administers the care. The study found that statewide there is approximately one registered nurse for 1700 students, far below the national average. School districts hire both registered nurses and certificated nurses to provide care. However, districts are not required to hire any specific number of nurses.

In recent years there has been increasing concern that non-licensed personnel are being asked to perform health-related duties in schools for which they don't feel trained. Nurses also report they cannot keep up with the demands put on them by the school districts.

**Objectives:**

- 1) Research and describe effective programs in school districts around the state which manage to provide medical care programs in schools with limited resources.
- 2) Review and summarize possible funding options which could be used by school districts to create or expand current medical care services.

**Issue:** Managed Care Regulation

**Lead Staff:** Jonathan Seib 784-7427

**Background:**

Managed care is now the dominate arrangement under which Washingtonians receive medical services. In the past several years, a number of bills have been introduced and passed at the state level to regulate this type of delivery system. 1998 has already seen the adoption of relevant administrative rules by the Office of the Insurance Commissioner, the introduction (but not passage) of a comprehensive managed care consumer protection act (SB 6486) and information disclosure act (SB 5883), and recommendations from a Presidential commission regarding the regulation of managed care at the federal level. Indications that interest in this issue will remain high.

**Objectives:**

- 1) Summarize existing state and federal managed care consumer protection requirements. Compare with recent proposals. Analyze options for consolidating these requirements into a more focused set of requirements to promote consumer understanding.
- 2) Identify legal or constitutional problems which might attend the delegation of state managed care regulation to private entities through the process known as "deeming," and analyze options for solving them.
- 3) Identify opportunities, options, benefits and costs of consolidating managed care regulatory requirements enforced by the insurance commissioner with managed care purchasing requirements within the Medicaid, BHP and public employee purchasing programs.
- 4) Determine the extent to which existing managed care requirements address quality assurance and analyze options for promoting the effectiveness of such regulations.

**Issue:** Records, Confidentiality and Privilege

**Lead Staff:** Joan Mell -- 786-7447

***Background:***

Individuals, agencies, and other entities communicate in writing and orally. The law regarding records, confidentiality and privilege concerns protection of the communications from disclosure to others. Various constituent groups seek protection of their communications via statutory authority. Numerous statutory provisions exist already, and disclosure is implicated in conjunction with any legislation that authorizes persons and entities to communicate or causes them to generate records. The issue arises frequently given the accessibility of information via a computer. The statutory provisions that presently exist are codified throughout the statutes. The laws are easily misunderstood and are confusing.

***Objectives:***

- 1) Inventory case law and statutes to serve as a reference source when issues of confidentiality and privilege arise in legislation.
- 2) From the inventory, catalogue the statutes and case law by subject matter.
- 3) Develop common themes and principles into an educational guide.
- 4) Convert the written educational guide into an audio production that utilizes descriptive vignettes in an easily consumable format.
- 5) Identify a recommended structure for legislation.

**Issue:** Telepractice and Professional Licensing

**Lead Staff:** Joan Mell -- 786-7447

***Background:***

Telepractice is providing professional interactive long distance health services to a distant consumer. New technologies have drawn attention to the concept. The competing policy interests are providing options for access to health care and other services balanced against the state's interest in regulating the quality of care and protecting its citizens. At least 22 other states saw the introduction of legislation regulating telemedicine during the 1998 session.

***Objectives:***

- 1) Analyze other state legislation in relationship to Washington's statutory licensing scheme to determine whether legislation should be considered.
- 2) Compile relevant and pertinent research on the subject.
- 3) Communicate with agencies and public to determine identified issues in this area in this state.

**Issue:** Welfare Reform Implementation

**Lead Staff:** Joanne Conrad -- 786-7472

***Background:***

In 1997, Washington state's welfare reform, "Work First," providing Temporary Assistance for Needy Families, was enacted. Work First represents major, significant change in expectations, incentives, administration and dynamics of welfare policy. The implementation of the new act will take place over a period of years, with the evolving outcomes and management benchmarks closely watched by the Legislature and the responsible state agencies. Areas affected by implementation include work requirements and incentives, provision of child care, time limits, caseload reduction goals, child support enforcement, and abstinence education for reduction in illegitimacy.

***Objectives:***

- 1) Continue to monitor the abstinence education programs now under contract with the Department of Health, through participation in the Joint Abstinence Education Oversight Committee.
- 2) Participate in the Joint Legislative Audit and Review Committee's Technical Advisory Group regarding welfare reform evaluation and outcome studies.
- 3) Monitor, with the Department of Social and Health Services, the caseload data information, to understand changing caseload dynamics, including any increase in employment or immigration to caseload from bordering states.
- 4) Work with the Department of Social and Health Services in improving child support enforcement efficiencies through Internet technology.
- 5) Continue to identify any sub-issues in need of legislative attention.

***Activities Prompted by 1998 Legislation:***

1. Consult with and monitor efforts of stakeholders to develop a plan for implementing a pilot program for the third-party accreditation of boarding homes pursuant to HB 2990.
2. Assist the Joint Legislative Audit and Review Committee in the study of the Certificate of Need program provided for in ESSB 6108.
3. Provide staff support to joint legislative task force on nurse delegation, extended pursuant to 2SSB 6544.
4. Consult with and monitor the Department of Social and Health Services in its performance of studies regarding the state's long-term care reimbursement system done pursuant to E2SHB 2935, including a study of options for changing the method for paying nursing homes for capital and property related expenses, and a study on the appropriateness of extending case-mix reimbursement to home and community service providers.

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5. Consult with the Ways & Means Committee and the Office of Financial Management (OFM) regarding the performance review of the state's long-term care system to be contracted for jointly by the Legislature and OFM pursuant to ESSB 6108.
6. Consult with and monitor the Department of Social and Health Service's task force charged in 2SSB 6544 with developing legislative recommendations on training standards for care givers and administrators in adult family homes and boarding homes, and in-home care providers.
7. Consult with and monitor the Joint Legislative Audit and Review Committee in its management audit of the Division of Developmental Disabilities within the Department of Social and Health Services pursuant to ESSB 6108.
8. Consult with and monitor the Division of Developmental Disabilities within the Department of Social and Health Services, and the Developmental Disabilities Stakeholders Workgroup, in its assessment and development of the strategic plan called for in SSB 6751.
9. Consult with and monitor the Department of Health in its review of mandated benefit proposals pursuant to RCW 48.47. Senator Deccio has requested review of proposed mandates regarding mental health care (SB 6566), eating disorders (SB 6617), maternity care (SB 6522), and managed care consumer protection (SB 6486).
10. Consult with and monitor the Department of Health/Board of Health sunrise reviews regarding credentialing of medical professionals. The Senate has not requested reviews for this interim. A number of them, however, have been requested by the House.

**Other Health and Long-Term Care Activities:**

1. Identify policy options relevant to Washington State in leu of or in response to any developments at the federal level regarding the use of social security numbers in child support enforcement under welfare reform. Research "right to privacy" in relationship to social security numbers.
2. Examine the appropriate role, if any, for the state in the regulation of cloning and cloning research. Identify the capacity for such activity in Washington State. Review federal regulatory actions and legislation from other states on this issue.
3. Identify strategies to improve oral health of low income children in the state, focusing on successful community-based programs. Collect information and data regarding the efficacy of identified strategies.
4. Continue to monitor activities throughout Washington and in other states regarding end of life care. Further consider legislative roles in improving such care in this state, including

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- improving access to hospice services in appropriate situations.
5. Participate in National Conference of State Legislatures Public Health Roundtable. Review the status of public health policies and programs in Washington State. Consider opportunities for legislative action in the public health arena.
  6. Identify policy options relevant to Washington state regarding the State Children's Health Insurance Program (SCHIP), particularly in light of any changes to the program at the federal level which would give the state easier access to federal matching funds.
  7. Research the health status of Native Americans in Washington State and the structure and characteristics of tribal health care programs. Evaluate policy options to address any identified concerns.
  8. Research the relationship between clinical depression and women in poverty. Consider its impact on state welfare reform efforts. Explore possible state strategies to address identified concerns, including a state pilot program.
  9. Review sunrise review statutes and corresponding administrative guidelines. Consider any changes needed to maintain the effectiveness and efficiency of the review process. Explore possible funding options. Develop guidance material regarding the state regulation of health professions.
  10. Participate in the ad hoc Department of Health task force on self-directed care. Assist in issue analysis and drafting of legislation.
  11. Review recent Senate bills regarding discrimination based on genetic information. Research the need for and desirable content and structure of such legislation, based on federal activities and models from other states. Redraft bills as appropriate.

