



EQUITY IMPACT STATEMENT TOOLS AND PROCEDURES

PREPARED FOR OFFICE OF FINANCIAL MANAGEMENT BY:

ECONorthwest
ECONOMICS • FINANCE • PLANNING



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EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

PURPOSE OF THE REPORT

The Washington State Legislature is charged with writing the statutory and legal framework that governs schools and hospitals, conserves and protects the natural environment, and allocates resources to critical public services and to state infrastructure. Each bill that passes through the Legislature provides an opportunity for the State of Washington to Improve equitable outcomes for Washingtonians, or conversely might result in unintended consequences that worsen existing disparities.

The 2021-23 operating budget included funding for the Office of Financial Management (OFM) to report on a recommendation for a legislative equity assessment process (see Preface for full text). The following report offers recommendations for how the State of Washington can integrate an equity assessment into its existing legislative process, to provide lawmakers with information regarding the potential impacts of legislation on marginalized communities.

PROJECT PROCESS

The following report was informed by the perspectives, input, and feedback from an Equity Impact Statement Steering Committee (convened by OFM and the Office of the Governor); engagement with key stakeholders, thought leaders, and experts in equity assessments, in Washington and outside of Washington; practices and lessons learned from other state and local governments; and a review of current impact statements and analyses used to analyze legislation in the State of Washington. Bill volume, staffing, costs, institutional roles, and other practical concerns were also considered.

PROPOSED RECOMMENDATIONS

The following report identified several ideal characteristics of a legislative equity assessment process. The process must be:

- 1 Non-partisan
- 2 Implementable within the existing legislative process
- 3 Informative in identifying the potential unintended adverse demographic consequences of bills
- 4 Rigorous to the extent practical, given time and logistical constraints

The assessment itself:

- 1 must be available to the public
- 2 would ideally be completed in time for public hearings in the policy or fiscal committees and updated when bills are amended



EXECUTIVE SUMMARY

There are two primary dimensions for future legislative decision-making regarding equity assessments: **who** will coordinate and produce the assessments, and **which bills** will be subject to assessments.



Who will coordinate and produce the assessments?

Two options were identified regarding who would coordinate and conduct the equity assessments.

- An **EXECUTIVE BRANCH OPTION** would allow the equity assessment process to function similarly to the fiscal note process. Bills identified for assessment are referred by legislative staff to OFM, where an analyst assigns an agency or agencies to conduct the assessment. Agencies impacted by the legislation would be responsible for conducting the legislative equity assessment and drafting the assessment report or statement. The Office of Equity would be instrumental in developing an assessment framework and training agency staff to conduct assessments.
- A **LEGISLATIVE BRANCH OPTION** would call for a nonpartisan legislative staff work group specializing in demographic evaluations to coordinate and conduct the equity assessments, in collaboration with agencies.



Which bills will be subject to assessments?

Bills are selected for review in one of two ways:

- Bills to be evaluated could be **CHOSEN BY REQUEST**, targeting the bills believed to be most likely to disparately impact communities. A variety of potential requestors are considered. This model can be adjusted for scale by limiting or expanding the list of those who can request, and by limiting or expanding the number of bills for which each requestor can initiate the process. The State of Colorado utilizes a similar system.
- A second selection approach would be that bills are **CHOSEN BY TOPICAL AREA**, based on identified state priorities, such as housing, education, or public health. A phased-in approach by priority area could allow for new topical areas to be introduced as the program grows. Most states, including Oregon and New Jersey, utilize similar processes, by topical area.





PREFACE



PREFACE

The following report is a deliverable required under Section 131(12), Chapter 334, Laws of 2021, which directed the Office of Financial Management (OFM) to prepare and submit a report on legislative equity impact statements in consultation with the Office of Equity and the Governor's Interagency Council on Health Disparities. The full text of the proviso is here:

(12)(a) \$150,000 of the general fund—state appropriation for fiscal year 2022 is provided solely for the office of financial management to provide recommendations, as described in (b) of this subsection, on the procedure for providing an equity impact statement for legislative proposals, and content and format requirements for the equity impact statement.

(b) By July 1, 2022, the office of financial management must submit a report to the governor, appropriate committees of the legislature, and statutory commissions that details recommendations on:

- (i) The procedure for providing an equity impact statement for legislative proposals;
- (ii) The format and content requirements for the equity impact statement;
- (iii) A plan, including information technology additions or revisions, necessary to provide equity impact statements;
- (iv) Recommendations on which office or agency should be principally responsible for coordinating the provision of equity impact statements with state agencies; and
- (v) Recommendations on any policy changes needed to implement the provision of equity impact statements.

(c) For the purpose of implementing this subsection, the office of financial management may contract with an entity or entities that have expertise in equity impact assessments.

(d) The office of financial management must consult with the governor's interagency council on health disparities and the office of equity in developing the procedures, and content and format requirements.

(e) For purposes of this subsection, "statutory commission" means the Washington state commission on African American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, the Washington state women's commission established in chapter 43.119 RCW, the Washington state LGBTQ commission established in chapter 43.114 RCW, and the human rights commission established in chapter 49.60 RCW.



WASHINGTON'S LEGISLATIVE EQUITY ASSESSMENT

INTRODUCTION



INTRODUCTION

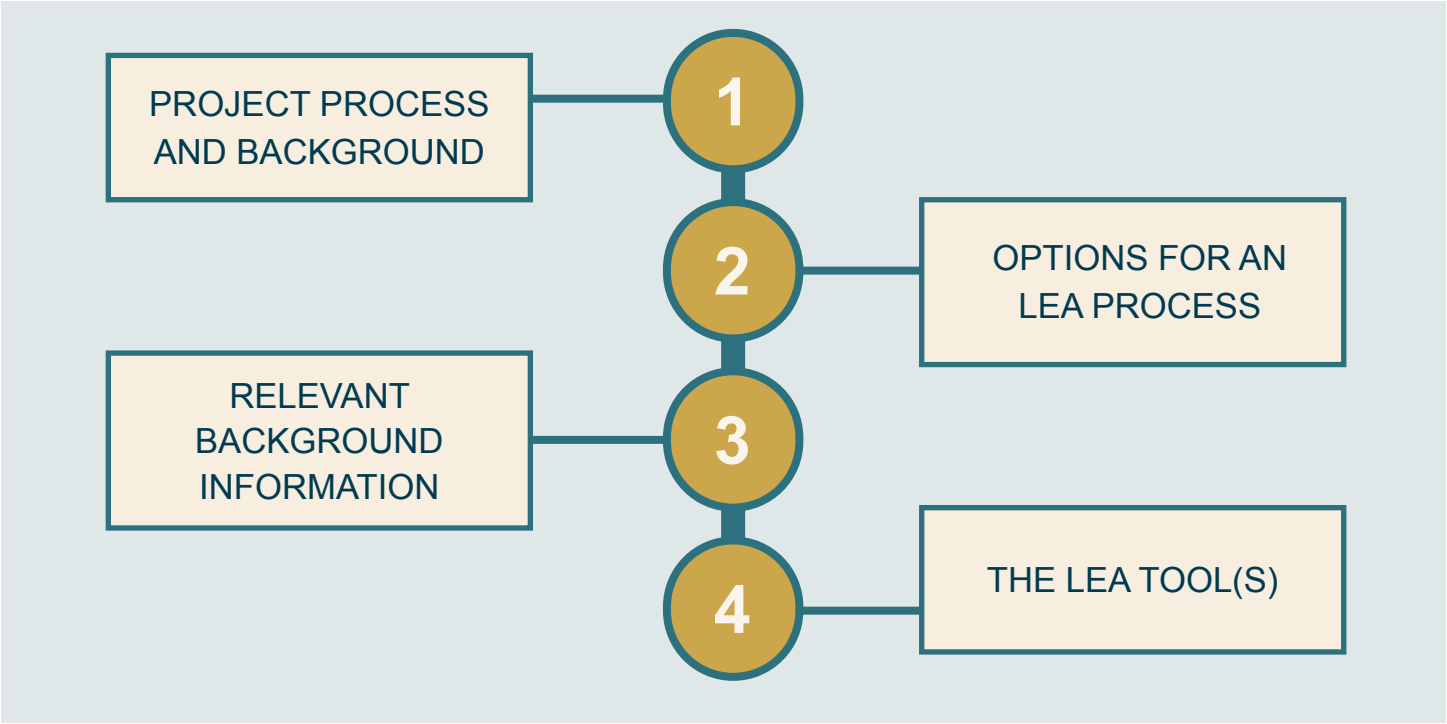
Washington’s Legislative Equity Assessment

This report is the culmination of collaborative efforts between the Office of Financial Management (OFM) and a steering committee facilitated by OFM and the Governor’s Office. Per the proviso, the report includes recommendations on the structure and components of the equity impact statement, hereon referred to as a Legislative Equity Assessment (LEA), as well as several options on the processes that could be used to assess proposed legislation for equity impacts.

