

HOUSE BILL REPORT

HB 1264

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to establishing an equity impact statement for legislative proposals.

Brief Description: Establishing an equity impact statement for legislative proposals.

Sponsors: Representatives Thai, Morgan, Senn, Berry, Valdez, Simmons, Ramel, Ortiz-Self, Davis, Peterson, Wylie, Callan, Lekanoff, Macri, Bronoske, Slatter, Ramos, Berg, Harris-Talley, Pollet, Gregerson and Riccelli.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/25/21, 2/11/21 [DPS].

Brief Summary of Substitute Bill

- Requires the Office of Financial Management (OFM) to establish procedures, guidelines, and content and format requirements for the Equity Impact Statement (EIS), by July 1, 2022.
- Requires agencies and the OFM to prepare and provide, upon request, an EIS for legislative proposals that create or amend statutes on housing or health care policies, beginning January 1, 2023.
- Requires agencies and the OFM to prepare and provide, upon request, an EIS for legislative proposals that create or amend statutes on elementary and secondary education policy, beginning January 1, 2024.
- Requires agencies and the OFM to prepare and provide, upon request, an EIS for legislative proposals that create or amend statutes on tax policy and two additional policies as selected by the OFM, beginning January 1, 2025.
- Requires that, beginning January 1, 2027, and every odd-numbered years thereafter, agencies and the OFM prepare and provide, upon request, an

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

EIS for legislative proposals in three additional policy areas as selected by the OFM, until all matters subject to legislation are included.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

Minority Report: Do not pass. Signed by 2 members: Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member.

Minority Report: Without recommendation. Signed by 1 member: Representative Graham.

Staff: Desiree Omli (786-7105).

Background:

Racial and Ethnic Impact Statements (REISs) are a tool sometimes used by policymakers to evaluate potential disproportional racial and ethnic impacts of proposed legislation or other policy proposals prior to adoption and implementation. They may include statistical analyses of the impact of proposed legislation on certain populations, and other information.

In the 2016 Supplemental Operating Budget, the Legislature directed the Caseload Forecast Council (CFC) to report to the Governor and the Legislature on recommendations for procedures and tools for providing cost-effective REISs for forecasts produced by the CFC in the areas of criminal justice, human services, and education. The CFC reviewed four states that have implemented REISs into their legislative process and proposals in several other states. Based on their findings, the CFC recommended an incremental approach to the production of REISs, starting with a criminal justice pilot project before expanding REISs to other program areas.

Certain Washington state agencies have issued impact reviews, impact statements, or disparity studies, which evaluate the impact of an action or proposal on certain communities. For example, the Washington State Board of Health conducts Health Impact Reviews (HIRs), which is an evidence-based tool that provides the Governor and legislators with information about the direct impact of proposed legislation on health disparities as well as changes in the social determinants of health. In addition, the Department of Health uses a Health Equity Impact Assessment Tool to assess the potential health equity impact of proposed legislation on affected communities and social determinants to health.

Summary of Substitute Bill:

Using a phased-in approach, agencies are required to prepare, and the Office of Financial Management (OFM) is required to provide, an Equity Impact Statement (EIS) on legislative proposals according to the schedule provided. The EIS must, at a minimum, describe the expected impact of the legislative proposal on communities; meaning groups of individuals who share the same race, creed, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, certain disability status, language access status, or socioeconomic status.

Phase 1—Development of Procedures and Processes.

In phase one, the OFM must consult with the Governor's Interagency Council on Health Disparities (Council) and the Office of Equity (Office) to:

- establish procedures for providing an EIS for legislative proposals for which an equity impact statement has been requested;
- establish format and content requirements for the EIS; and
- provide guidance for agencies on best practices, such as appropriate data and literature review standards, for completing an equity impact statement that is based on the best available empirical information and professional assumptions available to an agency.

The OFM must provide the EIS online and a copy of the EIS must remain with the legislative proposal throughout the legislative process. In developing procedures and requirements pertaining to the EIS process, the OFM may contract with entities that have expertise in equity impact assessments. Such contracts are exempt from the statutory competitive procurement requirements.