**Issue:** "The Forces of Change"

**Project Team:**

Jean Six, Senate Higher Education, 786-7420  
Sherie Story, House Higher Education, 786-7120

**Background:**

The Senate Higher Education Committee, the House Higher Education Committee, and the Higher Education Coordinating Board are convening two roundtable meetings sponsored jointly by the Western Interstate Commission for Higher Education WICHE with funding from the Kellogg Foundation. The theme for the roundtable discussions is "**The Forces of Change**" with particular focus on (1) the changing academic marketplace, (2) the impact of technology and distance learning, and (3) the emergence of competency-based credentialing. These roundtables are the Legislature's link to the Governor's 2020 Commission on Higher Education.

The first roundtable is scheduled for May 18 and 19 in Spokane with the second scheduled for mid-September in Olympia. In May, we will be drawing upon the expertise of two national figures: Dr. Robert Zemsky, Director of the University of Pennsylvania's Institute for Research in Higher Education and Dr. Clara Lovett, President of Northern Arizona University and trustee for the Western Governor's University. Participants in the roundtables include college presidents, faculty members, trustees and regents, students, and members of the various state level policy boards. We have invited participants from the public institutions, the private institutions, and the proprietary institutions.

**Objectives:**

- 1) The roundtable discussions serve as the legislative connection to the work of the Governor's 2020 Commission on Higher Education
- 2) Develop policies allowing the state's system of higher education to be ready to meet the vision and demands of the future needs of Washington.
- 3) Prepare institutions to operate in the rapidly changing technological world.

**Issue:** Financial Aid

**Project Team:**

Jean Six, Senate Higher Education Committee, 786-7423  
Sherie Story, House Higher Education Committee, 786-7120

**Background:**

In 1996 a subcommittee of the Higher Education Coordinating Board conducted a study of financial aid leading to recommendations to change the distribution of the State Need Grant (SNG). Among

the recommendations were the proposals to create a new index of the grant to independent students and to base the grant amount on tuition rather than the "cost of attendance." Concerns that the subcommittee wished to address included the perception that the SNG was becoming too concentrated among independent students and that "cost of attendance" methodology used for calculating the grant amount does not reflect the true cost differences among the education sectors.

These recommendations were not adopted by the HECB. In addition to concerns that the total number of grants would be reduced because the changes would result in a higher average grant amount, the effects of the redistribution on income categories of students generated conflict between the state's education sectors. The issues identified by the subcommittee were taken up in the 1997 legislative debate on financial aid. Continuing confusion over potential impacts led to a legislative request for additional information on current usage and distribution of aid as well as the development and analysis of other alternatives to the allocation of state financial aid.

During the 1997 interim, staff from the fiscal committees worked with a number of project committees, the Washington Institute for Public Policy and Human Capital Research Corporation to provide a brief history of financial aid in Washington, to describe the different philosophies embodied in the distribution of financial aid at the public and private higher education institutions in Washington, identify gaps in existing data, to compare Washington's methodology for aid distribution to other states with need based programs, to illustrate changes in aid distribution by sector and income level from current situation, to develop a descriptive summary of various tuition philosophies, and to integrate pending federal changes into the scenario analysis.

***Objectives:***

- 1) The debate on financial aid continued through the 1998 legislative session leading to a request from the chairs of the higher education committees to the Higher Education Coordinating Board that the Board "evaluate the 1997 reports and make recommendations to the Legislature." Among others, the following policies will be reviewed throughout the course of this project: "(a) methods for determining both initial and continuing student eligibility; (b) methods for determining student cost of attendance; (c) methods for determining student grant amounts; and (d) methods for distributing funds among the institutions of higher education."
- 2) The Senate Higher Education Committee and the House Higher Education Committee will hold a joint work session in Spokane on May 19, 1998, to discuss policy alternatives with Brian Zucker, Human Capital Research Corporation.
- 3) The HECB will submit their preliminary recommendations to the committees during the September Committee Assembly. Following the submission of these recommendations, any resulting legislation regarding tuition and/or financial aid will be prepared for consideration in the 1999 session.

*Other Higher Education Activities:*

At the final meeting for the 1998 session, the Senate Committee on Higher Education suggested a number of other issues for further study and review during the 1998 interim.

- While much study has focused on the funding for part-time faculty at the community colleges, the committee would like to look at the broader issue of **community and technical college funding** in general. Concerns have been expressed about the enrollment driven funding model and its relation to quality and access. While the House has a subcommittee looking at part-time faculty issues the Senate committee will work with the State Board for Community and Technical Colleges to determine what funding mechanisms will best serve the needs of students.
- The committee is interested in a **joint subcommittee on childcare issues** in the broadest sense — not just as they pertain to students and higher education institutions. There is a recognition that for welfare reform to be successful, day care issues must be addressed. The subcommittee may include members of the Senate Higher Education Committee as well as members of other Senate and House committees — such as the Human Services and Corrections, the Health Care, the Children and Family Services, and the House Higher Education committees. (The Chair is assessing interest in such an undertaking and is awaiting responses from other Chairs. If there is enough interest, then we will seek permission from F&O to move forward...)
- The **Running Start** program was created by the 1990 Legislature to expand educational options for public school students. Running Start allows eligible 11<sup>th</sup> and 12<sup>th</sup> grade students to take college-level courses, tuition-free, at the 32 community and technical colleges and at three public universities: WSU, EWU, and CWU. By allowing students to earn high school and college credits simultaneously, Running Start has reduced the amount of time they have to spend in school and has held down college costs for students and their families. The committee is interested in a review of the program to understand its effects on not only students but the entire education system.
- The **collocation** of the UW Bothell with Cascadia Community College is driving the debate about **alternative delivery models**. Higher education may not continue to be facility bound in the traditional sense — sharing of facilities will be discussed in addition to following the progress of the development of distance education and the **K-20 telecommunications system**.
- The committee will be provided with briefings on the development of the **HECB master plan** and the **HECB Spokane assessments** as well as the institutional **accountability** efforts required by the biennial budget.

**Issue:** Dual Diagnosis  
**Lead Staff:** Fara Daun -- 786-7459

***Background:***

Many of the clients served by DSHS have both mental illness and substance abuse problems. This condition is commonly referred to as "dual diagnosis." Research demonstrates that this population frequently has difficulties gaining admission to dual treatment programs, and once admitted may be discharged without receiving care for the dual conditions. Because of the lack of acceptable services, these clients often become repeat users of emergent and crisis care services. Consequently, repeat emergent care users receive the most expensive care in the system, which may be the least appropriate to address their underlying needs.

Research also shows that improvement in treatment delivery to persons with dual diagnoses has long range fiscal benefits and improves the quality of their lives. The Division of Alcohol and Substance Abuse currently devotes approximately ten percent of its budget to treat dual diagnosis clients through its mentally ill/chemically abusing (MICA) services. Many experts believe that there is a much greater need for integrated dual diagnosis services than is presently available. Some additional dual diagnosis treatment in Washington is being done unofficially by agencies that have developed some sort of process based in either the substance abuse or the mental health perspective. Unofficially coordinated programs may struggle with funding issues due to categorized funding streams that may not recognize the additional treatment provided to dual diagnosis clients.

***Questions:***

- 1) How do we reduce reliance on repeated use of expensive emergency services?
- 2) How do we take advantages of cost efficiencies of integrated programs to provide effective care at the lowest possible price?
- 3) How do we address administrative obstacles caused by categorized funding streams?
- 4) How do we integrate programs based on differing philosophies and treatment modalities?
- 5) Recognizing that client definition acts as a filter to services, how should we define appropriate clients for an integrated treatment program?
- 6) Given a broad range of diagnoses and client needs, how do we most efficiently coordinate services and what services should be included in an integrated program?
- 7) What training is available to assist health professionals to recognize dual and complex diagnoses?
- 8) What services and functions need to be integrated to create effective programs?
- 9) How do we address case management and integration issues in rural areas?
- 10) How can issues related to differences in credential and certification processes be resolved to facilitate state recognition of dual diagnosis programs?