The research process for this project was developed to answer these questions:

- | | |
|---|--|
| 1 | How and when is a request for an LEA initiated? |
| 2 | Who will conduct the LEA? |
| 3 | Who is responsible for coordinating the LEA process? |
| 4 | Who will review submitted LEAs for accuracy and completeness? |
| 5 | How will issues/concerns/complaints about the LEA be addressed/handled? |
| 6 | What is the recommended timeframe for completing an LEA on proposed legislation? |

The report is organized as follows:





PROJECT PROCESS



PROJECT PROCESS

Section 131(12) of Chapter 334, Laws of 2021 (the 2021-23 WA State Biennial Operating Budget) directed the Office of Financial Management to submit a report to the Governor, the appropriate committees of the Legislature and the following statutory commissions:

- Washington State Commission on African American Affairs
- Washington State Commission on Asian Pacific American Affairs
- Washington State Commission on Hispanic Affairs
- Washington State Women’s Commission
- Washington State LGBTQ Commission, and
- Human Rights Commission.

OFM facilitated the formation of a steering committee comprised of representatives from some these commissions, staff from the Office of the Governor, OFM, Office of Equity, Governor’s Interagency Council on Health Disparities, and agencies with relevance to topics that may be addressed through the LEA or with staff expertise in state equity efforts or equity tools. The Steering Committee provided critical input and feedback to the development process as experts in equity analysis and as possible future contributors to, coordinators of, or consumers of LEAs.

Table 1. Steering Committee Members

NAME	AGENCY/OFFICE	TITLE
RaShelle Davis	Office of the Governor	Senior Policy Advisor, Equity, Social Justice, Civil & Human Rights
Sheri Sawyer	Office of the Governor	Deputy Director of Policy & Outreach
Dr. Karen Johnson	Office of Equity	Director
Nona Snell	Office of Financial Management	Assistant Director of the Budget Division
Patricia Lashway	Office of Financial Management	Former Deputy Director
Scott Merriman	Office of Financial Management	Legislative Director
Ramona Nabors	Office of Financial Management	Budget Assistant of General Government and Education
Dana Phelps	Department of Social & Health Services	Senior Director of DSHS Office of Policy and Rules
Earl Key	Department of Transportation	Director of Office of Equal Opportunity
Cait Lang-Perez	Governor’s Interagency Council on Health Disparities and State Board of Health	Health Policy Analyst for Health Impact Reviews
Dr. Erika Hernandez-Scott	Professional Educator Standards Board	Executive Director
Dr. Millie Piazza	Department of Ecology	Program Manager, Office of Equity & Environmental Justice
Laura Lindstrand	Human Rights Commission	Policy Analyst
Maria Siguenza	Commission on Hispanic Affairs	Executive Director



RESEARCH METHODOLOGY

To gather insight on how best to structure the Legislative Equity Assessment process and tool, ECONorthwest held interviews and focus groups with multiple key informants such as members of the Steering Committee, nonpartisan legislative staff from the Office of Program Research and Senate Committee Services, staff at the Joint Legislative Audit and Review Committee, and nonprofits and organizations involved in equity work throughout Washington. In total, we hosted two main rounds of interviews, four focus groups, and several informal interviews with additional recommended participants.

We also conducted research on existing equity assessment tools and processes from other states and jurisdictions or divisions/departments within the state. This research informed our understanding of existing processes, tools, and potential options for implementation. We also reviewed similar tools that currently exist within the state of Washington (fiscal note system, health impact review, etc.). Highlights from this research are included in the Relevant Background Information section later in the report.



RECOMMENDED OPTIONS FOR AN LEA PROCESS



RECOMMENDED OPTIONS FOR AN LEA PROCESS

The Office of Financial Management’s Equity Impact Statement Tools and Procedures RFP (NO. 21-1500) states that the preferred tool and process “should lead to information that will help the state and lawmakers identify potential unintended and unanticipated adverse consequences that may be the result of proposed legislation, and/or identify potential opportunities for proposed legislation to promote social justice, equity, and access.”¹ The RFP also notes that proposed options “must take into account the volume of bills introduced each session, need for timely analysis, staffing and fiscal costs, data limitations that need to be addressed, and ease of use.”² Thus, the recommendations that follow were developed with these requests in mind and weighed against the following evaluative criteria:

- 1 Is the LEA process and tool non-partisan in nature;
- 2 Is the LEA process implementable within the State of Washington’s existing legislative process;
- 3 Does the LEA inform legislative decision making;
- 4 Does the LEA provide data and analysis that will help identify potential unintended and unanticipated adverse consequences of bills; and
- 5 Does the LEA offer the greatest level of rigor given time and logistical constraints?

The Steering Committee convened for this project and other stakeholders we interviewed had diverse perspectives on which options best met these criteria. Thus, we have synthesized their wide range of viewpoints into two primary options, with several suboptions, to offer considerations of the costs, benefits, and challenges associated with each option.

1. Office of Financial Management. 2022. RFP NO. 21-1500: Equity Impact Statement Tools and Procedures. State of Washington.
2. Ibid.

RECOMMENDED OPTIONS FOR AN LEA PROCESS

Option A: LEAs are Conducted by Executive Branch Agencies at the Behest of the Legislature

OPTION A: EXECUTIVE BRANCH

TIMING

Before Policy Committee Hearing

What bill gets an LEA?

By request or screened by topic area

Who coordinates/ reviews the process?

Office of Financial Management or Office of Equity

Who conducts the assessment?

Agency or agencies

In this option, bills identified for assessment via one of two sub-options (to be discussed after this section) are referred by legislative staff to OFM, where staff will read the bill to determine which agency(s) should conduct the LEA.

Coordination

OFM analyst or analyst(s) will assign the request to impacted agencies through the FNS or similar software.³

Analysis

Agencies impacted by the legislation would be responsible for conducting legislative equity assessment analysis and drafting the findings.

Review

After the agencies conduct and approve the LEA internally, they release and transmit it to OFM for review. The reviewer will note the use of the approved format, accuracy, reasonableness, and completeness. One variation of this option is that instead of being reviewed by an OFM analyst, the assessment could be reviewed by staff at the Office of Equity.

Timing

Ideally, the equity assessment would be complete and available for review by the time a bill comes under consideration in the policy committee public hearing. Current legislative rules state that committee agendas must be posted only five days prior to a public hearing in a policy committee, which means that an LEA turnaround time would be limited to that window.⁴ The assigned analyst may contact an agency with questions or request a revised note as needed.

Training

The Office of Equity or Department of Enterprise Services would coordinate training for those who complete and review the LEAs and staff from those offices can serve as a resource should questions arise in the assessment process.

3. The legislature and agencies use a Fiscal Note System to support the preparation, review, approval, and transmittal of fiscal notes, which describe the fiscal impacts of legislation. OFM Information Technology staff confirmed that FNS could likely be adapted to add LEA functionality. Developing a new, similar system would carry considerably greater cost.

4. Washington State Legislature. 2022. Senate Resolutions No. 8600 and 8631. Permanent Rules of the Senate, Sixty-Seventh Legislature: Section V, Rule 45, 2022. Senate Administration.



RECOMMENDED OPTIONS FOR AN LEA PROCESS

Option B: Legislative Branch

OPTION B: LEGISLATIVE BRANCH

TIMING

Before Policy Committee Hearing

What bill gets an LEA?

By request or screened by topic area

Who coordinates/ reviews the process?

Non-partisan legislative staff

Who conducts the assessment?

Non-partisan legislative staff

Option B consolidates the LEA responsibilities into one entity. In this option, nonpartisan legislative staff who specialize in equity evaluations would be hired to coordinate and conduct the LEAs in collaboration with existing agency staff and in time for the policy committee public hearings. This new entity would serve both chambers.

Coordination & Analysis

Non-partisan staff assigned to each committee would assess bills assigned to that committee.

Review

It is assumed that the new legislative work group would establish review protocols that would fit the institutional responsibility they fulfill.

Timing

It is assumed that the new legislative work group would be able to produce the LEA prior to a policy committee public hearing, and at each subsequent amendment of the bill.

Training

It is assumed that the new legislative work group would establish training protocols that would allow analysts to fulfill the requirements of the LEA process.