By July 1, 2022, the OFM must submit a report to the Governor, appropriate committees of the Legislature and certain statutory commissions. The report must detail:

- the procedure established by the OFM for providing an EIS for legislative proposals;
- the format and content requirements established by the OFM for the EIS;
- a plan to implement phase 2 of the act; and
- recommendations on any policy changes needed to implement the act.

Phase 2—Implementation of the Equity Impact Statement for Legislative Proposals on Housing and Healthcare Policies.

Beginning January 1, 2023, an EIS must be provided upon request for legislative proposals that create new statutory provisions or amend existing statute on housing or health care policies.

Within 30 days after the adjournment of the 2023 Legislative Session(s), the OFM must survey all members of the Senate and House of Representatives to inquire into:

- whether members reviewed the EIS;
- how helpful the EIS was to inform a member's decision on legislative proposals;

- recommendations and other feedback the members may have to improve the content of the EIS or procedure of providing an EIS; and
- other feedback the member wishes to provide.

By September 1, 2023, the OFM must submit a report to the Governor, appropriate committees of the Legislature and certain statutory commissions that details:

- legislative member survey responses and a summary of the responses;
- plans to amend the procedures, content, or format of the EIS;
- a plan to implement phase 3; and
- recommendations on any policy changes needed to implement the act.

Phase 3—Implementation of the Equity Impact Statement for Legislative Proposals on Kindergarten to Grade Twelve Education and Tax Policy, and Two Additional Policy Areas

Beginning January 1, 2024, an EIS must be provided upon request for legislative proposals that create new statutory provisions or amend existing statutes on elementary and secondary education policy. In addition, beginning January 1, 2025, an EIS must be provided upon request for legislative proposals that create new statutory provisions or amend existing statutes on tax policy and two additional policy areas of the OFM's choosing.

Within 30 days after the adjournment of the 2025 Legislative Session(s), the OFM must conduct a second survey, similar to the one conducted in phase two, of all the members of the Senate and House of Representatives. By November 15, 2025, the OFM must submit a report to the Governor, appropriate committees of the Legislature and certain statutory commissions that summarizes the feedback received from the survey of legislative members.

Phase 4—Implementation of the Equity Impact Statement for All Legislative Proposals.

Beginning January 1, 2027, and every January 1 of odd-numbered years thereafter, an EIS must be provided upon request for legislative proposals in three additional policy areas as selected by the OFM, until all matters subject to legislation are included.

Agency Responsibilities.

As part of its statutory training responsibilities, the Office must provide training to the appropriate agency employees on how to complete an effective EIS.

When preparing an EIS, agencies are required to use any available assessment tools and standards for the analysis and reporting of disaggregated data developed by the Office. Agencies are also required to use the guidance, procedures, and content and format requirements, established by the OFM.

Annual Report.

Beginning July 1, 2028, and annually thereafter, the OFM must provide data as requested by the Office regarding the EIS. The Office must include this data in its annual report to the

Governor and Legislature on agency compliance with standards and performance measures established by the Office, developed in accordance with its statutory requirements.

Substitute Bill Compared to Original Bill:

The substitute bill separates the Equity Impact Statement (EIS) from the fiscal note process and no longer conditions the provision of an EIS on a fiscal note request, and instead requires that an EIS be provided for legislative proposals where an EIS is requested, according to the schedule specified.

The list of recipients of the Office of Financial Management's (OFM) reports and the content of the reports are modified to remove the Governor's Office of Indian Affairs and the requirement to report on feedback from agencies that completed an EIS.

Phase 1—Development of Procedures and Processes.

Agencies and the OFM must prepare and provide an EIS for legislative proposals only when an EIS is requested, and the OFM may contract with an entity that has expertise in equity impact assessments. The OFM must provide the EIS online. The substitute bill removes provisions under the original bill that would require the OFM to provide the EIS prior to or at the time the legislative proposal is first heard by the committee of reference and file copies of the EIS with certain entities. The deadline by which the OFM must report on the established procedures, guidance, and content and format requirements for providing an EIS is extended to July 1, 2022, from November 15, 2021.