**Objectives:**

To form a work group that will:

- 1) Examine the existing approaches such as King County's "No Wrong Door" and the work being done in local MICA programs for statewide applicability;
- 2) Explore possible roles for the Washington Institute for Mental Health Research and Training and the Alcohol and Drug Abuse Institute;
- 3) Analyze the benefits and drawbacks of the use of incentives for programs that develop integrated services;
- 4) Prepare a comprehensive presentation to the Human Services & Corrections Committee;
- 5) Prepare a briefing paper; focusing on the specific needs and resources in Washington;
- 6) Prepare possible legislation to address the obstacles to providing a range of integrated services; and
- 7) Make a presentation to the Family Policy Council focusing on the impact of persons with untreated or partially treated dual diagnoses on youth violence.

**Issue:**            **Dangerous Mentally Ill Offenders**

**Lead Staff:**     Richard Rodger -- 786-7461

**Background:**

It is estimated that the Department of Corrections releases over 125 inmates each year who are believed to be both mentally ill and pose a serious threat to public safety. Generally these offenders have completed their sentence and are referred for either civil commitment or community services for their mental disorders. For a variety of reasons the mental health community has been unable to provide, or the offender is unwilling to engage in, needed mental health services.

**Questions:**

- 1) What is the best way to identify persons convicted of crimes who, due to their mental illness, pose a serious threat to public safety?
- 2) What mental health services are currently provided to persons prior to, and upon, release from a correctional facility?
- 3) How can coordination of services among the Departments of Corrections and Social and Health Services be improved?
- 4) What barriers exist to information sharing between public agencies that impair the delivery of services? Are the existing data bases and case management systems adequate for evaluation and accountability purposes?
- 5) What are appropriate, cost-effective, methods of assuring security and apprehension of dangerous offenders who have a mental illness and who present an immediate threat to public safety or who may be in violation of conditions imposed on them by the court?
- 6) What are the civil and criminal alternatives to addressing the issues presented by dangerous offenders who are mentally ill? How have these alternatives been utilized in other states?

**Objectives:**

- 1) Form a subcommittee to the Senate Committee on Human Services and Corrections to examine issues concerning persons convicted of a criminal offense who are mentally ill and who pose a serious risk to public safety.
- 2) Examine cost-effective alternatives to the related issues and draft appropriate legislation.

**Issue:** Criminal Justice Databases

**Lead Staff:** Fara Daun -- 786-7459

**Background:**

Washington State has at least 20 databases and systems for collecting law enforcement and criminal justice information. In addition to the various courts and local law enforcement agencies, there are also at least twenty-one state level agencies or departments with law enforcement functions or responsibility for criminal justice databases.

In each of the last two sessions, the committee has addressed bills authorizing creation or linkage of databases or systems. The committee also regularly addresses legislation requesting access to information contained in these systems for non-law-enforcement purposes. Some access requests are related to background checks, others seek broader and more centralized access to information. Some highly sought information has specific statutory or case law limits on its release.

In addition to constitutional limits and federal requirements, the Legislature has made public policy decisions regarding access to records held by the state in several major acts and has responded to specific instances and abuses of databases with more targeted directives.

**Questions:**

- 1) How can we develop consistent information management policy and respond to the challenges posed by technological developments?
- 2) What presently exists, what is being implemented, how do the systems interact, and how does the implementation compare to legislative direction and understanding?
- 3) What was the original purpose for the data collection in each system and how can we develop policies consistent with that purpose that also address long-term access and privacy protection issues?

**Objectives:**

Preparation of a report to the committee that presents the following:

- 1) A guide to the various databases and how they inter-relate. Such a guide would include a description of each system, its purpose, the information stores, its capacities and limits, the extent to which its information is duplicated and where else that information is kept, and the

persons authorized to access the information;

- 2) An assessment of the extent to which systems are linked or linkable, which systems are obsolete, which have become difficult to operate due to changes in technology and upgrading, and how that affects the quality of information in the system;
- 3) An assessment of the capacities of planned and newly implemented systems, when they will be fully operational, and the extent to which they will be able to absorb new policy directives; and
- 4) An analysis of how our systems and law compare to systems and law in other jurisdictions.

### **Other Human Services & Corrections Activities:**

#### **Issue: Chemical Dependency Review**

##### ***Background:***

The chemical dependency and mental health statutes provide similar processes for the involuntary treatment of persons who are severely ill and in need of treatment. Several bills have recently passed the Legislature making changes to the mental health statutes without modifying the chemical dependency statutes.

##### ***Objective:***

Review the chemical dependency statutes dealing with involuntary treatment in light of the changes made to the corresponding mental health statutes. Prepare any necessary legislation.

#### **Issue: Citizen Review Panels**

##### ***Background:***

In 1996 Congress passed legislation modifying the "Child Abuse Prevention and Treatment Act" (CAPTA). Part of those changes mandate citizen involvement in the examination of the policies and procedures of agencies which deal with the prevention of child abuse and neglect. In order to meet the federal requirement, citizen review panels must be established. One model for these panels was the subject of SSB 6556 (1998) and was included as a topic of study in the state CAPTA legislation (SHB 2556).

##### ***Objective:***

Staff will work with the agency assigned to examine the citizen review panel concept and draft any requested legislation.

**Issue: Medical Treatment of Children in DSHS' Custody**

**Background:**

This project involves an examination of the policies and procedures used by the Department of Social and Health services in regards to the care and treatment of children in their custody. The project will include a review of: (1) The use antipsychotic or psychotropic medications or drugs to treat mental illness or behavior problems; (2) The policies and procedures relating to the placement of children in out-of-state facilities; and (3) Review the related recommendations resulting from the investigation conducted by the Family & Children's Ombudsman.

**Objective:**

Review and make any requested revisions to SB 6763 (1998).

**Issue: Background Checks**

**Background:**

Each session the committee receives several bills that address the issue of background checks for purposes other than law enforcement. Background checks are specifically authorized for a number of professions in several titles of the RCW. The checks authorized differ under each authorizing statute. This has created a certain level of confusion regarding the information available for any particular purpose.

**Objective:**

To produce a comparative analysis of the various authorizations and the ways in which they are used in practice in order to provide the committee with better and current information with which to address the issues raised by proposed legislation.

**Issue: Plea-bargaining & Sex Offender Tracking**

**Background:**

Persons who have committed sex offenses have additional restrictions placed on the community supervision portion of their sentences. It is possible, however, that the nature of a sex offense is lost in the plea-bargaining arrangement when an offender pleads to a crime that is not necessarily a sex offense. Such offenders may return to the community under lower scrutiny levels than warranted.

**Objective:**

To report to the committee on the tools used in other jurisdictions to enhance community safety in the plea-bargaining and custodial release processes.

**Issue: Polygraph Use in Sex Offender Treatment**

**Background:**

Washington law presently prohibits conditions of release that are not directly linked to the crime for which an offender was convicted. One case prohibited requiring broad polygraph examination as a treatment technique because some of the questions were not directly related to the crime for which the offender was convicted.

Sex offender treatment is ineffective until the offender admits to committing the offense. Research indicates that polygraph examination is an effective tool to bring an offender to the point of admission and that treatment using polygraph testing may dramatically reduce recidivism.

**Objectives:**

To report to the committee on the use of polygraph examination in offender treatment and whether Washington's statutory restrictions impede progress or lengthen treatment times.

**Issue: Drug Affected Infants**

**Background:**

Legislation passed in the 1998 session that established a protocol for state intervention in cases where an infant is born drug affected. The legislation was vetoed by the Governor. The birth of drug affected infants remains an ongoing public concern. The long term consequences and costs associated with an impaired child, and repeat impaired children are significant. The problem is cyclical and requires services targeting both the substance abusing mother and the drug affected infant. Early intervention can help reduce the long-term adverse impacts on children who are prenatally exposed to drugs.

**Objectives:**

Continued interaction with interest groups and further development of useful legislation addressing the policy questions related to drug affected infants.

**Issue: Child Care**

**Background:**

Society is confronted with multiple questions concerning the safety and welfare of children. Many families require care for their children so parents can work to support the family. Changes in welfare laws require welfare families to work, thus driving a need for inexpensive quality day care.

**Objective:**

Interaction with the statutorily established Child Care Coordinating Committee as well as the Child

Care Resource and Referral Network to identify issues and actions being taken to address various concerns to date. Further refinement and drafting of sponsored legislation providing tax credits for development of day care facilities, licensing requirements, and parental notification of enforcement actions.