SUBOPTIONS: SELECTING BILLS FOR REVIEW

With both options above, a key point of variation among the Steering Committee members was regarding how to identify which bills would undergo an equity assessment each session. The selection method will have a major impact on the cost of the LEA process, because bill volume will drive workload and any considerations related to the need to hire new staff. Below we discuss several options that could be used to gradually increase the number of bills under review to allow the program to grow in a structured manner. It is assumed that an LEA will be conducted on bills as they are amended, similar to fiscal notes which are produced on multiple versions of a bill as it is amended or substituted through the legislative process.

SUBOPTION 1: BILLS SELECTED BY REQUEST

In this suboption, bills to be evaluated are chosen **by request**, targeting the bills believed to most likely disparately impact communities and allow for a more thorough analysis of those bills to occur. As shared in the Common Practices in Other States section, this model is used in the State of Colorado, where only legislative leadership from both caucuses can request an assessment, and they can only request five bills per session (20 bills total). This model can be adjusted by limiting or expanding the list of those who can request and limiting or expanding the number of bills that each requestor can initiate the process for. Depending on the number of potential requestors, there could be a significant number of bills to review. Potential requesters could include any combination of those listed below:

- Same entities who can request a fiscal note (OFM, agency staff, legislative staff, or members through legislative staff. See Section 4: Current Legislative Ecosystem for more information);
- Chairs of legislative committees;
- Agency leadership;
- Office of the Governor's staff;
- House/Senate leadership; or
- Members or leaders of both caucuses.

SUBOPTION 2: BILLS SELECTED BY POLICY TOPIC AREA, DETERMINANTS OF EQUITY

In the second option, bills are selected by topical area according to a framework to be determined by the legislature as having equity impacts. An example is Governor Inslee's 15 Determinants of Equity (listed below),⁵ which could be adopted by legislation as guiding determinants for the LEA. This would limit LEAs to either all the identified areas of equity or use a phased-in approach by priority area. For example, the LEA process could initially focus on education bills because of the abundance of existing data in this area. As the LEA program grows, additional topic areas could be introduced. Several other states who have initiated an LEA process have limited their scope to assess criminal legal system bills for racial equity impacts, identifying this as a state priority. Housing and health equity are also widely understood as key state priorities, and those could be future areas of LEA growth. Depending on how the phased approach is used, the wide-ranging scope of the identified determinants of equity could result in a significant number of bills to review. Non-partisan staff could identify whether, and which, Determinant(s) of Equity the bill falls under.

5. Office of Governor Jay Inslee. 2022. Executive Order 22-04: Implementing the Washington State Pro-Equity Anti-Racism (PEAR) Plan and Playbook. State of Washington.



RECOMMENDED OPTIONS FOR AN LEA PROCESS

THE 15 DETERMINANTS OF EQUITY:

- | | | | |
|---|---------------------------------------|----|--|
| 1 | Community and Public Service | 9 | Housing and Homeownership |
| 2 | Digital Access and Literacy | 10 | Jobs and Job Training |
| 3 | Early Childhood Development | 11 | Justice System and Laws |
| 4 | Economic Justice | 12 | Parks, Recreation, and Natural Resources |
| 5 | Education | 13 | State and Local Practices |
| 6 | Food Systems | 14 | Strong, Vibrant Neighborhoods |
| 7 | Health and Human Services | 15 | Transportation and Mobility |
| 8 | Healthy Built and Natural Environment | | |

CONSIDERATIONS FOR COMPARING OPTIONS

The LEA process choice will ultimately depend on policy goals and priorities that are beyond the scope of this analysis. Below is a table showing what will need to be considered as decisions are made. For example, if the Legislature desires that the LEA apply to a larger volume of bills, then there are practical tradeoffs related to turnaround time, analytical scope and depth. Additionally, there are considerations related to the cost of standing up either option, as well as considerations related to bill volume as any LEA process will be relatively untested.

RECOMMENDED OPTIONS FOR AN LEA PROCESS

Table 2. Comparative Analysis for Legislative Equity Assessment Options⁶

	EXECUTIVE	LEGISLATIVE
Capacity to analyze volume of bills	The volume of bills will vary considerably based on the method for selection/screening. If the volume of bills is high, as it may be under certain "by request" options, then the Executive branch option may be able to move a greater volume of bills through the process, given that infrastructure is already set up for coordinating a large volume of bills through a multi-agency review process.	The volume of bills will vary considerably based on the method for selection/screening. Under a high bill volume, the legislative option would require a large amount of resources to be able to conduct analyses in a short time-frame. This option would be relatively untested given that it requires standing up a new work group and process, thus there may be benefits in scaling this option by limiting the volume of bills selected for LEA.
Turnaround time for LEA	Because this option involves coordination among multiple agencies, it may be more difficult for an LEA to be completed before the policy committee hearing for a high volume of bills. Fiscal note request data may shed some light into the difficulties of a realistic turnaround time for the LEA (see Exhibit 1. 2021 Legislative Session Fiscal Note Requests and Agency Assignments). The fiscal note for HB 1264, which includes some agency analysis of the cost of doing an LEA (though the process and bill volume are not known), indicated analysis time ranging from 30 minutes to 11 hours per analysis.	Having a single entity with full responsibility for the LEA may make it easier for LEA to be produced within a tight timeframe. Still, high bill volume may present difficulties without a large staff capacity. Exhibit 2. Bills In & Out of Committee, House of Origin shows the volume of bills in their house of origin that were referred to a committee and ultimately moved by that committee.
Analytical depth and scope of LEA	Executive branch staff have the advantage of knowing programs and policies very well because of their role in program implementation. However, high bill volume will mean trade-offs with analytical depth.	Trained legislative staff will likely produce consistent analyses across topic agencies. Portfolio or committee assignments will allow for depth of knowledge to develop. High bill volume will mean compromise with analytical depth.
Cost considerations	<p>IT COSTS: A one-time cost of an upgrade to the Fiscal Note System (FNS) to allow LEA functionality is estimated at \$135,000; maintenance costs will also be incurred but are not known at this time. The development of a new system would entail a much higher cost.</p> <p>STAFF COSTS: The Office of Equity would need at least 1.0 FTE for training, and potentially 1.0 FTE for LEA review if that responsibility were given to the Office. OFM would likely need at least 1.0 FTE to coordinate the LEA process. It is assumed that existing OFM analysts would absorb the workload for agency assignments. Agencies will vary in their capacity to absorb the LEA workload. Some agencies may need additional FTEs, particularly if the agency's purview is one of the topics selected for equity impact analysis. The fiscal note for HB 1264 provides some insight into agency assumptions regarding the implementation of an LEA process. The fiscal note was indeterminate, with some agencies identifying the need for partial FTEs and others identifying the need for new FTEs. The costs of the FTE positions identified ranged from \$161,000 - \$190,400. There are 24 cabinet agencies, eight separately elected executive branch officials, and over 40 agencies that report to boards or commissions which may ultimately be impacted by LEA process from a workload or staffing perspective.</p>	<p>IT COSTS: The new workgroup may use existing systems utilized by current nonpartisan staff, or they may wish to develop a new system for tracking and analyzing legislation.</p> <p>STAFF COSTS: Staffing costs for a nonpartisan staff work group will depend on the selected staffing model, which itself will likely depend on the volume of bills expected to move through the LEA process. If a new analyst is assigned to each committee, there are 20 standing committees in the House of Representatives and 15 in the Senate in the 2021-22 Legislature. The average analyst cost is \$110,000 - \$216,000. There would also be costs associated with training and review, though these may be more streamlined in a single entity. A cost consideration is whether there would be enough work to keep full-time legislative staff occupied outside of session.</p>

6. A full-time equivalent (FTE) is a budgeting term used to measure one full calendar year of paid employment, or the equivalent of 2,088 hours (the number of average available work hours in a year). An FTE could be comprised of hours from multiple employees; in other words, one FTE does not mean one new employee. Executive branch FTE costs came from salary costs for partial FTEs identified in the fiscal note for HB 1264. Legislative analyst costs were pulled from the Washington State Employee Salary database for 2020 and inflated to 2022 dollars. The costs for both include salary and 40 percent overhead. Other assumptions are listed in the Appendix.



RELEVANT BACKGROUND INFORMATION

CURRENT LEGISLATIVE ASSESSMENT ECOSYSTEM

The state currently has several tools which are used to assess legislative impact from legislative proposal to implementation. It is important to understand the ecosystem of existing tools as they provide models for options in this report and give a sense of how a potential LEA process could complement other analyses.