Phase 2—Implementation of the Equity Impact Statement for Legislative Proposals on Housing and Healthcare Policies.

The substitute bill delays the start date for phase two by one year, from January 1, 2022, to January 1, 2023. The timeline for surveying the legislators is extended to require that the OFM survey members within 30 days after the final adjournment of the 2023 Legislative Session(s), rather than within 10 days of the adjournment of the 2022 Regular Session. The deadline for the OFM to submit a report for phase two is extended to September 1, 2023, from July 31, 2022.

Phase 3—Implementation of the Equity Impact Statement for Legislative Proposals on Kindergarten to Grade Twelve Education and Tax Policy, and Two Additional Policy Areas

The substitute bill removes provisions that would require the OFM to provide an EIS on legislative proposals in six additional policy areas of its choosing. Instead, an EIS must be provided upon request for legislative proposals that create new statutory provisions or amend existing statutes on:

- elementary and secondary education policy, beginning January 1, 2024; and
- tax policy and two additional policy areas as selected by the OFM, beginning January 1, 2025.

The requirement that the OFM conduct a second survey of legislators after implementation of phase 4 is moved to phase 3, and the survey must be conducted within 30 days after the final adjournment of the 2025 Legislative Session(s).

Phase 4—Implementation of the Equity Impact Statement for All Legislative Proposals.

The substitute bill removes provisions that would require an EIS for all legislative proposals on which a fiscal note is requested or at the request of a legislator. Instead, beginning January 1, 2027, and every odd-numbered year thereafter, an EIS must be provided upon request for legislative proposals in three additional policy areas as selected by the OFM until all matters subject to legislation are included.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 11, 2021.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The goal of the Equity Impact Statement (EIS) is not to leave people out, but to ensure that people are not being excluded. Although policymakers commit to making good decisions for Washingtonians across the state, policies do not impact communities across Washington equally. This bill is about equity, and equity is about making sure that there is equitable access to public space, public services, and resources. Equity is about reflecting on who is being left behind, and figuring out how they can be helped. A critical component that is missing in policy deliberations is information about who is not being considered when determining the impacts of a policy that provides a basis for informed decision making. There is a lack of information about who is being impacted by these legislative proposals. By requiring this deliberation early in the process, before implementation of a policy, unintended consequences can be addressed before the disproportionate impact occurs. Policy decisions should be rooted in who is impacted by the policy, and not largely decided by fiscal impact. This is a government best practice across the nation.

Data collection is crucial. There is a lot of data that exists across government agencies, and there needs to be a cornerstone point of alignment for that data at the beginning of policy deliberations rather than after implementation of the policy, which this bill provides. An EIS will also allow the public to hold agencies accountable if they do not have the requisite data to perform these analyses.

Education accounts for more than half of the state's budget, yet there are still discriminatory practices in place. Equity impact statements for K-12 education policy should be added to

phase three of the bill.

(Opposed) None.

(Other) Education policy should be included in phase two of the bill, along with housing and health care policies. The K-12 education funding system provides for equality, not equity. There is a high correlation between family income and test scores, but the education funding system provides the same funding to schools with 5 percent poverty as to schools with 90 percent poverty.

In 2017 there were over 7,000 fiscal note requests. In 2019 there were almost 9,000 fiscal note requests. There is a lot of work that goes on behind the scenes to assemble these fiscal notes. If the Legislature wants to get this process right, the timelines and subject matters in this bill are ambitious. The budget and policy divisions of the Office of Financial Management are busy post-session implementing the laws that were just enacted, so there is not a lot of resources to conduct a survey of legislators after the legislative session. One option to address these concerns is to embed the EIS into the process of building the Governor's budget, rather than requiring them for legislative proposals.

Persons Testifying: (In support) Representative Thai, prime sponsor; Alex Hur, OneAmerica; Guillermo Rogel, Front and Centered; Rocio Lopez; Sakara Remmu, Washington Black Lives Matter Alliance; and Logan Endres, Washington State School Directors' Association.

(Other) Dave Larson, Tukwila School District; and Scott Merriman, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.