**Issue: Older Children in Foster Care**

**Background:**

Data indicates that older children entering foster care are proportionately less likely to obtain a permanent residential placement. The permanent placement may include reunification with their parent(s), adoption, long-term placement with a relative, creation of a guardianship, or placement in an independent living program.

While no adequate data exists on what the long-term effect is for the lack of an adequate placement, researchers indicate children who "age-out" of the foster care system may be at higher risk of failure to achieve long-term emotional, economic, and educational stability. The same concern exists for homeless youth and youth who are released from the Juvenile Rehabilitation Administration (JRA) and lack a stable home environment.

**Objectives:**

Identify sources of information and expertise regarding older children in foster care, JRA, and homeless youth. Meet with the interest groups who provide services and research on this population of youth. Identify available options and mandates appropriate to increasing successful permanent placements. Prepare a report identifying timelines, benefits, and costs of the alternatives. Draft requested legislation.

**GUIDES**

**Objectives:** Staff will prepare the following guides:

**GUIDE TO THE BECCA BILLS.** The Becca Bills are a collection of bills passed by the Legislature between 1995-98 concerning at-risk, runaway and truant youth. This guide will explain the available petitions and processes including: (1) The Child in Need of Services (CHINS) and the At-Risk Youth (ARY) petitions; (2) Parent-initiated private mental health and chemical dependency treatment for their minor children; and (3) Truancy petitions.

**GUIDE TO SEX OFFENDER REGISTRATION & PUBLIC NOTIFICATION**

**REQUIREMENTS:** This guide will include an outline of the requirements for sex offender registration, a table of community notification distinctions based on the differences between risk levels, and procedures for release from the duty to register.

**GUIDE TO COMMUNITY SUPERVISION:** This guide will include a graphic illustration of the distinctions between community placement, community custody, community supervision, community service, and post-release supervision. The guide will lay out the subsets of each type of community supervision as well as include descriptions and definitions of each, along with the types of crimes eligible, conditions that can be placed on participation, and sanctions available for the violation of a condition.

**GUIDE TO SELECTED OFFENSES:** This guide will include lists and definitions of offenses in each of the following statutory categories: sex offenses, serious violent offenses, violent offenses, most serious offenses, and crimes against children and others. The definitions will include a list of the elements of each crime and an example to contrast similar crimes.

**GUIDE TO THE CHILD DEPENDENCY STATUTES:** This guide summarizes in question and answer format the statutory provisions governing state actions related to child placement. The guide should include a timeline, contacts, glossary, and charts.

**Human Services and Corrections Contacts**

Richard Rodger, Senior Counsel, 786-7461

Fara Daun, Counsel, 786-7459

Joan Mell, Counsel, 786-7447

Annett Swillie, Legislative Assistant, 786-7437

**Issue:** Review of Sentencing Reform Act

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

The Sentencing Reform Act (SRA) was enacted in 1984. The goal of the sentencing guidelines system was to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences. The Sentencing Guidelines Commission developed the initial set of guidelines and continues to advise the Legislature on necessary adjustments. The SRA has been amended many times since enactment and concern has been expressed that the goal of proportionality of penalties may have been compromised through piecemeal legislation. In addition, it is anticipated that a total review of the SRA will reveal numerous inconsistencies and technical issues that will need to be addressed.

**Objectives:**

A comprehensive review of the SRA will be conducted. Staff will work with the Washington Association of Prosecuting Attorneys, law enforcement officials, judges, defense attorneys and the Sentencing Guidelines Commission in conducting the review. A report will be prepared to aid legislators in determining whether legislation is needed in this area. Legislation will be drafted as necessary.

**Issue:** Special Sex Offender Sentencing Alternative

**Lead Staff:** Aldo Melchiori -- 787-7439

**Background:**

The Special Sex Offender Sentencing Alternative (SSOSA) was enacted in 1984. It is a sentencing alternative for sex offenders that emphasizes treatment for amenable offenders in lieu of incarceration. Under SSOSA the court imposes a sentence within the standard range. If the sentence is less than 11 years, the court has the option of suspending the sentence and placing the sex offender on community supervision during which the sex offender receives outpatient treatment. If the offender violates any terms of the special sentence, the offender is returned to prison for the length of the original sentence. In the 1998 session, a number of SSOSA reform options were considered. A number of legislators indicated that the rights of and impact upon victims have not been considered to an appropriate degree when the decision is made to grant an offender entry to the SSOSA program.

**Objectives:**

Victims advocates, prosecutors, the defense bar, and treatment groups will be contacted to determine methods that can provide better treatment for victims while maintaining the positive aspects of SSOSA. Proposed legislation will be drafted.

**Issue:** Campaign Finance Reform

**Lead Staff:** Dick Armstrong -- 786-7460

***Background:***

Initiative 276, which established the public disclosure laws in 1972, also included the disclosure of political campaign contributions in order to provide for an informed electorate and public confidence in government at all levels.

Campaign financing laws have also been designed to encourage more participation by the public by not requiring the reporting of small contributions in order to encourage more people to make small contributions. Additionally, in 1992 the voters approved Initiative 134 which places limitations on contributions to candidates for legislative and statewide offices.

While legislative efforts have attempted to increase public participation, provide for an informed electorate, and limit contributions, political campaigns have steadily become increasingly expensive. Two factors seem to drive the increase in campaign costs. The first is that the use of television advertizing has become very widespread and is considered to be essential by most candidates and their advisors. Secondly, while it is not always true that the candidate who spends the most money wins, it occurs frequently enough that most candidates accept the wisdom that the more they can spend on the campaign, the more likely they are to win.

In addition to the increasing cost of political campaigns, there have been other results that are viewed as antithetical to the principles behind the public disclosure and campaign finance laws. A major concern is that increasingly political campaigns have come to rely on PACs, which carry so much weight that they can discourage participation by average citizens and small contributors. A second problem is that vested interests have begun to support various candidates through independent expenditures, for which there is considerably less accountability since it is protected free speech. It appears to some that the more government tries to regulate political contributions, the less the public knows about who is giving the contributions.

***Objectives:***

Staff will review the effects of past campaign finance reform efforts on cost and individual participation. Staff will also study campaign finance reform in other jurisdictions to see what has been successful in curtailing the cost of political campaigns while increasing participation by individual citizens in the conduct and finance of those campaigns. A report will provide the members with information on this topic in order to assist them in addressing it appropriately.

**Issue:** Interviewing Child Victims of Sexual Abuse

**Lead Staff:** Lidia Mori -- 786-7755

***Background:***

During the past session there were a number of concerns voiced about the conduct of DSHS and law enforcement during interviews of suspected child sexual abuse victims. It has been suggested that a statewide protocol for interviewing such victims would be beneficial because it would help elicit correct information from children and assist in the conviction of criminals, while at the same time protecting innocent persons who are wrongly suspected of committing a crime. Videotaping interviews of child sex abuse victims has also be suggested as an economical and practical method of eliciting information from a child and allowing the trier of fact to determine the reliability and truthfulness of the testimony.

***Objectives:***

Prepare a comparison and analysis of various protocols used in various counties in this state and in other states. Work with researchers at the Washington State Institute for Public Policy to review existing research information, consider academic proposals, and analyze judicial rulings. Consult with prosecuting attorneys, defense counsel and law enforcement officials. Prepare options for legislation.

**Issue:** State Civil Rights Act

**Lead Staff:** Dick Armstrong -- 786-7460

***Background:***

The federal Civil Rights Act of 1871 (42 USC 1983) provides redress for deprivations of constitutional rights that occur under the auspices of law. No Washington statute is comparable. There is a belief that Washington state law should explicitly state such relief. Enactment of a state civil rights law to complement the federal law would fill what some see as a gap in state law. However, there have been concerns about the effects such a law would have on state and local governments. Prior cost estimates have been inconsistent and did not account for costs of damage awards.

***Objectives:***

Gain perspective on the impact and costs of such a law. Research federal and state laws regarding this issue and compare the approach taken by other states. An analysis of what remedies are available under other laws, the costs of those laws, and the benefits and problems of those laws will be undertaken. Prepare staff report and options for possible legislation.

**Issue:** Privileged Communication

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

A number of bills regarding privileged communication were before the Legislature in 1998. There are over 39 recognized testimonial privileges in Washington, and the statutes are spread throughout the RCW. "Testimonial privilege" is protection from being required to testify under oath as to privileged communications. A pending case in Tacoma illustrates an ambiguity in the priest-penitent testimonial privilege. A confession was made to a minister and he is being threatened with incarceration for refusing to testify as to the communication.