Table 3. Current Legislative Assessment Ecosystem

REPORT	OFFICE	DESCRIPTION
Bill Reports	Nonpartisan Committee Staff	During each legislative session, nonpartisan committee staff produce bill analyses and bill reports as the bill is introduced and at each stage of its modification/amendment. The bill report consists of the bill's description and background information, sticking to the simple facts about what the bill does. The bill report does not include any analysis of intended, unintended, or equity-related impacts. ⁷
Fiscal Notes	Office of Financial Management	The Office of Financial Management, nonpartisan legislative staff, and certain agency staff can request legislative fiscal notes, which objectively evaluate the fiscal impact of each version of proposed legislation. OFM coordinates the fiscal note process when a fiscal note is requested, but the assessment of fiscal impact is conducted by agency staff and subject to OFM approval. The Office of Financial Management produces state, local, and judicial fiscal notes, which are available online. ⁸
Health Impact Reviews	Washington State Board of Health	The Washington State Board of Health, in collaboration with the Governor's Interagency Council on Health Disparities, produces Health Impact Reviews at the request of any legislator or the Governor. ⁹ The HIR incorporates an analysis of published literature and interviews with key informants and people that may be impacted by the bill. This information is used to produce an objective, non-partisan, evidence-based analysis of how proposed legislation may impact health and equity in Washington State. HIRs can be requested at any point in the legislative process. During the legislative session, the HIR must be completed within 10 days. In a typical legislative session, HIR staff complete between 11 and 18 HIR reports on a range of policy topics, including criminal legal system, economic, and education-related topics. These HIR reports are posted on the State Board of Health website. As House Bill 1264 notes, an HIR could be used in conjunction with an LEA if "further information about the equity impacts of proposed legislation" ¹⁰ is desired.
WSIPP Publications	Washington State Institute for Public Policy	The Washington State Institute for Public Policy (WSIPP) is composed of a team of multidisciplinary and nonpartisan researchers who produce reports for the state legislature that cover a number of issues within broad topic areas such as children's services, criminal legal system, healthcare, transportation, etc. ¹¹ The Health Impact Review team regularly connects with WSIPP to gather information about their scope of work and understand how they might be able to support one another in their research efforts.
Health Equity Impact Statements	Washington State Department of Health	The Washington State Department of Health conducts a Health Equity Impact Assessment (HEIA) internally to assess policies, bills, rules, programs, grants, contracts, projects, etc. for potential impacts on health equity. The tool requires a description of the proposal, its potential equity impact, and how impacted groups may be engaged. ¹²
Racial Equity Analysis	Joint Legislative Audit and Review Committee	The Joint Legislative Audit and Review Committee (JLARC) completes performance audits, sunset reviews, and other audits or reports on bills that have been implemented. The Washington Legislature passed a bill in 2021 that requires JLARC to incorporate a racial equity analysis into their audits and reviews. ¹³ Legislators may choose to move a policy forward and request JLARC to conduct an audit and review to assess impact of the policy (i.e., inclusive of racial equity analysis) so it may gather information and adjust the policy at a later date.

7. Information obtained from steering committee members during engagement process.

8. Office of Financial Management. December 2020. Agency Fiscal Note Instruction 2021-2023 Biennium. Budget Division, Operations. <https://ofm.wa.gov/sites/default/files/public/budget/instructions/other/agencyfiscalnoteinstructions.pdf>

See next page for footnotes 9-13.



RELEVANT BACKGROUND INFORMATION

Though some of these existing legislative reviews already assess legislation for equity impacts, the assessments may not be completed early enough to affect the path of proposed legislation and are not completed for the number of bills that the LEA is intended to assess.

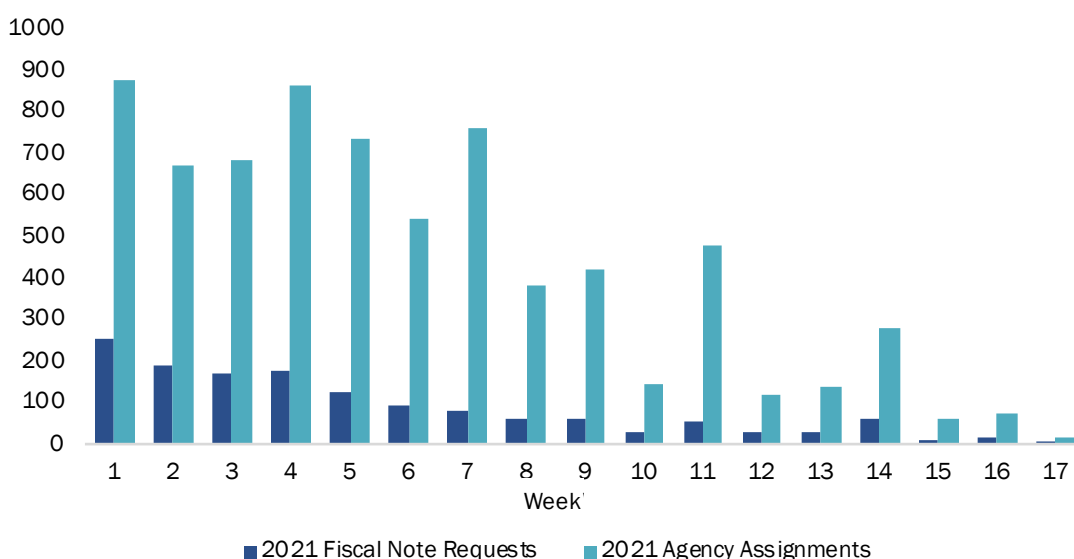
A benefit of having these systems in place is that the LEA may be able to draw from information produced by previous Health Impact Reviews, Health Equity Impact Statements, or Racial Equity Analyses in order to inform its assessment of similar proposed legislation. On the other hand, these existing systems may benefit from information that is produced by the LEA as well. Ultimately, a bill may go through a Health Equity Impact Statement as it's drafted, an LEA and Health Impact Review when proposed, and then receive a Racial Equity Analysis from JLARC years after its implementation. All of these review systems can work together to limit unintended and adverse impacts of legislation.

Bill Volume

ECONorthwest analyzed several data sources to understand the volume of bills that may move through a potential LEA process.

Though an imperfect parallel, fiscal note data regarding request and agency assignments can illustrate the potential volume of LEA bills that may be seen under Option A. For example, during the 2021 legislative session, a long session, there were over 200 fiscal note requests in the first week of session, which resulted in almost 900 agency assignments (roughly four impacted agencies per bill; see [Exhibit 1](#) for a chart showing fiscal note requests and the agencies impacted). The numbers tend to decline as session progresses, but each unique fiscal note request could represent a newly introduced bill or a substitute or amended bill. This same trend would likely evolve with the LEA process, though it is not known if the volume of requests would be greater or lower than with fiscal notes. It is important to note that fiscal notes are usually targeted for completion before a fiscal committee hearing, which gives the fiscal note process slightly more time than an LEA might have if the target completion is prior to policy cutoff. It is also important to note that fiscal notes may be completed after the Legislature adjourns, for requests that have been made on bills amended in the very last days of session.

Exhibit 1. 2021 Legislative Session Fiscal Note Requests and Agency Assignments



9. Washington State Board of Health. Health Impact Reviews. <https://sboh.wa.gov/health-impact-reviews>

10. HOUSE BILL 1264, State of Washington 67th Legislature 2021 Regular Session

11. Washington State Institute for Public Policy. <https://www.wsipp.wa.gov/>

12. Washington State Department of Health. 2021. "Equity Impact Assessment". WSDOH.

13. State of Washington. 2021. Senate Bill 5405: An Act Relating to racial equity analysis for the joint legislative audit and review committee work. <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Bills/5405.pdf?q=20220518181138>



RELEVANT BACKGROUND INFORMATION

Data regarding bill referral and passage by committee from the legislative reporting system show the limitations that Option B may have with respect to committee equity analyst assignments. Exhibit 2 shows the total bills referred to several committees that roughly align with several of the determinants of equity mentioned above, along with the number of bills voted out of each of these committees. In the 2021 Session, there were 92 bills referred to the Senate Health and Long Term Care Committee and 95 bills referred to the House Healthcare and Wellness Committee. While not all bills receive a hearing, it is likely that at least the 62 bills that were voted out of the Senate Health and Long-Term Care Committee and the 49 voted out by the House Health and Wellness Committee would have had a hearing. An analyst assigned to both of these committees would have to produce an LEA on a very large volume of bills in a very short time-frame, usually in the five days prior to a public hearing. If the LEA is required to be refreshed each time it is amended, this would add more volume to an analyst’s assignment. Among existing nonpartisan staff (OPR and SCS), most standing committees have several analysts and a coordinator assigned to analyze this volume of legislation.

Exhibit 2. 2021 Session, Bills Referred to and Voted Out of Select Committees

	Total Bills Referred to Committee	Bills Voted Out of Committee
Education (H)	40	25
Education & Early Learning (S)	74	46
Environment and Energy (H)	50	33
Environment, Energy and Technology (S)	77	41
Healthcare & Wellness (H)	95	49
Health and Long-Term Care (S)	92	62
Transportation (H)	71	47
Transportation (S)	78	59

Source: Washington State Legislature Detailed Legislative Reports, Bills In/Out of Committee

COMMON PRACTICES IN OTHER STATES

In 2021-22, a total of 2,835 bills were introduced in the Washington State Legislature.¹⁴ Given the high volume of bills moving through the legislative process, Washington lawmakers need to carefully consider how to develop a Legislative Equity Assessment process and implementation plan that is efficient without compromising the quality and impact of the LEA.

To get a sense of what the process and implementation could look like, we reviewed other states and local jurisdictions that have similar legislative equity assessment tools. Since 2008, 10 states and over five local jurisdictions in the U.S. have opted to produce some form of legislative or policy equity assessment. Our research shows that states have experimented with several different process and implementation structures. There is general alignment in their means of limiting the quantity of reports they produce, the timing in which they produce their reports, and the general structure of the report content. More specific information is provided below and summarized in a matrix in Table 4.

Colorado calls its assessment process “Demographic Notes” in a deliberative effort to reflect neutrality and non partisanship. While ensuring equity in the outcomes of the legislative process is not necessarily partisan, the term “equity” has become increasing politicized in recent years and using that language may have connotations of partisanship.

14. Selected Step report, Washington State Legislature advanced reporting system.



RELEVANT BACKGROUND INFORMATION

1 Most states limit the number of assessments through a “by-request” system.

Most states limit the number of legislative equity assessments that are produced by limiting who can request them. Usually request permissions are limited to one entity, which is typically a legislative committee, commission, or assembly. Many states further filter which bills are assessed by focusing exclusively on racial equity, and/or by limiting assessments by issue area. For instance, most of the states with legislative equity assessments only review criminal legal system bills for racial equity.

2 Most states use nonpartisan staff to complete the assessment.

Other states rely on independent, nonpartisan staff who serve in the legislative branch such as the Office of Legislative Research, a Legislative Services Agency, or a Legislative Audit and Review Committee. The Colorado legislative research staff are similar to OPR and SCS and the legislative audit staff are similar to JLARC. The allotted time to complete these reports varies among states, but it is typical for states to allow around ten days to complete the report.

3 Most assessments are written reports.

Most states provide long-form written legislative equity assessments rather than short-form answer checklists. The report usually includes a bill summary, demographic statistics, which population(s) the bill affects, and a combination of qualitative and quantitative information that identifies the direct impacts the bill might have on such populations.

4 Few states engage the public to inform their assessments.

None of the states have an extensive public engagement process that is completed throughout the drafting of the legislative equity assessment, but most do provide copies of the completed report online for public review once it has been completed. A few states have a database of completed reports, and only one asks for public feedback via email as the report is posted online.

Potential Limitations: Timing, Capacity, Resources, and Scope

A few states have faced limitations with producing legislative equity assessments due to limited data, staff, resources, and interest.¹⁵ These three states—Connecticut, Oregon, and New Jersey—all have a request-based process in which only one entity is allowed to request an LEA.

Connecticut, for example, only produced one of its Racial Equity Impact Statements between 2008 and 2018 due to limited access to data and the limited number of allowed requesters, thereby constricting the state to depend on “the vagaries of individual legislators recognizing any potential racial impact that might occur.”¹⁶ Similarly, New Jersey only produced one Racial Impact Statement within two years as a result of limited access to statistical information, limited personnel, and limited professional technical expertise among the staff completing the impact statement.¹⁷ Oregon has also struggled with completing legislative equity assessments regularly, only producing a handful of them between 2014 and 2020, as “lawmakers stopped seeking the reports.”¹⁸ Sen. Lew Frederick of Oregon mentioned that he could have done a better job making lawmakers aware of the tool.

On the other hand, Iowa’s Minority Impact Statements (MIS) are automatically completed on all criminal legal system bills, thereby producing a larger number of assessments per year. A research team at the National Juvenile Justice Network assessed the effectiveness of 164 of Iowa’s MIS findings on influencing the passage of proposed criminal legal system bills between 2008 and 2019. Their study found that proposed bills assessed by the MIS had similar passage rates of between 22 percent and 36 percent regardless of the minority impact statement’s impact category (negative effect, no effect,

15. Connecticut General Assembly. House Session Transcript 05/08/2018. <https://search.cga.state.ct.us/r/adv/>; Balcerzak, Ashley. 2020. “In two years, NJ wrote only one ‘racial impact statement’ to study criminal justice disparities”. North Jersey; OregonLive. 2020. “Oregon lawmakers request first-ever racial impact analysis for drug decriminalization initiative.”

16. Connecticut General Assembly. House Session Transcript 05/08/2018. <https://search.cga.state.ct.us/r/adv/>

17. Balcerzak, Ashley. 2020. “In two years, NJ wrote only one ‘racial impact statement’ to study criminal justice disparities”. North Jersey.

18. OregonLive. 2020. “Oregon lawmakers request first-ever racial impact analysis for drug decriminalization initiative.”

19. Gahn, Tristan, Bryan Porter, and Anthony Dopp. 2020. “The Promise of Racial Impact Statements: Findings from a Case Study of Minority Impact Statements in Iowa”. National Juvenile Justice Network. [https://www.njjn.org/uploads/digital-library/thepromiseofracialimpactstatements_njjnoctober2020\(small\).pdf](https://www.njjn.org/uploads/digital-library/thepromiseofracialimpactstatements_njjnoctober2020(small).pdf)



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positive effect, minimal effect, and unknown effect).¹⁹ Researchers determined that this is likely due to the fact that the MIS were not completed prior to a floor vote, meaning the public's opinion on legislation was not informed by the MIS during public hearings. They also attributed the lack of effectiveness to the shortening of MIS statements from 2009 to 2019, from two paragraphs to two to three sentences, and noted a dramatic spike in the number of bills classified as having an "unknown impact." Researchers concluded that while the decrease in Iowa's Black-to-White ratio of incarceration (from 13.6 to 1 in 2007 to 11 to 1 in 2016) cannot be directly attributed to the application of Iowa's MIS on proposed legislation, they do believe that minority impact statements can still serve as an effective tool to help educate decision makers about minority disparities in the criminal legal system.

Aside from these examples, there are few studies measuring the effectiveness of each state's legislative equity assessments over time because most states began their legislative equity assessments in 2019, and those that began prior to 2019 produced very few assessments. Therefore, proven benefits and limitations have yet to be determined. What we can determine from existing information is that any LEA process will face limitations based on timing, capacity, resources, and scope. Whereas by-request systems may experience limited participation or acknowledgement from legislators, systems that automatically apply to all bills or a subset of bills by policy topic may experience assessments with limited scope and effect on passage of proposed legislation with negative impacts. An LEA that faces either limitation may still be effective in educating legislators about equity impacts and encourage legislators to plan for equity as they draft future legislation.

How do each of the state and local jurisdictions' processes compare with one another?

The matrix in Table 4 shows the different combinations of legislative equity assessment approaches from each state and local jurisdiction that we studied. Most of the states use a **by-request system**, focus exclusively on racial equity impact within criminal legal system bills, and rely upon **non-partisan legislative staff** to complete the report.

Table 4. Matrix of State Legislative Equity Assessment Process and Implementation Tactics

State/ Jurisdiction	Request -Based System	Who Re- quests?	Limited # Reports	Who Completes Report?	Focus on Racial Equity	Focus on Broader Equity	Focus on Criminal Legal System Bills	All Bill Topics
CO	X	Multiple	20	Legislative Council Staff		X		X
CT	X	One		General Assembly Office of Legislative Research	X		X	
FL				FSU College of Criminology and Criminal Justice	X		X	
IA				Legislative Services Agency		X	X	
ME	X	One		Still in pilot stage.	X			X
MD	X	One		Bowie State Univ. and Univ. of Baltimore Schaefer Center	X		X	
MN				Sentencing Guidelines Commission		X	X	
NJ	X	One		Office of Legislative Services	X		X	
OR	X	One		Criminal Justice Commission	X		X	
VA	X	Multiple	6	Joint Legislative Audit and Review Commission*	X		X	
DC				Council Office of Racial Equity	X			X
King County				Department or agency bringing forward a proposal	X			X
Mnpls.				Div. of Race & Equity and Appointed Boards or Comm.	X			X
Seattle				Department presenting the policy or program.	X			X

Source: Colorado HB19-1184, 2019; Connecticut SB256, 2018; FSU College of Criminology and Criminal Justice; Iowa HB2393, 2007; New Jersey SB 3677, 2016; Maine HB130, 2021; Maryland HB1016, 2019; Minnesota SB108, 2020; Virginia HB183, 2021; Oregon SB463, 2013; Maryland HB1016, 2019.