**Objectives:**

Research will be conducted into whether the Washington statutes can be consolidated. Other state statutes will be surveyed to determine if the Washington statute can be clarified or needs to be expanded to include religions not requiring confessions. Preparation of proposed legislation.

**Issue:** Integration of Domestic Violence Orders

**Lead Staff:** Lidia Mori — 786-7755

**Background:**

There are several different court orders that a victim can obtain in situations involving domestic violence. The orders usually provide similar legal protections and require the perpetrator of the violence to refrain from certain behaviors. However, each type of protective order is only appropriate in particular types of factual situations. This causes confusion for many people since the legal protections provided by the orders are relatively comparable. The various types of orders that seek to provide protection in domestic violence situations need to be integrated to reduce duplication and confusion.

**Objectives:**

Staff will analyze current laws and develop legislation integrating the various domestic violence orders. Develop possible legislation.

**Issue:** Corpus Delicti Rule

**Lead Staff:** Lidia Mori -- 7755

**Background:**

In a criminal prosecution in Washington the state must have proof, independent of the defendant's confession, that a crime was committed. This is known as the *corpus delicti* (the body of a crime).

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## 1998 Interim Projects & Activities for the Senate Law & Justice Committee

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In 1954 the federal government adopted a less restrictive "trustworthiness" doctrine. It requires that the state produce substantial independent evidence tending to establish the trustworthiness of the confession.

A recent Washington Supreme Court concurring opinion questioned the need for our rule. State v. Ray, 130 Wn.2d 673, 926 P.2d 904 (1996) . This year, the Law & Justice Committee heard testimony on this issue. Some other states have also modified their rules regarding *corpus delicti*.

**Objectives:**

Determine the need for change in this area of the law. Staff will explore the rules that exist in the federal system and other states to find how they have affected criminal justice in their application. Staff will also work with affected groups to review options for Washington. Staff will prepare report and possible legislation.

**Issue:** Guidelines for Prosecutors

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

The Sentencing Reform Act contains guidelines to assist prosecutors in making charging decisions and plea bargaining decisions. However, these guidelines are merely advisory and do not require compliance with their terms. Because prosecutors are given discretion with guidance, but no specific mandatory requirements, concerns have been raised that similarly situated defendants might receive disparate treatment.

**Objectives:**

Determine whether or not the current practices disagree with the results desired from the criminal justice system. Identify improvements that could help the goals of justice and accountability. Examine the prosecutors' needs to accomplish their responsibilities. Explore current methods they employ and find effective. Compare and contrast current practices to the guidelines in existence and notions of fairness. Examine options for the Legislature to ensure uniformity regarding charging and plea bargaining. Develop methods for assuring equal and certain justice. Prepare a staff briefing/memo.

**Issue:** Definition of Law Enforcement Officer

**Lead Staff:** Dick Armstrong -- 786-7460

**Background:**

The enacted portion of HB 1408 allows law enforcement officers from other states to carry concealed pistols in Washington without a Washington concealed pistol license. Washington

defines statutorily who qualifies as a law enforcement officer. It is not known what other states require before someone is labeled a law enforcement officer.

**Objectives:**

Determine the meaning other states establish, if any, for the title law enforcement officer, or its equivalent. Determine whether changes to the concealed pistol license requirement are necessary to account for the difference in terminology. Investigate and report on the requirements of other states. Prepare staff report.

**Issue:** Restitution Requirements in Juvenile Justice

**Lead Staff:** Lidia Mori 786 -- 7755

**Background:**

E3SHB 3900, which passed during the '96-'97 session, created a new disposition option for juvenile court. It allows the court to continue a case for disposition for up to one year from the date the juvenile is found guilty. Payment of restitution is a condition of deferred disposition. At the conclusion of the period of deferral and upon a finding by the court of full compliance with conditions of supervision and payment of full restitution, the conviction is vacated and the court will dismiss the case. Concern has been raised by the Washington Association of Prosecuting Attorneys about juvenile court judges who are utilizing this disposition option and dismissing cases before full restitution has been paid.

**Objectives:**

Staff will investigate this problem so that a determination can be made as to whether clarifying legislation is needed. Preparation of possible legislation.

**Issue:** Decline of Juvenile Court Jurisdiction of Juvenile Offenders

**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

The law pertaining to the decline of juvenile court jurisdiction of juvenile offenders was changed in 1997 and there continues to be interest and controversy surrounding this issue. There is a dearth of information regarding the issue of declining juveniles to adult court including information pertaining to recidivism, services provided to the offenders while incarcerated and the effectiveness of those services.

**Objectives:**

Review and summarize the available research, compile statistics regarding recidivism of those youths declined and those not, and review the efforts of the Sentencing Guidelines Commission on this issue. It would also be beneficial to compare the costs subsequent to declination of offenders versus those not declined. The work would be accomplished in conjunction with Ways and Means staff. Prepare staff report and possible legislation.

**Issue:** Providing Education and Specialized Housing as Required by E3SHB 3900 for Juvenile Offenders who have been Declined to Adult Court

**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

E3SHB 3900 requires the Department of Corrections to provide education and specialized housing to meet the needs of juvenile offenders who have been declined to adult court and are now serving their sentence in an adult facility. A lawsuit is pending due to alleged lack of action on the part of DOC in this area.

**Objectives:**

Review the requirements of E3SHB 3900 on this subject, look into the allegations of the lawsuit and examine the efforts made by DOC to meet the requirements of current law. Report on status of DOC's efforts and possible legislation.

**Issue:** Reporting Crimes by State Employees

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

Crimes committed by state employees while they are actually performing job duties can be reported by victims or witnesses just as crimes committed by any other person. In 1998, legislation was proposed that required policies to be developed by state agencies regarding procedures for the reporting, investigation, and resolution of alleged crimes committed by state employees while on the job. Some state agencies may already have policies.

**Objectives:**

All state agencies will be contacted to determine how they handle this issue and whether they have policies. Proposed legislation will be developed if it is determined that a standard model is desirable.

**Issue:** Court Reporters  
**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

Court reporters are currently required in most courtrooms. They make the official record of the court proceedings. Legislation was proposed in 1998 that would have made court reporters optional in courtrooms that utilize alternative methods of preserving the court record, such as videotapes or real time reporting. The intent was to reduce costs to the counties and litigants. The legislation was supported by the Washington Court Reporters Association but fought hard at the last minute by the Judge's Association. Their concern was that county governments would summarily take away court reporters without consultation.

**Objectives:**

The counties and judge's association have agreed to work with staff to study the issue and draft legislation for 1999. There will be visitations to courtrooms equipped with new technology and meetings with effected parties. Draft legislation.

**Issue:** Review of Criminal Techniques to Commit Crimes Against Business  
**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

The nature of economic crimes has changed dramatically in recent years. Criminals today are as likely to use a cell phone and computer to steal money or merchandise as a gun or a crowbar. The state's criminal code has not kept current with the increased use of technology to commit criminal acts. As the state approaches the 21<sup>st</sup> century, it is important that the Legislature examine how the nature of crime against business has changed and how the criminal code may need updating to take these changes into account.

**Objectives:**

Staff will work with local law enforcement, prosecutors, and business organizations to determine what statutory changes can be made to the criminal code to better protect the state's business community from increasingly sophisticated criminal activities. Prepare legislation.

**Issue:** Public Disclosure and Privacy  
**Lead Staff:** Lidia Mori -- 786-7460

**Background:**

In 1972, the people in this state passed Initiative 276 which provided for "full access to information

concerning the conduct of government on every level . . . as a fundamental and necessary precondition to the sound governance of a free society."

Questions about public disclosure have been a constant source of controversy. Virtually every year since the passage of Initiative 276 in 1972, legislation has been passed creating exemptions from the public disclosure requirements. In addition, numerous proposals to establish other exemptions have been vetoed, failed to pass the Legislature, or have been suggested, but not proposed, in bill form. These changes and proposals have been based upon claims of privacy, proprietary rights, commercial competition, and investigative necessity. What has become clear is that the ideal of complete disclosure of government records is very often in conflict with other important principles in this society.

Another concern that has arisen from the requirements of the public disclosure laws is the financial burden placed on various state and local government agencies in order to comply with requests for public disclosure. These include staff time to research the requests and assemble and copy the documents.