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Implications: Balancing Quantity, Range, and Scope of Assessment

To date, there is no existing research that has examined the effectiveness of different legislative equity assessment processes among different states and jurisdictions. Therefore, we don't have a clear sense of whether the most common approaches also fit the criteria to be considered "best practices." The two most common legislative equity assessment processes from other states include 1) limiting the assessments to specific policy areas (typically criminal legal system bills) and focusing exclusively on racial equity within those bills and 2) reviewing all legislative topic areas but limiting the number of assessments by allowing only a few select positions to request an assessment on a bill and only allowing a limited number of requests. For instance, Colorado allows for up to 20 LEAs in each legislative session, by request, only from the majority and minority leaders of the state house and senate (up to five bills each).

Finding the right balance between quantity, range, and scope will be important in ensuring that the tool fulfills its intent of helping "legislators proactively identify possible disparate impacts on historically marginalized communities, and thus make better informed and intentional decisions on legislative proposals."²⁰

ENGAGEMENT WITH KEY INFORMANTS

Interviews with staff from the executive and legislative branches and representatives from other state and local entities played a critical role in providing input and feedback. ECONorthwest conducted one-on-one interviews and focus groups with Steering Committee members, legislative staff, and representatives from the Washington State Education Research and Data Center, the Office of Financial Management, the Washington State Labor Council, the Association of Washington Cities, the Governor's Interagency Council on Health Disparities, the Washington Workforce Training and Education Coordinating Board, and the City of Tacoma.

ECONorthwest also interviewed stakeholders in the legislative process, including staff from South Cove Strategies, The Arc King County, Transportation Choices Coalition, Disability Rights Washington, and Partners for Social Change.

Finally, individuals from the state of Iowa provided insight into the Minority Impact Statement process in that state. Most importantly, we interviewed a former state legislator who authored the Minority Impact Statement bill (House File 2393) in 2008.

What We Heard

The following subsections examine what we heard from all engagement participants about how the LEA process should be structured and what the LEA should look like. Because the legislative process is demanding and time-sensitive, many concerns were presented about timing, staffing capacity and expertise, costs, scope, and effectiveness for each of the potential pathways. These concerns are all represented in order to provide sufficient guiding information about what a legislator may need to consider when choosing how to structure an LEA process.

The primary concern is that the scope of an LEA is sufficient to guide decisions about proposed legislation without compromising the number of LEAs that can be completed within a given session. With this in mind, it is important to note that many participants felt that even an LEA with a limited scope -- applied to a larger number of bills -- could be effective in influencing legislators to plan for equity as they draft legislation in the future. As more LEAs are produced, embedding equity considerations into legislation as it is drafted may become a more common practice, and those voting upon legislation may be primed to think about equity as they make their decisions. Moreover, LEAs may provide valuable information for other reports and equity assessments that are already in place, such as the Health Impact Review or JLARC Racial Equity Analysis.

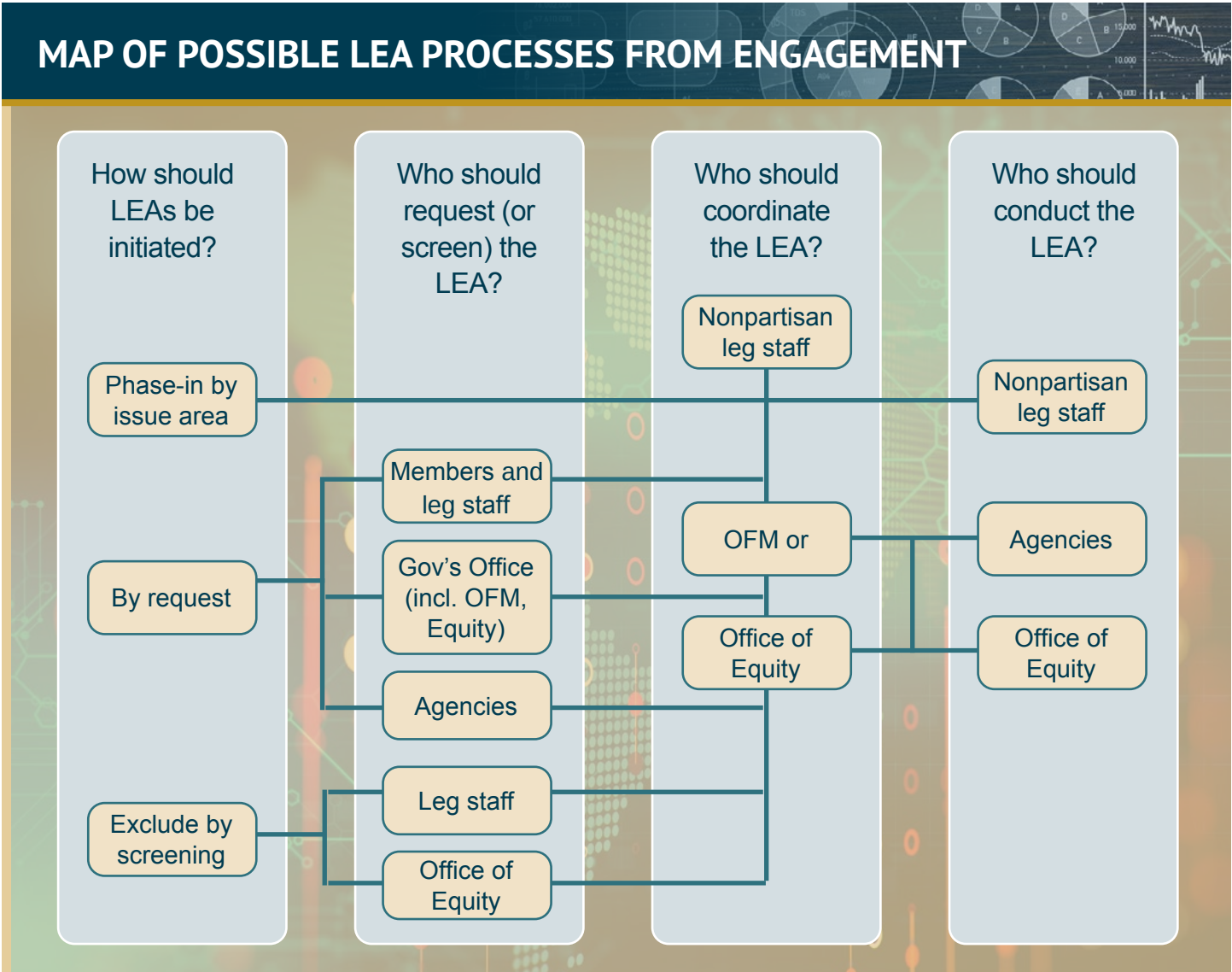
20. State of Washington. House Bill 1264: An Act Relating to Establishing an Equity Impact Statement for Legislative Proposals. 67th Legislature: 2021 Regular Session.



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What We Heard About The LEA Process

In the first round of interviews and focus groups, we primarily focused on asking participants about what the LEA process should look like from beginning to end. We wanted to know how long the process should take, how to know when an LEA is needed for a bill, who should conduct the analysis, and what the ideal timeline for producing an LEA would be. We heard a wide range of opinions when it came to who should request and complete the LEA but found some general areas of agreement about how encompassing the LEA should be and how much time should be allotted to produce it. We incorporated those options into the chart below, which illustrates the range of options that emerged.



Should The LEA Consider Equity Broadly Or Narrowly?

When asked whether the LEA should focus on all aspects of equity or if it should only focus on racial equity (which most other states do), engagement participants suggested that the tool should focus on all aspects of equity and should consider all of Washington’s protected classes as defined by Washington statute. Interviewees suggested that only focusing on racial equity could result in overlooking important impacts that affect those with intersecting marginalized identities. However, others noted that a broader focus would require much more effort and time than a narrower focus, thereby limiting the scope of information the analysis could provide within its likely limited timeframe.



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Conversely, there were others who felt as though leading with racial equity was the correct place to start. These individuals indicated that racial equity is the most neglected issue in Washington legislation and that systemic racism is so ingrained into Washington's institutions that it is often heavily correlated with the implementation of other forms of oppression. Because race is such a prominent and consistent indicator when looking at structural oppression, these interviewees felt that the LEA should begin by leading with racial equity first and then expand to other equity focuses.

Should the LEA Address All Legislation or a Subset of Legislation?

Most engagement participants indicated that ideally, the LEA eventually would apply to all proposed legislation to ensure that any negative equity impacts are identified. However, many also noted that there would be significant resource and time constraints that reviewing all legislation would prove quite difficult and not fit easily into the rapid timelines of bill introduction to adoption. At this point in time, legislators and government staff are limited in numbers and capacity and have limited access to adequate data for certain topic areas.

Therefore, some interviewees suggested using a phased-in approach, starting with certain topic areas that have more existing data availability and staffing, such as healthcare, education, criminal legal system, or transportation, and then ex-panding out to all legislation as staffing capacity and data availability improves. The phased-in approach could also filter LEAs by their alignment with the 15 Determinants of Equity, as outlined in the Recommended Options. These phased-in approaches would allow the state to test the system on a smaller scale before expanding it more widely.

Some interviewees who preferred an all-legislation approach suggested that there may be other ways to limit the number of LEAs that need to be produced. Instead of phasing in the LEA tool by sector topic, there could be a tool that screens bills for whether they make purely technical or administrative changes and do not substantially change policy. Because technical bills have less of a major social impact and are more internal to legislative functioning, they may not need an LEA. This would allow the state to prioritize bills and budgets that have a direct and secondary effect on people. Other interviewees said that the LEAs could be limited in number by implementing a request-based system in which there are designated requesters and a limit on the number of bills that can be requested.

If It's a Request-Based Process, Who Should Be Allowed To Request an LEA?

There was little consensus between engagement participants about who should be allowed to request an LEA for a bill. Many different options were suggested, as demonstrated in Table 5. Notes and concerns about each office assuming the LEA request role are noted in the right column of the table.



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Table 5. Who should be able to request an LEA?

Office	Notes and Concerns from Stakeholders
Agencies	Stakeholders noted that agencies might need to be challenged to have their own bills examined with an LEA and this may not happen if they can choose for themselves whether their bill needs an LEA.
Members of the Legislature	<p>Stakeholders were also concerned that legislators also might need to be challenged to have their own bills examined with an LEA and this may not happen if they can choose for themselves whether their bill needs an LEA.</p> <p>On the other hand, some stakeholders suggested that legislators may try to delay the progress of a bill they are opposed to by intentionally requesting an LEA be done. One suggestion to prevent this is to require that both a Democrat and Republican legislator collectively request an LEA on a bill before the LEA can be completed.</p>
Office of Equity	Stakeholders cautioned that because the Office of Equity is new, it may not have the staff/resources necessary to take on a requester role yet. Moreover, as the Office of Equity Task Force envisions the Office of Equity taking on a policy and legislative advocacy role, there could be a conflicting interest having the Office of Equity also deciding which legislation receives an LEA.
Governor's Office	Stakeholders noted that as the head of the executive branch, which is the branch of government responsible for implementing enacted legislation, the Governor's Office has an interest in identifying bills that will have an equity impact. They also said that the Governor's Office staff will be able to identify which agencies might be impacted by the bill.
Fiscal Note Requesters	Currently, OFM, the Governor's Office, agencies, members, and legislative staff can request fiscal notes. Some stakeholders suggested that the same entities could request an LEA. However, they were also concerned that this could lead to requests for more LEAs than can be conducted in a timely manner.
Nonpartisan legislative staff	Stakeholders suggested that nonpartisan legislative staff could select which bills require an LEA so long as they are following clear and objective criteria that eliminate the potential for bias. It was noted that the potential to create a new non-partisan staff workgroup that is separate from SCS and Office of Program Research.

As noted in the table above, there was no clear choice for who could request a legislative equity assessment. For every suggested requester, there was a concern about timing, staffing, capacity, and the need for subject matter and equity experts. There are also some political issues with allowing the entities that are drafting legislation to decide whether their own legislation or other legislation requires an LEA as opposed to assigning this role to an outside entity with subject matter expertise and no political motive to ensure a bill is overlooked or delayed. Establishing a new, centralized, nonpartisan office to coordinate and/or complete the LEA may help eliminate political conflicts and ensure that there is dedicated time, staffing, capacity, and equity expertise to provide LEAs for the desired number of bills and with the desired scope of information.

Who Should Complete the LEA?

Themes from engagement with Steering Committee participants and other interviews show that there was no strong area of agreement around who should complete the LEA. However, it became clear that for any of the options, considerations need to be made about staffing capacity and staffing subject matter/equity expertise. Table 6 outlines the different suggestions we received from stakeholders and the pros and cons of each entity assuming the assessor's role.

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Table 6. Who could analyze and draft the LEA?

Offic	Stakeholder Opinion: Pros	Stakeholder Opinion: Cons
Agencies	<p>Stakeholders noted that agencies have subject matter expertise on proposed legislation that others do not have. They also have access to -- and a deep understanding of -- qualitative and quantitative data needed to conduct the LEA. This includes access to confidential data not easily shared outside of an agency.</p> <p>Many agencies already have strong internal equity expertise and capabilities, currently used to evaluate their own policies and procedures. They could expand their internal equity teams to take on the LEAs during session.</p>	<p>Stakeholders commented that agencies may need to hire new staff with equity expertise or train current staff on equity principles. They were clear that smaller agencies would need to hire new staff to increase their capacity to handle LEA requests. Moreover, there could be an issue with ensuring inter-rater reliability between all agencies completing the LEA.</p> <p>Stakeholders commented that there could be issues with determining which agency(ies) the bill should be directed toward as the bill may address different agency topic areas, similar to the issues that fiscal notes face in this process.</p> <p>Another stakeholder concern was that agencies may downplay potentially negative equity outcomes on bills they want passed, or vice versa.</p>
Office of Equity	<p>Stakeholders highlighted that the Office of Equity has highly trained staff who are well-versed in equity and are committed to ensuring that the work is done well.</p>	<p>Stakeholders cautioned that the Office of Equity does not currently have the level of staffing and resources necessary to conduct many LEAs in a limited timeframe.</p>
Current Nonpartisan Legislative Staff	<p>Stakeholders noted that nonpartisan legislative staff already complete bill reports and request fiscal notes and could include the equity analysis with their current process, attaching the LEA to the end of the bill report.</p>	<p>Stakeholders were concerned that LEA efforts may be viewed as partisan despite assurances that they are objective, non-partisan, and evidence-based.</p> <p>They also noted that nonpartisan staff do not produce or include any analyses in bill reports, but that they may be able to refer to the LEA during a briefing.</p> <p>Finally, it was noted that current nonpartisan staff have no additional capacity during the legislative session to complete LEAs.</p>
New Nonpartisan Legislative Staff	<p>Stakeholders noted the potential to create a new nonpartisan office with expertise in the 15 Determinants of Equity, or assigned to distinct policy committees, to solve for topic-specialization. This approach would centralize LEA specific coordination, hiring, and training.</p>	<p>The concern for adding a new nonpartisan legislative office is that the staff may not have content expertise for specific agency bills that need assessments and may not have access to data that is needed.</p> <p>Another concern arose about the costs of staffing a new office.</p>
Office of Financial Management	<p>Stakeholders highlighted that OFM already has an IT system to manage the fiscal note process and could more easily amend the LEA to fit the fiscal note forms.</p>	<p>Stakeholders noted that OFM would have to hire additional staff, especially staff who are well-versed in equity subject matter. They also noted that OFM would also need to coordinate heavily with other subject matter experts such as the agencies.</p>
College/ University	<p>Stakeholders suggested that researchers at colleges and universities would have subject matter expertise and better access to the data needed to complete an extensive literature review. They also noted that they may have better connections to communities that would be useful to engage.</p>	<p>Stakeholders cautioned that it would be difficult for researchers at colleges and universities to keep up with the large number of LEAs that would need to be produced on the timeline that the legislative process requires, especially as they do not have dedicated staff to complete the work, and existing employees and students of universities may not be active or may have existing responsibilities during the same timeframe as the legislative session.</p> <p>Other stakeholders suggested that colleges and universities may not be non-partisan and may be further removed from the legislative process, with varying relationships with state agencies.</p>

How Much Time Might the LEA Take?