***Objectives:***

Staff will review the numerous exemptions to the public disclosure laws and prepare a report that will analyze and categorize the exemptions. This will provide legislators with information they need to distinguish between future requests for exemptions which fall into an existing category and are justified on that basis or create a new principle that the Legislature can find outweighs the value of public disclosure. Report for legislators.

***Issue:*** Homeowner Associations  
***Lead Staff:*** Dick Armstrong --786-7460

***Background:***

In 1995, legislation was passed which addressed the organization, management, and powers of homeowners' associations. A homeowners' association is an organization formed in a planned unit community or given homeowners' area to provide management and maintenance for common areas in the community, such as parks, lakes, roads, and community centers.

***Objectives:***

A work group consisting of attorneys, realtors, developers, homeowners, and the Secretary of State's Office have identified several areas of the legislation which need to be clarified or expanded. Staff will work with this group to prepare legislation for the 1999 session.

**Issue:** Adverse Possession

**Lead Staff:** Dick Armstrong -- 786-7460

**Background:**

In the 1998 session there were several bills attempting to reform adverse possession as developed through the common law. One bill, specific to forest lands, passed and was signed into law. It was determined that the other proposals needed additional work. Discussions with several interest groups have indicated that there is an interest in codifying the law of adverse possession with some modifications.

**Objectives:**

Analysis of other states' approaches to adverse possession and a review of the law in Washington. Consultation with realtors, land use attorneys, citizens, and organizations interested in property rights. Prepare proposed legislation.

**Issue:** Commission on Judicial Conduct

**Lead Staff:** Dick Armstrong — 786-7460

**Background:**

The Commission on Judicial Conduct is created by Article IV, Section 31 of the state Constitution, which sets forth in some detail its powers and duties. Under that section it is an independent agency of the judicial branch. The commission shall, to the extent compliance does not conflict with the powers, duties and procedures specifically set forth in the Constitution, comply with laws of general application with respect to rule making procedures, public notice and attendance at commission proceedings. The Constitution requires that the investigation and initial proceedings be "confidential," and the commission has the power to establish rules of procedure, including due process and the confidentiality of its proceedings. The commission follows what is called a single tier system, with the same people responsible for investigating any complaint against a sitting judge or justice, determining whether or not there is probable cause to take the complaint to a formal hearing, and subsequently holding a hearing and arriving at a decision on the merits of the complaint. This is viewed by some as fundamentally unfair, because of the investigative, prosecutorial and judicial functions are combined in the same people. There is also much controversy over the commission's practice of withholding all information regarding a complaint from the judge or justice complained of until a hearing.

Many feel that a two-tiered system, such as recommended by the American Bar Association's Model Rules for Judicial Disciplinary Enforcement, would be more fair. Under such a system the investigative and decision making functions of the commission would be divided. Many also feel that judges who are the subjects of complaints or investigations should have greater access to information and documents involved during the investigative and probable cause phases.

**Objectives:**

- 1) Staff will review the requirements of Article IV, Section 31 of the state Constitution, and research the latitude allowed by the Legislature under that provision.
- 2) Review the ABA's Model Rules, as well as the practices and experiences of those states employing a two-tiered system.
- 3) Prepare a report for evaluation of future legislation.

**Issue:** Local Government Purchases of Privately Developed Land

**Lead Staff:** Dick Armstrong -- 786-7460

**Background:**

The constitution of the state forbids government from giving money or credit to private interests, except the poor and infirm. Local jurisdictions have commonly granted tax exemptions to encourage development of certain areas. Recently, the city of Seattle purchased a parking garage from a private developer for twenty million dollars in excess of the building costs. Additionally, the city applied for HUD redevelopment funds and provided those funds to the developer. There are additional ways that the city made funds available to the developer.

**Objectives:**

Review details of this transaction for future legislation to ensure that tax subsidies are not being used to favor some developers to the detriment of other developers. Prepare proposed legislation.

**Issue:** Criminal Mistreatment of Dependant Persons

**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

Individuals entrusted with the care of persons who are old or unable to take care of themselves sometimes abuse or neglect such persons by failing to provide the basic necessities of life. This abuse or neglect has resulted in death and serious injuries ranging from bed sores to failure to deal with serious medical problems. The Attorney General's requested legislation in 1998 to deal with this problem failed.

**Objectives:**

Staff will work with representatives of the Attorney General's Office, as well as prosecutors, and the dependent care community. Develop possible legislation.

**Issue:** Support Orders for Victims of Domestic Violence

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

When a person is accused of domestic violence it is common for the court to issue an order of no contact with the victim as a condition of release. This has the practical effect of forcing the offender to move out of the residence. Often the offender is the primary provider for the victim and children. Because of financial loss, the victim experiences enormous pressure to recant his or her accusations and let the offender move back into the residence. Obtaining a support order through superior court takes time. Often, the victim cannot afford representation and is unsure how to obtain an order themselves. If support orders could be obtained in a more expedited fashion, victims might be able to avoid the pressure to recant statements and avoid the persecution of an abusive spouse.

**Objectives:**

Develop legislation empowering district or municipal court judges to issue temporary support orders. Meet with representatives of domestic violence organizations and the District Court Judges Association. Develop possible legislation.

**Issue:** Searches of Visitors in Prisons

**Lead Staff:** Aldo Melchiori -- 786-7460

**Background:**

It has been suggested that a bright line test for when visitors waive their right to privacy would be more effective in preventing drugs from being smuggled into prisons. A recent appellate court case, State v. Dane (89 Wn. App. 226), excluded drugs seized from a woman who had arrived for a conjugal visit with her husband. She was a suspected smuggler, there was an anonymous note indicating that her husband was trying to get her to smuggle drugs, she had walked past two signs warning she could be searched, she signed a consent to search form, she made statements indicating she might be carrying drugs, and she finally admitted to smuggling drugs. The court held that the prison guards exceeded their authority by detaining and questioning her before the sheriff arrived to conduct the search.

**Objectives:**

Review the court case in greater detail and meet with prosecutors and defense counsel to determine what changes can be made to prohibit the transfer of drugs into prisons while at the same time protecting the rights of visitors to prisons from unreasonable searches and seizures. Develop possible legislation.

**Issue:** Criminal Appeals Reform

**Lead Staff:** Aldo Melchiori ---786-7439

**Background:**

During discussions with constituent groups last interim, a general concern was heard about the length of time between sentencing and execution of a death sentence. The concern was not addressed by 1998 legislation because of the complexity of the issue and the short legislative session. A number of states have streamlined their appeals process to limit frivolous or consecutive appeals.

**Objectives:**

The policies and statutes in the states with expedited appeals will be analyzed and compared to Washington law for the purpose of determining whether Washington statutes can be clarified to provide for expedited appeal of cases without depriving offenders of their due process rights. Staff will work with the Washington Association of Prosecuting Attorneys and the defense bar. Legislative proposals.

**Issue:** Accountant's Liability

**Lead Staff:** Dick Armstrong -- 786-7460

**Background:**

Accountants can be liable for their professional negligence to a wider group of individuals than many other professionals. Although there are some exceptions, most professionals are liable only to their clients for malpractice. Accountants, however, owe a duty of care, and are potentially liable for negligence, to those who reasonably might rely on the accountant's work, especially work such as an audit or financial statement. This liability can extend to purchasers who rely on the financial information which was prepared for a company. This year the Law and Justice committee heard testimony about whether this was a beneficial and fair situation.

**Objectives:**

Clarify how liability for an accountant compares to other professionals. Develop options for change. Review what liability other professionals face. Review with accountants and other interested groups what the most appropriate mixture of liability should be. Staff report and possible legislation.

**Issue:** Intoxication as a Defense to a Crime

**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

The fact that a person was intoxicated is a defense to some crimes. This has received criticism from some individuals who feel that voluntary intoxication should not excuse one's behavior. This year the Law & Justice Committee considered a bill to change this situation, although there were varying ideas on how far-reaching the bill should be.

**Objectives:**

Accumulate and share points of view as to what effect the actor's voluntary intoxication should have on his or her criminal culpability. Work with the various interest groups to review what changes could be made and what crimes would be affected. Staff report and options for possible legislation.