After engaging several interviewees, it became clear that most preferred that LEAs are first made available before a bill receives a public hearing or executive session in a policy committee. This would allow legislators on the policy committee and the public to use information about potential equity impacts before the policy committee amends the bill, and that the LEA be updated when the bill is amended throughout the process. To ensure that the LEA process concludes prior to the bill's public hearing in a policy committee, it may need to be completed within a very short timeframe. Current legislative rules state that committee agendas must be posted only five days prior to a public hearing in a policy committee, which means that an LEA turnaround time would be limited to that window.²¹

Another consideration that interviewees mentioned during the engagement process was that, like fiscal notes, the LEA would likely need to be updated as the bill is amended. In this case, the timeframe may have to follow what is typically allotted for updates to fiscal notes and bill summaries. The LEA tool would have to include an iterative process that can accommodate the short timeframe.



Having a longer period for completion of the LEA would allow for more in-depth data collection, analysis, and interpretation. Some interviewees cautioned that creating an evidence-based process for research and analysis requires a significant amount of time and specialized skill. If the LEA process does not afford that necessary time and staff capacity, the LEA must necessarily have a different scope and serve a different purpose. For example, an LEA with a limited scope could still indicate when a broader scope of analysis for proposed legislation will be useful for Legislators. The LEA could prompt an HIR request or similar process to provide additional evidence of a proposed legislation's equity impact.

What We Heard About The LEA Tool

In the second round of interviews, we presented a draft LEA tool to committee members and focus group participants. We wanted to know what they thought about the content of the tool, how the tool will be used by the LEA analysts, what might be missing from the tool, and what can be included in the tool to ensure that the analytic conclusion has an impact on proposed legislation. This engagement informed our finalization of the tool as it appears in the Appendix.

LEA Should be a Written Report

Overall, interviewees suggested that the LEA should be a more comprehensive written document rather than a short form answer checklist. Interviewees agreed that the tool should include the bill's basic information, an indication of which demographic groups are impacted by the bill, a methodology that explains what data and literature was consulted, and a main body of equity analysis that explains how each demographic group might be impacted by the bill.

The LEAs Should be Consistent

Some interviewees expressed concerns about establishing clear guidelines and training for the LEA analysts to ensure that they are coming to the same conclusions about data reliability and credibility. To ensure standardization, a clear foundational methodology should be developed and used, all LEA analysts should be trained on the methodology, and LEAs should be reviewed for consistency before submission. Such standardization may be more easily implemented by a centralized staffing model than by analysts working enterprise-wide, though like fiscal notes, a standard approach could work among agencies as well.

²¹ Washington State Legislature. 2022. Senate Resolution No. 8600 and 8631. Permanent Rules of the Senate, Sixty-Seventh Legislature: Section V, Rule 45, 2022. Senate Administration.

The LEA Should Not Provide Mitigation Options and Recommendations

There was less agreement among interviewees on whether the LEA tool should include a mitigation section in the LEA that explains how the bill can address inequitable impacts and/or a recommendations section that provides information on whether the bill should move forward or whether it should be amended. A larger majority of the interviewees agreed that the LEA should only be informational, but that it should be shared with legislators and the public at the policy committee public hearing so that legislators can make their own informed decisions about whether to vote for the bill or amend it. This informational-only approach is used in the draft LEA tool that is provided in the appendix of this report.

Additional Reflections from the Steering Committee and Other Informants

While the intent of this project was to identify an equity evaluation process that could function within the existing legislative process, there was a fair bit of discussion at several steering committee meetings devoted to noting the limitations of the current legislative process in allowing for a meaningful equity assessment to occur. Many committee members noted that it would be more effective to reconfigure the current legislative process in a way that centered on equity. Some ideas included requiring equity training for members, requiring an equity assessment on all bills before being submitted, only allowing bills focused on reducing inequities to be introduced, and lengthening the time between the introduction of a bill and when they will be reviewed to allow for a comprehensive and community-engaged assessment of the proposed legislation. Several committee members noted that adding in a new process and not changing the fundamental structure of the legislative process would offer insignificant results in reducing inequities. While these ideas are important for consideration, they are outside the scope of this project. Additionally, changing the legislative process would likely require amending the state constitution.



APPENDIX



LEGISLATIVE EQUITY ASSESSMENT TOOL

NOTE: questions in red indicate that they would vary depending on which option is chosen

BASE INFORMATION

Bill #

Title

Agency Reviewing Bill

What Departments or Agencies were Contacted for Additional Information? (If legislative staff review)

LEA Analyst

Contact

IS THIS BILL LIKELY TO HAVE AN EQUITY IMPACT?

- ☐ Yes (complete LEA to summarize the impacts)
- ☐ Unknown (complete LEA to determine the impacts)
- ☐ No (explain why not)

Summarize the bill. What do the provisions of the bill do?

What section(s) of the bill is(are) being evaluated in this LEA?

Which marginalized populations might be affected by the bill? **MARGINALIZED POPULATIONS** are groups and communities that experience discrimination and exclusion (social, political, and economic) because of unequal power relationships across economic, political, social, and cultural dimensions. Check all that apply.

- ☐ **Age:** High risk groups including infants, children, youth, and older adults
- ☐ **Disability:** Individuals with disabilities, impairments, or limitations¹
- ☐ **Education:** Individuals with no high school diploma
- ☐ **Employment:** People who are underemployed or unemployed
- ☐ **Experience in/with criminal legal system:** Previously or currently incarcerated or detained individuals
- ☐ **Sexual orientation:** LGBTQ+ community
- ☐ **Geographic location:** Rural, urban, or suburban

continued on next page



LEGISLATIVE EQUITY ASSESSMENT TOOL

- ☐ **Housing:** Individuals or families experiencing housing insecurity²
- ☐ **Language/literacy:** Individuals with limited English proficiency or a disability
- ☐ **Military:** Veterans or people in the military and their spouses and families
- ☐ **National origin:** Immigrants, refugees, and asylum seekers
- ☐ **Race/ethnicity:** People and communities of color
- ☐ **Gender Identity:** Sex and gender
- ☐ **Religion**
- ☐ **Socioeconomic Status:** People with lower or middle incomes
- ☐ **Other Groups:**

1. Types of disabilities: Vision, movement, thinking, remembering, learning, communicating, hearing, mental health, social relationships

2. Reasons for housing insecurity: cost of living, unsafe/unhealthy housing, homelessness (chronic, transitional, episodic), family instability (youth in foster care system, individuals/families in domestic violence shelters)

WHICH DETERMINANTS OF EQUITY WILL THE BILL *PRIMARYLY* IMPACT?

- ☐ Community and Public Service
- ☐ Digital Access and Literacy
- ☐ Early Childhood Development
- ☐ Economic Justice
- ☐ Education
- ☐ Food Systems
- ☐ Health and Human Services
- ☐ Healthy Built and Natural Environment
- ☐ Housing and Homeownership
- ☐ Jobs and Job Training
- ☐ Justice System and Laws
- ☐ Parks, Recreation, and Natural Resources
- ☐ State and Local Practices
- ☐ Strong, Vibrant Neighborhoods
- ☐ Transportation and Mobility



EQUITY ANALYSIS

Answer the following questions using available data, relevant research, or literature, and/or engagement information gathered throughout the process of completing the LEA. Use charts, tables, or graphs as needed.

- How may the provisions of the proposed legislation positively or negatively affect the populations most likely to be impacted by the bill? Please be clear about the positive or negative impacts and estimate the type and magnitude of the probable impacts.
- Provide a review of the relevant research or literature available on the equity impacts of this proposed legislation.

METHODOLOGY

Clearly cite data sources (qualitative or quantitative) used in the evaluation of this bill, the limitations of these sources and the methodology used.

SOURCES

Include all data sources, literature review, or background research citations.

COMMUNITY ENGAGEMENT THROUGHOUT DRAFTING OF THE BILL

Please explain whether and how potentially impacted community members, tribal nations, and others were engaged throughout the process of drafting the bill. What is the history of this issue in the community?



Cost Analysis

The IT cost considerations related to Option A (Executive Branch option) are based on information provided by OFM Information Technology (OFM IT) regarding the costs for adding functionality to FNS. This analysis was conducted in 2020 for the fiscal note for HB 1264 and ECONorthwest applied inflation to adjust the costs for 2022.

Staff costs were also primarily from the HB 1264 fiscal note. Agencies identified staffing as an indeterminate cost, but did include information related to the types of FTEs that would be assumed to conduct the analyses, as well as partial FTE costs. ECONorthwest backed into full-time salary costs for these positions and applied a 40 percent assumption for benefits and other overhead. The costs were either identified in FY 2024 or FY 2025 costs.

Cost considerations related to Option B (Legislative Branch option) include information technology costs and staff. Staff costs were 2020 costs from the State Employee Salary Database for nonpartisan legislative analysts from JLARC, OPR, and SCS. Salary costs were inflated to 2022 costs and 40 percent overhead was applied.