**Issue:** Changes to Definitions of Kidnapping

**Lead Staff:** Aldo Melchiori -- 786-7439

**Background:**

A recent Court of Appeals case made apparent that Washington's kidnapping statutes might make innocent behavior criminal. State v. Ong, 945 P.2d 749, (Wash.App. Div. 2 1997). In that case a friend of the kidnaped child detoured while taking the child to school. The detour resulted in the child being in "a place where [she] was not likely to be found" and, therefore, was kidnapping. This has raised concern that a nonparent (whether trusted and well intentioned or not), who deviates from the instructions of the parent who entrusted the child, might be guilty of kidnapping, even if the parent later consented to the detour.

**Objectives:**

Determine whether there is a need for change in this crime's definition to avoid criminalizing innocent behavior. Review situation and alternatives with interested parties. Staff report and possible proposed legislation.

**Issue:** Driving Under the Influence of Drugs

**Lead Staff:** Lidia Mori -- 786-7755

**Background:**

Washington's law prohibiting driving under the influence of drugs is written broadly to prohibit any sort of drugged driving when one's motor skills are affected. However, the law is unclear as to how a prosecutor must prove that a particular drug has affected a driver. Because of the lack of clear

direction in statute, some drugged drivers may not be convicted although under the influence.

***Objectives:***

Determine need for statutory direction regarding the required proof in such cases. Determine what the law ought to require, or not require, of the state to prove a case of drugged driving. Review the problem with police and prosecutors to determine how the law might be better defined. Staff report and proposed legislation.

**Issue:** Department of Fish and Wildlife Future Needs

**Lead Staff:** Ross Antipa -- 786-7413

**Background:**

The Department of Fish and Wildlife is currently undergoing a series of painful administrative, fiscal, and management crises. These are a result of a multitude of external and internal reasons which have, for whatever reason, chosen to exhibit themselves at the current time. If the agency is to move away from today's problems and make the changes necessary to meet their future challenges then the Legislature needs to be in a position to assist the agency.

**Objectives:**

- 1) Monitor the department's fiscal problems and their revised budget. Senate staff to make recommendations as requested by members.
- 2) Make arrangements for the department to deliver status report to the Committee on the recreational license sale on-line program to be implemented in 1999. Follow up in development to any needed changes to the recreational licensing legislation passed in 1998 session ( 2SSB 6330). Identify needs to assist the stability of revenue from recreational licenses so that the department can achieve budget and program stability.
- 3) Assist the department in meeting its obligations for statutorily required reports.
- 4) Assist in further development of Title 75 and 77 recodification. Preliminary draft is completed, more review and public testimony is needed before legislative consideration.
- 5) Assure that dedicated programs, such as: Puget Sound Enhancement Program, Warm Water Enhancement Program, Pheasant Release Program, retain their productiveness and integrity.
- 6) Assist the department in showcasing alternate outdoor recreation opportunities, with the objective to increase participation in resource areas that can sustain the recreation.
- 7) Monitor the selection of new Fish and Wildlife Commission appointees. Assess the performance of the Commission and advise the Committee.

**Issue:** Recovery of Threatened and Endangered Salmon Populations

**Lead Staff:** Ross Antipa -- 786-7413

**Background:**

Recent listings of salmonid populations as threatened and endangered by the federal government have required a state response to prevent species extinction. The Legislature has acted by forming a salmon task force in 1997 and by enacting a variety of salmon recovery measures in the 1998 session. Approximately 25 million dollars was provided by the 1998 legislature. The state approach to salmon recovery is based upon locally developed lead entities that define a project area and which produce lists of habitat restoration projects.

**Objectives:**

- 1) Monitor the development and effectiveness of locally based lead entities.
- 2) Assess the effectiveness of the development of habitat restoration projects, how quickly they are being funded and constructed, and how well they are assisting species recovery.
- 3) Analysis of multiple parts of the recovery puzzle, such as: mass marking, volunteer participation, cooperative working relationships with the native American tribes, selective fisheries, wild salmon recovery plan(s), commercial license buyback, fish passage barrier removal, independent science team, technical assistance, remote site incubators, and a variety of other important issues.
- 4) Follow the effectiveness of the governor's salmon team.
- 5) Determine the acceptability of state-based salmon recovery efforts to the federal government regulatory agencies.
- 6) Identify opportunities for further improvement in the state response to the Endangered Species Act, statutory changes, funding requirements, and other challenges.

**Issue:** Forest Practices Modifications Due to the Federal Endangered Species Act's Salmon and Steelhead Listings

**Lead Staff:** Vic Moon -- 786-7469

**Background:**

Forest practices directly affect fish habitat both in the forest area and downstream. Impacts can be either positive or negative depending on the action which is very precisely regulated under rules adopted by the Forest Practices Board as authorized by RCW 76.09. There is an informal group working on major proposed changes to rules and to law to bring practices required due to endangered species listings for marbled murrelet, spotted owl, steelhead, trout, and salmon. Income to state trusts, counties, the general fund and private forest owners all will be affected by changes.

**Objectives:**

- 1) Review existing law and its flexibility to accommodate rapid policy changes to protect endangered species.
- 2) The effectiveness of existing habitat protection practices.
- 3) The fiscal impacts of varying harvest level calculations on state and local revenues.
- 4) Develop criteria for quantifying timber harvest impacts on stream habitat.
- 5) Determine the acceptability of changes in forest practices and underlying law to the federal agencies regulating the endangered species act.
- 6) Develop draft rules with the Department of Natural Resources for legislative consideration along with any statutory changes needed.

- 7) Outline the funding requirements and sources to achieve full implementation.
- 8) Site visits to view practices in the field on both public and private land in Western and Central Washington.

**Issue:** Future Needs for Public Recreation

**Lead Staff:** Vic Moon -- 786-7469

***Background:***

The state's population will double between 1997 and 2017 which will put great pressure on all aspects of leisure time activities. Facilities are already over-crowded in state parks and recreational usage on private lands is beginning to cause damage and is forcing closure of private lands. There are special concerns about water dependent recreation and effects on water quality. Diving, boat access, fishing, trail access and horse trails are of interest to Senate members. The continuing decline in adequate maintenance funding is of great concern.

***Objectives:***

- 1) Review recreation funding to access new sources.
- 2) Access the adequacy of state planning efforts.
- 3) Determine if greater state agency participation in recreation facilities is possible.
- 4) Access horse trail use availability, costs, and user conflicts, especially in Eastern Washington where concerns have been expressed.
- 5) Review boat access programs, funding, and use.
- 6) Review state recreational diving sites and programs.

**Issue:** The Setting of Water Dependent State Aquatic Land Lease Policies

**Lead Staff:** Vic Moon -- 786-7469

***Background:***

The Department of Natural Resources has been using a legislatively set lease rate formula established in the early 1980's. The initial statute was drafted in 1983 and has not been changed since that time. The present method of establishing aquatic land lease rates is based on upland values and there have been some problems with that formula. A study of how aquatic dependent lease rates are assessed in this state and in other states is necessary.

***Objectives:***

- 1) Work with the Department of Natural Resources and users to assess different lease methods, lease setting formulas and policies.
- 2) Clarify legislative authority regarding the nature of aquatic land status.
- 3) Develop legislative policy recommendations for water dependent uses and lease or sale policy.
- 4) Review specific lease issues in Puget Sound for members and their lease-holding constituents
- 5) Prepare new lease authority in statute and review proposed rules to implement changes.

**Issue:** Taxation of Nonprofit Organizations

**Lead Staff:** Terry Wilson -- 786-7433

David Schumacher -- 786-7474

**Background:**

Nonprofit organizations are generally subject to tax. However, many nonprofit organizations are unaware of their tax liability. In addition, many business and occupation (B&O), sales, and property tax exemptions exist for nonprofit organizations and many are enacted each year. A study of the taxation of nonprofit organizations may alleviate some of the complexity and confusion involving the taxation of nonprofit organizations.

**Objectives:**

To provide a document that will help clarify the taxation of nonprofit organizations and highlight any inconsistent tax treatment. A final report will be completed by December 1, 1998.

**Issue:** Pension Funding Work Group

**Lead Staff:** Deb Kime -- 786-7454

**Background:**

SHB 2544, establishes a Pension Funding Council (PFC) and a Work Group. The PFC will consist of the Directors of the Office of Financial Management (OFM) and the Department of Retirement Systems (DRS) plus the chairs and ranking minority members of the Senate and House fiscal committees. The PFC will replace the Economic & Revenue Forecast Council (ERFC) in adopting economic assumptions used in actuarial valuations and in adopting the contribution rates to fund the retirement benefits.

The Work Group, consisting of members from DRS, OFM, the State Investment Board, Senate Ways & Means, House Appropriations, and the ERFC, will serve as staff to the PFC. The Work Group will prepare the RFP needed to hire the outside actuarial auditor. This auditor will perform a concurrent review of the State Actuary's actuarial valuations used to set pension contribution rates. Pension contribution rates will be adopted by the PFC in September 1998 for use in the 99-01 biennium. The Work Group will set up an open public meeting to discuss recommendations from both employee and employer groups.

**Objective:**

To assist the PFC in obtaining an independent verification of the numbers used to set the pension contribution rates. The RFP will be finalized by the first part of May in order for the auditor to begin approximately July 1, 1998. The pension funding contribution rates will be adopted September 1998.

**Issue:** Motor Vehicle Excise Tax Reallocation and Reduction—ESHB 2894  
(Referendum Bill No. 49)

**Lead Staff:** Terry Wilson -- 786-7433  
David Schumacher --786-7474

**Background:**

Referendum Bill No. 49 was enacted after a study of the MVET and the adequacy of transportation funding. The bill provides funding for state and local transportation improvements, including authorization for \$1.9 billion in bonding authority, reduces the MVET through a \$30 tax credit and a change in the valuation of vehicles, increases funding for local governments, including local criminal justice assistance, and modifies Initiative Measure No. 601. Because of the complex nature of the bill, a summary of the bill for use by members of the Legislature and legislative staff, the Governor's office, executive branch agencies, citizens, businesses, and the media would be useful.

**Objectives:**

To provide a document to fully explain all of the provisions of the bill and show the fiscal impacts on state and local governments. A final report will be completed by December 1, 1998.

**Issue:** Higher Education Student Employment

**Lead Staff:** Michael Groesch -- 786-7434

**Background:**

As a continuation of the 1997 Legislative financial aid study, the 1998 Legislature mandated the Washington Institute for Public Policy to review higher education student employment. (Section 608, Chapter 346, Laws of 1998). One of the outstanding issues following the initial study is the whether the current financial aid system is accurately portraying family resources that are available for financing college education.

**Objectives:**

The study is intended to provide additional information on students' resources and family resources. Results of the study are to be reported to the Legislature by January 15, 1999.

**Issue:** Claims and Litigation Associated with State Construction Projects

**Lead Staff:** Mike Groesch -- 786-7434

**Background:**

The Legislature mandated OFM to convene a working group to develop a strategy to manage the risks and reduce the potential for claims and litigation associated with state construction projects. The working group will consist of state agencies, higher education institutions, the office of the

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attorney general, and representatives of the design profession and construction industry.

***Objectives:***

Provide a guide for project managers for methods to manage risk and reduce claims. The report is due to the House Capital Budget Committee and Senate Ways and Means Committee by October 31, 1998. (Section 54, Chapter 347, Laws of 1998)

***Issue:***           **Infrastructure Needs Assessment Study**

***Lead Staff:***     Mike Groesch -- 786-7434

***Background:***

The Department of Community, Trade and Economic Development and the Legislative Evaluation and Accountability Program will be conducting a study to assess local government infrastructure needs and financing options and develop a database for needs analysis. The advisory committee will include representatives from the Office of Financial Management, the Washington State Association of Counties, the Association of Washington Cities, the Washington Association of Realtors, the National Association of Industrial Office Properties, the Building Industry Association of Washington, the Associated General Contractors, the Association of Washington Business, Washington State Building and Construction Trades Council, and 1000 Friends of Washington.

***Objectives:***

To inform the Legislature of the realistic infrastructure needs of local government and to develop financing options to address those needs. A progress report shall be delivered by January 31, 1999 and a final report is due by June 30, 1999. (Section 1, Chapter 347, Laws of 1998)

***Issue:***           **Higher Education Enrollment Forecasting Model**

***Lead staff:***     Mike Groesch -- 786-7434

***Background:***

The Legislature is seeking alternative long-range higher education forecasting models to either supplement or replace the participation rate projections provided by OFM and used by the HECB to establish enrollment goals.

***Objectives:***

To develop pilot processes for forecasting enrollment growth for consideration by the 1999 Legislature for "long term" enrollment projections. A preliminary report is due to appropriate committees of the Legislature by January 15, 1999. (Section 118, Chapter 346, Laws of 1998)

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**Issue:** Levy Equalization  
**Staff Lead:** Bill Freund -- 786-7441  
Jeff Guykema -- 786-7442

**Background:**

Chapter 259, Laws of 1997 requires the House and Senate fiscal committees of the Legislature to study data and issues relevant to levy equalization and prepare a report of findings and recommendations to the Legislature by December 1, 1997. A report was submitted by the fiscal committees which contained various findings and recommended further study of a number of factors.

**Objectives:**

Refine the 1997 study and address the issues identified for further study. Develop options for final recommendations based on all the assembled data and other considerations. Work will begin May 1998 with expected completion in December of 1998.

**Issue:** Long-Term Care Performance Review  
**Lead staff:** Tim Yowell -- 786-7435

**Background:**

In response to policy decisions to emphasize community alternatives to nursing home care, there has been tremendous change over the past few years in Washington's publicly-funded system of long-term care. The effort to serve more people outside of nursing homes has been accompanied by increased expenditures on community-based care.

This rapid growth in the number of persons served, together with continued steady increases in the cost per recipient, have created concerns among policy-makers about the long-term affordability of current approaches. The legislative branch and the executive branch are together seeking an independent review of such questions during the summer and fall of 1998. The purpose of this review is to identify specific opportunities to "fine-tune" current service approaches through an in-depth, hands-on assessment of current operations by outside parties expert in long-term care service design and delivery. The bulk of the research and recommendation development will be performed by an independent consultant or consultants with strong national experience in long-term care service design and delivery. The consultant(s) will operate with oversight and direction from OFM, House, and Senate fiscal staff.

**Objectives:**

The purpose of the study is to identify opportunities for increasing the affordability and cost-effectiveness of Washington's publicly-funded long-term care system, while maintaining service quality, and opportunities for consumer choice. A final report will be completed by November 15, 1998.

**Issue:** Performance and Budget Assessment

**Staff Lead:** Mike Wills -- 786-7188

***Background:***

In recent years, legislators have become increasingly interested in reviewing the performance of state agencies. However, the functions performed by the agencies cannot be readily examined through information available to members during the legislative session. An analysis of funding levels, funding sources, program goals, program accomplishments and service delivery mechanisms will assist legislative members in assessing the extent to which the activities performed by an agency meet legislative intent.

***Objectives:***

Two to four state agencies or programs will be selected for a performance and budget assessment that will identify discrete functions and activities performed by each agency. Each separate activity will be described, the funding sources and levels specified, resources dedicated to the activity identified and the goals and objectives of the activity will be specified. If performance measures are used to assess the success of the activity, those will be collected and analyzed. Other information about activities will be collected where appropriate, including stakeholders, number and characteristics of clients served, issues in providing the service or activity and authorization for the activity. Additionally, the agencies' process for producing fiscal notes and budgetary information will be reviewed and documented. Emphasis will be placed on how the agencies analyze fiscal information for reasonableness, duplication between divisions and adherence to fiscal note procedures. Assessments will be completed by December 1, 1998.

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## 1998 Interim Projects & Activities for the Senate Transportation Committee

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### **Background:**

The Senate Transportation Committee's interim work plan consists of two separate elements:

- 1) Much of the review of transportation programs, issue development, and budget review is conducted under the auspices of the Legislative Transportation Committee (LTC). Eleven of the fifteen members of the Senate Transportation Committee also serve on the LTC.

The LTC work plan includes monthly LTC meetings, transportation project site visits, special task force meetings, and monitoring the implementation of legislative initiatives. Many issues addressed by the LTC come from provisos in the transportation budget, as well as other legislation.

- 2) In addition to working as part of the Legislative Transportation Committee, the Senate Transportation Committee will conduct approximately 5-6 interim meetings, independent of the LTC. These meetings will focus on issues of particular concern to Senate members. Those **issues are currently being identified** through discussions with Committee members, and will at least include federal funding and the process for setting transportation project priorities.

**Note:** Please contact (360) 786-7300 to request a more in-depth copy of the interim projects and activities report; for the Senate Transportation Committee or the Legislative Transportation Committee.

